



City of Ketchum

CITY COUNCIL MEETING AGENDA MEMO

Meeting Date: Staff Member/Dept:

Agenda Item:

Recommended Motion:

Reasons for Recommendation:

-
-
-

Policy Analysis and Background (non-consent items only):

Sustainability Impact:

Financial Impact:

Attachments:

-
-
-

WHEN RECORDED, PLEASE RETURN TO:

**OFFICE OF THE CITY CLERK
CITY OF KETCHUM
POST OFFICE BOX 2315
KETCHUM, IDAHO 83340**

RIGHT-OF-WAY ENCROACHMENT AGREEMENT 22865

THIS AGREEMENT, made and entered into this ____ day of _____, 2023, by and between the CITY OF KETCHUM, IDAHO, a municipal corporation ("Ketchum"), whose address is Post Office Box 2315, Ketchum, Idaho and Brett McKinney, representing CenturyLink (collectively referred to as "Owner"), whose address is 11425 W Executive Dr. Boise, ID 83713.

RECITALS

WHEREAS, Owner wishes to permit placement of two a new telecommunications handhole vaults at the northeast corner of Spruce Avenue and 4th Street. These improvements are shown in Exhibit "A" and Exhibit "B" attached hereto and incorporated herein (collectively referred to as the "Improvements"); and,

WHEREAS, Ketchum finds that said Improvements will not impede the use of said public right-of-way at this time subject to the terms and provisions of this Agreement;

WHEREAS, the Owner will restore the sidewalk, street, curb and gutter and any landscaping back to the original condition acceptable to the Streets and Facilities Director;

NOW, THEREFORE, in contemplation of the above stated facts and objectives, it is hereby agreed as follows:

TERMS AND CONDITIONS

1. Ketchum shall permit Owner to install telecommunication infrastructure identified in Exhibit "A" and Exhibit "B" within the public right-of-way at the northeast corner of Spruce Avenue and 4th Street until notified by Ketchum to remove the infrastructure at which time Owner shall remove infrastructure at Owner's expense.

2. Owner shall be responsible for the maintenance of said Improvements and shall repair said improvements within 48 hours upon notice from Ketchum that repairs are needed. Any modification to the improvements identified in Exhibit "A" and Exhibit "B" shall be approved by the City prior to any modifications taking place.

3. Owner shall be responsible for restoring the sidewalk, street, curb and gutter and any landscaping that is altered due to the construction and installation of handholes/vaults, to the satisfaction of the Director of Streets and Facilities.

4. In consideration of Ketchum allowing Owner to maintain the Improvements in the public right-of-way, Owner agrees to indemnify and hold harmless Ketchum from and against any and all claims of liability for any injury or damage to any person or property arising from the

Improvements constructed, installed and maintained in the public right-of-way. Owner shall further indemnify and hold Ketchum harmless from and against any and all claims arising from any breach or default in the performance of any obligation on Owner's part to be performed under this Agreement, or arising from any negligence of Owner or Owner's agents, contractors or employees and from and against all costs, attorney's fees, expenses and liabilities incurred in the defense of any such action or proceeding brought thereon. In the event any action or proceeding is brought against Ketchum by reason of such claim, Owner, upon notice from Ketchum, shall defend Ketchum at Owner's expense by counsel satisfactory to Ketchum. Owner, as a material part of the consideration to Ketchum, hereby assumes all risk of damages to property or injury to persons in, upon or about the Improvements constructed, installed and maintained in the public right-of-way arising from the construction, installation and maintenance of said Improvements and Owner hereby waives all claims in respect thereof against Ketchum.

5. Ketchum shall not be liable for injury to Owner's business or loss of income therefrom or for damage which may be sustained by the person, goods, wares, merchandise or property of Owner, its tenants, employees, invitees, customers, agents or contractors or any other person in or about the Subject Property caused by or resulting from the Improvements constructed, installed, removed or maintained in the public right-of-way.

6. Owner understands and agrees that by maintaining the Improvements in the public right-of-way pursuant to this Agreement, Owner obtains no claim or interest in said public right-of-way which is adverse to that of Ketchum and that Owner obtains no exclusive right to said public right-of-way nor any other right to use the public right-of-way not specifically described herein.

7. In the event either party hereto retains an attorney to enforce any of the rights, duties and obligations arising out of this Agreement, the prevailing party shall be entitled to recover from the non-prevailing party reasonable attorney's fees at the trial and appellate levels and, whether or not litigation is actually instituted.

8. This Agreement shall be governed by, construed, and enforced in accordance with the laws and decisions of the State of Idaho. Venue shall be in the District Court of the fifth Judicial District of the State of Idaho.

9. This Agreement sets forth the entire understanding of the parties hereto and shall not be changed or terminated orally. It is understood and agreed by the parties hereto that there are no verbal promises or implied promises, agreements, stipulations or other representations of any kind or character pertaining to the Improvements maintained in the public right-of-way other than as set forth in this Agreement.

10. No presumption shall exist in favor of or against any party to this Agreement as the result of the drafting and preparation of this document.

11. This Agreement shall be recorded with the Blaine County Recorder by Ketchum.

12. The parties fully understand all of the provisions of this Agreement, and believe them to be fair, just, adequate, and reasonable, and accordingly accept the provisions of this Agreement freely and voluntarily.

OWNER:

CITY OF KETCHUM:

By: _____
Brett McKinney
Its: Construction/Engineering Regional Manager

By: _____
Neil Bradshaw
Its: Mayor

STATE OF _____,)
) ss.
County of _____)

On this ____ day of _____, 2023, before me, the undersigned Notary Public in and for said State, personally appeared _____, known to me to be the person who executed the foregoing instrument and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

Notary Public for _____
Residing at _____
Commission expires _____

STATE OF IDAHO)
) ss.
County of Blaine)

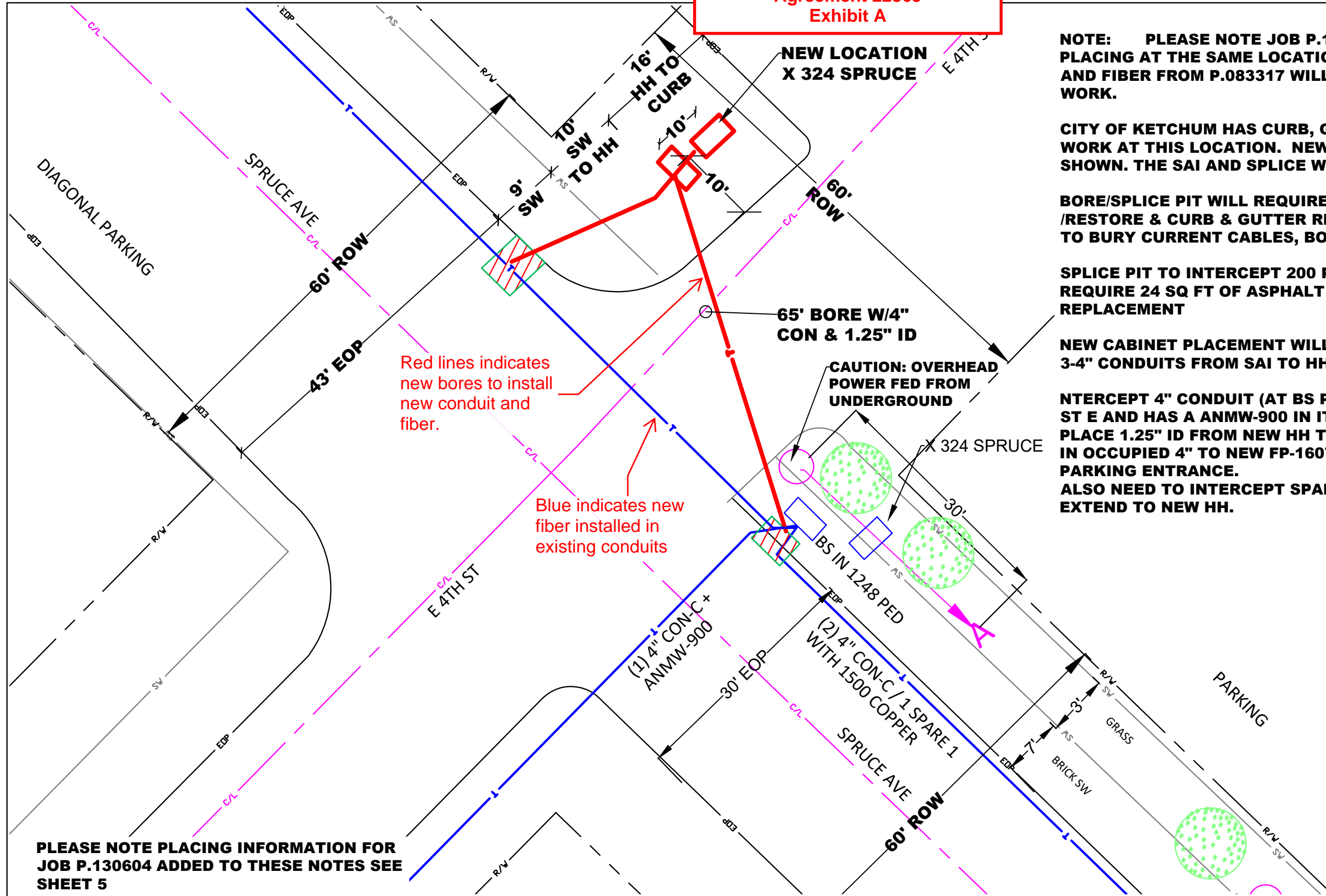
On this ____ day of _____, 2023, before me, the undersigned Notary Public in and for said State, personally appeared NEIL BRADSHAW, known or identified to me to be the Mayor of the CITY OF KETCHUM, IDAHO, and the person who executed the foregoing instrument on behalf of said municipal corporation and acknowledged to me that said municipal corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year in this certificate first above written.

Notary Public for _____
Residing at _____
Commission expires _____

EXHIBIT "A"

ROW Encroachment Agreement 22865 Exhibit A



NOTE: PLEASE NOTE JOB P.130604 AND P.083317 HAVE SOME PLACING AT THE SAME LOCATION SO THE PLACING OF THE NEW HH AND FIBER FROM P.083317 WILL BE DONE AT SAME TIME AS THIS WORK.

CITY OF KETCHUM HAS CURB, GUTTER SIDEWALK AND BIKE PATH WORK AT THIS LOCATION. NEW HH LOCATION TO BE BEHIND SW AS SHOWN. THE SAI AND SPLICE WILL BE MOVED TO SAME LOC AS HH

BORE/SPLICE PIT WILL REQUIRE 24 SQ FT OF ASPHALT CUT /RESTORE & CURB & GUTTER REPLACEMENT AT BS PED. SPLICE PIT TO BURY CURRENT CABLES, BORE PIT FOR 45' BORE TO NEW HH.

SPLICE PIT TO INTERCEPT 200 PR CABLE IN ROW, THIS WILL ALSO REQUIRE 24 SQ FT OF ASPHALT CUT /RESTORE & CURB & GUTTER REPLACEMENT

NEW CABINET PLACEMENT WILL REQUIRE PAD TO BE PLACED AND 3-4\" CONDUITS FROM SAI TO HH.

INTERCEPT 4\" CONDUIT (AT BS PED) THAT GOES TO S SIDE OF 4TH ST E AND HAS A ANMW-900 IN IT PLACE 1.25\" ID FROM NEW HH TO INTERCEPTED CONDUIT AND THEN IN OCCUPIED 4\" TO NEW FP-1607 AT 675 SUN VALLEY RD CUSTOMER PARKING ENTRANCE. ALSO NEED TO INTERCEPT SPARE 4\" CONDUIT FROM MH-947 AND EXTEND TO NEW HH.

Red lines indicates new bores to install new conduit and fiber.

Blue indicates new fiber installed in existing conduits

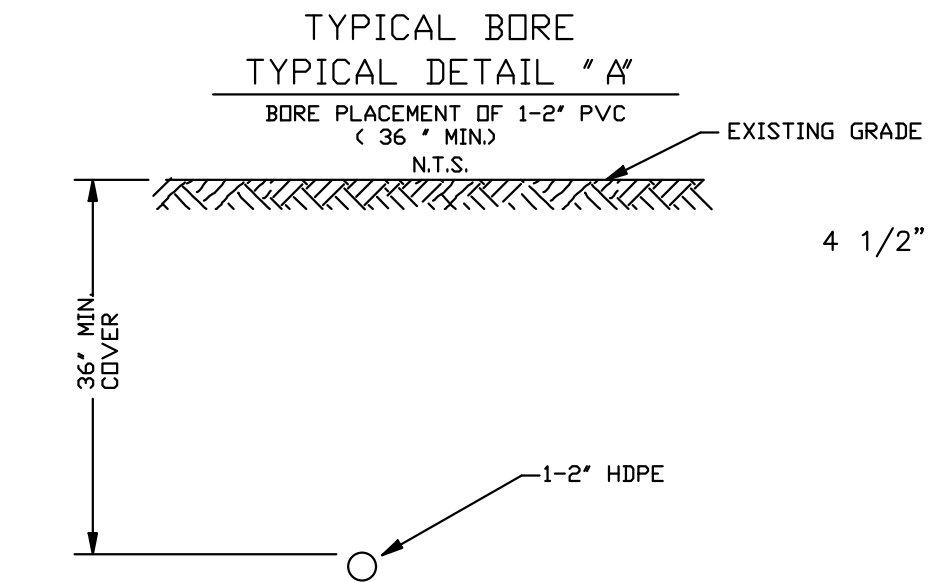
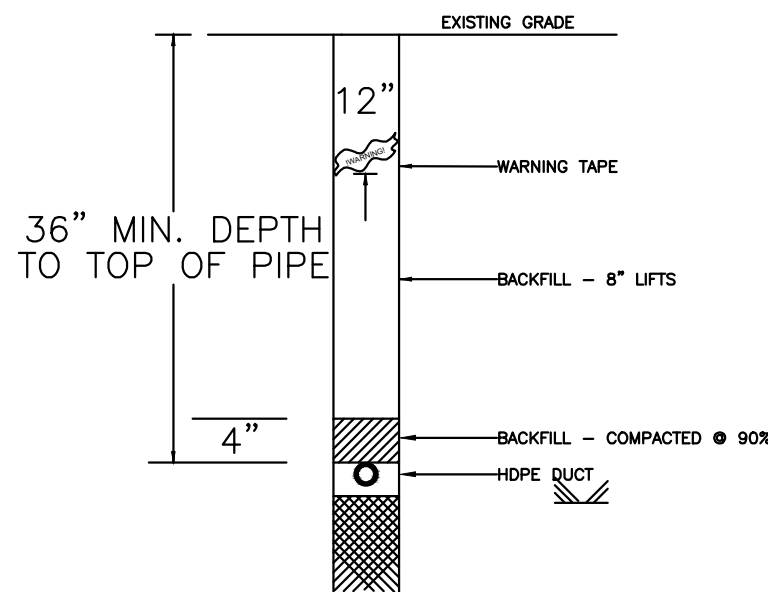
PLEASE NOTE PLACING INFORMATION FOR JOB P.130604 ADDED TO THESE NOTES SEE SHEET 5

LDS CHURCH
300 N SPRUCE AVE
KETCHUM ID 83340

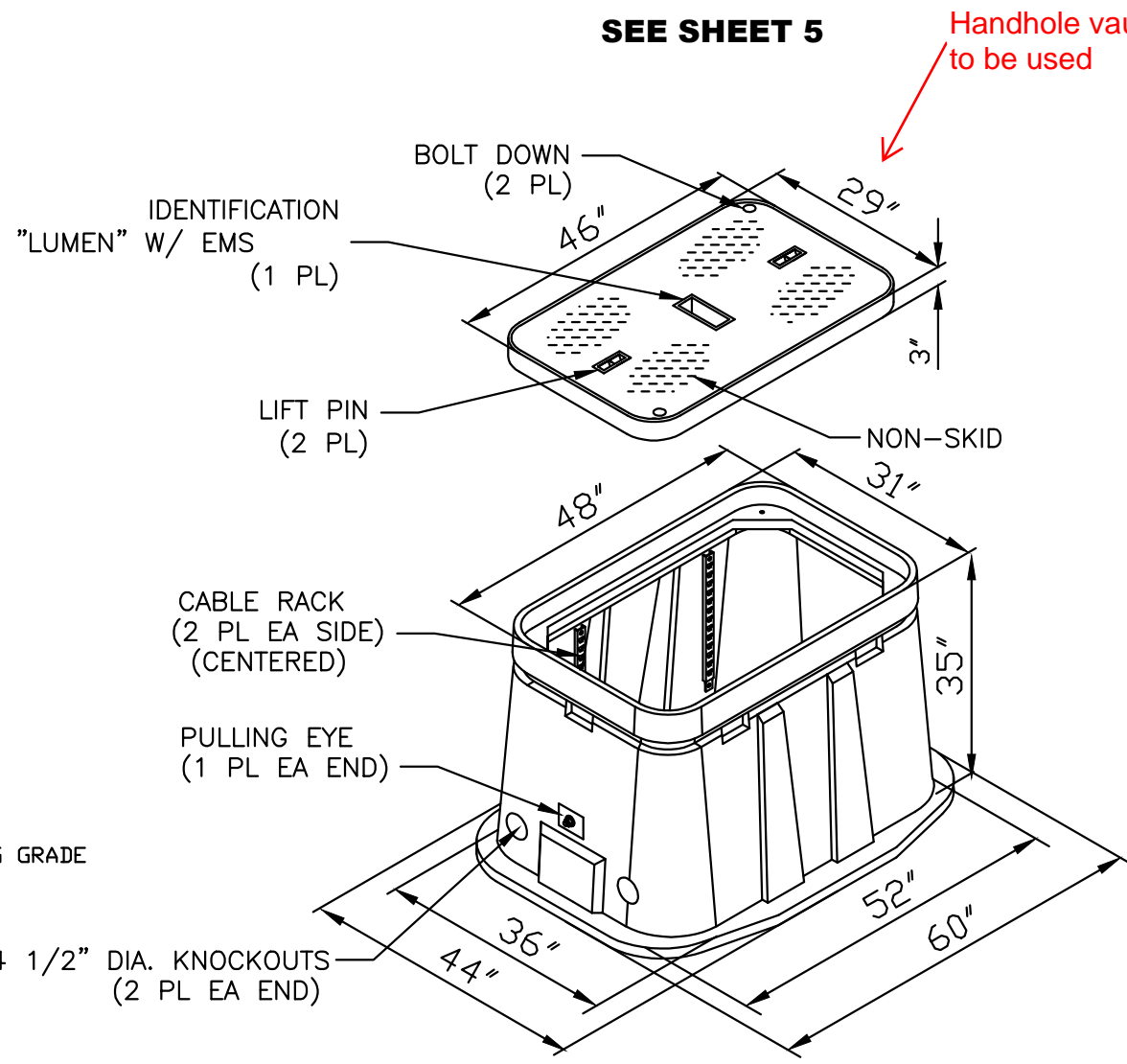
| GEO: 360231 TAX: 06000 BVAPP/CLLI: BVCV22EG4/KTCHIDCM00W. TPR: 320101 | | SCOPE OF WORK: FIBER ENTRANCE ROYAL BANK OF CANADA & CITY OF KETCHUM SIDEWALK PROJECT EDELWISS AVE AND SPRUCE. | | REVISIONS | | | ECD: 8/18/2023 | CenturyLink | | | | | | | | | | | | | | | |
|--|--|---|---|---|---|---|-----------------------|-----------------------------------|---------------|----------------------|--------|----------------------------|--|---------|---------------------------------------|--|---------|--|--|--|--|--------|---|
| | | | | <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 15%;">DATE</th> <th colspan="2">DESCRIPTION</th> </tr> </thead> <tbody> <tr> <td>5/3/23</td> <td colspan="2">UPDATE WITH PERMIT DETAILS</td> </tr> <tr> <td>6/27/23</td> <td colspan="2">UPDATE HH PLACING DETAILS ON SH 4 & 5</td> </tr> <tr> <td>7/24/23</td> <td colspan="2">sheet 4 HH location change 2' further back from sw</td> </tr> </tbody> </table> | | | | DATE | DESCRIPTION | | 5/3/23 | UPDATE WITH PERMIT DETAILS | | 6/27/23 | UPDATE HH PLACING DETAILS ON SH 4 & 5 | | 7/24/23 | sheet 4 HH location change 2' further back from sw | | <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td>ISSUE:</td> <td>3</td> <td rowspan="3" style="font-size: 8px;">EXCEPT AS MAY BE OTHERWISE PROVIDED BY CONTRACT, THESE DRAWINGS AND SPECIFICATIONS SHALL REMAIN THE PROPERTY OF CENTURYLINK BEING ISSUED IN STRICT CONFIDENCE AND SHALL NOT BE REPRODUCED, COPIED, OR USED FOR ANY PURPOSE WITHOUT SPECIFIC WRITTEN PERMISSION.</td> </tr> <tr> <td>WC CLLI:</td> <td>KTCHIDMA</td> </tr> <tr> <td>SECTION:</td> <td>18</td> </tr> </table> | | ISSUE: | 3 |
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| WC CLLI: | KTCHIDMA | | | | | | | | | | | | | | | | | | | | | | |
| SECTION: | 18 | | | | | | | | | | | | | | | | | | | | | | |
| FW PROJECT | WFMT PROJECT: | COMMUNITY NAME | ENGINEERING CONTACT | CONTRACT ENGINEER | CONSTRUCTION COORDINATOR | SPLICING COORDINATOR | SECTION: | DESC: IDKTCHMOE 675 SUN VALLEY RD | | | | | | | | | | | | | | | |
| P.083317 | A.2956962 | NAME: KETCHUM CITY: KETCHUM | NAME: BRAD MCNEW PHONE: 208-646-3599 | NAME: K HADLEY COMPANY: MTN LTD | NAME: RICK PERKINS PHONE: 208-733-0265 | NAME: RICK PERKINS PHONE: 208-733-0265 | TOWNSHIP: 4N | EXCH KEY: 208-726 | REM KEY: 3324 | | | | | | | | | | | | | | |
| | | | | | | | RANGE: 18E | SCALE: NTS | DATE: 3/8/18 | SHEET: 5 OF 7 | | | | | | | | | | | | | |

EXHIBIT "B"

ROW Encroachment Agreement 22865 Exhibit B

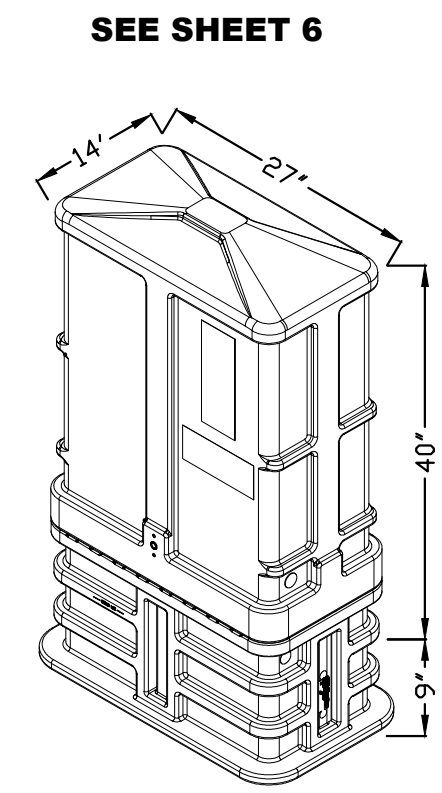


PLEASE NOTE PLACING INFORMATION FOR JOB P.130604 ADDED TO THESE NOTES SEE SHEET 5



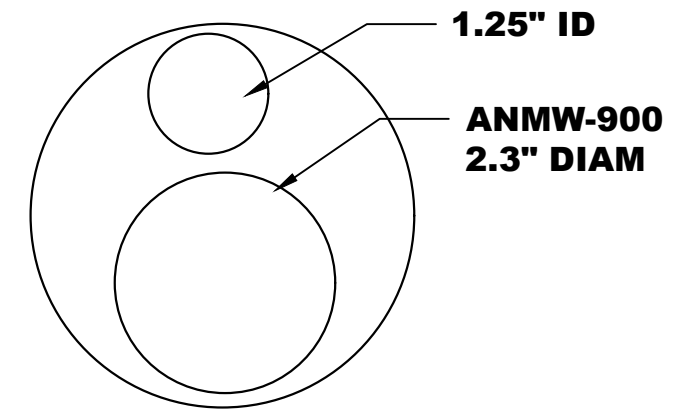
3048/36 20K ASSEMBLY LUMEN PID #233 2106
N.T.S.

TYPICAL UNDERGROUND PLACEMENT



CMPH-BD07

4" CON W ANMW-900 +1.25" ID



| | | | | | | | | | | |
|--|------------------|--|---|------------------------------------|--|---|-------------------|-----------------------------|---------------|--|
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