



City of Ketchum

March 15, 2021

Mayor Bradshaw and City Councilors
City of Ketchum
Ketchum, Idaho

Mayor Bradshaw and City Councilors:

Recommendation to approve Right-of-Way Encroachment Agreement 20583 with CenturyLink for placement of telecommunications infrastructure in the City Right-of-Way

Recommendation and Summary

Staff is recommending the Council approve the attached Encroachment Agreement and adopt the following motion:

"I move to authorize the Mayor to sign Encroachment Agreement 20583 with CenturyLink."

The reasons for the recommendation are as follows:

- The encroachment will replace existing damaged pedestals
- The encroachment is necessary to provide continued communications services to costumers
- The encroachment will have no impact on pedestrian or public access

Introduction and History

In association with construction of the mixed-use building located at 391 N First Ave. CenturyLink will need to back feed customers to maintain service in order to abandon facilities in conflict with the project. CenturyLink is requesting to install 284' of new 200 pair copper cable and replace 3 existing damaged pedestals in the alley west of 1ST Ave., beginning south of 6th St. and terminating south of 5th St. CenturyLink has indicated the applicant has paid for the work and the project is planned to move forward.

City code requires a right-of-way encroachment permit for any encroachment in the public right-of-way. These agreements are intended to help protect the City in the event the proposed encroachments were to ever pose an issue requiring repair, relocation, or removal of the encroachment.

Analysis

Staff has reviewed the layout of the proposed utilities. In consideration of future projects and current operations, the proposed encroachments were determined not to impact public access or maintenance.

Financial Impact

There is no financial impact resulting from approval of this encroachment agreement.

Attachments:

Encroachment Agreement 20583

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 20583

THIS AGREEMENT, made and entered into this ____ day of ____, 2021, by and between the CITY OF KETCHUM, IDAHO, a municipal corporation ("Ketchum"), whose address is Post Office Box 2315, Ketchum, Idaho and _____, representing CENTURYLINK, (collectively referred to as "Owner"), whose address is 216 S Park Ave. W, Twin Falls, ID 83301.

RECITALS

WHEREAS, Owner wishes to permit placement of telecommunications improvements in the public right-of-way in the alley west of 1st Avenue, beginning south of 6th Street and terminating south of 5th Street . These improvements are shown in Exhibit "A" 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 telecommunications infrastructure identified in Exhibit "A" within the public right-of-way in the alley west of 1st Avenue, beginning south of 6th Street and terminating south of 5th Street until notified by Ketchum to remove the same.

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.

3. Owner shall be responsible for restoring the sidewalk, curb and gutter and landscaping that is altered due to the construction and installation 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: _____

By: _____
Neil Bradshaw
Its: Mayor

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

On this _____ day of _____, 2021, 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)
County of Blaine) ss.

On this ____ day of _____, 2021, 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.

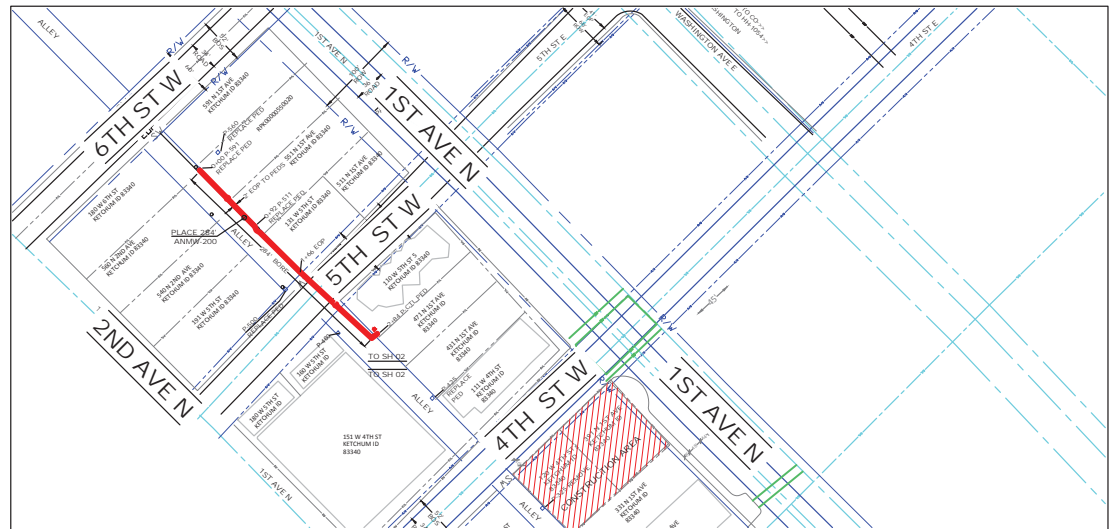
Notary Public for _____
Residing at _____
Commission expires _____

EXHIBIT “A”

CENTRERULES
MONUMENT LINE
PROPERTY LINE
RIGHT OF WAY
PUE
WATCHLINE
RAILROAD
CITY LINE
ELECTRIC
OVERHEAD ELECTRIC
OVERHEAD T & E
GAS
PETROLEUM
IRRIGATION
RWC IRRIGATION PIPE
SEWER
STORM DRAIN
TELEPHONE
JOINT TRENCH TELCO/ELEC
AERIAL UTILITY (FIBER OPTIC)
BURIED UTILITY (FIBER OPTIC)
ASU TELCO
WATER
RECLAIMED WATER
FENCE
WALL
CITY LIMITS
TRAFFIC SIGNAL
STREET LIGHT
BROKE
ASPHALT CUT & RESTORE
TRENCH

[illegible]

- | | | | |
|---|-------------------------------|---|----------------------------------|
|  | BRASS CAP |  | CATCH BASIN |
|  | STREET SIGN |  | CULVERT |
|  | TREE |  | IRRIGATION CONTROL VALVE |
|  | BUSH |  | IRRIGATION MANHOLE |
|  | CACTUS |  | WATER MANHOLE |
|  | UTILITY CABINET |  | SEWER MANHOLE |
|  | POWER POLE |  | STORM DRAIN MANHOLE |
|  | WOOD POWER POLE |  | GAS MANHOLE |
|  | PROPOSED ANCHOR |  | TELECOM MANHOLE |
|  | TRAFFIC LIGHT POLE |  | CITY MANHOLE |
|  | STREET LIGHT |  | GAS VALVE |
|  | STEEL POWER POLE |  | GAS METER |
|  | WOOD TRANSMISSION POLE |  | ELECTRIC METER |
|  | STEEL TRANSMISSION POLE |  | ELECTRIC VAULT/PULLBOX |
|  | JUNCTION BOX |  | TEL. MANHOLE EXISTING |
|  | UTILITY VAULT/HAND HOLE |  | TEL. MANHOLE NEW |
|  | GROUND TRANSFORMER |  | TELECOM MANHOLE EXISTING |
|  | CITY POWER SUPPLY |  | TELECOM MANHOLE NEW |
|  | CITY PEDESTAL |  | 4 1/2" BOREFIT |
|  | TELECOM PEDESTAL |  | SA EXISTING |
|  | POWER PED EXISTING |  | SA NEW |
|  | POWER PED NEW |  | RT EXISTING |
|  | WATER METER |  | RT NEW |
|  | WATER VALVE |  | TELECOM REPEATER NEW |
|  | FIRE HYDRANT |  | TELECOM REPEATER EXISTING |
|  | BACK FLOW PREVENTER |  | COILED PED |
|  | PROPOSED RISER |  | COILED EXISTING |
|  | PROPOSED DG TO FOREIGN ANCHOR |  | PROPOSED AERIAL FIBER SLACK LOOP |
|  | TRENCH FTG |  | BORE FTG |
|  | ASPHALT OUT FTG |  | SLACK LOOP FTG |



CONSTRUCTION NOTES:

2. THE EXISTENCE AND LOCATION ON ANY UNDERGROUND UTILITY PIPES OR STRUCTURES SHOWN ON THESE PRINTS WERE OBTAINED BY FIELD INSPECTION AND/OR A SEARCH OF AVAILABLE COUNTY RECORDS. THE ACTUAL LOCATION AND NATURE OF THE UNDERGROUND FACILITIES MAY BE DIFFERENT THAN SHOWN. CONTRACTOR IS REQUIRED TO VERIFY PRIOR TO EXCAVATION.
3. FOR UNDERGROUND ACTIVITY: TEST AND VENTILATE MANHOLE/UTILITY VAULT PRIOR TO ENTRY, PLACE WARNING DEVICES AND WORK AREA PROTECTION AS REQUIRED, AND USE ALL SAFETY PROTECTION PER FEDERAL, STATE, AND LOCAL REGULATIONS.
4. ALL EXCAVATION, TRENCHING, AND SHORING IS TO ADHERE TO THE CODE OF ALL EXCAVATION, TRENCHING, AND SHORING IS TO ADHERE TO THE CODE OF FEDERAL REGULATIONS (CFR) 1926.650 SUBPART P.
 - a. PROVIDE ALL PITS WITH 1'x1' SLOPE AT ONE END OF EXCAVATION FOR TECHNICIAN INGRESS/EGRESS.
 - b. EXCAVATED SPOILS ARE TO BE NO LESS THAN 24" FROM EDGE OF PIT OR FROM EDGE OF PIT OR TRENCH.
 - c. BARRICADE ALL OPEN PITS AND TRENCHING FOR PUBLIC SAFETY. ALL BARRICADES MUST BE EQUIPPED WITH FLASHING LIGHTS FOR NIGHT VISIBILITY.
 - d. FOR PITS GREATER THAN 4' IN DEPTH, USE APPROPRIATE SHORING FOR WALL STABILITY.
5. TRENCH COVER IS TO BE 36" MINIMUM AND FREE OF ROCKS, DEBRIS AND CLODS. THE TRENCH IS TO BE A MINIMUM OF 36" COVER IN DEVELOPED AREAS AND A MINIMUM OF 48" OF COVER IN UNDEVELOPED AREAS (ANY VARIANCE FROM THESE STANDARDS WILL BE SPECIFIED ON THE PLANS).
6. ALL ASPHALT/CONCRETE AND LANDSCAPING REMOVED, DISTURBED, OR DAMAGED AS A RESULT OF CONSTRUCTION SHALL BE RESTORED TO ORIGINAL CONDITION OR BETTER.
7. NORMAL/GUIDED-BORING METHOD RECOMMENDED WHEN BORING.
8. ADHERE TO AIRTIGHT GUIDELINES UNLESS OTHERWISE NOTED.
9. BOND BURIED/AERIAL FACILITIES AS REQUIRED BY JURISDICTIONAL AGENCY(S).
10. AERIAL FACILITIES ARE TO BE TESTED PRIOR TO BEGINNING WORK PER STATE AND LOCAL REGULATIONS.
11. ALL WORK AREA PROTECTIONS FOR TRAFFIC CONTROL IS TO BE WITH APPROVED WARNING DEVICES AND PLACED PER STATE DEPARTMENT OF TRANSPORTATION AND/OR PUBLIC WORKS ENGINEERING DEPARTMENT STANDARDS AND SPECIFICATIONS. IF REQUIRED, A TRAFFIC CONTROL PLAN SHALL BE SUBMITTED TO THE REQUESTING PERMITTING AGENCY. PRIOR TO BEGINNING WORK, PERMITTING AGENCIES MUST BE NOTIFIED 48 HOURS IN ADVANCE OF CONSTRUCTION ACTIVITIES.
12. EXISTING PEDESTRIAN CROSSWALKS AND WALKING AREAS SHALL BE MAINTAINED AT ALL TIMES. AS NECESSARY, TEMPORARY PEDESTRIAN CROSSWALKS AND WALKING AREAS SHALL BE PROVIDED AND MAINTAINED PER STATE DEPARTMENT OF TRANSPORTATION AND/OR PUBLIC WORKS ENGINEERING DEPARTMENT STANDARDS AND SPECIFICATIONS.
13. THE FOLLOWING FOOTAGES ARE ESTIMATES. FOOTAGES TO BE VERIFIED PRIOR TO CONSTRUCTION.

RIGHT OF WAY NOTES:

RIGHT OF WAY LINES DEPICTED HAVE BEEN RESEARCHED USING SOME OR ALL OF THE FOLLOWING

RESOURCES/METHODS:

REFERRING TO RECORDED SURVEYS AND COUNTY PARCEL MAP, SEARCHING FOR PROPERTY CORNER PINS, SEARCHING FOR CENTERLINE MONUMENTS, AND GEOGRAPHICAL OBSERVATION (FENCES, UTILITY LOCATIONS, CHANGES IN LANDSCAPING, ETC.)

DISCLAIMER: ABSOLUTE RIGHT OF WAY LINES LOCATION MUST BE OBTAINED VIA PROFESSIONAL LAND SURVEY (WHEN NECESSARY).

AERIAL CONSTRUCTION NOTES:

1. MAINTAIN 40" BELOW LOWEST POWER ATTACHMENTS (TYPICALLY NEUTRAL).
2. MAINTAIN 30" BELOW NEUTRAL AT MID SPAN.
3. CANNOT USE POWER ANCHORS ON ANY CORNER POLE WITH OVER 6' OF ANGLE.
4. MAINTAIN 15'-6" MID-SPAN CLEARANCE TO GRADE/ROAD MINIMUM.
5. SIX FOOT SPACING (MINIMUM) BETWEEN PROPOSED CTL ANCHOR AND EXISTING POWER ANCHORS.

KETCHUM CITY PERMIT REQUIRED

GEO: 360231
TAX: 06000
TPR: 210501 &
110301

SCOPE OF WORK: MOVE CTL COPPER PED/CABLE
FOR CONSTRUCTION WORK AT 4TH ST W AND 1ST
AVE N, KETCHUM

REVISIONS	
DATE	DESCRIPTION
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#	\$
%	^

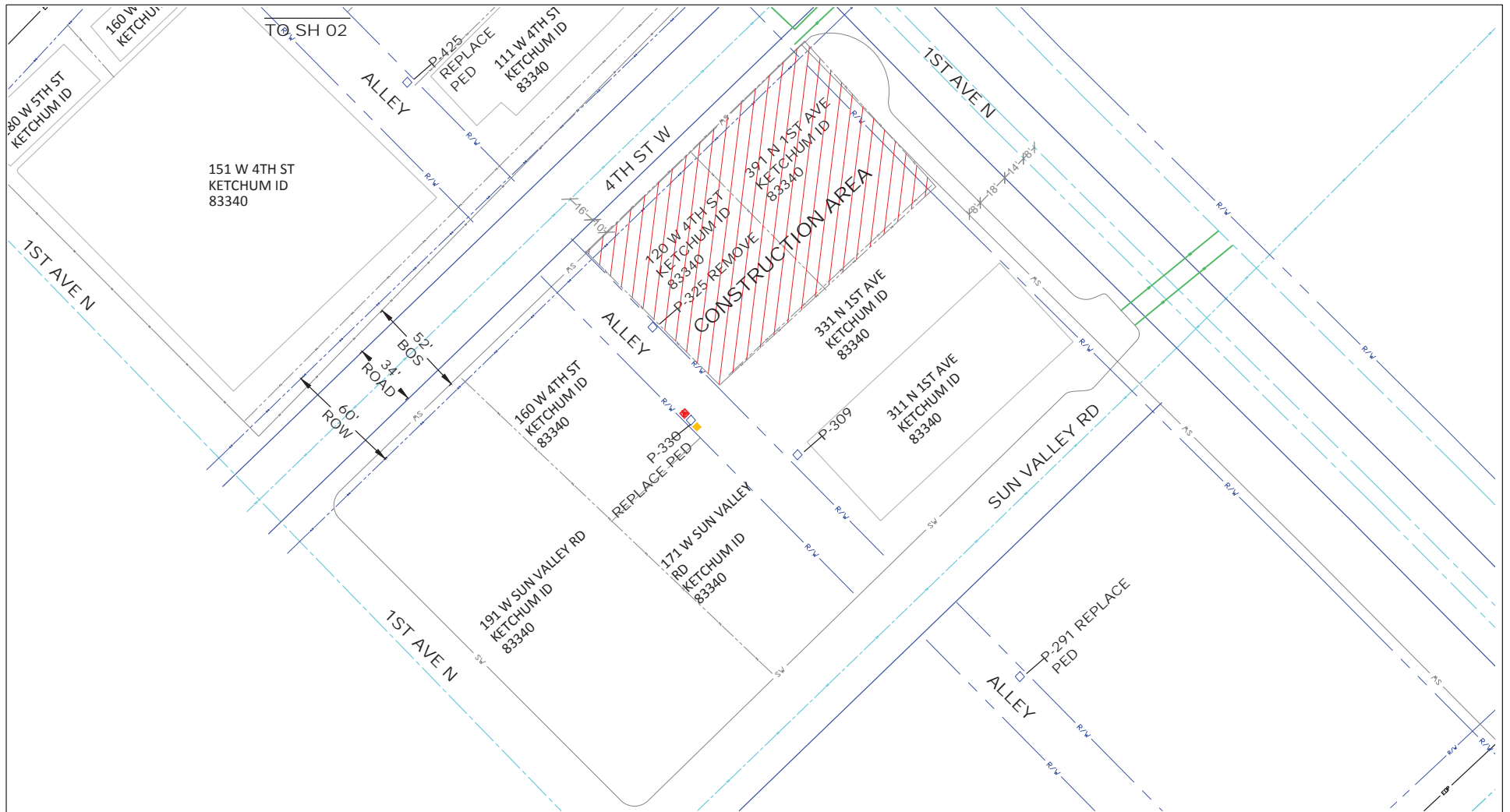


ECD:	7/2/2021
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ISSUE:	1	EXCEPT AS MAY BE OTHERWISE PROVIDED BY CONTRACT, THESE DRAWINGS AND SPECIFICATIONS SHALL REMAIN THE PROPERTY OF CH2M HILL, BEING LOANED IN DRAWING AND SHALL NOT BE REPRODUCED, COPIED, OR USED FOR ANY PURPOSE WITHOUT SPECIFIC WRITTEN PERMISSION.	
WC CLLI:	KTCHDMDA		
SECTION:	13	DESC: ATC - FIRST AVE & FOURTH ST RELOCATION PROJECT	
TOWNSHIP:	4N	EXCH KEY: 208-726	REM KEY: 3324
RANGE:	18E	SCALE: NTS	DATE: 10/21/20
SHEET: 1 OF 3			

FW PROJECT	WFMF PROJECT:	COMMUNITY NAME	ENGINEERING CONTACT	CONTRACT ENGINEER	CONSTRUCTION COORDINATOR	SPLICING COORDINATOR	SECTION: 13	DESC: ATC - FIRST AVE & FOURTH ST RELOCATION PROJECT		
N.794567		NAME: KETCHUM	NAME: TENILLE SORENSON	NAME: K HADLEY	NAME: JEFF DUNN	NAME: RICK PERKINS	TOWNSHIP: 4N	EXCH KEY: 208-726	REN KEY: 3324	SHEET: 1 OF 3
		CITY: KETCHUM	PHONE: 208-733-0278	COMPANY: MTN LTD	PHONE: 208-736-0906	PHONE: 208-736-0906	RANGE: 18E	SCALE: NTS	DATE: 10/21/20	



GEO: 360231
TAX: 06000
TPR: 210501 &
110301

SCOPE OF WORK: MOVE CTL COPPER PED/CABLE
FOR CONSTRUCTION WORK AT 4TH ST W AND 1ST
AVE N, KETCHUM

REVISIONS

DATE	DESCRIPTION
1	
2	
3	
4	



ECD: **7/2/2021**



ISSUE:	1	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.
WC CLLI:	KTCHDMA	

FW PROJECT	WFMT PROJECT:	COMMUNITY NAME	ENGINEERING CONTACT	CONTRACT ENGINEER	CONSTRUCTION COORDINATOR	SPlicing COORDINATOR	SECTION:	13	DESC: ATC - FIRST AVE & FOURTH ST RELOCATION PROJECT
N.794567		NAME: KETCHUM CITY: KETCHUM	NAME: TENILLE SORENSON PHONE: 208-733-0278	NAME: K HADLEY COMPANY: MTN LTD	NAME: JEFF DUNN PHONE: 208-733-0906	NAME: RICK PERKINS PHONE: 208-733-0906	TOWNSHIP:	4N	EXCH KEY: 208-726
							RANGE:	18E	SCALE: NTS
									DATE: 10/21/20

SHEET: 3 OF 3