



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 24924

THIS AGREEMENT, made and entered into this ____ day of _____, 2024, by and between the CITY OF KETCHUM, IDAHO, a municipal corporation ("Ketchum"), whose address is Post Office Box 2315, Ketchum, Idaho and _____, representing Idaho Power (collectively referred to as "Owner"), whose address is 11831 Hwy 75, Hailey, Idaho 83333.

RECITALS

WHEREAS, Owner wishes to permit placement of a new above ground sector box within the right-of-way adjacent to 319 River Run Drive. The owner also wishes to permit placement of conduit and power cable below ground within the right-of-way on River Run Drive to 318 River Run Drive. 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 public right-of-way 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 the Improvements identified in Exhibit "A" within the public right-of-way on River Run Dr, until notified by Ketchum to remove the Improvements, at which time Owner shall remove Improvements 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" shall be approved by the City prior to any modifications taking place.
3. Owner shall be responsible for restoring the right-of-way that is altered due to the removal of the Improvements, 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.

EXHIBIT "A"

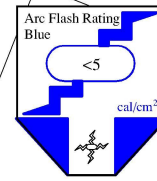
EXHIBIT "A" RIGHT-OF-WAY ENCROACHMENT AGREEMENT NO. 24924

POINT NUMBER	FROM	TO
2	RR263	F269
1	RR263	RR262
1	RR263	STUB

CONDUIT LENGTH	COMPACTION LENGTH	BORE LENGTH
2	-	-
80	25	-
40	-	-



No Avian Protection Restriction



WARM SPRINGS

NEW SECTER BOX (APPROX 2-FT X 3-FT)
TO BE INSTALLED ADJACENT TO
EXISTING POLE AND 8-FT OFFSET FROM
EDGE OF ASPHALT

EXISTING
POWER
POLE TO
REMAIN

PNT#1 CUT IN NEW SECTER AT THE BASE OF F139 POLE. CUT ASPHALT AND TRENCH ACROSS RIVER RUN DR. TO NEW TRANSFORMER LOCATION RR262. INSTALL 2" CONDUIT WITH 1/2 PRIMARY APPROX. 80' FROM RR263 TO RR262. BACKFILL MUST MAINTAIN 95% COMPACTION CROSSING RIVER RUN DR.

PNT#2 PULL 1/2 PRIMARY BACK FROM EXISTING POLE RISER TO MAKE UP INTO NEW SECTER RR263. INSTALL NEW 1/2 PRIMARY IN EXISTING 2" POLE RISER FROM F139 TO RR263.

NEW UNDERGROUND CONDUIT AND CABLE

EXHIBIT A NOTES:

NEW ROW ENCROACHMENTS INCLUDED IN RIGHT-OF-WAY AGREEMENT NO 24924 ARE SHOWN IN **PURPLE TEXT BOXES**

EXISTING ROW ENCROACHMENTS IN **PINK TEXT BOXES**

BASE FIGURE PROVIDED BY IDAHO POWER ANNOTATED BY CITY ENGINEER ROBYN MATTISON TO CLARIFY IMPROVEMENTS INCLUDED IN RIGHT-OF-WAY AGREEMENT NO. 24924

TIMES SCALE 0 1

Job Title:
IPCO - 318 RIVER RUN DR/KET UG PRI TO RE-SERVE LOT & REM OH

Additional Description:
CUT IN SECTER, PRIMARY URD LINE EXT. TO NEW TRANSFORMER

Additional Description:
EXISTING ROW

SWPP: ----



Feeder Map File Name: KCHM1801				
Qua 1	Twn 04N	Rng 17E	Sec 12	Mer BM
State ID		County Blaine		

Surveyed or GPS: **SURVEYED**
 Joint Use Attachment: **NO**
 Pre-Built Date: ----
 Built as Designed: ----
 Construction Date: ----
 Operating Voltage: **7.2kV**

FDR By: ----
 Date: ----
 ArcFM By: ----
 Date: ----

Designer: **BRM9518**
 Design No: **0000171950**
 Work Order No: **27660524**