



City of Ketchum

### CITY COUNCIL MEETING AGENDA MEMO

Meeting Date:  Staff Member/Dept:

Agenda Item:

**Recommended Motion:**

**Reasons for Recommendation:**

- Improvements on Sun Valley Road required a drywell and drainage facilities on and across private properties
- Owners of private properties agreed to allow the city to locate and maintain the drainage facilities on their properties
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**Policy Analysis and Background (non-consent items only):**

**Sustainability Impact:**

**Financial Impact:**

**Attachments:**

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**WHEN RECORDED, PLEASE RETURN TO:**

**OFFICE OF THE CITY ATTORNEY  
CITY OF KETCHUM  
PO BOX 2315  
KETCHUM, IDAHO 83340**

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**FACILITIES LOCATION AND MAINTENANCE AGREEMENT #22861**

This Location and Maintenance Agreement (“Agreement”) is entered into effective June 12, 2023, between City of Ketchum, Idaho (“City”), an Idaho municipal corporation, and James E. Gray and Frances L. Gray, husband and wife; Alex Higgins and Patricia Higgins, husband and wife; and Nelson Realty, Inc., an Idaho Corporation, as tenants in common (“Sun Valley Associates”), and St. Thomas Episcopal Church (“Church”), an Idaho unincorporated non-profit association, (Sun Valley Associates and Church collectively designated as “Owners”).

**RECITALS**

- A. Sun Valley Associates is the owner of real property as described on Exhibit A. Church is the owner of real property as described on Exhibit B. (Collectively “Properties.”)
- B. City is improving Sun Valley Road and desires to locate and maintain a drywell and certain drainage facilities on and across the real properties of Owners, with such City Facilities depicted on Exhibit C.
- C. Owners are willing to allow City to locate and maintain such City Facilities on the Properties with a commitment from City to maintain in good repair.

**AGREEMENT**

- 1. Owners hereby grant to City an easement on the Properties for the purposes of locating and maintaining the drywell and associated drainage facilities (“City Facilities”), as depicted on Exhibit C. This includes a right of access for City staff and equipment as may be reasonably necessary to maintain or repair the City Facilities. City will maintain the City Facilities in good repair and in a safe manner.
- 2. City will reasonably notify Owners of any need for City or its agents to access the Properties for installation, inspection, maintenance, or repair of the City Facilities, with at least 24-hours notice. In the event of an emergency that may cause immediate loss or damage, City may access immediately, but shall notify Owners of such emergency access as soon as practicable and no later than within 24-hours of identifying the emergency.
- 3. City will repair and restore the Properties to a same-as or better condition as the Properties were found after any installation or maintenance work, including abandonment

or removal, of the City Facilities. Such costs for repair and restoration will be the sole responsibility of the City.

4. City bears sole responsibility and liability with respect to the actions of the City or its agents on the installation and ongoing maintenance of the City Facilities at this location. City will appropriately insure such City Facilities in line with standard City insurance practices. Proof of coverage will be provided to Owners upon request.
5. All Parties are aware of the general location and nature of the City Facilities. In the event Owners pursue further development of the Properties in a manner that may impact the City Facilities location, Owners will notify the City and the Parties will coordinate to discuss and avoid any harm to the City Facilities.
6. In the event the City, in its discretion, determines to no longer use or maintain the City Facilities, notice will be provided to Owners and the Parties will reasonably coordinate on removal or abandonment of the City Facilities and amendment or termination of this Agreement.
7. Entire Agreement. This Agreement contains the entire agreement of the parties with respect to this subject matter and supersedes all prior or contemporaneous writings or discussions relating to the rights provided for herein. This Agreement may not be amended except by a written document executed after the date hereof by the duly authorized representatives of the Parties.
8. Binding Properties. This Agreement shall run with the Properties and the terms and provisions hereof shall inure to the benefit of and be binding upon the parties and the respective heirs, personal representatives, successors and assigns of the parties hereof.
9. Choice of Law. 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.
10. Recordation. This Agreement shall be recorded with the Blaine County Recorder by the City.
11. Attorney Fees. In any action or proceeding to enforce this Agreement, or to secure any rights provided hereunder or accorded by law, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs.
12. Severability. Invalidation of any of the provisions contained in this Agreement, or of the application thereof to any person, by judgment or court order shall in no way affect any of the other provisions thereof or the application thereof to any other person and the same shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Agreement.

City of Ketchum, Idaho, a municipal  
corporation

By: \_\_\_\_\_  
Neil Bradshaw, Mayor

Attest: \_\_\_\_\_  
Trent Donat, City Clerk

SUN VALLEY ASSOCIATES

\_\_\_\_\_  
James E. Gray, Owner

\_\_\_\_\_  
Frances L. Gray, Owner

\_\_\_\_\_  
Alex Higgins, Owner

\_\_\_\_\_  
Patricia Higgins, Owner

NELSON REALTY, INC.

\_\_\_\_\_  
*[Name, Title]*

ST. THOMAS EPISCOPAL CHURCH

\_\_\_\_\_  
*[Name, Title]*

## EXHIBIT A

### LEGAL DESCRIPTION

Sun Valley Associates

700 East sun Valley Road

KETCHUM LOT 3 BLK 201 ETC

## EXHIBIT B

### LEGAL DESCRIPTION

St. Thomas Episcopal Church

201 Sun Valley Road

ST THOMAS EPISCOPAL SUB LOT 1

