



City of Ketchum

September 8, 2020

Mayor Bradshaw and City Councilors
City of Ketchum
Ketchum, Idaho

Mayor Bradshaw and City Councilors:

Recommendation to approve Right-of-Way Encroachment Agreement 20483 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 20483 with CenturyLink."

The reasons for the recommendation are as follows:

- The encroachment is necessary to upgrade telecommunication services to 560 N First Avenue.
- The encroachment will have no impact on pedestrian or public access.

Introduction and History

CenturyLink would like to install approximately 416 feet of new underground fiber optic cable in conduit, one at grade vault (handhole), and an above grade pedestal located behind and existing retaining wall within the City's alley right-of-way west of Washington Avenue beginning south of 4th Street and terminating behind 571 Washington Avenue.

City code requires a right-of-way encroachment agreement for any permanent 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 or relocation of the encroachments.

Analysis

Engineering and Streets have reviewed the layout of the proposed telecommunications infrastructure and determined it will not impact public access or maintenance operations at this time.

Financial Impact

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

Attachments:

Encroachment Agreement 20483

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 20483

THIS AGREEMENT, made and entered into this ____ day of ____, 2020, 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 right-of-way in the alley west of Washington Avenue beginning south of 4th Street and terminating south of 6th 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 Washington Avenue beginning south of 4th Street and terminating south of 6th Street, until notified by Ketchum to remove the same. Removal shall be at the 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.

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 _____,)
County of _____,) ss.

On this ____ day of _____, 2020, 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 _____, 2020, 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.

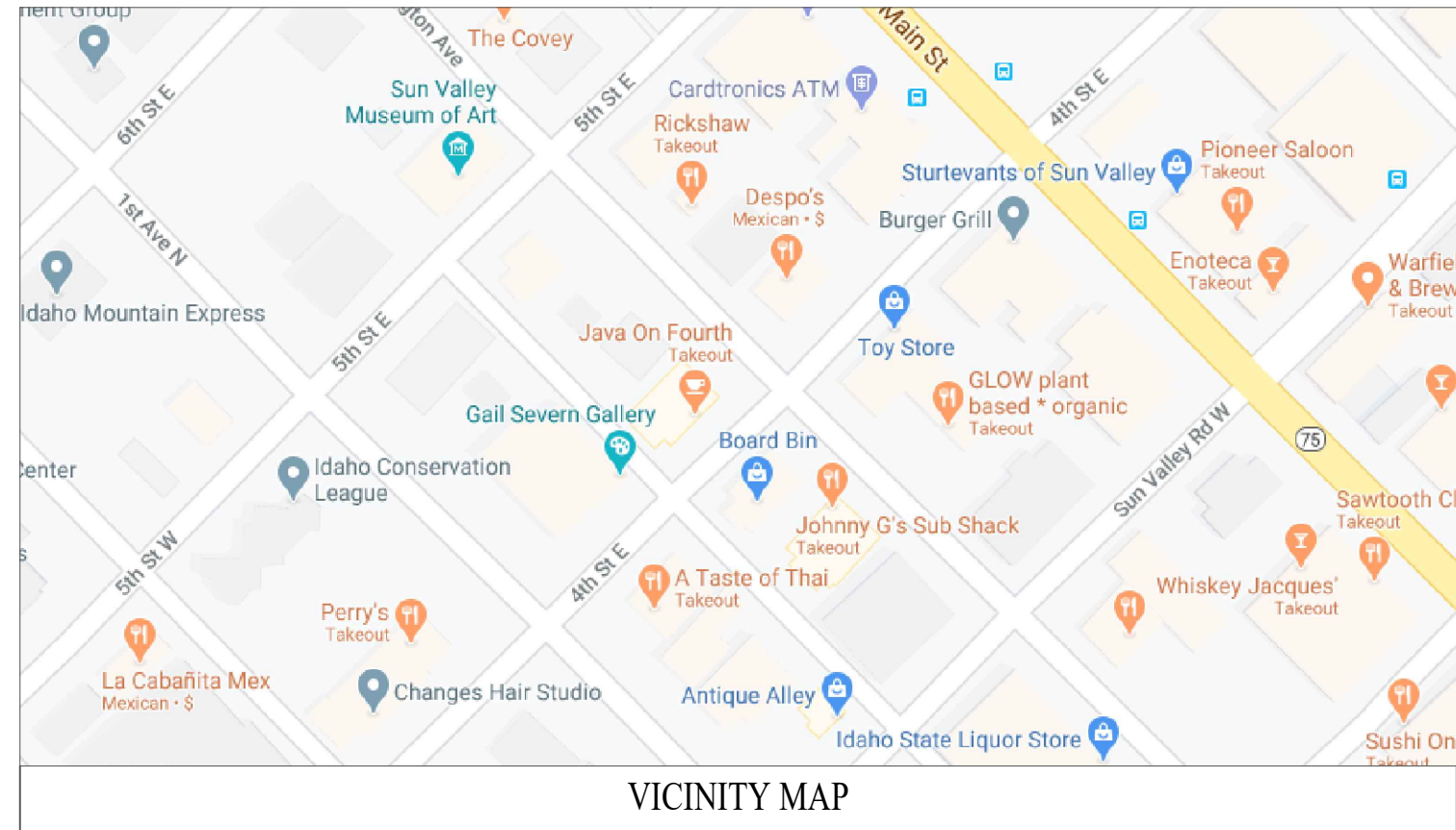
IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year in this certificate first above written.

Notary Public for _____
Residing at _____
Commission expires _____

EXHIBIT "A"

CONSTRUCTION NOTES:

1. CALL UTILITY LOCATE AT 811 72 HOURS PRIOR TO TRENCHING OR DIGGING.
2. THE EXISTENCE AND LOCATION OF ANY UNDERGROUND UTILITY PIPES OR STRUCTURES SHOWN ON THESE PLANS WERE OBTAINED BY FIELD INSPECTION AND A SEARCH OF THE AVAILABLE CITY OR COUNTY RECORDS. SINCE THE ACTUAL LOCATION AND NATURE OF THE UNDERGROUND FACILITIES MAY BE SOMEWHAT DIFFERENT FROM THAT SHOWN, THE 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 EYE AND HEAD SAFETY PROTECTION PER FEDERAL, STATE, AND LOCAL REGULATIONS.
4. 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 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.



ESTIMATED TOTALS

TOTAL EXISTING CONDUIT USED:	0 L.F.	CUSTOMER NAME: LCON:	SERVICE ORDER #: DSR ID #:
TOTAL NEW BORE:	0 L.F.		
TOTAL NEW DIRT TRENCH:	0 L.F.	PHONE NO:	
TOTAL NEW S/W TRENCH:	0 L.F.		
TOTAL NEW ASPHALT TRENCH:	0 L.F.	SCOPE OF WORK:	THIS JOB WILL PLACE GPON FACILITIES WITHIN THE KETCH I & II APTS LOCATED WITHIN THE KETCHUM WIRE CENTER. JOB IS AN FTTB CTL-ON. THE KETCH I & II APTS IS A CTL-ON SUBDIVISION THAT WILL FEED 37 LUs.
TOTAL NEW AERIAL:	0 L.F.		
SIDEWALK (PCC) R&R:	0 S.F.	THIS JOB WILL PLACE BOTH F1 & F2 FACILITIES. NEW SUTTLE-PED-FSAI + (2)1X8 STATIC SPLITTERS: 571 WASHINGTON AVE [KTCHIDJ0010,F01] -WILL NEED TO PUSH LKS4,71-72 FROM MH65 TO POF FP 357.	
ASPHALT (AC) R&R:	0 S.F.		

FIBER ENGINEER: TENILLE SORENSON PHONE NO: 208-733-0278 EMAIL: TENILLE.SORENESON@CENTURYLINK.COM	MT LTD ENGINEER: PHONE NO: EMAIL:	TOWN: 2N	RNGE: 18E	SECT: 14
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NOTICE-NOT FOR DISCLOSURE OUTSIDE OF CENTURYLINK AND AFFILIATES EXCEPT UNDER WRITTEN AGREEMENT

571 WASHINGTON AVE KETCHUM, IDAHO	JOB: N.695627 GEO CODE: WC CLLI: KTCHIDMA
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AERIAL LEGEND

ANC	ANCHOR
CA ARM	CABLE ARM
CATV	CABLE TV
DG	DOWN GUY
DGA	DOUBLE GUARD ARM
FGA	FIBER GLASS ARM
F/S	FIELD SIDE
GA	GUARD ARM
HOA	HEIGHT OF ATTACHMENT
M/R	MAKE READY
OHG	OVERHEAD GUY
R/S	ROAD SIDE
SLAN	LIGHT OR POWER COMPANY INVENTORY NUMBER
SWA	SIDEWALK ANCHOR AND GUY
T	TELEPHONE
TERM	TERMINAL
TRANS	TRANSFORMER
TAPE & SHAPE	REQUEST FOR POWER COMPANY TO CLEAN UP SECONDARY POWER CABLES AND/OR TOP OF RISER CABLES SO PROPOSED CABLE CAN BE ATTACHED WITHOUT VIOLATING THE 40" RULE

CABLE ARM ATTACHMENT LOCATION:

TF	TOP FIELD SIDE
TS	TOP STREET SIDE
TIP	TOP INSIDE POSITION
TIS	TOP INSIDE STREET SIDE
TMP	TOP MIDDLE POSITION
TOP	TOP OUTSIDE POSITION
TOS	TOP OUTSIDE STREET SIDE
BF	BOTTOM FIELD SIDE
BS	BOTTOM STREET SIDE
BIP	BOTTOM INSIDE POSITION
BIS	BOTTOM INSIDE STREET SIDE
BMP	BOTTOM MIDDLE POSITION
BOP	BOTTOM OUTSIDE POSITION
BOS	BOTTOM OUTSIDE STREET SIDE

EXISTING EQUIPMENT LEGEND

	CENTERLINE		TELEPHONE BULLET PEDESTAL		ELECTRIC PEDESTAL/CABINET		GAS METER		IRRIGATION METER
	TRAFFIC LANE		TELEPHONE REPEATER		ELECTRIC TRANSFORMER		GAS VALVE		IRRIGATION VALVE
	BIKE/FOG LANE		TELEPHONE PEDESTAL		ELECTRIC METER		TRAFFIC SIGNAL VAULT/HANDHOLE		CULVERT
	RIGHT OF WAY		TELEPHONE VAULT/HANDHOLE		ELECTRIC VAULT/HANDHOLE		TRAFFIC SIGNAL POLE		C/L MONUMENT
	PROPERTY LINE		TELEPHONE CABINET		ELECTRIC MANHOLE		WATER METER		POLE ITEM NO.
	EASEMENT		TELEPHONE MANHOLE		ELECTRIC J-BOX		WATER VALVE		TREES
	CURB & GUTTER		TELEPHONE COOL PED		STREETLIGHT		FIRE HYDRANT		SHRUB
	EDGE OF PAVEMENT		TELEPHONE SAI		CATV BULLET PEDESTAL		WATER MANHOLE		
	RAILROAD		TELEPHONE USAM		CATV PED		STORM DRAIN CATCH BASIN		
	FENCE		TELEPHONE OWNED POLE		CATV VAULT/HANDHOLE		STORM DRAIN INLET		
	TELCO		JOINT USE POLE		SEWER MANHOLE		STORM DRAIN MANHOLE		
	ELECTRIC		TRAFFIC ARROW						
	CATV		TURN ARROWS						
	GAS								
	TRAFFIC SIGNAL								
	WATER								
	SEWER								
	STORM DRAIN								
	IRRIGATION								
	TRENCH/BORE								

PROPOSED EQUIPMENT LEGEND

	PARKWAY TRENCH		2'x2' RECEIVING PIT		SIDEWALK ANCHOR & DOWN GUY
	BORE		4'x4' BORE PIT		ANCHOR & DOWN GUY
	ASPHALT TRENCH		SAI		DOWN GUY
	UNDERGROUND BUILD		COOL PEDESTAL		ASPHALT TRENCH FOOTAGE
	AERIAL BUILD		ELECTRIC PEDESTAL		DIRT OR S/W TRENCH FOOTAGE
	UNDERGROUND BUILD-SLACK		TELCO HANDHOLE		BORE FOOTAGE
	AERIAL BUILD-SLACK SPAN		TELCO PEDESTAL		AERIAL FOOTAGE
	AERIAL STRAND		TELCO CABINET		
			TELCO MANHOLE		

ITEM #	STATION	HT-CL-YR	PROPOSED HOA
	STA	HT-CL-YR	XX'-X"
	POLE NUMBER(S) - CTL/PWR/OTHER		
	POLE#		
	EXISTING ATTACHMENTS		
	MAKE READY		

FIBER ENGINEER: TENILLE SORENSON MT LTD ENGINEER: **TOWN: 2N RNGE: 18E SECT: 14**
 PHONE NO: 208-733-0278 PHONE NO: **2N 18E 14**
 EMAIL: TENILLE.SORENESON@CENTURYLINK.COM EMAIL:

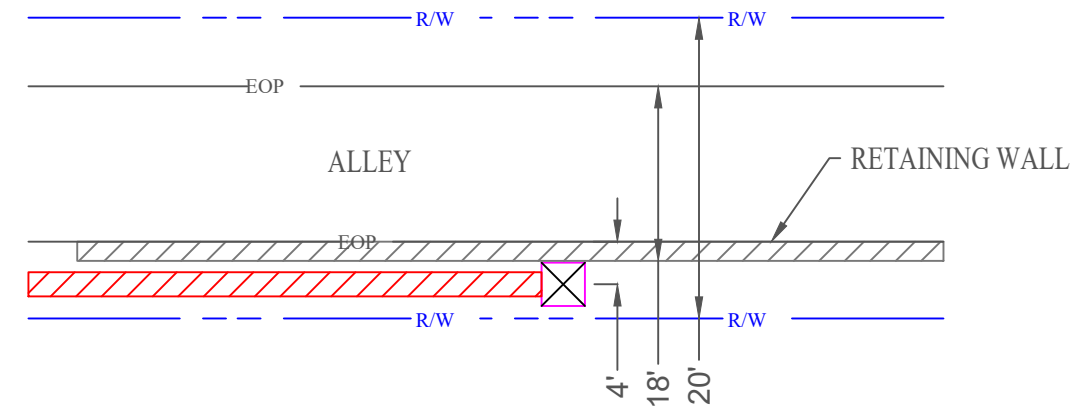
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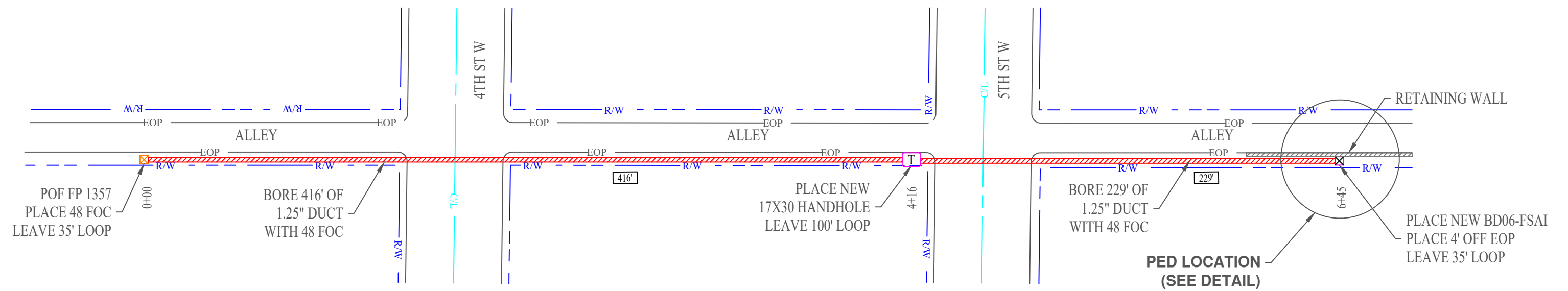
**571 WASHINGTON AVE
KETCHUM, IDAHO**

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**JOB: N.695627
GEO CODE:
WC CLLI: KTCHIDMA
SH 2 OF 3**



PED LOCATON DETAIL



REMOVE AND REPLACE ASPHALT AS NEEDED

NOTE:
THE RIGHT-OF-WAY SHOWN HAS NOT BEEN SURVEYED OR TIED. RIGHT-OF-WAY LOCATION IS ASSUMED WITH REFERENCE TO ONLINE DATA SOURCE MATERIALS. CONTRACTOR TO VERIFY ALL RIGHTS OF WAY AND/OR EASEMENTS PRIOR TO CONSTRUCTION.

NOTE:
FOR UNDERGROUND ACTIVITY: TEST AND VENTILATE MANHOLE/UTILITY VAULT PRIOR TO ENTRY, PLACE WARNING DEVICES AND WORK AREA PROTECTION AS REQUIRED, AND USE EYE AND HEAD SAFETY PROTECTION PER FEDERAL, STATE, AND LOCAL REGULATIONS.

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