



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 20498 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 20498 with CenturyLink."

The reasons for the recommendation are as follows:

- The encroachment is necessary to upgrade telecommunication services to 260 2nd Avenue.
- The encroachment will have no impact on pedestrian or public access.

Introduction and History

CenturyLink would like to install approximately 758 feet of new underground fiber optic cable in conduit and two at grade vaults (handholes) within the City's right-of-way along 2nd Ave. beginning at the Wildwood Mini Condominiums and terminating at 271 W. 1st St. No above grade pedestals are proposed.

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.

Financial Impact

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

Attachments:

Encroachment Agreement 20498

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 20498

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 on 2nd Avenue beginning southeast of River Street and terminating on W 1st 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 of 2nd Avenue beginning southeast of River Street and terminating on W 1st 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.

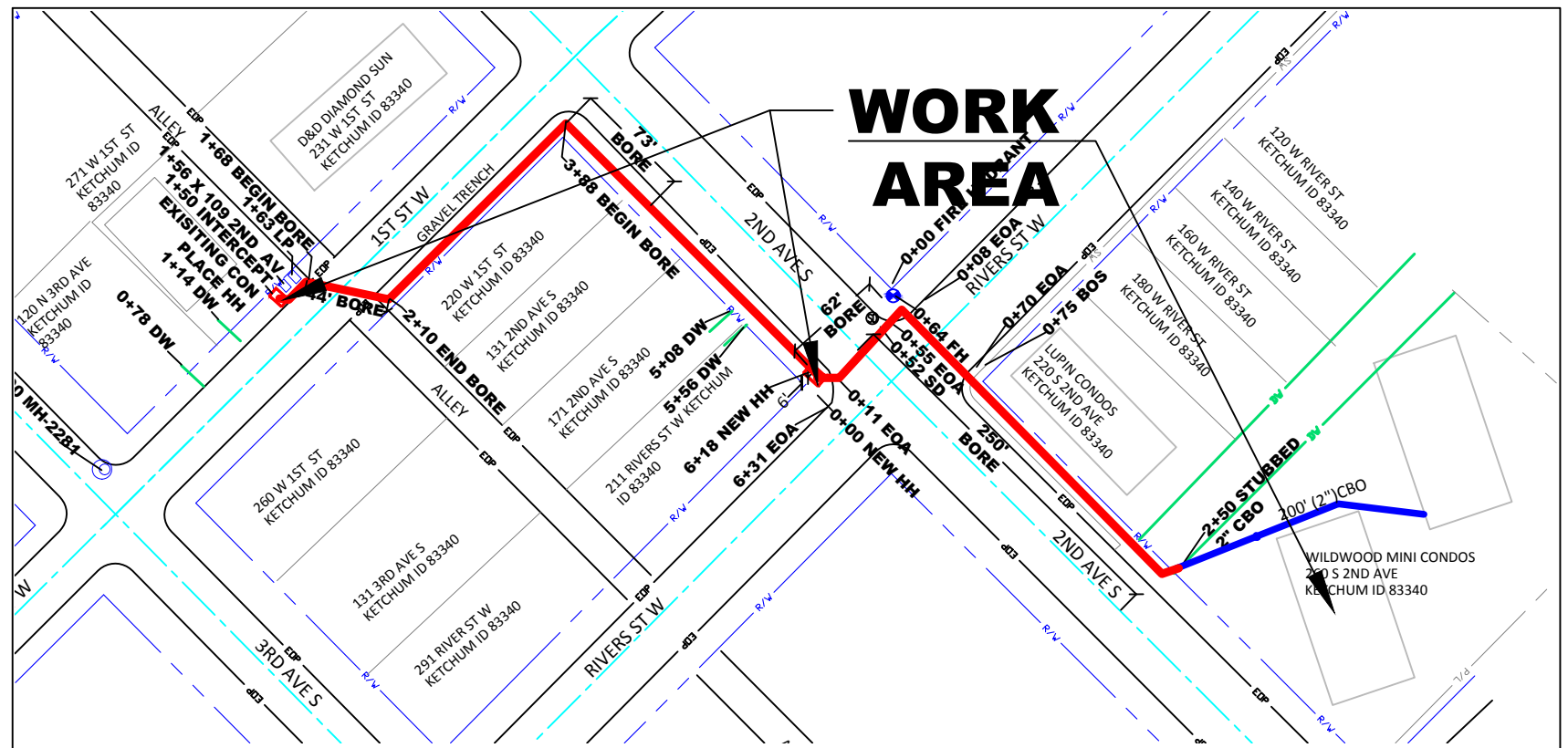
12. The parties fully understand all of the provisions of this Agreement, and believe them to be fair, just, adequate and reasonable, and accordingly accept the provisions of this Agreement freely and voluntarily.

EXHIBIT "A"

LEGEND SHEET

SYMBOLOLOGY

CENTERLINES			BRASS CAP		CATCH BASIN
MONUMENT LINE			STREET SIGN		CULVERT
PROPERTY LINE			TREE		IRRIGATION CONTROL VALVE
RIGHT OF WAY			BUSH		IRRIGATION MANHOLE
PUE			CACTUS		WATER MANHOLE
MATCHLINE			UTILITY CABINET		SEWER MANHOLE
RAILROAD			POWER POLE		STORM DRAIN MANHOLE
CATV LINE			WOOD POWER POLE		GAS MANHOLE
ELECTRIC			PROPOSED ANCHOR		TELCO MANHOLE
OVERHEAD ELECTRIC			TRAFFIC LIGHT POLE		GAS VALVE
OVERHEAD T & E			STREET LIGHT		GAS METER
GAS			STEEL POWER POLE		ELECTRIC METER
PETROLEUM			WOOD TRANSMISSION POLE		ELECTRIC VAULT/PULLBOX
IRRIGATION			STEEL TRANSMISSION POLE		TEL MANHOLE EXISTING
RWCD IRRIGATION PIPE			JUNCTION BOX		TEL MANHOLE NEW
SEWER			UTILITY VAULT/HAND HOLE		TELCO HANDHOLE EXISTING
STORM DRAIN			GROUND TRANSFORMER		TELCO HANDHOLE NEW
TELEPHONE			CATV POWER SUPPLY		4"x4" BOREPIT
JOINT TRENCH TELCO/ELEC			CATV PEDESTAL		SAI EXISTING
AERIAL UTILITY (FIBER OPTIC)			TELCO PEDESTAL		SAI NEW
BURIED UTILITY (FIBER OPTIC)			POWER PED EXISTING		RT EXISTING
ABN TELCO			POWER PED NEW		RT NEW
WATER			WATER METER		TELCO REPEATER NEW
RECLAIMED WATER			WATER VALVE		TELCO REPEATER EXISTING
FENCE			FIRE HYDRANT		COOLPED NEW
WALL			BACK FLOW PREVENTER		COOLPED EXISTING
CITY LIMITS			PROPOSED RISER		PROPOSED AERIAL FIBER SLACK LOOP
TRAFFIC SIGNAL			PROPOSED DG TO FOREIGN ANCHOR		TRENCH FTG
STREET LIGHT			TRENCH FTG		BORE FTG
BORE			ASPHALT CUT FTG		SLACK LOOP FTG
ASPHALT CUT & RESTORE					
TRENCH					



VICINITY MAP

CONSTRUCTION NOTES:

- UTILITY LOCATE 72 HOURS PRIOR TO TRENCHING OR DIGGING
- 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 SHOW. CONTRACTOR IS REQUIRED TO VERIFY PRIOR TO EXCAVATION.
- 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 PROJECTION PER FEDERAL, STATE, AND LOCAL REGULATIONS.
- 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.
 - PROVIDE ALL PITS WITH 1'x1' SLOPE AT ONE END OF EXCAVATION FOR TECHNICIAN INGRESS/EGRESS.
 - EXCAVATED SPOILS ARE TO BE NO LESS THAN 24" FROM EDGE OF PIT OR FROM EDGE OF PIT OR TRENCH.
 - BARRICADE ALL OPEN PITS AND TRENCHING FOR PUBLIC SAFETY. ALL BARRICADES MUST BE EQUIPPED WITH FLASHING LIGHTS FOR NIGHT VISIBILITY.
 - FOR PITS GREATER THAN 4' IN DEPTH, USE APPROPRIATE SHORING FOR WALL STABILITY.
- 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).
- ALL ASPHALT/CONCRETE AND LANDSCAPING REMOVED, DISTURBED, OR DAMAGED AS A RESULT OF CONSTRUCTION SHALL BE RESTORED TO ORIGINAL CONDITION OR BETTER.
- NORMAL/GUIDED-BORING METHOD RECOMMENDED WHEN BORING.
- ADHERE TO AIRTIGHT GUIDELINES UNLESS OTHERWISE NOTED.
- BOND BURIED/AERIAL FACILITIES AS REQUIRED BY JURISDICTIONAL AGENCY(S).
- AERIAL FACILITIES ARE TO BE TESTED PRIOR TO BEGINNING WORK PER STATE AND LOCAL REGULATIONS.
- 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.
- 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.
- 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:

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

KETCHUM CITY PERMIT REQUIRED

GEO: 360231
TAX: 06000
TPR: 110301

BVAPP: BVXWPADK8 - KTCHIDDY
SCOPE OF WORK: FIBER ENTRANCE TO CUSTOMER SITE

REVISIONS	
DATE	DESCRIPTION
1	0
#	\$
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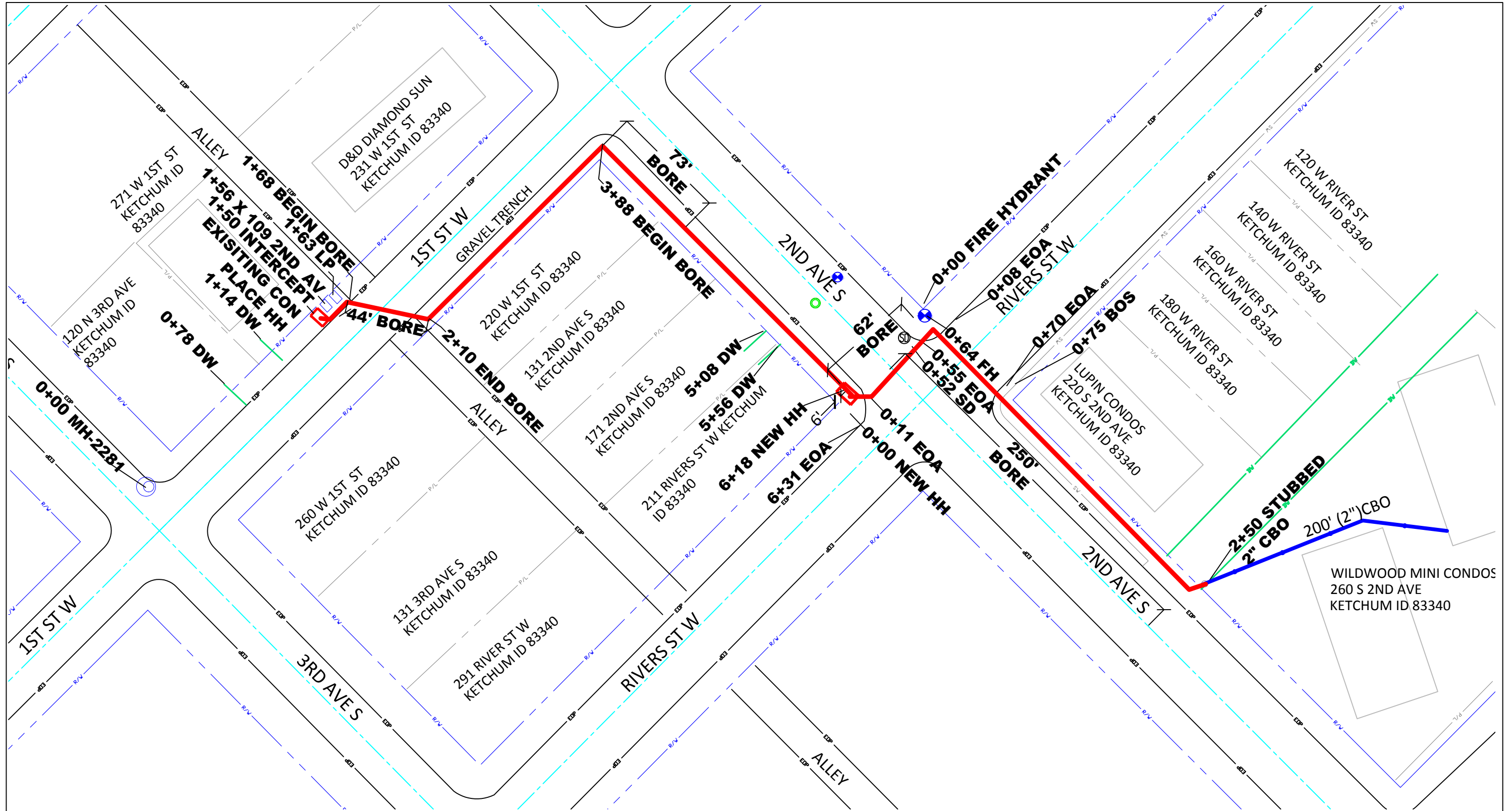


ECD: 10/30/2020



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:	KTCHIDMA	SECTION:	18
TOWNSHIP:	4N	DESC:	MOE - FINN DSR616843 - 260 2ND AVE S
RANGE:	18E	EXCH KEY:	208-726
		REM KEY:	3324
		SCALE:	NTS
		DATE:	7/10/20
		SHEET: 1 OF 2	

FW PROJECT	WFMT PROJECT:	COMMUNITY NAME	ENGINEERING CONTACT	CONTRACT ENGINEER	CONSTRUCTION COORDINATOR	SPlicing COORDINATOR
N.617073	S.2753271	NAME: KETCHUM CITY: KETCHUM	NAME: TENILLE SORENSON PHONE: 208-733-0278	NAME: K HADLEY COMPANY: MTN LTD	NAME: JEFF DUNN PHONE: 208-736-0906	NAME: RICK PERKINS PHONE: 208-736-0906



GEO: 360231 TAX: 06000 TPR: 110301		BVAPP: BVXWPADK8 - KTCHIDDY SCOPE OF WORK: FIBER ENTRANCE TO CUSTOMER SITE		<table border="1"> <thead> <tr> <th colspan="2">REVISIONS</th> </tr> <tr> <th>DATE</th> <th>DESCRIPTION</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>⊙</td> </tr> <tr> <td>#</td> <td>\$</td> </tr> <tr> <td>%</td> <td>~</td> </tr> </tbody> </table>			REVISIONS		DATE	DESCRIPTION	1	⊙	#	\$	%	~	ECD: 10/30/2020		ISSUE: 1 WC CLLI: KTCHIDMA <small>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.</small>	
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								SHEET: 2 OF 2												