



City of Ketchum

July 19, 2021

Mayor Bradshaw and City Councilors
City of Ketchum
Ketchum, Idaho

Mayor Bradshaw and City Councilors:

Recommendation To Approve Release of Easement 20674

Recommendation and Summary

Staff is recommending the council authorize the Mayor to sign Release of Easement 20674 and adopt the following motion:

I move to approve Release of Easement 20674

The reasons for the recommendation are as follows:

- In 1969 the City recorded a deed for a 20- foot sewer line easement running across vacant property adjacent to Warm Springs Creek.
- In 1980 the City approved the Creekbend Subdivision on the property that had the 20-foot easement. The subdivision established a new sewer line easement of 15 feet on Lot 4 of Block 1 of the Creekbend Subdivision off of Broadway Court.
- The 1969 easement was not released when the Creekbend Subdivision and sewer easement were created in 1980. Therefore there are two easements on the property, the 1969 easement is no longer necessary.
- As part of a property transaction, the two easements were identified and a request was made to the city to release the 1969 easement.

Introduction and History

Prior to the property located at 536 Broadway Court being subdivided in the Creekbend Subdivision, the city established a 20-foot sewer easement on the property. The easement was established in 1969. In 1980 the Creekbend Subdivision was approved and a new 15-foot sewer easement was established on the property. As part of that process, the 1969 easement was not released. Currently two sewer easements exist on the property, one 15- foot easement and one 20-foot easement.

A request was made to the City to release the 1969 easement. Water and Wastewater staff reviewed the location of the 1969 easement and determined it is no longer necessary because the 1980 easement is sufficient.

Financial Impact

There is no financial impact.

Attachment: Release of Easement 20674

*RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:*

Jill W. Eshman, J.D., LL.M.
Jill Eshman Law
685 Fourth Street
Post Office Box 4991
Ketchum, Idaho 83340
208-727-1700
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(Space Above For Recorder's Use)

RELEASE OF EASEMENT 20674
Sanitary Sewer Easement
(Recorded in the Official Records of Blaine County, Idaho on
June 17, 1969 in Book 191 of Deeds at page 135, as Instrument No. 132751)

This Release of Easement ("Release) is made and entered into on _____ 2021, by the City of Ketchum, Idaho ("City") pertaining to that certain property legally described in Instrument No. 132751 (attached hereto as Exhibit A).

1. *Creation of 1969 Easement.* That certain sanitary Sewer Easement recorded on June 17, 1969 in Book 191 of Deeds at page 135, as Instrument No. 132751 established a 20' wide sewer easement for the benefit of the City ("1969 Easement").

2. *Idaho Code.* Pursuant to Idaho Code §50-1306A(5), in the case of easements granted for sewer, "...public notice of intent to vacate is not required. Vacation of these easements shall occur upon the recording of the new or amended plat, provided that all affected easement holders have been notified by certified mail, return receipt requested, of the proposed vacation and have agreed to the same in writing."

3. *Recording of New Plat Establishing 2008 Easement.* That certain plat was recorded on October 22, 2008 as Instrument No. 562392, showing Creekbend Subdivision wherein Lot 27B, Sun Valley First Addition, is subdivided as shown located within Section 13, T.4.N., R.17E., B.M, City of Ketchum, Blaine County, Idaho ("Plat"), whereby the City approved of the Plat and established a new 15' wide sewer main easement for the benefit of the City ("2008 Easement"). The Plat did not include the 1969 Easement.

4. *Release of Easement.* To further confirm the vacation and release of the 1969 Easement pursuant to Idaho Code §50-1306A(5), City hereby releases any and all right, title and interest the City may have in and to the 1969 Easement recorded as Instrument No. 132751 and all real property described therein, including without limitation that certain real property legally now legally described as:

Lot 4, Block 1 of Creekbend Subdivision, according to the official plat thereof,
recorded as Instrument Number 562392, records of Blaine County, Idaho.

5. The intent of this Release is to affirm that the City has no right, title or interest in the 1969 Easement, and that the 1969 Easement is hereby terminated, revoked, and of no further force or effect for any purpose.

IN WITNESS WHEREOF, the City agrees to this Release.

City of Ketchum, Idaho

By: Neil Bradshaw
Mayor

ATTEST:

Tara Fenwick
City Clerk

STATE OF IDAHO)
)ss.
COUNTY OF BLAINE)

This record was acknowledged before me on _____, 2021 by
_____.

Notary Public

EXHIBIT A - 1969 EASEMENT

No. 132751

SANITARY SEWER EASEMENT

ROYCE B. ASHER ET UX TO CITY OF KEETCHUM

THIS INDENTURE, made this 16th day of June, 1969, between Royce B. Asher and Beverly A. Asher, husband and wife, the parties of the first part, and hereinafter called the Grantors, and the City of Keetchum, State of Idaho, a municipal corporation, the party of the second part, and hereinafter called the Grantee;

WITNESSETH

WHEREAS, the grantors, desire to provide a sanitary sewer right of way across the premises and property hereinafter particularly bounded and described; and

WHEREAS, the sanitary sewer is to be provided for through an underground pipeline to be constructed by the Grantee; and

WHEREAS, it will be necessary to maintain and service said pipeline from time to time by the Grantee NOW THEREFORE, in consideration of the benefits to be received by the Grantors, and for the sum of One Dollar (\$1.00), and other good and valuable consideration, the Grantors, do hereby give, grant and convey unto the Grantee the right of way for an easement for the construction, operation and maintenance of a sewer line over and across the following described property.

A strip of land 20 feet in width lying 15 feet right and 5 feet left of the following described line commencing at the Southwest corner of Lot 27, First Addition Sun Valley Subdivision, Blaine County, Idaho, as filed for record in the office of the Blaine County Recorder;

thence South 24°02' West 137.06 feet to a point, said point being the REAL POINT OF BEGINNING;

thence North 44°27'50" West 158.83 feet to a point;

thence North 34°27'50" West 143.00 feet to a point;

thence North 51°29'00" West 83.47 feet to a point, said point bears South 58°49' West from the Southwest corner of Lot 25, of said First Addition Sun Valley Subdivision, and also said point being the POINT OF ENDING of the above described permanent easement parcel.

The easement hereby granted is for the purpose of construction and operation of a sanitary sewer line and allied facilities, together with their maintenance, repair, and replacement at the convenience of the Grantee, with the free right of access to such facilities at any and all times.

TO HAVE AND TO HOLD, the said easement and right of way unto the said Grantee, its successors and assigns forever.

IT IS EXPRESSLY UNDERSTOOD AND AGREED, by and between the parties hereto that the Grantee will timely complete the work of laying the sanitary sewer line and restore the premises used therefor to a condition comparable with that existing prior to exercising this easement; that in making future repairs the Grantee will expediently replace and restore the premises to a condition comparable to that existent prior to undertaking such repairs and replacements.

THE GRANTORS hereby covenant and agree that they will not place or allow to be placed any permanent structures on the area described for this easement which would interfere with the use of said described area which would interfere with the use of said described easement for the purposes stated herein.

IT IS HEREBY FURTHER AGREED that the Grantors do hereby give and grant to the Grantee the right to use during initial construction an additional strip of land described as follows:

An additional strip of land 30 feet in width lying Northeasterly of and adjacent to the above described permanent easement parcel.

IT IS UNDERSTOOD that the strip of land described in the previous paragraph is for the purpose of constructing said sewer line herein described, the same to expire when the initial construction is completed.

IT IS UNDERSTOOD and agreed that the Grantee will restore said said strip to a condition to that comparable to that existent prior to the undertaking of the construction of such sewer line.

The Grantors do hereby covenant with the Grantee that they are lawfully seized and possessed of the aforementioned and described tract of land, and that they have a good and lawful right to convey said easement, and that they will warrant and forever defend the title and quiet possession thereof against the lawful

claims of all persons whomsoever.

IN WITNESS WHEREOF, the said parties of the first part have hereunto subscribed their signatures the day and year first hereinabove written.

Royce B. Asher
Royce B. Asher

Beverly A. Asher
Beverly A. Asher

STATE OF IDAHO }
County of Blaine }

On this 16th day of June in the year 1969, before me the undersigned, a Notary Public in and for said State, personally appeared Royce B. Asher and Beverly A. Asher, husband and wife, known to me to be the persons whose names are subscribed to the foregoing instrument, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

(SEAL)

Stephen W. Boller
Notary Public for the State of Idaho
Residing at Shoshone, Idaho

Filed for record at the request of Murphy & Boller at 9:45 o'clock A. M., June 17, 1969.

George F. McCoy, Ex-Officio Recorder
By Hazel Barber, Deputy

No. 132755

WARRANTY DEED

CARL BLANDFORD ET UX TO JAMES DEE WRIGHT ET UX

For Value Received CARL BLANDFORD and VELDA BLANDFORD, husband and wife the grantors, do hereby grant, bargain, sell and convey unto JAMES DEE WRIGHT and NANCY L. WRIGHT, husband and wife whose address is: - - the grantees, the following described premises, in Blaine County Idaho, to wit:

Lots 1, 2 and 5 in Block 15 of KETCHUM TOWNSITE, Blaine County, Idaho, according to the official plat thereof on file in the office of the County Recorder of Blaine County, Idaho.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantees, & their heirs and assigns forever. And the Grantors do hereby covenant to and with the said Grantees, that they - - the owners in fee simple of said premises; that they are free from all incumbrances and that they will warrant and defend the same from all lawful claims whatsoever.

Dated: 5/27/69

Carl Blandford
Carl Blandford
Velda Blandford
Velda Blandford

STATE OF IDAHO, COUNTY OF - -

On this 27th day of May, 1969, before me, a notary public in and for said State, personally appeared Carl Blandford and Velda Blandford, husband and wife known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

(SEAL)

Warren E. Jewell Notary Public
Residing at Ketchum, Idaho
Comm. Expires 7/1/71

Filed for record at the request of Sawtooth Title Company at 4:00 o'clock P. M., June 17, 1969.

George F. McCoy, Ex-Officio Recorder
By Hazel Barber, Deputy