



City of Ketchum

August 17, 2020

Mayor Bradshaw and City Councilors
City of Ketchum
Ketchum, Idaho

Mayor Bradshaw and City Councilors:

Recommendation to approve Right-of-Way Encroachment Agreement 20486 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 20486 and adopt the following motion:

"I move to authorize the Mayor to sign Encroachment Agreement 20486 with CenturyLink."

The reasons for the recommendation are as follows:

- The encroachment is necessary to upgrade telecommunication services to 415 Spruce Avenue.
- The encroachment will have no impact on pedestrian or public access.

Introduction and History

CenturyLink would like to install approximately 10 ft. of new conduit and an at grade vault (handhole) within the City's right-of-way behind the sidewalk on Spruce Avenue between 4th Street and Sun Valley Road.

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 20486

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 20486

THIS AGREEMENT, made and entered into this ____ day of ____, 2020, by and between 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 Spruce Avenue between 4th Street and Sun Valley Road. 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 Spruce Avenue between 4th Street and Sun Valley Road, until notified by Ketchum to remove the infrastructure at which time Owner shall remove infrastructure 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.
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 _____,)
) ss.
County of _____)

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)
) ss.
County of Blaine)

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.

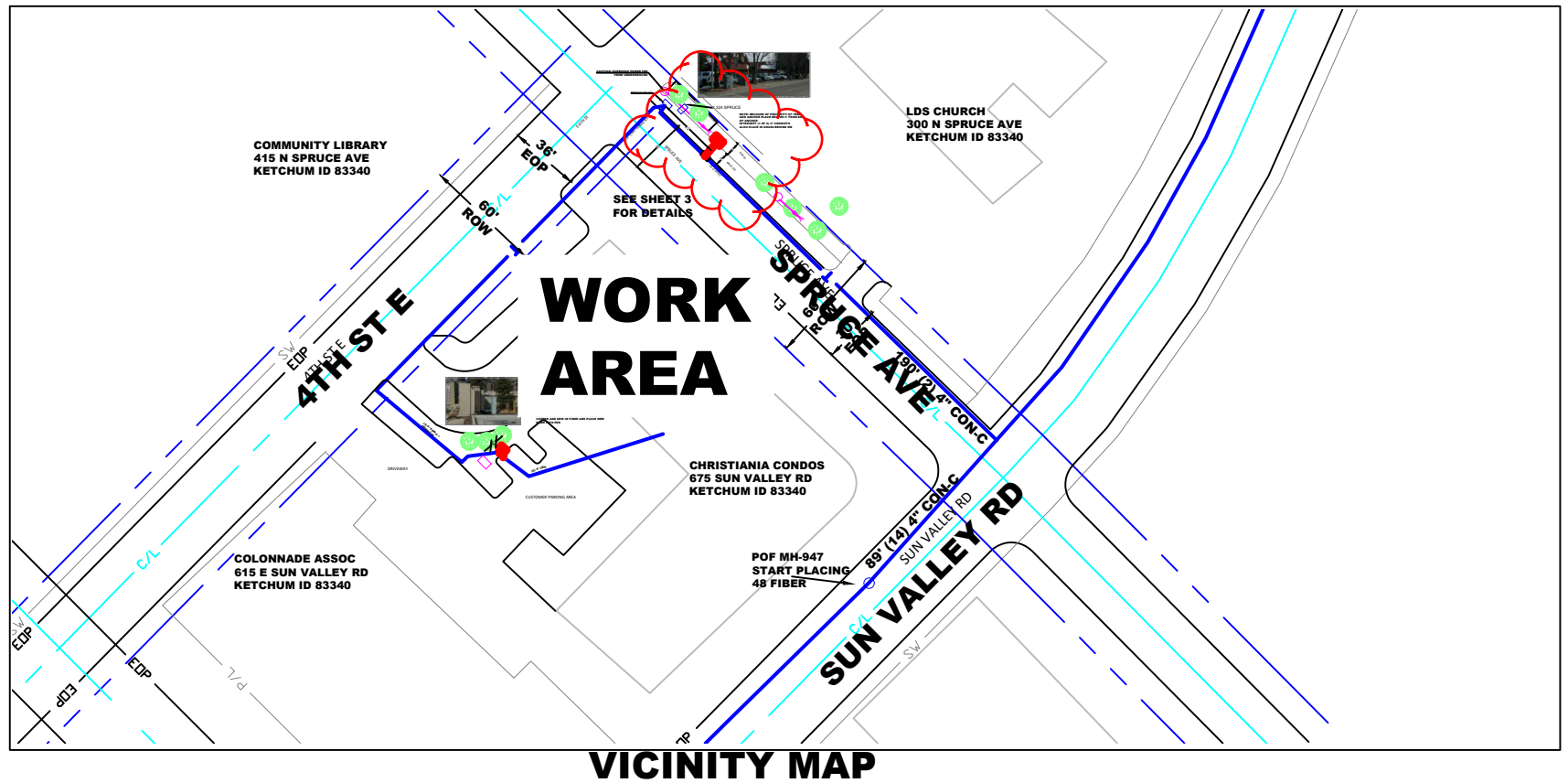
Notary Public for _____
Residing at _____
Commission expires _____

EXHIBIT "A"

LEGEND SHEET

SYMBOLOLOGY

CENTERLINES	CA	⊙	BRASS CAP	▬	CATCH BASIN
MONUMENT LINE	WA	⊙	STREET SIGN	▬	IRRIGATION CONTROL VALVE
PROPERTY LINE	PA	⊙	TREE	▬	IRRIGATION MANHOLE
RIGHT OF WAY	RA	⊙	BUSH	▬	WATER MANHOLE
PUE	PUE	⊙	CACTUS	▬	SEWER MANHOLE
MATCHLINE		⊙	UTILITY CABINET	▬	STORM DRAIN MANHOLE
RAILROAD		⊙	POWER POLE	▬	GAS MANHOLE
CATV LINE	CAV	⊙	WOOD POWER POLE	▬	TELCO MANHOLE
ELECTRIC	E	⊙	PROPOSED ANCHOR	▬	CATV MANHOLE
OVERHEAD ELECTRIC	OHE	⊙	TRAFFIC LIGHT POLE	▬	GAS VALVE
OVERHEAD T & E	OHE	⊙	STREET LIGHT	▬	GAS METER
GAS	G	⊙	STEEL POWER POLE	▬	ELECTRIC METER
PETROLEUM	PETROLEUM	⊙	WOOD TRANSMISSION POLE	▬	ELECTRIC VAULT/PULLBOX
IRRIGATION	IR	⊙	STEEL TRANSMISSION POLE	▬	TEL MANHOLE EXISTING
RWCD IRRIGATION PIPE	RWCD	⊙	JUNCTION BOX	▬	TEL MANHOLE NEW
SEWER	S	⊙	UTILITY VAULT/HAND HOLE	▬	TELCO HANDHOLE EXISTING
STORM DRAIN	SD	⊙	GROUND TRANSFORMER	▬	TELCO HANDHOLE NEW
TELEPHONE	T	⊙	CATV POWER SUPPLY	▬	4"x4" BOREPIT
JOINT TRENCH TELCO/ELEC	TAE	⊙	CATV PEDESTAL	▬	SAI EXISTING
AERIAL UTILITY (FIBER OPTIC)	AFO	⊙	TELCO PEDESTAL	▬	SAI NEW
BURIED UTILITY (FIBER OPTIC)	BFO	⊙	POWER PED EXISTING	▬	RT EXISTING
ABN TELCO	T (ABN)	⊙	POWER PED NEW	▬	RT NEW
WATER	W	⊙	WATER METER	▬	TELCO REPEATER NEW
RECLAIMED WATER	REC W	⊙	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	TS	⊙	PROPOSED DG TO FOREIGN ANCHOR	▬	TRENCH FTG
STREET LIGHT	SL	⊙		▬	BORE FTG
BORE		⊙		▬	ASPHALT CUT FTG
ASPHALT CUT & RESTORE		⊙		▬	
TRENCH		⊙		▬	



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 REQUIRE TO VERIFY PRIOR TO EXCAVATION.
- FOR UNDERGROUND ACTIVITY: TEST AND VENTILATE MANHOLE/UTILITY VAULT PRIOR TO ENTRY, PLACE WARNING DEVICES AND WORK ARE 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 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 CLOUDS. 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 PERMIT REQUIRED

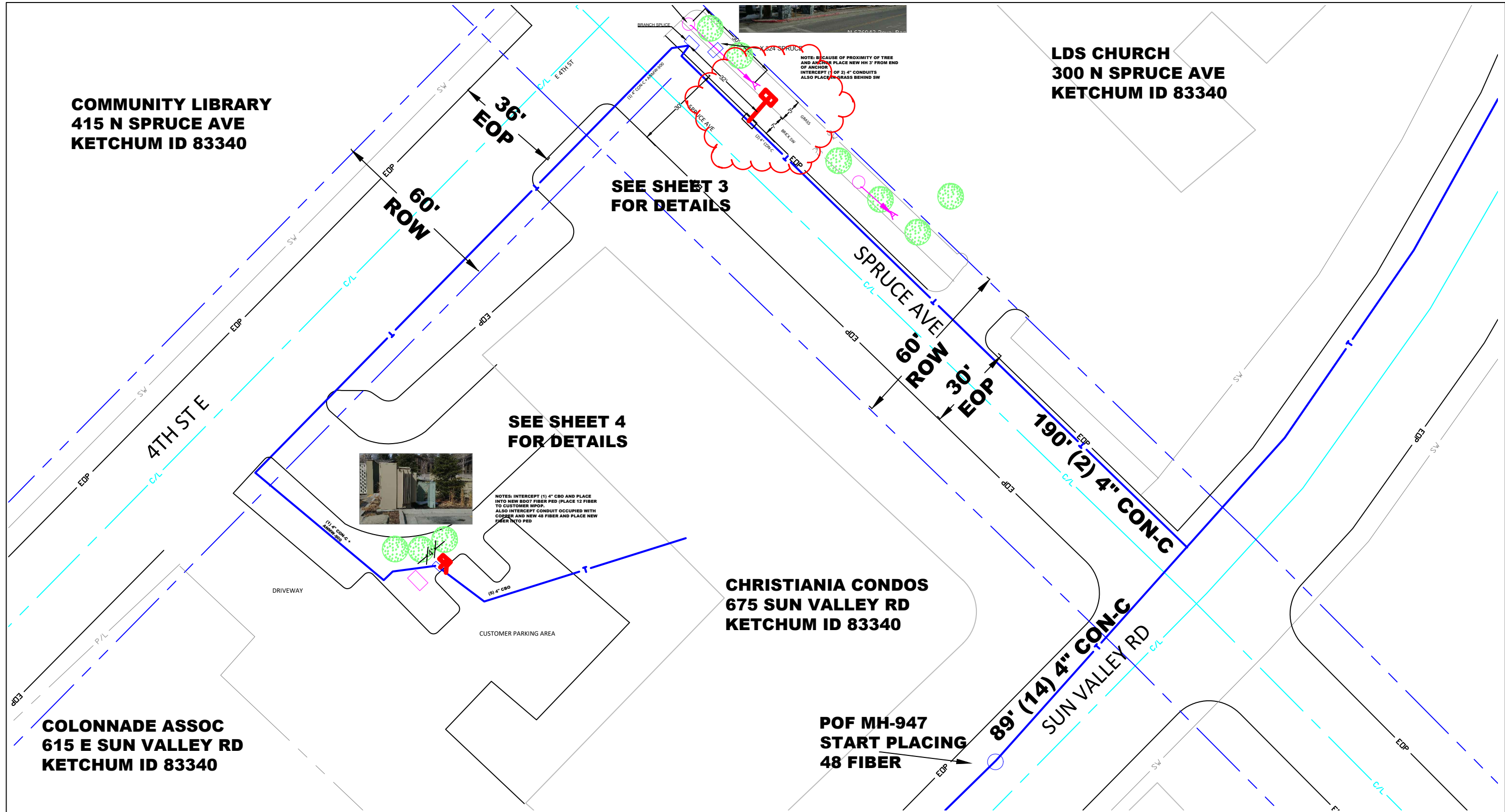
GEO: 360231
TAX: 06000
BVAPP/CLLI: BVCV22EG4/KTCHIDCM00W. ADDRESS: 675 SUN VALLEY RD, KETCHUM
BLAINE COUNTY

SCOPE OF WORK: FIBER ENTRANCE
ROYAL BANK OF CANADA
ID 83340

REVISIONS	
DATE	DESCRIPTION
1	⊙
#	\$
%	~

ECD: 5-29-2020

FW PROJECT	WFMT PROJECT:	COMMUNITY NAME	ENGINEERING CONTACT	CONTRACT ENGINEER	CONSTRUCTION COORDINATOR	SPlicing COORDINATOR	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.
N.676942	A.2714969	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: PHONE:	WC CLLI: KTCHIDMA	SECTION: 18	
							TOWNSHIP: 4N	DESC: IDKTCHMOE 675 SUN VALLEY RD	
							RANGE: 18E	EXCH KEY: 208-726 REM KEY: 3324 SCALE: NTS DATE: 3/8/20	



GEO: 360231
 TAX: 06000
 BVAPP/CLLI: BVCV22EG4/KTCHIDCM00W.
 BLAINE COUNTY

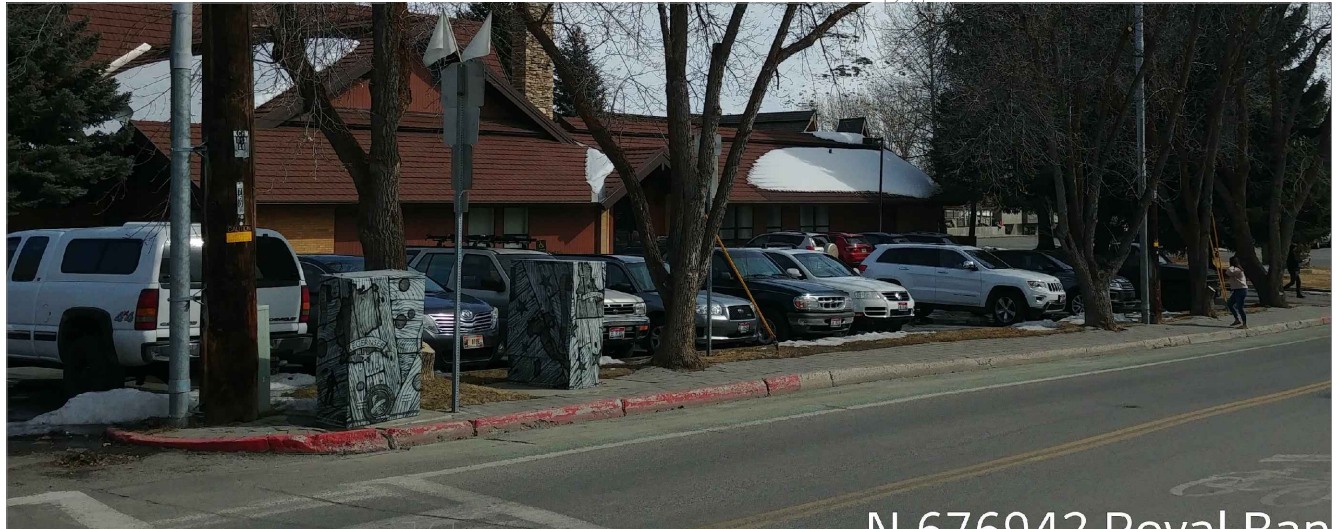
SCOPE OF WORK: FIBER ENTRANCE
 ROYAL BANK OF CANADA
 ADDRESS: 675 SUN VALLEY RD, KETCHUM
 ID 83340

REVISIONS	
DATE	DESCRIPTION
1	⊙
#	\$
%	~

ECD: 5/29/2020

ISSUE: 1
 WC CLLI: KTCHIDMA
 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.

FW PROJECT	WFMT PROJECT:	COMMUNITY NAME	ENGINEERING CONTACT	CONTRACT ENGINEER	CONSTRUCTION COORDINATOR	SPlicing COORDINATOR	SECTION:	DESC: IDKTCHMOE 675 SUN VALLEY RD		
N.676942	A.2714969	NAME: KETCHUM CITY: KETCHUM	NAME: TENILLE SORENSON PHONE: 208-733-0278	NAME: K HADLEY COMPANY: MTN LTD	NAME: JEFF DUNN PHONE: 208-733-0906	NAME: PHONE:	TOWNSHIP: 4N	EXCH KEY: 208-726	REM KEY: 3324	SHEET: 2 OF 4
							RANGE: 18E	SCALE: NTS	DATE: 3/8/18	



CAUTION: OVERHEAD POWER FED FROM UNDERGROUND

BRANCH SPLICE

X 324 SPRUCE

NOTE: BECAUSE OF PROXIMITY OF TREE AND ANCHOR PLACE NEW HH 3' FROM END OF ANCHOR INTERCEPT (1 OF 2) 4\"/>

GEO: 360231
TAX: 06000
BVAPP/CLLI: BVCV22EG4/KTCHIDCM00W. ADDRESS: 675 SUN VALLEY RD, KETCHUM
BLAINE COUNTY

SCOPE OF WORK: FIBER ENTRANCE
ROYAL BANK OF CANADA
ID 83340

REVISIONS	
DATE	DESCRIPTION
1	⊙
#	\$
%	~

ECD: 5/29/2020

ISSUE: 1
 WC CLLI: KTCHIDMA
 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.

FW PROJECT	WFMT PROJECT:	COMMUNITY NAME	ENGINEERING CONTACT	CONTRACT ENGINEER	CONSTRUCTION COORDINATOR	SPlicing COORDINATOR	SECTION:	DESC: IDKTCHMOE 675 SUN VALLEY RD		
N.676942	A.2714969	NAME: KETCHUM CITY: KETCHUM	NAME: TENILLE SORENSON PHONE: 208-733-0278	NAME: K HADLEY COMPANY: MTN LTD	NAME: JEFF DUNN PHONE: 208-733-0906	NAME: PHONE:	TOWNSHIP: 4N	EXCH KEY: 208-726	REM KEY: 3324	SHEET: 3 OF 4
							RANGE: 18E	SCALE: NTS	DATE: 3/8/18	