

AGENDA  
OURAY CITY COUNCIL

MONDAY, NOVEMBER 2, 2020

VIRTUAL MEETING

- Electronic copies of the Council Packet are available on the City website at [www.cityofouray.com](http://www.cityofouray.com). A hard copy of the Packet is also available at the Administrative Office for interested citizens.
- Action may be taken on any agenda item
- Notice is hereby given that a majority or quorum of the Planning Commission, Community Development Committee, Beautification Committee, and/or Parks and Recreation Committee may be present at the above noticed City Council meeting to discuss any or all of the matters on the agenda below for Council consideration

**Work Session – 5:00pm and Regular Meeting – 6pm**

Join Zoom Meeting

<https://zoom.us/j/9349389230>

Meeting ID: 934 938 9230      Passcode: 491878      Or by phone: +1 408-638-0968    +1 669-900-6833

**Work Session – 5:00pm**

2021 Budget

**Regular Meeting – 6pm**

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. CEREMONIAL/INFORMATIONAL - none
4. CITIZENS' COMMUNICATION
5. APPROVAL OF MINUTES – September 2, 8, 14, 21, and 28      Page 2
6. CITY COUNCIL REPORTS/INFORMATION - Glenn Boyd, Ethan Funk, Peggy Lindsey, John Wood, and Greg Nelson
7. DEPARTMENT REPORTS
  - a. Acting City Administrator – Director of Finance and Administration      Page 23
  - b. Public Works Director      Page 31
  - c. City Resources Director      Page 34
  - d. Chief of Police      Page 35
8. CONSENT AGENDA - none
9. ACTION ITEMS      Page 36
  - a. Discussion and Possible Rescission of Mayor's Declaration of Stage 1 Fire Restrictions
  - b. Huckstering Permit Application from Beautification Committee for Expanded Yule Night Celebration      Page 40
  - c. Reinstate Budgeted Purchase of Dump Truck
  - d. Ordinance 12, Series 2020 – 2021 Utility Rates – First Reading      Page 43
  - e. Consideration of Request from Bob & Karen Risch Requesting a Six Month Delay in Deadline to Pay for Encroachment      Page 45
  - f. 495 Productions Services, LLC License Agreement to Film in Box Cañon      Page 46
  - g. Easement Through City Property for Broadband Project      Page 58
  - h. OIPI Water Agreement      Page 60
10. DISCUSSION ITEMS
  - a. ChargePoint Electric Vehicle Charging Station      Page 63
  - b. Priorities for Legal Counsel
  - c. Work Session Prioritization      Page 79
  - d. Schedule Executive Session Meeting with Silas Clarke
  - e. Future Agenda Items
11. ADJOURNMENT

**OURAY CITY COUNCIL VIRTUAL SPECIAL MEETING  
SUMMARIZED MINUTES  
WEDNESDAY SEPTEMBER 2, 2020, 9:00 A.M.**

Join Zoom Meeting  
<https://zoom.us/j/9349389230>  
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Passcode: 491878

by phone  
+1 408 638 0968  
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**1. CALL TO ORDER**

Mayor Pro Tem Wood called the meeting to order at 9:05 am since Mayor Nelson was having connectivity issues.

**2. ROLL CALL**

Mayor Greg Nelson – present  
Mayor Pro Tem John Wood – present  
Councilor Glenn Boyd – present  
Councilor Ethan Funk – present  
Councilor Peggy Lindsey – present

Also present were Acting City Administrator Melissa Drake, City Resource Director Rick Noll, Community Development Coordinator Aja Tibbs, Public Works Director Joe Coleman and City Attorney Carol Viner.

**3. ACTION ITEM - Consideration and Possible Action to Refer Flume Tax Continuation as a Ballot Measure to the Voters of the City of Ouray**

Council reviewed Resolution 2020-08 submitting possible renewal of the flume tax as a ballot question to the 2020 General Election. Mayor Pro Tem Wood made a motion to adopt Resolution 2020-08. Councilor Boyd seconded the motion.

Council Member	For	Against	Abstain	Absent
Mayor Nelson	X			
Mayor Pro Tem Wood	X			
Councilor Boyd	X			
Councilor Funk	X			
Councilor Lindsey	X			

Motion passed on unanimous roll call vote.

#### 4. EXECUTIVE SESSION

**Executive session, pursuant to C.R.S. 24-6-402(4)(b) for a conference with the City attorney for the purpose of receiving advice on specific legal questions regarding City liability for operation of the Hot Springs Pool and Box Canyon Falls for the public during the COVID-19 pandemic**

Councilor Funk made a motion to move into executive session. Councilor Lindsey seconded.

Council Member	For	Against	Abstain	Absent
Mayor Nelson	X			
Mayor Pro Tem Wood	X			
Councilor Boyd	X			
Councilor Funk	X			
Councilor Lindsey	X			

Motion passed on unanimous roll call vote.

Executive session concluded at 9:52 am.

#### 5. POSSIBLE DIRECTION TO ACTING CITY ADMINISTRATOR REGARDING DEVELOPING CERTAIN POLICIES FOR ADOPTION BY COUNCIL

Mayor Pro Tem Wood made a motion to direct Staff to create an employee facility key policy, as well as a bathroom cleaning policy and schedule for what departments are responsible on what days. Staff performance review policy needs to be implemented as well, and staff need to look at a long range access strategy with key pad or fobs. Councilor Boyd seconded the motion.

Council Member	For	Against	Abstain	Absent
Mayor Nelson	X			
Mayor Pro Tem Wood	X			
Councilor Boyd	X			
Councilor Funk	X			
Councilor Lindsey	X			

Motion passed on unanimous roll call vote.

#### 6. ADJOURNMENT

Mayor Pro Tem Wood made a motion to adjourn at 10:11 am, Councilor Lindsey seconded the motion. The motion passed on unanimous vote.

ATTEST:

\_\_\_\_\_  
Greg Nelson, Mayor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Melissa M. Drake, City Clerk

CERTIFICATION

I, Melissa M. Drake, do hereby certify that I am the City Clerk of the City of Ouray, Ouray County, State of Colorado, and that the above minutes are a true and correct summary of the meeting of the Ouray City Council held on September 2, 2020. I further certify that the meeting was duly called and held, and that a quorum was present.

Dated this 17<sup>th</sup> day of September, 2020.

\_\_\_\_\_  
Melissa M. Drake, City Clerk

**OURAY CITY COUNCIL MEETING  
SUMMARIZED MINUTES  
TUESDAY, SEPTEMBER 8, 2020, 6 PM  
COUNCIL MET IN PERSON at the Massard Auditorium Ouray Community Center  
VIRTUAL MEETING FOR PUBLIC**

Join Zoom Meeting

<https://zoom.us/j/9349389230>

Meeting ID: 934 938 9230

Passcode: 491878 or by phone: +1 408-638-0968 +1 669-900-6833

- Electronic copies of the Council Packet are available on the City website at [www.cityofouray.com](http://www.cityofouray.com). A hard copy of the Packet is also available at the Administrative Office for interested citizens.
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**1. CALL TO ORDER**

Mayor Nelson called the meeting to order at 6:00 pm.

**2. ROLL CALL**

Mayor Greg Nelson - present  
Mayor Pro Tem John Wood - present  
Councilor Glenn Boyd - present  
Councilor Ethan Funk - present  
Councilor Peggy Lindsey - present

Also present were Acting City Administrator Melissa Drake, City Resources Director Rick Noll, Public Works Director Joe Coleman, Community Development Coordinator Aja Tibbs, Administrative Accounting Clerk Julie Lancaster, and City Attorney Carol Viner.

**3. The PLEDGE OF ALLEGIANCE was recited.**

**4. CEREMONIAL/INFORMATIONAL**

**a. Update from Ouray County Public Health Director Tanner Kingery on the COVID-19 Pandemic**

National Guard tested 618 individuals in 2 days. 3 Positives from testing, one was a suspected case already. New total of 28 cases in the county. 5 new cases in last 14 days (4 confirmed, one probable). 4 active cases being monitored. One resident and one non-resident death.

**b. Mayor's Proclamation of September as Suicide Prevention and Awareness Month**

Mayor Nelson read Proclamation Number 1, series 2020.

**5. CITIZENS' COMMUNICATION**

Mayor Nelson opened the floor for public comment.

Since there were no comments, Mayor Nelson closed the floor.

## 6. APPROVAL OF MINUTES – August 3, 17, and 20

Councilor Funk made a motion to approve the minutes. Mayor Pro Tem Wood seconded the motion.

Council Member	For	Against	Abstain	Absent
Mayor Nelson	X			
Mayor Pro Tem Wood	X			
Councilor Boyd	X			
Councilor Funk	X			
Councilor Lindsey	X			

The motion passed on unanimous roll call vote.

## 7. CITY COUNCIL REPORTS/INFORMATION

- a. **Glenn Boyd** – COVID informational meeting tomorrow. Councilor Boyd read a prepared statement about the city and county officials' response to the situation, asking everyone to show some understanding for those with different views and to come together as a community.
- b. **Ethan Funk** – Thanked Councilor Boyd for his statement. Ice Park is having a "love your gorge" cleanup event this coming weekend. The Ice Park has promised \$2,500 along with Via Ferrata for restrooms. Councilor Funk wanted Public Works to be aware of South Reservoir spillover. OIPI is strongly leaning towards cancelling Ice Fest, since vendors and athletes are pulling out. Might move to a clinic model for ice climbing. Region 10 believes broadband project can be extended through May, supposed to have ended in 2020. Anchors meeting. City can participate and pick anchor points to install internet. Four priorities plus two more that city should invest in knowing that DOLA will match funds, since the project would extend into the next budget period.
- c. **Peggy Lindsey** – Beautification meeting on August 20<sup>th</sup>. Decided to cancel trail work tomorrow due to weather. 11<sup>th</sup> is still on. Cleanup on 23<sup>rd</sup> from 7-11. Mayor Nelson said River Walk is looking great already. Got numbers from Markus Van Meter for Tourism Advisory Committee, increased views on Instagram and Facebook.
- d. **John Wood** – OIPI has presented slightly lessened liability insurance restrictions that will allow smaller guides to operate more efficiently. CEDC has a meeting on Thursday and work session on Friday at 11 am. Presentation on other Main Street programs in Colorado. TAC has a lot of things on agenda, working on streamlining and prioritizing goals to be most effective.
- e. **Greg Nelson** – Region 10 met about 2 weeks ago and improved their 2021 budget. Economic recovery increased. Blue Canyon Road project could make travel to this area of Colorado harder. CAST meeting, gave update on efforts to increase stimulus for small municipalities. Meeting on Thursday at 5 pm. Discussion with district Ranger to address backcountry behavior. Outdoor recreation master plan and perimeter trail master plan. Need to redo parks and recreation master plan. Councilor Boyd asked if CDOT promised that if I-70 was closed for fires or something that Highway 50 would be opened. Would, but not in writing yet.

## 8. DEPARTMENT REPORTS

### a. Acting City Administrator – Director of Finance and Administration

Down in visitors at the pool, but up in visitors in the Box Canon. Council will have an all-day meeting to meet with contractor and do Zoom interviews for potential administrator candidates. Gathering more info

about charging station, but staff is interested in ChargePoint's proposal. Gearing up for 2021 budget process. Staff will start meeting next week. With budget season coming up, Ms. Drake would like to name Joe Coleman as Temporary Deputy City Administrator to help with administrator duties, and bring in more administrative help. Mayor Nelson suggested making a city budget with a 10% decrease in funding marking projects that would be cut if revenues were lower than predicted. Council was concerned about workload for Ms. Drake and Mr. Coleman.

Councilor Funk made a motion to approve her proposal for hiring additional help until the budget is passed or a full time city administrator is hired. Ms. Drake asked council to amend motion to include retro pay for Mr. Coleman once a rate is determined. Councilor Funk agreed. Councilor Boyd seconded the motion. Motion passed on unanimous roll call vote.

Mayor Nelson asked about the office ventilation and expansion project. Ms. Drake said solutions have been discussed and work at the visitor center is nearly complete.

**b. Public Works Director**

Subcontractor for SMPA hit a water service line and will be receiving an invoice for damages. Received results from recent MPA, scored a 20 which is considered high risk. Meeting scheduled with water engineer tomorrow to talk about results. Mayor Pro Tem Wood suggested making a list of subcontractors in the City to record incidents such as this. Councilor Funk asked about water meter radio transmission locations, and offered to help with the project.

**c. City Resources Director**

Over 2000 visits over the long weekend. 963 Saturday, 953 Sunday and \_\_\_\_\_ on Monday. Hot Springs attendance is lower than last year, but over 850 people on one day. The Hot Springs Pool won the People's Choice award for best hot springs in Ouray County. Mayor Pro Tem Wood asked Mr. Noll asked about participation in the Hot Springs Loop and increased visitation.

**d. Chief of Police**

Reported call statistics. Officers completed new state mandated training. Alpine backcountry conservation campaigns have been very successful, looking to expand program. On Friday at 8:30 am there will be a Patriot Day service.

**e. Community Development Coordinator**

Meeting with staff and legal counsel regarding wastewater treatment emergency ordinance. As ordinance is currently in place, no new developments are allowed aside from a specific list in ordinance, and ordinance would only allow 35 new taps and not allow multiple taps on properties currently.

Too many people from planning commission are also on steering committee. Council needs to decide how to handle situation.

**9. CONSENT AGENDA – Black Bear Manor Bed & Breakfast Permit Renewal**

Councilor Funk made a motion to approve the consent agenda. Councilor Lindsey seconded the motion.

Council Member	For	Against	Abstain	Absent
Mayor Nelson	X			
Mayor Pro Tem Wood	X			

Councilor Boyd	X			
Councilor Funk	X			
Councilor Lindsey	X			

The motion passed on unanimous roll call vote.

## 10. ACTION ITEMS

### a. Emergency Ordinance No. 10, Series 2020 – Extending Existing Emergency Ordinances Set to Expire on September 12, 2020

Mayor Pro Tem Wood made a motion to approve Emergency Ordinance 10, Series 2020. Councilor Funk seconded the motion.

Council Member	For	Against	Abstain	Absent
Mayor Nelson	X			
Mayor Pro Tem Wood	X			
Councilor Boyd	X			
Councilor Funk	X			
Councilor Lindsey	X			

The motion passed on unanimous roll call vote.

### b. Ordinance No. 11, Series 2020 – Regarding Accessory Dwelling Units in the City – First Reading

Ms. Tibbs gave an overview of how the ordinance would change the building code and the reasons behind them. Code changes would allow 1200 sqft in ADUs instead of the previous 1000. Accessory Dwelling Units would not count against property allowances for. Enforcement on ADUs is tricky, it would be based on complaints, and take a lot of staff time to manage.

Mayor Nelson is concerned that the full extent of the changes were not communicated to the general public. Ms. Drake said the second reading could be put off and the city could advertise the public hearing more.

Councilor Lindsey has reservations about allowing multiple houses on one property, especially in R-1 zone.

Councilor Funk believes the square footage limit should remain at 1000 sqft.

Mayor Pro Tem Wood made a motion to continue the matter to a work session. Councilor Boyd seconded the motion.

Council Member	For	Against	Abstain	Absent
Mayor Nelson	X			
Mayor Pro Tem Wood	X			
Councilor Boyd	X			
Councilor Funk	X			
Councilor Lindsey	X			

The motion passed on unanimous roll call vote.

Council will set a work session date after City Administrator interviews are set.



Ms. Tibbs asked if the planning commission should continue with the ADU ordinance given councilmembers' comments. Council still wants to continue with the ordinance, but feel there is a philosophical difference between how the prior council and the current council want to go about it.

**c. Possible Appointment of Beautification Committee Member**

Councilor Lindsey made a motion to approve Ms. Tisdell's appointment to Beautification Committee. Mayor Pro Tem Wood seconded the motion.

Council Member	For	Against	Abstain	Absent
Mayor Nelson	X			
Mayor Pro Tem Wood	X			
Councilor Boyd	X			
Councilor Funk	X			
Councilor Lindsey	X			

The motion passed on unanimous roll call vote.

**11. DISCUSSION ITEMS**

**a. Wastewater Treatment Plant Project**

As an independent analyst, Mark Valentine from JDS Hydro spoke about the conceptual project plans. Mr. Valentine believes the plans are very thorough, and recommends a phased approach, but the approach doesn't need to be determined right away.

**b. Potential Domestic Water Treatment Plant Project**

The City will likely need to develop a plan for a water treatment plant 18 months after it is finalized that one is necessary, so the City should begin now to get as much design time as possible.

**c. Via Ferrata Rules**

Via Ferrata is looking for municipal backup on rules giving Via Ferrata employees authority. Ms. Viner said creating a resolution to post at the Via Ferrata would be clean and simple to help the Via Ferrata employees stand up to belligerent guests.

**d. Staff Appreciation Picnic**

Date to be determined after Thursday.

**e. Future Agenda Items**

Outdoor recreation and parks/recreation master plan. One plan or two?

Formalize TAC role from Ad hoc to full committee.

**12. ADJOURNMENT**

Mayor Pro Tem Wood made a motion to adjourn at 9:59 pm, Councilor Lindsey seconded the motion. The motion passed on unanimous vote.

ATTEST:

\_\_\_\_\_  
Greg Nelson, Mayor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Melissa M. Drake, City Clerk

CERTIFICATION

I, Melissa M. Drake, do hereby certify that I am the City Clerk of the City of Ouray, Ouray County, State of Colorado, and that the above minutes are a true and correct summary of the meeting of the Ouray City Council held on September 8, 2020. I further certify that the meeting was duly called and held, and that a quorum was present.

Dated this 14<sup>th</sup> day of October, 2020.

\_\_\_\_\_  
Melissa M. Drake, City Clerk

**OURAY CITY COUNCIL SPECIAL VIRTUAL MEETING  
SUMMARIZED MINUTES  
MONDAY SEPTEMBER 14, 2020, 11:30 A.M.**

<https://zoom.us/j/95164940944>

Meeting ID: 951 6494 0944

Passcode: 109348

Or dial:

+1 253 215 8782

+1 346 248 7799

- Electronic copies of the Council Packet are available on the City website at [www.cityofouray.com](http://www.cityofouray.com). A hard copy of the Packet is also available at the Administrative Office for interested citizens.
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**1. CALL TO ORDER**

Mayor Nelson called the meeting to order at 11:30 am.

**2. ROLL CALL**

Mayor Greg Nelson – present

Mayor Pro Tem John Wood – present

Councilor Glenn Boyd – present

Councilor Ethan Funk – present

Councilor Peggy Lindsey – present

Also present was Acting City Administrator Melissa Drake.

**3. EXECUTIVE SESSION**

Executive session, pursuant to C.R.S. 24-6-402(4)(f), to discuss personnel matters, specifically candidates for the position of City Administrator

Councilor Boyd made a motion to go to executive session at 11:32 am. Mayor Pro Tem Wood seconded the motion.

Council Member	For	Against	Abstain	Absent
Mayor Nelson	X			
Mayor Pro Tem Wood	X			
Councilor Boyd	X			
Councilor Funk	X			
Councilor Lindsey	X			

The motion passed on unanimous roll call vote.

The executive session concluded at 11:45 am.

**4. ACTION ITEM – Consideration, discussion, and possible selection of finalists for the position of City Administrator**

Councilor Funk made a motion to approve the following candidates in alphabetical order: Frank Bell, Silas Clarke and Eric Duthie. Councilor Lindsey seconded the motion.

Council Member	For	Against	Abstain	Absent
Mayor Nelson	X			
Mayor Pro Tem Wood	X			
Councilor Boyd	X			
Councilor Funk	X			
Councilor Lindsey	X			

The motion passed on unanimous roll call vote.

In person interview date will be September 25. There will be 4 interviewer groups: council, staff leadership, peers and citizens.

**5. ADJOURNMENT**

Mayor Pro Tem Wood made a motion to adjourn at 11:50 am, Councilor Lindsey seconded the motion. The motion passed unanimously.

ATTEST:

\_\_\_\_\_  
Greg Nelson, Mayor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Melissa M. Drake, City Clerk

**CERTIFICATION**

I, Melissa M. Drake, do hereby certify that I am the City Clerk of the City of Ouray, Ouray County, State of Colorado, and that the above minutes are a true and correct summary of the meeting of the Ouray City Council held on September 14, 2020. I further certify that the meeting was duly called and

held, and that a quorum was present.

Dated this 14<sup>th</sup> day of October, 2020.

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Melissa M. Drake, City Clerk

**OURAY CITY COUNCIL VIRTUAL MEETING  
SUMMARIZED MINUTES  
MONDAY, SEPTEMBER 21, 2020, 1 PM**

Join Zoom Meeting  
<https://zoom.us/j/9349389230>

Meeting ID: 934 938 9230      Passcode: 491878

Or dial:            408 638 0968      or    669 900 6833

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**1. CALL TO ORDER**

Mayor Nelson called the meeting to order at 1:00 pm.

**2. ROLL CALL**

Mayor Greg Nelson - present  
Mayor Pro Tem John Wood - present  
Councilor Glenn Boyd - present  
Councilor Ethan Funk - present  
Councilor Peggy Lindsey - present

Also present were Acting City Administrator Melissa Drake, City Resources Director Rick Noll, Public Works Director Joe Coleman, Community Development Coordinator Aja Tibbs, Administrative Accounting Clerk Julie Lancaster, and City Attorney Carol Viner.

**3. CEREMONIAL/INFORMATIONAL - None**

**4. CITIZENS' COMMUNICATION**

Mayor Nelson opened the floor for public comment.

Since there was no public comments, Mayor Nelson closed the floor.

**5. CITY COUNCIL REPORTS/INFORMATION**

- a. **Glenn Boyd** – nothing to report except MAC meeting on Wednesday
- b. **Ethan Funk** – Meeting with new OIPI CEO. Noticed a budget discrepancy in juvenile diversion program costs, budgeted \$7500 for 2020, and the invoice was \$8800. There is a new shed at Via Ferrata entry, Councilor Funk said he is getting questions about it and asked if staff know about it.
- c. **Peggy Lindsey** – Lori Leo is spearheading River Walk Project, cleanup on Wednesday from 7:30 – 11:30 am, meeting across from Swiss Village.

d. **John Wood** – nothing to report

e. **Greg Nelson** – no meetings, but Virtual Ouray Film Festival happened over the weekend. Also meeting with new OIPI CEO this week.

## 6. DEPARTMENT REPORTS

### a. Acting City Administrator – Director of Finance and Administration

Holding administrator interviews on Friday. Meet ‘n Greet at 5 pm in Fellin Park, or Community Center if inclement weather. Comment cards will be available. Connie Hunt and Preston Neil and Ms. Drake met for the hiring of the Recovery Specialist position. Mayor Nelson, Ms. Drake, Jennifer Peterson and Markus Van Meter are meeting every other week for cooperative marketing with Montrose. Rocky Mountain Health Plans is no longer carrying the City’s health insurance plan, staff are looking into other options which will likely be more expensive. Mayor Pro Tem Wood suggested an IGA with other entities such as the school district and county to get a bigger insurance pool. Bring back charging station next council meeting. Still asking for council budget “wish list”.

Fire Chief Trevor Latta: one of the fire department volunteers is getting type 1 firefighter training for wildland fire response. Went to California with a Ridgway firefighter to fight forest fires. If the department had a team that could be dispatched during low risk times in Ouray, they could bring revenue back to the department.

Ms. Drake reported that July activity sales tax is up 13% from last year, and up 6.4% YTD compared to 2019. Without remote sales, we would be down 3.1% compared to last year. Lodging tax is where expected. Fund has recovered. Almost all funds are green except Refuse fund, which was a known issue for this year that will have to be rectified next year. Budget will be in a good place when the State Historical Fund refunds us for the Columbus Building project.

Councilor Boyd reported that he celebrated his son’s birthday at the pool and it was a great experience for everyone who attended.

### b. Community Development Coordinator

Reports included in council packet.

Mayor Pro Tem Wood asked for a summary of the new building inspector. Ms. Tibbs said his name is Michael Huskey and has an extensive background in electrical work. Currently located in Delta, he has been on the Western Slope for a while. Mr. Huskey also has experience as a project manager.

## 7. CONSENT AGENDA – Liquor License Renewal

### Ouray Liquors LLC dba Ouray Liquors

Mayor Pro Tem Wood made a motion to approve the consent agenda. Councilor Funk seconded the motion.

Council Member	For	Against	Abstain	Absent
Mayor Nelson	X			
Mayor Pro Tem Wood	X			
Councilor Boyd	X			
Councilor Funk	X			
Councilor Lindsey	X			

The motion passed on unanimous roll call vote.

## 8. ACTION ITEMS

### a. Employment Agreement for Temporary Deputy City Administrator

Expect this to only be a 2 month situation, pursuant to hiring of permanent city administrator.

Councilor Funk made a motion to approve the employment agreement. Councilor Boyd seconded the motion.

Council Member	For	Against	Abstain	Absent
Mayor Nelson	X			
Mayor Pro Tem Wood	X			
Councilor Boyd	X			
Councilor Funk	X			
Councilor Lindsey	X			

The motion passed on unanimous roll call vote.

### b. Ouray County Request to Waive Fees for Street Closure for Court House Ribbon Cutting

Staff does not have the ability to waive fees, which is why it was before council.

Mayor Pro Tem Wood made a motion to approve the request. Councilor Funk seconded the motion.

Council Member	For	Against	Abstain	Absent
Mayor Nelson	X			
Mayor Pro Tem Wood	X			
Councilor Boyd	X			
Councilor Funk	X			
Councilor Lindsey	X			

The motion passed on unanimous roll call vote.

### c. Resolution Regarding Via Ferrata Rules

Mayor Pro Tem Wood made a motion to approve the resolution. Councilor Boyd seconded the motion.

Council Member	For	Against	Abstain	Absent
Mayor Nelson	X			
Mayor Pro Tem Wood	X			
Councilor Boyd	X			
Councilor Funk	X			
Councilor Lindsey	X			

The motion passed on unanimous roll call vote.



**d. JVA Scope of Work WWTP Project**

Mr. Coleman gave an update on moving forward with the project. Cooper Best and Melissa from JVA were available to answer any questions as well. Mr. Best stated there will be 3 tasks, first is the permit, site application and engineering report. Task 2 will be process design report submitted to state and approved. Task 3 is CMAR selection; reviewing candidates to join design team.

Mayor Pro Tem Wood made a motion to approve the project. Councilor Funk seconded the motion in order to further discuss.

Councilor Funk asked if this would be coming out of the 2020 budget or if it would be delayed until 2021. Ms. Drake said it was budgeted in total in the 2020 budget.

Ms. Viner said the agreement needs to be a PSA, and the letter currently submitted will not suffice.

Mayor Nelson asked when the owner's engineer would be brought in. Owner's engineer/representative brought in at later stages typically.

Ms. Viner suggested that the owner's rep not be a city staff member because of the size of this project. Mayor Pro Tem Wood stated that an outside owner's rep would increase funding that was not planned. Ms. Viner said Mr. Coleman doesn't have the proper insurance to be the owner's rep, but he would work closely with the owner's rep. Council asked Mr. Coleman to come back to council with an owner's rep plan.

Council Member	For	Against	Abstain	Absent
Mayor Nelson	X			
Mayor Pro Tem Wood	X			
Councilor Boyd	X			
Councilor Funk	X			
Councilor Lindsey	X			

The motion passed on unanimous roll call vote.

Staff will bring a PSA back to council.

**e. DOLA Grant Application for Domestic Water Project**

Pete from Wright Water Engineers presented a DOLA grant application to fund preliminary design. Grant would be a matching fund; the city would put up \$25,000 and DOLA would put up \$25,000. Mayor Nelson would not like to see a costly temporary solution when we could implement a permanent solution.

Mayor Pro Tem Wood made a motion to approve the application. Councilor Lindsey seconded the motion.

Council Member	For	Against	Abstain	Absent
Mayor Nelson	X			
Mayor Pro Tem Wood	X			
Councilor Boyd	X			
Councilor Funk	X			
Councilor Lindsey	X			

The motion passed on unanimous roll call vote.

## **9. DISCUSSION ITEMS**

### **a. Potential CDOT-related Projects**

Mayor Nelson would like to see a cross walk installed at the pool/visitor center on Hwy 550, and a crosswalk on Hwy 550 at the horseshoe for hiking and off-roading traffic too. Spoke with businesses in North Ouray about extending the 25 mph zone to north of the RV park on Hwy 550. Councilor Funk said he believed a speed study would be required and could actually bump up the speed limit all through town. Mayor Pro Tem Wood suggested coming to CDOT with solutions already worked out to expedite the process for them. Mr. Coleman recommended reaching out to CDOT first since they would be the ones doing the study.

### **b. Discovery Channel Filming in Ouray (Potential Release Documents)**

Discovery Channel has approached the city about filming in the area. Currently scouting areas to film in town to promote outdoor recreation. Council needs to create list of dos and don'ts for the filming crews. Ms. Viner said the filming crew needs to bring a specific schedule back to council instead of giving them carte blanche to allow them to film around town at any time. John Paulter from Discovery Channel said they're happy to oblige with the City's requests, and will keep a strict COVID testing policy for anyone who is involved in the filming. Councilor Funk asked if people who were also in the area of filming incidentally would be approached about permission to release their image in the footage. Mayor Pro Tem Wood said Discovery Channel is used to that and will have processes in place to handle that. Councilor Funk said that should be included in any documents presented to the city.

### **c. Limited Restaurant Capacity and EQRs**

Many restaurants had EQRs raised last year due to seating capacity, but with the current 50% capacity the bills have been harder to manage for some restaurant managers. Councilor Boyd said the city needs to be consistent among all industries that got shut down, not just restaurants. Ms. Drake pointed out that many homeowners don't want to pay their full EQR while they are not inhabiting the house in the winter, and that could come up again with this discussion as well. Mayor Pro Tem Wood will do some more fact finding to find out how many restaurants are struggling making their water/sewer payments currently, or project they will struggle over the winter because of COVID-19 restrictions.

### **d. Restroom Cleaning and Access Policies First Drafts**

Mr. Coleman has created a restroom cleaning procedure and maintenance log. Currently, facilities are being cleaned twice a day every day.

Mr. Coleman also presented the key policy, stating the department heads would be in charge of issuing keys upon hire, and collecting them upon termination.

### **e. Future Agenda Items**

#### **i. Schedule Work Sessions**

- 1) Annual Work Session with Ouray County Board of Commissioners – Oct 5
- 2) Emergency Ordinance Regarding Caps on Sewer Taps -
- 3) Joint Work Session with Planning Commission on ADU Amendments

- 4) Community Plan Update Work Session with Steering Committee
- 5) Work Session Regarding Restaurant Capacity Issues During Winter

Ms. Drake will reach out to council members to get individual availability in order to schedule meetings.

- ii. Other – Councilor Boyd would like the City to formally ask the County to announce the street closure, especially for the school. He would also like to see a fee schedule for people looking to film in the City, and to follow up on the business license program for the City. Councilor Funk would like to help the businesses out this holiday season with closing the streets and facilitating outdoor celebrations with burn barrels to keep warm.

10:15 am September 28<sup>th</sup>: executive session to discuss administrator interviews.

## 10. ADJOURNMENT

Councilor Boyd made a motion to adjourn at 2:50 pm, Councilor Funk seconded the motion. The motion passed on unanimous vote.

ATTEST:

\_\_\_\_\_  
Greg Nelson, Mayor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Melissa M. Drake, City Clerk

## CERTIFICATION

I, Melissa M. Drake, do hereby certify that I am the City Clerk of the City of Ouray, Ouray County, State of Colorado, and that the above minutes are a true and correct summary of the meeting of the Ouray City Council held on September 21, 2020. I further certify that the meeting was duly called and held, and that a quorum was present.

Dated this 15<sup>th</sup> day of October, 2020.

\_\_\_\_\_  
Melissa M. Drake, City Clerk

**OURAY CITY COUNCIL SPECIAL VIRTUAL MEETING  
SUMMARIZED MINUTES  
MONDAY SEPTEMBER 28, 2020, 10:15 A.M.**

Join Zoom Meeting  
<https://zoom.us/j/9349389230>  
Meeting ID: 934 938 9230  
Passcode: 491878

by phone:  
+1 408 638 0968  
+1 669 900 6833

- Electronic copies of the Council Packet are available on the City website at [www.cityofouray.com](http://www.cityofouray.com). A hard copy of the Packet is also available at the Administrative Office for interested citizens.
- Action may be taken in open session on any agenda item
- Notice is hereby given that a majority or quorum of the Planning Commission, Community Development Committee, Beautification Committee, and/or Parks and Recreation Committee may be present at the above noticed City Council meeting to discuss any or all of the matters on the agenda below for Council consideration

**1. CALL TO ORDER**

Mayor Nelson called the meeting to order at 10:15 am.

**2. ROLL CALL**

Mayor Greg Nelson – present  
Mayor Pro Tem John Wood – present  
Councilor Glenn Boyd – present  
Councilor Ethan Funk – present  
Councilor Peggy Lindsey – present

Also present was Acting City Administrator Melissa Drake, Public Works Director Joe Coleman, Community Development Coordinator Aja Tibbs, Police Chief Jeff Wood, City Resources Director Rick Noll, City Attorney Carol Viner, and Administrative Accounting Clerk Julie Lancaster.

**3. ACTION ITEM – Consideration, Discussion and Possible Selection (from Final Candidates) of the City Administrator**

Mayor Nelson reported that Frank Bell has removed his name from consideration. Councilors gave their opinions of Eric Duthie first, and then of Silas Clarke.

Councilor Funk made a motion to move forward with hiring Silas Clarke as City Administrator. Councilor Lindsey seconded.

Council Member	For	Against	Abstain	Absent
Mayor Nelson	X			
Mayor Pro Tem Wood	X			

Councilor Boyd	X			
Councilor Funk	X			
Councilor Lindsey	X			

The motion passed on unanimous roll call vote.

#### 4. EXECUTIVE SESSION

Executive session, pursuant to C.R.S. § 24-6-402(4)(e), to discuss and determine positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and instructing negotiators, relative to the hiring of the City Administrator.

Councilor Boyd made a motion to go to executive session at 10:38 am. Mayor Pro Tem Wood seconded the motion.

The motion passed unanimously.

The executive session concluded at 12:02 pm.

#### 5. ADJOURNMENT

Councilor Boyd made a motion to adjourn at 12:03 pm, Councilor Funk seconded the motion. The motion passed unanimously.

ATTEST:

\_\_\_\_\_  
Greg Nelson, Mayor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Melissa M. Drake, City Clerk

#### CERTIFICATION

I, Melissa M. Drake, do hereby certify that I am the City Clerk of the City of Ouray, Ouray County, State of Colorado, and that the above minutes are a true and correct summary of the meeting of the Ouray City Council held on September 28, 2020. I further certify that the meeting was duly called and held, and that a quorum was present.

Dated this 15<sup>th</sup> day of October, 2020.

---

Melissa M. Drake, City Clerk

320 6<sup>th</sup> Avenue  
PO Box 468  
Ouray, Colorado 81427



970.325.7211  
Fax 970.325.7212  
[www.cityofouray.com](http://www.cityofouray.com)

The Outdoor Recreation Capital of Colorado

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**Acting City Administrator and Director of Finance and Administration**  
**Report for 11/02/2020 Council Meeting**  
**Last 2 Weeks**

- **Budget 2021** – The majority of my time has been spent on budget.
- **COVID-19 Pandemic Emergency** – I have sent you updates throughout the weeks. The case count in Ouray County, as well as most of the rest of the world, has steadily increased.
- **September Financial Report** – Due to work on the budget and staff shortage, this report is not yet available. It will be presented at the November 16<sup>th</sup> Council meeting.
- **Hot Springs Pool and Box Cañon** – Visitation and Revenue Reports are attached
- **Sales Tax** – The full sales tax report for August activity/received in October is up almost **30%** over the same period in 2019. The categories with the largest increases are Lodging, Local Retail Sales, Eating & Drinking, and Other Services.
- **Capital Christmas Tree** – the tree will be in the City on November 11<sup>th</sup> from 9:30am to 11am. The Beautification Committee will be putting up Christmas decorations prior to that date and we are encouraging residents and businesses to follow suit.

CITY OF OURAY BOX CAÑON FALLS VISITOR CENTER - VISITOR AND REVENUE TRENDS

VISITORS

	2015		2016		2017		2018		2019		2020		Incr./Decr. Visitors	20 vs. 19 %
MAY	4063		4841		4979		6048		4065		0		(4,065)	-100.00%
JUNE	10913		12308		13176		11793		13729		9252		(4,477)	-32.61%
JULY	15308		17649		18650		17819		20914		21473		559	2.67%
AUGUST	11253		11094		12290		11737		13872		17086		3,214	23.17%
SEPTEMBER	7323		7907		9092		8914		9903		14033		4,130	41.70%
OCTOBER	3897		4511		5070		3963		5721					
TOTAL VISITORS	52,757		58,310		63,257		60,274		68,204		61,844		(639)	

REVENUES

	2015		2016		2017		2018		2019		2020		Incr./Decr.	20 vs. 19
	Adm.	Conc.	Adm.	Conc.	Adm.	Conc.	Adm.	Conc.	Adm.	Conc.	Adm.	Conc.	\$	%
MAY	\$ 13,812.77	\$ 1,768.19	\$ 16,825.00	\$ 2,225.43	\$ 17,486.88	\$ 2,198.68	\$ 25,699.50	\$ 2,682.41	\$ 21,118.11	\$ 2,427.75	\$ -	\$ -	\$ (23,545.86)	-100.00%
JUNE	\$ 37,892.68	\$ 5,011.61	\$ 42,461.03	\$ 5,294.16	\$ 45,389.73	\$ 5,015.46	\$ 50,013.95	\$ 5,058.44	\$ 62,137.51	\$ 6,338.97	\$ 41,263.44	\$ 2,884.13	\$ (24,328.91)	-35.53%
JULY	\$ 52,851.59	\$ 6,709.13	\$ 60,863.02	\$ 7,147.59	\$ 64,319.24	\$ 8,230.02	\$ 75,561.60	\$ 7,576.29	\$ 89,005.01	\$ 8,540.88	\$ 92,936.75	\$ 5,933.87	\$ 1,324.73	1.36%
AUGUST	\$ 38,647.54	\$ 4,883.35	\$ 38,486.02	\$ 4,698.79	\$ 42,591.00	\$ 5,426.30	\$ 50,370.69	\$ 5,159.73	\$ 59,804.50	\$ 5,944.70	\$ 75,438.78	\$ 5,129.68	\$ 14,819.26	22.54%
SEPTEMBER	\$ 24,763.00	\$ 3,448.99	\$ 27,754.96	\$ 3,992.03	\$ 31,767.24	\$ 4,029.89	\$ 39,016.59	\$ 3,853.74	\$ 43,140.50	\$ 4,469.76	\$ 62,818.85	\$ 4,718.89	\$ 19,927.48	41.86%
OCTOBER	\$ 13,633.01	\$ 1,736.88	\$ 16,075.00	\$ 2,278.27	\$ 17,605.00	\$ 2,560.93	\$ 17,605.00	\$ 2,358.41	\$ 24,735.00	\$ 2,398.45				
TOTAL \$	\$ 181,600.59	\$ 23,558.15	\$ 202,465.03	\$ 25,636.27	\$ 219,159.09	\$ 27,461.28	\$ 258,267.33	\$ 26,689.02	\$ 299,940.63	\$ 30,120.51	\$ 272,457.82	\$ 18,666.57	\$ (11,803.30)	

Admission rate  
increased by  
\$1.00 in 2018



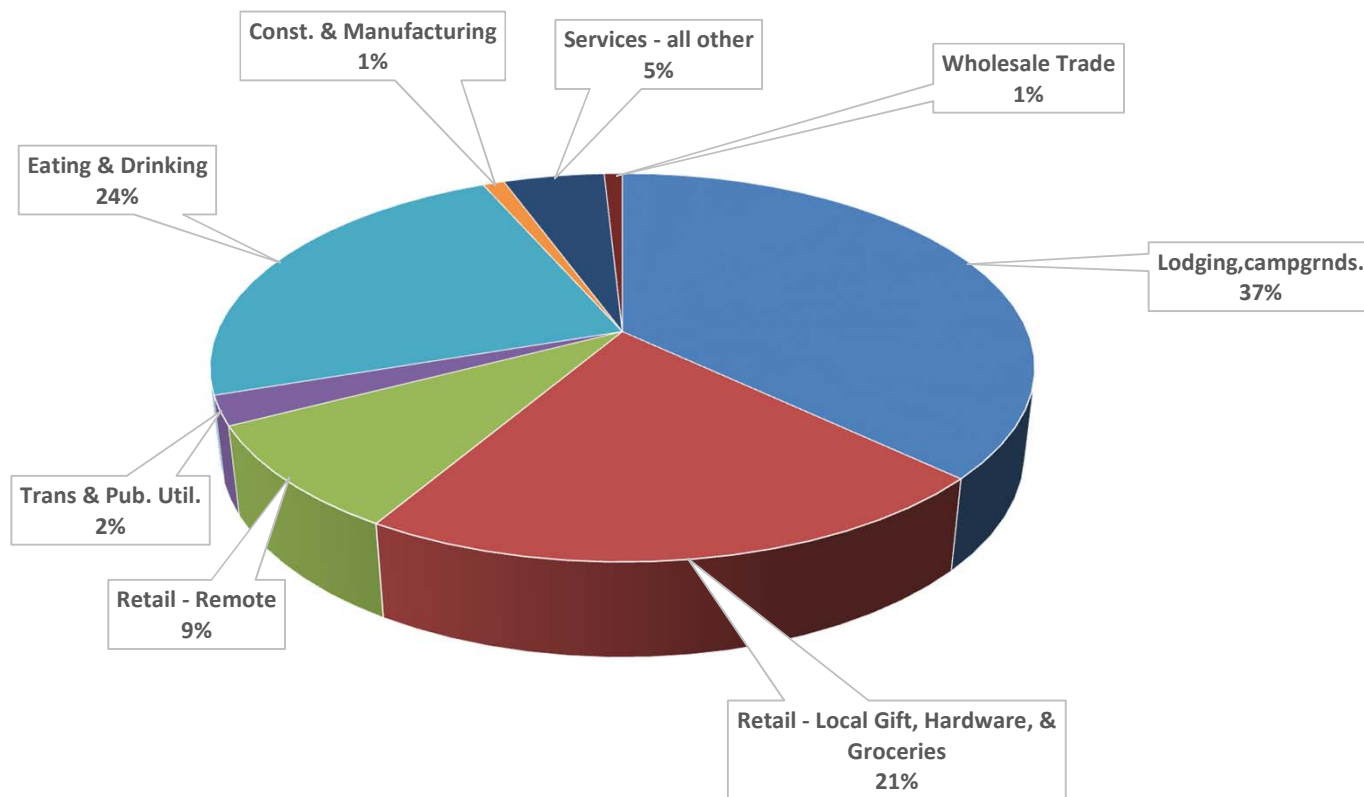
City of Ouray Hot Springs Pool and Fitness Center - Visitor and Revenue Trends

(Source: Point of Sale Software)

VISITORS	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	% change from 2019
January	7,867	7,417	7,639	7,496	9,160	9,287	36	9,392	8,553	8,149	-4.72%
February	6,240	6,563	6,380	6,177	7,158	9,095	13	7,342	5,970	7,836	31.26%
March	7,993	8,322	8,367	7,832	10,045	10,087	58	10,468	9,118	3,638	-60.10%
April	5,025	4,756	5,056	4,277	5,691	6,195	16	7,048	5,481	-	-100.00%
May	9,439	9,546	10,407	10,040	11,798	12,065	2,984	13,346	11,397	-	-100.00%
June	15,824	16,753	18,494	18,294	20,970	22,404	18,175	24,764	24,525	1,540	-93.72%
July	27,201	26,005	30,652	29,009	32,485	36,116	37,483	35,943	36,986	6,416	-82.65%
August	17,421	17,463	18,875	21,625	22,377	22,353	25,486	23,936	23,274	12,622	-45.77%
September	11,379	11,496	10,825	10,617	14,334	9,258	16,065	16,397	14,833	11,946	-19.46%
October	6,266	5,419	5,741	6,473	7,360	62	9,834	8,771	9,596		
November	5,109	5,460	6,052	6,576	6,878	49	7,077	7,043	6,920		
December	7,334	6,512	7,117	7,158	7,646	47	10,753	9,046	8,174		
TOTAL YEAR	127,098	125,712	135,605	135,574	155,902	137,018	127,980	173,496	164,827	52,147	

REVENUE	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	% change from 2019
January	\$ 51,516.52	\$ 63,665.75	\$ 69,592.57	\$ 70,853.78	\$ 84,848.13	\$ 85,983.09	\$ 2,189.00	\$ 89,885.46	\$ 95,701.53	\$ 99,306.81	3.77%
February	\$ 40,712.27	\$ 53,489.36	\$ 53,942.51	\$ 58,070.40	\$ 62,350.28	\$ 78,569.69	\$ 724.00	\$ 70,970.13	\$ 65,918.59	\$ 97,215.12	47.48%
March	\$ 53,734.00	\$ 68,778.92	\$ 71,253.08	\$ 73,228.30	\$ 92,289.88	\$ 84,745.80	\$ 1,012.00	\$ 102,232.15	\$ 108,526.39	\$ 47,810.30	-55.95%
April	\$ 32,716.07	\$ 39,091.23	\$ 40,718.09	\$ 35,578.60	\$ 50,940.75	\$ 52,112.54	\$ 2,234.00	\$ 72,957.12	\$ 62,025.47	\$ -	-100.00%
May	\$ 64,312.46	\$ 83,176.16	\$ 92,099.46	\$ 90,214.50	\$ 109,383.77	\$ 108,047.29	\$ 123,474.60	\$ 155,881.40	\$ 138,237.34	\$ -	-100.00%
June	\$ 147,891.01	\$ 168,218.99	\$ 184,665.49	\$ 175,517.27	\$ 186,061.57	\$ 211,853.56	\$ 166,974.02	\$ 317,542.31	\$ 311,093.17	\$ 19,273.04	-93.80%
July	\$ 255,111.76	\$ 248,316.40	\$ 273,929.96	\$ 278,448.14	\$ 300,620.51	\$ 332,026.16	\$ 479,802.39	\$ 455,519.84	\$ 474,330.32	\$ 74,169.01	-84.36%
August	\$ 148,989.05	\$ 164,396.17	\$ 169,419.68	\$ 196,542.94	\$ 194,321.61	\$ 198,465.34	\$ 326,151.96	\$ 308,882.04	\$ 295,953.46	\$ 165,977.58	-43.92%
September	\$ 94,152.75	\$ 104,059.16	\$ 90,904.86	\$ 93,619.70	\$ 127,909.15	\$ 80,149.87	\$ 184,807.92	\$ 200,777.07	\$ 188,131.33	\$ 158,666.78	-15.66%
October	\$ 49,054.72	\$ 47,989.45	\$ 51,079.71	\$ 56,515.76	\$ 63,216.05	\$ 2,737.00	\$ 82,537.92	\$ 99,235.68	\$ 120,843.43	\$ -	
November	\$ 40,559.39	\$ 41,042.60	\$ 48,744.63	\$ 55,891.66	\$ 54,218.80	\$ 1,796.25	\$ 62,435.74	\$ 84,885.49	\$ 83,976.37	\$ -	
December	\$ 66,499.97	\$ 67,307.68	\$ 75,289.46	\$ 73,048.24	\$ 74,421.59	\$ 1,957.00	\$ 112,212.40	\$ 111,645.98	\$ 105,050.32	\$ -	
TOTAL YEAR	\$ 1,045,249.97	\$ 1,149,531.87	\$ 1,221,639.50	\$ 1,257,529.29	\$ 1,400,582.09	\$ 1,238,443.59	\$ 1,544,555.95	\$ 2,070,414.67	\$ 2,049,787.72	\$ 662,418.64	

**City of Ouray**  
**August 2020 Sales Tax Revenues by Business Category**  
**(received in October 2020)**



**CITY OF OURAY**  
**2020 MONTHLY SALES TAX REVENUES BY BUSINESS CATEGORY**

(1) Month tax received from State of Colorado, representing sales from two months earlier (e.g. tax shown as APRIL is mostly from FEBRUARY)

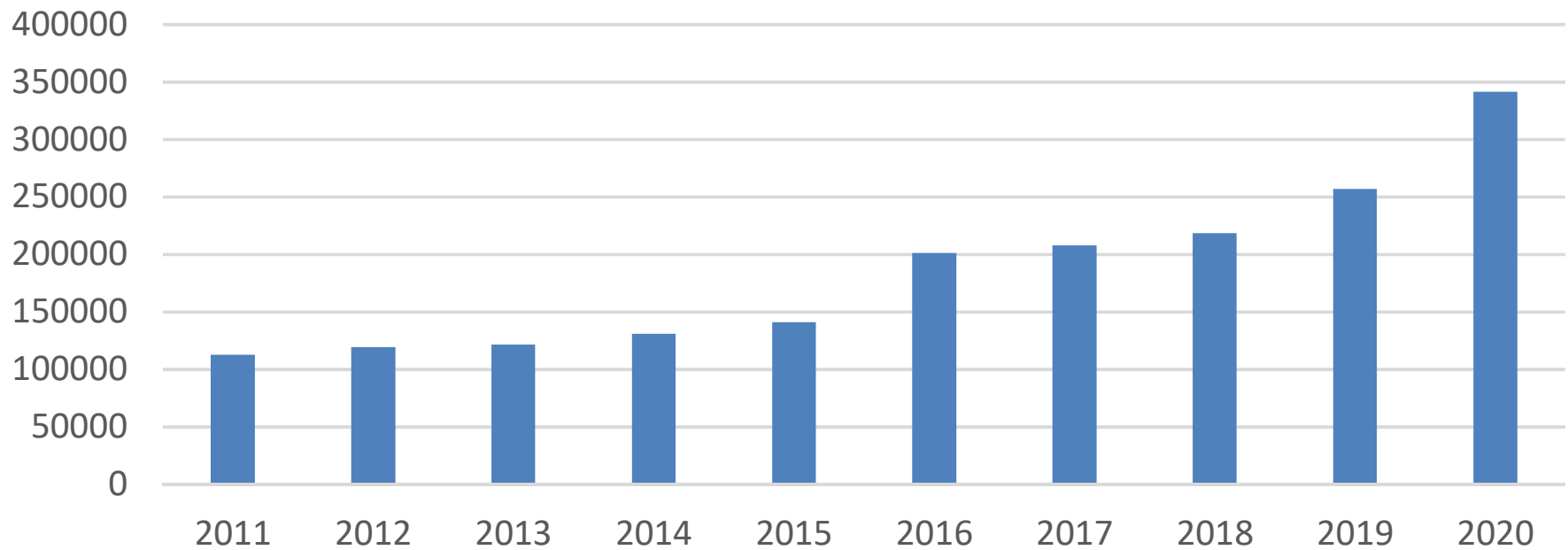
2020 SALES TAX REVENUES BY BUSINESS CATEGORY						
(1) Funds received by City in: July (mostly re: May)						
Business Category	January	February	March	April	May	June
Lodging, campgrnds.	\$ 15,650.17	\$ 32,873.34	\$ 32,270.70	\$ 26,580.81	\$ 8,537.56	\$ 2,831.80
Retail - Local Gift, Hardware, & Groce	\$ 13,822.47	\$ 22,157.99	\$ 18,926.37	\$ 17,147.45	13,653.00	\$ 8,465.09
Retail - Remote	\$ 20,761.13	\$ 21,204.34	\$ 13,972.85	\$ 15,352.60	13,005.06	\$ 16,707.24
Trans & Pub. Util.	4,153.41	15,972.66	11,518.84	12,276.40	8,821.34	8,448.08
Eating & Drinking	12,366.72	27,216.57	25,248.24	22,111.84	9,551.59	2,444.33
Const. & Manufacturing	4,386.21	2,337.47	1,205.57	1,661.83	3,440.51	2,075.69
Services - all other	774.99	1,369.61	1,002.37	1,194.72	1,034.99	1,344.14
Wholesale Trade	683.11	301.35	878.12	964.13	669.83	129.34
Retail - groceries, liquor, candy, hardware, gas						
Retail - gift, souvenir, variety, books						
Finance, Ins. Real Estate						
Mining						
All Other						
<b>TOTAL</b>	<b>\$ 72,598.21</b>	<b>\$ 123,433.33</b>	<b>\$ 105,023.06</b>	<b>\$ 97,289.78</b>	<b>\$ 58,713.88</b>	<b>\$ 42,445.71</b>
Business Category	July	August	September	October	November	December
Lodging, campgrnds.	\$ 17,607.03	\$ 68,221.11	\$ 138,029.22	\$ 126,505.93		
Retail - Local Gift, Hardware, & Groce	\$ 18,532.27	\$ 46,147.82	\$ 83,403.22	\$ 73,512.48		
Retail - Remote	\$ 20,976.71	\$ 34,366.94	\$ 26,273.14	\$ 30,268.92		
Trans & Pub. Util.	6,477.23	7,004.14	7,618.04	8,337.39		
Eating & Drinking	7,172.66	42,780.09	71,465.90	80,662.31		
Const. & Manufacturing	878.37	3,246.39	3,089.93	3,428.77		
Services - all other	1,311.96	10,635.22	24,523.99	16,156.73		
Wholesale Trade	722.21	2,179.91	2,880.66	2,906.77		
Retail - groceries, liquor, candy, hardware, gas						
Retail - gift, souvenir, variety, books						
Finance, Ins. Real Estate						
Mining						
All Other						
<b>TOTAL</b>	<b>\$ 73,678.44</b>	<b>\$ 214,581.62</b>	<b>\$ 357,284.10</b>	<b>\$ 341,779.30</b>	<b>\$ -</b>	<b>\$ -</b>

(1) Month tax received from State of Colorado, representing sales from two months earlier (e.g. tax shown as APRIL is mostly from FEBRUARY)

# CITY OF OURAY

## AUGUST SALES TAX REVENUE COMPARISON

### Over Past 10 Years



Notes: Figures represent tax revenue received in October  
Sales Tax increased from 3% to 4% on January 1, 2016

CITY OF OURAY  
SALES TAX REVENUES BY BUSINESS CATEGORY 2011-2020

SALES TAX REVENUES BY BUSINESS CATEGORY

Business Category	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Lodging, campgrnds.	\$ 43,095.83	\$ 43,299.02	\$ 45,313.14	\$ 46,497.53	\$ 49,384.81	\$ 70,845.37	\$ 77,990.60	\$ 85,331.38	\$ 102,731.15	\$ 126,505.93
Retail - Local Gift, Hardware, & Groceries									49,445.23	\$ 73,512.48
Retail - Remote									26,879.01	\$ 30,268.92
Retail - groceries, liquor, candy, hardw	14,067.78	16,056.04	16,769.00	16,997.24	15,448.74	26,311.15	27,185.21	31,535.87		
Retail - gift, souvenir, variety, books	10,140.00	13,034.71	12,928.41	13,624.89	14,330.76	19,071.21	18,449.56	18,649.68		
Trans & Pub. Util.	6,079.11	6,379.01	6,306.26	6,463.51	6,431.63	7,623.60	7,317.69	7,435.79	8,544.45	8,337.39
Eating & Drinking	22,217.76	22,695.68	24,825.35	23,482.37	30,576.29	37,947.81	39,312.90	45,890.73	64,421.46	80,662.31
Const. & Manufacturing	8,990.35	9,534.59	7,134.26	11,529.64	14,392.06	20,249.01	20,128.73	18,930.35	1,523.28	3,428.77
Services - all other	2,843.33	934.90	2,133.33	1,936.62	1,733.45	8,464.63	7,086.34	3,527.05	1,973.44	16,156.73
Finance, Ins. Real Estate	5,290.71	7,220.87	6,287.88	9,299.92	9,049.52	10,762.65	10,026.10	6,933.51		
Wholesale Trade	40.00	79.92	78.00	108.00	53.12	165.50	528.81	313.60	1,618.22	2,906.77
Mining	-	-	-	-	-	-	-	-		
All Other	-	132.53	28.50	909.15	-	-	-	-		
<b>TOTAL</b>	<b>\$ 112,764.87</b>	<b>\$ 119,367.27</b>	<b>\$ 121,804.13</b>	<b>\$ 130,848.87</b>	<b>\$ 141,400.38</b>	<b>\$ 201,440.93</b>	<b>\$ 208,025.94</b>	<b>\$ 218,547.96</b>	<b>\$ 257,136.24</b>	<b>\$ 341,779.30</b>

\$1,667.85  
out-of-period      \$6,026.60  
out-of-period      \$13,015.03  
out-of-period

# Year to Date Sales Tax Comparison

January through October 2019	\$ 1,333,497.33
Year to Date 2020	\$ 1,486,827.43

**Percentage increase from 2019 11.5%**

## Public Works October Update

### Water

- Water Usage Numbers for September:
  - Influent (Water from spring) – 37,511,168 Gallons
  - Effluent (Water to town) – 22,058,621 Gallons
  - Micro Hydro Pant – 3,112,960 Gallons
  - Mineral Farms – 209,600 Gallons
- Water service line leak on Oak St, City crews were able to make repair.
- One new water service tap.
- Public Works responded to a call on a Saturday regarding a water service line leak on private property. The oncall crewmember was able to shut the water off for the property owner.

### Sewer

- Continued effort to remove duckweed that grows on the surface of lagoon #2.
- Mowing, weed eating and general grounds maintenance at the Wastewater Treatment Facility.
- New dechlorination building was delivered to the WWTP at the end of September. Public works has completed transferring equipment from the old building. The crew also ran water to the building and insulated it.
- Continue to skim the lagoons of debris as needed.
- One new sewer service tap.
- Kick off meeting with JVA in regards to engineering of a new wastewater treatment plant. Please see attached memo from JVA about October's work on the design of the new wastewater treatment plant. One highlight to be noted is CDPHE approval of the Project Needs Assessment. We have been working on this with them for some time now.
- Public Works responded to a call on a Sunday about a about a sewer back up. Public Works was able to unplug the City Sewer Main line before any property damage occurred. Below is a picture of what the crew removed from the bar screen after the blockage was removed.



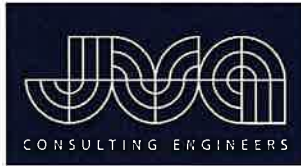
### **Streets**

- Watered roads and grading throughout town as needed.
- Continued cutting and trimming trees in the City Right of Way.
- Removed American and Colorado flags from HWY 550.
- Removed pedestrian crossing signs from HWY 550.
- Removed traffic calming devices on Oak St and 3<sup>rd</sup> Ave.
- Remove flowers and planters from HWY 550.

### **City Resources**

- Continued geothermal monitoring.
- Completed building a temporary office space downstairs at the Visitors Center.
- Continued cleaning public restrooms two times a day seven days a week.
- Continued trash collection once a day seven days a week from Main St, Box Canyon Park, Rotary Park, Cascade Falls, Dog Park and the River Trail.
- Continued cleaning up piles of brush and tree limbs from the work being done by the beautification committee.
- Continued effort working with ChargePoint on locations for the EV charging station.
- Continued effort working with the Discovery Channel to bring the filming of a show to the City of Ouray.





www.jvajva.com

☐ **Boulder**

1319 Spruce Street  
Boulder, CO 80302  
303.444.1951

☐ **Fort Collins**

25 Old Town Square  
Suite 200  
Fort Collins, CO 80524  
970.225.9099

☐ **Winter Park**

PO Box 1860  
47 Cooper Creek Way  
Suite 328  
Winter Park, CO 80482  
970.722.7677

☒ **Glenwood Springs**

817 Colorado Ave  
Suite 301  
Glenwood Springs, CO  
81601  
970.404.3100

☐ **Denver**

1512 Larimer Street  
Suite 710  
Denver, CO 80202  
303.444.1951

## M E M O

TO:	<u>Joe Coleman</u>	DATE:	<u>October 27, 2020</u>
CLIENT:	<u>City of Ouray</u>	JOB NO.	<u>1008.5e</u>
ADDRESS:	<u>320 6th Avenue</u>	PROJECT:	<u>Wastewater Treatment Plant Expansion</u>
	<u>Ouray, CO 81427</u>	SUBJECT:	<u>October 2020 Monthly Project Update</u>

The purpose of this memo is to update you and the City Council on the Wastewater Treatment Plant (WWTP) Expansion Project. The summary below is brief and can be expanded on if you or any of the City Council members have specific questions or concerns.

We conducted a project kickoff meeting with our design team and the City staff on October 14<sup>th</sup> and presented our project schedule. The schedule laid out key project milestones, deliverables and design review workshops for the next several months.

JVA worked closely with City staff to gather data and prepare the General Permit Application for the WWTP expansion. We anticipate submitting the application to the Colorado Department of Public Health and Environment by October 30, 2020.

The City received approval of the Project Needs Assessment (PNA) from CDPHE. The approval requires an Environmental Assessment (EA) be completed as part of the project. JVA has begun preparing a list of agency contacts for the EA process and anticipates sending notification letters to agencies in December.

In the month of October, JVA worked on preparing the Site Application and engineering report for the WWTP expansion. This is a required first step in the permitting process. This report will be submitted to the City for review in November. We also began preparing thirty percent drawings with progress on the site plan and hydraulic profile.

Lastly, we have scheduled bi-weekly project meetings with the City to maintain good communication on the project and receive valuable input from the City throughout the permitting and design. The project remains on schedule and budget.

We have enjoyed working with everyone at the City on this project. Please let me know if you or anyone from the City Council has any questions we can assist with.

Sincerely,

Signed: \_\_\_\_\_

  
Cooper Best, Regional Manager

## **City Resources Department**

November 2, 2020

The American Red Cross Aquatic Examiner Service conducted four safety audits of the Hot Springs Pool in 2020. The first visit was in February, two occurred in August, and the final visit was in October. All visits were unannounced surprise inspections. There were no deficiencies identified during the October visit. The community can be proud of the Hot Springs Pool staff for the level of training and aquatic professionalism of the staff. Training, facility inspections, and equipment inspections and inventory continue in an ongoing manner.

A donation of a pair of used thermal blankets was received from a local regional pool. These blankets are being used on the shallow pool to reduce overnight heat loss.

A donation of plastic spinal backboards was received from a Pool patron who is an out of state EMS responder. One of these backboards will be configured as a pediatric backboard and will be dedicated to this use. The Hot Springs Pool already owns several aquatic backboards. This recent donation will allow for backboards to be located in multiple places for quick access if needed.

I have met several times recently with the owner of the massage business located at the Hot Springs Pool to discuss and implement strategies to enhance the collaborative relationship between the two entities.

An air compressor that is required for operation of the filters for two of the pools failed. Pool maintenance staff was able to get the compressor restarted and operating safely until replacement parts were obtained and installed. The filter system remained functional and the pool did not need to be shut down during this equipment breakdown.

A volunteer effort was coordinated to cut weeds and brush to begin preparation of Lee's Ski Hill for the snow season. The required pre-season inspection of the rope tow by the State Tramway Safety Board is scheduled to occur in early November.

A recent inspection of the furnace in the Fitness Center revealed that the furnace is not fit for operation. This piece of equipment is more than 30 years old. Replacement is being scheduled.

The City Custodian is working extra hours to assist with weekend cleaning of the restrooms at Citizens State Bank and at the Box Canon Falls.

Several employees have been out with illness recently. Covid protocols are being followed. Testing has not identified any positive cases of Covid among the staff.

Preparation of the 2021 budget has been a priority for staff this month.

## **City of Ouray Police Department**

### **September 2020 Chief's Report**

During the month of October the OUPD had handled approximately 291 calls for service as of 10/29/2020 which included:

- 151 patrol checks
- 51 parking complaints
- 7 VIN certifications
- 16 animal complaints
- 7 code violations
- 1 noise complaint

Officer Casey Canfield attended and successfully completed training in becoming a pistol and rifle instructor. This makes the OUPD fully independent of relying on other agencies to provide instruction and training for rifle qualification.

Additionally Officer Canfield and Sgt Ray attended and completed training in Glock armorers school allowing us to perform common repairs and maintenance on our pistols.



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## **ACTION ITEMS (November 2, 2020):**

### **Discussion and Possible Rescission of Mayor's Declaration of Stage 1 Fire Restrictions**

**Action Requested** – *Will City Council rescind the Declaration from October 21st?*

**Background** – Due to high fire danger, Mayor Nelson declared Stage 1 Fire Restrictions within the City of Ouray at noon on October 21<sup>st</sup>. With the recent snow and lower temperatures, does Council wish to rescind the declaration?

**Recommendation** – Council decision

### **Huckstering Permit Application from Beautification Committee for Expanded Yule Day Celebration**

**Action Requested** – *Will City Council approve the application from the Beautification Committee?*

**Background** – The City of Ouray Beautification Committee would like to expand the Yule Day celebration on December 5, 2020 to include street closures and vendor sales. The street closures can be approved administratively but the Huckstering Permit should be approved by Council. There would be no fee for this permit since in essence, the City is the applicant. This would be a “blanket” permit and the Beautification Committee would be responsible for making sure sales tax is collected by each vendor. This would also mean that each vendor would not have to apply for a huckstering Permit. A previous Council, did approve a similar request a few years ago for a non-profit organization.

**Recommendation** – Staff recommends approval

### **Reinstate Budgeted Purchase of Dump Truck**

**Action Requested** – *Will City Council reinstate the 2020 budgeted purchase of a replacement dump truck?*

**Background** – This purchase was put on hold earlier this year due concerns about the impact of the COVID-19 Pandemic on City revenue. Revenue is up for the City compared to 2019 and the dump truck is currently being held for the City. Public Works currently has two dump trucks, one of them is a manual transmission and only two members of the crew are legally allowed to drive it. The truck will more than likely need a new transmission sooner than later if we continue to use it on the same scale as we use it now.

**Recommendation** – Staff recommends approval

#### **Ordinance 12, Series 2020 – 2021 Utility Rates – First Reading**

**Action Requested** – *Will City Council approve the first reading of the ordinance setting utility rates for 2021?*

**Background** – City staff proposed rates for 2021 in Council budget work sessions. Staff has revised those rates per Council direction and they are now outlined in this ordinance.

**Recommendation** – Staff recommends approval

#### **Consideration of Request from Bob & Karen Risch Requesting a Six Month Delay in Deadline to Pay for Encroachment**

**Action Requested** – *Will City Council approve extending the deadline for payment?*

**Background** – Earlier this year, Council placed a deadline of December 31, 200 to Mr. and Mrs. Risch to make their payment. The letter of request to extend that deadline is included in this packet.

**Recommendation** – Council decision

#### **495 Production Services, LLC License Agreement to Film in Box Cañon**

**Action Requested** – *Will City Council approve filming and the License Agreement?*

**Background** – The City of Ouray has been approached by the 495 Production Services, LLC requesting to film a show in Ouray about slack lining and promoting outdoor recreation.

**Recommendation** – Council decision

## **Easement through City Property for Broadband Project**

**Action Requested** – *Will City Council approve moving forward with a request from ClearNetworkx for an easement through City property at Fellin Park?*

**Background** – ClearNetworkx has requested an easement through City property at Fellin Park for their broadband project in the City.

**Recommendation** – Council decision

## **OIPI Water Agreement**

**Action Requested** – *Will City Council approve a water agreement with OIPI for the 2020-2021 Ice Climbing Season?*

**Background** – The existing agreement has expired and both parties request an agreement be in place for the upcoming season.

**Recommendation** – Staff recommends approval

## **DISCUSSION ITEMS (November 2, 2020):**

**Location of EV Charging Station and draft licensing agreement** – Note these are the terms only as of right now; the exhibits will be updated once the exact location has been decided.

**Priorities for Legal Counsel** – City Attorney Carol Viner requested this item to discuss tasks for the remainder of the year.

**Work Session Prioritization** – Please see the work session list in this packet.

**Schedule Executive Session Meeting with new City Administrator Silas Clarke**

**Future Agenda Items**

P.O. Box 468  
320 Sixth Avenue  
Ouray, Colorado 81427



970.325.7211  
Fax 970.325.7212  
www.cityofouray.com

## HUCKSTERING APPLICATION AND PERMIT

### APPLICATION

Name of Business: Beautification Committee

Name of Applicant: Jen Norvell

Primary Business Address: 825 Main Street

Mailing Address: PO Box 1242

Telephone Number: 970.975.0254 Email Address: jen@mtndogarts.com

Event Name: Yule Day Market

Description of Activity: Expansion of traditional Ouray Yule Day events to include outdoor vendors, similar to a Farmer's Market.

Date of Huckstering activity: 5 December 2020

Location of Huckstering activity: TBD - request to close the western end of 5th Avenue & eastern end of 6th Avenue for vendor spots

Adjoining Property Owner permission if applicable:

Signature of Adjoining Property Owner

Is the Applicant a non-profit organization? Yes: X No: \_\_\_\_\_

Proof of Sales Tax License Attached. Yes: \_\_\_\_\_ No: \_\_\_\_\_

  
Signature of Applicant

29 Oct 2020  
Date

FOR CITY USE ONLY:

Receipt of Complete Application: \_\_\_\_\_  
Signature of City Staff Date



## PERMIT

The City issues a Huckstering Permit to \_\_\_\_\_ for the huckstering activities described in the accompanying Application and the Applicant agrees to the following conditions:

1. To defend, indemnify and hold harmless the City of Ouray, its officers, agents and employees on account of any claim made or adjudged against the City of Ouray, its officers, agents and employees arising out of this Permit and to waive and release the City, its officers, agents and employees on account of any claim for damages to Applicant's person, employees, contractors, or property involved in the exercise of rights and privileges by this Permit;
2. To only conduct activities as described in the Application;
3. To maintain all Applicant's property involved in the permitted activity in good and safe condition to create no safety hazards;
4. To allow for six (6) consecutive feet of convenient unobstructed passage area for pedestrians and not obstruct any vehicular traffic;
5. To conduct and locate operations, vehicles, inventory and structures in accordance with building setback requirements in the applicable of zoning district and remove from the premises when not open for business;
6. To not sell or serve alcohol on the City streets, parks, alleys or sidewalks;
7. To comply with all other City regulations and ordinances; and
8. To reimburse the City for any damages to any City owned property.
9. Additional Conditions: \_\_\_\_\_
10. If Applicant/Permittee is selling fruits, vegetables, cider or honey, the Applicant/Permittee additionally agrees:
  - a. All sales of fruits, vegetables, cider or honey shall only be conducted within the C-2 zone.
  - b. Operations shall not be conducted for longer than 90 days.
11. Any permit may be revoked or suspended by the City to the permittee for violations of any condition of the permit or of any provision of Section 3-15 of the Ouray City Code.

By signing this Permit, the Applicant/Permittee agrees to comply with all the conditions on this permit and all other City regulations and ordinances and represents that all information in its Application is true and correct:

\_\_\_\_\_  
Signature of Applicant/Permittee

\_\_\_\_\_  
Date of Signature

\_\_\_\_\_  
Signature of City Staff

\_\_\_\_\_  
Date of Approval

City of Ouray

Per section 3-15 of the Ouray City Code

FEES:

Local (within City limits) Profit Organization:

\$25 for a one day use,

\$100 for two or more days in a 30 day period

Payable to the City of Ouray

Non-Local (outside City limits) Profit Organization:

\$150 for a one day use,

\$500 for two or more days in a 30 day period

Payable to the City of Ouray

Non-Profit Organization:

Fee waived

## **ORDINANCE NO. 12 (Series No. 2020)**

### **AN ORDINANCE OF THE CITY OF OURAY, COLORADO, REPEALING AND REPLACING WATER, SEWER, REFUSE, AND RECYCLING RATES FOR 2021.**

**WHEREAS**, the City of Ouray (City) finds it necessary to increase the water base rate, sewer base rate, waste water treatment surcharge, refuse base rate and recycling base rate for 2021; and

**WHEREAS**, the water system upgrades surcharge and refuse service fee will not increase.

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF OURAY, COLORADO**, as follows:

#### **SECTION 1:**

Chapter 9, Section 10, Subsection C, paragraphs 1, 3, 6, and 7 of the Code of the City of Ouray, Colorado, are repealed and replaced as follows:

1. Water Base Rate is \$32.05 per month per EQR.
3. Sewer Base Rate is \$50.84 per month per EQR.
6. Water System Upgrade Surcharge is \$14.00 per month per EQR.
7. Wastewater Treatment Surcharge is \$24.13 per month per EQR

#### **SECTION 2:**

Chapter 12, Section 3, Subsection A, paragraphs 2 and 3 of the Code of the City of Ouray, Colorado, are repealed and replaced as follows:

2. Refuse Base Rate is \$21.74 per month.
3. Recycling Base Rate is \$8.87 per month.

#### **SECTION 3: Effective Date**

The provisions of this Ordinance shall become effective on January 1, 2021.

#### **SECTION 4: Savings Clause**

The repeal and amendment of various provisions of the Ouray Municipal Code by this ordinance shall not affect any offense or act committed, any penalty incurred, any contract, right, or duty established or accruing before the effective date of this ordinance.

#### **SECTION 5: Severability**

If any clause, sentence, paragraph, or part of this ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect application to other persons or circumstances.

INTRODUCED, READ, APPROVED AS INTRODUCED AND ORDERED  
PUBLISHED on first reading by \_\_\_\_\_ vote of the Ouray City Council, this \_\_\_\_ day  
of \_\_\_\_\_, 2020.

CITY OF OURAY, COLORADO

By \_\_\_\_\_  
Greg Nelson, Mayor

ATTEST:

\_\_\_\_\_  
Melissa M. Drake, City Clerk

INTRODUCED, READ, AND ADOPTED on second reading by \_\_\_\_\_ vote of  
the Ouray City Council, this \_\_\_\_ day of \_\_\_\_\_, 2020.

CITY OF OURAY, COLORADO

By \_\_\_\_\_  
Greg Nelson, Mayor

ATTEST:

\_\_\_\_\_  
Melissa M. Drake, City Clerk

#### **CERTIFICATE OF ATTESTATION**

I, Melissa M. Drake, Ouray City Clerk, hereby certify that Ordinance No. 5 (Series No. 2020), was introduced, read, passed on first reading on \_\_\_\_\_, 2020. The Ordinance was published, by title and summary, in the *Ouray County Plaindealer* on \_\_\_\_\_, 2020, and thereafter introduced, read, and adopted by the Ouray City Council on \_\_\_\_\_, 2020, and thereafter published in the *Ouray County Plaindealer* as required by law.

\_\_\_\_\_  
Melissa M. Drake, City Clerk

October 19, 2020

Ouray City Council c/o Melissa Drake, Aja Tibbs  
Box 468  
Ouray, CO, 81427

Dear Councilors:

During the July 20 meeting of the Council two decisions were made regarding encroachments at 212 Ninth Avenue and also at 220 Ninth Avenue. For 212 Ninth, the Council rejected any consideration of either a purchase offer or an encroachment permit for land bordering the parking lot and directed that any wall or fencing structures be removed from City land by the end of 2020. With a considerable investment of time and finances, that directive has now been fulfilled and all fixed wall and fence structures are now located on private land. We look forward to following how the City maintains and potentially finds new uses for this parking lot in the future.

For 220 Ninth, the Council similarly directed the removal of all fixed wall and fence structures by year's end, but also offered the option of paying an encroachment fee of nearly \$6,000 for this site. We are now requesting a six-month extension of the deadline to decide between these two very costly and very disruptive alternatives with the following reasoning.

First, the garden beds and wall that are currently protecting the historic cabin, parts of which have been in place for over fifty years, are not an impediment to either pedestrian or vehicular traffic in any way at this time. The sidewalk that we donated to the City in 2014 has provided a safe and attractive way for visitors and residents to walk along this section of lower Ninth Avenue.

Secondly, the fee that is being imposed for a permit that can be revoked at any time without recompense is excessive to the point that we are compelled to evaluate alternative methods of protecting the cabin where the front door is now well below street level. Evaluating and installing new structures will require consultations with both City staff and a construction contractor who is committed for the next several months to other projects. A six-month extension will help ensure that the outcome from the demolition and replacement of the existing garden beds will retain as much of their current function and visual appeal as is reasonably possible.

Your thoughtful consideration will be appreciated.



Bob and Karen Risch  
212 9<sup>th</sup> Ave.  
Ouray, CO. 81427  
[rischbk@gmail.com](mailto:rischbk@gmail.com)  
970-318-1363

**LICENSE AGREEMENT  
(BOX CANYON WATERFALL & PARK)**

**This License Agreement** (License) is made entered by 495 Productions Services, LLC, a Delaware limited liability company registered to conduct business in Colorado (Licensee); and the City of Ouray, Colorado (Licensor or City). Licensor and Licensee are sometimes referred to as Parties.

In consideration of the mutual covenants and conditions herein stated, the Parties agree as follows:

1. Grant of License.

- 1.1. Licensor is the owner of the real property known as the Box Canyon Waterfall & Park (Box Canyon) and structures thereon, generally located to the south of Ouray Colorado and Colorado Highway 550 in Ouray County, Colorado ("License Area"). Licensee seeks a right of access on and over property and structures within the License Area for public recreational uses, including installing anchors and a line so that extreme athletes can be filming highlining and to film the Welcome to Ouray sign as you come into the City from the north on Hwy 550.
- 1.2. Licensee is a reality TV production company located in Burbank, California who wishes to film extreme athletes highlining in the Box Canyon in connection with the television series current known as Pushing the Line (Series).
- 1.3. In entering into this License and granting and accepting these restrictions, covenants, terms and conditions hereof, the City avails itself of the maximum immunities, benefits and protections which may be available to it pursuant to applicable laws and regulations; including, but not limited to, the Colorado Recreational Use Statute ("CRUS"), C.R.S., Sections 33-41-101, et seq.; the Colorado Governmental Immunity Act, C.R.S., Sections 24-10-101, et seq.; and the Colorado Landowners' Liability Statute, C.R.S., Section 13-21-115.
- 1.4. Licensor hereby grants to Licensee, a non-exclusive license and permission to occupy, use, and install necessary steel bolts into the rock, with supervision and approval by the Friends of Via Ferrata, who manages the Via Ferrata for the City, and to traverse certain areas identified in Exhibit A attached hereto (License Area) of the Box Canyon owned

by Licensor and to use the same to film extreme athletes highlining.<sup>1</sup> Those to whom permission for such uses is granted are Licensee and all those invited or permitted by Licensee to enter upon, use the Box Canyon for highlining and/or filming are authorized users.

- 1.5. As a condition of the License, Licensor requires and Licensee hereby agrees to and accepts all terms conditions, limitations and requirements stated and imposed herein on behalf of itself and all Authorized Users of the License Area. Licensee shall monitor and enforce compliance with the terms of this License by all Authorized Users of the License Area.
- 1.6. Neither the fact of entering into this License Agreement nor any statement contained within it shall be construed to modify the underlying real or personal property rights or obligations of the parties with respect to the License Area or Project Boundary that would exist in the absence of this License Agreement.
2. Consideration. No monetary consideration is required to be paid. As between the Parties, the mutual covenants and promises contained and set forth within this License are acknowledged as adequate consideration.
3. Scope of License. The permission granted under this License is strictly limited to the License Area and the uses and activities authorized herein are limited to access for public recreational uses by Authorized Users. The exercise of the permitted uses is subject to the following restrictions and limitations:
  - 3.1. In the absence of any written, specific consent of Licensor, Licensee shall not interfere with or allow any of the Authorized Users to interfere with any of Licensor's business operations in and on the License Area and Licensee's use shall at all times be subordinate to and shall not interfere with, obstruct, or delay Licensor's use of the License Area.
4. Terms of License; Conditions; and Termination. Subject to the right of Licensor to suspend or terminate this License, with or without cause, in its sole discretion, this License shall commence on the effective date of this License and terminate on December 1, 2020 ("License Term").

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<sup>1</sup> Highlining is an extreme sport where people traverse a rope with each end of the rope attached to a rock with steel anchors.

5. Condition of License Area. Licensors neither warrants nor guarantees the adequacy, appropriateness or safety of either the property or improvements within and around the License Area or any of his improvements, structures, equipment or facilities for any of the uses contemplated by, allowed by, or resulting from this License or as to any person who might use the same pursuant to or as a result of this License. Licensee acknowledges and agrees that the state and condition of the property and improvements within and around the License Area which are the subject of this License are accepted in their 'as is' condition and Licensors makes no warranties or representations as to their suitability or safety for the uses contemplated by this License.
6. Assignment. This License may not be transferred or assigned by Licensee without the prior written consent of the Licensors, except if the Discovery Networks requests an assignment and the Licensors approves such transfer.
7. Liability Insurance.
  - 7.1. Licensee shall obtain and, thereafter during the term of this License, maintain in full force and effect, at Licensee's sole expense, a policy of general liability insurance in the amount of no less than One Million Dollars (\$1,000,000) per claim or occurrence covering the recreational uses within License Area. Such coverage shall provide that the Licensee's assumption of liability pursuant to Section 9 below is a "covered contract" for purposes of such coverage. Licensee shall cause Licensors, to be included as an "Additional Insured" on each such policy with respect to operations of the Licensee within the License Area. No such policy shall be cancelled by the carrier for any reason during the Term of this License. Within a reasonable time after execution of this License but prior to installing an steel anchors in the rock at Box Canyon, Licensee shall cause to be provided to Licensors a Certificate of Insurance evidencing: coverage in the required amount, the fact that Licensors has been named as an "Additional Insured," and coverage for "covered contracts". Coverage provided under each such liability insurance policy shall be primary to any liability insurance Licensors may choose to obtain. Failure by Licensee to comply with the requirements of this Section 7 shall be grounds, at Licensors's option, for the immediate suspension or termination of this License.
  - 7.2. The Licensee shall require any highline users to execute a release of liability which clearly releases the City from any liability from injury, death or damages. Licensors shall be provided a copy of any such release upon request to Licensee.



8. Indemnification. To the extent permitted by law and to the extent covered by the general liability insurance policies maintained by Licensee, Licensee agrees to hold harmless, defend and indemnify Licensor from and against all claims by whomever made of bodily injury (including death) to or property loss or damage incurred by any Authorized Users arising out of or relating to the grant of this License.
9. No Waiver of Liability Limits. Nothing herein is intended to waive any limits on liability afforded the Parties under the Colorado law, including, but not limited to, the Colorado Governmental Immunity Act, C.R.S., Section 24-10-101, et seq., and the Landowner Protection Statutes, C.R.S. Section 33-41-101, et seq. The Parties expressly acknowledge that this License is intended to be granted for a “recreational purpose” under C.R.S., Sections 33-41-101, et seq., and that Licensor may be entitled to the benefits, protections and limitations on liability afforded by Colorado law governing public recreational uses and premises liability.
10. License Not Exclusive. The permission granted under this License is not exclusive to Licensee, and Licensee expressly acknowledges that Licensor may grant other persons or entities, the right, privilege, and permission to use all or part of the License Area provided such use does not substantially interfere with Licensee’s use.
11. Modification of License. Any modification of this License shall be binding only if evidenced in writing signed by each Party or authorized representative of each Party.
12. Binding Effect. The License shall be applicable to and binding upon the Parties, their respective representatives, successors-in-interest, and permitted assigns.
13. Governing Law. This License shall be construed under and governed by the laws of Colorado, with jurisdiction and venue restricted to a court of competent jurisdiction in Ouray County, Colorado.
14. Entire Agreement. This License shall constitute the entire agreement between the Parties and any prior representations of any kind preceding the date of this License shall not be binding upon either Party except as to the extent expressly incorporated in this License.
15. Severability. The invalidity of any portion of this License will not and shall not be deemed to affect the validity of any other provision. In the event any provision of this License is held to be invalid, the Parties agree that the remaining provisions shall be deemed to be in

full force and effect, the intention of the Parties being that the various provisions are severable.

16. Third Party Beneficiaries. There is no third-party beneficiary arising in connection with this License except for the Discovery Network who owns the Series.
17. Duty of Good Faith. The Parties agree that they owe each other a duty of good faith as they abide by and fulfill their respective obligations and duties under this License and, in furtherance thereof, agree to work together for the common good of both Parties so as to effectuate, as fully as possible, their respective mutual interests and their stated intent as expressed in this License.
18. Survival. Notwithstanding the expiration or termination of this License, the provisions of paragraphs 8 and 9 shall survive and remain effective.
19. Governing Law; Enforcement; Time of the Essence. In the event of any interference or threatened interference with the License herein granted or with the other rights and obligations of the Parties hereunder, a Party may pursue all available remedies including, without limitation, damages, injunctive relief and/or specific performance to ensure performance of the other Party's obligations hereunder. In any action for enforcement of License rights or obligations hereunder, the prevailing Party shall be entitled to an award for recovery of their costs and fees, including reasonable attorney fees. Except as may be expressly otherwise stated or provided, with respect to all required acts of the Parties, time is of the essence.

IN WITNESS WHEREOF, Licensor and Licensee have executed this License on the day and year hereinabove given.

**Licensor:**

**City of Ouray**

\_\_\_\_\_  
Greg Nelson, Mayor

\_\_\_\_\_  
Date

**Attest:**

\_\_\_\_\_

Melissa Drake, Clerk

**Licensee:**

**495 Productions Services, LLC:**

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Signature

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Printed Name and Title

## Joe Coleman

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**From:** Jonathan Paltin <jonpaltin@gmail.com>  
**Sent:** Tuesday, October 20, 2020 8:03 AM  
**To:** Joe Coleman  
**Subject:** Pushing The Line Ouray Shoot  
**Attachments:** Ouray 900 M Line Blowout.png; Ouray Box Canyon Lines and Swing Image.png; Ouray Box Canyon Lines Image copy.jpg; Box Canyon Slackline Diagram.jpg; PTL Creative Ouray.pdf

Hi Joe,

Per our conversations please find a basic write up for our shoot in Ouray. I apologize for not getting you this sooner. We've been extremely busy trying to get the shoot launched, which during Covid, adds just an extra layer onto an already difficult schedule. I appreciate your patience.

**Length of Shoot:** 11/6-11/19

**Network:** Discovery

**Series Eps:** 6

**Insurance Coverage:** AD&D, E&O, WC, etc., and all additional insurance through AON and Prudential Risk

**Company:** 495 Productions: 4222 W Burbank Boulevard, CA 91505

**Shoot Details:** Follow the day to day lives of 10-15 extreme highline and climbing athletes. The show grows in it's epicness from Moab Frutbowl, o Fisher Towers, and then down to the amazing beauty of Ouray. In Ouray the cast would like to set a few of the coolest highlines yet at Bull Canyon. On Mr Wilson's private property we were hoping to shoot the big finale of our show. We're looking forward to also working with Andrea and Mark Luppenlatz on their private property. We would like to set a small fun slackline there for the cast to practice and stay strong on before the big finale. While at the lodge we'll watch how these athletes train, eat, and plan their next project. Our show is rather simple. We hope the US will fall in love with our cast members and find their fascinating lifestyle as engaging as we do.

**Business Brought to Ouray:** I anticipate our production bringing in over roughly \$250,000 in hotels, rentals, food, craft services, fuel, etc.

**Vehicles:** We have 12 x small SUV's and 3 x 17' cube trucks. The cube trucks generally stay at the hotel and haul Covid supplies such as PPE, Tables, Tents, etc.

**Crew Size:** 50

**Cast Size:** 10-15

**Highline Plans:** 3 sets of project highlines at Box Canyon. Please see attached images. This is what our athletes will be planning, rigging, and highlining while at Box Canyon as well as The Blow Out.

**Shooting on city streets:** We don't anticipate doing this at all. Sadly Covid rules and State regulations mandate that most people wear covid masks. On TV, as we all know, episodes can play individually as well as episodically. So we don't ever want to show people what year it is. So in theory shooting city streets with people walking around with masks on would not allow that. We'll try to remain away from any crowds or busy city streets. We would love to shoot city signage like a Welcome To Ouray sign to establish where we are in the world.

**Releases:** We always have to release anything we want to shoot (beforehand) from a person, location, painting, piece of art work, picture, song, etc. We never ever shoot anyone or any place that doesn't want us to and give us prior permission. If we do want to shoot anything or a person we ask very politely to gauge any interest level. We find that most people think it's fun and want to participate. That being said, with Covid in place, we will not be shooting any other person besides our cast as the risk is far too great.

**City Locations:** We are not planning any shooting any local city establishments with our cast because of the Covid virus. Sad as we want too but it just isn't allowed by our Covid procedures.

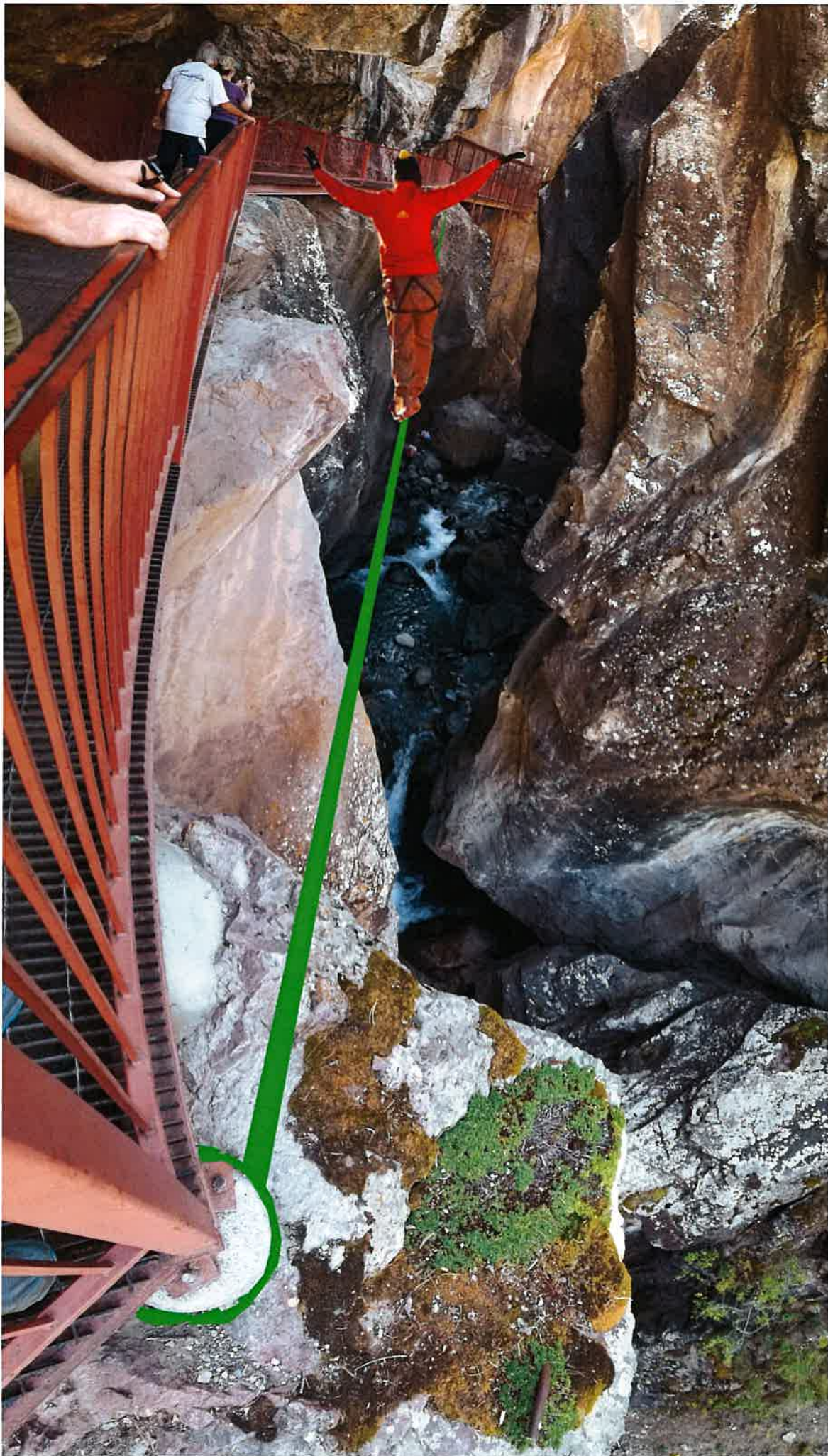
Please let me know if you have any additional questions or concerns. Can you also please advise on when we will get an answer about Box Canyon? Most cities take a few days to a week. Some federal offices take 2 weeks. We are about 3 weeks out and I just wanted to get a timeline.

Thanks,  
Jon

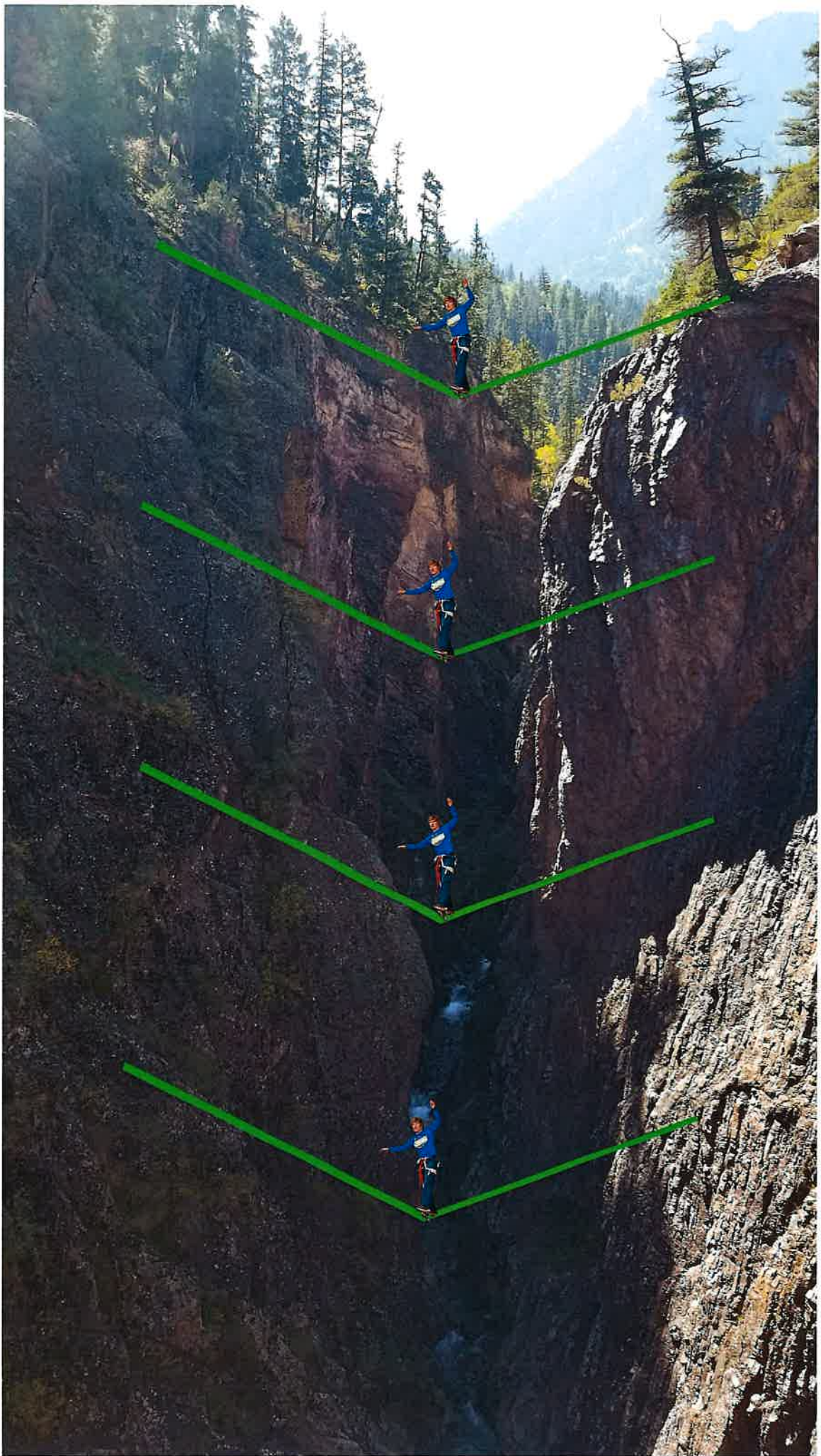
**Jonathan Paltin**

Line Producer  
Pushing The Line  
C: 310.567.6921

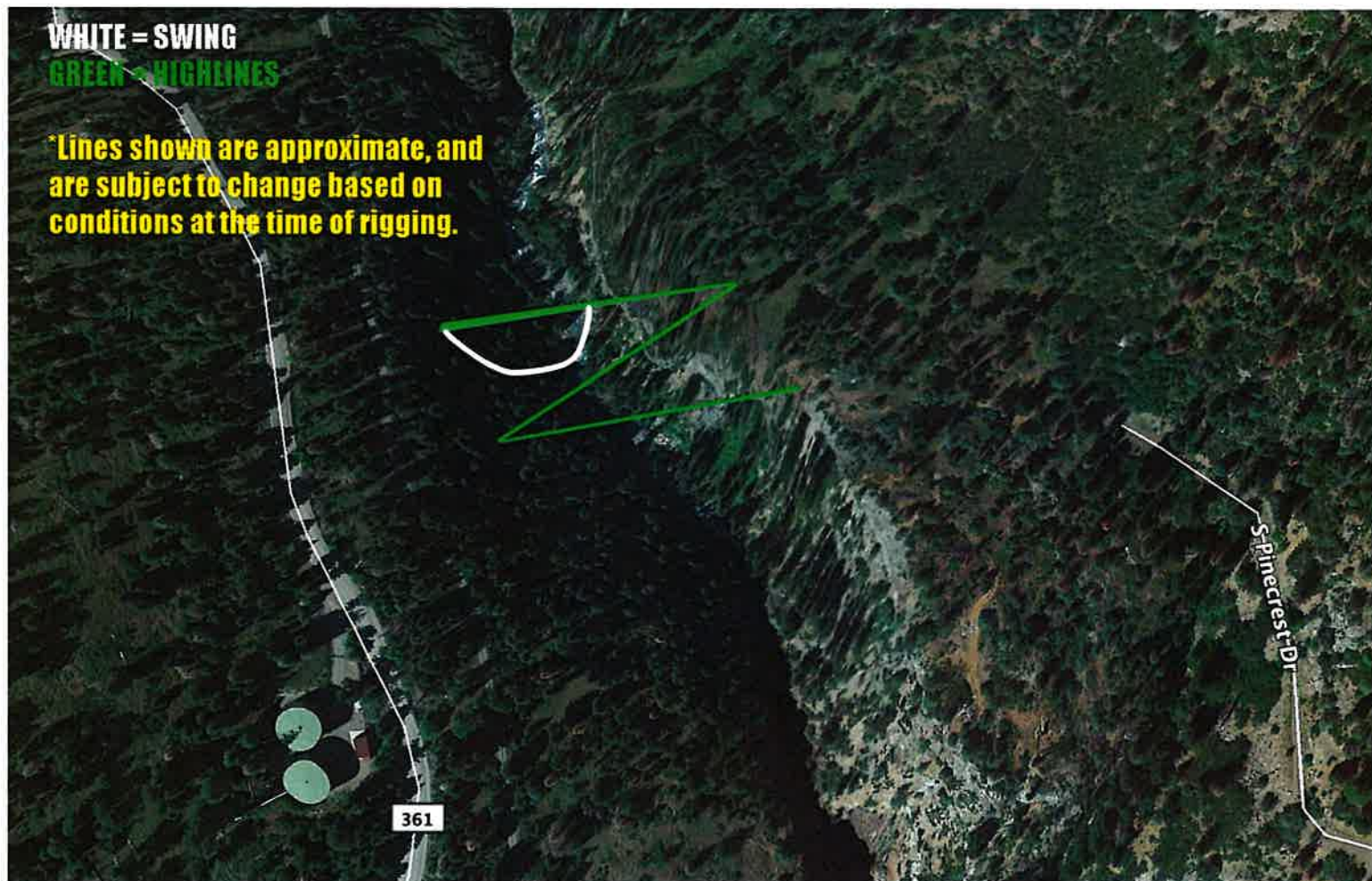














# Box Canyon

City Property

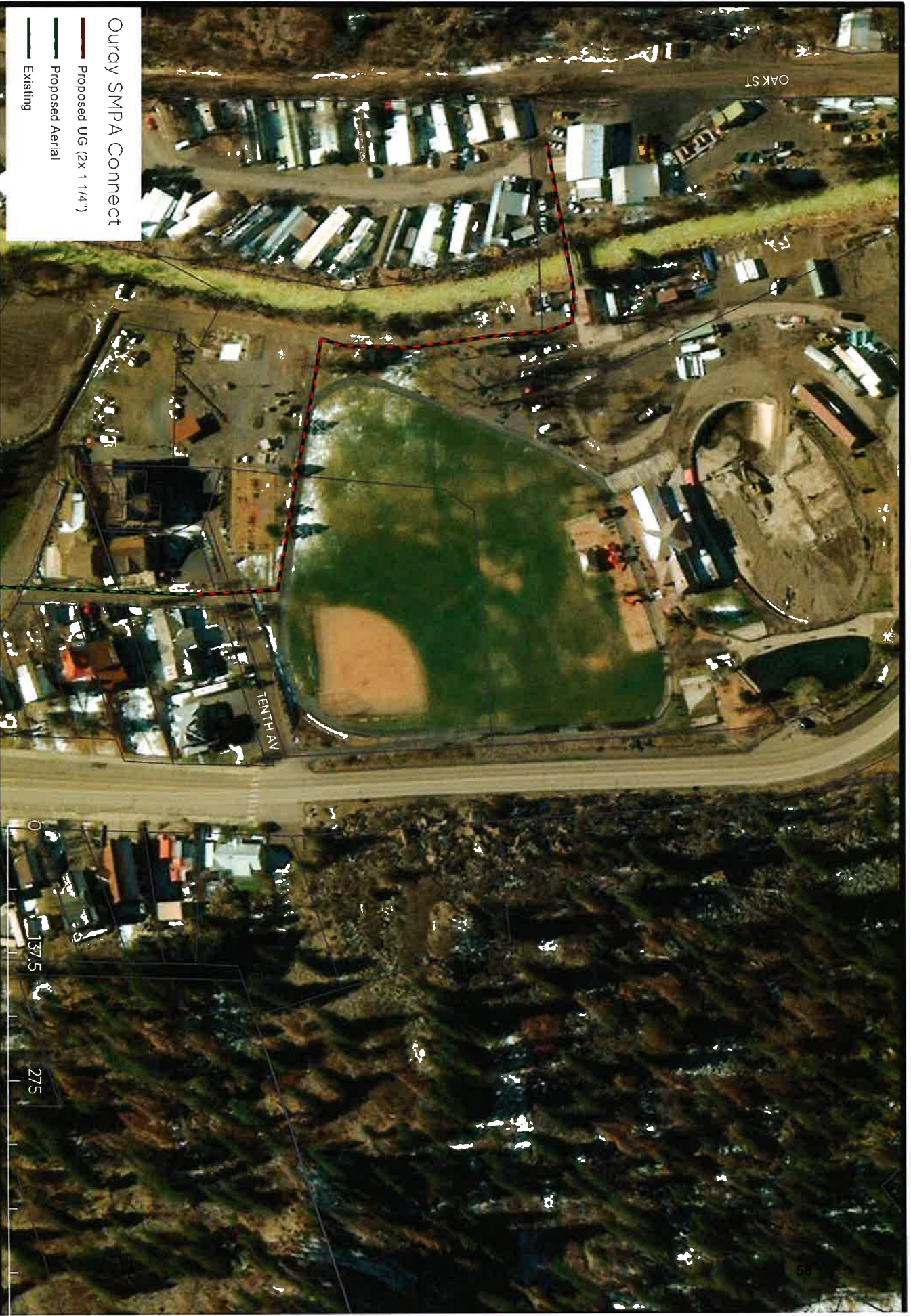
- Legend**
- Box Canon Park
  - COMMON AREA
  - Feature 1
  - Feature 2
  - Feature 3
  - Feature 4
  - Feature 5
  - Feature 6
  - Feature 7
  - N004320
  - R000171
  - R000510
  - R002534
  - R006581
  - ROW
  - R-UNKNOWN
  - VERIFY CDOT
  - VERIFY Forest Service

Google Earth

300 ft







Ouray SMPA Connect

Proposed UG (2x 1 1/4")

Proposed Aerial

Existing

Project Name	Ouray SMPA Connect	Underground	910 ft	Total Footage	1,703 ft	Coord. System	WGS1984, L
Date	10/16/2020	Aerial	793 ft	Number HHs	<value>	Scale	1:3000
Customer Name	CLNX	Drop Footage	<value>	Other Install	<value>	GIS	Jonathon C





Project Name	Ouray Biota	Main Footage	302 ft	Total Footage	302 ft	Coord. System	WGS1984, L
Date	10/9/2020	Lateral Footage	<value>	Number HHs	CLNX = 1	Scale	1:1000
Customer Name	Biota and CLNX	Drop Footage	<value>	Other Install	<value>	GIS	Casey

## **WATER USE AGREEMENT**

**THIS AGREEMENT** made and entered into effective the 3<sup>rd</sup> day of November, 2019, by and between: the City of Ouray, Colorado (**the City**); and Ouray Ice Park, Inc. (**OIPI**).

**NOW THEREFORE**, in consideration of the mutual covenants and conditions stated herein, the parties agree as follows:

1. The City holds adjudicated water rights known as Weehawken Spring, for the use and benefit of the inhabitants of the City for domestic purposes.
2. The City has previously allowed OIPI to connect to the Weehawken Spring water system to withdraw untreated water for the purpose of making ice in the Uncompahgre Gorge (Ouray Ice Park).
3. OIPI will be responsible to maintain all connections to the water line, at its expense.
4. This agreement is contingent upon the separate operating agreement for Ouray Ice Park between the City and OIPI continuing. In the event that such operating agreement expires or terminates, this water use agreement shall automatically terminate.
5. This agreement terminates on November 2, 2021; and it may be terminated earlier as otherwise provided herein or in the event the City has any reason to shut down or remove the water line.
6. OIPI shall have the right to terminate this Agreement at any time upon thirty (30) days written notice to the City. Upon termination for any reason, OIPI shall remove all valves, connections, and piping connected to the water line, as well as make all necessary repairs to the water line.
7. The City shall have the right to terminate this Agreement upon the breach of any of the terms herein by OIPI. Provided, however, the City shall provide thirty (30) days notice prior to termination and OIPI may correct any breach during that time.
8. No part of this Agreement will prevent the City from using the water line or its water for other purposes. All uses by the City take priority over any uses by OIPI. OIPI agrees that if the water level in the City's water tanks falls below 32 feet, OIPI's water usage shall cease until the water level rises above 40 feet of water. The City

will notify OIPI as soon as possible when the level drops and usage must be suspended and again will notify OIPI as soon as reasonably possible when their usage may begin again.

9. This Agreement may not be assigned by OIPI without the express written consent of the City.
10. Any notice required by this Agreement shall be deemed complete when mailed, certified mail, return receipt requested, with sufficient postage to the following addresses:

Ouray Ice Park, Inc.  
P. O. Box 1058  
Ouray, CO 81427

City of Ouray  
P. O. Box 468  
Ouray, CO 81427

Or notice may be delivered to the other party.

11. Each party agrees to take such actions and sign such documents, certificates and instruments reasonably requested by the other party in order to complete the transactions contemplated by this agreement and to enable the requesting party to enjoy the full benefits conferred upon such party by this agreement.
12. OIPI shall indemnify the City against all liability or loss, and against all claims or actions based on or arising out of damage or injury (including death) to persons or property caused by or sustained in connection with the performance of this agreement or by conditions created thereby, or based on any violation of any statute, ordinance, building code or regulation, and the defense of any such claims or actions.
13. If any part, term, or provision of this agreement is held by the courts to be illegal or in conflict with any law of the State of Colorado, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the contract did not contain the particular part, term or provision held to be invalid.
14. This agreement shall be governed by the laws of the State of Colorado, both as to interpretation and performance. The courts of the State of Colorado shall have exclusive jurisdiction to resolve any disputes arising out of this agreement and venue shall be in Ouray County, Colorado.

15. No waiver of any breach of this agreement shall be held to be a waiver of any other or subsequent breach. All remedies afforded in this contract shall be taken and construed as cumulative, that is, in addition to every other remedy provided therein or by law.
16. This agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute but one and the same instrument.
17. For the convenience of the parties, signatures to this agreement may be provided through facsimile transmission. The signature of a party to this agreement supplied by facsimile transmission shall be as binding as an original.
18. The person signing this agreement below represents and warrants that it has legal capacity to contract and, if that person is manifesting assent on behalf of a proprietorship or a business, partnership or other organization, represents and warrants that he or she has actual authority to bind the organization.
19. Wherever in this agreement, words, including pronouns, are used in the masculine, they shall be read and construed in the feminine or neuter whenever they would so apply, and wherever in this agreement, words, including pronouns, are used in the singular or plural, they shall be read and construed in the plural or singular, respectively, wherever they would so apply.

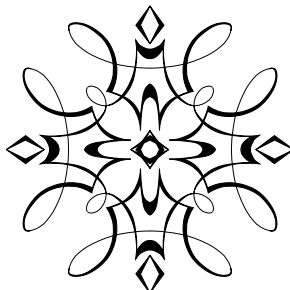
**IN WITNESS WHEREOF**, the parties have signed this agreement on this 2<sup>nd</sup> day of November, 2020.

CITY OF OURAY

OURAY ICE PARK, INC.

\_\_\_\_\_  
Greg Nelson, Mayor

\_\_\_\_\_  
Peter O'Neil, President



## CHARGING STATION LICENSE AGREEMENT

This CHARGING STATION LICENSE AGREEMENT (this “*License Agreement*”), effective as of the date indicated below (the “*Effective Date*”), is between, EV BUILD, LLC , a Kansas limited liability company, with its principal office located at 13851 W. 63rd Street, Suite 301, Shawnee, Kansas 66216 (“Licensee”), and [OWNER OF PROPERTY], a [ ] corporation, with its principal place of business located at [ SITE ADDRESS ] ( “*Host*”). Each of Licensee and Host is a “party,” and together they are the “parties,” to this License Agreement.

### **BACKGROUND**

A. Pursuant to the ALT Fuels Colorado Electric Vehicle Direct Current Fast-Charging Corridors Grant Program (“Colorado Grant”), the Colorado Energy Office (“CEO”) is providing grant funds to certain parties in order to increase the number of and access to electric vehicle charging stations along major Colorado transportation corridors;

B. ChargePoint, Inc. (“CPI”) has established a business to provide a variety of electric vehicle charging services to owners of plug-in electric vehicles (“EVs”) and is a recipient of certain Colorado Grant funds under applicable agreements with the CEO and subject to the terms of the Colorado Grant;

C. CPI and Licensee have executed, or will execute, an agreement by which CPI has agreed to donate certain electric vehicle charging stations (the “Charging Stations”) and related charging services to Licensee, using Colorado Grant funds, subject to the terms of the Colorado Grant and Licensee has agreed to accept such Charging Stations;

D. Licensee desires to license parking spaces (as more fully described below) from Host for the purpose of installing such **Charging Stations**, as donated by CPI, and providing charging services to EV Drivers and Host desires to license those spaces to Licensee; and

E. This License Agreement sets forth the parties’ agreement with respect to Host’s grant of the License to Licensee, and is subject to the terms and conditions of the Colorado Grant.

### **A G R E E M E N T**

1. **Grant of License and License Term.** Host, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) paid by Licensee, and other good and valuable consideration, the sufficiency of which is acknowledged, grants to Licensee a limited, non-exclusive license (“*License*”) to use a portion of Host’s property agreed to by the Parties (each such Host location is hereby defined as a “*Host Property*”), for the purposes described in this License Agreement (each parking space identified in an Addendum is a “*Licensed Space*”). **Exhibit A** attached to this License Agreement sets forth the list of potential Host Properties on which Licensee may operate a Charging Station. The final list of Host Properties shall be subject to agreement of the Parties. Each License of a Licensed Space is for an initial term of ten (10) years (the “*License Term*”), beginning on the date on which the Charging Station servicing that Licensed Space is operational (the “*License Commencement Date*”) and ending on the date that is ten (10) years from the License Commencement Date (as extended, the “*License Expiration Date*”). After the License Expiration Date for a Licensed Space, the License Term for that Licensed Space will automatically renew for successive ten (10) year terms, unless either party gives written notice of termination of the License with respect to that Licensed Space to the other party no later than ninety (90) days before the applicable License Expiration Date (the date on which the License Term for any Licensed Space ends is the “*License Termination Date*”). Licensee shall have the exclusive right to operate one or more Charging Stations (as agreed to by the Parties) at each Host Property set forth on the final agreed upon **Exhibit A**. In no event shall Host grant any license, lease or other possessory right to any third party for the purpose of operating a Charging Station at any Host Property set forth on **Exhibit A**.

2. **Licensed Space Use.** Licensee may use each Licensed Space solely for the purposes of installing, maintaining, repairing, and operating, all in accordance with this License Agreement, one or more Charging Stations and the ancillary



uses stated in this License Agreement. The number and approximate location of the Charging Stations and Licensed Spaces at any given Host Property is shown in the appropriate Addendum for that Host Property. Each License covers only the applicable Licensed Space and the areas of Host's adjacent property (other than the areas located within any buildings or other structures located on such adjacent property) that are reasonably necessary to provide access to and from that Licensed Space and the Charging Stations, for the purposes stated in this License Agreement. The parties recognize that the License allows a right of use and does not grant an interest in real property. Except as expressly stated otherwise, all personal property placed, installed, or affixed to or otherwise located in any Licensed Space by Licensee is the sole and exclusive property of Licensee.

3. **Charging Models.** Licensee shall select the EV charging stations it receives in each Licensed Space. The number, design, make, model, and manufacturer of each Charging Station are subject to the terms of the agreement between Licensee and CPI Licensee, at any time and for any reason during the License Term, may elect to upgrade, revise, alter, or swap any Charging Station installed in any Licensed Space and, as appropriate. Host shall be given prior written notice of any such upgrade, revision, alteration or swap of the Charging Station; provided that standard software upgrades and defective station maintenance to the Charging Station shall not require written notice to Host. Licensee will require access to Host Property and the Licensed Space to replace or upgrade any Charging Stations during the License Term. Such replacement or upgrade will be Licensee's sole responsibility and will cause minimal disruption to the Host's operation as no additional construction, trenching, repaving, or landscaping will be required.

4. **Installation; Ownership.** Licensee is solely responsible for supervising and performing or causing the performance of the construction and installation activities, including upgrades, for all Charging Stations, subject to the terms of the agreement between Licensee and CPI. Licensee shall schedule the date and time of construction and installation activities with Host in a manner intended not to interfere with Host's business operations. Such schedule shall be binding unless a party provides at least five (5) business days' prior written notice of any need to reschedule. Except in those instances where Licensee is merely replacing or upgrading Charging Stations, Licensee shall submit detailed plans and specifications (prepared by Licensee's appropriately licensed electrical contractor) relating to the construction and installation of the Charging Station to Host for Host's approval. Host agrees to either approve or deny the submitted plans and construction schedule promptly, but in any event within ten (10) days; provided that; Hosts failure to approve or deny the submitted plans within such ten (10) day period shall be deemed an approval of such plans. No work will begin until plans have been approved (or deemed approved) by Host and all applicable permits and certifications have been obtained. Once approved, and on the parties' respective demonstration that all insurance coverages required by this License Agreement are in place, Licensee will, at its sole expense, cause the installation of all Charging Stations, including, to the extent applicable, the hiring and coordination of all vendors and contractors; the installation of electrical equipment, utility lines, hardware, and software; site preparation, trenching, repaving, and landscaping; and installation of all CPI-branded signage, if any, approved by Host in accordance with Section 11 of this License Agreement. Host recognizes that Charging Stations will require the installation of dedicated electrical service, supporting concrete pads, protective bollards and other associated equipment necessary for the safe and effective provision of charging services to EV Drivers. Licensee will, at its sole cost and expense, obtain from applicable governmental authorities all licenses, permits, or other approvals required to install the Charging Stations, and Host will reasonably cooperate (at no out-of-pocket expense to Host) on request with Licensee's efforts to do so. On completion of the installation of a Charging Station, that Charging Station is the personal property of Licensee, subject to the terms of the agreement between Licensee and CPI and the Colorado Grant, and is not considered to be a fixture or in any way the property of Host.

Host acknowledges and agrees that Licensee may retain contractors (and such contractors may retain subcontractors) (collectively, "***Contractors***") to perform some or all of Licensee's obligations under this License Agreement or an Addendum. Licensee shall not permit any mechanics' or other liens to stand against the Licensed Space or Host's adjacent property for work or material furnished Licensee. If any mechanic's or materialmen's lien or notice of lien shall at any time be filed against the Licensed Space or Host's adjacent property by reason of work, labor, services or materials performed or furnished to or on behalf of Licensee, Licensee shall promptly cause the same to be bonded or discharged of record. Except during the pendency of any proceedings instituted by Licensee to contest any such lien or notice, if Licensee shall fail to cause such lien or notice of lien to be discharged or bonded within thirty (30) days after the filing thereof, then, in addition to any other rights and remedies available to Host at law, or in equity or under this License Agreement, Host may, but shall not be obligated to, discharge or bond off the same by paying the amount claimed to be due or posting a bond, and the amounts so paid by Host and all costs and expenses, including reasonable attorneys' fees, incurred by Host in paying, bonding off or procuring the discharge of such lien, shall be due and payable by Licensee to Host within thirty (30) days of demand therefor.



5. **Operation and Maintenance.** Except as otherwise provided in this License Agreement, Licensee will, at its sole cost and expense, maintain, operate, and take good care of the Charging Stations, including making all necessary repairs, arrange for appropriate remote monitoring, and obtain and have installed appropriate software and hardware upgrades. In addition, Licensee agrees to keep the Charging Station in good working order and in a safe condition, Notwithstanding the foregoing, all damage or injury to the Charging Stations, whether requiring structural or nonstructural repairs, that are caused by or that result solely from the negligent conduct of Host, or its agents, contractors, employees or invitees, will be repaired by Licensee, but at Host's sole cost and expense, to the condition that existed before the damage. Host shall have no obligation as to the condition or operability of the Charging Station and Licensee hereby waives any claims or cause of action against Host in connection therewith; provided that, Host agrees that it shall permit EV Drivers access to the Licensed Spaces. Host shall ensure that the Licensed Space and the area appurtenant to the Licensed spaces is free and clear of debris. Additionally, Host shall maintain the general cleanliness and appearance of the Charging Stations. Host shall maintain adequate lighting for the Licensed Spaces. Host shall provide Licensee at least fourteen (14) days prior written notice of any schedule maintenance or repairs to the Host Property, and reasonably prompt notice of emergency event at the Host Property, that could have the effect of denying access to the Licensed Spaces.

6. **Utility Availability; General Obligations of Host.** Host agrees (at no out-of-pocket expense to Host) to reasonably cooperate in the facilitation of the provision of electricity and any other utilities necessary to operate Charging Stations in each Licensed Space, including by granting (for property owned by Host) or consenting to the granting of (for property leased by Host) appropriate easements to local utility providers; provided, however, that Host is not required to pay money to accomplish the provision of those utilities. Neither Host nor Licensee has any responsibility or liability for interruption, curtailment, failure, or defect in the supply or character of utilities furnished to facilities or equipment located in any Licensed Space, unless the cause of the interruption is covered by the party's indemnity provided for in this License Agreement. Host shall, at its sole cost and expense, take commercially reasonable actions to maintain each Licensed Space in a clean, safe, and orderly condition, to at least the same standard as it customarily maintains the common areas that support its business conducted at the property adjacent to any Licensed Space. Host shall promptly notify Licensee and, as appropriate, emergency response personnel regarding any malfunction or perceived dangerous condition pertaining to a Charging Station.

7. **Utility Metering and Electricity Costs.** Licensee shall be responsible for paying the electricity costs associated with the use of the Charging Stations.

(a) **Separately Metered Sites.** Charging stations will be separately metered and Licensee shall pay all electrical bills directly to the utility provider.

## 8. **Casualty and Condemnation**

(a) **Damage.** If any Licensed Space or any Charging Station is damaged by fire or other casualty, then Licensee, at its sole option, may elect within thirty (30) days of date of fire or other casualty either to (a) terminate the License with respect to that Licensed Space on written notice to Host, or (b) cause host to use available insurance proceeds to repair and restore the Licensed Space and any other property damaged as a result of such fire or other casualty to its prior or better condition. If Licensee elects to terminate the License with respect to that Licensed Space, it shall remove all of Licensee's property from the affected License Space and restore the Licensed Space in accordance with Section 15 of this License Agreement. Any repair and restoration required by Licensee under this Section shall commence within sixty (60) days of date of Licensee's election and shall be completed no later than 120 days thereafter.

(b) **Condemnation/Taking.** If any Licensed Space or other nearby space is condemned or taken in any manner for a public or quasi-public use that could adversely affect the use of the Charging Stations, then the parties will use commercially reasonable efforts to find an alternate location for that Licensed Space elsewhere on Host's property. The costs of the relocation of any Charging Station shall be paid by Licensee. Licensee may file a separate claim to the condemning authority for any relocation award made as a result of that condemnation; provided, however, in no event shall such claim reduce the Host's award related to such condemnation or taking. On Licensee's sole election, Licensee may elect to terminate the License with respect to any condemned Licensed Spaced in lieu of relocation effective as of the date title to the Licensed Space is transferred to the condemning authority.

(c) **Suspension of Term.** During any time that any Licensed Space or any portion of it is under repair or being relocated pursuant to this Section, the License Term shall be temporarily suspended on a day-for-day basis.

**9. Limitation.**

In no event shall either Party be liable to the other party or any other person or entity for any special, exemplary, indirect, incidental, consequential or punitive damages of any kind or nature whatsoever (including, without limitation, lost revenues, profits, savings or business, or contribution or indemnity in respect of any claim against the party), whether in an action based on contract, warranty, strict liability, tort (including, without limitation, negligence) or otherwise, even if such party has been informed in advance of the possibility of such damages or such damages could have been reasonably foreseen by such Party.

**10. Insurance.**

(a) **Minimum Coverage.** Beginning on the Effective Date and continuing through the License Term, Licensee shall maintain in full force and effect, at its cost and expense, the following coverages and amounts of insurance:

(i) Workers Compensation Insurance required by applicable state laws; Employers Liability Insurance with limits of not less than \$500,000 each Accident; \$500,000 each Employee – Disease; and \$500,000 Policy Limit-Disease.

(ii) Full replacement Property Insurance (written on an “all risk” basis) for personal property, machinery, equipment and trade fixtures to be insured by Licensee. Licensee shall obtain an endorsement waiving rights to subrogation in favor of Host for losses covered by such Property policy.

(iii) Commercial General Liability insurance covering bodily injury, including death, and property damage (including loss of use thereof), personal/advertising injury, and products and completed operations, with limits of liability not less than the following amounts:

(1) \$1,000,000 Per Occurrence Limit;

(2) \$1,000,000 Personal and Advertising Injury Limit;

(3) \$2,000,000 General Aggregate (Other than Products-Completed Operations); and

(4) \$1,000,000 Products-Completed Operations Aggregate Limit.

(iv) Business Auto Liability Insurance covering all owned, non-owned and hired vehicles, with limits of not less than \$1,000,000 per occurrence combined single limit for bodily injury and property damage.

(v) Umbrella coverage in the amount of \$4,000,000 per occurrence and \$4,000,000 in the aggregate.

(b) Licensee agrees that loss or damage to its owned or leased equipment, tools, or supplies used in performance of this License Agreement will be at Licensee’s own risk.

**11. Signage.** Licensee shall not paint, place, erect, project, nor cause or permit to be painted, placed, erected, or projected, any sign, mark, or advertising device in, on, or about the Licensed Space or elsewhere on the Host’s property without in each case first obtaining Host’s written consent (which may be granted or denied in Host’s commercially reasonable discretion). All use of CPI marks shall be subject to CPI’s Branding Guidelines, available upon request. Licensee shall, at its own cost and expense, obtain any and all permits necessary for the installation of its signs, and Licensee shall be solely responsible for all costs and expenses associated with such permitting, the erection of such sign(s), and the maintenance and operation thereof. Notwithstanding anything to the contrary contained in this License Agreement, Licensee shall be permitted to place signs indicating that the licensed parking spaces are for the use of electric vehicles only.

**12. Assignment.** This License Agreement is binding on and inures to the benefit of the parties and their respective heirs, successors, assigns, and personal representatives. Host recognizes that the License is not personal to Licensee.

Neither party may assign its rights and obligations in and under this License without first obtaining prior written consent of the other party, which shall not be unreasonably withheld; provided, however, that either party may assign its rights and obligations in and under the License Agreement to a wholly-owned subsidiary or successor by merger or acquisition at any time and without consent, provided further that such assignee agrees to be bound by the terms of this License Agreement; provided further that, Licensee may assign its rights and obligations in and under this License Agreement to CPI at any time and without consent.

**13. Taxes.** Licensee is solely responsible for personal property taxes imposed on Charging Stations, and any other equipment installed by it, that are located in a Licensed Space. All other real or personal property taxes related to each Licensed Space are the sole obligation of Host. Each party is responsible for its own income, franchise, margin, and similar taxes.

**14. Representations.** Each of Host and Licensee hereby represents and warrants to the other that it has the authority to enter into this License Agreement that this License Agreement is not in contravention of any other License Agreement or contract or obligation of Licensee or Host.

**15. Licensed Space on Termination.** Host hereby grants Licensee the right, upon the termination of this License Agreement, to enter upon the Licensed Space within 30 days after such termination and to remove any and all Charging Stations as well as any other ancillary property of Licensee relating thereto. Upon removal, Licensee shall ensure that all wiring is capped and left in a safe condition that is in compliance with all applicable laws. Licensee shall coordinate the removal of the Charging Stations with Host.

**16. Recordation.** Licensee may not record any memorandum or other documentation in the public registries that reflects Licensee's rights and its ownership of any property pursuant to this License Agreement without first obtaining Host's consent (and the consent of any lessor of Host) in each instance, which consent shall not be unreasonably withheld, conditioned or delayed.

**17. Access; Construction.** Subject to any restrictions and limitations on construction and access to the Licensed Space set forth in Section 5 above, Licensee may use each Licensed Space and Host's adjacent property for the construction and installation of the Charging Stations, and shall confine its operations strictly to those sites permitted by applicable law, ordinances, permits, and Host. Only those materials and equipment that are being used directly in the construction and installation of Charging Stations shall be brought to and stored on that Licensed Space and its adjacent areas. Licensee shall ensure that, subject to reasonable and unavoidable interruptions, all work is performed in a manner that affords continuous, reasonable access to Host's adjacent property.

**18. Intellectual Property.** As used in this License Agreement, "*Intellectual Property*" means all copyrights, patents, trademarks and service marks/names, all registrations for copyrights, patents, trademarks and service marks/names, trade secrets, know-how, and all unique concepts, information, data and knowledge that is eligible for legal protection under applicable laws as intellectual property, whether protected through confidentiality, registration or pending registration, regardless of form, whether disclosed in writing, electronically, orally or through visual means, whether learned or obtained orally, through observation, through the discharge of responsibilities under this License Agreement, or through analysis of that information, data or knowledge. The parties agree that, as between them, Licensee has and retains ownership of all copyrights, trade secrets, patents, and other intellectual property rights in Licensee's Intellectual Property, and Host has no right, and may not obtain any right, in any Licensee Intellectual Property other than the specific trademark license granted pursuant to this License Agreement.

**19. Confidentiality Covenant.** In connection with their discharge of duties and responsibilities under this License Agreement, each of Licensee and Host may provide to the other certain confidential or proprietary information not publicly known. Licensee and Host agree to treat any confidential or proprietary information (as defined below) in the manner required by this License Agreement.

(a) **Confidential Information.** The term "Confidential Information" includes all information, data and knowledge concerning either party, including soft or electronic copies of data, the party's Intellectual Property or its operations, regardless of form, that is delivered or disclosed, in connection with the undertakings of the License Agreement by or on behalf of either party to the recipient in writing, electronically, orally or through visual means, or by which the recipient learns or obtains orally, through observation or through analysis of such information, data or knowledge; provided, however, if such information is oral or visual, it must be identified as secret, confidential or proprietary prior to disclosure and is summarized in a writing marked secret, confidential or proprietary and delivered

within ten (10) days following the oral or visual disclosure or must, due to its nature or the context of its disclosure, be the sort of information that the recipient should reasonably deem to be confidential. Confidential Information does not include information that (i) was or becomes generally available to the public other than as a result of a disclosure by the recipient, (ii) was or becomes available to the recipient from a source other than either party or its Affiliates, so long as that other source is not bound by a confidentiality agreement regarding that information, (iii) was within the recipient's possession before the information was furnished to the recipient by the other party, or (iv) is independently developed by the recipient, provided that the development was by or on its own behalf without the use of, or any reference to, any Confidential Information.

(b) **Respecting Confidentiality.** Each party agrees to keep Confidential Information confidential. Each party agrees that it will not provide any Confidential Information to a third party, including, without limitation, the fee owner or ground lessee of any Licensed Space or proposed Licensed Space, unless the other party to this License Agreement has approved that in writing, and the third party is advised of and agrees to be bound by the provisions of this Section 22. Within fifteen (15) days of written request following a breach by the other party of the License Agreement, or on termination of the License Agreement, the recipient shall promptly return to the disclosing party all written or other tangible manifestations of material containing Confidential Information, and will not retain any copies.

(c) **Publicity.** Neither party will use the name(s), trademark(s) or trade name(s), whether registered or not, of the other party in publicity or press releases or advertising or in any manner, including customer lists, without that party's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed.

**20. Independent Contractors.** The parties shall act as and be independent contractors in the performance of this License Agreement. Nothing in the License Agreement shall be deemed or construed to create a joint venture, partnership, fiduciary, or agency relationship between the parties for any purpose, and the employees of one party shall not be deemed to be the employees of the other party. Except as otherwise stated in this License Agreement, neither party has any right to act on behalf of the other, nor represent that it has such right or authority.

**21. Independent Agreements.** The parties acknowledge and agree that the rights and obligations under the License Agreement are separate and independent from, and shall not be conditioned on or affected by the performance or non-performance of the terms of, any other agreement between Licensee and Host.

**22. Notice.** Any notice provided or permitted to be given under the License Agreement must be in writing and be served either by (i) deposit in the mail, addressed to the party to be notified, postage prepaid, and registered or certified, with a return receipt requested, or (ii) deposit with an internationally-recognized overnight delivery carrier, with notice of delivery to the recipient party. Notice given by registered mail or overnight carrier shall be deemed delivered and effective on the date of delivery shown on the return receipt or proof of receipt. For purposes of notice the addresses of the parties shall be as follows:

**If to Licensee:**

EV Build LLC  
13851 W. 63<sup>rd</sup> Street  
Suite 301  
Shawnee, Kansas 66216  
Attn: Jim Frank

**With a copy to (which shall not constitute notice):**

ChargePoint, Inc.  
254 East Hacienda Avenue  
Campbell, CA 95008  
Attn: General Counsel

**If to Host:**

\_\_\_\_\_  
Attn: \_\_\_\_\_  
\_\_\_\_\_

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With a copy to (which shall not constitute notice):

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Attn:

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With a copy to (which shall not constitute notice):

ChargePoint, Inc.  
254 East Hacienda Avenue  
Campbell, CA 95008  
Attn: General Counsel

Each party may change its address for notice by giving notice thereof to the other party.

**23. Waiver.** The failure of a party to insist on strict performance of any provision of the License Agreement does not constitute a waiver of, or estoppel against asserting, the right to require performance in the future. A waiver or estoppel given in any one instance does not constitute a waiver or estoppel with respect to a later obligation or breach.

**24. Severability.** If any term of this License Agreement is held by any court of competent jurisdiction to contravene, or to be invalid under, the laws of any political body having jurisdiction over this subject matter, that contravention or invalidity shall not invalidate the entire License Agreement. Instead, this License Agreement shall be construed as reformed to the extent necessary to render valid the particular provision or provisions held to be invalid, consistent with the original intent of that provision and the rights and obligations of the parties shall be construed and enforced accordingly, and this License Agreement shall remain in full force and effect as reformed.

**25. Governing Law.** This License Agreement shall be governed by and interpreted in accordance with the internal laws of the State of Colorado without giving effect to conflict of law rules. The parties further agree that all actions brought under this License Agreement shall be brought in the State and Federal courts located in the City and County of Denver, Colorado.

**26. Construction.** The headings in this License Agreement are inserted for convenience and identification only and are not intended to describe, interpret, define, or limit the scope, extent, or intent of this License Agreement or any other provision hereof. When the context requires, the gender of all words used in this License Agreement shall include the masculine, feminine, and neuter, and the number of all words shall include the singular and the plural.

**27. Counterpart Execution.** This License Agreement may be executed in counterparts, which together will constitute one and the same agreement. Each party will have the right to rely on a facsimile or electronic signature on this License Agreement, and such signature shall be deemed an original signature for purposes of validity of this License Agreement. The parties agree that signatures that are transmitted electronically, including both facsimile and manual signatures, shall be binding as of the date signed and to the same extent as original signatures.

**28. Successors and Assigns.** Except as otherwise provided, this License Agreement shall apply to, and is binding on, the parties hereto, their respective successors and permitted assigns, and all persons claiming by, through, or under any of these persons.

**29. Written Amendment.** This License Agreement may not be modified except by a written agreement signed by both parties.

**30. Cumulative Rights.** The rights and remedies provided by this License Agreement are cumulative, and the use of any right or remedy by any party does not preclude or waive its right to use any or all other remedies. These rights and remedies are given in addition to any other rights a party may have under Applicable Law, in equity or otherwise.

31. **Further Assurances.** Each party agrees to execute (and acknowledge, if requested) and deliver additional documents and instruments and to perform additional acts as may be reasonably necessary or appropriate to effectuate, carry out, and perform all of the terms, provisions and conditions of this License Agreement.

32. **Survival.** Sections 4, 8, 9, 10, 11, 14, 16, 20, 21 and 27 shall survive the expiration, termination or cancellation of this License Agreement, regardless of reason.

33. **No Third Party Beneficiary.** This License Agreement does not confer any rights or remedies on any Person other than the parties and their respective successors and permitted assigns.

34. **Warranties.** The parties represent and warrant that each has the authority, power, and rights necessary to perform its obligations under this License Agreement, without violating the rights of any other party or applicable laws.

35. **Drafting Party.** This License Agreement expresses the mutual intent of the parties to this License Agreement. Accordingly, the rule of construction against the drafting party has no application to this License Agreement.

36. **Incorporation of Exhibits.** All documents or items attached to, or referred to in, this License Agreement are incorporated into this License Agreement as fully as if stated within the body of this License Agreement.

37. **Other Relationships.** Notwithstanding the foregoing, this License Agreement is expressly made subject to, and does not interfere with or alter, any existing relationships or contractual obligations between each party (or its Affiliates) and its partners, clients, service providers and other third parties. Neither party is prohibited from honoring any of these existing relationships or contractual obligations that otherwise may conflict with any term of this License Agreement.

38. **Force Majeure.** Neither party is responsible for any delay or failure in performance of any part of this License Agreement to the extent that delay or failure is caused by fire, flood, explosion, war, embargo, government requirement, civil or military authority, act of God, act or omission of carriers or other similar causes beyond the party's control. The License for the affected Licensed Space may be terminated without a Termination Fee or any other penalty by the party whose performance has not been affected if non-performance continues for more than thirty (30) days.

39. **Termination for Cause.** This License Agreement or the License for a particular Licensed Space may be immediately terminated for cause by either party in the event of the following:

(a) **Breaches.** The other party breaches or fails to perform any of its obligations in any material respect, and such breach or failure continues uncured for thirty (30) days after receipt of written notice, except for those breaches and failures to perform which cannot be cured within thirty (30) days in which case the breaching party shall have such time as is necessary, but not to exceed ninety (90) days, to cure such breach or failure to perform provided that the breaching party has commenced the cure within ten (10) business days after receipt of written notice and diligently pursues such cure until completion.

(b) **Assigns.** The other party attempts to assign or otherwise transfer its rights, obligations, or duties under this License Agreement in a manner prohibited by this License Agreement.

(c) **Insolvency.** The other party becomes insolvent or proceedings are instituted by or against it under any provision of any federal or state bankruptcy or insolvency laws.

(d) **Uneconomic Purpose.** If any time after the sixth year anniversary of this Agreement, Licensee in its sole discretion determines that the Charging Stations cannot be operated at a profit, Licensee shall have the right to terminate this License by providing thirty (30) days prior written consent to Host.

Upon any purported termination for cause by Host or Licensee, the Parties shall meet and confer within thirty (30) days of the notice of termination in an attempt to avoid such termination; provided that, in lieu of any termination, Licensee shall have the option to assign this License Agreement and all of Licensee's rights and obligations hereunder to CPI, in order for CPI to meet its obligations to the CEO under the Colorado Grant.

Upon any termination for cause by Host pursuant to this Section 39, Host shall execute a license agreement with CPI in order for CPI to meet its obligations to the CEO under the Colorado Grant and there shall be no termination fee or any other sum due from Host to Licensee.

Upon any termination for cause by Licensee pursuant to this Section 39, Licensee shall be relieved of any further obligations contained in this License Agreement or the applicable Addendum for the terminated Licensed Space, as applicable, except for those that by their nature survive or may require performance after termination pursuant to Section 32; provided that, Licensee has assigned all of its rights and obligations hereunder to CPI in order for CPI to meets its obligations to the CEO under the Colorado Grant.

**40. Compliance with Laws.** Licensee is responsible for and does represent that it will comply with all federal, state, and local laws, rules, regulations (including, without limitation, all zoning ordinances and building codes), applicable to Licensee's use of the Licensed Space, this License Agreement or to the performance thereof and as may be applicable to Licensee's operation and ownership of the Charging Station.

*[Signature page(s) follow]*

## SIGNATURE PAGE TO CHARGING STATION LICENSE AGREEMENT

EXECUTED this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

### **HOST**

[ \_\_\_\_\_ ]

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

### **Licensee**

EV Build, LLC

By: \_\_\_\_\_

Name: Jim Frank

Title: CEO

### **APPROVED BY CHARGEPOINT LEGAL**

By: \_\_\_\_\_

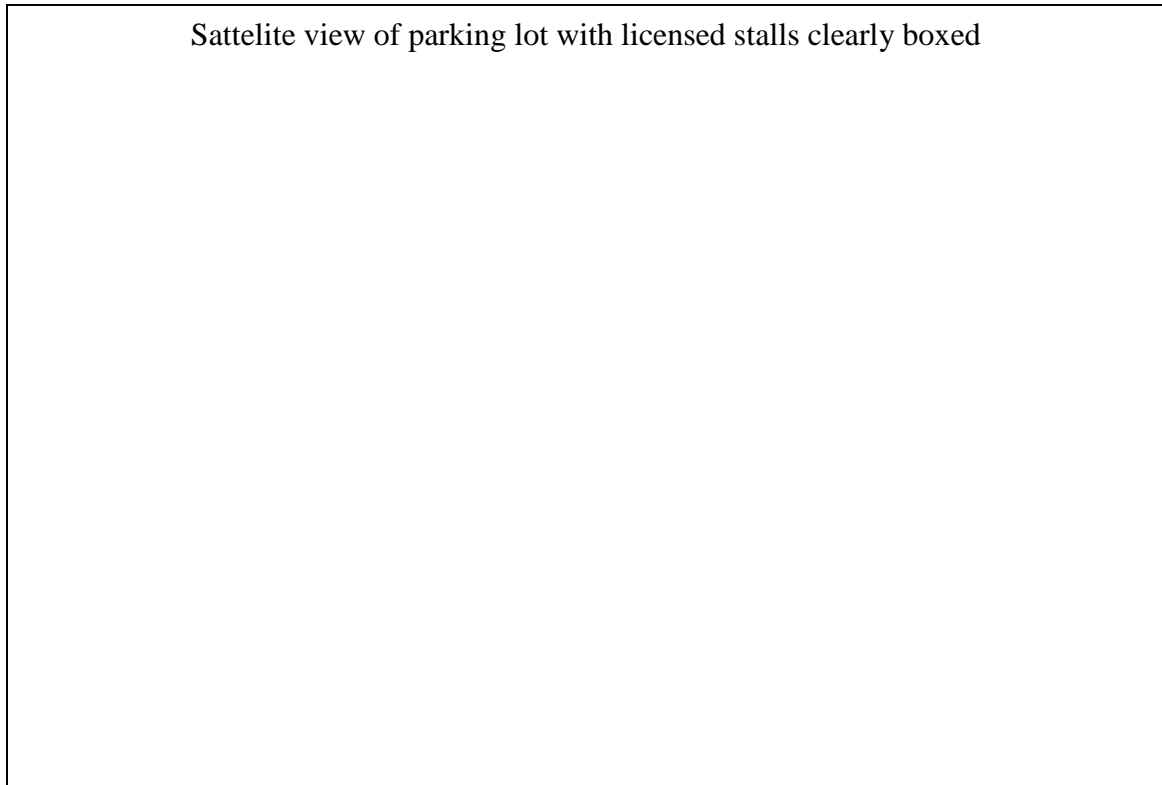
Name: \_\_\_\_\_

Title: \_\_\_\_\_

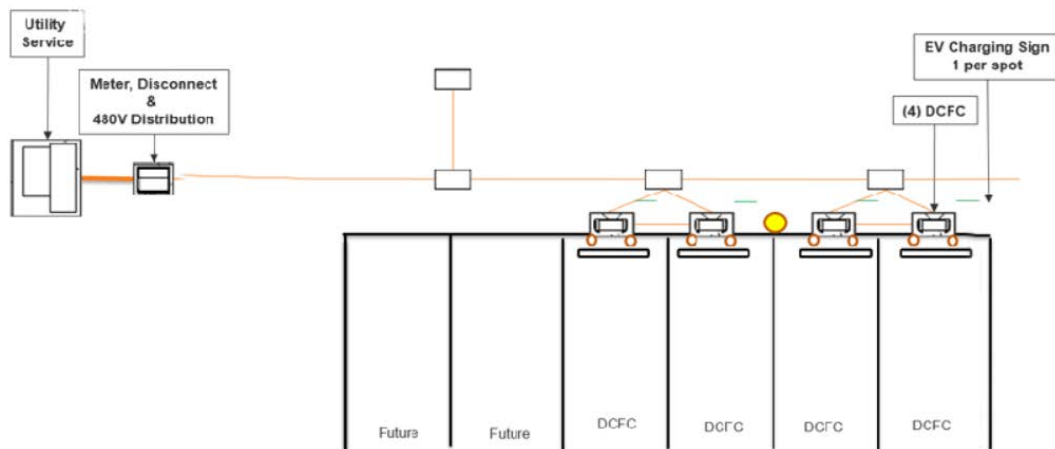
Date: \_\_\_\_\_



## Exhibit A – Licensed Spaces



**Figure A1** Parking lot site plan above shows the location context for the planned section of the Parking facility for the ChargePoint Express equipment installation.



**Figure A2** EVSE design above shows details for the ChargePoint electric vehicle supply equipment installation. Site specific details will be confirmed with engineered design and utility coordination.

**Exhibit “B”**

**Installation Scope of Work  
TO BE COMPLETED WITH SITE SPECIFIC INFORMATION**

- 1. Statement of Work**
- 2. Clarifications**
- 3. Excluded Items Outside of Agreement**
- 4. Overhead Map View**
- 5. Focused Installation View**
- 6. Site Design Layout**
- 7. Single Line Diagram**

[                      ]

By:

Name:

Title:

Address for Notices:

By:

Name:

Title:

Address for Notices:

**EXHIBIT C to LICENSE AGREEMENT  
CEO AND COLORADO GRANT TERMS AND CONDITIONS**

**1. INSURANCE**

Licensee shall obtain and maintain, and ensure that each Subcontractor shall obtain and maintain, insurance as specified in this section at all times during the term of this Agreement. All insurance policies required by this Agreement that are not provided through self-insurance shall be issued by insurance companies as approved by the State.

**A. Workers' Compensation**

Workers' compensation insurance as required by state statute, and employers' liability insurance covering all Licensee employees acting within the course and scope of their employment.

**B. General Liability**

Commercial general liability insurance covering premises operations, fire damage, independent contractors, products and completed operations, blanket contractual liability, personal injury, and advertising liability with minimum limits as follows:

- i. \$1,000,000 each occurrence;
- ii. \$1,000,000 general aggregate;
- iii. \$1,000,000 products and completed operations aggregate; and
- iv. \$50,000 any damage to premises rented to you limit (any one premises).

**C. Automobile Liability**

Automobile liability insurance covering any auto (including owned, hired and non-owned autos) with a minimum limit of \$1,000,000 each accident combined single limit.

**D. Additional Insured**

The State shall be included as additional insured on commercial general liability policy (leases and construction contracts require additional insured coverage for completed operations) required of Licensee and Subcontractors.

**E. Primacy of Coverage**

General Liability and Automobile Liability shall be primary over any insurance or self-insurance program carried by Licensee or the State.

**F. Cancellation**

Licensee will endeavor to provide written notice to the State thirty (30) days prior to any cancellation with the exception of non-payment which can then be ten (10) days.

**G. Subrogation Waiver**

Commercial General Liability, Automobile Liability and Workers' Compensation insurance policies secured or maintained by Licensee or its Subcontractors in relation to this Agreement shall include clauses stating that each carrier shall waive rights of recovery under subrogation or otherwise against Licensee or the State, its agencies, institutions, organizations, officers, agents, employees, and volunteers.

#### H. Public Entities

If Licensee is a "public entity" within the meaning of the Colorado Governmental Immunity Act, §24-10-101, *et seq.*, C.R.S. (the "GIA"), Licensee shall maintain, in lieu of the liability insurance requirements stated above, at all times during the term of this Contract such liability insurance, by commercial policy or self-insurance, as is necessary to meet its liabilities under the GIA. If a Subcontractor is a public entity within the meaning of the GIA, Licensee shall ensure that the Subcontractor maintain at all times during the terms of this Licensee, in lieu of the liability insurance requirements stated above, such liability insurance, by commercial policy or self-insurance, as is necessary to meet the Subcontractor's obligations under the GIA.

#### I. Certificates

For each commercial insurance plan provided by Licensee under this Agreement, Licensee shall provide to the State certificates evidencing Licensee's insurance coverage required in this Agreement within 7 Business Days following the Effective Date. Licensee shall provide to the State certificates evidencing Subcontractor insurance coverage required under this Agreement within 7 Business Days following the Effective Date, except that, if Licensee's subcontract is not in effect as of the Effective Date, Licensee shall provide to the State certificates showing Subcontractor insurance coverage required under this Agreement within 7 Business Days following Licensee's execution of the subcontract. Within 15 following the expiration date of Licensee's or any Subcontractor's coverage, Licensee shall deliver to the State certificates of insurance evidencing renewals of coverage. At any other time during the term of this Agreement, upon request by the State, Licensee shall, within 7 Business Days following the request by the State, supply to the State evidence satisfactory to the State of compliance with the provisions of this §\_\_\_\_.

## 2. GOVERNMENTAL IMMUNITY

Liability for claims for injuries to persons or property arising from the negligence of the State, its departments, boards, commissions committees, bureaus, offices, employees and officials shall be controlled and limited by the provisions of the GIA; the Federal Tort Claims Act, 28 U.S.C. Pt. VI, Ch. 171 and 28 U.S.C. 1346(b), and the State's risk management statutes, §§24-30-1501, *et seq.*, C.R.S.

#### A. Colorado Open Records Act Disclosure

To the extent not prohibited by federal law, this Agreement and the performance measures and standards required under §24-106-107, C.R.S., if any, are subject to public release through the Colorado Open Records Act.

#### B. Indemnification

##### General Indemnification

Licensee shall indemnify, save, and hold harmless the State, its employees, agents and assignees (the "Indemnified Parties"), against any and all costs, expenses, claims, damages, liabilities, court awards and other amounts (including attorneys' fees and related costs) incurred by any of the Indemnified Parties in relation to any act or omission by Licensee, or its employees, agents, Subcontractors, or assignees in connection with this Agreement.

**3. GOVERNMENTAL IMMUNITY.**

No term or condition of this Agreement shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, of the Colorado Governmental Immunity Act, §24-10-101, *et seq.*, C.R.S., or the Federal Tort Claims Act, 28 U.S.C. Pt. VI, Ch. 171 and 28 U.S.C. 1346(b).

**4. INDEPENDENT CONTRACTOR**

Licensee shall perform its duties hereunder as an independent contractor and not as an employee. Neither Licensee nor any agent or employee of Licensee shall be deemed to be an agent or employee of the State. Licensee and its employees and agents are not entitled to unemployment insurance or workers compensation benefits through the State and the State shall not pay for or otherwise provide such coverage for Licensee or any of its agents or employees. Unemployment insurance benefits will be available to Licensee and its employees and agents only if such coverage is made available by Licensee or a third party. Licensee shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this Agreement. Licensee shall not have authorization, express or implied, to bind the State to any agreement, liability or understanding, except as expressly set forth herein. Licensee shall (i) provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, (ii) provide proof thereof when requested by the State, and (iii) be solely responsible for its acts and those of its employees and agents.

**5. COMPLIANCE WITH LAW.**

Licensee shall strictly comply with all applicable federal and State laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.

**6. CHOICE OF LAW.**

Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this Agreement. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. Any provision incorporated herein by reference which purports to negate this or any other Special Provision in whole or in part shall not be valid or enforceable or available in any action at law, whether by way of complaint, defense, or otherwise. Any provision rendered null and void by the operation of this provision shall not invalidate the remainder of this Agreement, to the extent capable of execution.

**7. BINDING ARBITRATION PROHIBITED.**

The State of Colorado does not agree to binding arbitration by any extra-judicial body or person. Any provision to the contrary in this Agreement or incorporated herein by reference shall be null and void.



## **Work Sessions**

ADUs with the Planning Commission

Caps on Sewer Taps

Community Plan with Steering Committee

Restaurants (Winter complications)

Holiday Events

Chain Businesses

Workforce Housing

Perimeter Trail Master Plan

Parks & Rec Master plan

Building Code Update

Fee Schedule

Business Licenses