

**AGENDA  
OURAY CITY COUNCIL**

**Monday, July 21, 2025 - 3:30 PM**

**Ouray Community Center  
320 6th Ave  
Ouray, CO 81427**

**Ouray City Council Work Session**

- Changes to this agenda can be found on the bulletin board at City Hall
- 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.
- Notice is hereby given that a majority or quorum of the Planning Commission, Community Economic Development Committee, Beautification Committee, Tourism Advisory 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
2. DISCUSSION ITEMS - Ouray Ice Park Incorporated Water Agreement and Ice Park Management Agreement

## **Proposed New Water Agreements Between the City of Ouray and OIPI**

I. An extension of the current water agreement covering OIPI use of City water system overflow to continue ice farming operations with the legacy system to be put in place immediately until a long-term agreement covering the combined legacy/OWOF infrastructure can be executed.

Assuming the pace of fundraising allows the OWOF point of diversion to be established later this year, the following items comprise an interim MOU during definition of the long-term agreement:

OIPI will fund and build the new infrastructure for diversion and distribution of water from the OWOF system, with the possible exception of project infrastructure elements beyond original scope, on which OIPI and the City may agree and in which the City may choose to make capital investments for its park.

OIPI and City will confer on the new water system during its build-out to ensure that any concerns the City has with ultimately owning it are addressed, given that OIPI has limited financial capacity to add features or capabilities not in its original scope for the project.

Ownership of the OWOF project infrastructure will be conveyed by OIPI to the City upon completion and acceptance by the City.

II. A new Ouray Ice Park Water Systems Operating Agreement with term to be coordinated with and run concurrent with the current OIP Management Agreement (renewable in 10-year increments so long as both Parties agree) to be put in place later this year.

The City agrees that OIPI may use water from the new source right (leased to the City by OSMI for the Park) as needed for OIP operations up to the 3 CFS granted by that right [include the City's 1 CFS supplemental right?].

The City will fund the power for and maintain OWOF new source infrastructure it owns, from the point of diversion / pumping station to the valve vaults, consistent with operational needs.

OIPI will fund and maintain its ice farming distribution system exiting the downstream valve vault to the Park consistent with operational needs, with the possible exception of park elements beyond its existing Management Agreement scope, on which OIPI and the City may agree and in which the City may choose to make capital investments for its park.

Both the City and OIPI will have full access to and use of OWOF water source infrastructure, and will keep each other apprised of any extraordinary actions in advance of such actions affecting capabilities or operations.

Adjunct to this agreement, detailed policies will be developed for roles and responsibilities, including those for safety, training, and costs, and detailed operating procedures will be developed to cover all aspects of routine OIPI ice farming, periodic maintenance, and emergency responses.

## **Ouray Ice Park Revised Comprehensive Management Agreement**

This Ouray Ice Park Comprehensive Management Agreement (Agreement) is made by and between the Ouray Ice Park, Inc. (OIPI), a Colorado non-profit corporation, and the City of Ouray, Colorado (the City), effective October 2, 2023. OIPI and the City (collectively the Parties), agree as follows.

### ***Exhibits***

- A. Exhibit A - City owned property
- B. Exhibit B - Water Right assigned to the City for Ouray Ice Park use (Case No.: 21CW3042)
- C. Exhibit C - City's Water Right for Ouray Ice Park (Ouray Ice Park Diversion Case No.: 21CW3053)
- D. Exhibit D- Water Use Agreement between the City and OIPI
- E. Exhibit E - Ouray County Recreational Access Easement Reception #201752
- F. Exhibit F- Eric Jacobson Easement Agreement to the City of Ouray
- G. Exhibit G - Map of Park

### ***Recitals***

- A. Ouray Ice Park is a world-class, internationally known outdoor recreational asset, which provides a unique and exemplary ice climbing experience for the public, and which is the core of Ouray's winter economy.
- B. The City owns property as shown on the attached Exhibit A.
- C. The City and OIPI are parties to an Agreement for Management of the Ouray Ice Park, with an effective date of June 1, 2018, and this revised Management Agreement effective October 2, 2023, to October 3, 2024.
- D. The City of Ouray has entered a lease for 3.34 c.f.s. of water from the Revenue Virginus Mine Water Works Water Right to Sneffels Creek and this water may be available for redirection by the City from Canyon Creek for use at the Ouray Ice Park, as shown on Exhibit B.
- E. The City of Ouray has obtained a conditional water right of 1.111 c.f.s. (500 g.p.m.) for recreational use at the Ouray Ice Park through a diversion structure from Canyon Creek near its confluence with the Uncompahgre River, as shown on Exhibit C.
- F. OIPI and the City are parties to a Water Use Agreement entered on October 2, 2023, that grants OIPI a right to use certain of the City's water for the development of ice falls for recreational ice climbing, among other rights. The Water Use Agreement runs concurrently with this Management Agreement for the Ouray Ice Park, and is shown

on Exhibit D.

- G. The City and Ouray County, through the Board of County Commissioners of Ouray County, Colorado, have entered into a Recreational Access Easement Agreement dated September 28, 2009 and recorded at the Ouray County Clerk and Recorder on October 7, 2009 at reception number, and terminates by its terms on September 28, 2029 and provides access rights to and uses permitted on the County's property, being the Rio M.S. 1965, as shown on Exhibit E.
- H. The City and Eric R. Jacobson are parties to an Easement Agreement entered on or about the same time as this agreement is being executed, which provides access onto and over the Roosevelt Placer (M.S. 16036) gorge area, not including the area under a FERC license to operate the hydroelectric plant, for recreational use by the City. The Easement Agreement runs concurrently with this Management Agreement for the Ouray Ice Park, as shown on Exhibit F.
- I. The City has the sole ability and authority to grant the rights and create the obligations established by this Agreement.
- J. OIPI has no ownership interests in the underlying real property, water rights, easements, or leases of the City's or County's property, and OIPI's authority to act on the property is derived solely from this Management Agreement.

Now therefore, in consideration of the mutual obligations described below, and for other consideration, the sufficiency of which is hereby acknowledged by the Parties, the Parties additionally agree as follows.

## *Agreement*

### *I Scope and Activities*

- A. The Ouray Ice Park (OIPI or the Ice Park) is an ice climbing venue on property located south of the City of Ouray. It operates on lands owned by the City or which the City has acquired various access and use rights. The Park is depicted on the map attached to this Agreement as Exhibit G.
- B. The City grants to OIPI the exclusive authority to operate the ice climbing venue through Activities, Operations, and Improvements, within the Ice Park, including the right to grant permission to use the Ice Park during the winter climbing season, and OIPI is not responsible for overseeing or otherwise managing the Ice Park which is outside the scope of this Agreement.
- C. Any proposals to develop, maintain, or provide funding for additional Activities outside the scope of this Agreement or to expand or establish additional permissible uses of the

Ice Park, regardless of their origin, must be approved by OIPI. OIPI will consider such proposals at a noticed public meeting. After the meeting, OIPI will make a recommendation to the City. The City will consider the proposal or amendment.

- D. Other than the obligations and authority set forth in Section II, OIPI shall not install, construct, or cause to be constructed any fixture in the Ice Park valued more than \$20,000.00 without prior notice and approval by the City. If the City Administrator denies a request for an improvement, OIPI may appeal that decision to the City Council.
- E. OIPI expressly acknowledges that there are other recreational uses permitted within the Ice Park. The Parties agree to coordinate the uses of the Ice Park, and the City shall not take any action that materially interferes with OIPI's Activities and Events, notwithstanding the City's right to terminate this Agreement under Section X.
- F. The City may enact ordinances establishing rules and regulations for use of the Ice Park. OIPI may recommend to the City rules and regulations for use at the Ice Park. OIPI may enact emergency rules and regulations for using the Ice Park but if OIPI intends the rule or regulation to remain in effect longer than thirty (30) days, it shall recommend adoption of the rule or regulation by the City. If the City chooses not to implement a recommended rule or regulation pursuant to an ordinance, OIPI may adopt that rule or regulation only upon approval by the City. Under no circumstances shall any rule or regulation imposed by OIPI conflict with a rule or regulation adopted by the City. Ordinances enacted by the City shall not materially interfere with OIPI's Activities and Events.
- G. The building located in the Ice Park known as the Powder House is owned by the City. The City hereby grants to OIPI the right to occupy, improve, maintain, and otherwise use that building during the term of this Agreement and subject to the limitations in this paragraph. OIPI shall not have any obligation to maintain or improve the Powder House. The City reserves the right to enter and maintain the Powder House. The Parties acknowledge and agree that the exercise of the City's right may require that the City have exclusive possession of the Powder House to conduct maintenance and repair for a period of time limited to that required to conduct such maintenance and repair.
- H. The City and OIPI will cooperate on signage to manage traffic and parking in the vicinity of the Ice Park and OIPI will make their best efforts to organize volunteers to direct parking during busy periods.
- I. The City agrees to make its best effort to snowplow the access ways and parking areas around the Powder House and bridges after accumulations of 5" or more of snowfall, only after the City streets, alleys, and public rights-of-way are plowed.
- J. OIPI will maintain improvements, including any items placed in the Ice Park or adjacent property for purposes of any Activity.

## *II Events*

- A. The City grants OIPI the right and authority to conduct, manage, and host Events. OIPI may also conduct, manage, and host other events that are not considered high-impact events in its sole discretion.
- B. OIPI may conduct events to raise funds to facilitate its operation.
- C. City staff may refer a request to conduct, manage or host a high-impact event from OIPI to the City Council for approval.
- D. The City shall manage any events in the Park not managed by OIPI. The City shall not require OIPI or its staff to participate in any such events. The City and OIPI shall communicate to ensure that events managed by the City, or its designees do not conflict with events managed by OIPI or other operations in the Ice Park.

## *III Concessions*

- A. OIPI may conduct, manage, and develop commercial activities and other concessions in the Ice Park which are related to the Events and Activities managed by OIPI. The proceeds of the commercial activities shall be owned by OIPI. Without limitation, these commercial activities may include the sale of merchandise, and commercial activity associated with Events.
- B. Any commercial activity on public property within the Ice Park shall comply with the permitting requirements of the City's Municipal Code for the sale of goods and services.
- C. OIPI is authorized to manage those who use the Ice Park so long as seventy-five percent (75%) of the visitor capacity is reserved for recreational users and twenty-five percent (25%) is reserved for users hiring a commercial guide operator (CGO) or participating in an institutional group event (IGE).
- D. OIPI will maintain a system of data collection and analysis on capacity and uses of the Ice Park.
- E. The parties agree that if the data indicates total facility capacity is reduced at certain times in the winter ice climbing season under certain conditions (amount of terrain open, length of season, etc.), OIPI may adjust a CGO use accordingly.
- F. OIPI will notify each commercial guide operator of their service day allocation for the season annually by September 30.

#### *IV Fees*

- A. OIPI shall determine the fees charged to CGOs and IGEs for each user. Such fees shall be approved by the City. The user fees charged to CGOs and IGEs shall be the same.
- B. All fees charged shall be collected by OIPI and divided equally with fifty percent (50%) to OIPI and fifty percent (50%) to the City, provided that all fees collected be spent for the benefit of the Ouray Ice Park itself. OIPI shall submit an accounting of revenue and itemize expenses report with the first annual report on May 15. The City shall place all fees so received in a restricted fund for the purpose stated herein or in a reserved restricted account and identified specifically in the budget and accounted for through an expenditure report.
- C. Local food and merchandise vendors may be offered a reduced fee structure on terms to be determined and mutually agreed to by the Parties, so long as the proper huckstering permit is obtained. No huckstering permit is required for the annual Ice Fest and All In event, and all vendor fees shall be waived by the City.

#### *V Sustainability of the Ice Park and Operations*

- A. OIPI shall be responsible for the following updating the Standard Operating Procedures and Risk Management Manual, annually, if necessary, on May 15 of each year.
- B. OIPI shall be responsible for ensuring that IPAT holds regular quarterly meetings and any work sessions as needed. These meetings shall be open to the public and properly noticed. Working groups may be formed by IPAT for defined purposes and may meet separately for those purposes, provided they timely report their progress to the IPAT.

#### *VI Reports*

- A. OIPI shall report to the City by May 15 of each year regarding its operations in the Ice Park for the previous Winter Ice Climbing Season and shall include detail of the activities and events conducted by OIPI, and successes and challenges, and user safety reports.
- B. OIPI shall report to the City by October 15 of each year as a detailed report on OIPI's Activities and Events for the upcoming Winter Ice Climbing Season and any planned Improvements. The following components shall be included in one or both reports:
  - 1. Fiscal year financials
  - 2. Annual budget
  - 3. Water Usage
  - 4. Concessionaire use

5. Implemented safety programs with incident reports
  6. Scheduled Training
  7. Ranger Report (incidents/enforcement, visitor information, etc.)
  8. Improvements (improvements planned/completed at the appropriate report date)
- C. For the purposes of reports under VI.B.3, the City shall make Park water use data available to OIPI.
- D. To the extent necessary, OIPI representatives will cooperate with Eric Jacobson or his designee in the preparation and submission of the FERC Form 80 "Licensed Hydropower Development Recreation Report" per Federal Regulation 18 CFR 8.11.

*VII Statutory  
Protection*

- A. The City relies on the protections of the Colorado Recreational Use Statute, COLO. REV. STAT. §33-41-101, *et seq.* (the CRUS), and the Colorado Governmental Immunity Act, COLO. REV. STAT. §24-10-101 *et seq.* (the CGIA). This Agreement shall be construed, to the extent possible, to allow the full protection of such statutory protections to all parties who have granted easements or permits to the City related to the recreational uses in the Park. OIPI shall operate and maintain the Ice Park in a manner to ensure the protections of these statutes with regard to Recreational Users.
- B. To the extent permitted by law and to the extent covered by the general liability insurance policies maintained by the City, the City agrees to hold harmless, defend and indemnify OIPI from and against all claims by whomever made of bodily injury (including death) to or property loss or damage incurred by any member of the public arising out of or relating to Activities and events conduct or managed by OIPI as contemplated under this Agreement.
- C. OIPI is granted permission to use the Ice Park by this management agreement and the City represents and acknowledges that for purposes of the CRUS, OIPI is an owner as that term is defined at C.R.S. §33-41-102(3), and this Agreement shall be construed, to the extent possible, to establish OIPI as such an owner.

*VIII Agreements and Statutes that Affect OIPI  
Activities*

- A. Any of the events listed below shall not be construed to broaden or increase OIPI's obligations established pursuant to this Agreement without a modification of this Agreement. In addition, the following events may be cause to terminate this Agreement if the event results in a new or greater obligation for OIPI or materially impacts OIPI's rights or ability to carry out the obligations established by this Agreement:
1. Any change in any agreement referenced in the Recitals;

2. Any change in any statute referenced in Section V;
3. Any new statute, law, or other applicable regulation;
4. A change in OIPI's access to the City's water supply; or
5. An expansion or contraction of the Park.

- B The City is responsible for ensuring compliance with its obligations under the license agreement with Mr. Jacobson and its recreation easement with Ouray County and shall notify OIPI of any issues related to such compliance. Any compliance measure that results in a change or impact to OIPI shall be cause to terminate this Agreement.
- C OIPI shall maintain a policy on Conflicts of Interest consistent with best practices for non-profit organizations.

#### *IX Insurance*

If at any time while this Agreement is in effect, the City obtains general liability insurance coverage concerning the existence or use of the Ice Park, the City shall include OIPI as an additional named insured party on the City's general liability insurance coverage. If at any time while this agreement is in effect, OIPI obtains general liability insurance coverage concerning the existence or use of the Park, OIPI shall include the City as an additional named insured party on the City's general liability insurance coverage.

#### *X Term*

The Term of this Agreement shall be one year, commencing on October 2, 2023, and extending through October 1, 2024, with a right to extend for four more years so long as the City has purchased the Jacobson property known as Rosevelt Placer, and including a right of first refusal to extend the agreement for an additional five years after the four year extension, if granted, so long as the City continues to operate the Ice Park, is able to extend the easement with Ouray County as identified in Exhibit C incorporated herein, and OIPI is not in breach of this agreement. It is anticipated that OIPI shall have exclusive control of and access to the Ice Park and its facilities from November 1 through April 30, for set-up, shutdown, and operation of the Ice Park facilities. Nothing in this Agreement shall restrict OIPI from engaging in the maintenance or repair of Ice Park facilities and/or other related Ice Park functions at other times of the year, provided that such activities are conducted in such manner as not to materially interfere with other City-authorized uses, activities, or functions of the Ice Park area. At no time outside of the exclusive control period shall capital improvements of greater than \$5,000.00 be made to the Ice Park without City approval.

#### *XI Termination*

This Agreement may be terminated prior to expiration of the Term by either party for any of the following causes and pursuant to the following procedure:

1. This Agreement may be terminated upon the material breach of a provision of this Agreement, a material misrepresentation, or the insolvency or incapacity of either

party.

2. The occurrence of any event set forth in Section *VIII* of this Agreement.
3. This Agreement may be terminated upon 90 days prior written notice to the non-terminating party. Such notice must plainly and clearly describe the cause for which termination is sought. The non-terminating party shall have an opportunity to cure the cause for termination within thirty (30) days after written notice is given by the terminating party. If the cure is such that it cannot be completed within thirty (30) days and the non-terminating party has proceeded with due diligence to cure after receipt of the notice, the Agreement shall not terminate until it is determined that the cure cannot be completed. If such cause is cured, this agreement shall not be terminated. If the non-terminating party does not exercise due diligence in curing the cause, the Agreement shall terminate thirty (30) days after the notice is given.
4. In the event this Agreement is terminated, the City shall be free to continue to operate the Ice Park or to enter into an agreement or agreements with other parties providing for the operation of the Ice Park.
5. Either party may unilaterally suspend the conduct of an Activity because of extreme hazards or safety concerns. The suspending party shall provide no less than fifteen (15) days prior to written notice to the other party. Such notice must plainly and clearly explain the Activity to be suspended, the nature of the hazard or safety concern, and the corrective measures required to resume the operation of the suspended Activity. Either party may suspend the conduct of an Activity without prior notice if there exists an immediate threat to health or safety associated with the conduct of such Activity. However, the pending party shall provide notice of the hazard or safety concern as soon as practicable after a suspension due to an immediate threat to health or safety. Any suspension of an Activity shall not last longer than the minimum period reasonably necessary to correct the reason for such suspension.
6. Upon termination of this Agreement, any permanent fixtures or improvements installed by OIPI in the Park shall be the property of City. OIPI shall retain all other personal property, subject to the following conditions. OIPI shall remove all its personal property, within thirty (30) days after the termination of this Agreement, or as soon as is practicable upon agreement of the parties. If such personal property is not removed, the City may, at its sole discretion, retain such personal property or have such property and improvements removed.

To the extent that the previous operating agreement between the parties, referenced in the Recitals above, has expired, and to the extent that that expired agreement put in place provisions for various property interests to be exchanged if that agreement expired, the parties agree that no such exchange shall occur.

## *XII Definitions*

- A. Activities authorized within the Ice Park by the City include creating, operating, maintaining, and funding an ice climbing venue constructed annually by OIPI and comprised of ice falls, climbing routes, anchors, access trails, bridges, causeways, and other related infrastructure.
- B. Commercial Guide Operator (CGO) is defined as those Ice Park users who provide ice climbing guide services to commercial users for monetary remuneration.
- C. Commercial User is defined as those individual users of the Ice Park who hires a CGO to provide them with guide services individually or through a group.
- D. Events are defined as the annual Ouray Ice Festival, All In Ice Festival, Love Your Gorge event, and any UIAA events. OIPI may conduct, manage, or host additional high-impact events within the Ice Park during the Winter Ice Climbing Season upon notification and approval by the City.
- E. High Impact Events are events that require extensive closure of areas of the Ice Park to accommodate the event, or one in which crowding is expected to substantially interfere with other uses of the Ice Park.
- F. Huckstering is the offering of goods, services, or things for sale on public property.
- G. Ice Park Advisory Team (IPAT) is an advisory group, operating under adopted bylaws, consisting of a core team, being two (2) City representatives and two (2) OIPI representatives chosen by mutual agreement of the parties, and five (5) at large members chosen by the core team, to provide an informal venue for the Parties and interested persons to discuss various issues concerning the Ouray Ice Park in good faith, including management, operations, usage, capital planning, long-term strategic planning, succession planning, sustainability, mission, vision, values, recreational interests, commercial interests, economic impact, and similar topics, as well as any disputes concerning operations of the Ice Park by OIPI.
- H. Improvements authorized within the Ice Park by the City include above and below ground water lines and pipes; sprinkler and shower heads; climbing anchors including without limitation bolts, chains, and pruned trees; informational signs; barricades; on-site storage; observation platforms; metal and wooden causeways, bridges, stairs, and ladders; and pedestrian trails.
- I. Institutional Group Events (IGE) are uses of the Park by not-for-profit organizations, who may provide club excursions, educational program outings, or professional training sessions.
- J. Operations authorized within the Ice Park by the City include rock scaling, clearing

vegetation, snow removal, placement of signs and barricades, work on water distribution systems, creating and managing ice for climbing, placement of climbing protection hardware, annually opening and closing the Ice Park for ice and mixed climbing, erecting and decommissioning climbing structures, removal of all temporary property related to the operation of the Ice Park, and the opening and closing of climbing areas within the Ice Park during the winter ice climbing season.

- K. Recreational User is defined as those individual users of the Ice Park who have no guide and are not participating in a clinic, or other group use.
- L. Service Day is the unit of commercial use allocation to CGOs, defined as one guide in the Park with up to four clients, occupying no more than two anchors at a time.
- M. Service Day Allocation is the number of service days a CGO may use in the Ice Park during the allocation period, determined by OIPI every year and used by OIPI to manage the requirement that CGOs and IGEs combined not use more than twenty-five percent of the total visitor capacity during a winter ice climbing season.
- N. Standard Operating Procedures and Risk Management Manual is a manual adopted by the City on May 31, 2020, and maintained and updated annually, if necessary, by OIPI setting forth the operation and safety standards within the Ice Park.
- O. Winter Ice Climbing Season shall be from November 1 until April 30 of each year.

### *XIII Miscellaneous*

- A. OIPI owns and has registered its ownership of the following trademarks: the "Ouray Ice Park" and "Ouray Ice Festival" word marks, as well as other design marks (Marks). No license to use those trademarks or other trademark right, copyright, or other intellectual property right owned or reserved by OIPI is conveyed by this Agreement to the City or any other party or entity. During the term of this Agreement, OIPI may not assign any Marks to a third party without written consent by the City. Upon termination of this Agreement, the City has the right to purchase the Marks owned by OIPI after the effective date of this Agreement. The City shall notify OIPI in writing within ten (10) days after the termination of this Agreement of its intent to exercise its right to purchase. If the City fails to provide such notice, OIPI may retain or assign the Marks to a third party. If the City does provide such notice, OIPI may not assign the Marks to a third party unless the City waives its right to purchase the Marks as provided for in this paragraph. The parties agree that the purchase price of the assignment is equal to the documented and reasonable costs incurred by OIPI to maintain such Marks and prosecute infringement upon those Marks and goodwill valued at \$1,000.00 per Mark so assigned. Any cost associated with the assignment itself shall be borne by the City. The City shall pay OIPI the purchase price within thirty (30) days of the parties agreeing on the purchase price. If the City fails to pay the purchase price within thirty (30) days, it waives its right to purchase the Marks pursuant to the terms of this paragraph. Upon the City's payment, OIPI will assign the purchased Marks and

coordinate with the City to file all required documentation with the United States Patent and Trademark Office, Colorado Secretary of State, and any other applicable agency.

- B. OIPI shall cause its articles of incorporation and bylaws to be amended as necessary to be consistent with this agreement. OIPI shall provide adequate notice to the City of all regular OIPI Board of Directors' meetings that are open to the public.
- C. The parties are independent contractors and no other partnership, employment status, or other relationship is established by this Agreement. The services to be performed by the OIPI are those of an independent contractor and not as an employee of the City. Nothing in this agreement shall constitute or be construed as a creation of a partnership or joint venture between the City and OIPI, or their successors or assigns. No agent or employee of OIPI shall be or shall be deemed to be the employee or agent of the City. The City is interested only in the results obtained under this agreement; the manner and means of conducting the work are under the sole control of OIPI. None of the benefits provided by the City to its employees, including, but not limited to, worker compensation insurance and unemployment compensation insurance, are available from the City to the employees of OIPI. OIPI will be solely and entirely responsible for its acts and for the acts of its agents, employees, and subcontractors during the performance of this agreement.
- D. Neither party shall be responsible for any delay or failure to perform any provision of this Agreement to the extent such delay or failure is caused by a force majeure circumstance or other Act of God.
- E. The City may, upon reasonable notice to OIPI, inspect and evaluate all OIPI operations in order to ensure public safety and health, identify operating deficiencies and to ensure satisfactory services for the general public.
- F. Neither party to this Agreement may transfer or assign its interests, obligations, or rights established by this Agreement without prior written permission of the other party to this Agreement.
- G. If any of the provisions of this Agreement are deemed by a competent court to be invalid or unenforceable, then such invalidity or unenforceability shall not invalidate or render unenforceable the entire Agreement.
- H. Any notice required by this Agreement shall be directed to the following addresses.

To OIPI:

Ouray Ice Park, Inc.  
Attn: OIPI Executive Director  
PO Box 1058, Ouray, CO 81427

To the City:  
City of Ouray  
Attn: City Administrator  
PO Box 468, Ouray, CO 81427

- I. The failure by a party to require performance of any provision of this Agreement shall not constitute a waiver of such provision and shall not affect the overall validity of this Agreement.
- J. Headings used in this Agreement are for organization only and shall not be used to interpret the meaning of any provision of this Agreement.

IN WITNESS WHEREOF, the City and OIPI enter this agreement effective the day and year first written above.

CITY OF OURAY:

OIPI:

\_\_\_\_\_  
Ethan Funk, Mayor

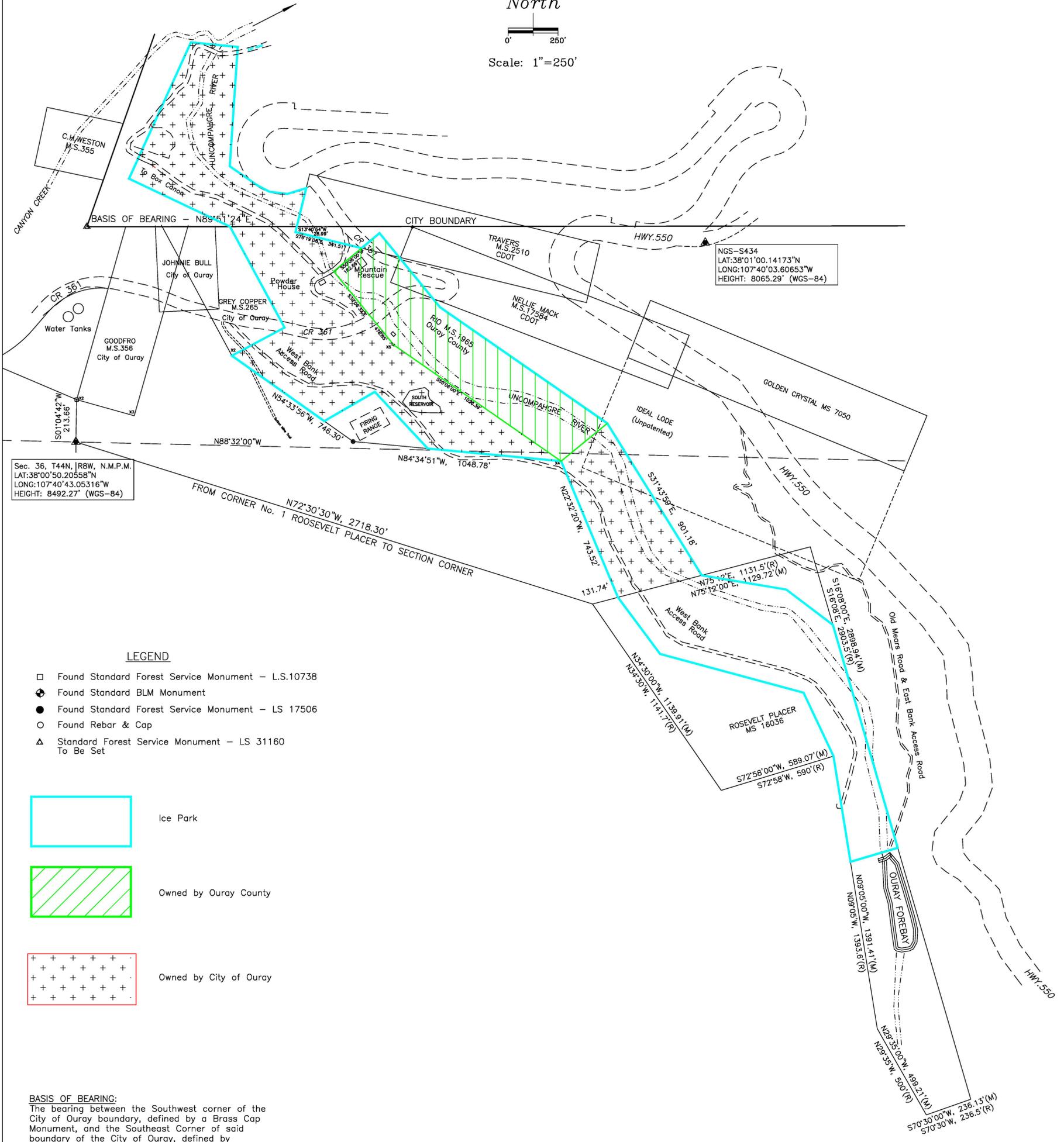
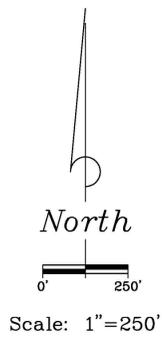
\_\_\_\_\_  
Peter O'Neil, Executive Director

Attest:

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

# Ouray Ice Park Map

## Ouray, Colorado



Sec. 36, T44N, R8W, N.M.P.M.  
 LAT: 38°00'50.20558\"N  
 LONG: 107°40'43.05316\"W  
 HEIGHT: 8492.27' (WGS-84)

NGS-S434  
 LAT: 38°01'00.14173\"N  
 LONG: 107°40'03.60653\"W  
 HEIGHT: 8065.29' (WGS-84)

**LEGEND**

- Found Standard Forest Service Monument - LS.10738
  - ⊕ Found Standard BLM Monument
  - Found Standard Forest Service Monument - LS 17506
  - Found Rebar & Cap
  - ▲ Standard Forest Service Monument - LS 31160 To Be Set
- 
- Ice Park
  - Owned by Ouray County
  - + + + + +  
+ + + + +  
+ + + + + Owned by City of Ouray

**BASIS OF BEARING:**  
 The bearing between the Southwest corner of the City of Ouray boundary, defined by a Brass Cap Monument, and the Southeast Corner of said boundary of the City of Ouray, defined by Standard BLM Monument, is assumed to be N89°51'24\"E as defined by a GPS survey of said monuments.

REVISIONS	SURVEYED BY R. A. L.	DATE 12/12	Disk	<b>MONADNOCK MINERAL SERVICES</b>	
				342-7TH Ave. - P.O. Box 85, Ouray, Colorado 81427 PLS 31160 - CPC 4682	
	DRAWN BY T. A. P.	SCALE 1"=250'	ACCT. NO. J12058	SHEET 1 of 1	

## WATER LEASE AGREEMENT

This WATER LEASE AGREEMENT ("Agreement") is made and entered into effective as of the 20<sup>TH</sup> day of DECEMBER 2021, by and between Ouray Silver Mines Inc. (hereinafter called "OSMI") and the City of Ouray, Colorado (hereinafter called "Lessee"). OSMI and Lessee shall be referred to herein collectively as the "Parties" and each as a "Party."

### RECITALS

WHEREAS, OSMI owns the Revenue Virginius Mine Water Works Water Right, originally decreed in Case No. W-2993 and the subject of subsequent decrees including without limitation the Findings of Fact, Conclusions of Law, Ruling, Judgment and Decree entered in Case No. 20CW3048 and pending Case No. 21CW3042, all in the District Court, Water Division No. 4 (the "Revenue Water Right").

WHEREAS, the Lessee owns certain property located in Ouray, Colorado, operated as the Ouray Ice Park (the "Ice Park"), which is an important generator of winter tourism in the region.

WHEREAS, the water resource currently available to the Ice Park to "farm" ice during the winter is the Lessee's drinking water supply.

WHEREAS, Lessee desires to lease and alternate sources of raw water to supplement the water available to "farm" ice at the Ice Park during the winter.

WHEREAS, OSMI is willing to lease raw water available under the Revenue Water Right to Lessee for such use by the Ice Park, subject to the terms of this Agreement.

NOW, THEREFORE, for and in consideration of the mutual promises herein contained and the payments to be made hereunder, the Parties hereto agree as follows:

### AGREEMENT

1. **Quantity.** For purposes of this Agreement, the term "Contract Season" shall mean the period of November 1 of each year of this Agreement through March 31 of the following year. Each Contract Season during the term or terms of this Agreement, and in accordance with the provisions hereof, OSMI will make available up to 3.34 c.f.s. of water, by releases to Sneffels Creek, which may be available under the Revenue Water Right (the "Leased Water") for redirection by Lessee from Canyon Creek. The precise amount of Leased Water to be made available for redirection shall be contingent upon the rate and volume of flow discharged to Sneffels Creek from OSMI's passive treatment system, priority calls for water by downstream water right holders, other water demands of OSMI, the proper functioning of OSMI's water management and treatment facilities, and any transit losses charged by the Colorado Division of Water Resources. Written notice to the City as to the amount of water that OSMI estimates will likely be made available and released to Sneffels Creek for the Contract Season shall be provided by OSMI on or before August 15 of each year.

2. **Purpose and Term of Agreement.**

2.1 OSMI agrees to release Leased Water solely for the purpose of "farming" ice at the Ice Park, as described in the Recitals above. OSMI reserves all other uses of the Revenue Water Right. Unless agreed by the Parties in writing, neither Lessee nor OSMI shall seek a decreed right to reuse return flows that may accrue from the melting of ice after redirection and use of Leased Water at the Ice Park.

2.2 This Agreement will be in force for an initial term of ten (10) Contract Seasons commencing November 1, 2021 and terminating March 31, 2031 and is subject to extension for additional terms of 10 Contract Seasons each, upon the mutual agreement of the Parties as provided in paragraph 20 below.

3. **Raw Water.** The Leased Water to be rediverted hereunder is raw water that has not been treated to make it suitable for any particular use. Any treatment of the Leased Water to make it suitable for Lessee's use is the responsibility of Lessee. Except as provided in the foregoing sentences of this paragraph, nothing contained in this Agreement shall modify or expand OSMI's obligation to comply with applicable water quality discharge requirements associated with the discharge of water under the Revenue Water Right to Sneffels Creek. This Agreement shall not give rise to any liability of OSMI to Lessee, the Ice Park or its guests, employees, agents, servants, or contractors for any exceedance of applicable water quality standards.
4. **Point of Rediversion.** The location where Lessee will redivert the Leased Water will be a point on Canyon Creek, upstream of its confluence with the Uncompahgre River. OSMI will have no responsibility for the design, permitting, construction, or maintenance of the new point of diversion to be constructed by Lessee on Canyon Creek.
5. **Approval to Utilize Water.** OSMI's obligation to lease the Leased Water to Lessee is conditional upon its receipt of all needed approvals for the rediversion and use of the same at the Ice Park from the Water Court for Water Division No. 4 and/or the Colorado Division of Water Resources, and upon Lessee's compliance with all conditions and limitations imposed under such decrees, which the Ouray City Council shall approve prior to entry of any decree. Lessee will be responsible for compliance with all applicable laws in addition to such approved conditions and limitations related to Lessee's use of the Leased Water for the purpose authorized herein and shall furnish all information concerning development of the system for the use, and the actual use, of the Leased Water to OSMI, as may be required in connection with any future water court proceedings initiated by OSMI or diligence related thereto. Lessee will not file an application with any administrative or judicial authorities that includes any further change to its leasehold interest in the Revenue Water Right without the express written consent of OSMI, which consent is in the sole discretion of OSMI.
6. **Transportation and Evaporation Losses.** Lessee will bear all transportation and evaporation losses from OSMI's place of release or discharge on Sneffels Creek to the Point of Rediversion.
7. **Charge.** In consideration of the water leased under this Agreement, Lessee agrees to pay OSMI a charge of \$1.00 per Contract Season, payable in advance of the commencement of such season. The failure of Lessee to redivert the Leased Water in a Contract Season does not entitle Lessee to a refund of any sums paid.
8. **Interruption of Water Supply Beyond OSMI's Control.** While it is the intention of OSMI to release Leased Water for rediversion by Lessee, there are many elements that make it uncertain whether the supply will always be adequate for contemplated uses at the Ice Park. The Parties recognize that the water supply for OSMI is dependent upon sources from which the supply is variable in quantity and beyond the control of OSMI. No liability in tort or contract attaches to OSMI hereunder on account of any failure to accurately anticipate availability of water supply or because of an actual failure to supply water due to inadequate runoff or inadequate storage, or arising from an occurrence beyond the reasonable control of OSMI,

including, but not limited to, act of God, strike, war, insurrection, collapse of underground mine workings, or inability to serve arising out of the order of any court, or the lawful order of any governmental entity authorized to regulate matters pertaining to water, public health, or pollution control.

**9. Not a Permanent Supply.** The Parties understand and agree that this Agreement is not to be interpreted as any commitment on the part of OSMI to furnish water to Lessee on a permanent basis, but rather to provide Lessee with water from OSMI for the temporary period of the term or terms of this Agreement.

**10. Additional Ice Park Water Supplies.** This Water Lease Agreement shall not prevent the City from developing additional water supplies for use at the Ice Park, provided that the City maintains water rights accounting sufficient to distinguish use of the Leased Water from use of such additional supplies. The City may elect to use such additional supplies from time to time in lieu of some or all of the water that OSMI makes available pursuant to Paragraph 1, in the City's reasonable discretion.

**11. Sales Tax or Other Taxes.** In the event any sales tax or other tax is levied on the water leased under this Agreement, Lessee agrees to pay said tax. Lessee may, however, contest the imposition of any such tax at its own expense, and the requirement of such payment under this Agreement is without prejudice to Lessee's right to contest any attempted imposition of tax.

**12. Assignability; Sublease.** This Agreement may not be assigned, in whole or part, by Lessee without the prior written approval of OSMI, which approval is in the sole discretion of OSMI. Lessee may not sublease the Leased Water without the prior written approval of OSMI, which approval is in the sole discretion of OSMI.

**13. Waiver.** Failure of either Party hereto to exercise any right hereunder is not a waiver of such Party's right and does not affect the right of said Party to exercise at some future time said right or rights or any other right it may have hereunder. No waiver of any of the provisions of this Agreement will be deemed or constitute a waiver of any other provision, whether or not similar, nor will any waiver constitute a continuing waiver. No waiver is binding unless executed in writing by the Party making the waiver.

**14. No Exclusive Right or Privilege.** Nothing in this Agreement is to be construed as a grant by OSMI of any exclusive right or privilege.

**15. Title to Water Rights.** Nothing herein is to be interpreted to give Lessee any legal or equitable title in or to the Revenue Water Right or any of OSMI's other water rights or assets.

**16. Notices.** Any notice, election, report, or other correspondence required or permitted hereunder shall be in writing and (i) delivered personally; or (ii) sent by registered or certified United States mail, postage prepaid, return receipt requested; or (iii) sent by reputable overnight courier. All such notices shall be addressed to the Party to whom directed as follows:

If to OSMI:

Ouray Silver Mines Inc.  
242 7<sup>th</sup> Avenue  
P.O. Box 564  
Ouray, CO 81427

Attn: ~~Brian Briggs~~ Charles R. "Buck" ANDREWS  
Email: ~~briggs@ouraysilvermines.com~~  
b.andrews@ouraysilvermines.com

CRA  
EAF

or at such other address as OSMI may direct by written notice.

If to Lessee:

City Administrator  
320 6<sup>th</sup> Ave  
P.O. Box 468  
Ouray, CO, 81427

or at such other address as Lessee may direct by written notice.

**17. Remedies.** If either Party defaults in the performance of any of its obligations under this Agreement, in addition to any other remedies provided in this Agreement or by law or equity, each Party will have the right of specific performance against the other. In the event of litigation, the prevailing Party will be entitled to its litigation costs, including reasonable attorney's fees. Each Party agrees to personal jurisdiction in any action brought in any court within the County of Ouray, State of Colorado having subject matter jurisdiction over the matters arising under this Agreement. Any suit, action, or proceeding arising out of or relating to this Agreement will only be instituted in the County of Ouray, State of Colorado.

**18. Default, Right to Cure.** If either Party believes that the other is in default of any obligation under this Agreement, the non-defaulting Party must give written notice of the default to the defaulting Party. Such notice will be given by certified or registered mail, postage prepaid and return receipt requested. If a notice of default is provided, the Party accused of the default must either cure it or provide a written statement explaining why it is not in default. If an alleged material default is not cured or otherwise resolved within thirty (30) days, the non-defaulting Party may terminate this Agreement and resort to its remedies; provided, however, that if the defaulting Party in good faith disputes the existence of such alleged material default, the defaulting Party shall not be obligated to cure, or, with respect to material defaults other than failure to pay sums of money due hereunder, to commence and thereafter proceed to diligently cure, any such default until sixty (60) days after final judgment of a court of competent jurisdiction finding a material default.

**19. Right to Enter Agreement.** Each Party hereby warrants and represents that it has the full right and lawful authority to enter into this Agreement.

**20. Governing Law.** This Agreement will be governed by the laws of the State of Colorado, except for any conflict of laws principles that would dictate the application of the laws of another jurisdiction.

**21. Entire Agreement, Modification.** This Agreement constitutes the entire agreement between the Parties pertaining to the subject matter described in it and supersedes all prior

agreements, representations, and understandings. No supplement, modification, or amendment of this Agreement is binding unless executed in writing by all Parties.

**22. Captions and Headings.** The captions and headings in this Agreement are for convenience of reference only, and will not be used to interpret, define, or limit its provisions.

**23. No Construction Against the Drafter.** In the event of an ambiguity in this Agreement, the rule of construction that ambiguities will be construed against the drafter is inapplicable, and the Parties hereto are to be treated as equals and no Party will be treated with favor or disfavor.

**24. Third Party Beneficiaries.** Other than any permitted successors or assigns of the Parties, enforcement of this Agreement and all rights and obligations hereunder are reserved solely to the Parties, and not to any third party. Any services or benefits that third parties may receive as a result of this Agreement are incidental to the Agreement, and do not create any rights for such third parties.

**25. Indemnification.** To the extent permitted by law, except as to damages sustained or caused by OSMI, its agents or employees, Lessee hereby agrees to indemnify, defend and hold OSMI, its successors and assigns, harmless from and against any and all liabilities, claims, damages, losses, or expenses (including interest and penalties, reasonable attorneys' fees and other reasonable expenses of defending any actions relating thereto) incurred or sustained by OSMI in or as a result of or arising out of or attributable to: (i) all conditions and liabilities (including without limitation liabilities for personal injury and property damage) arising out of activities engaged in by guests of the Ice Park (or by the Ice Park's employees, agents, servants or contractors), and (ii) any breach of the specific representations, warranties and covenants made by Lessee in this Agreement.

**26. Counterparts.** This Agreement may be executed in one or more counterparts, any one of which may contain the signature of the authorized representative of OSMI or Lessee, which together shall constitute a single original document.

[signature page follows]

IN WITNESS WHEREOF, OSMI and Lessee have caused these presents to be executed in their respective behalf by their proper representatives.

CITY OF OURAY, COLORADO

OURAY SILVER MINES INC.

By: 

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

Name: Ethan Funk

Name:

Title: Mayor

Title:

ATTEST:



Melissa M. Drake, City Clerk

IN WITNESS WHEREOF, OSMI and Lessee have caused these presents to be executed in their respective behalf by their proper representatives.

CITY OF OURAY, COLORADO

By: 

Name: Ethan Funk

Title: Mayor

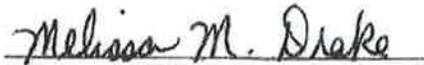
OURAY SILVER MINES INC.

By: 

Name: Charles R. ANDREWS

Title: CFO/Acting CEO

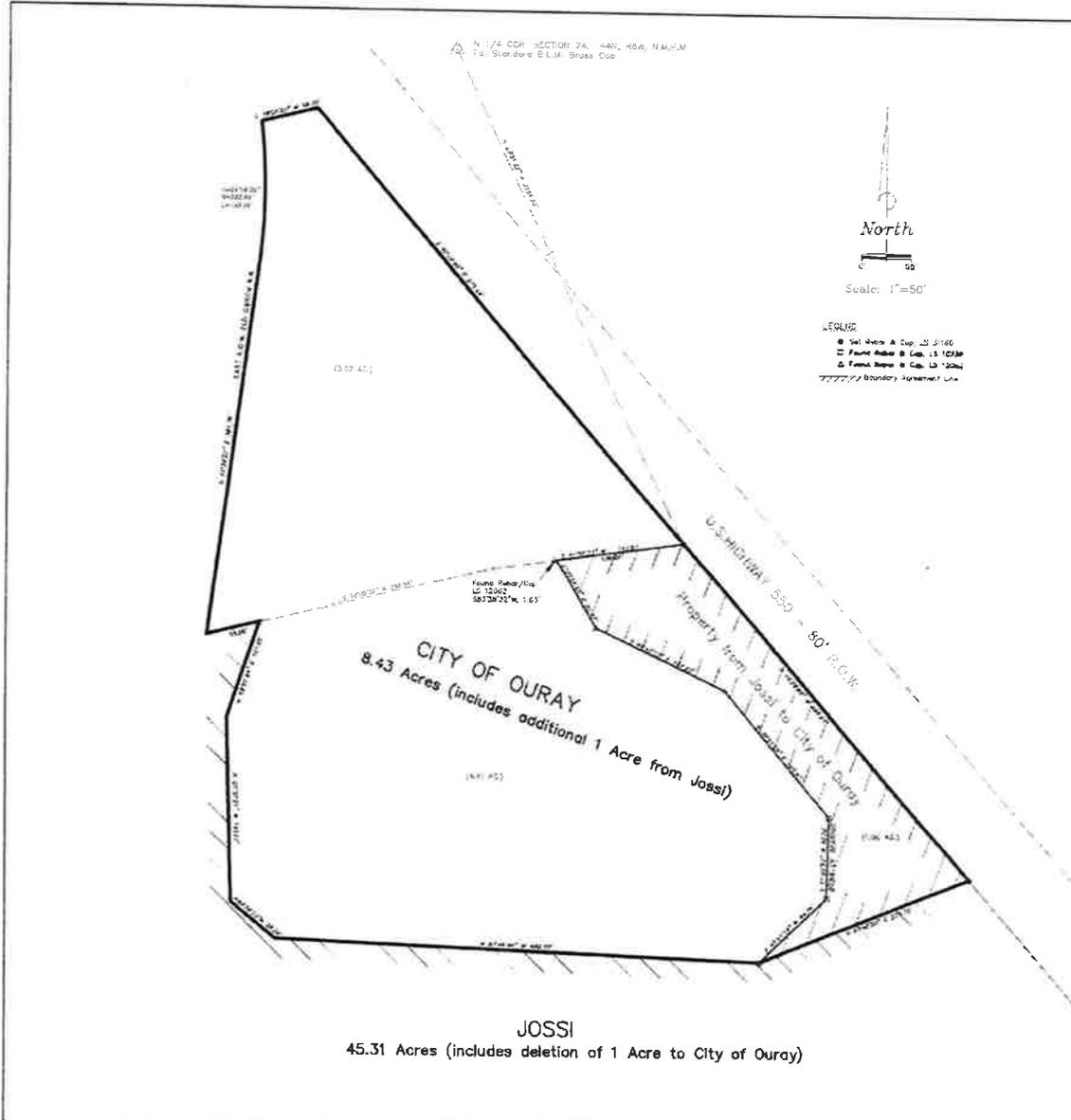
ATTEST:



Melissa M. Drake, City Clerk

# BOUNDARY ADJUSTMENT SURVEY AND PLAT

LOCATED IN LOT 7 SECTION 24, T44N, R8W, N.M.P.M.  
OURAY COUNTY, COLORADO



In accordance with §§§§, Section 3844-312, the undersigned agree that the boundaries as indicated on this plat, as fairly ascertained and permanently established as the boundaries between their respective portions. Each party hereby grants, conveys and releases to the other party full title to the property as may be in the other party's sole or the common boundaries as indicated.

*John A. Jossi*  
*Richard P. Jossi*  
*John A. Jossi*

STATE OF COLORADO  
 COUNTY OF GARFIELD  
 The foregoing agreement was witnessed before me on the 15th day of May, A.D. 2021, at the County Office in the City of Ouray, Colorado, before me, the undersigned, a Notary Public in and for the State of Colorado, and the parties thereto, and the same were read to and by them, and they acknowledged the same to be their free and voluntary act and deed.

STATE OF COLORADO  
 COUNTY OF GARFIELD  
 The foregoing agreement was witnessed before me on the 15th day of May, A.D. 2021, at the County Office in the City of Ouray, Colorado, before me, the undersigned, a Notary Public in and for the State of Colorado, and the parties thereto, and the same were read to and by them, and they acknowledged the same to be their free and voluntary act and deed.

NOTICE OF PUBLIC DISSEMINATION  
 Approved by the Board County Commissioners on 11/19/2021 by Resolution No. 2021-0011  
 COUNTY OF GARFIELD  
 Approved by the Board County Commissioners on 12/10/2021 by Resolution No. 2021-0012  
 APPROVED BY THE BOARD COUNTY COMMISSIONERS  
 Approved by the Board County Commissioners on 12/10/2021 by Resolution No. 2021-0012

NOTARIAL CERTIFICATE  
 I, Notary Public in and for the State of Colorado, do hereby certify that this and foregoing agreement is the true and correct copy of the original as recorded in the office of the County Recorder in the City of Ouray, Colorado, and that the same were read to and by the parties thereto, and they acknowledged the same to be their free and voluntary act and deed.

Notary Seal: Notary Public, State of Colorado, Commission Expires 12/31/2023

NOTARIAL CERTIFICATE  
 This plat was filed for record in the Office of the County Recorder of Ouray County, Colorado, on 12/21/2021 at 11:48:25 AM in accordance with § 38-1-101, C.R.S. as amended.

Michelle Olson by *John A. Jossi*

NOTICE: This plat is subject to the provisions of the Colorado Uniform Gifts to Minors Act, C.R.S. § 15-11-101, et seq., and the Colorado Uniform Transfers to Minors Act, C.R.S. § 15-11-101, et seq., and the Colorado Uniform Gifts to Minors Act, C.R.S. § 15-11-101, et seq., and the Colorado Uniform Transfers to Minors Act, C.R.S. § 15-11-101, et seq.

City of Ouray P.O. Box 466 Ouray, Colorado 81427
DIVISION OF RECORDS & ADMINISTRATION COUNTY OF GARFIELD 212 E. 1st St. Ouray, Colorado 81427 970-885-3100

DISTRICT COURT, WATER DIVISION 4, COLORADO  1200 North Grand Avenue, Bin A Montrose, CO 81401	<input type="checkbox"/> COURT USE ONLY <input type="checkbox"/>
CONCERNING THE APPLICATION FOR A CHANGE OF WATER RIGHTS OF  <b>OURAY SILVER MINES, INC.</b>  IN OURAY COUNTY.	Case No.: 21CW3042
<b>FINDINGS OF FACT, CONCLUSIONS OF LAW, RULING OF THE REFEREE,          JUDGMENT AND DECREE</b>	

This matter comes before the Court on the Application for Change of Conditional Water Right (“Application”) of Ouray Silver Mines, Inc. (“Ouray Silver”). The Referee, having considered the pleadings and being fully advised in the premises, hereby enters the following Findings of Fact, Conclusions of Law, and Ruling of the Referee:

**FINDINGS OF FACT**

1. **Applicant.** Ouray Silver Mines, Inc., c/o Brian Briggs, CEO, 1900 Main Street, Unit 1, Ouray, Colorado 81427, (970) 325-9830, bbriggs@ouraysilvermines.com.
2. **Application.** Ouray Silver filed the Application on August 31, 2021. The Court finds the statements in the Application are true to the extent such statements are confirmed herein.
3. **Notice and Jurisdiction.** All notices required by law have been duly given, and the Water Court has jurisdiction over the Application and all parties affected thereby, whether or not they have chosen to appear.
4. **Statements of Opposition.** No statements of opposition were filed. The time for filing statements of opposition has expired.
5. **Summary of Consultation.** The Division Engineer filed a consultation report on November 30, 2021. No response to the Summary of Consultation was required. The Referee has considered that Summary of Consultation pursuant to § 37-92-302(4), C.R.S.
6. **Summary of Proposed Change of Water Rights.** Ouray Silver seeks approval of an alternate place of use for the conditional water right originally decreed in Case No. W-2993 to the Revenue Virginus Mine Water Works for recreational use (hereinafter, “Subject Recreational Water Right”). Portions of the Revenue Virginus Mine Water Works water right were made absolute in Case No. 20CW3048 for uses other than recreation, and such uses are not

the subject of the Application. Ouray Silver's proposed alternate place of use is property known as the Ouray Ice Park, as further described herein.

7. Description of the Revenue Virginius Mine Water Works Water Right.

7.1. Decreed Name of Structure for Which Change Is Sought. Revenue Virginius Mine Water Works.

7.2. Date of Original Decree. June 26, 1979 in Case No. W-2993 (District Court, Water Division 4).

7.3. Subsequent Decrees Finding Diligence and/or Making Absolute.

7.3.1. Case No. 83CW95; decree entered December 22, 1983

7.3.2. Case No. 87CW110; decree entered December 8, 1987

7.3.3. Case No. 93CW251; decree entered December 27, 1994

7.3.4. Case No. 00CW228; decree entered September 6, 2001

7.3.5. Case No. 07CW137; decree entered March 12, 2008

7.3.6. Case No. 14CW3011; decree entered July 28, 2014

7.3.7. Case No. 20CW3048; decree entered February 8, 2021

7.4. Decreed Point of Diversion. Per the decree entered in Case No. W-2993, the Revenue Virginius Mine Water Works "has as a source of water supply discharges from the mine portal from ground waters developed through the mining operations by the Applicant and its predecessors." The mine portal is known as the Revenue Tunnel Portal. The Revenue Tunnel has collected, and in the future will collect, water flowing from current and future underground mine workings located generally in Sections 17, 19, 20, 21, 28 and 29, Township 43 North, Range 8 West of the N.M.P.M. Per the decree entered in Case No. 20CW3047, the Revenue Tunnel Portal is located at:

7.4.1. SW $\frac{1}{4}$  of the NE $\frac{1}{4}$  of Section 21, Township 43 North, Range 8 West of the N.M.P.M., 1,792 feet from the North section line, 2,124 feet from the East section line. In the area of the Revenue-Virginius Mine and the Revenue Tunnel Portal, mineral surveys for patented mining claims are typically used in lieu of PLSS data.

7.4.2. Latitude 37.974° N, Longitude 107.750° W, Zone 13, NAD83, Easting 0258449.40m, Northing 4206498.61m.

- 7.5. Source. Sneffels Creek, tributary to the Uncompahgre River.
- 7.6. Appropriation Date. 1934 and December 30, 1976 (decree entered June 26, 1979).
- 7.7. Uses. Mining, milling, and industrial purposes as of the 1934 appropriation date, and commercial, piscatorial, recreational, fire protection, and domestic purposes as of December 30, 1976.

7.7.1. Subject Use of Application. Recreational. Ouray Silver already diverts and uses water associated with the Revenue Virginus Mine Water Works water right within the Revenue-Virginus Mine at various locations for various decreed uses other than recreation. Accordingly, portions of the Revenue Virginus Mine Water Works water right were made absolute in Case No. 20CW3048 for certain decreed uses. The change sought in Ouray Silver's Application, however, applies only to the Subject Recreational Water Right, which comprises the conditional recreational use water right priority decreed to the Revenue Virginus Mine Water Works. The Subject Recreational Water Right was continued in full force and effect in Case No. 20CW3048.

7.8. Originally Decreed Amount. 3.34 c.f.s., conditional.

7.9. Subsequently Decreed Absolute Amounts. Per the decree entered in Case No. 20CW3048, the following amounts of the Revenue Virginus Mine Water Works water right have been made absolute:

7.9.1. Mining: 2.43 c.f.s.

7.9.2. Industrial: 2.23 c.f.s.

7.9.3. Milling: 0.18 c.f.s.

7.9.4. Fire Protection: 0.18 c.f.s.

7.9.5. Commercial: 0.18 c.f.s.

7.9.6. Domestic: 0.16 c.f.s.

7.10. Amount of Water Applicant Intends to Change. 3.34 c.f.s., conditional for recreational purposes (the amount decreed to the portion of the Revenue Virginus Mine Water Works water right referred to herein as the Subject Recreational Water Right).

8. Current Place of Use of the Revenue Virginus Mine Water Works Water Right. The current place of use of the Revenue Virginus Mine Water Works water right is the Revenue-Virginus Mine site, generally located in or adjacent to Sections 17, 19, 20, 21, 28 and 29,

Township 43 North, Range 8 West of the N.M.P.M. (the "Mine"). Ouray Silver extracts, diverts, transports, and treats water produced by the Revenue Virginus Mine Water Works within the Revenue-Virginus Mine. Ouray Silver diverts water that exits the Mine via the Revenue Tunnel Portal either for use at the Mine and mill or for delivery by gravity to a treatment system, which discharges water following treatment to Sneffels Creek. The point of discharge to the creek is in the NE¼ of Section 21, Township 43 North, Range 8 West of the N.M.P.M. Ouray Silver measures the release to Sneffels Creek using a device installed at the outfall of the treatment system.

9. Detailed Description of the Alternate Place of Use Sought by Ouray Silver. The Subject Recreational Water Right will be used in the Ouray Ice Park as described below:

9.1. Alternate Place of Use. In addition to the current place of use, Ouray Silver will use the Subject Recreational Water Right at the Ouray Ice Park. The Ouray Ice Park is located on a combination of public and private land, which the City of Ouray (the "City") either owns or to which it has acquired access and use rights. Effective August 23, 2021, Ouray Silver and the City executed a Letter of Intent that sets forth the principal terms upon which Ouray Silver will lease water available under the Subject Recreational Water Right to the City for recreational use within the Ouray Ice Park, subject to the negotiation of a definitive lease agreement. When the Subject Recreational Water Right is to be used at the Ouray Ice Park, Ouray Silver will continue to divert water at the Revenue Tunnel Portal, and then treat, measure, and release the water to Sneffels Creek. The released water will then flow approximately 1.3 miles to Canyon Creek. From there, the released water will continue to flow approximately 4.7 miles to the Ouray Ice Park Diversion Structure, where the released water would be rediverted (less an appropriate transit loss) for use in connection with the Ouray Ice Park. Water diverted under the Subject Recreational Water Right will be delivered through a system of pipes, regulating tanks, drip valves, and sprayer heads to create ice climbing formations in the Ouray Ice Park.

9.1.1. Location of the Ouray Ice Park. The Ouray Ice Park is generally located in Section 31, Township 44 North, Range 7 West of the N.M.P.M., and Sections 5, 6, and 8, Township 43 North, Range 7 West of the N.M.P.M. A map depicting the general location of the Ouray Ice Park is attached as **Exhibit A**.

9.1.2. Location of the Ouray Ice Park Diversion Structure. Water associated with the Subject Recreational Water Right will be diverted at a structure to be located on Canyon Creek near its confluence with the Uncompahgre River. The City currently intends to construct the diversion structure in the NW¼ of the SW¼ of Section 31, Township 44 North, Range 7 West of the N.M.P.M., approximately 2,216 feet from the South section line and 688 feet from the West section line. The actual location of the diversion structure will be determined upon final construction.

## CONCLUSIONS OF LAW

10. Incorporation of Findings of Fact. The foregoing Findings of Fact are incorporated herein to the extent they constitute Conclusions of Law.
11. Complete Application. The Application is complete, covering all applicable matters required pursuant to the Water Right Determination and Administration Act of 1969, § 37-92-101 *et seq.*, C.R.S. ("1969 Act").
12. Notice and Jurisdiction. Timely and adequate notice of the Application was given in the manner prescribed by law. § 37-92-302(3), C.R.S. The Water Court for Water Division 4 has jurisdiction over the subject matter of this case and over all persons and property affected hereby, whether or not those persons have appeared. Colo. Rev. Stat. §§ 37-92-203(1) & 301(2).
13. Change of Water Rights Contemplated by Law. The change of water rights described in Paragraphs 6-9 of this Decree is contemplated by law and can be implemented pursuant to this Decree in accordance with the 1969 Act and the terms and conditions of this Decree.
14. Burden of Proof. A change of water rights shall be approved if such change will not injuriously affect the owners of, or persons entitled to use, water under a vested water right or a decreed conditional water right. Colo. Rev. Stat. § 37-92-305(3)(a).

## RULING OF THE REFEREE

15. Fully Incorporated Ruling, Judgment and Decree. The foregoing Findings of Fact and Conclusions of Law are herein incorporated by reference and are modified as necessary to constitute part of this Ruling, Judgment and Decree.
16. Approval of Change of Water Rights; No Injury. The change of water rights described herein is hereby approved, adjudicated, and decreed, subject to the terms and conditions of this Decree. Ouray Silver has complied with all requirements and met all standards and burdens of proof, including but not limited to §§ 37-92-302 through 305, C.R.S. The decreed change of water rights will not injuriously affect any owner of, or person entitled to use, water under a vested water right or decreed conditional water right, so long as operated in accordance with the terms and conditions of this Decree.
17. Terms and Conditions Governing the Change of Water Rights. The change of water rights decreed herein is subject to the following terms and conditions:
  - 17.1. Notice of Diversion at the Ouray Ice Park Diversion Structure. Ouray Silver shall notify the Division Engineer for Water Division 4 prior to diverting water under the Subject Recreational Water Right at the Ouray Ice Park Diversion Structure, the location of which is described in Paragraph 9.1.2.

17.2. Measurement of Diversions. Ouray Silver shall install an appropriate measuring device and measure the flow of the Revenue Virginius Mine Water Works directly before it enters Sneffels Creek. An appropriate device also shall be installed to measure diversions from Canyon Creek at the Ouray Ice Park Diversion Structure attributable to the Revenue Virginius Mine Water Works.

17.3. Accounting and Reporting. Ouray Silver shall, on a monthly basis, account for all water attributable to the Subject Recreational Water Right that is diverted and delivered for use at the Ouray Ice Park. By November 15 of each year, Ouray Silver shall provide the Division Engineer with monthly accounting for the preceding water year (November 1 through October 31) based on measurements taken at the two measurement points contemplated by Paragraph 17.2. An initial accounting form reflecting the required information is attached as **Exhibit B**. Ouray Silver may, in consultation with the Division Engineer, modify that accounting form from time to time so long as the amended form includes the information reflected in **Exhibit B**.

18. Decree Administrable. Upon entry by the Water Court, this Decree will be administrable by the Division Engineer for Water Division 4 and can be operated without adversely affecting the owners or users of vested water rights or decreed conditional water rights in the Uncompahgre and Gunnison River Basins. So long as water is diverted and used in conformance with the requirements of this Decree, there will be no injurious effects to the vested water rights or decreed conditional water rights of others.

19. Additional Diversions of Water. This Decree shall not be construed as restricting the diversion of water at the Ouray Ice Park Diversion Structure for use in the Ouray Ice Park to that amount of water available under the Subject Recreational Water Right. Water also may be diverted at the Ouray Ice Park Diversion Structure under free river conditions or pursuant to other water rights.

It is ORDERED that this Ruling shall be filed with the Water Clerk and shall become effective upon such filing, subject to judicial review. It is further ORDERED that a copy of this Ruling shall be filed with the Division Engineer for Water Division 4 and the State Engineer.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

BY THE WATER REFEREE

\_\_\_\_\_  
S. Gregg Stanway  
Water Division 4

**JUDGMENT AND DECREE**

The Court finds that no protest was filed in this matter. The foregoing ruling is confirmed and approved, and is made the judgment and decree of this Court.

Done this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

BY THE COURT

---

James Steven Patrick  
District Court Judge  
Water Division Four

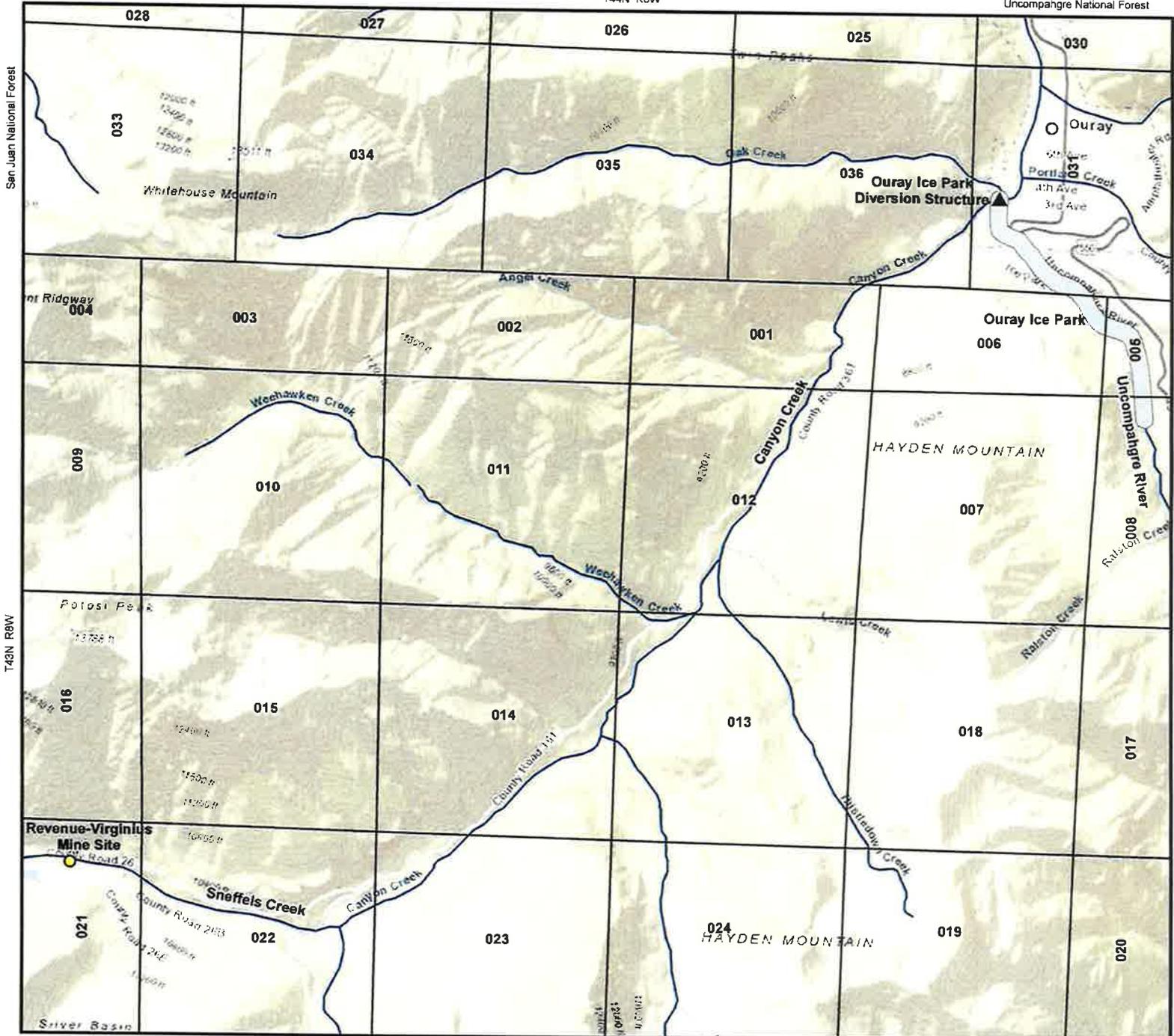
Findings of Fact, Conclusions of Law, Ruling of the Referee, Judgment and Decree  
Case No. 21CW3042  
Exhibit A

EXHIBIT A

San Juan National Forest

T44N R8W

Uncompangre National Forest



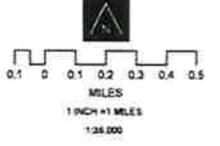
### EXHIBIT A LOCATION MAP

#### LEGEND

- PLSS
- Revenue-Virginus Mine Site
- Ouray Ice Park Diversion Structure
- Approximate Extent of Ouray Ice Park

Notes:  
 Water Division: 4  
 Water District: 68  
 Ouray County

1620OSM02 | AUGUST 2021



**Case 21CW3042, Water Division 4  
 Ouray Silver Mines, Inc.**

Plan Year 2022

Month	Calendar Year	Volume of Water Discharged to Sneffles Creek @ Ouray Silver Mine (AF)	Average Daily Flow Rate - Water Discharged to Sneffles Creek @ Ouray Silver Mine (cfs)	Volume of Water Diverted and Used for Ice Farming @ Ouray Ice Park (AF)	Average Daily Flow Rate - Water Diverted and Used for Ice Farming @ Ouray Ice Park (cfs)
Nov	2021				
Dec	2021				
Jan	2022				
Feb	2022				
Mar	2022				
Apr	2022				
May	2022				
Jun	2022				
Jul	2022				
Aug	2022				
Sep	2022				
Oct	2022				

DISTRICT COURT, WATER DIVISION 4, COLORADO  1200 North Grand Avenue, Bin A Montrose, CO 81401	DATE FILED: April 4, 2022 CASE NUMBER: 2021CW3053  <input type="checkbox"/> COURT USE ONLY <input type="checkbox"/>
CONCERNING THE APPLICATION FOR A CONDITIONAL WATER RIGHT (SURFACE) OF  <b>CITY OF OURAY, COLORADO</b>  IN OURAY COUNTY.	Case No.: 21CW3053
<b>FINDINGS OF FACT, CONCLUSIONS OF LAW, RULING OF THE REFEREE, JUDGMENT AND DECREE</b>	

This matter comes before the Court on the Application for a Conditional Surface Water Right (“Application”) of City of Ouray, Colorado. The Referee, having considered the pleadings and being fully advised in the premises, hereby enters the following Findings of Fact, Conclusions of Law, and Ruling of the Referee:

**FINDINGS OF FACT**

1. Applicant. City of Ouray, c/o City Administrator, P.O. Box 468/ 320 6<sup>th</sup> Ave, Ouray, Colorado 81427, (970) 325-7060, clarkes@cityofouray.com.
2. Application. City of Ouray filed the Application on October 22, 2021. The Court finds the statements in the Application are true to the extent such statements are confirmed herein.
3. Notice and Jurisdiction. All notices required by law have been duly given, and the Water Court has jurisdiction over the Application and all parties affected thereby, even if they have chosen not to appear.
4. Statements of Opposition. No statements of opposition were filed. The time for filing statements of opposition has expired.
5. Summary of Consultation. The Division Engineer filed a consultation report on January 5, 2022. No response to the Summary of Consultation was required. The Referee has considered that Summary of Consultation pursuant to § 37-92-302(4), C.R.S.
6. Summary of Application for Water Rights. City of Ouray seeks to obtain a decree for the following conditional water right for recreational and reuse (hereinafter, “Subject Recreational Water Right”):
  - 6.1. Name of Structure. Ouray Ice Park Diversion.

- 6.2. Source. Canyon Creek, tributary to Uncompahgre River.
- 6.3. Amount Claimed. 1.111 c.f.s. (500 g.p.m.)
- 6.4. Appropriation Date. September 10, 2021.
- 6.5. Uses. Recreational and reuse.

7. Place of Use of the Subject Recreational Water Right. The place of use of the Subject Recreational Water Right is the Ouray Ice Park. The Ouray Ice Park is located on a combination of public and private land, which the City of Ouray (the “City”) either owns or to which it has acquired access and use rights. When the Subject Recreational Water Right is used at the Ouray Ice Park the water will be diverted under the Subject Recreational Water Right and pumped to the park to be delivered through a system of pipes, regulating tanks, drip valves, and sprayer heads to create ice climbing formations in the Ouray Ice Park.

8. Location of the Ouray Ice Park. The Ouray Ice Park is generally located in Section 31, Township 44 North, Range 7 West of the N.M.P.M., and Sections 5, 6, and 8, Township 43 North, Range 7 West of the N.M.P.M. A map depicting the general location of the Ouray Ice Park is attached as **Exhibit A**.

9. Location of the Ouray Ice Park Diversion. Water associated with the Subject Recreational Water Right will be diverted at a structure to be located on Canyon Creek near its confluence with the Uncompahgre River. City intends to construct the diversion structure in the NW¼ of the SW¼ of Section 31, Township 44 North, Range 7 West of the N.M.P.M. (Zone 13, NAD83 s Easting 265053.5m, Northing 4211400.2m.). The actual location of the diversion structure will be determined upon final construction.

### CONCLUSIONS OF LAW

10. Incorporation of Findings of Fact. The foregoing Findings of Fact are incorporated herein to the extent they constitute Conclusions of Law.

11. Complete Application. The Application is complete, covering all applicable matters required pursuant to the Water Right Determination and Administration Act of 1969, § 37-92-101 *et seq.*, C.R.S. (“1969 Act”).

12. Notice and Jurisdiction. Timely and adequate notice of the Application was given in the manner prescribed by law. § 37-92-302(3), C.R.S. The Water Court for Water Division 4 has jurisdiction over the subject matter of this case and over all persons and property affected hereby, whether those persons have appeared or not. Colo. Rev. Stat. §§ 37-92-203(1) & 301(2).

13. Intent to appropriate. The Court finds that the Applicant has demonstrated an intent to appropriate water for the above-described surface water right. Applicant has taken a substantial

first step towards such appropriations in the amounts and for the purposes specified above. As to the conditional amount and uses described above, the Court also finds that water can and will be appropriated, diverted, stored, or exchanged in times, amounts and for the uses described above, and that such water will be beneficially used and that the project can and will be completed with diligence and within a reasonable time. C.R.S. § 37-92-305(9)(b).

### **RULING OF THE REFEREE**

14. Fully Incorporated Ruling, Judgment and Decree. The foregoing Findings of Fact and Conclusions of Law are herein incorporated by reference and are modified as necessary to constitute part of this Ruling, Judgment and Decree.

15. Approval of Conditional Water Right. The conditional water right described herein is hereby approved, adjudicated, and decreed, subject to the terms and conditions of this Decree. City of Ouray has complied with all requirements and met all standards and burdens of proof, including but not limited to §§ 37-92-302 through 305, C.R.S. The decreed water right will not injuriously affect any owner of, or person entitled to use, water under a vested water right or decreed conditional water right, so long as operated in accordance with the terms and conditions of this Decree.

16. Terms and Conditions Governing the Water Right. The water right decreed herein is subject to the following terms and conditions:

16.1 Measurement of Diversions. City of Ouray shall install an appropriate measuring device and measure diversions from Canyon Creek at the Ouray Ice Park Diversion Structure.

16.2 Accounting and Records. The above diversion records for the preceding water year (Nov. 1<sup>st</sup> through October 31<sup>st</sup>) must be supplied to the Division Engineer by November 15<sup>th</sup>.

17. Decree Administrable. Upon entry by the Water Court, this Decree will be administrable by the Division Engineer for Water Division 4 and can be operated without adversely affecting the owners or users of vested water rights or decreed conditional water rights in the Uncompahgre and Gunnison River Basins. So long as water is diverted and used in conformance with the requirements of this Decree, there will be no injurious effects to the vested water rights or decreed conditional water rights of others.

18. Additional Diversions of Water. This Decree shall not be construed as restricting the diversion of water at the Ouray Ice Park Diversion Structure for use in the Ouray Ice Park to that amount of water available under the Subject Recreational Water Right. Water also may be diverted at the Ouray Ice Park Diversion Structure under free river conditions or pursuant to other water rights.

It is ORDERED that this Ruling shall be filed with the Water Clerk and shall become effective upon such filing, subject to judicial review. It is further ORDERED that a copy of this Ruling shall be filed with the Division Engineer for Water Division 4 and the State Engineer.

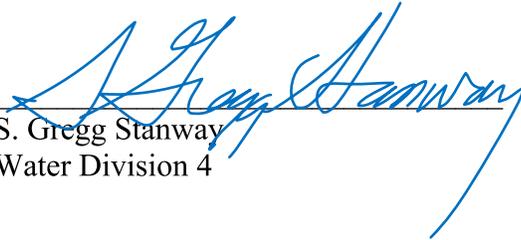
Prior to or during the month of **April, 2028**, and every six years thereafter until the conditional right is decreed absolutely, the owner or user thereof, if it is desired to maintain the same, shall file an application for finding of reasonable diligence with this Court. Applicant shall notify this Court of any change in mailing address. Upon the sale or other transfer of this conditional right, the transferee shall file with this Court a notice of transfer which shall state:

- (1) The title and case number of this case;
- (2) The description of the water right transferred;
- (3) The name of the transferor;
- (4) The name and mailing address of the transferee.

Applicant shall notify any transferee of the requirements of this paragraph.

Dated this 11<sup>th</sup> day of March, 2022.

BY THE WATER REFEREE



S. Gregg Stanway  
Water Division 4

**JUDGMENT AND DECREE**

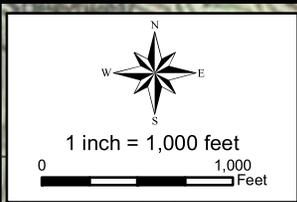
The Court finds that no protest was filed in this matter. The foregoing ruling is confirmed, approved, and is made the judgment and decree of this Court.

BY THE COURT

DATED April 4, 2022



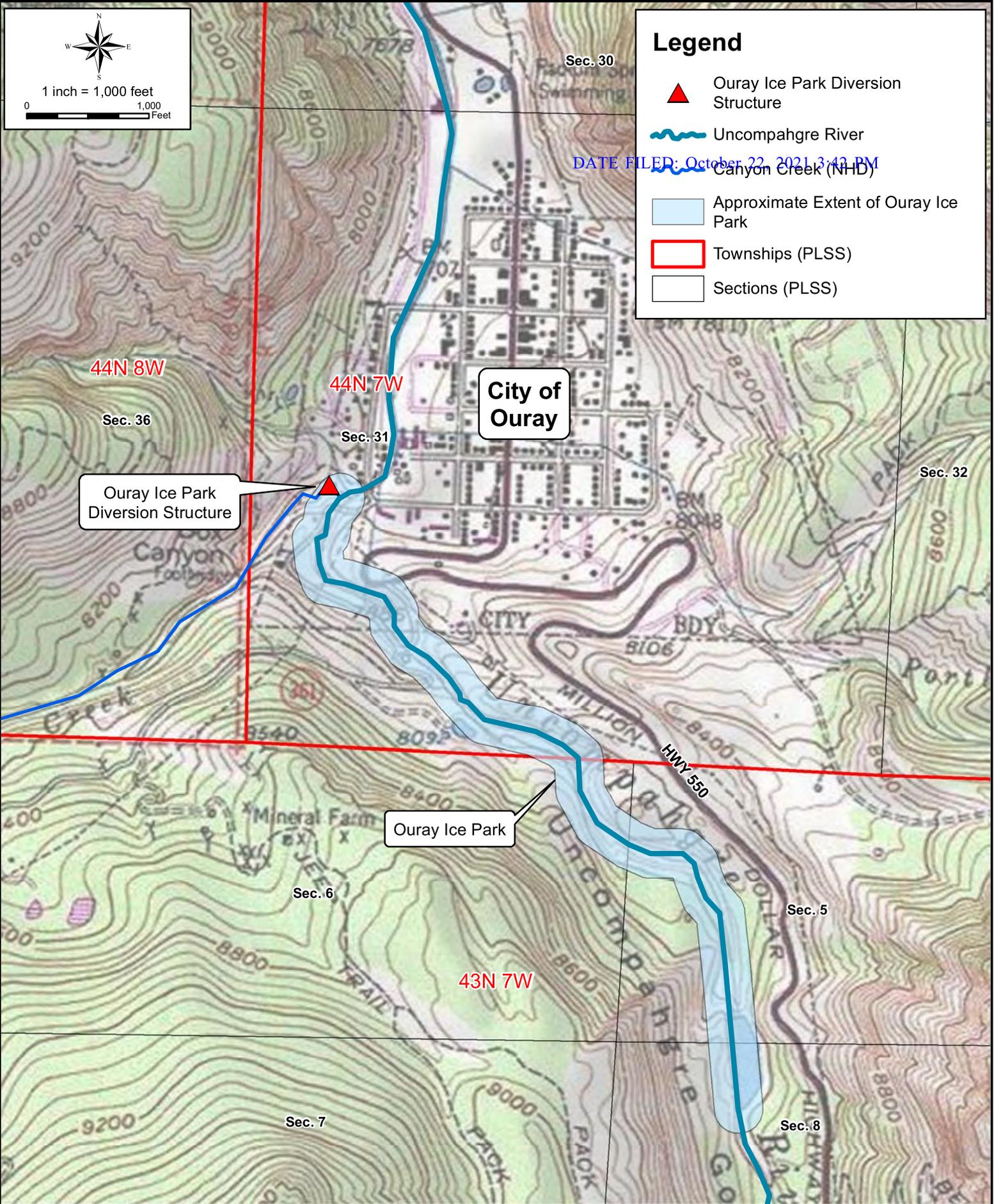
J. Steven Patrick  
District Court Judge  
Water Division 4



### Legend

-  Ouray Ice Park Diversion Structure
-  Uncompahgre River
-  Approximate Extent of Ouray Ice Park
-  Townships (PLSS)
-  Sections (PLSS)

DATE FILED: October 22, 2021 3:43 PM  
Canyon Creek (NHD)



## **WATER USE AGREEMENT**

**THIS AGREEMENT** is made and entered into effective the 2<sup>nd</sup> day of October, 2023, by and between: the City of Ouray, Colorado (the City); and Ouray Ice Park, Inc. (OIPI).

**WHEREAS**, the City and OIPI are parties to this Water Use Agreement since 2009 to use the City's water from the Wehawken Spring, also known as the Weehawken Spring, to provide the Ouray Ice Park with raw water for ice farming during the winter months.

**WHEREAS**, the previous agreement expired on May 31, 2023 such that this Agreement is entered to continue the water use.

**WHEREAS**, both the City and OIPI recognize it is necessary to replace the current source of water for ice farming with a source that may be more reliable and not deplete the City's municipal water supply during winter months when slow waters are more likely and do occur from time to time.

**WHEREAS**, the parties continue to work together to identify new water sources to farm ice in the Ouray Ice Park and are working on a plan to install infrastructure to divert the new water source obtained by the City but until such time as the infrastructure is installed and operational, OIPI shall use the Wehawken Spring water in the same manner it has since 2009.

**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 Wehawken Spring, for the use and benefit of the inhabitants of the City for domestic purposes.
2. The City grants OIPI the right to connect to the Wehawken Spring water system to withdraw untreated water for the purpose of making ice in the Uncompahgre Gorge (Ouray Ice Park) from November 1 through April 30.
3. OIPI will be responsible to maintain all connections to the water line, at its expense.
4. This agreement is contingent upon the City and OIPI being parties to the separate Comprehensive Management Agreement for Ouray Ice Park. In the event that such operating agreement expires or terminates, this water use agreement shall automatically terminate.

5. This agreement terminates when the infrastructure for the new water source is installed and operational or September 30, 2024, whichever come first; 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, including the provision that if the City's water tanks go below 32 feet, OIPI's water usage shall cease until the City's water tanks holds 40 feet of water or more.
9. This Agreement may not be assigned to any other party 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 2nd day of October, 2023.

CITY OF OURAY

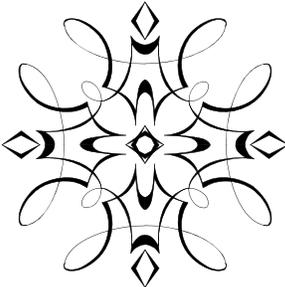
OURAY ICE PARK, INC.

\_\_\_\_\_  
Ethan Funk, Mayor

\_\_\_\_\_  
Peter O’Neil, Executive Director

Attest:

\_\_\_\_\_  
Melissa M. Drake



## RECREATIONAL ACCESS EASEMENT AGREEMENT

THIS AGREEMENT made and entered into effective the 28<sup>th</sup> day of September, 2009, by and between: The Board of County Commissioners of Ouray County, Colorado (Grantor); and The City of Ouray, Colorado (Grantee).

MATERIAL TO THIS AGREEMENT the parties acknowledge the following facts.

- A. Grantor owns real property generally located to the south of Ouray, Colorado in the Uncompahgre Gorge of the upper Uncompahgre River in Ouray County, Colorado, more particularly described as the Rio Lode, M.S. 1965 (hereinafter referred to as the Property or Easement Area).
- B. Grantor desires to grant unto Grantee easements and rights of way over the Property for public recreational purposes, including but not limited to, skiing, hiking, bicycling and ice and rock climbing, and subject to the conditions and covenants set forth herein.
- C. Grantee desires to accept such easement and to perform its obligations in such manner as to protect Grantor's Property and the leasehold interests and improvements appurtenant thereto, and so as to minimize any liability of the Grantor and Grantee for permitting such recreational uses.
- D. By entering into this easement and agreement, the parties hereto desire to avail themselves of the maximum immunities, benefits and protections which may be available to each of them pursuant to applicable law, including but not limited to the Colorado Recreational Use Statute, COLO. REV. STAT. §§ 33-41-101, et seq., the Colorado Governmental Immunity Act, COLO. REV. STAT. §§ 24-10-101, et seq., and COLO. REV. STAT. § 13-21-115.

NOW THEREFORE, in consideration of the mutual covenants and conditions contained herein, and for other good and valuable consideration, the sufficiency of which are hereby acknowledged, the parties hereto agree as follows.

1. **Grant of Easement.** Grantor hereby grants to Grantee, until September 28<sup>th</sup>, 2029, a non-exclusive easement and right-of-way for the purposes set forth below on, over and across the Property.

2. **Acceptance.** Grantee accepts this easement and agrees to be bound by its covenants, terms, conditions, restrictions and limitations.
3. **Permitted Uses.** Use by Grantee of the easement granted herein is exclusively for public recreational purposes, including but not limited to: picnicking, hiking, snowshoeing, cross country skiing, bicycling, sight-seeing, exploring, rock climbing, ice climbing, bird watching, photography, and rescue training, subject to the conditions and covenants set forth below. The installation and use of zip lines is permitted only in during the annual Ice Festival and on the Fourth of July. Use by the Grantee shall include use by Grantee, its residents, visitors, licensees, and invitees. Grantor acknowledges and understands that Grantee will permit the Ouray Ice Festival to take place annually within the Easement Area.
4. **Prohibited Uses.** The following uses are specifically prohibited: motorized vehicles horses and horseback riding, camping, hunting, swimming, tubing, diving, target shooting, zip lines (except during the annual Ice Festival and on the Fourth of July) and **via ferratas**. However, no such limitation is placed on the Ouray hydroelectric operation in carrying out maintenance and inspection of its system, or for equipment necessary to operate, maintain or perform rescues within the Ice Park. Grantee shall not use the Easement Area or the Property for commercial purposes, provided that this limitation shall not be deemed to prohibit entry upon or use of the Property pursuant to this Agreement by professional climbing or mountaineering guides who may charge their clients for their services. Nothing contained herein shall be construed to limit ingress or egress on County Road 361 for all legal uses.
5. **Construction and Maintenance of Improvements.** Within the general recreational purposes for the grant of the easement, Grantee may, without limitation, construct, install, maintain and repair plastic water line for development of ice falls, above and below ground water lines and pipes associated with sprinkler and shower heads, climbing anchors (including bolts and chains), safety signs, noncommercial (except during the Ice Festival) signage including public information and directional signs, barricades and markers, a small office building, observation platforms, metal and wooden catwalks, bridges, stairs and ladders, and pedestrian trails within the Easement Area. Any additional permanent structures or buildings, or additions to existing buildings or structures, other than plastic water line for development of ice falls, above and below ground water lines and pipes associated with sprinkler and shower heads, climbing anchors (including bolts and chains), to be placed within or on the Easement Area shall require prior written approval of the Grantor.

6. **Maintenance.** Grantee shall maintain the Easement Area, including but not limited to, all permitted improvements.
7. **Statutory Protections.** The parties expressly acknowledge that Grantor is entitled to the benefits, protection and limitation on liability afforded by Colorado law governing recreational easements, COLO. REV. STAT. §§ 33-41-101, et seq. By granting the easement, Grantor shall have no obligation to insure or indemnify Grantee for any injury, claim or damage to any person or property, alleged to have occurred while using the easement for the identified purposes. Grantee shall name Grantor as an additional insured on the Grantee's general liability insurance policy with respect to the use of the easement granted herein and shall provide Grantor with a Certificate of such insurance. Nothing herein is intended to waive any limits on liability afforded to the parties under the Colorado Recreational Use Statute, COLO. REV. STAT. §§ 33-41-101, et seq., the Colorado Governmental Immunity Act, COLO. REV. STAT. §§ 24-10-101, et seq., COLO. REV. STAT. § 13-21-115, or other law. Grantee shall ensure that all entities or individuals who Grantee authorizes to provide guides services within the area known as the "Ice Park" shall maintain appropriate liability insurance and shall include Ouray County as an additional insured on such policies.
8. **Grantor's Remedies.** Grantor reserves the right to deny the Grantee the use of the easement, or revoke the easement granted by this Agreement upon Grantee's breach of any covenants contained herein. Prior to denial of the use of the easement by Grantor, or the revocation of the easement granted by this Agreement, Grantor shall deliver written notice to Grantee itemizing the specific violation under the terms of this Agreement, or specific instances of trespassing or interference, and Grantee shall have ninety (90) days from the date of the notice to comply with the notice and cure the violation or to provide assurances acceptable to Grantor that the trespasses or interferences will cease.
9. **No Assignment.** This easement may not be transferred or assigned without the prior written consent of the other party. Grantor understands and agrees that Grantee may delegate its responsibilities to a third party, subject to the terms of this agreement.
10. **Notices.** All notices or other documents required or authorized to be sent by one party to the other shall be in writing and shall be deemed given to a party when personally delivered, or when deposited in the United States certified mail, sufficient postage prepaid, return receipt requested, addressed as follows:

If to Grantor:           Ouray County  
                                  P.O. Bin C  
                                  Ouray, CO 81427

If to Grantee:            City of Ouray  
                                  P.O. Box 468  
                                  Ouray, CO 81427

11.   **Easement Appurtenant.** This easement granted herein and all provisions of this agreement shall run with the land and shall be applicable to and binding upon the parties, their respective representatives, successors, and assigns.
12.   **Entire Agreement.** This agreement contains the entire understanding of the parties. There are no representations, warranties, covenants or undertakings other than those expressly set forth herein. This agreement may not be modified or amended except in writing signed by all the parties hereto.
13.   **Termination of Prior Agreements.** By entering into this agreement Grantor and Grantee terminate the RECREATIONAL ACCESS EASEMENT AND AGREEMENT, dated November 27, 1995, and any renewals thereof, wherein The Board of County Commissioners of Ouray County, Colorado was the grantee and The City of Ouray, Colorado was the grantor.
14.   **Choice of Law, Jurisdiction and Venue.** The law of the State of Colorado shall govern the validity, performance and enforcement of this agreement. Any disputes arising under this agreement shall be decided by a court of competent jurisdiction in Ouray County, Colorado.
15.   **Fees.** If grantee, during the terms of this agreement, initiates a fee system for the use of the Ice Park that includes all or part of the Easement Area, and the revenues from which are not dedicated to Ice Park improvements or operational costs, Grantor and Grantee shall promptly negotiate a reasonable pro-rata amount of such fees to be paid to Grantor.

IN WITNESS WHEREOF, the parties have executed this agreement effective the day and year first above written.

❖ SIGNATURES ON FOLLOWING PAGE ❖

GRANTOR:

GRANTEE:

Keith Meinert  
Keith Meinert, Vice Chair  
The Board of County  
Commissioners of Ouray County,  
Colorado

Robert E. Risch  
Robert E. Risch, Mayor  
City of Ouray, Colorado

STATE OF COLORADO )  
 )  
COUNTY OF OURAY )

The foregoing instrument was acknowledged before me this 28<sup>th</sup> day of September, 2009, by Keith Meinert, Vice Chair, Board of County Commissioners of Ouray County, Colorado.



Linda Munson-Hale  
Notary Public  
My commission expires: 9-18-2011

STATE OF COLORADO )  
 )  
COUNTY OF OURAY )

The foregoing instrument was acknowledged before me this 28<sup>th</sup> day of September, 2009, by Robert E. Risch, Mayor, City of Ouray, Colorado.



Kathryn A Briggs  
Notary Public  
My commission expires: 7/18/2010

## EASEMENT AGREEMENT

### (A Portion of Roosevelt Placer)

**This Easement Agreement** (Easement) is made entered by and between: Eric R. Jacobson (Grantor); and the City of Ouray, Colorado (Grantee or City). Grantor and Grantee are sometimes referred to as Parties. In consideration of the mutual covenants and conditions herein stated, the Parties agree as follows:

1. Grant of Easement.

- 1.1. Grantor owns the real property known as the Rosevelt Placer (M.S. 16036) and structures thereon, generally located to the south of Ouray Colorado and Colorado Highway 550 in the Uncompahgre Gorge of the Upper Uncompahgre River in Ouray County, Colorado. The Grantee seeks a right of access on and over property and structures within the Rosevelt Placer for public recreational uses, including operation of the Ouray Ice Park, Ouray Via Ferrata and trail systems.
- 1.2. Grantor operates the Ouray Hydroelectric Project pursuant to Federal Energy Regulatory Commission (FERC) license, Project No. 733-101 (Project) on a portion of the Rosevelt Placer. The Project includes structures, primarily in the form of a penstock, trestles, foot bridges, ladders, and catwalks (“Project Improvements”), and a 50 foot of centerline boundary that follows the penstock (Project Boundary) and continues across lands owned or operated by the Grantee for operation of the Ouray Ice Park, Via Ferrata and trails as depicted on Exhibit A attached hereto.
- 1.3. The Easement Area contemplated in this agreement is over and across the Rosevelt Placer to the east of the Project Improvements and Project Boundary, and does not include the Project Improvements and Project Boundary contemplated in the FERC license (Easement Area).
- 1.4. Grantor seeks the protection of certain liability, insurance, and public safety provisions herein and Grantee desires to afford Grantor certain liability, insurance and public safety provisions as set forth herein that arise from public recreational activities, within the Easement Area, which does not include the Project Improvements or the Project Boundary area.

- 1.5. In entering into this Easement and granting and accepting these restrictions, covenants, terms and conditions hereof, the Parties desire to avail themselves of the maximum immunities, benefits and protections which may be available to each of them 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.
- 1.6. Grantor hereby grants to Grantee, a non-exclusive Easement and permission to occupy, use, and construct necessary improvements for public recreational use of the Easement Area, including operation of the Ouray Ice Park, Via Ferrata and trails. Included in this grant of easement is the power and right in Grantee: (a) to invite, consent to or allow persons or guests of persons, all as “Invited Guests,” as that term is defined in the CRUS, to be present on and within the Easement Area for recreational purposes; and, (b) to manage all public recreational uses of the Easement Area through the efforts of its employees, representatives, and, or agents, including but not limited to the management of Ouray Ice Park and Via Ferrata within the Easement Area by and through the efforts of the employees, representatives, agents and others working for or volunteering on behalf of Ouray Ice Park, Inc. (OIP) and Friends of the Ouray Via Ferrata (FOVF), Colorado Nonprofit Corporations and the operator of the Ouray Ice Park and Ouray Via Ferrata. Those to whom permission for such uses is granted are Grantees and all those invited or permitted by Grantee to enter upon, use and, or manage the Easement Area, all together, hereafter referred to as the “Authorized Users.”
- 1.7. As a condition of the Easement, Grantor requires, and Grantee 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 Easement Area. The Grantee shall monitor and enforce compliance with the terms of this Easement by all Authorized Users of the Easement Area.
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 Easement are acknowledged as adequate consideration.
3. Scope of Easement. The easement granted under this agreement is strictly limited to the Easement Area and the uses and activities authorized herein are limited to access for public recreational uses by Authorized Users and management and operation of the Ouray Ice

Park, Ouray Via Ferrata and trails. The exercise of the permitted uses is subject to the following restrictions and limitations:

- 3.1. Grantee's use shall always be subordinate to and shall not interfere with, obstruct, or delay Grantor's use of the Easement Area and Project Improvements for the operation and maintenance of the Ouray Hydroelectric Project or other lawful use thereof.
- 3.2. Grantee shall at all times comply with all laws, regulations, and ordinances applicable to Grantee's operations and maintain in full force and effect all permits and approvals which may be required to engage in Grantee's operation of the Ouray Ice Park, Via Ferrata, trails, and other public recreational uses, provided, however, that nothing herein shall impose upon Grantee the obligation to comply or enable Grantor to comply with any Federal Energy Regulatory Commission's (FERC) requirements for the Grantor's hydroelectric operations, except as provided for in sub-paragraphs 4.4, 4.5 and 4.6, below.
- 3.3. Grantor may enter onto the Easement Area to inspect for compliance with these requirements. The Grantee is responsible for making certain that this right of Grantor is in no way impeded or ignored.

4. Terms of Easement; Conditions; and Termination.

- 4.1. Subject to the right of Grantor to suspend or terminate this Easement as stated in sub-paragraphs 4.6.1 and 4.3, this Easement shall commence on the effective date of this Easement Agreement and terminate upon the City purchasing the Rosevelt Placer and granting an easement to Eric R. Jacobson for the land comprising the Ouray Hydroelectric Project.
- 4.2. During the term of this Easement, Grantee shall require OIPI, FOVF, or any successor manager operator of the Ouray Ice Park, Via Ferrata, and any Commercial Guiding Permit Permittee, to agree to, accept and comply with all terms, conditions, limitations, and requirements stated and imposed in this Easement as a condition of its management, maintenance, and operation of the Ouray Ice Park, Via Ferrata and trails within the Easement Area.
- 4.4 FERC, or any other governmental regulatory agency, may, from time to time, impose or change requirements for signage or safety-related improvements to the Project resulting from and necessitated by reason of the public recreational use of the Easement

Area made or allowed by Grantee under this Easement. In the event any such requirement is imposed, Grantee agrees to assume the cost of such signage or safety improvements necessary to meet the said FERC requirements and, or to eliminate the dangerous condition; or, in the alternative, to change, discontinue or prohibit use of the Easement Area and Project Improvements by Authorized Users so as to eliminate the risk of injury or loss to such Authorized Users by reason thereof. Grantor's right to operate his hydroelectric Project pursuant to the FERC permit shall not be put at risk by the uses permitted by and the terms and provisions of this Easement.

- 4.5. Grantee agrees to work to resolve any safety concerns within the Project Boundary but outside of the Easement Area in coordination with the Grantor and FERC in a way that minimizes risk to Authorized Users and the Project with minimal interruption of either the Ice Park Operations, Via Ferrata, trails or Project.
- 4.6. In the event that FERC requires Grantor to make modifications or improvements to the Ouray Hydroelectric Project within the Ice Park in order to protect or improve the safety of the Project specifically with respect to Authorized Users, then Grantee agrees to assume or cause OIPI or FOVF to assume the reasonable cost of such modifications or improvements to satisfy the requirement and to eliminate any dangerous or insufficiently safe condition addressed by the requirement. If such modifications or improvements provide additional, non-safety-related benefits to Grantor, then such costs shall be equitably apportioned as between Grantor and Grantee or OIPI and FOVF. In the alternative, Grantee agrees to change, discontinue, or prohibit use of such portion of the Easement Area by Authorized Users to allow Grantor to comply with or eliminate the FERC requirement and reduce any risk of injury or loss to said Authorized Users or damage to the Ouray Hydroelectric Project facilities as addressed by the FERC requirement. Should Grantor determine that Grantee or any of the Authorized Users have violated any of the terms, conditions and restrictions contained in this Easement, Grantor shall send a written notice (Notice of Violation) to Grantee stating with specificity the nature of the violation (Violation), the steps required to come into compliance with the Easement, and reasonable date by which Grantee shall cure the Violation (Cure Date). The Cure Date shall not be less than thirty days from the date of Notice of Violation unless emergency circumstances require a shorter Cure time.

4.6.1. If the Violation is not timely and fully cured by the Cure Date, Grantor, at his sole discretion, may elect to suspend the Easement until such time as the Violation is cured, or terminate the Easement. Upon suspension, Grantee shall discontinue all use

of the Easement Area and Project Improvements, including public recreational use, except to the extent necessary to safeguard Grantee's or OIPI's or FOVF's equipment in place. Upon termination, Grantee shall cause shall discontinue all use of the Easement Area and Project Improvements, and at Grantor's direction, shall remove Grantee's or OIPI's or FOVF's equipment in place from the Easement Area or on Project Improvements during the following summer.

5. Condition of Easement Area. Grantor neither warrants nor guarantees the adequacy, appropriateness, or safety of either the property or improvements within and around the Easement Area or any of his improvements, structures, equipment, or facilities for any of the uses contemplated by, allowed by, or resulting from this Easement or as to any person who might use the same pursuant to or because of this Easement. Grantee acknowledges and agrees that the state and condition of the property and improvements within and around the Easement Area which are the subject of this Easement are accepted in their 'as is' condition and Grantor makes to warranties or representations as to their suitability or safety for the uses contemplated by this Easement.
6. Assignment. This Easement may not be transferred or assigned by Grantee without the prior written consent of the Grantor. Grantor understands and agrees that Grantee may delegate its management, maintenance, and operational responsibilities to a third party, including OIPI and FOVF, subject to the terms and conditions of this Easement. No such delegation shall relieve Grantee of its obligations to Grantor under this Easement.
7. Commercial Guiding Permits. If Grantee issues any Permit for Commercial Guiding Services, Grantee shall require the permitted commercial guiding service to comply with the terms and conditions of this Easement.
8. Indemnification.
  - 8.1. To the extent permitted by law and to the extent covered by the general liability insurance policies maintained by Grantee, Grantee agrees to hold harmless, defend and indemnify Grantor 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 Easement.
  - 8.2. By granting this Easement, Grantor assumes no new obligations to repair, or otherwise maintain the Easement Area in a specific manner for Grantee, beyond any

obligation it presently has to maintain the FERC license area or property within the Project Boundary or as exists as a landowner under Colorado law. Furthermore, Grantor has no obligation to insure or indemnify Grantee, OIPI, FOVF or any Authorized User for any injury, claim or damage to any person or property with regard to their activities within the Easement Area as authorized by this Easement. Grantor understands that the area comprising the Project Improvements and Project Boundary under the FERC license is not included in this grant of easement and no indemnification is provided by the City for the FERC license area.

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 Easement is intended to be granted for a “recreational purpose” under C.R.S., Sections 33-41-101, et seq., and that Grantor may be entitled to the benefits, protections and limitations on liability afforded by Colorado law governing public recreational uses and premises liability.
10. Easement Exclusive. The permission granted under this Easement is exclusive to Grantee, and Grantor expressly acknowledges that no other persons or entities shall have the right, privilege, and permission to use all or part of the Easement Area except for Grantor.
11. Modification of Easement. Any modification of this Easement shall be binding only if evidenced in writing signed by each Party or authorized representative of each Party.
12. Binding Effect. The Easement shall be applicable to and binding upon the Parties, their respective representatives, successors-in-interest, and permitted assigns.
13. Governing Law. This Easement 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 Easement shall constitute the entire agreement between the Parties and any prior representations of any kind preceding the date of this Easement shall not be binding upon either Party except as to the extent expressly incorporated in this Easement.
15. Severability. The invalidity of any portion of this Easement will not and shall not be deemed to affect the validity of any other provision. In the event any provision of this

Easement 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 Easement.
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 Easement 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 Easement.
18. Notices. All notices, demands or writings in this Easement provided to be given or made or sent, shall be deemed to have been fully given or made or sent, when made in writing and delivered by fax, email or United States Mail (certified; return receipt requested and postage pre-paid), and addressed to the Party at the below stated mailing address, email address or fax number. The mailing address, email address or fax number may be changed by sending written notice to the other Party notifying the Party of the change.

Grantor:

Eric Jacobson  
Post Office Box 745  
Telluride, CO 81435

Grantee:

City of Ouray, Colorado  
Attention: City Administrator  
Post Office Box 468  
Ouray, CO 81428  
Facsimile: (970) 325-7212

19. Enforcement; Time of the Essence. In the event of any interference or threatened interference with the Easement 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 Easement rights or obligations hereunder, the prevailing Party shall be entitled to an award for recovery of



Exhibit G - Map of Park



# OURAY ICE PARK



## **WATER USE AGREEMENT**

**THIS AGREEMENT** is made and entered into effective the 2<sup>nd</sup> day of October, 2023, by and between: the City of Ouray, Colorado (the City); and Ouray Ice Park, Inc. (OIPI).

**WHEREAS**, the City and OIPI are parties to this Water Use Agreement since 2009 to use the City's water from the Wehawken Spring, also known as the Weehawken Spring, to provide the Ouray Ice Park with raw water for ice farming during the winter months.

**WHEREAS**, the previous agreement expired on May 31, 2023 such that this Agreement is entered to continue the water use.

**WHEREAS**, both the City and OIPI recognize it is necessary to replace the current source of water for ice farming with a source that may be more reliable and not deplete the City's municipal water supply during winter months when slow waters are more likely and do occur from time to time.

**WHEREAS**, the parties continue to work together to identify new water sources to farm ice in the Ouray Ice Park and are working on a plan to install infrastructure to divert the new water source obtained by the City but until such time as the infrastructure is installed and operational, OIPI shall use the Wehawken Spring water in the same manner it has since 2009.

**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 Wehawken Spring, for the use and benefit of the inhabitants of the City for domestic purposes.
2. The City grants OIPI the right to connect to the Wehawken Spring water system to withdraw untreated water for the purpose of making ice in the Uncompahgre Gorge (Ouray Ice Park) from November 1 through April 30.
3. OIPI will be responsible to maintain all connections to the water line, at its expense.
4. This agreement is contingent upon the City and OIPI being parties to the separate Comprehensive Management Agreement for Ouray Ice Park. In the event that such operating agreement expires or terminates, this water use agreement shall automatically terminate.

5. This agreement terminates when the infrastructure for the new water source is installed and operational or September 30, 2024, whichever come first; 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, including the provision that if the City's water tanks go below 32 feet, OIPI's water usage shall cease until the City's water tanks holds 40 feet of water or more.
9. This Agreement may not be assigned to any other party 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.

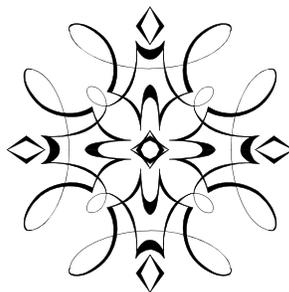
IN WITNESS WHEREOF, the parties have signed this agreement on this 2nd day of October, 2023.

CITY OF OURAY

OURAY ICE PARK, INC.

\_\_\_\_\_  
Ethan Funk, Mayor

\_\_\_\_\_  
Peter O'Neil, Executive Director



# OIPI Spending vs. Revenue

