

**STORAGE UNIT USE AGREEMENT BETWEEN
THE TOWN OF JOHNSTOWN AND GRAYCLIFF CAPITAL**

This Storage Unit Use Agreement (“Agreement”) is made and entered into on this ____ day of _____, 2023 (“Effective Date”), by and between the Town of Johnstown, a Colorado home rule municipality (“Town”), and GrayBul Johnstown, LLC, a Delaware limited liability company (“Graycliff”). The Town and Graycliff may collectively be referred to as the “parties” or singularly as a “party.”

RECITALS

1. Graycliff is the owner of Johnstown Plaza Apartments, located at 5150 Ronald Reagan Boulevard, Johnstown, CO 80534.
2. The Johnstown Plaza Apartment complex includes two hundred forty-three (243) enclosed storage units (the “Storage Units”) located near the southeast boundary of the property along Exposition Drive.
3. The Johnstown Plaza Apartment residents have leased sixteen percent (16%) of the Storage Units, leaving eighty-four percent (84%) of the Storage Units vacant.
4. The Johnstown Plaza Apartment complex also includes twenty-one (21) parking garages (the “Garages”).
5. To endeavor to reach the leasing capacity, Graycliff seeks to lease a certain amount of the Storage Units and Garages externally to persons who are not residents of the Johnstown Plaza Apartment complex.
6. The Town agrees to accommodate Graycliff’s request based on certain terms, conditions and limitations.
7. To memorialize the foregoing, the Parties desire to enter into this Agreement.

Agreement

NOW, THEREFORE, in consideration of the terms, conditions and covenants set forth in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Town and Graycliff agree as follows:

1. Recitals. The Recitals are incorporated as if set forth fully herein.
8. External Leasing. The Town hereby authorizes and permits Graycliff to lease the Storage Units and Garages to persons (or entities) who are not residents of Johnstown Plaza Apartments subject to the following terms, conditions and limitations:

- (a) No person(s) shall dwell within the Storage Units or Garages;
- (b) At least fifteen percent (15%) of the Storage Units shall be reserved for rental to residents of Johnstown Plaza Apartments;
- (c) At least eighteen (18) of the twenty-one (21) Garages shall be reserved for rental to residents of Johnstown Plaza Apartments (meaning that only three (3) of the Garages may be rented externally);
- (d) The duration of lease agreements for the rental of a Storage Unit or Garage to persons who are not residents of Johnstown Plaza Apartments shall not be for longer than a twelve (12) month period subject to renewal on the condition that such renewal period is not longer than twelve (12) months; and
- (e) On-site advertising and signage for the rental of the Storage Units and Garages shall not be permitted along streetscapes and shall otherwise be in compliance with the Johnstown Land Use and Development Code and the Town's rules and regulations.

9. Term.

- (a) The term of this Agreement shall begin on the Effective Date and terminate on December 31, 2025 ("Initial Term").
- (b) Within sixty (60) days, but not less than thirty (30) days, of the end of the Initial Term, Graycliff may provide a written request to the Town Manager to extend the term.
 - (i) If the Town Manager agrees to extend the Initial Term, the Town Manager shall provide written notice to Graycliff and the term of the Agreement shall be extended for two (2) years, to and including December 31, 2027 ("Renewal Term"), subject to Section 5 below. The Renewal Term (and each Renewal Term thereafter) shall thereafter automatically renew for additional two (2) year terms, subject to Section 5 below. The Town Manager shall not unreasonably withhold, condition, or delay its agreement to extend the Initial Term.
 - (ii) If the Town Manager denies approval of the extension of the Initial Term, the Town Manager shall provide written notice to Graycliff with an explanation of the rationale for the denial. In such case, the then-existing lease agreements for rental of the Storage Units and Garages shall remain valid until the end of their terms, but shall not be subject to renewal, and this Agreement shall terminate following the expiration of all lease agreements.

10. Documentation. During the term of this Agreement, the Town Manager may periodically request information from Graycliff to determine compliance with this Agreement,

the Johnstown Municipal Code, the Johnstown Land Use and Development Code and the Town's rules and regulations.

11. Termination. Notwithstanding the term of the Agreement, the Town, by and through the Town Manager, may terminate this Agreement in accordance with the following:

(a) Promptly following the Town Manager's reasonable, good faith determination that Graycliff is in breach of this Agreement, the Johnstown Municipal Code, the Johnstown Land Use and Development Code or the Town's rules and regulations, the Town Manager shall provide written notice to Graycliff of same, describing in specific detail the scope of such breach ("Violation Notice"). Upon receipt of the Violation Notice, Graycliff shall be entitled to a thirty (30) day period to cure such breach ("Cure Period"). The Cure Period may be extended by the Town Manager if Graycliff is proceeding in good faith to effect a cure, but such cure is not reasonably susceptible to completion within thirty (30) days. In no event shall the Cure Period exceed ninety (90) days. If, upon the expiration of the Cure Period, the matter outlined in the Town's Violation Notice has not been cured by Graycliff, Graycliff shall not be permitted to enter into new lease agreements, or extend existing lease agreements, for rental of the Storage Units or the Garages, and this Agreement shall terminate following the expiration of all lease agreements existing as of the last day of the Cure Period;

(b) If, at any time after the resolution of a Violation Notice, as described above, the Town Manager, exercising reasonable, good faith discretion, determines that a subsequent Violation Notice is warranted for the same or a different violation, the Town Manager may terminate this Agreement upon written notice from the Town to Graycliff ("Termination Notice"). Upon receipt of the Termination Notice, Graycliff shall not be permitted to enter into new lease agreements, or extend existing lease agreements, for rental of the Storage Units or the Garages, and this Agreement shall terminate following the expiration of all lease agreements existing as of the date of the Termination Notice; or

(c) Should, at the Town's sole, good faith determination, the allowed use place an undue burden on Town resources, including, but not limited to, service calls, the Town Manager may terminate this Agreement upon written notice from the Town to Graycliff (also, a "Termination Notice"). Upon receipt of the Termination Notice, Graycliff shall not be permitted to enter into new lease agreements, or extend existing lease agreements, for rental of the Storage Units or the Garages, and this Agreement shall terminate following the expiration of all lease agreements existing as of the date of the Termination Notice.

12. Assignment. Graycliff may not assign its rights or duties under this Agreement without receiving the prior written consent of the Town; provided, however, notwithstanding the foregoing, upon written notice from Graycliff to the Town, containing also the contact information of the assignee, Graycliff may assign its rights and obligations under this Agreement to any third party that acquires all of Graycliff's rights, title, and interest in and to Johnstown Plaza Apartments (inclusive of the Garages and the Storage Units).

13. No Third-Party Beneficiaries. This Agreement is not intended and shall not be deemed to confer any rights on any person or entity not named as a party hereto, or not permitted as an assign, successor or transferee.

14. Notices. All notices, consents or other instruments provided for under this Agreement shall be deemed properly given when: (1) hand-delivered; 2) sent by registered or certified mail, return receipt requested, postage prepaid, to the addresses of the parties herein set forth; or (3) sent by electronic mail return receipt requested and received. Either party, by notice to be given, may change the address to which future notices shall be sent.

TO GRAYCLIFF:

GrayBul Johnstown, LLC
Attention: Paul Aiesi
c/o Graycliff Capital Partners, LLC
200 East Broad Street, Suite 220
Greenville, SC 29601
Email: paiesi@graycliffcapital.com

TO TOWN:

Town of Johnstown
Attention: Town Manager
450 So. Parish
P. O. Box 609
Johnstown, CO 80534
Email: mlecerf@johsntownco.gov

15. Laws and Regulations. In the conduct of the rental of the Storage Units and the Garages, Graycliff shall comply with all applicable laws, rules and regulations.

16. Waiver. No consent or waiver, express or implied, by the Town to or of any breach or default by Graycliff in the performance by Graycliff of its obligations hereunder shall be deemed or construed to be a consent or waiver to or of any other breach or default by the Town. Failure on the part of the Town to complain of any act or failure to act or to declare Graycliff in default, irrespective of how long such failure continues, shall not constitute a waiver by the Town of its rights hereunder.

17. Governing Law and Venue. This Agreement and the interpretation thereof shall be governed by the laws of the State of Colorado. Venue for any claim, proceeding or action arising out of this Agreement shall be in Larimer or Weld County, Colorado.

18. Costs and Attorney's Fees. If any judicial proceedings may hereafter be brought to enforce any of the provisions of this Agreement, the Town, if the prevailing party, shall be entitled to recover the costs of such proceedings, including reasonable attorney's fees and reasonable expert witness fees.

19. Entire Agreement and Amendments. This Agreement constitutes the entire agreement and understanding between the parties and supersedes all prior agreements or understandings. Any amendment to this Agreement must be in writing and signed by the parties.

20. No Presumption. Each party acknowledges that it has carefully read and reviewed the terms of this Agreement. Each party acknowledges that the entry into and execution of this Agreement is of its own free and voluntary act and deed, without compulsion.

Each party acknowledges that it has obtained, or has had the opportunity to obtain, the advice of legal counsel of its own choosing in connection with the negotiation and execution of this Agreement and with respect to all matters set forth herein. The parties agree that this Agreement reflects the joint drafting efforts of all parties and in the event of any dispute, disagreement or controversy arising from this agreement, the parties shall be considered joint authors and no provision shall be interpreted against any party because of authorship.

21. Headings. The paragraph headings herein are for the convenience and reference of the parties and are not intended to define or limit the scope or intent of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year first above written.

GRAYBUL JOHNSTOWN, LLC
By: GrayBul Johnstown, LP, its sole member
By: GrayBul Johnstown GP, LLC, its general partner

By: Graycliff Capital Partners, LLC, its Manager
Name: Paul M. Aiesi
Title: Manager

STATE OF South Carolina)
) ss.
COUNTY OF Greenville)

The foregoing Agreement was acknowledged before me this 21 day of December 2023, by Paul M. Aiesi as the Manager of Graycliff Capital Partners, LLC, a South Carolina limited liability company, which is the Manager of the general partner of the sole member of GrayBul Johnstown, LLC.

Witness my hand and official seal.

My commission expires: 9/18/2024



Jennifer Moore
Notary Public

TOWN OF JOHNSTOWN, COLORADO

ATTEST:

By: _____
Hannah Hill, Town Clerk

By: _____
Matt LeCerf, Town Manager