

MEMORANDUM OF UNDERSTANDING
BETWEEN THE TOWN OF JOHNSTOWN
AND THE JOHNSTOWN SENIOR CENTER

THIS MEMORANDUM OF UNDERSTANDING (MOU) is entered into this ___ day of _____, 2024, by and between the Town of Johnstown, Colorado, a Colorado home-rule municipality (“Town”), and the Johnstown Historical Society, a Colorado non-profit corporation (“JHS”). The Town and JHS may collectively be referred to as the “parties” or singularly as a “party.”

RECITALS

WHEREAS, the JHS is a non-profit entity whose mission is to enrich the community through the preservation, interpretation, and dissemination of collected local culture; and

WHEREAS, the Town allows the JHS to utilize space in a Town owned facility, free of charge, for museum and historical events and for a minimal amount of storage of personal property; and

WHEREAS, despite the JHS’s use of the space in the facility for many years, the Town and the JHS have not formalized their business association; and

WHEREAS, to memorialize their relationship, the Town and the JHS desire to enter into this MOU.

AGREEMENT

THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Operations. The non-profit’s operations will exclusively be managed by the non-profit itself and its Board members.
2. Staff. The Town will assist the JHS in transitioning the Museum Director over to employment with the 501(c)(3) to begin January 1, 2025.
3. Facility Use.
 - a. The JHA shall be entitled to use the facility for the museum and for historical events. The Town agrees to assist the JHA by providing space in the facility for the JHA to use at no cost. The Town and the JHA agree to coordinate in good faith for the use of the space in the facility, but the determination as to what space is available to the JHA at any given time shall be at the sole discretion of the Town.
 - b. The JHS shall be entitled to use the facility for storage of personal property that is used to support the museum, and historical events.

- c. The JHS shall not be entitled to use the facility for any purpose not set forth herein absent the Town's written consent. If the JHS uses the facility for an unauthorized purpose, the Town may terminate this MOU as provided in Paragraph 4.
4. Term. The term of this MOU shall commence on January 1, 2025, and terminate on December 31, 2025. Unless either party provides written notice to terminate on or before November 1 of a calendar year, this MOU shall automatically extend for additional one-year terms.
5. Termination. Notwithstanding the term, this MOU may be terminated if:
 - a. The JHA is in default of any provision of this MOU;
 - b. The facility becomes damaged to such an extent that, at the Town's discretion, it would not be prudent or feasible to rebuild;
 - c. The personal property inside the facility is damaged, destroyed or removed from the facility, in any manner, such that the operation of the facility as a community gathering space is not feasible or practicable; or
 - d. Upon written notice from the Town to the JHS.
6. Personal Property. The personal property that is stored at the facility and owned by the JHS is set forth on Exhibit A, attached hereto and incorporated herein by reference. When the JHS removes personal property or adds additional personal property, the JHS shall provide written notice to the Town Clerk or their designee, who shall keep a running inventory of the JHS's personal property. The Town shall be entitled to direct and authorize where the JHS's personal property is stored at the facility but shall have no liability or responsibility whatsoever for such personal property.
7. Utilities and Maintenance. The Town shall provide and pay for all utilities, including internet service, to the facility and will maintain the facility in good condition and repair. The Town's Public Works Director is responsible for managing all Town facilities, so all decisions regarding maintenance and repairs and the timing of such maintenance and repairs at the facility will be determined by him/her. All maintenance and repairs are subject to budget appropriations as approved by the Town.
8. Insurance. The Town shall maintain liability insurance for the facility. The Town shall maintain property insurance for the Town's personal property at the facility. The Town shall not maintain property insurance for the JHS's personal property at the facility. The JHS may, at its discretion, obtain adequate insurance coverage to protect its personal property.
9. Financial Obligation. The Town agrees to provide the following:
 - a. Annual stipend for employees and other operations in the amount of \$_____.
 - b. Utilities for the Town owned facility
 - c. Maintenance and repairs for the Town owned facility

10. Compliance. The JHS shall comply with all applicable laws, rules and regulations. The JHS shall not do or permit any action to be done that might result in a breach of this MOU. The JHS shall not permit, cause, or allow others to cause anything in the facility to be done that might result in:
- a. A violation of the law, civil or criminal;
 - b. A breach of the peace;
 - c. An increase in insurance rates;
 - d. Negative publicity for the facility or the Town; or
 - e. A decrease in the value of the facility.
11. Indemnification. The JHS agrees to indemnify, protect and save harmless the Town from and against any and all damages, losses, liabilities, obligations, penalties, claims, litigation, demands, defenses, judgments, suits, actions, proceedings, costs, disbursements and/or expenses (including, without limitation, reasonable attorneys' and experts' fees, expenses and disbursements) of any kind or nature whatsoever which may at any time be imposed upon, incurred by or asserted or awarded against the Town, relating to or arising from the JHS's use of the facility.
12. Assignment. The JHS may not assign its rights or duties under this MOU without receiving the prior written consent of the Town.
13. No Third-Party Beneficiaries. This MOU is not intended and shall not be deemed to confer any rights on any person or entity not named as a party hereto.
14. Notices. All notices, consents or other instruments provided for under this MOU 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 SENIOR CENTER:

Johnstown Historical Society
Attention:

Email: _____

TO TOWN:

Town of Johnstown
Attention: Town Manager
450 S. Parish
P. O. Box 609
Johnstown, CO 80534

Email: mlecerf@johsntownco.gov

15. Waiver. No consent or waiver, express or implied, by the Town to or of any breach or default by the JHS in the performance by the JHS 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 the JHS in default, irrespective of how long such failure continues, shall not constitute a waiver by the Town of its rights hereunder.

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

17. Costs and Attorney's Fees. If any judicial proceedings may hereafter be brought to enforce any of the provisions of this MOU, 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.

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

19. No Presumption. Each party acknowledges that it has carefully read and reviewed the terms of this MOU. Each party acknowledges that the entry into and execution of this MOU 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 MOU and with respect to all matters set forth herein. The parties agree that this MOU reflects the joint drafting efforts of all parties and in the event of any dispute, disagreement or controversy arising from this MOU, the parties shall be considered joint authors and no provision shall be interpreted against any party because of authorship.

20. 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 MOU

This MOU is entered into on the ____ day of _____, 2024, and upon signature of the authorized representatives of each party, shall become effective and binding on each party.

TOWN OF JOHNSTOWN

ATTEST:

By: _____
Hannah Hill, Town Clerk

By: _____
Matt LeCerf, Town Manager

JOHNSTOWN HISTORICAL SOCIETY

ATTEST:

By: _____
Name: _____

_____, Secretary

Title: _____

EXHIBIT A

JOHNSTOWN HISTORICAL SOCIETY PERSONAL PROPERTY