

**TOWN OF PARACHUTE, COLORADO**  
**RESOLUTION NO. 2024-05**

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**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PARACHUTE, COLORADO, APPROVING A REVOCABLE LICENSE AGREEMENT WITH GRAND VALLEY HISTORICAL SOCIETY FOR USE OF THE WASSON MCKAY PROPERTY**

**WHEREAS**, the Town of Parachute (“Parachute” or the “Town”) is a home-rule municipality organized under Article XX of the Colorado Constitution and with the authority of the Parachute Home Rule Charter;

**WHEREAS**, Section 13-1 of the Town Charter provides that “the Town may grant a permit or license at any time for the temporary use or occupation of any street, alley, other public way, or Town owned place. Any such permit or license shall be revocable by the Town at any time and without cause, whether or not such right to revoke is expressly reserved in the permit, license or agreement”;

**WHEREAS**, further, Section 1-2(d) of the Town Charter provides that “the Town shall have the right and power to grant and enter into revocable license agreements and lease agreements for the use of public streets, rights-of-way, easements, and alleys with private parties without the need for an election”;

**WHEREAS**, the Town owns real property located at 259 Cardinal Way, including the Wasson McKay historical house thereon (the “Property”);

**WHEREAS**, following a competitive solicitation process, the Town wishes to grant the Grand Valley Historical Society a license to operate a history museum in the Wason McKay house and other areas on the Property, as set forth in the Revocable License Agreement enclosed as **Exhibit A**; and

**WHEREAS**, the Town Council wishes to approve the Revocable License Agreement and finds and determines that doing so is in the interest of the Town.

**NOW THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF PARACHUTE, COLORADO THAT:**

Section 1.     Recitals.   The foregoing recitals are incorporated herein as if set forth in full and are adopted as findings.

Section 2.     Revocable License Agreement.   The Town Council hereby approves the Revocable License Agreement in substantially the same form as set forth in **Exhibit A**, as determined to be satisfactory to the Town Attorney, and authorizes the Mayor and Town Manager to execute the same. All actions heretofore taken by the Town Manager, and the other officers, employees, and agents of the Town in connection with the subject matter of this Resolution are hereby ratified, approved, and confirmed in all respects. Further, the Town Council authorizes

and directs the Town Manager to take such steps as are necessary to implement this Resolution and the Agreement.

**INTRODUCED, PASSED, ADOPTED, AND APPROVED** by a vote of 5 to ~~0~~ of the Town Council of the Town of Parachute, Colorado at a regular meeting held at Town Hall in the Town of Parachute, Colorado, on the 18<sup>th</sup> day of January, 2024 and approved by the Mayor on the 18 day of January, 2024.

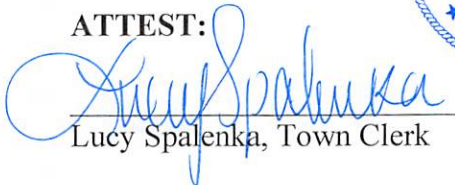
**TOWN COUNCIL OF THE  
TOWN OF PARACHUTE, COLORADO**

By

  
\_\_\_\_\_  
Tom Rugaard, Mayor



ATTEST:

  
\_\_\_\_\_  
Lucy Spalenka, Town Clerk

## **TOWN OF PARACHUTE, COLORADO LICENSE AND USE AGREEMENT**

This LICENSE AND USE AGREEMENT (this “Agreement”) is made and entered into as of the date of the last signature hereto (the “Effective Date”), by and between the TOWN OF PARACHUTE, COLORADO, a home-rule municipal corporation (“Parachute” or the “Town”) on the one hand, and GRAND VALLEY HISTORICAL SOCIETY, a Colorado nonprofit corporation (“Historical Society”) (singularly, a “Party”; collectively, the “Parties”).

### **RECITALS**

- A. The Town owns real property located at 259 Cardinal Way, in the Town of Parachute, identified as Garfield County Parcel No. 240912400015 (the “Property”), on which the Historical Society intends to develop and operate a history museum in the Wasson McKay historical house.
- B. The Town owns and maintains the surrounding property, including a public restroom, parking area, gazebo, and other amenities as a public park. The Town intends to keep the property open to the public for public purposes, special events, and rentals.
- C. The Historical Society wishes to develop and operate the Wasson McKay historical house and cabin structure on the Property for the operation of a historical museum and community space. To enhance economic development, culture, education, and to alleviate the Town’s maintenance of the structures, the Town wishes to allow the Historical Society to take over operations of the house and cabin for community uses, as set forth herein.
- D. The Town completed a competitive solicitation process for the use of the property in 2023, to which the Historical Society submitted a proposal, attached hereto as EXHIBIT B. After review during open public meetings, the Historical Society was selected by the Town Council. Accordingly, the Town wishes to grant the Historical Society a license for the use of the Property.
- E. The Town received a grant from the Garfield County Federal Mineral Lease District (GCFMLD) to help remodel the Wasson McKay structures and improve the Property in support of the operations of the Historical Society. These grant funds will also be utilized to complete various other improvements to the surrounding property and buildings to the mutual benefit of the Parties.
- F. The Town Council finds that entering into this Agreement will provide benefit to the Town and advance the public interest and welfare of the Town and its citizens by promoting the development of recreational, educational, and cultural uses in the Town by a private party.
- G. In addition to the consideration expressly provided for herein, the Town Council finds that the economic and tax benefits to the Town and its residents are sufficient consideration to enter into this Agreement upon the terms and conditions described hereafter.

NOW, THEREFORE, in consideration of the mutual promises, covenants, and conditions contained herein, the receipt and sufficiency of which is hereby acknowledge, the Parties agree as follows:

### TERMS & CONDITIONS

1. Incorporation of Recitals. The foregoing recitals are incorporated herein and made a material part of this Agreement.
2. License – Wasson McKay House, Cabin, and Property. The Town hereby grants the Historical Society a revocable and nonexclusive license to use and occupy the Property including the house, cabin, public restrooms, parking areas, and surrounding park amenities located thereon (the “License Area”), for use, operation, and development of a historical museum and community space operations (the “Permitted Uses”), subject to the following terms and conditions (the “License”):
  - a. Consideration. The Historical Society shall pay the Town nominal consideration in the amount of \$1.00 per year for the term of this Agreement.
  - b. Use of License Area. The Historical Society shall maintain the License Area in good and safe condition. Upon the approval of the Town, the Historical Society may place signage and make improvements on the License Area. The Town shall have no responsibility, liability, or obligation with respect to the safety or security of any the improvements or other personal property of the Historical Society placed or located on, at, or in the License Area, it being acknowledged and understood by the Historical Society that the safety and security of any such property is the sole responsibility and risk of Historical Society.
  - c. License Not Exclusive. The License granted for the License Area is not exclusive to the Historical Society, and Town shall have the right to enter upon the License Area for its own purposes which do not reasonably interfere with the Historical Society’s use of the License Area. The park area, restrooms, and parking areas will remain open to the public. Parties agree to coordinate and properly notice each other if community events and reservations are anticipated to occupy the license area.
  - d. Maintenance and Management. The Historical Society shall be responsible for the maintenance, repair, cleaning, operation, management, and upkeep of the house and cabin on the License Area. The maintenance, repair, and liability obligations set forth in this Agreement shall only apply to the Historical Society’s use of the License Area. The Town shall be responsible for the maintenance and repair of all public improvements located in the park.
  - e. Utilities. The Historical Society shall be responsible for payment of all charges for all utilities used on the License Area from the Effective Date.

- f. Liens. Historical Society shall keep the License Area free from any liens. Unless otherwise agreed upon for the purposes of completing the grant funded improvements described herein, shall be solely responsible for and shall promptly pay for all services, labor, or materials furnished to the License Area at the instance of the Historical Society. The Town may, at Historical Society expense, discharge any liens or claims arising from the same.
  - g. Nuisances. Hazardous materials or nuisance items shall be permitted or installed on the License Area. Historical Society shall not damage or interfere with any Town installations, structures, utilities, or improvements on, under, or adjacent to the License Area.
  - h. Term of License; Revocable. The License granted herein shall extend for a period of five (5) years from the Effective Date and shall automatically renew annually for additional 1-year periods thereafter, unless revoked by the Town. The License granted herein shall be revocable at the Town's sole discretion at any time upon 90 days' notice to Historical society or such longer period to be provided by the Town.
  - i. Restoration of License Area. Upon revocation, Historical Society shall remove all removable improvements in the License Area within a reasonable period of time, unless otherwise agreed to by the Town, and shall restore the License Area in as good a condition as when Historical Society took possession, excepting only ordinary wear and tear. In the event the improvements are not removed and/or the Property is damaged, the Town may undertake removal or repair, at Historical society' expense, and assess Historical Society for the costs of the removal or repair. Permanent improvements shall remain on the License Area and become the property of the Town upon termination of this License.
  - j. Insurance. Historical Society shall, at its sole cost and expense, procure and maintain during the life of the Agreement property and commercial general liability insurance in the amount of One Million Dollars (\$1,000,000) single limit and Two Million Dollars (\$2,000,000) in the aggregate, and shall name the Town as an additional insured.
  - k. Title. Historical Society hereby acknowledges the title of the Town to Property and all buildings and agrees never to resist or deny such title. Any and all use of the License Area by Historical Society under this License is permissive and not adverse to the interest of Town. This Agreement is made subject to any existing easements, reservations, restrictions or rights of way of record.
3. Contribution to Improvements.
- a. The Town hereby agrees to contribute to the cost of the initial improvements to the License Area, including, but not limited to, the construction costs for remodeling the house and cabin, as outlined in EXHIBIT A of the GCMLD grant scope of

work. Costs for the improvements to the house and cabin are not to exceed \$214,000. Additional tenant finishes and improvements, such as furniture, exhibits, etc., estimated to cost or be valued at an additional \$50,000, shall be the responsibility of the Historical Society.

4. Operation Requirements; Agreement Contingent Upon Operation.

- a. Historical Society shall use the License Area for the operation and development of a public museum and community space. Such operations shall commence within two years of the effective date of the License.
- b. All rights and licenses under this Agreement shall terminate immediately, except for those that expressly survive termination, upon notice by the Town to Historical Society if Historical Society ceases to use the License Area for operation and development of a public museum and community space, as determined by the Town in its sole discretion.

5. Assignment of Rights. The rights and obligations of this Agreement may not be assigned in whole or in part without the prior written authorization of the Town, which consent shall not be unreasonably withheld. Any unauthorized assignment made without prior written authorization shall be a material breach of this Agreement, and this Agreement shall thereafter be deemed terminated for cause. Notwithstanding the foregoing, Historical society may assign its interests in this Agreement to an affiliate entity organized for the administration or operation of the recreational business contemplated herein and/or structured to achieve beneficial tax or regulatory treatment for the terms and conditions agreed to herein.

6. Indemnification.

- a. Historical society agrees to indemnify, defend, hold harmless, and release from liability the Town, its elected and appointed officials, managers, agents, employees, contractors, and insurers, from and against any claim, liability, demand, obligation, loss, damage, assessment, judgment, cost (including attorney fees), or expense whatsoever relating to or arising out of its use of the License Area or arising out of or related to its duties and obligations under this Agreement. Historical society shall be solely responsible to defend any such action, proceeding, or claim for which the Town may be entitled to indemnification, and the Town hereby agrees to fully cooperate with Historical society in the defense or settlement, as the case may be, of such action, proceeding, or claim, but the Town reserves the right to participate in the defense of any such action, proceeding, or claim at its own expense. Historical society shall give written notice to the Town within seven (7) days after Historical society' actual knowledge of any matter giving rise to the obligation contained in this paragraph.

7. Force Majeure. If by reason of force majeure, including, without limitation, acts of God, earthquakes, governmental regulation, fire, flood, explosions, pandemics, epidemics,

quarantine restrictions, war, insurrection or riot, wrecks, labor difficulties, civil disorder, delays in transportation, unusually severe weather (including lightning strikes), or failures or fluctuations in electrical power or internet connectivity, a Party is unable to perform, in whole or in part, its obligations as set forth in the Agreement, except for payment obligations, such Party shall not be liable to the other for its failure to perform said obligations, but only for as long as said force majeure event shall continue.

8. Agreement Subject to Appropriation. To the extent this Agreement constitutes a multiple fiscal year debt or financial obligation of the Town, it shall be subject to annual appropriation pursuant to the Town of Parachute Municipal Code and Article X, Section 20 of the Colorado Constitution. The Town shall have no obligation to continue this Agreement in any fiscal year in which no such appropriation is made.
9. Governmental Immunity Act. No term or condition of this Agreement shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions of the Colorado Governmental Immunity Act, C.R.S. §§ 24-10-101, *et seq.*
10. Notice. Any notice or communication required hereunder between the Town and Historical society must be in writing, and may be given either personally, by email, or by first class mail, at the addresses provided below. If given by mail, such notice or communication shall be deemed to have been given and received on the first to occur of (i) actual receipt by any of the addressees designated below as the Party to whom notices are to be sent, or (ii) three days after a letter containing such notice, properly addressed, with postage prepaid, is deposited in the United States mail. If personally delivered, a notice shall be deemed to have been given when delivered to the Party to whom it is addressed. Any Party may at any time, by giving seven days' written notice to the other Party, designate any other address in such notice or communication shall be given. Such notices or communications shall be given to the Parties at their addresses set forth below:

If to Town, to:  
Town Manager  
Town of Parachute  
222 Grand Valley Way  
Parachute, CO 81635  
[telliott@parachute.gov](mailto:telliott@parachute.gov)

With copy to:  
Parachute Town Attorney  
Karp Neu Hanlon, P.C.  
201 14<sup>th</sup> Street, Suite 200  
P.O. Drawer 2030  
Glenwood Springs, CO 81602  
[jjc@mountainlawfirm.com](mailto:jjc@mountainlawfirm.com)

If to Historical Society, to:

Grand Valley Historical Society  
PO BOX 363  
Parachute, CO 81635  
[judi.heart1942@gmail.com](mailto:judi.heart1942@gmail.com)

11. Representative. Each party represents and warrants to the other party that:
  - a. All actions or other conditions precedent necessary to bind such party to the terms of this Agreement have been taken and/or have been satisfied such that such party is bound to the performance of its obligations set forth in this Agreement; and
  - b. The person or persons executing this Agreement on behalf of such party have the full right, power, and authority to bind that party to the obligations set forth in this Agreement.
12. No Partnership; No Third-Party Beneficiary. Nothing contained in this Agreement shall create any business relationship between the parties except for the contractual obligations expressly stated herein. No third-party beneficiary rights are intended or created in favor of any person not a party to this Agreement.
13. Severability. If any term or provision of this Agreement, or the application of any term or provision of this Agreement to a particular situation, is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining terms and provisions of this Agreement, or the application of this Agreement to other situations, shall continue in full force and effect unless amended or modified by mutual consent of the Parties.
14. Remedies. Either Party may, in addition to any other rights or remedies, institute an equitable action to cure, correct, or remedy any default, enforce any covenant or agreement herein, enjoin any threatened or attempted violation thereof, enforce by specific performance the obligations and rights of the Parties hereto, or to obtain any remedies consistent with the foregoing and the purpose of this Agreement.
15. Colorado Law. This Agreement shall be construed and enforced in accordance with the laws of the State of Colorado. Venue for any action instituted relating to this Agreement shall be in Garfield County, Colorado.
16. Attorneys' Fees; Survival. In the event of any litigation or arbitration between the Parties regarding an alleged breach of this Agreement, the prevailing Party shall be entitled to reasonable attorneys' fees. All rights concerning remedies and/or attorneys' fees shall survive any termination of this Agreement.
17. Amendments. This Agreement may be amended from time to time, in whole or in part, by mutual written consent of the Parties or their successors in interest.
18. Waiver. No failure by either Party to insist upon the strict performance of any covenant, duty, agreement or condition of this Agreement, or to exercise any right or remedy consequent upon a breach of this Agreement shall constitute a waiver of such breach or of any other covenant, agreement, term, or condition. Either party by giving notice to the other Party may, but shall not be required to, waive any of its rights or any conditions to any of its obligations under this Agreement. No waiver shall affect or alter the remainder of this Agreement, but each and every covenant, agreement, term, and condition of this

Agreement shall continue in full force and effect with respect to any other then existing or subsequent breach.

19. Entire Agreement; Counterparts. This Agreement constitutes the final and exclusive understanding and agreement of the Parties and supersedes all negotiations or previous agreements between the Parties with respect to all or any part of the subject matter hereof. All waivers of the provisions of this Agreement shall be in writing and signed by the appropriate authorities of the Town and Historical society. This Agreement may be executed in counterparts, including any facsimile copies, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

*[Signature Page Follows]*

IN WITNESS WHEREOF, this Agreement has been entered into by and between the TOWN OF PARACHUTE, COLORADO and HISTORICAL SOCIETY, as of the date first written above.

TOWN OF PARACHUTE, COLORADO

\_\_\_\_\_  
Tom Rugaard, Mayor

ATTEST:

\_\_\_\_\_  
Town Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Jeffrey J. Conklin, Town Attorney

GRAND VALLEY HISTORICAL SOCIETY

By: \_\_\_\_\_  
Judith Hayward, President

STATE OF COLORADO            )  
  ) ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing Agreement was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2024, by Judith Hayward as President and Board Member of the Grand Valley Historical Society.

Witness my hand and official seal.

\_\_\_\_\_  
Notary