

**TOWN OF MEAD, COLORADO
RESOLUTION NO. 45-R-2020**

**A RESOLUTION OF THE TOWN OF MEAD, COLORADO, APPROVING
AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE TOWN
OF JOHNSTOWN AND THE TOWN OF MEAD CONCERNING THE
USE OF THE JOHNSTOWN POLICE DEPARTMENT FIREARM
TRAINING RANGE**

WHEREAS, the Town of Mead (“Town”) is authorized to enter into contracts for lawful purposes for the protection of the health, safety and welfare of its citizens; and

WHEREAS, C.R.S. § 29-1-203, as amended from time to time, authorizes local governments to cooperate and contract with other governmental entities regarding functions, services and facilities each is authorized to provide; and

WHEREAS, the Town of Mead and the Town of Johnstown desire to enter into an intergovernmental agreement (“IGA”) to allow the Mead Police Department to use and train its police officers at the Johnstown Police Department Firearm Training Range; and

WHEREAS, a copy of the IGA is attached to this Resolution as **Exhibit 1** and is incorporated herein by reference; and

WHEREAS, the Board of Trustees desires to approve the IGA in substantially the form attached to this Resolution and delegate authority to the Town Manager to execute the IGA on behalf of the Town.

NOW THEREFORE, BE IT RESOLVED by the Board of Trustees of the Town of Mead, Weld County, Colorado, that:


Section 1. The Board of Trustees hereby: (a) approves the IGA in substantially the same form as is attached hereto and incorporated herein; (b) authorizes the Town Attorney in cooperation with the Town Manager to make such changes as may be needed to correct any non-material errors or language or to negotiate such changes to the IGA as may be necessary and appropriate and that do not substantially increase the obligations of the Town; and (c) authorizes the Town Manager to execute the IGA when in final form.


Section 2. Effective Date. This resolution shall become effective immediately upon adoption.

Section 3. Certification. The Town Clerk shall certify to the passage of this resolution and make not less than one copy of the adopted resolution available for inspection by the public during regular business hours.

INTRODUCED, READ, PASSED, AND ADOPTED THIS 13TH DAY OF APRIL, 2020.

ATTEST:

By: 
Mary E. Strutt, MMC, Town Clerk



TOWN OF MEAD:

By: 
Colleen G. Whitlow, Mayor

Exhibit 1
Intergovernmental Agreement

[see attached agreement]

**INTERGOVERNMENTAL AGREEMENT BETWEEN TOWN OF JOHNSTOWN
AND TOWN OF MEAD CONCERNING USE OF THE JOHNSTOWN
POLICE DEPARTMENT FIREARM TRAINING RANGE**

THIS INTERGOVERNMENTAL AGREEMENT ("Agreement") is made and entered by and between the Town of Johnstown, Colorado, a Colorado home-rule municipal corporation ("Johnstown"), and the Town of Mead, Colorado, a Colorado municipal corporation ("Mead") (singularly, "Party" and, collectively, the "Parties").

WHEREAS, Johnstown owns and operates a firing range that is located adjacent to the Central Wastewater Treatment Plant and that is used by the Johnstown Police Department ("Johnstown PD") for training purposes, known as the Johnstown Police Department Firearm Training Range ("Firing Range"); and

WHEREAS, the Mead Police Department ("Mead PD") desires to use the Firing Range for its training purposes; and

WHEREAS, Johnstown desires to allow the Mead PD to use the Firing Range based on the terms and conditions set forth in this Agreement; and

WHEREAS, to effectuate the foregoing, Johnstown and Mead desire to enter into the Agreement to set forth the responsibilities, obligations, powers and rights of each with respect to the Mead PD's use of the Firing Range.

NOW, THEREFORE, in consideration of recitals, promises, and covenants herein set forth, and other good and valuable consideration herein received for, the Parties agree as follows:

1. Mead Police Department Use. The Mead PD shall hereby be entitled to use the Firing Range upon compliance with the terms and conditions of this Agreement. The Mead PD shall not, under any circumstance, allow any third parties to use the Firing Range and shall not allow persons who are not properly certified to perform law enforcement services to use the Firing Range.

2. Scheduling. The Mead PD may use the Firing Range at any time that it is available and not otherwise being used by Johnstown or by other previously authorized users. To use the Firing Range, the Mead PD shall contact the Johnstown PD at least forty-eight (48) hours in advance and may only thereafter use the Firing Range upon verification that the Firing Range is available.

3. Equipment and Supplies. The Mead PD shall bring its own equipment and supplies to the Firing Range and shall not use Johnstown's equipment and supplies. If the Mead PD desires to store equipment or supplies at the Firing Range, Mead shall obtain prior approval from Johnstown and shall only store the equipment or supplies in a location acceptable to Johnstown.

4. Term. The term of this Agreement shall be for one (1) year from the date of mutual

execution hereof by the Parties (the "Effective Date") and shall automatically renew for additional one (1) year terms unless otherwise terminated as provided herein.

5. Termination. This Agreement may be terminated by either Party, with or without cause, by providing ten (10) days' advance written notice to the other Party. Mead shall return any keys and other such items to Johnstown on or before the date of the termination. If the Mead PD is storing equipment or supplies at the Firing Range, such equipment and supplies shall be removed on or before the date of the termination.

6. Duty to Repair or Replace. Mead shall be solely responsible for all acts and omissions related to the Mead PD's use of the Firing Range. Mead shall promptly repair any and all damage caused to the Firing Range arising from its actions or omissions or, as appropriate, shall promptly replace all damaged items. Repairs and replacements shall be subject to Johnstown's approval. If Mead does not repair or replace items, or if Johnstown does not approve of the repairs or replacements, Johnstown may repair the damage or replace the items and provide an invoice to Mead for the cost of the repair or replacement, which invoice may contain an administrative fee of up to ten percent (10%) of the actual cost. Mead shall pay the invoice within thirty (30) days of receipt.

7. Legal Proceedings and Liability. Neither party shall be deemed to assume any responsibility or liability for the acts or omissions of the other Party, its officers, agents and employees. Each Party shall defend itself, its officers, agents and employees in any action, of any sort, brought by any person or entity against that Party, its officers, agents and employees, arising out of or related to the Party's use of the Firing Range and/or to performance of this Agreement, including, but not limited to, those involving a claim of injury or damages or both. To the extent permitted by law, Mead shall indemnify and hold harmless Johnstown, its officers, agents and employees against any and all liability, loss, damage, demands, causes of action or expenses of whatever nature (including court costs and attorney's fees) arising out of, related to or caused by the Mead PD's use of the Firing Range and/or the performance of this Agreement, except for those acts solely attributable to Johnstown's negligence.

8. Insurance. Mead shall maintain sufficient insurance coverage or have sufficient financial ability to satisfy liabilities, losses, damages, demands, causes of action or expenses that may arise hereunder. All insurance policies shall include Johnstown as an additional insured. Mead shall maintain workers compensation insurance coverage, in the amounts required by law, for all employees present, in any capacity, at the Firing Range.

9. Parties Relationship and Mead Employees. The Parties intend that the relationship between them with respect to this Agreement is that of independent entities working in mutual cooperation. Johnstown shall not be responsible for Mead's employees or for any matters involving the employment relationship between Mead and its employees.

10. Notices.

(a) All notices to Mead shall be sent certified or registered mail, return receipt requested, and first class mail, postage prepaid, to: Town of Mead, Attn: Town Manager, 441 Third Street,

Mead, CO 80542 and Mead Police Department, Attn: Police Chief, 537 Main Street, P.O. Box 31, Mead, CO 80542.

(b) All notices to Johnstown shall be sent certified or registered mail, return receipt requested, and first class mail, postage prepaid, to: Town of Johnstown, Attn: Town Manager, 450 S. Parish Avenue, Johnstown, CO 80534 and Johnstown Police Department, Attn: Police Chief, 430 S. Parish Avenue, Johnstown, CO 80534.

Notwithstanding the foregoing, either Party may provide electronic mail ("e-mail") notice on the condition that the other Party acknowledges receipt of the e-mail and does not object to the delivery of notice by e-mail.

11. Law and Venue. The validity, interpretation, performance, and enforcement of this Agreement shall be governed by the laws of the State of Colorado, and venue shall be in Weld County, Colorado, for any litigation.

12. Dispute Resolution. In the event of any dispute arising under this Agreement, the Parties shall submit the matter to mediation prior to commencing legal action. The cost of the mediation shall be split equally between the Parties.

13. Severability. If any portion of this Agreement shall be or becomes illegal, invalid or unenforceable in whole or in part for any reason, such provision shall be ineffective only to the extent of such illegality, invalidity or unenforceability, without invalidating the remainder of such provision or the remaining provisions of this Agreement. If any court of competent jurisdiction should deem any covenant herein to be invalid, illegal or unenforceable because its scope is considered excessive, such covenant shall be modified so that the scope of the covenant is reduced only to the minimum extent necessary to render the modified covenant valid, legal and enforceable.

14. Waiver. No consent or waiver, express or implied, by a Party to or of any breach or default by the other Party in the performance by the other Party 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 non-defaulting Party. Failure on the part of any Party to complain of any act or failure to act or to declare any other Party in default, irrespective of how long such failure continues, shall not constitute a waiver by such Party of its rights hereunder.

15. Appropriation. Nothing in this Agreement shall be construed to require either Party to provide funding for any purpose under this Agreement that has not previously been budgeted. This Agreement is subject to adequate appropriation in any given fiscal year. Should adequate funds not be appropriated in any fiscal year, this Agreement shall terminate.

16. Assignment and Binding Effect. Mead shall not transfer or assign its interest in this Agreement. Nothing herein shall be construed as giving any rights or benefits hereunder to anyone other than Johnstown and Mead.

17. Colorado Governmental Immunity Act. The Parties hereto understand and agree that they are relying on, and do not waive or intend to waive, by any provision of this Agreement,

any rights, protections, or privileges provided by the Colorado Governmental Immunity Act, C.R.S. 24-10-101 *et seq.*, as it is from time to time amended, or otherwise available to the Parties, their officers, or employees.

18. No Presumption. 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. 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 its own free and voluntary act and deed, without compulsion. 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.

19. Amendment. This Agreement may not be amended or modified except by a subsequent written instrument signed by both Parties.

20. Entire Agreement. This Agreement constitutes the entire agreement and understanding between the Parties and supersedes all prior agreements or understandings.

21. Headings. The headings used herein are for convenience purposes only and shall not limit the meaning of the language contained herein.

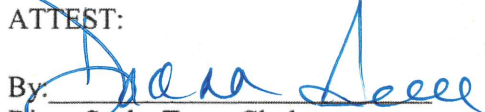
22. Counterpart and Electronic Signatures. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same document. This Agreement may be executed and delivered by electronic signature by either of the Parties and the Parties hereby consent to the use of electronic signatures.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, the Parties have executed this Agreement to be effective as set forth below.

TOWN OF JOHNSTOWN, COLORADO

ATTEST:


By: 
Diana Seele, Town Clerk

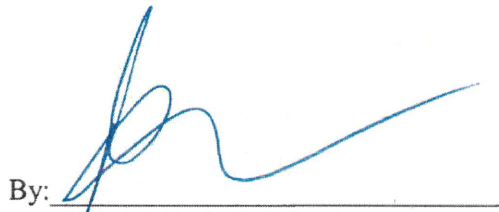
By: 
Matthew S. LeCerf, Town Manager

Date of execution: April 23, 2020

TOWN OF MEAD, COLORADO

ATTEST:

By: 
Mary Strat, Town Clerk, MMC

By: 
Helen Migchelbrink, Town Manager

Date of execution: April 21, 2020