

**TOWN OF LYONS, COLORADO  
RESOLUTION 2022-40**

**A RESOLUTION OF THE TOWN OF LYONS, COLORADO APPROVING A FIFTH  
AMENDMENT TO A DEVELOPMENT PLAN AGREEMENT BETWEEN LYONS  
VALLEY TOWNHOMES, LP AND THE TOWN OF LYONS BY APPROVING A FIFTH  
AMENDMENT TO THE SUBDIVISION IMPROVEMENT AGREEMENT FOR LYONS  
VALLEY PARK FILING 8**

**WHEREAS**, the Town of Lyons (the “Town”) has the authority to enter into contracts for any lawful municipal purpose pursuant to C.R.S. § 31-15-101; and

**WHEREAS**, Lyons Valley Townhomes, LP (“Developer”) wishes to develop an affordable housing project on Lyons Valley Park Filing 8 (the “Project”); and

**WHEREAS**, pursuant to Section 16-70-30(b) of the Lyons Municipal Code (“LMC”), the Town may require that a developer requesting a development plan execute a development plan agreement; and

**WHEREAS**, the Developer submitted an application for a Development Plan (“Application”) to the Town for approval in accordance with the procedure set forth in Article 17 of Chapter 16 of the LMC; and

**WHEREAS**, on December 3, 2020, the Board of Trustees conducted a public hearing on the Application pursuant to LMC § 16-17-30(h), following the provision of lawfully required notice to the public; and

**WHEREAS**, the Board of Trustee’s approval of the application through Town of Lyons Resolution 2020-184 was conditioned upon execution of a Development Plan Agreement between the Developer and the Town; and

**WHEREAS**, the Town of Lyons Board of Trustees previously approved: a subdivision improvement agreement dated December 15, 2008 (“Filing No. 8 SIA”) at the time of approval of the final plat for Filing No. 8 of Lyons Valley Park; an Amendment to the Filing No. 8 SIA dated December 7, 2015 (“First Amendment”); a Second Amendment to the Filing No. 8 SIA dated April 29, 2020, (“Second Amendment”); and a Third dated January 19, 2020 (“Third Amendment”) which replaced the Second Amendment in its entirety, and a Fourth Amendment to the Filing No. 8 SIA dated July 19, 2021 (“Fourth Amendment”); and

**WHEREAS**, collectively the Filing 8 SIA, First Amendment, Third Amendment, and Fourth Amendment constitute the “Development Agreement”; and

**WHEREAS**, the Developer has requested a modification to Section 7 of the Development Agreement to revise the properties to be dedicated in lieu of Parks Impact Fees; and

**WHEREAS**, the Town and the Developer have negotiated a Fifth Amendment to the Filing No. 8 SIA (“Fifth Amendment”), attached hereto as **Exhibit A** and incorporated by reference which modifies Section 7 of the Development Agreement to read as follows:

In lieu of the parks impact fees due to the Town pursuant to Lyons Municipal Code § 18-14-10 et seq., the Developer shall transfer to the Town in fee simple via quitclaim deed the two undeveloped lots legally described as Lots 39 and 40 and identified in the attached **Exhibit E** attached hereto and incorporated by reference. The Parties recognize and agree that Lyons Municipal Code § 18-14-10 et seq. does not currently permit the Town to accept in-kind payments in lieu of park impact fees. The Town agrees to take reasonable efforts to amend the Lyons Municipal Code to permit in-kind payments subject to final approval by the Board.

; and

**WHEREAS**, rights, duties, obligations, responsibilities, and benefits of Filing No. 8 SIA remain in full force in effect with regard to the Developer any other party subject to Filing No. 8 SIA except as specifically modified by the First, Third, Fourth, and Fifth Amendments with regard to the Developer’s rights, duties, obligations, responsibilities, and benefits; and

**WHEREAS**, the Town’s Board of Trustees desires to approve the Fifth Amendment thereby satisfying the Developer’s obligation to execute a Development Plan Agreement.

**NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF LYONS, COLORADO, THAT:**

Section 1. The above recitals are hereby incorporated by reference.

Section 2. The Board of Trustees hereby:

- a) Approves the Fifth Amendment with the Developer, in substantially the form attached to this Resolution.
- b) Authorizes the Town Administrator in consultation with the Town Attorney to make non-substantial changes to the Fifth Amendment that do not increase the financial obligations of the Town.
- c) Authorizes the Mayor or Mayor Pro Tem to execute the Fifth Amendment and the Town Clerk to attest the Mayor’s signature.

d) Authorizes the Town Administrator to take all actions consistent with this resolution to ensure compliance of the Developer with the obligations of the Fifth Amendment.

Section 3. This Resolution shall become effective immediately upon adoption by the Board of Trustees.

**ADOPTED THIS 11<sup>TH</sup> DAY OF APRIL 2022.**

**TOWN OF LYONS**

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Nicholas Angelo, Mayor

ATTEST:

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Dolores M. Vasquez, CMC,  
Town Clerk