

**TOWN OF LYONS, COLORADO
RESOLUTION 2020-44**

**A RESOLUTION OF THE TOWN OF LYONS, COLORADO APPROVING AN
OPERATIONS AND MAINTENANCE AGREEMENT BETWEEN THE TOWN OF LYONS
AND LYONS DITCH COMPANY**

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 *et seq.*; and

WHEREAS, the Lyons Ditch Company (“Ditch Company”) has rights and obligations under Colorado law to operate and maintain for the benefit of its shareholders the Lyons Ditch No. 1 (the “Ditch”) and related diversion, transportation, storage and other structures and facilities and rights of way; and

WHEREAS, the Ditch crosses certain Town-owned property, including LaVern M. Johnson (Meadow) Park, described more fully in **Exhibit A**, and attached hereto, via rights-of-way and easements owned and maintained by the Ditch Company; and

WHEREAS, the Town and the Ditch Company desire to cooperate and to foster a positive working relationship that will enhance the health, safety and welfare of the residents of the Town and of the Ditch Company’s service area; and

WHEREAS, the Town and the Ditch Company each own, control and operate facilities that the other party may wish to utilize from time to time for the purpose of conveying water; and

WHEREAS, the Town previously entered into an agreement with the Lyons Ditch Company to assist with the operations and maintenance of the Lyons Ditch (“Lyons Ditch O & M Agreement”); and

WHEREAS, both parties desire to enter into a new O&M Agreement in order to document the rights and responsibilities of each party with regard to the facilities owned by the other; and

WHEREAS, the Lyons Board of Trustees desires to approve the Lyons Ditch O & M Agreement (the “Agreement”) in substantially the form attached hereto and incorporated by reference, and further desires to authorize the Mayor or Mayor Pro Tem to execute the Agreement.

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

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

Section 2. The Board of Trustees hereby:

- (1) Approves the 2020 Lyons Ditch O & M Agreement between the Lyons Ditch Company and the Town in substantially the form attached hereto as **Exhibit 1**;
- (2) Authorizes the Town Administrator, in consultation with the Town Attorney, to negotiate and make such changes to the Lyons Ditch O & M Agreement as may be required to the extent they do not materially increase the obligations of the Town;
- (3) Authorizes the Mayor or Mayor Pro Tem and the Town Administrator to execute such Agreement; and
- (4) Authorizes Town Staff to take all actions necessary to implement the Agreement.

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

ADOPTED THIS 16th DAY OF March 2020.

TOWN OF LYONS, COLORADO

By: _____
Connie Sullivan, Mayor

ATTEST:

By: _____
Dolores Vasquez, Town Clerk

APPROVED AS TO FORM:

By: _____
Town Attorney

EXHIBIT 1
2020 Lyons Ditch Operations and Maintenance Agreement
[See *attached*]