

**TOWN OF LYONS, COLORADO
RESOLUTION 2021-54**

**A RESOLUTION OF THE TOWN OF LYONS, COLORADO APPROVING A
REVOCABLE LICENSE AND ACCESS AGREEMENT WITH KAREN CARLSON
AND DAVID GOODYEAR (324 SEWARD)**

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, the Town desires to authorize Karen Carlson and David Goodyear ("Licensees") to utilize Town-property to access their property at 324 Seward Lyons Colorado; and

WHEREAS, the Board of Trustees desires to enter into a Revocable License and Access Agreement with Licensees, attached hereto as **Exhibit A** and incorporated by reference, memorializing the terms and conditions of the authorization.

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

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

Section 2. The Board of Trustees hereby:

- (a) Approves the Revocable License and Access Agreement in substantially the form attached hereto as **Exhibit A**;
- (b) Authorizes the Town Administrator and the Town Attorney, in consultation with the Mayor, to make such changes as may be necessary to correct any non-material errors or language in the Revocable License and Access Agreement that does not increase the financial obligations of the Town;
- (c) Authorizes the Mayor of Mayor Pro Tern to execute Revocable License and Access Agreement on behalf of the Town and the Town Clerk to attest such signature.

Section 3. This Resolution shall take effect immediately upon adoption.

ADOPTED THIS 17th DAY OF MAY 2021.

TOWN OF LYONS

Nicholas Angelo, Mayor

ATTEST:

Dolores M. Vasquez, CMC
Town Clerk

EXHIBIT A

REVOCABLE LICENSE AND ACCESS AGREEMENT

This Revocable License and Access Agreement (“AGREEMENT”) is entered into by and between the Town of Lyons, a statutory town of the state of Colorado (“TOWN”) and Karen Carlson and David Goodyear, individuals (“LICENSEES”). Each may hereinafter be referred to as “PARTY” individually or collectively as the “PARTIES.”

WHEREAS, the TOWN owns property located in Lyons, Colorado which consists of a two-track road for the purposes of accessing TOWN-owned property known as “tank hill” and is legally described in the attached **Exhibit A** and graphically depicted in the attached **Exhibit B** (“PREMISES”); and

WHEREAS, LICENSEES desires to occupy the PREMISES for the purposes of pedestrian and vehicular access LICENSEES’ property at 324 Seward Avenue, Lyons, Colorado (“ACCESS GRANT”) and TOWN is willing to grant LICENSEES a license for the ACCESS GRANT, subject to the terms and conditions contained herein; and

NOW, THEREFORE, in consideration of Ten and no/100 (\$10.00) Dollars cash in hand paid by LICENSEES to TOWN, and for other good and valuable consideration described herein, the TOWN hereby grants LICENSEES a revocable non-exclusive temporary license and right to access the PREMISES for a period of five (5) years from the date of mutual execution of this AGREEMENT by the PARTIES.

1. **TERM AND RENEWAL:** This AGREEMENT shall continue for a term of five (5) years from the date of mutual execution of this AGREEMENT (“TERM”) unless earlier revoked by the Town. Following expiration of the TERM of this AGREEMENT, this AGREEMENT shall renew month-month under the same terms and conditions as provided herein. This Agreement may additionally be renewed and/or modified pursuant to a written agreement between the PARTIES.
2. **MAINTENANCE OF PREMISES:** LICENSEES shall be responsible for shared maintenance of the PREMISE including snow removal. The PREMISES shall be kept clean from refuse, debris, and trash by LICENSEES.
3. **LICENSE EXPRESSLY REVOCABLE: THIS AGREEMENT AND THE LICENSE AND RIGHT OF ACCESS GRANTED THEREUNDER MAY BE REVOKED AT ANY TIME BY THE TOWN FOR ANY REASON, OR FOR NO REASON, WITHOUT ANY LIABILITY OR CLAIM OF DAMAGES AGAINST THE TOWN.**
4. **DAMAGE AND RESTORATION OF PROPERTY:** LICENSEES shall take all necessary precautions to protect the PREMISES from any damages resulting from LICENSEES’ use and access of the PREMISES. LICENSEES shall immediately notify the TOWN of any and all damages resulting from, arising out of, or caused to, the PREMISES by LICENSEES, its officers, agents, employees and invitees. LICENSEES shall be solely responsible for the costs and the repair and/or replacement of all such damages and such repairs and/or replacements shall be commenced immediately and completed within thirty (30) calendar days and shall be completed in a manner acceptable to the TOWN in its sole discretion.

5. **PROHIBITED USES:** LICENSEES shall not use the PREMISES in any manner that constitutes waste or nuisance, or that violates any applicable law, ordinance, or governmental regulation in any respect. LICENSEES shall neither do nor permit to be done anything that would render void or uncollectible any insurance then in force with respect to the PREMISES, or that would in any way increase the premiums payable by TOWN for fire, liability, or any other insurance coverage on the PREMISES.
6. **COMPLIANCE WITH LAW:** LICENSEES agrees to utilize its ACCESS GRANT in compliance with all federal, state and local laws, rules, and regulations, as well as with all regulations, restrictions, and requirements of the police, fire, and health departments now or hereafter in effect. LICENSEES shall obtain and keep in effect at its own cost and expense all licenses, permits, and taxes incurred or required in connection with this AGREEMENT.
7. **NON-EXCLUSIVE:** This Agreement is not exclusive and the TOWN reserves the right to go on or across, and to permit others to go on and across, the PREMISES for any purpose whatsoever and to conduct any operations or activities that the TOWN may desire. The LICENSEES enters into the AGREEMENT understanding and acknowledging that the TOWN has already granted access to the PREMISES to other entities and LICENSEES use of the PREMISES is subject to the TOWN'S use and the use by other entities of the PREMISES.
8. **NO WARRANTY/PREMISES ACCEPTED AS/IS:** This Agreement is made by the TOWN without any warranty of title, either express or implied, concerning the PREMISES. LICENSEES agrees that it is taking the PREMISES in its current "AS IS" condition, with no representations or warranties of any nature whatsoever by the TOWN. LICENSEES acknowledge that LICENSEES have inspected the PREMISES and is thoroughly familiar with its condition, and LICENSEES hereby accepts the PREMISES in its present condition for its intended use by LICENSEES. No person acting on behalf of the TOWN is authorized to make, and by execution hereof, LICENSEES acknowledges that no person has made any representations, agreement, statement, warranty, guarantee or promise regarding the PREMISES or the use contemplated herein or the zoning, construction, physical condition or other status of the PREMISES, except as may be expressly set forth in this AGREEMENT. No representation, warranty, agreement, statement, guarantee or promise, if any, made by any person acting on behalf of TOWN which is not contained in this Agreement will be valid or binding on TOWN.
9. **INDEMNIFICATION:** LICENSEES shall execute the Indemnification Agreement attached hereto and made a part hereof as Exhibit "C"

LICENSEES COVENANTS AND AGREES THAT THE TOWN SHALL IN NO WAY NOR UNDER ANY CIRCUMSTANCES BE RESPONSIBLE FOR ANY PROPERTY BELONGING TO LICENSEE, ITS MEMBERS, EMPLOYEES, AGENTS, CONTRACTORS, SUBCONTRACTORS, INVITEES, LICENSEES, OR TRESPASSERS, WHICH MAY BE DESTROYED OR IN ANY WAY DAMAGED BY USE OF THE PREMISES AND LICENSEES HEREBY INDEMNIFIES AND HOLDS HARMLESS THE TOWN FROM AND AGAINST ANY AND ALL SUCH CLAIMS. THE TOWN DOES NOT

GUARANTEE POLICE PROTECTION AND WILL NOT BE LIABLE FOR ANY LOSS OR DAMAGE SUSTAINED BY LICENSEES, ITS MEMBERS, EMPLOYEES, AGENTS, CONTRACTORS, SUBCONTRACTORS, INVITEES, LICENSEES, OR TRESPASSERS ON ANY OF THE PREMISES.

10. **LIABILITY:** LICENSEES shall hold the TOWN harmless from liability resulting from the negligent acts or omissions of TOWN, its agents or employees pertaining to the activities to be carried out pursuant to the obligations of this Agreement; provided, however that TOWN shall not hold LICENSEES harmless from claims arising out of the negligence or willful malfeasance of the TOWN, its officers, agents, or employees, or any person or entity not subject to the TOWN'S supervision or control.
11. **NO ASSIGNMENT:** LICENSEE may not assign or transfer any rights or interest in this AGREEMENT without the written consent of the TOWN, and any such attempted transfer without written consent shall be void.
12. **SEVERABILITY:** In the event that any of the covenants, agreements, terms or provisions contained in this AGREEMENT shall be invalid, illegal or unenforceable in any respect, the validity of the remaining covenants, agreements, terms or provisions contained herein shall be in no way affected, prejudiced or disturbed thereby.
13. **ENTIRE AGREEMENT:** This written instrument constitutes the entire AGREEMENT by the PARTIES hereto concerning this AGREEMENT, and the obligation of the parties and any prior or contemporaneous oral or written agreement that purports to vary from the terms hereof shall be void. This AGREEMENT cannot be modified or amended without the written consent of all the parties hereto and attached and made a part of this AGREEMENT.
14. **VENUE:** This AGREEMENT shall be governed by the laws of the State of Colorado. Venue for any action brought to interpret or enforce, or arising out of or incident to, the terms of this Agreement shall be in the courts of Boulder County, Colorado.
15. **NO WAIVER OF GOVERNMENTAL IMMUNITY:** Nothing in this AGREEMENT shall be construed to waive, limit, or otherwise modify any governmental immunity that may be available by law to the TOWN, its elected and appointed officials, employees, contractors, or agents, or any other person acting on behalf of the TOWN and, in particular, governmental immunity afforded or available pursuant to the Colorado Governmental Immunity Act, Title 24, Article 10, Part 1 of the Colorado Revised Statutes.
16. **COMPLETE AGREEMENT:** This AGREEMENT and the exhibits hereto constitute the final and complete agreement, and supersede all prior correspondence, memoranda or agreements between the PARTIES relating to the subject matter thereof. This AGREEMENT cannot be changed or modified other than by a written agreement executed by both PARTIES. Nothing in this agreement shall be deemed to create or constitute a partnership, joint venture, or relationship of principal and agent between the PARTIES.
17. **AUTHORITY:** The individuals executing this AGREEMENT represent that they are expressly authorized to enter into this AGREEMENT on behalf of TOWN and the

LICENSEES and bind their respective entities.
By executing this Agreement, LICENSEES agrees to and accepts the terms, conditions and provisions provided herein.

EXECUTED on this _____ day of _____, 20____.

TOWN:

TOWN OF LYONS, COLORADO

Nicholas Angelo, Mayor

ATTEST:

Dolores Vasquez, Town Clerk

LICENSEES:

Names

LICENSEES' ADDRESS & PHONE NUMBER:

Tele: _____

EXHIBIT A

LEGAL DESCRIPTION OF PREMISES

East twenty feet (20') of Lot 4, Block 5, Nortonville Addition Lyons, Colorado, specifically the west fifty five feet (55') of Lot 4, Block 5, Nortonville Addition Lyons, Colorado.

EXHIBIT B

GRAPHICAL DEPICTION OF PREMISES

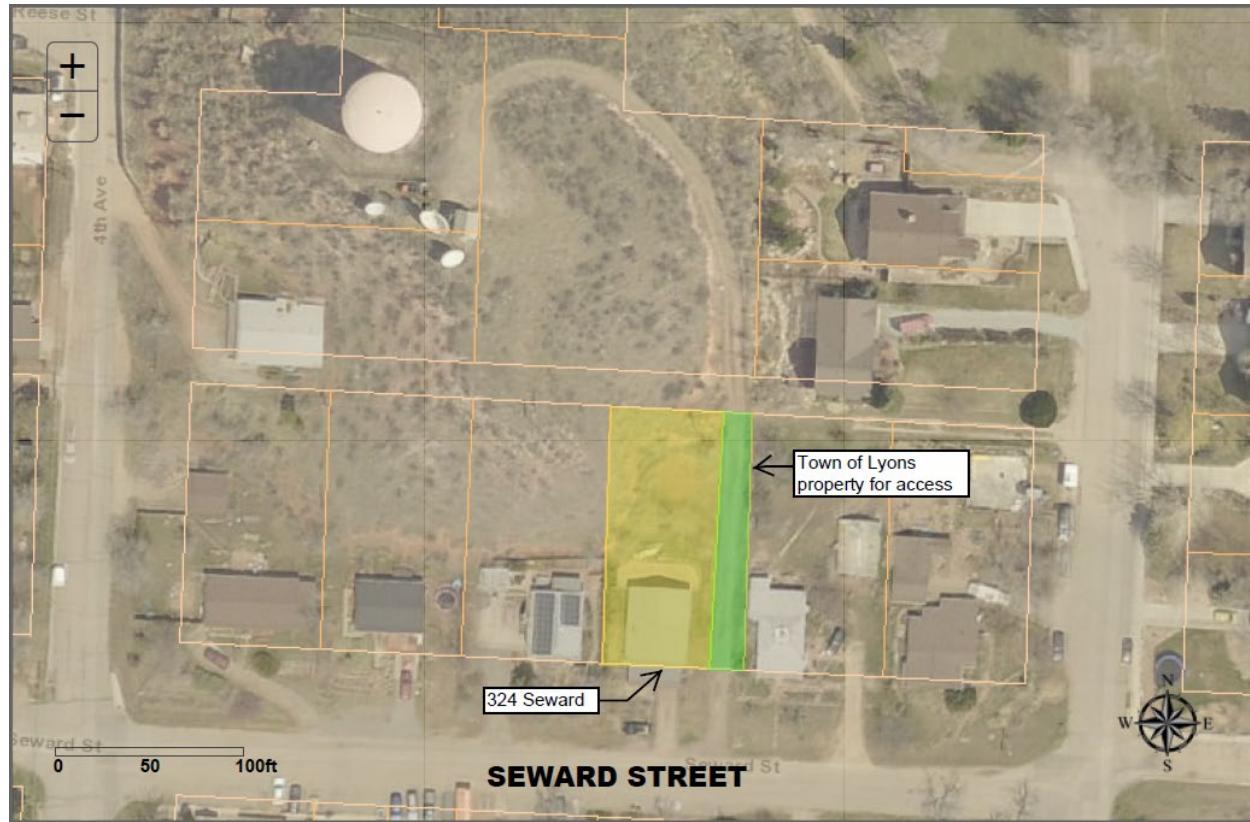


EXHIBIT C

Indemnification Agreement

Town shall not be liable or responsible for, and shall be saved and held harmless by Licensees from and against any and all suits, actions, losses, damages, claims, or liability of any character, type, or description, including all expenses of litigation, court costs, and attorney's fees for injury or death to any person, or injury to any property, received or sustained by any person or persons or property, arising out of, or occasioned by, directly or indirectly, the performance of Licensee under this Agreement, including claims and damages arising in part from the negligence of the Town, without; however, waiving any governmental immunity available to the Town under Colorado law and without waiving any defenses of the parties under Colorado law. The provisions of this indemnification are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

It is the express intent of the parties to this Agreement that the indemnity provided for in this section is an indemnity extended by Licensees to indemnify and protect Town from the consequences of Town's own negligence, provided, however, that the indemnity provided for in this section shall apply only when the negligent act of Town is a contributory cause of the resultant injury, death, or damage, and shall have no application when the negligent act of Town is the sole cause of the resultant injury, death, or damage, unmixed with the legal fault of another person or entity.

Licensees further agrees to defend, at its own expense, and on behalf of Town and in the name of Town, any claim or litigation brought in connection with any such injury, death, or damage.

LICENSEE (Name)

**BY
(Signature)**

PRINTED NAME

LICENSEE (Name)

**BY
(Signature)**

PRINTED NAME