

**TOWN OF LYONS, COLORADO  
RESOLUTION 2017-28**

**A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF LYONS ACTING ON  
BEHALF OF THE TOWN'S WATER ENTERPRISE APPROVING A CONTRACT TO  
BUY AND SELL REAL ESTATE BETWEEN THE TOWN OF LYONS WATER ENTERPRISE  
AND THE CITY OF LONGMONT WATER UTILITY ENTERPRISE**

**WHEREAS**, the Front Range Flood of 2013 caused extensive damage to the municipal infrastructure of the Town of Lyons (the "Town"), including but not limited to, the Town's public works building; and

**WHEREAS**, the Town is authorized by Section 31-35-401, C.R.S., to establish and maintain enterprises as that term is defined under Colorado law for the purpose of owning and operating the Town's water and wastewater systems; and

**WHEREAS**, Article X, Section 20 of the Colorado Constitution, commonly referred to as the TABOR amendment, provides that an enterprise is a government-owned business that is authorized to issue its own revenue bonds, and which receives less than ten percent (10%) of its total annual revenue in grants from all Colorado state and local governments combined; and

**WHEREAS**, an enterprise is exempt from the provisions of the TABOR amendment; and

**WHEREAS**, pursuant to Resolution 2013-16, the Town combined funds from its water and sanitation enterprise funds, thereby establishing an enterprise that currently operates as the Town of Lyons Water/Sanitation Enterprise (the "Lyons Water Enterprise"); and

**WHEREAS**, the Lyons Water Enterprise requires a new building to house equipment and supplies necessary to operate and maintain its water and wastewater facilities (the "New Facility"), which function was previously fulfilled by the former Town public works building; and

**WHEREAS**, the Lyons Water Enterprise is authorized by Sections 31-35-401 and 31-35-402, C.R.S., to construct and extend water facilities and sewerage facilities or both, wholly or partially within or without the Town limits, and to acquire by purchase lands and rights in land in connection therewith; and

**WHEREAS**, Town staff, acting on behalf of the Lyons Water Enterprise, has examined numerous potential sites for land upon which to build the New Facility in light of limitations established by the Federal Emergency Management Association ("FEMA"); and

**WHEREAS**, the City of Longmont (the "City") has been attempting to sell its former water treatment plant, which is located outside of the City limits in the vicinity of what is referred to as the Town's Eastern Corridor (the "Property"); and

**WHEREAS**, the Lyons Water Enterprise has an interest in acquiring the Property, consisting of approximately nine (9) acres, more or less, in order to build the New Facility; and

**WHEREAS**, the Lyons Water Enterprise has determined that it is appropriate to acquire the Property, which has been marketed in its entirety, because it needs some of the Property for the proposed New Facility, an authorized function of the Lyons Water Enterprise, and the Property complies with FEMA's limitations and requirements; and

**WHEREAS**, after it has acquired the Property, the Lyons Water Enterprise may, after further evaluation, planning, and design, determine that some of the Property might not be necessary for the New Facility but could be suitable for any number of purposes, including additional water, wastewater, or municipal facilities or any other desirable or permissible use, and therefore, beyond what portion of the Property is required for the New Facility, the Lyons Water Enterprise is not acquiring the Property for any particular purpose, municipal or otherwise; and

**WHEREAS**, the Lyons Water Enterprise has made an offer to purchase the Property from the City, and the City, acting on behalf of its Water Utility Enterprise, has accepted the offer, subject to certain conditions and contingencies; and

**WHEREAS**, the Lyons Water Enterprise and the City have prepared a Contract to Buy and Sell Real Estate for the Property, and the Town's Board of Trustees desires to approve the Contract to Buy and Sell Real Estate on behalf of the Lyons Water Enterprise.

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

Section 1. The Town of Lyons Board of Trustees, acting on behalf of the Lyons Water Enterprise, hereby approves the Contract to Buy and Sell Real Estate for the former Longmont water treatment plant and the land associated therewith, as more particularly described in such contract, in substantially the form attached hereto.

Section 2. The Board of Trustees authorizes the Mayor or Mayor Pro Tem to sign the Contract to Buy and Sell Real Estate on behalf of the Lyons Water Enterprise, as well as such other documents as are reasonably necessary to consummate the transaction, and authorizes the Town Clerk to attest to the Mayor's or Mayor Pro Tem's signature. The Board further authorizes the Town Administrator and the Town Attorney, in consultation with the Mayor, to make such changes to the Contract to Buy and Sell Real Estate and the exhibits thereto to correct any nonmaterial errors or language that do not increase the obligations of the Town.

Section 3. The Board of Trustees authorizes the Mayor and/or the Town Administrator, together with the Town Attorney and other necessary Town staff, to perform, oversee, or participate in the performance of all due diligence required in connection with the Contract, including but not limited to evaluating any and all risks associated with the title, survey and environmental assessments, and to make determinations regarding the appropriateness of accepting any and all such risks, subject to any final approval by the Board of Trustees, or to additional review and/or approval by the Board at the discretion of the Mayor and/or the Town Administrator.

Section 4. This resolution shall become effective immediately upon its adoption.

**ADOPTED this 20<sup>th</sup> DAY OF MARCH 2017.**

TOWN OF LYONS

By: \_\_\_\_\_  
Connie Sullivan, Mayor

ATTEST:

\_\_\_\_\_  
Debra K. Anthony, Town Clerk