

**TOWN OF LYONS, COLORADO
RESOLUTION 2017-59**

**A RESOLUTION DETERMINING THAT FLOOD RESPONSE AND RECOVERY FUEL TANKS
AND SUPPLIES PROVIDED BY AGFINITY, INC. WERE REASONABLE AND NECESSARY**

WHEREAS, the Town of Lyons ("Town") is a statutory municipality in the State of Colorado with a population of approximately 2,000 individuals; and

WHEREAS, a result of the extensive flooding suffered by the Town in September 2013 ("Flood"), the Governor of Colorado declared a state of disaster emergency for Boulder County as set forth in Executive Order D 2013-026, dated September 13, 2013, and the President of the United States declared the Flood a federal major disaster on September 14, 2013; and

WHEREAS, due to the emergent nature of the Flood and the officially declared state of disaster in Boulder County, the Governor of Colorado authorized the use of National Guard assets for Flood-related missions; and

WHEREAS, consequently, residents of the Town were strongly encouraged to evacuate, the Colorado National Guard assisted in evacuating some residents of the Town, and residents who had evacuated remained unable to return to Town for a minimum of six weeks after the Flood; and

WHEREAS, the Town experienced an acute and immediate need for emergency flood response and recovery services, both during and after the Flood ("Services"); and

WHEREAS, the need for equipment rental, repairs and services arose during the Flood and were essential to assist with emergency protective measures and preserving key infrastructure; and

WHEREAS, the need for some of the equipment rental, repairs and services, such as for excavation, debris removal and restoration of utility services, arose in the immediate aftermath of the Flood; and

WHEREAS, pursuant to Ordinance 942, the Town operated under an official declaration of local disaster emergency through midnight on January 12, 2014; and

WHEREAS, the Flood destroyed essential infrastructure, including fuel tanks, roads and bridges, and law enforcement closed the main road into Town, which resulted in limited or no access to Town Hall until approximately December 1, 2013; and

WHEREAS, the Flood destroyed electrical and communications infrastructure essential to telephone, cell phone and internet services, which prevented or interfered with the Town's ability to function during the Flood and until staff could occupy Town Hall in December 2013; and

WHEREAS, the Public Works Department did not have adequate personnel, equipment or materials to perform the urgent and necessary services because of the broad range and scope of such services and because of its limited capacity and resources of Public Works staff, equipment and supplies, and because the Flood had destroyed or displaced the Town's already limited inventory of equipment and materials; and

WHEREAS, the Town determined that it needed to continue to receive services from the previous and current fuel supplier, Agfinity; and

WHEREAS, the Town had temporarily suspended normal procurement processes during the emergency phase of the disaster due to the limited or non-existent access to Town Hall, telephone, cell phone and Internet services; and

WHEREAS, due to the emergent nature of the Flood and limited access to Town, the current Public Works Director determined it was necessary and reasonable to contact Agfinity to replace the lost fuel tanks and continue to supply fuel to the Town; and

WHEREAS, during the Flood event, the Town engaged the assistance of Agfinity, which provided replacement fuel tanks and fuel; and

WHEREAS, fuel was needed for equipment use that was used on a variety of projects throughout the Town during the Flood including debris removal; and

WHEREAS, the Town entered into that certain agreement in 2014 with Agfinity scheduled delivery; and

WHEREAS, Agfinity satisfactorily provided the Town the necessary replacement fuel tanks and fuel at the time of the Flood response and into recovery work; and

WHEREAS, after much of the replacement of fuel tanks and the continued supply of fuel, the Town determined that both were either consistent with or less than the costs quoted by other comparable contractors in the area; and

WHEREAS, in December 2016, the Town formally adopted procedures concerning procurement; and

WHEREAS, the Board of Trustees desires to acknowledge and find that fuel tanks and fuel provided by Agfinity were reasonable in scope and cost, and necessary for the health, safety and welfare of the Town and its citizens and for protecting properties.

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

Section 1. The Board of Trustees hereby finds that the flood response and recovery supplies provided by Agfinity resulted in the Town and its citizens receiving essential flood response and recovery replacement fuel tanks and fuel that were necessary due to the 2013 flood event at a cost that was less than or comparable to costs charged by other commercial companies providing similar tanks and fuel in the area, and that therefore the tanks and fuel provided by Agfinity were reasonable in scope and cost and necessary for the health, safety and welfare of the Town and its citizens, and to protect property.

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

ADOPTED THIS FIRST DAY OF MAY, 2017.

TOWN OF LYONS

By: _____
Connie Sullivan, Mayor

ATTEST:

Debra K. Anthony, MMC - Town Clerk