

**TOWN OF LYONS, COLORADO
RESOLUTION 2019-117**

A RESOLUTION OF THE TOWN OF LYONS DETERMINING THAT PROCUREMENT OF ASPHALT MATERIALS USED TO FILL DAMAGED ROADS AND PROVIDED BY BRANNAN SAND AND GRAVEL 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 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, 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 the volume of services that needed to be performed during and immediately after the Flood far exceeded the resources and capacity of the Town, its staff, and its equipment and materials; and

WHEREAS, the Town determined that it needed the assistance of commercial entities to perform the services and obtain the necessary equipment in a timely manner for the health, safety, and welfare of its citizens, and protection of property; 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 Town decided to contract with contractors familiar with the Town, who could access the Town, and that possessed resources and capacity to perform the needed work; and

WHEREAS, during the Flood event, the Town engaged the assistance of Brannan Sand & Gravel which provided asphalt materials needed during the response and recovery on the Town's roads after making emergency repairs to a temporary waterline; and

WHEREAS, the Town entered into that certain agreement with Brannan Sand & Gravel, to provide asphalt materials to repair the roads after the temporary waterline repairs were made; and

WHEREAS, Brannan Sand & Gravel satisfactorily provided the necessary asphalt materials at the time of the Flood response and into recovery work; and

WHEREAS, after the initial Flood response and recovery work was completed, Town staff evaluated Brannan Sand & Gravel invoices for the asphalt materials and found that these were either consistent with or less than the costs quoted by other comparable contractors; and

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

WHEREAS, the Board of Trustees desires to acknowledge and find that asphalt materials provided by Brannan Sand & Gravel 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 above recitals are hereby incorporated by reference.

Section 2. The Board of Trustees hereby finds that the flood response and recovery road repair materials provided by Brannan Sand & Gravel resulted in the Town and its citizens receiving essential flood response and recovery services 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 services in the area, and that therefore the asphalt materials

provided by Brannan Sand & Gravel 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 3. This resolution shall become effective immediately upon adoption.

ADOPTED THIS 21st DAY OF OCTOBER, 2019.

TOWN OF LYONS

By: _____
Connie Sullivan, Mayor

ATTEST:

Debra K. Anthony, MMC - Town Clerk