

**TOWN OF LYONS, COLORADO
ORDINANCE 1116**

**AN ORDINANCE OF THE TOWN OF LYONS, COLORADO APPROVING AN AMENDMENT
TO A CONTRACT TO BUY AND SELL REAL ESTATE WITH LYONS UTE HWY, LLC FOR
LOT 1, RAILROAD SUBDIVISION**

WHEREAS, C.R.S. § 31-15-713(1)(b) provides that the Town of Lyons (the “Town”), by ordinance may dispose of any real property not held or used for park purposes or any other governmental purpose upon terms and conditions the Town of Lyons Board of Trustees (the “Board”) may determine; and

WHEREAS, pursuant to that authority, on February 4, 2019, the Board passed Ordinance 1052 authorizing the sale of surplus property of the Town to Paul Tamburello; and

WHEREAS, Ordinance 1052 authorized the sale of surplus property known as “the Railroad Right of Way Property” (“Railroad Property”) pursuant to a Memorandum of Agreement (“MOA”) attached to the Ordinance; and

WHEREAS, the MOA outlined several preconditions of sale that were required to be satisfied by the Town prior to the execution of a buy and sell contract for sale of the Railroad Property; and

WHEREAS, the preconditions of sale established by the MOA included: approval for the alienation of the Railroad Property from the EDA; subdivision of the 100 ft Previous Railroad Right of Way into the portion to be sold; annexation of a portion of the Railroad Property into the Town; and appraisal of the value of the Railroad Property

WHEREAS, the Town satisfied all conditions of sale; and

WHEREAS, pursuant to the authority granted under Ordinance 1052 and the MOA, the Town Administrator executed a Buy and Sell Contract for Lot 1, Railroad Subdivision with Lyons Ute Hwy, LLC (the “Agreement”); and

WHEREAS, the Board ratified the Agreement pursuant to Resolution 2020-41; and

WHEREAS, Lyons Ute Hwy, LLC is the successor to Paul Tamburello as the buyer of the property pursuant to Section 30.1 of the Agreement; and

WHEREAS, the Agreement requires pursuant to Section 30.9 that:

Buyer shall have 1 year from the date of closing to make application for a PUD to the city that encompasses both the north and south parcels. In the event Buyers fails to make said application buyer agrees to pay a penalty fee of \$100,000.00 due and payable within 30 days. (This Section 30.9 shall survive the closing and not merge with the deed); and

WHEREAS, due to difficulties created by the Corona Virus Disease 2019 (“COVID-19”) public health crisis the Town and Lyons Ute Hwy agreed to extend the requirement to submit a planned united development (“PUD”) an additional 17 months pursuant to Ordinance 1090; and

WHEREAS, during a regular Town of Lyons Board of Trustees (“Board”) meeting on December 6, 2021, Lyons Ute Hwy, LLC requested that the Section 30.9 be removed from the Buy and Sell Agreement; and

WHEREAS, the Board agreed with the request of Lyons Ute Hwy, LLC and directed Town Staff to amend the Buy and Sell Agreement; and

WHEREAS, pursuant to Section 26 of the Agreement, amendments to the agreement must be in writing and signed by both parties; and

WHEREAS, the Board desires to approve an amendment to Section 30.9 of the agreement substantially in form of the amendment attached as **Exhibit A** and incorporated herein by reference (the “Amendment”) to remove the requirement to submit an application for a PUD.

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

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

Section 2. The Town Board of Trustees hereby approved the Amendment as substantially reflected in **Exhibit A**.

Section 3. The Town Board of Trustees authorizes the Town Administrator, in consultation with the Town Attorney, to make non-material changes to the Amendment which do not increase the financial obligations of the Town.

Section 4. Effective Date. This Ordinance Shall become effective thirty (30) days after publication following final passage in accordance with Lyons Municipal Code Section 2-2-160.

INTRODUCED AND PASSED ON FIRST READING THIS DAY OF _____, 2022.

INTRODUCED, PASSED, ADOPTED AND ORDERED PUBLISHED THIS DAY OF _____, 2022.

TOWN OF LYONS, COLORADO

Nicholas Angelo, Mayor

ATTEST:

Dolores Vasquez, Town Clerk