

**TOWN OF LYONS, COLORADO
ORDINANCE 1090**

**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 project to develop the property has been significantly delayed including the underlying work required to submit an application for a PUD; and

WHEREAS, Lyons Ute Hwy, LLC has requested that the Section 30.9 be amended to permit the buyer 17 months from the date of purchase to file an application for a PUC; 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 extend the date from one year to 24 months to make an application for a planned unit development ("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.

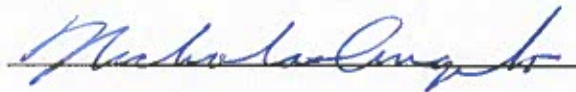
Section 3. The Town Board of Trustees authorizes the Town Administrator, in consultation with the Town Attorney, to make non-material changes to the Amendment which do not increase the financial obligations of the Town.

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 ^{2nd} DAY OF ^{Nov} 2020.

INTRODUCED, PASSED, ADOPTED AND ORDERED PUBLISHED THIS ^{16th} DAY OF ^{November} 2020.

TOWN OF LYONS, COLORADO



Nicholas Angelo, Mayor



Dolores Vasquez, Town Clerk

The printed portions of this form, except differentiated additions, have been approved by the Colorado Real Estate Commission.
(AE41-6-15) (Mandatory 1-16)

THIS FORM HAS IMPORTANT LEGAL CONSEQUENCES AND THE PARTIES SHOULD CONSULT LEGAL AND TAX OR OTHER COUNSEL BEFORE SIGNING.

AGREEMENT TO AMEND/EXTEND CONTRACT

Date: _____

1. This agreement amends the contract dated _____ (Contract), between Town of Lyons, Colorado (Seller), and Lyons Ute Hwy, LLC (Buyer), relating to the sale and purchase of the following legally described real estate in the County of Boulder, Colorado: Lot 2, Lyons Village East*, consisting of approximately 7.58 acres *following recordation of Lyons Village East plat in the real property records of the County of Boulder, State of Colorado, together with the interests, easements, rights, benefits, improvements and attached fixtures appurtenant thereto, and all interest of Seller in vacated streets and alleys adjacent thereto, except as herein excluded (Property).

known as No. 4651 and 4652 UTE HIGHWAY Lyons Colorado 80540-0049 (Property).
Street Address City State Zip

NOTE: If the table is omitted, or if any item is left blank or is marked in the "No Change" column, it means no change to the corresponding provision of the Contract. If any item is marked in the "Deleted" column, it means that the corresponding provision of the Contract to which reference is made is deleted.

2. § 3. DATES AND DEADLINES. [Note: This table may be omitted if inapplicable.]

3. Other dates or deadlines set forth in the Contract are changed as follows:
Section 30.9 Buyer shall have **24 months** 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 fail 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 deed.

4. Additional amendments:
None

All other terms and conditions of the Contract remain the same.

This proposal expires unless accepted in writing by Seller and Buyer as evidenced by their signatures below and the offering party to this document receives notice of such acceptance on or before October 31, 2020 5:00 PM UT

Date Time
January 29, 2021 12:00

Buyer's Name: Paúl Tamburello
[Signature] 1/29/21
Buyer's Signature Date

Buyer's Name: _____
Buyer's Signature Date

Seller's Name: Town of Lyons, Colorado

Seller's Signature Date

Seller's Name: _____
[Signature] 1-29-21
Seller's Signature Date

