

Workshop

6:00 PM – 6:50 PM - URA Discussion Concerning Amendments to By-Laws

DRAFT AGENDA
TOWN OF LYONS

7:00 P.M., TUESDAY, FEBRUARY 16, , 2016

BOARD OF TRUSTEES MEETING
SHIRLEY F. JOHNSON COUNCIL CHAMBER
LYONS TOWN HALL, 432 5TH AVENUE, LYONS, COLORADO

- I. Roll Call and Pledge of Allegiance
- II. A Reflective Moment of Silence
- III. Approval of the Agenda
- IV. Sgt Nick Goldberger, Sheriff's Dept Report
- V. Audience Business - Limited to 15 minutes - All comments will be limited to 4 minutes per person
- VI. Lyons Local Liquor Authority
 1. Hotel & Restaurant Liquor License – Farmer Girl
- VII. Lyons URA Authority **(THESE ARE YOUR WORKSHOP MATERIALS)**
 1. Resolution 2016- 1, a Resolution of the Town of Lyons Urban Renewal Authority Designating Legal Counsel
 2. Resolution 2016 -2, a Resolution of the Town of Lyons Urban Renewal Authority Approving an Amendment to its Bylaws
 3. Resolution 2016-3, a Resolution of the Town of Lyons Urban Renewal Authority Approving an Amendment to its Bylaws (concerning private property)
- VIII. Confluence Update Signal at McConnell/Stone Canyon Update
- IX. Ordinance
 1. Ordinance 998, an Ordinance Approving An Extension of the Temporary Moratorium on the Acceptance and Processing of Any Applications or Petitions for Annexation for any Property Within the Lyons Planning Area, in the Eastern Corridor, Declaring an Emergency
- X. Consent Agenda
 1. February 2016 Accounts Payable
 2. February 1, 2016 BOT Meeting Minutes
 3. Resolution 2016-16, a Resolution Approving and Easement Between Latter Day Saints Church and Town of Lyons
 4. Resolution 2016-17, a Resolution Approving Change Order #2 in the Amount of \$3,186 to the Contract with Bryan Construction, INC, for the Lyons Depot Library Rehabilitation/Renovation
 5. Resolution 2019-19, a Resolution Approving Change Orders 8-22B with the Exception fo Change Orders 12, 14, 17-19, and 21 to Krische Constriction for Meadow Park Phase II Construction
- XI. General Business
 - Resolution 2016-18, a Resolution Awarding a Bid to and Approving a Contract with ICON Engineering INC, to Conduct a Storm Drainage Master Plan

XII. Items Removed from the Consent Agenda

XIII. Trustee Reports

XIV. Staff Reports

XV. Adjournment

“The Town of Lyons will not discriminate against qualified individuals with disabilities on the basis of disability in its services, programs, or activities. Persons needing accommodations or special assistance should contact the Town at hr@townoflyons.com as soon as possible, but no later than 72 hours before the scheduled event.”



Boulder County Sheriff's Office

JOE PELLE
Sheriff

To: Lyons Board of Trustees
From: Sgt. Nick Goldberger
Ref: 2015 Year end summary
Date: 02-11-16

Dear Board,

Attached you will find the documentation for yearly comparisons for "Calls for Service" and "Incident Reports" generated by the Sheriff's Office and the Boulder County Dispatch Center. The years of comparison are 2014 and 2015. This will be the first two year comparison in which the Boulder County Dispatch CAD system statistics is all the same and not mixing the old system and new system and deciphering the discrepancies. You will also see "Service by priority" attachment which breaks down the types of calls the Boulder County Dispatch Center gets.

Also attached is the Town of Lyons Court documentation as it pertains to traffic offenses and ordinance offenses in Lyons.

General "Calls for Service" of all the types described has increased by 22.88% compared to 2014. 2115 calls in 2014 and 2599 calls in 2015. The biggest percent changes in the number of occurrences are "sex assault". By comparing those to the "Incident Reports" (which are generated reports for the initial calls for service) the sex assault went up 100% in this case (up by 1). The other calls did not turn into a criminal event.

For "Incident Reports" generated by CAD calls or deputy self-initiated calls, we see some increases in report types but an overall decrease of 7.26% for all reports taken for the entire year of 2015. 427 reports in 2014 and 396 in 2015. There are too many variables on why this could be but I do like to say that deputy presence and enforcement are contributing to these numbers. For "Municipal Violation Lyons" (Careless driving, accidents, ...) there is an increase from 11 reports in 2014 to 24 reports in 2015. This can be from a variety of reasons, increase in violations due to the number of people in and coming through Lyons or due to deputy enforcement of violations that they see or get called to. The biggest percent changes in number of occurrences for reports are criminal trespass to vehicles and felony menacing.

For "Call Priority", we had 2115 calls for service total with 1098 "in progress calls" in 2014. In 2015, we had 2599 calls for service with 1401 "in progress calls". Total call volume went up by 22.88% comparing the two years.

Headquarters
5600 Flatiron Parkway
Boulder, Colorado 80301
303-441-3600

Communications • Emergency Management
3280 Airport Road
Boulder, Colorado 80301
303-441-4444 • 303-441-3390

Jail
3200 Airport Road
Boulder, Colorado 80301
303-441-4600

The Town of Lyons Court records shows the following.

2013: 642 cases (All ordinance violations). Total fines (court costs and restitution not included), \$71,088 (This was a not a typical year due to the flood).

2014: 1005 cases (All ordinance violations). Total fines, \$115,149.00 (First year with full Lyons deputy position).

2015: 1018 cases (All ordinance violations). Total fines, \$122,352.00 (Not the best comparison still, due to Deputy Wagner training (swift water, wildland fire, patrol bicycle, SWAT) and the new addition to the Wagner family (took time off for this as well as the training)).

Deputy Wagner's training that I deemed mandatory for his job assignment has been accomplished and there will be an anticipated decrease in days off, starting in 2016.

Sgt. Nick Goldberger
Town of Lyons Supervisor

Call Type Code	2014 Total												2015 Total												Grand Total	Percent Change	
	1	2	3	4	5	6	7	8	9	10	11	12	1	2	3	4	5	6	7	8	9	10	11	12			
ALHOLS-Panick/Duress/Hold up	1	2	3	4	5	6	7	8	9	10	11	12	1	2	3	4	5	6	7	8	9	10	11	12	1	4	-66.67%
ALINCOM- Inursion alarm	2	2	5	1	2	1	3	6	2	2	3	3	1	1	1	1	3	2	3	2	2	2	4	1	22	51	-24.14%
ANCOMS-Animal Complaint	3	2	5	7	18	14	19	17	16	7	7	3	9	4	7	7	6	14	14	46	18	9	5	5	144	261	22.03%
ASSAUS- Assault	9	8	7	6	9	6	11	6	7	7	9	3	3	1	1	1	1	1	1	1	1	1	1	1	6	9	100.00%
ASSISS- Assist	4	1	1	1	1	1	1	1	1	1	1	1	2	1	1	1	1	1	1	1	1	1	1	1	10	176	0.00%
ATIDCS- Attempt to Locate	2	2	1	1	2	2	2	2	2	2	1	1	10	1	1	1	1	1	3	1	1	2	2	2	6	12	50.00%
AUTHES- Auto Theft	2	2	1	1	1	1	1	1	1	1	1	1	5	1	3	1	1	1	2	1	1	2	2	2	11	22	20.00%
BURGLS- Burglary	2	2	1	1	1	1	1	1	1	1	1	1	10	1	3	1	1	1	3	3	1	2	2	2	6	11	20.00%
CHILD- Child Issue	2	2	1	1	1	1	1	1	1	1	1	1	5	1	1	1	1	1	1	1	1	1	1	1	1	1	0.00%
CIEVIS- Civil Eviction	4	2	2	2	2	2	2	2	2	2	2	2	18	6	1	1	1	1	1	1	1	2	2	1	11	29	-38.89%
CIPROS- Civil Protection Order	2	2	2	2	2	2	2	2	2	2	2	2	20	1	1	1	1	8	4	5	2	4	1	1	28	48	40.00%
CIRSVS- Civil Service	3	3	3	3	3	3	3	3	3	3	3	3	13	1	1	1	1	1	1	1	1	1	1	1	3	5	50.00%
COENFS- Code Enforcement	3	3	3	3	3	3	3	3	3	3	3	3	2	2	2	2	2	2	2	2	2	2	2	2	10	23	-23.08%
CRMJSS- Criminal Mischief	1	1	1	1	1	1	1	1	1	1	1	1	20	2	2	2	2	2	2	2	2	2	2	2	17	37	-15.00%
CRTRBS- Criminal Trespass	1	1	1	1	1	1	1	1	1	1	1	1	6	1	1	1	1	2	2	1	1	1	1	1	10	15	66.67%
DISTUS- Disturbance	1	1	1	1	1	1	1	1	1	1	1	1	9	1	1	1	1	1	1	1	1	1	1	1	6	15	-33.33%
DOMESS- Domestic Violence	2	2	2	2	2	2	2	2	2	2	2	2	18	4	6	2	2	6	8	5	5	2	2	1	39	57	116.67%
DRUNKS- Drunk Person	2	2	2	2	2	2	2	2	2	2	2	2	63	4	8	6	6	11	6	10	15	6	6	3	91	154	44.44%
EMSS- Medical Calls	4	3	3	4	2	1	5	11	1	1	2	1	38	6	9	2	4	5	4	7	2	12	7	113	177	97.37%	
EXPATS- Extra Patrol	1	1	1	1	1	1	1	1	1	1	1	1	9	1	1	1	1	2	2	2	2	1	1	1	8	17	-11.11%
FALCMS- Commercial Fire Alarm	1	1	1	1	1	1	1	1	1	1	1	1	3	1	1	1	1	1	1	1	1	1	1	1	8	11	166.67%
FALRBS- Residential Fire Alarm	1	1	1	1	1	1	1	1	1	1	1	1	8	2	3	3	3	6	1	2	1	1	1	1	16	24	100.00%
FIASSS- Fire Assist	1	1	1	1	1	1	1	1	1	1	1	1	4	4	1	2	1	1	2	2	1	1	1	1	3	4	-25.00%
FICAMS- Illegal/Unattended Campfire	1	1	1	1	1	1	1	1	1	1	1	1	4	4	1	2	1	1	2	2	2	1	1	1	11	15	175.00%
FINDNS- Non Structure	1	1	1	1	1	1	1	1	1	1	1	1	3	1	1	1	1	1	1	1	1	1	1	1	4	7	33.33%
FIODIS- Odors Inside	1	1	1	1	1	1	1	1	1	1	1	1	2	2	2	2	2	2	2	2	2	2	2	2	4	6	100.00%
FIREWS- Fireworks Complaints	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	2	0.00%
FISMOS- Smoke Report	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	5	8	66.67%
FISTRS- Structure/Smoke Inside	1	1	1	1	1	1	1	1	1	1	1	1	3	1	1	1	1	2	1	1	1	1	1	1	1	8	100.00%
FIWILS- Wildland/Grass Fire	14	12	18	16	13	13	35	29	24	16	13	11	214	16	21	19	23	13	23	25	32	17	18	17	10	448	9.35%
FOLLOS- Follow-Up	2	2	2	2	2	2	2	2	2	2	2	2	27	1	2	1	2	1	1	3	1	2	2	2	14	41	-48.15%
FOPROS- Found Property	1	1	1	1	1	1	1	1	1	1	1	1	13	1	2	2	4	3	1	4	2	2	1	1	22	35	69.23%
FRAUDS- Fraud	1	1	1	1	1	1	1	1	1	1	1	1	20	2	2	2	4	2	3	2	3	1	1	1	23	43	15.00%
HANGUS- 911 Hang up	1	1	1	1	1	1	1	1	1	1	1	1	13	4	1	1	1	1	3	6	3	3	3	3	20	32	-100.00%
HARAS- Harassment	1	1	1	1	1	1	1	1	1	1	1	1	10	1	1	1	1	1	1	1	1	2	2	2	9	19	-10.00%
HAZARS- Hazard	1	1	1	1	1	1	1	1	1	1	1	1	15	1	3	3	1	1	2	1	1	1	1	1	9	24	-40.00%
HRACCS- Hit and Run	1	1	1	1	1	1	1	1	1	1	1	1	3	1	1	1	1	1	1	2	1	1	1	1	9	9	100.00%
INACCS- Injury/Rollover Accident	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	3	9	100.00%
INEXPS- Indecent Exposure	1	1	1	1	1	1	1	1	1	1	1	1	15	1	1	1	2	3	4	3	1	1	1	1	17	4	200.00%
INFORS- Information	1	1	1	1	1	1	1	1	1	1	1	1	5	2	2	2	2	2	2	2	2	2	2	2	2	32	13.33%
LITTES- Littering	3	3	3	3	3	3	3	3	3	3	3	3	18	1	2	1	1	1	1	3	3	2	2	1	14	5	-75.00%
LOPROS- Lost Property	2	2	2	2	2	2	2	2	2	2	2	2	9	1	1	1	1	1	2	2	1	1	1	1	9	32	-22.22%
MAIPERS- Missing Person	1	1	1	1	1	1	1	1	1	1	1	1	9	1	1	1	1	1	1	1	1	1	1	1	9	18	0.00%
NARCOS- Drug Violation	1	1	1	1	1	1	1	1	1	1	1	1	7	1	1	1	1	1	1	1	1	1	1	1	18	25	157.14%
NOISES- Noise	1	1	1	1	1	1	1	1	1	1	1	1	4	2	2	3	3	1	5	5	1	1	1	1	15	19	275.00%
OAAAS- Other Agency Assist	3	3	3	3	3	3	3	3	3	3	3	3	27	1	1	1	1	1	1	1	1	1	1	1	30	57	-100.00%
PAGES- Page	2	2	2	2	2	2	2	2	2	2	2	2	28	1	4	4	1	2	3	6	11	6	6	6	44	72	57.14%
PARKIS- Abandoned/Parking																											
PDACCs- Property Damage Accident																											

Call Type Code	2014 Total												2015 Total												Grand Total	Percent Change			
	1	2	3	4	5	6	7	8	9	10	11	12	1	2	3	4	5	6	7	8	9	10	11	12					
PECNOS-Pedestrian Contact	1	2	3	4	4	2	1	3	2	3	2	2	26	1	1	2	4	4	3	5	3	3	2	3	33	59	26.92%		
PWRNDS-Public Works Request	5	1	2	1	1	1	2	1	1	1	1	19	1	2	1			2	2	1	3	1	1	12	31	-36.84%			
REFNDS-Reckless Endangerment								1				1												2	3	100.00%			
REORDS-Restraining Order												2												2	4	0.00%			
ROBBER-Robbery												1												2	1	100.00%			
SAS-Sex Assault												1												5	6	400.00%			
SHOTSS-Shots Heard												1												1	1	100.00%			
SUICIS-Suicidal Person/Attempt	3	1				1		1		4		6												1	7	83.33%			
SUSPIS-Suspicious	2	2	1	2	9	10	4	11	12	3	1	4	11	3	13	14	8	19	11	8	4	7	4	2	6	17	-45.45%		
THEFTS-Theft	3	4	4	4	1	2	4	3	2			29	1	3	1	3		2	1	3	1	1	2	18	154	52.46%			
TOES - Vehicle Repo/Private Tow												1					2							3	4	200.00%			
TRAFFS-Traffic	1	4		3	1	2	3	2	5	3	4	2	30	3	2	4	5	2	6	8	4	2	1	2	39	69	30.00%		
TRESPS-Trespassing												14												22	36	57.14%			
TRSTOS-Traffic Stop	48	77	101	68	82	49	90	69	59	97	98	71	909	95	57	107	95	76	114	100	123	67	91	105	106	1136	2035	24.97%	
UNACCS-Unknown Injury Accident												2					1							3	7	-25.00%			
UNKNND-Unknown												4												2	1				
WADAMS-Water or Debris Threat																									1	1			
WARAPAS-Warrant Attempt/Arrest																									2	2			
WEARPOS-Weapon																									14	27	7.69%		
WECHES-Welfare Check	2																								2	2			
Grand Total	113	150	175	156	200	153	240	218	189	188	185	148	2115	179	158	213	208	194	259	251	345	222	202	192	178	2599	4714	78.57%	
																													22.98%

Call Priority	2014 Total												2015 Total												Grand Total	Percent Change		
	1	2	3	4	5	6	7	8	9	10	11	12	1	2	3	4	5	6	7	8	9	10	11	12				
2 In Progress	55	85	116	75	100	68	110	89	78	117	110	95	1098	108	75	127	107	106	137	127	162	93	112	120	127	1401	2499	27.60%
3 Just Occurred	7	11	6	12	21	19	18	19	21	17	12	10	173	5	11	20	23	20	29	29	35	16	8	14	8	218	391	26.01%
4 Respond in Person	24	31	28	39	51	34	54	51	42	23	32	17	426	34	28	34	34	35	46	53	90	61	46	23	19	503	929	18.08%
5 Phone Call	26	20	23	30	25	29	56	58	43	26	28	24	388	30	40	30	42	30	41	42	51	49	36	32	22	445	833	14.69%
6 Information/No Response	1	3	2		3	3	2	1	5	5	3	2	30	2	2	2	2	3	6	7	3	3	3	2	32	62	6.07%	
Grand Total	113	150	175	156	200	153	240	218	189	188	185	148	2115	179	156	213	208	191	259	251	345	222	202	192	178	2599	4714	22.88%

Lyons Case / Incident Reports by Type: 2014 to 2015

	2014 Total												2015 Total												Guard Total	Percent Change
	1	2	3	4	5	6	7	8	9	10	11	12	1	2	3	4	5	6	7	8	9	10	11	12		
Abandoned Vehicle																									5	-33.33%
Accident BCSD																									2	
Accident Unknown																									2	
Alarm Warning																									13	-81.82%
Animal Bite	1	3	2	2		1	1	3	1	2	1	4													31	-52.38%
Animal Impound																									7	33.33%
Animal Injury																									3	100.00%
Animal Violation																									19	-10.00%
Animal Welfare																									1	
ARC Hold																									1	
Arson																									11	-52.50%
Assault DV	2																								1	0.00%
Assault Felony																									8	0.00%
Assault Misdemeanor																									1	0.00%
Auto Theft																									10	0.00%
Auto Theft Recovery																									6	0.00%
Barking Compliant																									2	0.00%
Bond Violation																									8	0.00%
Burglary Attempt																									4	200.00%
Burglary Commercial																									1	0.00%
Burglary Residential																									2	0.00%
Child Pornography	1																								9	-20.00%
Citizen Assist																									5	-44.44%
Civil Dispute																									1	100.00%
Computer Crime	1																								1	-100.00%
Criminal Impersonation																									7	-25.00%
Criminal Mischief DV																									2	-100.00%
Criminal Mischief Felony																									1	
Criminal Mischief Misdemeanor																									3	100.00%
Criminal Trespass Felony	1																								3	50.00%
Criminal Trespass Misdemeanor																									5	12.50%
Criminal Trespass to Vehicle																									4	33.33%
Death Investigation																									2	0.00%
Deputy Information	1																								10	300.00%
Disorderly Conduct	3																								3	-25.00%
Dog At Large																									56	-35.29%
Dog At Large Violation																									7	-25.00%
Dog At Large Warning	1																								1	-100.00%
Domestic Dispute																									16	-54.55%
DUI																									8	66.67%
EDGE Program																									14	-25.00%
Escape																									6	0.00%
Extortion																									3	-7.69%
Family Dispute																									24	-100.00%
Felony Menacing																									1	100.00%
Fire Other																									1	100.00%
Fire Structure																									3	100.00%

Lyons Case / Incident Reports by Type: 2014 to 2015

Incident Type	2014 Total												2015 Total												Grand Total	Percent Change
	1	2	3	4	5	6	7	8	9	10	11	12	1	2	3	4	5	6	7	8	9	10	11	12		
Fire/Wildlands	1					1							1												2	0.00%
Forgery																									2	-40.00%
Found Property																									16	-66.67%
Fraud Misdemeanor																									4	33.33%
Harassment																									8	-40.00%
Harassment DV																									3	
Hit & Run Accident																									6	
Identity Theft																									4	
Indecent Exposure																									4	-63.64%
Litering Complaint																									1	
Lost Property																									1	-100.00%
Marijuana Distribution																									5	50.00%
Marijuana Possession																									1	0.00%
Medical Assist																									4	100.00%
Menacing																									7	56.25%
Mental Health Hold																									2	-100.00%
Missing Person																									11	-8.33%
Misuse of a Financial Transaction Device																									2	50.00%
Municipal Violation Lyons																									1	
Narcotics Violation																									24	118.18%
Obstruction of Justice																									3	200.00%
Other																									1	
Other Felony																									2	100.00%
Other Misdemeanor																									2	100.00%
Outside Agency Assist																									29	81.25%
Reckless Endangerment																									1	-100.00%
Rescue																									5	-75.00%
Robbery																									1	-100.00%
Runaway																									1	0.00%
Sex Assault Child																									2	100.00%
Stalking																									1	
Suspicious Situation																									1	
Theft Felony																									4	-33.33%
Theft Misdemeanor																									4	100.00%
Traffic Complaint																									8	-42.86%
Traffic Offense																									27	-100.00%
TRO Violation																									4	-22.86%
Vehicle Impound																									1	-50.00%
Warrant																									25	13.64%
Welfare Check																									8	-11.11%
Wildlife Issue																									5	
Grand Total	29	31	30	26	44	42	59	38	50	29	27	22	427	30	25	41	31	39	32	44	42	45	25	17	396	82%

Code Desc	State	Local	Other	Totals
None	0	0	8	8
TRAFFIC	0	0	101	101
CRIMINAL	0	0	8	8
ANIMAL ORDINANCE	0	0	3	3
SPEEDING VIOLATIONS	0	0	524	524
INSURANCE VIOLATIONS	0	0	0	0
RESIDENT VIOLATOR	0	0	0	0
NON RESIDENT VIOLATOR	0	0	0	0
Grand Totals:	-	-	642	642

Total Criminal Cases Filed:	9
Total Non-Resident Cases Filed:	0
Total None Cases Filed:	0
Total Ordinance Cases Filed:	7
Total Parking Cases Filed:	81
Total Resident Cases Filed:	0
Total Traffic Cases Filed:	537

Offense Code Desc	DFR	FINE	GP	NGP	NCP	PBM	DISM	AMD	DEF	APBM	PIC	SUSP	CS	NJTC	NJTA	JTC	JTA	OJW
None	3	3	-	-	-	-	3	-	1	-	-	1	-	-	-	-	-	-
TRAFFIC	-	10	-	-	-	2	5	-	1	8	-	7	-	-	-	-	-	-
CRIMINAL	2	1	-	-	-	-	1	-	-	-	-	-	-	-	-	-	-	-
ANIMAL ORDINANCE	1	3	-	-	-	-	1	-	1	-	-	-	-	-	-	-	-	-
SPEEDING VIOLATIONS	-	119	-	-	-	72	-	-	1	347	-	142	-	-	-	-	-	-
INSURANCE VIOLATIONS	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
RESIDENT VIOLATOR	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
NON RESIDENT VIOLATOR	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Grand Totals:	8	138	-	-	-	74	10	-	4	355	-	150	-	-	-	-	-	-

Total Criminal Cases Disposed: 8
 Total Non-Resident Cases Disposed: 0
 Total None Cases Disposed: 0
 Total Ordinance Cases Disposed: 8
 Total Parking Cases Disposed: 2
 Total Resident Cases Disposed: 0
 Total Traffic Cases Disposed: 552

Code No	Description	CT	Tot Codes	Amount
<u>Fines</u>				
AMD	GUILTY TO AMENDED CHARGE	FN	150	240.00
APBM	PAY BY MAIL	FN	355	43,537.00
CSF	COMMUNITY SERVICE FEE	FA	4	60.00
DEF	DEFAULT JUDGEMENT FINE AMOUNT	FA	23	660.00
DEFER	DEFERRED SENTENCE	FN	6	.00
DISM	DISMISSED	FN	10	.00
FINE	FINE AMOUNT	FA	136	19,835.00
NSF	NSF FEE	FA	3	95.00
OJW	OUTSTANDING JUDGMENT WARRANT	FA	4	.00
PBM	PLEA BY MAIL CONVICTION	FN	74	9,000.00
WAR	WARRANT - FINE AMOUNT	FA	2	60.00
WARFEE	WARRANT FEE	FA	4	115.00
Total Fines:			771	73,632.00
<u>Surcharges</u>				
COST	COURT COSTS	SA	211	5,230.00
OJWFEE	OUTSTANDING JUDGMENT FEE	SA	5	150.00
Total Surcharges:			216	5,380.00
<u>3rd Party</u>				
REST	RESTITUTION	3P	2	124.66
Total 3rd Party:			2	124.66
<u>Other</u>				
Total Other:			0	.00
Total Assessments:			989	79,136.66

Code No	Description	CT	Tot Codes	Amount
<u>Fines - Collected</u>				
AMD	GUILTY TO AMENDED CHARGE	FN	1	240.00
APBM	PAY BY MAIL	FN	355	43,447.00
CSF	COMMUNITY SERVICE FEE	FA	4	62.88
DEF	DEFAULT JUDGEMENT FINE AMOUNT	FA	15	450.00
FINE	FINE AMOUNT	FA	135	17,823.14
OJW	OUTSTANDING JUDGMENT WARRANT	FA	2	60.00
PBM	PLEA BY MAIL CONVICTION	FN	72	8,870.00
WAR	WARRANT - FINE AMOUNT	FA	2	60.00
WARFEE	WARRANT FEE	FA	6	175.00
Total Fines - Collected:			592	71,088.00
<u>Surcharges - Collected</u>				
COST	COURT COSTS	SA	200	4,970.00
OJWFEE	OUTSTANDING JUDGMENT FEE	SA	9	270.00
Total Surcharges - Collected:			209	5,240.00
<u>3rd Party - Collected</u>				
REST	RESTITUTION	3P	3	224.66
Total 3rd Party - Collected:			3	224.66
<u>Other - Collected</u>				
Unapplied Payments			3	725.00
Total Other - Collected:			3	725.00
Total Collections:			807	77,277.66

Fines Collected Based on SP Surcharge

Fines With No Surcharge	71,088.00
Total:	71,088.00

Code No	Description	CT	Tot Codes	Amount
<u>Fines</u>				
CSF	COMMUNITY SERVICE FEE	FA	1	10.00
FINE	FINE AMOUNT	FA	6	1,850.00
Total Fines:			7	1,860.00
<u>Surcharges</u>				
COST	COURT COSTS	SA	1	25.00
Total Surcharges:			1	25.00
<u>3rd Party</u>				
Total 3rd Party:			0	.00
<u>Court Costs</u>				
Total Court Costs:			0	.00
<u>Other</u>				
Total Other:			0	.00
Total Adjustments:			8	1,885.00

Total Judgements Fulfilled by Alternate Order:	0
Fine Amount Waived by Alternate Order:	30.00
Surcharge Amount Waived by Alternate Order:	.00
Total Partial Payments:	25
Total Uncollected Surcharge:	.00

Code Desc	State	Local	Other	Totals
None	0	0	10	10
TRAFFIC	0	0	33	33
CRIMINAL	0	0	13	13
ANIMAL ORDINANCE	0	0	1	1
SPEEDING VIOLATIONS	0	0	948	948
INSURANCE VIOLATIONS	0	0	0	0
RESIDENT VIOLATOR	0	0	0	0
NON RESIDENT VIOLATOR	0	0	0	0
Grand Totals:	-	-	1005	1005

Total Criminal Cases Filed:	12
Total Non-Resident Cases Filed:	0
Total None Cases Filed:	0
Total Ordinance Cases Filed:	5
Total Parking Cases Filed:	4
Total Resident Cases Filed:	1
Total Traffic Cases Filed:	999

Offense Code Desc	DFR	FINE	GP	NGP	NCP	PBM	DISM	AMD	DEF	APBM	PIC	SUSP	CS	NJTC	NJTA	JTC	JTA	OJW
None	4	6	-	-	-	-	3	-	1	-	-	1	-	-	-	-	-	-
TRAFFIC	-	17	-	-	-	2	1	-	4	18	-	16	-	-	-	-	-	-
CRIMINAL	3	5	-	-	-	-	9	-	1	-	-	2	-	-	-	-	-	-
ANIMAL ORDINANCE	-	1	-	-	-	-	-	-	1	-	-	-	-	-	-	-	-	-
SPEEDING VIOLATIONS	-	238	-	-	-	73	1	-	-	602	-	199	-	-	-	-	-	-
INSURANCE VIOLATIONS	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
RESIDENT VIOLATOR	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
NON RESIDENT VIOLATOR	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Grand Totals:	7	285	-	-	-	75	14	-	7	620	-	218	-	-	-	-	-	-

Total Criminal Cases Disposed: 14
 Total Non-Resident Cases Disposed: 0
 Total None Cases Disposed: 0
 Total Ordinance Cases Disposed: 5
 Total Parking Cases Disposed: 11
 Total Resident Cases Disposed: 1
 Total Traffic Cases Disposed: 832

Code No	Description	CT	Tot Codes	Amount
<u>Fines</u>				
AMD	GUILTY TO AMENDED CHARGE	FN	218	400.00
APBM	PAY BY MAIL	FN	621	74,853.00
COMF	FINE CODE - DO NOT DELETE	FN	1	.00
CSF	COMMUNITY SERVICE FEE	FA	17	300.00
DEF	DEFAULT JUDGEMENT FINE AMOUNT	FA	50	1,500.00
DEFER	DEFERRED SENTENCE	FN	7	.00
DISM	DISMISSED	FN	14	175.00
FINE	FINE AMOUNT	FA	285	34,458.00
NSF	NSF FEE	FA	1	20.00
NSFFEE	NSF FEE	FA	1	20.00
OJW	OUTSTANDING JUDGMENT WARRANT	FA	6	30.00
PBM	PLEA BY MAIL CONVICTION	FN	75	9,540.00
REFUND	FINE REFUNDED	FN	5	370.00
WAR	WARRANT - FINE AMOUNT	FA	5	120.00
WARFEE	WARRANT FEE	FA	4	120.00
Total Fines:			1290	121,354.00
<u>Surcharges</u>				
COST	COURT COSTS	SA	345	8,545.00
DEF1	DEFAULT JUDGEMENT FEE	SA	1	30.00
OJWFEE	OUTSTANDING JUDGMENT FEE	SA	6	180.00
Total Surcharges:			352	8,755.00
<u>3rd Party</u>				
REST	RESTITUTION	3P	2	845.45
Total 3rd Party:			2	845.45
<u>Other</u>				
Total Other:			0	.00
Total Assessments:			1844	131,054.45

Code No	Description	CT	Tot Codes	Amount
Fines - Collected				
AMD	GUILTY TO AMENDED CHARGE	FN	2	400.00
APBM	PAY BY MAIL	FN	623	74,893.00
CSF	COMMUNITY SERVICE FEE	FA	17	288.86
DEF	DEFAULT JUDGEMENT FINE AMOUNT	FA	25	735.00
FINE	FINE AMOUNT	FA	230	28,927.14
NSF	NSF FEE	FA	1	20.00
OJW	OUTSTANDING JUDGMENT WARRANT	FA	1	30.00
PBM	PLEA BY MAIL CONVICTION	FN	75	9,830.00
REFUND	FINE REFUNDED	FN	3	90.00
WAR	WARRANT - FINE AMOUNT	FA	3	75.00
WARFEE	WARRANT FEE	FA	2	60.00
Total Fines - Collected:			982	115,149.00
Surcharges - Collected				
COST	COURT COSTS	SA	300	7,465.00
DEF1	DEFAULT JUDGEMENT FEE	SA	2	60.00
OJWFEE	OUTSTANDING JUDGMENT FEE	SA	1	30.00
Total Surcharges - Collected:			303	7,555.00
3rd Party - Collected				
REST	RESTITUTION	3P	1	945.45
Total 3rd Party - Collected:			1	945.45
Other - Collected				
Total Other - Collected:			0	.00
Total Collections:			1285	123,649.45

Fines Collected Based on SP Surcharge

Fines With No Surcharge	115,149.00
Total:	115,149.00

Code No	Description	CT	Tot Codes	Amount
<u>Fines</u>				
CSF	COMMUNITY SERVICE FEE	FA	5	89.32
FINE	FINE AMOUNT	FA	15	2,558.41
WAR	WARRANT - FINE AMOUNT	FA	1	27.27
Total Fines:			<u>21</u>	<u>2,655.00</u>
<u>Surcharges</u>				
Total Surcharges:			<u>0</u>	<u>.00</u>
<u>3rd Party</u>				
Total 3rd Party:			<u>0</u>	<u>.00</u>
<u>Court Costs</u>				
Total Court Costs:			<u>0</u>	<u>.00</u>
<u>Other</u>				
Total Other:			<u>0</u>	<u>.00</u>
Total Adjustments:			<u>21</u>	<u>2,655.00</u>

Total Judgements Fulfilled by Alternate Order:	2
Fine Amount Waived by Alternate Order:	30.00
Surcharge Amount Waived by Alternate Order:	.00
Total Partial Payments:	39
Total Uncollected Surcharge:	.00

Code Desc	State	Local	Other	Totals
None	0	0	21	21
TRAFFIC	0	0	62	62
CRIMINAL	0	0	5	5
ANIMAL ORDINANCE	0	0	3	3
SPEEDING VIOLATIONS	0	0	827	827
INSURANCE VIOLATIONS	0	0	0	0
RESIDENT VIOLATOR	0	0	0	0
NON RESIDENT VIOLATOR	0	0	0	0
Grand Totals:	-	-	1018	1018

Total Criminal Cases Filed:	15
Total Non-Resident Cases Filed:	0
Total None Cases Filed:	0
Total Ordinance Cases Filed:	5
Total Parking Cases Filed:	3
Total Resident Cases Filed:	2
Total Traffic Cases Filed:	872

Offense Code Desc	DFR	FINE	GP	NGP	NCP	PBM	DISM	AMD	DEF	APBM	PIC	SUSP	CS	NJTC	NJTA	JTC	JTA	QJW
None	11	8	-	-	-	-	3	-	-	3	-	1	-	-	-	-	-	-
TRAFFIC	-	28	-	-	-	4	8	-	4	22	-	18	-	-	-	-	-	-
CRIMINAL	2	3	-	-	-	-	2	-	-	-	-	-	-	-	-	-	-	-
ANIMAL ORDINANCE	3	3	-	-	-	-	-	-	3	-	-	-	-	-	-	-	-	-
SPEEDING VIOLATIONS	-	225	-	-	-	95	1	-	-	814	-	210	-	-	-	-	-	-
INSURANCE VIOLATIONS	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
RESIDENT VIOLATOR	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
NON RESIDENT VIOLATOR	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Grand Totals:	18	285	-	-	-	99	14	-	7	838	-	229	-	-	-	-	-	-

Total Criminal Cases Disposed: 17
 Total Non-Resident Cases Disposed: 0
 Total None Cases Disposed: 0
 Total Ordinance Cases Disposed: 4
 Total Parking Cases Disposed: 3
 Total Resident Cases Disposed: 2
 Total Traffic Cases Disposed: 871

Code No	Description	CT	Tot Codes	Amount
<u>Fines</u>				
AMD	GUILTY TO AMENDED CHARGE	FN	229	.00
APBM	PAY BY MAIL	FN	639	77,532.00
CSF	COMMUNITY SERVICE FEE	FA	10	160.00
DEF	DEFAULT JUDGEMENT FINE AMOUNT	FA	53	1,525.00
DEFER	DEFERRED SENTENCE	FN	16	.00
DISM	DISMISSED	FN	14	.00
FINE	FINE AMOUNT	FA	265	33,650.00
NSF	NSF FEE	FA	4	80.00
OJW	OUTSTANDING JUDGMENT WARRANT	FA	3	60.00 -
PBM	PLEA BY MAIL CONVICTION	FN	99	11,985.00
REFUND	FINE REFUNDED	FN	2	60.00
WAR	WARRANT - FINE AMOUNT	FA	11	150.00 -
WARFEE	WARRANT FEE	FA	1	30.00
Total Fines:			1346	124,812.00
<u>Surcharges</u>				
COST	COURT COSTS	SA	348	8,600.00
OJWFEE	OUTSTANDING JUDGMENT FEE	SA	3	90.00
Total Surcharges:			351	8,690.00
<u>3rd Party</u>				
REST	RESTITUTION	3P	4	1,306.94
Total 3rd Party:			4	1,306.94
<u>Other</u>				
Total Other:			0	.00
Total Assessments:			1701	134,808.94

Code No	Description	CT	Tot Codes	Amount
Fines - Collected				
APBM	PAY BY MAIL	FN	640	77,812.00
CSF	COMMUNITY SERVICE FEE	FA	9	180.00
DEF	DEFAULT JUDGEMENT FINE AMOUNT	FA	49	1,420.00
FINE	FINE AMOUNT	FA	241	31,240.00
NSF	NSF FEE	FA	5	100.00
PBM	PLEA BY MAIL CONVICTION	FN	88	11,880.00
REFUND	FINE REFUNDED	FN	2	60.00
WAR	WARRANT - FINE AMOUNT	FA	2	60.00
Total Fines - Collected:			1038	122,352.00
Surcharges - Collected				
COST	COURT COSTS	SA	326	8,125.00
OJWFEE	OUTSTANDING JUDGMENT FEE	SA	6	180.00
Total Surcharges - Collected:			332	8,305.00
3rd Party - Collected				
REST	RESTITUTION	3P	2	806.94
Total 3rd Party - Collected:			2	806.94
Other - Collected				
Unapplied Payments			3	300.00
Total Other - Collected:			3	300.00
Total Collections:			1373	131,763.94

Fines Collected Based on SP Surcharge

Fines With No Surcharge	<u>122,352.00</u>
Total:	<u><u>122,352.00</u></u>

Code No	Description	CT	Tot Codes	Amount
<u>Fines</u>				
FINE	FINE AMOUNT	FA	9	2,227.10
NSFFEE	NSF FEE	FA	1	23.23
WARFEE	WARRANT FEE	FA	4	129.67
Total Fines:			14	2,380.00
<u>Surcharges</u>				
COST	COURT COSTS	SA	3	74.16 -
Total Surcharges:			3	74.16 -
<u>3rd Party</u>				
Total 3rd Party:			0	.00
<u>Court Costs</u>				
Total Court Costs:			0	.00
<u>Other</u>				
Total Other:			0	.00
Total Adjustments:			17	2,305.84

Total Judgements Fulfilled by Alternate Order:	2
Fine Amount Waived by Alternate Order:	300.00
Surcharge Amount Waived by Alternate Order:	.00
Total Partial Payments:	38
Total Uncollected Surcharge:	.00

Agenda Item No: V1-1

Meeting Date: February 16, 2016

Subject: Liquor Licensing Authority
Presenter: Jacque Watson, Deputy Town Clerk

Applicant: Farmer Girl Transfer of Hotel Restaurant License from Local Eat+ Drink
Address: 432 Main Lyons, CO 80540

Background:

Pursuant to Colorado Revised Statutes, 12-47-312(1), the applicant is hereby advised that with regard to the application for a transfer of a Hotel and Restaurant Liquor License, an investigation has been made, and based on the results thereof, the following has been determined:

That the application was filed on January 11, 2016 in the Town Clerk's office and a public hearing has been scheduled for Tuesday February 16, 2016. With a transfer, the Local Liquor Licensing Authority does not have to hold a public hearing, but if it chooses to, in accordance with C.R.S. 12-47-311(1) the Town must hold the application for not less than 30 days; this hearing date represents 37 days.

That the premises being considered have previously operated with a liquor license, thus making this application a transfer of an existing liquor license, not an application for a new license.

That the Notice of Public Hearing on this matter was posted on the premises by the Deputy Town Clerk on Wednesday, January 14, 2016, and that the publication of the hearing was published in a newspaper of general circulation on January 21, 2015, at least 10 days prior to the Public Hearing.

That from the evidence submitted the applicant is leasing the premises where the proposed liquor license transfer will be utilized from Squier Realty, LLC, and that Squier Realty, LLC, is the lawful owner of the premises.

That selling liquor in the manner currently proposed in the application is not in violation of the zoning codes as stated in the Lyons Municipal Zoning Code.

That Colorado Bureau of Investigation is conducting a background investigation on Timothy Payne, the owner of Farmer Girl. The applicants have received a temporary license they can use immediately. If a background check comes back with evidence that the Local Liquor Licensing Authority should consider, the Town Clerk shall set a public hearing to review.

Recommended Action: Approve the liquor license transfer for a Hotel Restaurant license for Farmer Girl.

TOWN OF LYONS LIQUOR LICENSING AUTHORITY

TRANSFER OF LICENSE PROCEDURE OUTLINE

The following is an outline to assist the Liquor Licensing Authority through the procedure for the transfer of a liquor licensing.

NOTE: The Licensing Authority's consideration of a transfer of ownership may be made either administratively (not a public hearing) or as a *quasi-judicial* hearing (like a new license). The customary procedure is to first consider the transfer application as an administrative matter and, if the Authority finds enough reason to hold a hearing, for the matter to be continued to another date to allow the necessary notice of the public hearing.

- **Administrative:** The Authority may review the application, the investigator's report, and render a decision on the transfer without a hearing. This is the appropriate procedure where the application and investigation do not demonstrate sufficient reasons why a full hearing should be conducted. In general, the initial question is whether the investigation and application suggest (to any significant degree) that the transferee does not have the require character or otherwise fails to meet the standard for holding a license as outlined on page 2 of this memorandum. The proper motion for the administrative approval of the transfer application is as follows:

"I move to approve the transfer of ownership application for **Timothy Payne** for the licensed premises known as **Farmer Girl**. My motion is based on a finding that the transferee has satisfied all of the requirements for the holding of a liquor license as required by state law at C.R.S. § 12-47-307. I find no reason to continue this matter in order to conduct a public hearing on the transfer."

The proper motion if the Authority desires to continue the matter to hold a public hearing is as follows:

"I move to continue this transfer of ownership application to a public hearing to be held at a future date following the staff's issuance of proper notice of the hearing. Staff is instructed to provide the required legal notice and to reschedule the matter for a public hearing."

- **Quasi-judicial Hearing:** If the Authority decides to conduct a full quasi-judicial hearing on an application for transfer, staff will schedule the matter after the proper notice is provided. A new outline will be distributed to the Board prior to the hearing so that the Board will understand the procedure.

Standard for Transfer Approval:

State law requires that each transferee meet certain criteria or standards in order for the transfer to be approved. In short, this standard is whether the transferee is of sufficient "character" to hold a license and whether the transferee has any absolutely disqualifying attributes identified under the applicable statute. **The Authority can only consider the following 4 general criteria which are more completely found at C.R.S. § 12-47-307:**

1. The current license must be valid and effective and all fees must be paid.
2. The transferee(s) must be over twenty-one years of age.
3. The transferee can not be a sheriff, deputy sheriff, police officer, or prosecuting officer, or the state licensing authority, or any of its inspectors or employees.
4. The transferee must be of "good moral character." This criteria applies to an individual proposed as the transferee and, if the transferee is a corporation or other legal entity, to any owner, director, stockholder, or partnership holding more than 10% ownership interest. There is no specific definition for "good moral character" but it generally involves a felony conviction or offense of "moral turpitude" (defined as baseness, vileness of principle or action, shameful, wickedness, depravity). for which the applicant can not demonstrate rehabilitation or excuse. The state statute further provide at C.R.S. § 24-5-101:

Whenever any state or local agency is required to make a finding that an applicant for a license . . . is a person of good moral character as a condition to the issuance thereof, the fact that such applicant has, at some time prior thereto, been convicted of a felony or other offense involving moral turpitude, and pertinent circumstances connected with such conviction, shall be given consideration in determining whether, in fact, the applicant is a person of good moral character at the time of the application. The intent of this section is to expand employment opportunities for persons who, notwithstanding that fact of conviction of an offense, have been rehabilitated and are ready to accept the responsibilities of a law-abiding and productive member of society.

IF THE AUTHORITY desires to base a decision or substantial discussion on the possible lack of moral character of the transferee, I strongly recommend that the Authority schedule the matter for a public hearing as outlined above. This is required because the state law permits the transferee to provide evidence of rehabilitation, character references, and educational achievements, especially those items pertaining to the period of time between the applicant's last criminal conviction and the consideration of the application for a license. This information should be provided to the Authority in a public hearing.

Colorado Liquor Retail License Application

<input type="checkbox"/> New License <input type="checkbox"/> New-Concurrent <input checked="" type="checkbox"/> Transfer of Ownership			
• All answers must be printed in black ink or typewritten • Applicant must check the appropriate box(es) • Applicant should obtain a copy of the Colorado Liquor and Beer Code: www.colorado.gov/enforcement/liquor • Local License Fee \$ _____			
1. Applicant is applying as a/an		<input type="checkbox"/> Individual <input checked="" type="checkbox"/> Limited Liability Company <input type="checkbox"/> Partnership (includes Limited Liability and Husband and Wife Partnerships) <input type="checkbox"/> Association or Other	
2. Applicant If an LLC, name of LLC; if partnership, at least 2 partner's names; if corporation, name of corporation		FEIN Number	
BLAS, LLC		46-0977549	
2a. Trade Name of Establishment (DBA)		State Sales Tax Number	Business Telephone
Farmer Girl		31255146	720-775-5543
3. Address of Premises (specify exact location of premises, include suite/unit numbers)			
432 Main Street			
City	County	State	ZIP Code
LYONS	Boulder	CO	80540
4. Mailing Address (Number and Street)		City or Town	State ZIP Code
939 Corey Street		Longmont	CO 80501
5. Email Address			
BOCOFarmergirl@gmail.com			
6. If the premises currently has a liquor or beer license, you must answer the following questions			
Present Trade Name of Establishment (DBA)	Present State License Number	Present Class of License	Present Expiration Date
Local	4702974	Hotel Restaurant	7/08/2014
Section A Nonrefundable Application Fees		Section B (Cont.) Liquor License Fees	
<input type="checkbox"/> Application Fee for New License \$ 600.00 <input type="checkbox"/> Application Fee for New License w/Concurrent Review \$ 700.00 <input checked="" type="checkbox"/> Application Fee for Transfer \$ 600.00		<input type="checkbox"/> Liquor Licensed Drugstore (City)..... \$227.50 <input type="checkbox"/> Liquor Licensed Drugstore (County) \$312.50 <input type="checkbox"/> Manager Registration - H & R \$ 75.00 <input type="checkbox"/> Manager Registration - Tavern..... \$ 75.00 <input type="checkbox"/> Master File Location Fee \$ 25.00 X _____ Total _____ <input type="checkbox"/> Master File Background \$250.00 X _____ Total _____ <input type="checkbox"/> Optional Premises License (City)..... \$500.00 <input type="checkbox"/> Optional Premises License (County) \$500.00 <input type="checkbox"/> Racetrack License (City)..... \$500.00 <input type="checkbox"/> Racetrack License (County) \$500.00 <input type="checkbox"/> Resort Complex License (City)..... \$500.00 <input type="checkbox"/> Resort Complex License (County) \$500.00 <input type="checkbox"/> Retail Gaming Tavern License (City) \$500.00 <input type="checkbox"/> Retail Gaming Tavern License (County) \$500.00 <input type="checkbox"/> Retail Liquor Store License (City)..... \$227.50 <input type="checkbox"/> Retail Liquor Store License (County) \$312.50 <input type="checkbox"/> Tavern License (City) \$500.00 <input type="checkbox"/> Tavern License (County)..... \$500.00 <input type="checkbox"/> Vintners Restaurant License (City) \$750.00 <input type="checkbox"/> Vintners Restaurant License (County)..... \$750.00	
Section B Liquor License Fees			
<input type="checkbox"/> Add Optional Premises to H & R \$100.00 X _____ Total _____ <input type="checkbox"/> Add Related Facility to Resort Complex \$ 75.00 X _____ Total _____ <input type="checkbox"/> Arts License (City) \$308.75 <input type="checkbox"/> Arts License (County) \$308.75 <input type="checkbox"/> Beer and Wine License (City)..... \$351.25 <input type="checkbox"/> Beer and Wine License (County) \$436.25 <input type="checkbox"/> Brew Pub License (City) \$750.00 <input type="checkbox"/> Brew Pub License (County)..... \$750.00 <input type="checkbox"/> Club License (City)..... \$308.75 <input type="checkbox"/> Club License (County) \$308.75 <input type="checkbox"/> Distillery Pub License (City)..... \$750.00 <input type="checkbox"/> Distillery Pub License (County) \$750.00 <input checked="" type="checkbox"/> Hotel and Restaurant License (City) \$500.00 <input type="checkbox"/> Hotel and Restaurant License (County) \$500.00 <input type="checkbox"/> Hotel and Restaurant License w/one opt premises (City) \$600.00 <input type="checkbox"/> Hotel and Restaurant License w/one opt premises(County)..... \$600.00			
Questions? Visit: www.colorado.gov/enforcement/liquor for more information			
Do not write in this space - For Department of Revenue use only			
Liability Information			
License Account Number	Liability Date	License Issued Through (Expiration Date)	Total
			\$

Application Documents Checklist and Worksheet

Instructions: This checklist should be utilized to assist applicants with filing all required documents for licensure. All documents must be properly signed and correspond with the name of the applicant exactly. All documents must be typed or legibly printed. Upon final State approval the license will be mailed to the local licensing authority. Application fees are nonrefundable.

Questions? Visit: www.colorado.gov/enforcement/liquor for more information

Items submitted, please check all appropriate boxes completed or documents submitted	
I.	Applicant information <input checked="" type="checkbox"/> A. Applicant/Licensee identified <input checked="" type="checkbox"/> B. State sales tax license number listed or applied for at time of application <input checked="" type="checkbox"/> C. License type or other transaction identified <input type="checkbox"/> D. Return originals to local authority <input type="checkbox"/> E. Additional information may be required by the local licensing authority
II.	Diagram of the premises <input checked="" type="checkbox"/> A. No larger than 8 1/2" X 11" <input checked="" type="checkbox"/> B. Dimensions included (does not have to be to scale). Exterior areas should show type of control (fences, walls, entry/exit points, etc.) <input type="checkbox"/> C. Separate diagram for each floor (if multiple levels) <input checked="" type="checkbox"/> D. Kitchen - identified if Hotel and Restaurant <input checked="" type="checkbox"/> E. Bold/Outlined Licensed Premises
III.	Proof of property possession (One Year Needed) <input type="checkbox"/> A. Deed in name of the Applicant (or) (matching question #2) date stamped / filed with County Clerk <input checked="" type="checkbox"/> B. Lease in the name of the Applicant (or) (matching question #2) <input type="checkbox"/> C. Lease Assignment in the name of the Applicant with proper consent from the Landlord and acceptance by the Applicant <input type="checkbox"/> D. Other Agreement if not deed or lease. (matching question #2) (Attach prior lease to show right to assumption)
IV.	Background information and financial documents <input checked="" type="checkbox"/> A. Individual History Records(s) (Form DR 8404-I) <input checked="" type="checkbox"/> B. Fingerprints taken and submitted to local authority (State Authority for Master File applicants) <input checked="" type="checkbox"/> C. Purchase agreement, stock transfer agreement, and or authorization to transfer license <input checked="" type="checkbox"/> D. List of all notes and loans (Copies to also be attached)
V.	Sole proprietor / husband and wife partnership <input type="checkbox"/> A. Form DR4679 <input type="checkbox"/> B. Copy of State issued Driver's License or Colorado Identification Card for each applicant
VI.	Corporate applicant information (if applicable) <input type="checkbox"/> A. Certificate of Incorporation dated stamped by the Secretary of State <input type="checkbox"/> B. Certificate of Good Standing <input type="checkbox"/> C. Certificate of Authorization if foreign corporation <input type="checkbox"/> D. List of officers, directors and stockholders of Applying Corporation (If wholly owned, designate a minimum of one person as Principal Officer of Parent)
VII.	Partnership applicant information (if applicable) <input type="checkbox"/> A. Partnership Agreement (general or limited). Not needed if husband and wife <input type="checkbox"/> B. Certificate of Good Standing (If formed after 2009)
VIII.	Limited Liability Company applicant information (if applicable) <input checked="" type="checkbox"/> A. Copy of articles of organization (date stamped by Colorado Secretary of State's Office) <input checked="" type="checkbox"/> B. Certificate of Good Standing <input checked="" type="checkbox"/> C. Copy of operating agreement <input type="checkbox"/> D. Certificate of Authority if foreign company
IX.	Manager registration for hotel and restaurant, tavern licenses when included with this application <input type="checkbox"/> A. \$75.00 fee <input type="checkbox"/> B. Individual History Record (DR 8404-I) <input type="checkbox"/> C. If owner is managing, no fee required

7. Is the applicant (including any of the partners, if a partnership; members or manager if a limited liability company; or officers, stockholders or directors if a corporation) or manager under the age of twenty-one years? Yes No

8. Has the applicant (including any of the partners, if a partnership; members or manager if a limited liability company; or officers, stockholders or directors if a corporation) or manager ever (in Colorado or any other state):

(a) Been denied an alcohol beverage license?

(b) Had an alcohol beverage license suspended or revoked?

(c) Had interest in another entity that had an alcohol beverage license suspended or revoked?

If you answered yes to 8a, b or c, explain in detail on a separate sheet.

9. Has a liquor license application (same license class), that was located within 500 feet of the proposed premises, been denied within the preceding two years? If "yes", explain in detail.

10. Are the premises to be licensed within 500 feet of any public or private school that meets compulsory education requirements of Colorado law, or the principal campus of any college, university or seminary?

Waiver by local ordinance? or
Other:

11. Has a liquor or beer license ever been issued to the applicant (including any of the partners, if a partnership; members or manager if a Limited Liability Company; or officers, stockholders or directors if a corporation)? If yes, identify the name of the business and list any current financial interest in said business including any loans to or from a licensee. Terroir Restaurant LLC (closed now not financial) interest

12. Does the Applicant, as listed on line 2 of this application, have legal possession of the premises by virtue of ownership, lease or other arrangement?

Ownership Lease Other (Explain in Detail) _____

a. If leased, list name of landlord and tenant, and date of expiration, exactly as they appear on the lease:

Landlord	Tenant	Expires
<u>Squier Realty, LLC</u>	<u>BLAS, LLC dba Farmer Girl</u>	<u>12-31-2018</u>

b. Is a percentage of alcohol sales included as compensation to the landlord? If yes complete question 13.

c. Attach a diagram and outline or designate the area to be licensed (including dimensions) which shows the bars, brewery, walls, partitions, entrances, exits and what each room shall be utilized for in this business. This diagram should be no larger than 8 1/2" X 11".

13. Who, besides the owners listed in this application (including persons, firms, partnerships, corporations, limited liability companies), will loan or give money, inventory, furniture or equipment to or for use in this business, or who will receive money from this business. Attach a separate sheet if necessary.

Last Name	First Name	Date of Birth	FEIN or SSN	Interest/Percentage

Attach copies of all notes and security instruments, and any written agreement, or details of any oral agreement, by which any person (including partnerships, corporations, limited liability companies, etc.) will share in the profit or gross proceeds of this establishment, and any agreement relating to the business which is contingent or conditional in any way by volume, profit, sales, giving of advice or consultation.

14. Optional Premises or Hotel and Restaurant Licenses with Optional Premises:

Has a local ordinance or resolution authorizing optional premises been adopted?

Number of additional Optional Premise areas requested. (See license fee chart) _____

15. Liquor Licensed Drug Store applicants, answer the following:

(a) Does the applicant for a Liquor Licensed Drug Store have a license issued by the Colorado Board of Pharmacy? If "yes" a copy of license must be attached.

16. Club Liquor License applicants answer the following: Attach a copy of applicable documentation

(a) Is the applicant organization operated solely for a national, social, fraternal, patriotic, political or athletic purpose and not for pecuniary gain?

(b) Is the applicant organization a regularly chartered branch, lodge or chapter of a national organization which is operated solely for the object of a patriotic or fraternal organization or society, but not for pecuniary gain?

(c) How long has the club been incorporated? _____

(d) Has applicant occupied an establishment for three years (three years required) that was operated solely for the reasons stated above?

17. Brew-Pub License or Vintner Restaurant Applicants answer the following:

(a) Has the applicant received or applied for a Federal Permit? (Copy of permit or application must be attached)

18a. For all on-premises applicants.
(If this is an application for a Hotel, Restaurant or Tavern License, the manager must also submit an individual History Record - DR 8404-I)

Last Name of Manager	First Name of Manager	Date of Birth
<u>Payne</u>	<u>Timothy</u>	<u>5-21-70</u>

18b. Does this manager act as the manager of, or have a financial interest in, any other liquor licensed establishment in the State of Colorado? If yes, provide name, type of license and account number.

Name	Type of License	Account Number

19. Tax Dstraint Information. Does the applicant or any other person listed on this application and including its partners, officers, directors, stockholders, members (LLC) or managing members (LLC) and any other persons with a 10% or greater financial interest in the applicant currently have an outstanding tax dstraint issued to them by the Colorado Department of Revenue?

If yes, provide an explanation and include copies of any payment agreements.

20. If applicant is a corporation, partnership, association or limited liability company, applicant must list all Officers, Directors, General Partners, and Managing Members. In addition, applicant must list any stockholders, partners, or members with ownership of 10% or more in the Applicant. All persons listed below must also attach form DR 8404-I (Individual History Record), and submit fingerprint cards to the local licensing authority.

Name	Home Address, City & State	DOB	Position	% Owned
Timothy K. Payne	939 Long Street Longmont Colorado 80501	5-21-70	Owner	100
Name	Home Address, City & State	DOB	Position	% Owned
Name	Home Address, City & State	DOB	Position	% Owned
Name	Home Address, City & State	DOB	Position	% Owned
Name	Home Address, City & State	DOB	Position	% Owned

** If Applicant is owned 100% by a parent company, please list the designated principal officer on question #20
 ** Corporations - The President, Vice-President, Secretary and Treasurer must be accounted for on question #20 (Include ownership percentage if applicable)
 ** If total ownership percentage disclosed here does not total 100%, applicant must check this box:

Applicant affirms that no individual other than these disclosed herein, owns 10% or more of the applicant, and does not have ownership in a prohibited liquor license pursuant to Title 47 or 48, C.R.S.

Oath Of Applicant

I declare under penalty of perjury in the second degree that this application and all attachments are true, correct, and complete to the best of my knowledge. I also acknowledge that it is my responsibility and the responsibility of my agents and employees to comply with the provisions of the Colorado Liquor or Beer Code which affect my license.

Authorized Signature <i>Timothy K Payne</i>	Printed Name and Title Timothy K Payne Owner	Date 12-31-15
--	---	------------------

Report and Approval of Local Licensing Authority (City/County)

Date application filed with local authority	Date of local authority hearing (for new license applicants; cannot be less than 30 days from date of application 12-47-311 (1) C.R.S.)
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The Local Licensing Authority Hereby Affirms that each person required to file DR 8404-I (Individual History Record) has:

- Been fingerprinted
- Been subject to background investigation, including NCIC/CCIC check for outstanding warrants

That the local authority has conducted, or intends to conduct, an inspection of the proposed premises to ensure that the applicant is in compliance with, and aware of, liquor code provisions affecting their class of license

(Check One)

- Date of inspection or anticipated date _____
- Will conduct inspection upon approval of state licensing authority

The foregoing application has been examined; and the premises, business to be conducted, and character of the applicant are satisfactory. We do report that such license, if granted, will meet the reasonable requirements of the neighborhood and the desires of the adult inhabitants, and will comply with the provisions of Title 12, Article 46 or 47, C.R.S.

Therefore, this application is approved.

Local Licensing Authority for Town of Lyons	Telephone Number 3-823-6622	<input checked="" type="checkbox"/> Town, City <input type="checkbox"/> County
Signature	Print	Title Mayor
Signature (attest)	Print	Title
		Date

**REPRESENTATION OF APPLICATION CONCERNING CRIMINAL HISTORY
SUPPLEMENT TO APPLICATION FOR LIQUOR LICENSE**

I, Timothy K. Payne, applied for a liquor license from the Town of Lyons Liquor Licensing Authority. As part of the processing of my application, I am required to undergo a federal and state criminal background check to determine the suitability of my character for the holding of a liquor license.

I understand that the Town of Lyons has submitted certain information provided by me to federal and state agencies for a criminal background check as part of the processing of my license application. To date, the Town has not received any federal or state reports and that such reports are necessary to determine the quality of my character as required by the applicable liquor laws.

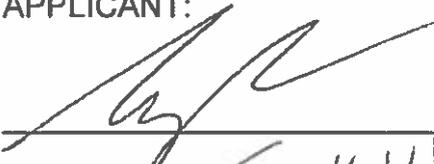
In order to expedite the processing of my application, I hereby state and represent to the Town of Lyons Liquor Licensing Authority the following:

1. I have not been convicted (including my entering of a plea of guilty or no contest) of a crime in any federal or state court during the past _____ years, except for the following:

I have never convicted of a federal or state
crime

2. I understand and agree that, in the event the Town Liquor Licensing Authority issues the requested liquor license, the Authority may revoke or rescind its approval of the license following a hearing upon a determination that my representation in (1) above is false.

APPLICANT:



Print Name: Timothy K Payne

Print Name: _____

AFFIDAVIT OF TRANSFER AND STATEMENT OF COMPLIANCE

Pursuant to the requirements of 12-47-303(3)(b), Colorado Revised Statutes, Licensee hereby states that all accounts for alcohol beverages sold to the Applicant are:

- Paid in full. There are no outstanding accounts with any Colorado Wholesalers.
- Licensee hereby certifies that the following is a complete list of accounts for alcohol beverages that are unpaid:

CTS - ~~Colorado Wine & Spirits~~

Licensee and Applicant agree that all accounts will be paid for from the proceeds at closing by the: Licensee Applicant

- Licensee unavailable to certify disposition of accounts for alcohol beverages - Inventory list attached. Transfer by operation of law - Regulation 47-304.
- Applicant will assume full responsibility for payment of the outstanding accounts as listed above.
- No alcohol beverage inventory transferred or sold.

Licensee hereby authorizes the transfer of its Colorado Retail Liquor License to the Applicant, its agent, or a company, corporation, partnership or other business entity to be formed by the Applicant.

Dated this 29 day of Dec, 20 15.

Seller:

KD ENTERPRISES 4702974
Licensee & License Number

LOCAL
Trade name

[Signature]
Signature

owner owner
Position

Lisa Paoletti Deborah Dunbar
Print Name

Buyer:

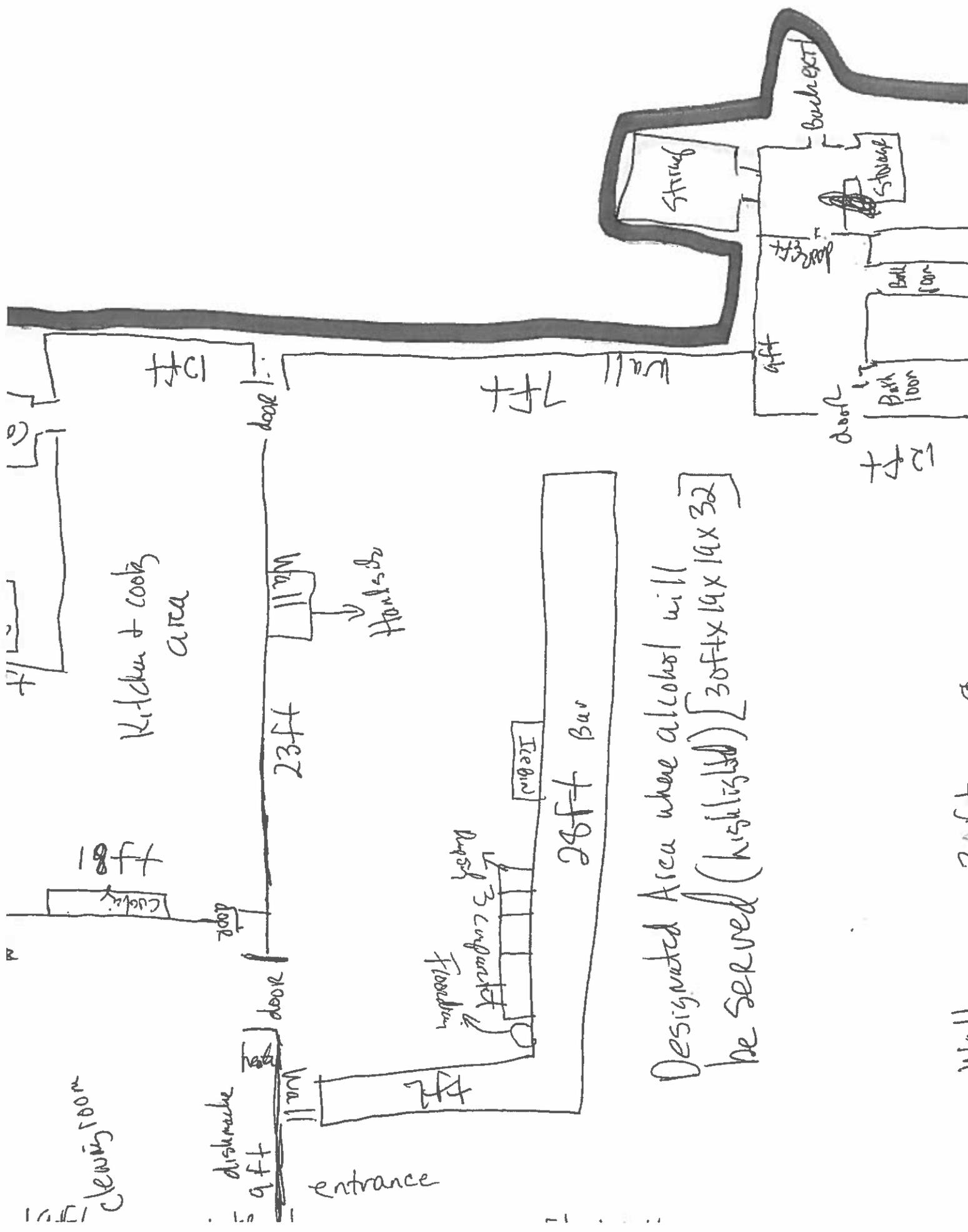
BLAS, LLC
Applicant

Farmer Girl
Trade name

[Signature]
Signature

Owner
Position

Timothy K Payne
Print Name



Designated Area where alcohol will be served (highlighted) [30ft x 14 x 32]

OFFICE OF THE SECRETARY OF STATE
OF THE STATE OF COLORADO

CERTIFICATE OF FACT OF GOOD STANDING

I, Wayne W. Williams, as the Secretary of State of the State of Colorado, hereby certify that, according to the records of this office,

B.L.A.S. LLC

is a

Limited Liability Company

formed or registered on 09/12/2012 under the law of Colorado, has complied with all applicable requirements of this office, and is in good standing with this office. This entity has been assigned entity identification number 20121503469 .

This certificate reflects facts established or disclosed by documents delivered to this office on paper through 12/29/2015 that have been posted, and by documents delivered to this office electronically through 12/30/2015 @ 18:49:07 .

I have affixed hereto the Great Seal of the State of Colorado and duly generated, executed, and issued this official certificate at Denver, Colorado on 12/30/2015 @ 18:49:07 in accordance with applicable law. This certificate is assigned Confirmation Number 9433973 .



A handwritten signature in black ink, reading 'Wayne W. Williams'.

Secretary of State of the State of Colorado

*****End of Certificate*****
Notice: A certificate issued electronically from the Colorado Secretary of State's Web site is fully and immediately valid and effective. However, as an option, the issuance and validity of a certificate obtained electronically may be established by visiting the Validate a Certificate page of the Secretary of State's Web site, <http://www.sos.state.co.us/biz/CertificateSearchCriteria.do> entering the certificate's confirmation number displayed on the certificate, and following the instructions displayed. Confirming the issuance of a certificate is merely optional and is not necessary to the valid and effective issuance of a certificate. For more information, visit our Web site, <http://www.sos.state.co.us/> click "Businesses, trademarks, trade names" and select "Frequently Asked Questions."

Agenda Item No: VII - 1

Meeting Date: February 16, 2016

Subject: Lyons Urban Renewal Authority – Resolution 2016-1, a Resolution of the Town of Lyons Urban Renewal Authority Designating Legal Counsel

Presenter: Victoria Simonsen, Executive Director of Lyons Urban Renewal Authority

Background: The Lyons Urban Renewal Authority was formed at the Board of Trustees May 18, 2015 meeting. The Lyons Urban Renewal Authority is authorized by C.R.S. § 31-25-101, et. seq. (the "Urban Renewal Law") to designate legal counsel for the Authority.

Carolynne C. White, Esq. of Brownstein Hyatt Farber Schreck, LLP, who previously provided pro bono legal services to the Authority in 2015, is proposed as legal counsel for the Authority in 2016.

Staff Recommendations: Designation of legal counsel via Resolution 2016-1.

TOWN OF LYONS URBAN RENEWAL AUTHORITY

RESOLUTION NO. 2016-1

**A RESOLUTION OF THE TOWN OF LYONS URBAN RENEWAL AUTHORITY
DESIGNATING LEGAL COUNSEL**

WHEREAS, by Resolution No. 2015-46, on May 18, 2015, the Town of Lyons Board of Trustees, established the Town of Lyons Urban Renewal Authority (the "Authority"); and

WHEREAS, the Authority is authorized by Part 1 of Article 25 of Title 31, Colorado Revised Statutes, to designate legal counsel for the Authority; and

WHEREAS, the Commissioners of the Authority desire to appointCarolynne C. White, Esq. of Brownstein Hyatt Farber Schreck, LLP as special legal counsel for the Authority.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSIONERS OF THE TOWN OF LYONS URBAN RENEWAL AUTHORITY:

Section 1. The foregoing recitals are incorporated herein by this reference.

Section 2. The Authority hereby designates Carolynne C. White, Esq. of Brownstein Hyatt Farber Schreck, LLP as legal counsel for the Authority.

Section 3. The Executive Director of the Authority is hereby authorized and directed to sign the Fee Agreement for Representation, on behalf of the Authority.

Section 4. This Resolution shall be effective upon approval of the Authority.

Adopted this 16th day of February, 2016.

TOWN OF LYONS URBAN RENEWAL
AUTHORITY

By: _____
John O'Brien, Chairman

ATTEST:

Deb Anthony, Authority Clerk

APPROVED AS TO FORM:

By: _____
Carolynne C. White, Authority Counsel

Agenda Item No: VII - 2
Meeting Date: February 16, 2016

Subject: Lyons Urban Renewal Authority – Resolutions of the Town of Lyons Urban Renewal Authority Approving Amendments to the Bylaws

Presenter: Caitlin Quander, Victoria Simonsen

Background: The Lyons Urban Renewal Authority is authorized by C.R.S. § 31-25-105(1)(a) to make and adopt bylaws, orders, rules, and regulations to effectuate the purposes of Part 1 of Article 25 of Title 31, Colorado Revised Statutes (the "Urban Renewal Law"). On June 1, 2015, the Authority adopted bylaws in order to allow for the efficient and orderly operations and conduct of the Authority and to effectuate the purposes of the Urban Renewal Law.

Pursuant to Article VI of the Bylaws, the Bylaws may be amended by an affirmative vote of two-thirds of the membership of the Commissioners of the Authority.

Two possible amendments to the Bylaws are proposed and a Resolution has been prepared for each so the Board of the Authority may consider adopting one, both or none of the Resolutions.

The proposed amendments are:

1. Affirming that resolutions of the Authority are subject to the municipal initiative, referenda, and referred measures and processes set forth in Article 11, Title 31, of the Colorado Revised Statutes.
2. The Authority may not exercise the power of eminent domain on any private property without the consent and approval of the private property owner.

The current Bylaws of the Authority are included in the packet.

Staff Recommendations: If the Authority desires to amend the Bylaws to incorporate one or both of the proposed amendments, it should approve the relevant Resolution. The Authority could also choose not to adopt either of the Resolutions and allow the existing Urban Renewal Law and Bylaws to govern the Authority's process.

TOWN OF LYONS URBAN RENEWAL AUTHORITY

RESOLUTION NO. 2016- 2

A RESOLUTION OF THE TOWN OF LYONS URBAN RENEWAL AUTHORITY APPROVING AN AMENDMENT TO ITS BYLAWS

WHEREAS, by Resolution No. 2015-46, on May 18, 2015, the Town of Lyons Board of Trustees, established the Town of Lyons Urban Renewal Authority (the "Authority"); and

WHEREAS, on June 1, 2015, the Authority adopted bylaws (the "Bylaws") in order to allow for the efficient and orderly operations and conduct of the Authority and to effectuate the purposes of Part 1 of Article 25 of Title 31, Colorado Revised Statutes (the "Urban Renewal Law"); and

WHEREAS, pursuant to Article VI of the Bylaws, the Bylaws may be amended by an affirmative vote of two-thirds of the membership of the Commissioners of the Authority; and

WHEREAS, the Commissioners have determined that it is in the best interests of the Authority to amend the Bylaws to affirm that resolutions of the Authority are subject to the municipal initiative, referenda, and referred measures and processes set forth in Article 11, Title 31, of the Colorado Revised Statutes.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSIONERS OF THE TOWN OF LYONS URBAN RENEWAL AUTHORITY:

Section 1. The foregoing recitals are incorporated herein by this reference.

Section 2. The Bylaws are hereby amended to affirm that resolutions of the Authority are subject to the municipal initiative, referenda, and referred measures and processes set forth in Article 11, Title 31, of the Colorado Revised Statutes.

Section 3. The Authority hereby directs its legal counsel to revise the Bylaws in accordance with this Resolution.

Section 4. This Resolution shall be effective upon approval of the Authority.

Adopted this 16th day of February, 2016.

TOWN OF LYONS URBAN RENEWAL AUTHORITY

By: _____
John O'Brien, Chairman

ATTEST:

Deb Anthony, Authority Clerk

APPROVED AS TO FORM:

By: _____
Carolynne C. White, Authority Counsel

Agenda Item No: VII -3
Meeting Date: February 16, 2016

Subject: Lyons Urban Renewal Authority – Resolutions of the Town of Lyons Urban Renewal Authority Approving Amendments to the Bylaws

Presenter: Caitlin Quander, Victoria Simonsen

Background: The Lyons Urban Renewal Authority is authorized by C.R.S. § 31-25-105(1)(a) to make and adopt bylaws, orders, rules, and regulations to effectuate the purposes of Part 1 of Article 25 of Title 31, Colorado Revised Statutes (the "Urban Renewal Law"). On June 1, 2015, the Authority adopted bylaws in order to allow for the efficient and orderly operations and conduct of the Authority and to effectuate the purposes of the Urban Renewal Law.

Pursuant to Article VI of the Bylaws, the Bylaws may be amended by an affirmative vote of two-thirds of the membership of the Commissioners of the Authority.

Two possible amendments to the Bylaws are proposed and a Resolution has been prepared for each so the Board of the Authority may consider adopting one, both or none of the Resolutions.

The proposed amendments are:

1. Affirming that resolutions of the Authority are subject to the municipal initiative, referenda, and referred measures and processes set forth in Article 11, Title 31, of the Colorado Revised Statutes.
2. The Authority may not exercise the power of eminent domain on any private property without the consent and approval of the private property owner.

The current Bylaws of the Authority are included in the packet.

Staff Recommendations: If the Authority desires to amend the Bylaws to incorporate one or both of the proposed amendments, it should approve the relevant Resolution. The Authority could also choose not to adopt either of the Resolutions and allow the existing Urban Renewal Law and Bylaws to govern the Authority's process.

TOWN OF LYONS URBAN RENEWAL AUTHORITY

RESOLUTION NO. 2016-3

A RESOLUTION OF THE TOWN OF LYONS URBAN RENEWAL AUTHORITY APPROVING AN AMENDMENT TO ITS BYLAWS

WHEREAS, by Resolution No. 2015-46, on May 18, 2015, the Town of Lyons Board of Trustees, established the Town of Lyons Urban Renewal Authority (the "Authority"); and

WHEREAS, on June 1, 2015, the Authority adopted bylaws (the "Bylaws") in order to allow for the efficient and orderly operations and conduct of the Authority and to effectuate the purposes of Part 1 of Article 25 of Title 31, Colorado Revised Statutes (the "Urban Renewal Law"); and

WHEREAS, pursuant to Article VI of the Bylaws, the Bylaws may be amended by an affirmative vote of two-thirds of the membership of the Commissioners of the Authority; and

WHEREAS, the Commissioners have determined that it is in the best interests of the Authority to amend the Bylaws to state that the Authority may not exercise the power of eminent domain granted to it under the Urban Renewal Law on any private property without the consent of the private property owner.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSIONERS OF THE TOWN OF LYONS URBAN RENEWAL AUTHORITY:

Section 1. The foregoing recitals are incorporated herein by this reference.

Section 2. The Bylaws are hereby amended to state that the Authority may not exercise the power of eminent domain granted to it under the Urban Renewal Law on any private property without the consent of the private property owner.

Section 3. The Authority hereby directs its legal counsel to revise the Bylaws in accordance with this Resolution.

Section 4. This Resolution shall be effective upon approval of the Authority.

Adopted this 16th day of February, 2016.

TOWN OF LYONS URBAN RENEWAL AUTHORITY

By: _____
John O'Brien, Chairman

ATTEST:

Deb Anthony, Authority Clerk

APPROVED AS TO FORM:

By: _____
Carolynne C. White, Authority Counsel

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TOWN OF LYONS, COLORADO
PLANNING AND COMMUNITY DEVELOPMENT COMMISSION
PUBLIC HEARING MINUTES
7:00 p.m. Monday, Dec.14, 2015
SHIRLEY F. JOHNSON COUNCIL CHAMBERS
LYONS TOWN HALL
432 5TH AVE, LYONS, CO

I. Roll Call

Commissioner Flynn - present
Commissioner Sullivan - present
Commissioner Oetting - present
Chairman Lock - present
Commissioner Rieck - absent
Commissioner Kleisler - present
Trustee Kerr - present

II. Public Hearing

1. Jones Minor Subdivision

Staff Comments

Planner Joseph read his staff report for the record

Applicant Presentation; Q & A for PCDC

Commissioner Flynn asked if the rezone necessary for the buyout.

Joseph said it is, and it is important to meet subdivision requirements. A single-family, detached residence is allowed in R-2.

Open Public Hearing: time opened: 7:08 p.m.

No comment

Close Public Hearing at 7:09 p.m.

PCDC Comment

Commissioner Sullivan asked which lot would remain as a building lot.

Joseph said lot 1 would become the sole building lot.

Commissioner Oetting asked if the property owner would receive greater development rights with the rezoning.

Joseph said the size of the viable lot would constrain any new development.

Commissioner Oetting made a motion to recommend approval of the Jones Minor Subdivision; **Commissioner Flynn** seconded, with all voting favor thereof.

PCDC Resolution 2015-01, a Resolution of the Town of Lyons Planning & Community Development Commission Finding that the Lyons Area Urban Renewal Plan is in Conformance with the Town of Lyons Comp Plan

Caitlin Quander, Associate for Brownstein, Hyatt, Farber, Shreck presented the presentation from Ricker Cunningham

Chairman Lock disclosed that his employer utilizes Brownstein, Hyatt, Farber, Shreck, but does not think there is a conflict. Also wants to keep the PCDC on task, which is to see if the Urban Renewal Plan complies with Comp Plan.

Commissioner Kleisler asked if the PCDC would be bound to the list in Appendix A of the Plan.

Quander said future plans to be considered cannot be found to be less compliant with the comp plan, but can be found to be more compliant than with Appendix A in the Comp Plan.

Chairman Lock asked if other taxing districts understand the impact the Town of Lyons would have, considering it is so small.

57 **Quander** said these taxing entities do realize that Lyons likely will have a smaller impact
58 than other towns and cities with URA.
59 **Chairman Lock** asked if sales tax could be a potential revenue stream,
60 **Quander** said yes; however, the Town would have to enter into an agreement with the
61 URA to determine what percentage of sales tax would go to the fund.
62 **Chairman Lock** asked if there an estimate that is used for a business that did not use
63 TIF, how much of their sales tax would go to TIF.
64 **Quander** said not very strong with sales tax. More important is property taxes.
65 **Commissioner Sullivan** asked if the public gets to vote on any project that goes before
66 the URA.
67 **Quander** said there is not a vote, but there would be public comment. She suggested that
68 one of the next steps could be to conduct public meetings to find out what projects the
69 TIF could be used for.
70 **Commissioner Oetting** asked for an explanation of eminent domain with regard to the
71 URA/URP.
72 **Quander** said the Town currently has the power of eminent domain, for reasons of
73 health, safety or welfare. The URA also gives power of eminent domain, but to mitigate
74 blight. By state law, it would always be a tool of last resort, but since it is a tool authorized
75 by the Colorado Revised State Statutes, the LURA would not want to remove that tool.
76
77 **Commissioner Kleisler** made a motion to approve PCDC Resolution 2015-01, A
78 Resolution Of The Town Of Lyons Planning & Community Development Commission
79 Finding That The Lyons Area Urban Renewal Plan Is In Conformance With The Town Of
80 Lyons Comprehensive Plan; **Commissioner Sullivan seconded; with**
81 **Commissioners Kleisler, Oetting, Lock, Sullivan** voting favor, and **Flynn** voting
82 against.

83
84 **III. 1. Approve October 26, 2015 Minutes**

85 **Commissioner Oetting** made a motion to approve the October 26, 2015 minutes;
86 **Commissioner Kleisler** seconded; with all voting in favor thereof.

87
88 **Chairman Lock** announced there would be no meeting on Dec. 28, 2015.

89
90 **IV. Adjourn**
91 **Time: 9 p.m.**

92
93 Respectfully submitted by

94
95
96
97 Jacquelyn Watson, Deputy Town Clerk
98 Secretary

David Lock, Chairman

Agenda Item No: IX -1

Meeting Date: February 16, 2016

Subject: Eastern Corridor Planning Area 90-Day Temporary Annexation Moratorium – an Ordinance Approving an Extension of the Temporary Moratorium on the Acceptance and Processing of any Applications or Petitions for Annexation for any Property Within the Lyons Planning Area Pending the Completion of a Master Planning Process for the Lyons Planning Area, and Declaring an Emergency.

Presenter: Victoria Simonsen, Town Administrator

Background: The purpose of the Annexation Moratorium was to allow for the Master Plan of the Primary Planning Area to be completed before the Town started considering annexation applications. During the RFP process for hiring a consultant firm to perform the Master Plan, it became clear that the proposed timeline for the Master Plan, which was based on the 90 Day Moratorium, was too short and did not allow sufficient time for a project with a scope of work as involved as the Master Plan process is.

Staff Recommendations: Extend the Temporary Annexation Moratorium for an additional 30 days, for a total of 120 days from January 4, 2016, moving the sunset date back from April 4, 2016 to May 4, 2016.

TOWN OF LYONS, COLORADO

ORDINANCE NO. 998

AN ORDINANCE APPROVING AN EXTENSION OF THE TEMPORARY MORATORIUM ON THE ACCEPTANCE AND PROCESSING OF ANY APPLICATIONS OR PETITIONS FOR ANNEXATION FOR ANY PROPERTY WITHIN THE EASTERN CORRIDOR OF THE LYONS PLANNING AREA PENDING THE COMPLETION OF A MASTER PLANNING PROCESS FOR THE LYONS PLANNING AREA, AND DECLARING AN EMERGENCY

WHEREAS, the Town of Lyons is a party to an Intergovernmental Agreement with Boulder County regarding the Lyons Planning Area, which consists of the Town and those parts of unincorporated Boulder County adjacent to the Town that have been deemed generally suitable for eventual annexation and development; and

WHEREAS, the Town's Board of Trustees applied for grant funding with a completion date of November 30, 2016 for the purpose of studying and preparing a master plan for the Lyons Planning Area; and

WHEREAS, in order to maintain the status quo and to ensure that any new proposals for annexation and development would be subject to the new master plan, the Board by Ordinance 978 imposed a temporary moratorium on the filing, acceptance and processing of any petitions for annexation pending the completion of the plan; and

WHEREAS, by adoption of Ordinance 990, the Board approved an amendment to the temporary moratorium ordinance to exempt the annexation of Town-owned land from the moratorium; and

WHEREAS, by adoption of Ordinance 996, the Board approved an extension of 90 days to complete the master planning effort for the Town's Eastern Corridor and 180 days to complete the planning effort for the Town's Western Planning Areas (which includes Apple Valley and the South St. Vrain Areas); and

WHEREAS, based on the progress made to date on the Master Plan, the Board believes that an extension of 30 days to complete the master planning effort for the Town's Eastern Corridor and an extension of 90 days for the Town's Western Planning Areas will be adequate to allow for completion of Phases I, II & III of the Master Planning process; and

WHEREAS, this Ordinance is necessary for the immediate preservation of the public peace, health and safety to ensure that no new annexation applications or petitions are submitted that would be incompatible with the Town's Master Plan.

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

SECTION 1. The foregoing recitals are incorporated and made part of this Ordinance.

SECTION 2. The previously approved temporary moratorium on the acceptance or processing of any new application or petition for annexation of property to the Town of Lyons pursuant to C.R.S. 31-12-101, et seq. is hereby extended for a period of an additional 30 days for any annexations in the Town's Eastern Corridor and an additional 90 days for any annexations in the Town's Western Planning Areas; and

SECTION 3. The Board of Trustees finds and declares that the provisions of the moratorium ordinance are temporary in nature and shall terminate with regard to the Town's Eastern Corridor 30 days after the expiration of Ordinance 996, or on or about May 4, 2016, and with regard to the Town's Western Planning Areas, shall expire 90 days after the expiration of Ordinance 996, or on or about September 23, 2016, or upon adoption of the master plan for the Lyons Planning

SECTION 4. All other provisions of Ordinance 978, as amended by Ordinance 990 and Ordinance 996, shall remain in full force and effect.

SECTION 5. This Ordinance is necessary for the immediate preservation of the public peace, health and safety because a delay in its effective date could allow for the submission of annexation applications or petitions that do not conform to the new master plan that is intended to guide future annexation proposals.

INTRODUCED, READ, PASSED, AND ADOPTED AS AN EMERGENCY ORDINANCE ON SECOND READING BY A VOTE OF THREE-FOURTHS OF THE BOARD OF TRUSTEES AND ORDERED PUBLISHED THIS 16TH DAY OF FEBRUARY 2016.

TOWN OF LYONS

By: _____
John E. O'Brien, Mayor

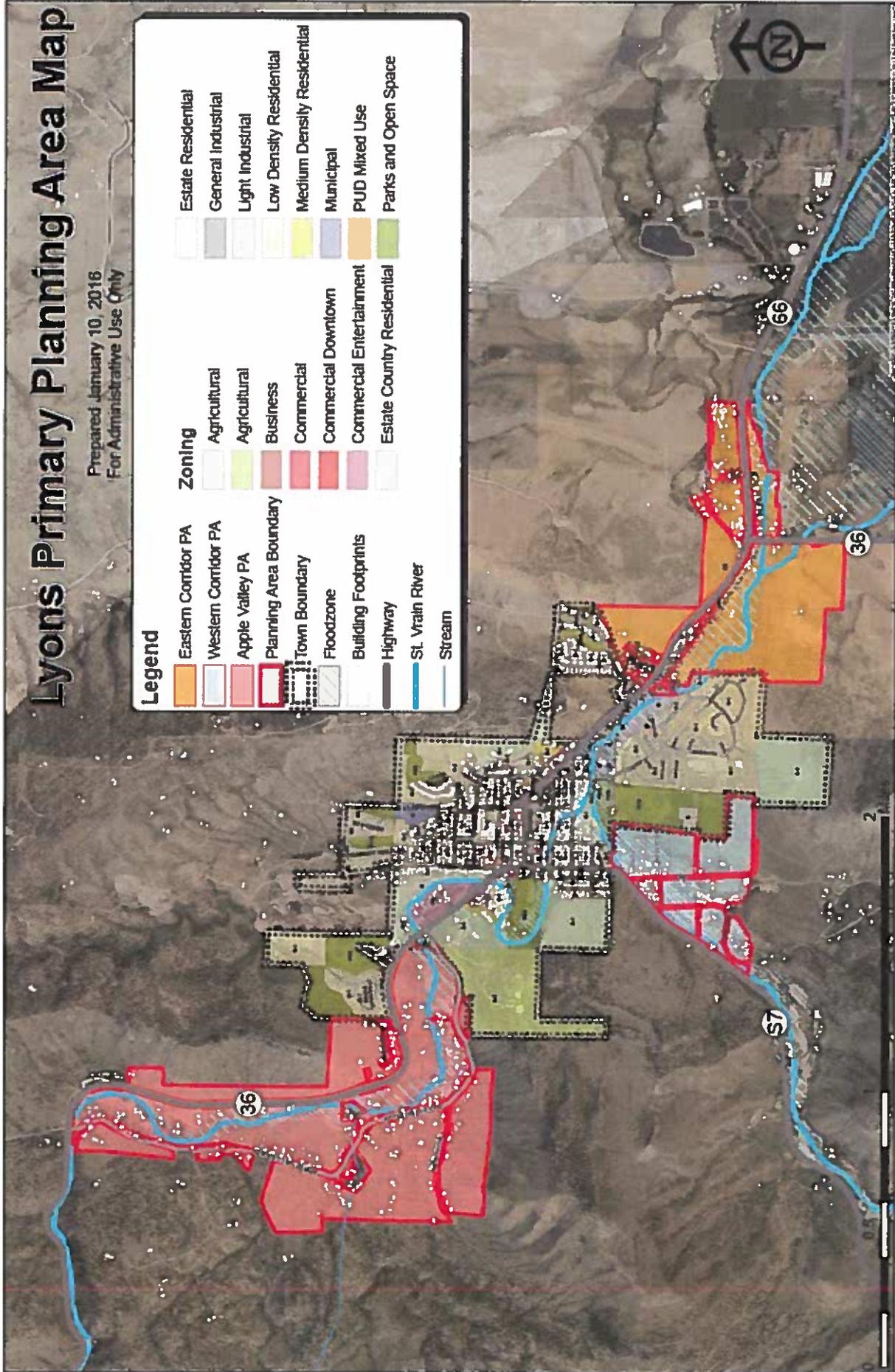
ATTEST:

By: _____
Debra K. Anthony, Town Clerk

Lyons Primary Planning Area Map

Prepared January 10, 2016
For Administrative Use Only

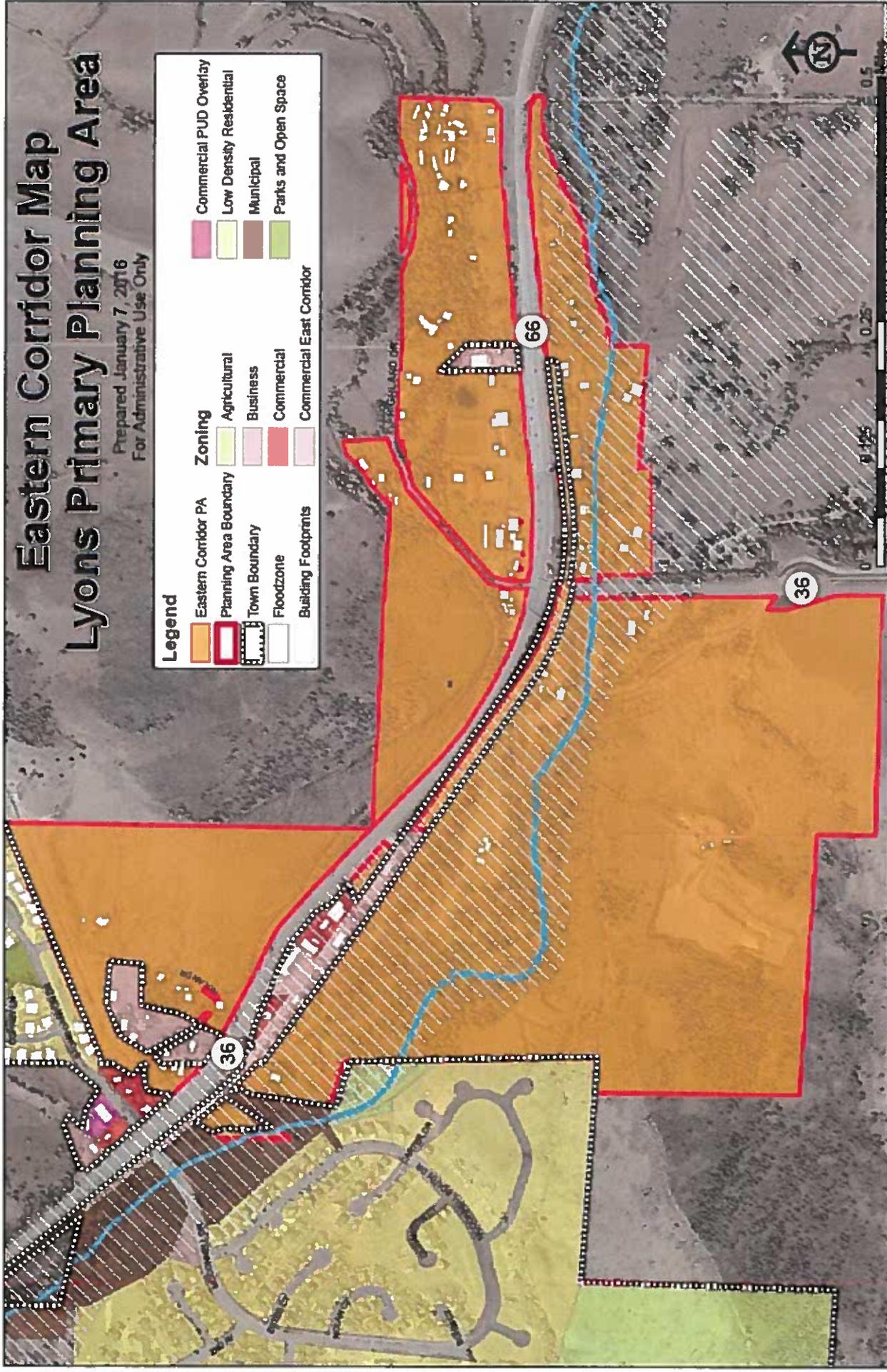
Legend		Zoning	
	Eastern Corridor PA		Agricultural
	Western Corridor PA		Agricultural
	Apple Valley PA		Business
	Planning Area Boundary		Commercial
	Town Boundary		Commercial Downtown
	Floodzone		Commercial Entertainment
	Building Footprints		Estate Country Residential
	Highway		Estate Residential
	SL Vrain River		General Industrial
	Stream		Light Industrial
			Low Density Residential
			Medium Density Residential
			Municipal
			PUD Mixed Use
			Parks and Open Space



Eastern Corridor Map Lyons Primary Planning Area

Prepared January 7, 2016
For Administrative Use Only

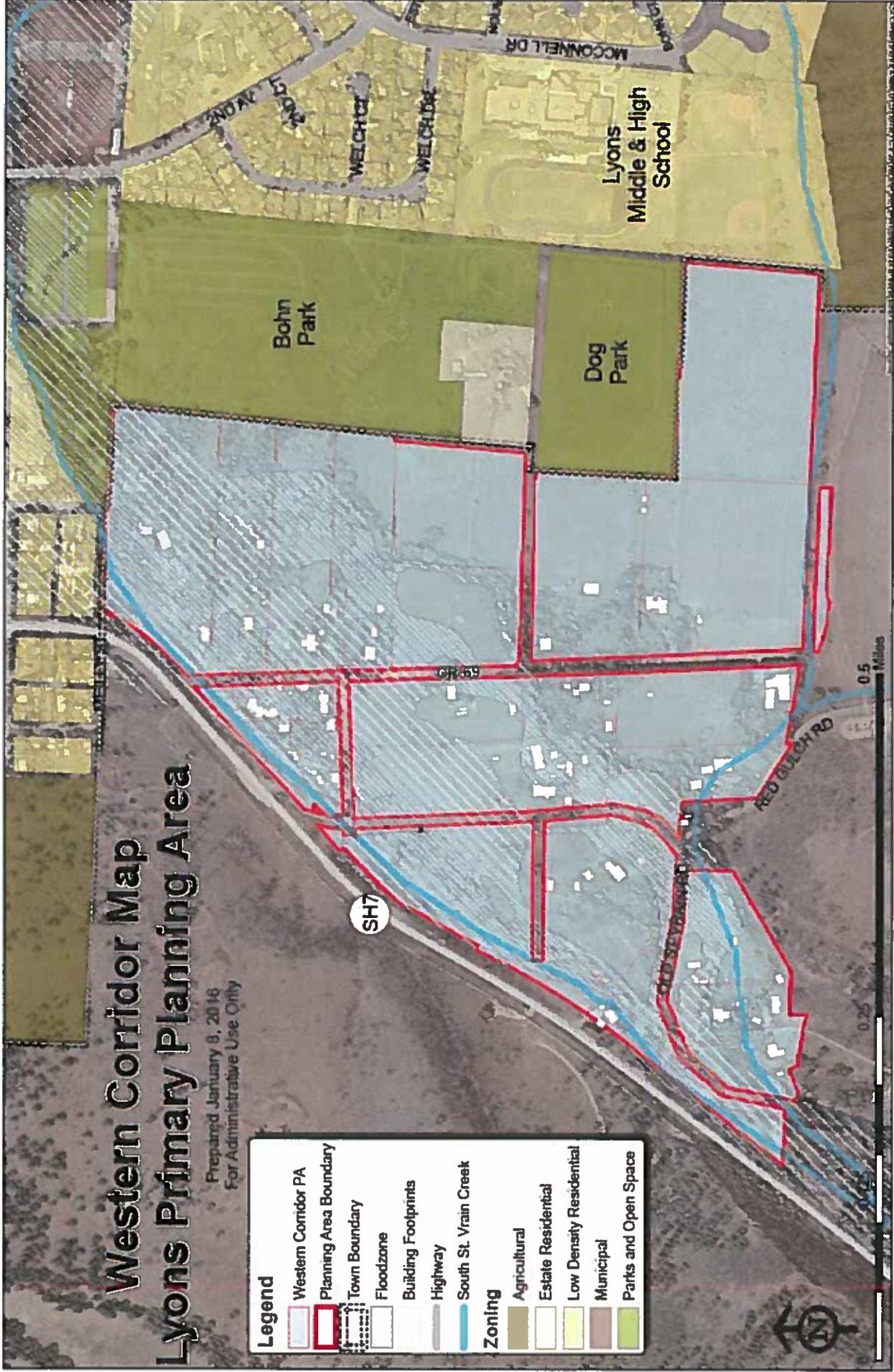
Legend					
	Eastern Corridor PA		Zoning		Commercial PUD Overlay
	Planning Area Boundary		Agricultural		Low Density Residential
	Town Boundary		Business		Municipal
	Floodzone		Commercial		Parks and Open Space
	Building Footprints		Commercial East Corridor		



Western Corridor Map Lyons Primary Planning Area

Prepared January 8, 2016
For Administrative Use Only

Legend	
	Western Corridor PA
	Planning Area Boundary
	Town Boundary
	Floodzone
	Building Footprints
	Highway
	South St. Vrain Creek
Zoning	
	Agricultural
	Estate Residential
	Low Density Residential
	Municipal
	Parks and Open Space

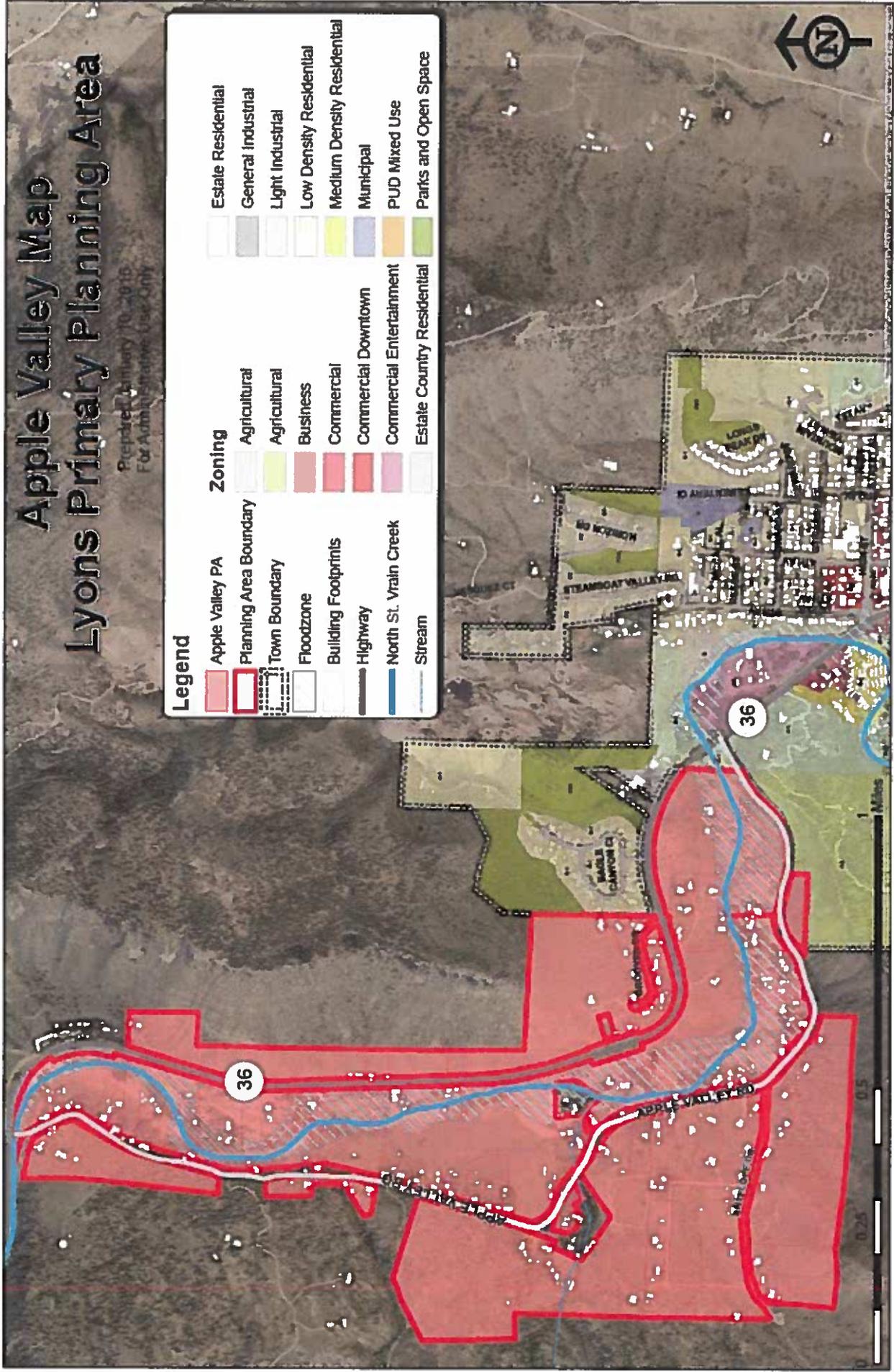


Apple Valley Map Lyons Primary Planning Area

Prepared January 10, 2016
For Administrative Use Only

Legend

	Apple Valley PA		Agricultural		Estate Residential
	Planning Area Boundary		Agricultural		General Industrial
	Town Boundary		Business		Light Industrial
	Floodzone		Commercial		Low Density Residential
	Building Footprints		Commercial Downtown		Medium Density Residential
	Highway		Commercial Entertainment		Municipal
	North St. Vrain Creek		Estate Country Residential		PUD Mixed Use
	Stream				Parks and Open Space



Town of Lyons
A/P Summary Bi-Monthly
2/16/16

Date & Check #	Handchecks	Description	Amount
91602006 2/3/16	Wells Fargo Securities	2003 Water Loan	\$ 155,690.68
93944 2/8/16	437 Main St.	rent & utilities - annex *DOLA grant	\$ 2,258.00
93945 2/8/16	Kristin Nordeck brown	judicial fees	\$ 1,000.00
93946 2/8/16	Vasquez, Raul	lot rent temp PW bldg * FEMA	\$ 400.00
93947 2/10/16	Krische Construction	pay app #4 - Meadow Park * FEMA	\$ 495,048.96
93948 2/10/16	Xcel	utilities	\$ 1,380.88
93949 2/10/16	BC Interiors	chairs	\$ 996.00
901601010 2/10/16	US Bank	various credit chard charges	\$ 3,608.85
Total Handchecks.....			\$ 660,383.37

Payroll 2/12/16 **\$ 40,885.48**

Unpaid Invoices - Vendor

	Amount	Grant Funds	Grant Name
437 Main St. Partnership, LLC:	\$ 2,258.00	\$ 2,258.00	DOLA Staffing
Alberts Water and:	\$ 6,107.00		
American Fence Company, Inc.:	\$ 276.60	\$ 276.60	FEMA
American Funds Service Co	\$ 1,967.69		
ASCAP:	\$ 336.13		
ATCO International:	\$ 406.00		
Be Creative Communications:	\$ 111.37		
Beato Law, LLC:	\$ 333.00		
Birch Communications:	\$ 96.27		
Brekke Storage:	\$ 115.00	\$ 115.00	FEMA
Brownstein Hyatt Farber, LLP:	\$ 112.70		
Bryan Construction	\$ 117,381.00	\$ 116,242.00	SHF/DOLA
Caselle:	\$ 1,394.00		
Century Link:	\$ 851.95		
CIRSA:	\$ 33.00		
Clark's Hardware:	\$ 87.38		
Colorado Analytical Lab:	\$ 455.10		
Colorado Civil Group	\$ 702.00		
Colorado Dept of Revenue	\$ 1,997.00		
D.R.C.O.G.:	\$ 600.00		
Deep Rock Water:	\$ 39.10		
DeFalco Construction Company:	\$ 258,260.50	\$ 258,260.50	FEMA
DHM Design:	\$ 7,446.45	\$ 7,446.45	FEMA
Driver's Services/Traffic Records	\$ 800.00		
Electric Fund:	\$ 5,428.18		
Federal Payroll Tax	\$ 15,065.80		
Hamilton Associates:	\$ 1,243.29		
Hill Petroleum:	\$ 253.70		
Hygiene Propane Services:	\$ 646.10		
Innovative Computer:	\$ 5,185.00		
JLB Companies, Inc:	\$ 7,263.13	\$ 7,263.13	various
Landis+Gyr Technologies, LLC:	\$ 9.12		
Lewan & Associates:	\$ 785.28		
Longmont, City of:	\$ 71.78		
Loris	\$ 2,932.50	\$ 2,932.50	FEMA
Lyons Recorder:	\$ 60.14		
M E A N:	\$ 85,984.64		
Martin Marietta Materials:	\$ 1,067.17	\$ 711.44	FEMA
McDonald Farms Enterprises Inc:	\$ 308.00		
Michael Baker	\$ 19,747.05		
N Line Electric, LLC:	\$ 3,375.07		

Town of Lyons
A/P Summary Bi-Monthly
2/16/16

Naranjo Civil Constructors, Inc.:	\$	294,390.27	\$	294,390.27	CDBG
Pitney - Bowes:	\$	50.14			
Quill:	\$	215.01			
Ramey Environmental Compliance,	\$	13,494.49			
Reserve Account -postage	\$	500.00			
Ribble, Rusty:	\$	42.62			
Standard Fence Co:	\$	2,844.00	\$	2,844.00	FEMA
Starkovich, Jacob:	\$	626.90			
Steamboat Mountain Foods:	\$	63.00			
The Preservation Studio, Inc.:	\$	780.00	\$	780.00	various
US Bank - Jan 2016	\$	2,203.54			
Utilities Refund:	\$	458.67			
Vasquez, Raul:	\$	400.00	\$	400.00	FEMA
Weller, Dawn:	\$	60.00			
Widner Michow & Cox:	\$	9,219.43			
W.L Contractors	\$	6,000.00	\$	6,000.00	CDOT/BOCO
Total Unpaid Invoices as of 2/11/16	\$	882,941.26	\$	699,919.89	

Total (hand checks, payroll, unpaid invoices) \$ 1,584,210.11

TOWN OF LYONS

MINUTES

7:00 P.M., MONDAY, FEBRUARY 1, 2015

BOARD OF TRUSTEES MEETING

SHIRLEY F. JOHNSON COUNCIL CHAMBER

LYONS TOWN HALL, 432 5TH AVENUE, LYONS, COLORADO

I. Roll Call and Pledge of Allegiance

Trustee Johnson - present

Trustee Dreistadt - present

Trustee Greenberg - present

Mayor Obrien - present

Trustee Sullivan - present

Trustee Kerr - present

Trustee Weller - present

II. A Reflective Moment of Silence

III. Approval of the Agenda

Trustee Sullivan motioned to approve the agenda with one change: move the presentation from Dr. Haddad to before Sheriff's Report; Trustee Dreistadt seconded the motion, with all voting favor thereof.

IV. St. Vrain Valley School District Update - Superintendent Don Haddad

The St. Vrain Valley School District will be seeking another bond in the near future; both of Lyons' schools are likely to see some remodeling and perhaps an auditorium at the high school, with expected funds.

Trustee Sullivan asked if the District would be addressing bussing issues with regard to Lyons students.

Dr. Haddad said that an evaluation of the situation has produced the effort of checking with all drivers before they go out on route, and a review of the use of seat belts on busses, also, whether or not current mountain routes are effective.

Trustee Greenberg asked if bond funds would be used for other things besides brick and mortar improvements. Dr. Haddad explained that a bond must be used for construction, while mill levies are used for programming and salaries, of which, SVVSD is adequately funded to match all new improvements.

Trustee Johnson asked how much the proposed bond would generate: Dr. Haddad said it would be around \$200-220 million. Trustee Johnson asked what the SVVSD is doing around marijuana education; Dr. Haddad said the school district continues to educate children the same as they always have: that use is not ever appropriate for school age children.

Mayor O'Brien said that if the SVVSD is successful with its bond, Town of Lyons events to be held at the high school should be free of charge.

Dr. Haddad said that is a very real possibility throughout the district, for community-wide benefits.

V. Sgt Nick Goldberger, Sheriff's Dept Report

Buyouts: Law and fire will be able to use town-owned houses for bomb squad training, walk through training, fire training, etc. Sherriff Deputies could be at the houses at all hours, so neighbors will receive notice about the training. Sergeant Goldberger said he will be sending out end of year stats in time for discussion at the next BOT meeting.

Trustee Johnson wants the new board to conduct a survey of marijuana popularity.

VI. Lyons Urban Renewal Authority

Trustee Sullivan motioned to close the Board of Trustees meeting and open as the Lyons Urban Renewal Authority. Trustee Dreistadt seconded, with all voting in favor thereof.

Trustee Sullivan said that the LURA terms are for 5 years, and BOT terms are 2 years. She asked that this disparity be addressed.

49 Attorney Guckenberger said she would follow up on this item.
50 1 Resolution 2016- 1, a Resolution to Enter Into an Agreement with Brownstein Hyatt Farber Schreck,
51 LLP to Represent the Town of Lyons Urban Renewal Authority.
52 2. Resolution 2016 -2, a Resolution of the Town of Lyons Urban Renewal Authority Approving an
53 Amendment to its Bylaws
54 3. Resolution 2016-3, a Resolution of the Town of Lyons Urban Renewal Authority Approving an
55 Amendment to its Bylaws (concerning private property)
56 **Trustee Sullivan** made a motion to table the URA Resolutions to the February 16, 2015 BOT meeting;
57 **Trustee Dreistadt** seconded; with all voting in favor thereof.
58 **Trustee Sullivan** moved to close as LURA and reopened as the BOT. **Trustee Dreistadt** seconded; with all
59 voting in favor thereof.

60 VII. Audience Business - Limited to 15 minutes - All comments will be limited to 4 minutes per person
61 **Rick DiSalvo, 419 Park St.**, said he really appreciates the BOT holding the workshop on the future use of
62 the buyout properties: it will communicate to people that there will be public process; and no decisions
63 have been made yet.
64 **Peter Baumgartner, 221 Ewald St.**, the person at the corner of Evans and 5th has put up a fence on public
65 property, and it should be removed.
66 **Jeff Hayden, Peak Environmental**, had questions about bid process: Peak Environmental submitted the
67 low bid by a considerable amount; but didn't receive the award; they received congratulations from many
68 of the other bidders, including Young Construction, who told them their bid should not have been
69 selected since it was late to the bid opening. Hayden asked what the legal ramification of selecting a bid
70 that was not part of the bid opening process would be.

71 VIII. Special Housing Committee Update & NDRC Update
72 Justin Spencer didn't have an update on the NDRC contest. He recommends not issuing another survey at
73 this time, since there have been three surveys in the last three months. The Committee would like to
74 create a housing policy to be approved by this board, instead of the new board in April.
75 **Trustee Sullivan** told Spencer the BOT still wants a survey, as communicated at the last meeting. It is still
76 important to understand the community's position on affordable housing in Lyons.
77 **Mayor O'Brien** said the direction was pretty clear. We want a survey and we expect it t be done.
78 **Spencer** said the SHC will focus on a values-focused survey for the BOT's review.
79 **Trustee Johnson** said she has a problem with a survey when there isn't any potential land.
80 **Spencer** said if the Committee hears from the community that affordable housing is still important, it can
81 create policies to support that.
82 **Trustee Greenberg** said that the survey would not be a needs-assessment; it would be less policy-focused,
83 and more about figuring out how well the residents understand affordable housing, and how much
84 education is needed to educate residents regarding the next steps the Town must take. At the last
85 election, people voted for affordable housing, but against the location.
86 **Trustee Dreistadt** said that policy is already established in the Comp Plan and LRAP. Those documents can
87 continue to be guides; what we need to find out, is what people expect from the BOT relative to moving
88 forward with affordable housing. Should it be located at the edge of town, for example?

89  **Mayor O'Brien**, said policy information is needed less than input from residents. The Special
90 Housing Committee is meant to have a limited life, once it has accomplished its task. When should sunset
91 occur?
92 **Trustee Johnson** said she doesn't think the Committee should be sunset. She said the Town needs to
93 move forward until there is more affordable housing for displaced residents.
94 **Spencer** said he is struggling with what value the committee has provided.
95 **Mayor O'Brien** said sunset is not meant to cast dispersions on any individuals.

96 **Trustee Greenberg** said it is problematic to keep stringing people on letting them think something is going
97 to happen if it may never happen, as well. We hope six Habitat for Humanity houses may be built; still just
98 a hope, not a done deal. When two tasks are done: survey and policy development, the committee should
99 be dismantled, hopefully by end of BOT term in April. The Special Housing Committee was formed as Ad
100 Hoc, and should be dismantled by this BOT. The Next BOT can move forward as it sees fit.

101 **Spencer** said the value of a permanent housing committee is that it does filter public input to the BOT.
102 However, there may not a great need in the future. He said he will share with the Committee the BOT's
103 decision; and will work on both goals, with a draft produced by February's end, to be approved in March.

104 **Trustee Sullivan** said this has been a good effort. If the taskforce is being terminated, that is not a sign to
105 the community that the Town Board is done with affordable housing, but that the Town Board will
106 regroup and determine where the focus should be.

107 **Trustee Greenberg** said a policy outlives its authors. It shows commitment beyond a specific Board.
108 **Spencer**, if anyone has any ideas to implement, please let us know. Proposed policy should address what
109 the Town Board can and cannot do: taxes, property acquisition, property sales; utility impacts;

110 **Trustee Dreistadt** thanked **Spencer** for hanging in there and sticking with it.

111 IX. Ordinances – First Reading - Second Reading – Public Hearing

112 1. Public Hearing, Resolution 2015 - 135, a Resolution Approving a Final Plat and SIA for 2nd and
113 Park Subdivision (commonly known as the Valley Bank Property), within the Town of Lyons

114 **Trustee Sullivan** moved to continue the public hearing to the February 16, 2016 BOT Meeting. **Trustee**
115 **Dreistadt** seconded, all voting in favor thereof.

116 Consent Agenda

117 1. February 2016 Accounts Payable

118 2. January 19, 2016 BOT Meeting Minutes

119 3. Resolution 2016-11, a Resolution Approving and Easement between Latter Day Saints Church and Town
120 of Lyons (Removed from Consent Approval).

121 4. Town of Lyons Arbor Day proclamation

122 5. Resolution 2016-12, a Resolution Approving an Easement between the Thomas Property and Town of
123 Lyons

124 **Trustee Greenberg** motioned to approve the consent agenda, and remove item #3, Resolution 2016-11.
125 **Trustee Johnson** seconded, with all voting in favor thereof..

126 X. General Business

127 1. Discussion concerning potential increase for BOT compensation

128 **Administrator Simonsen**  A resident suggested the BOT consider a compensation increase,
129 to be implemented with the next seated board

130 In 2007, the BOT voted to increase mayor comp from \$50 to \$100; and fro \$25 to \$50 for
131 trustees.

132 **Trustee Weller** said she didn't serve for the money, so she won't vote for an increase.

133 **Trustee Johnson** said she hates to think that some people didn't run because there wasn't
134 enough compensation, because you do this for the community, not for the pay.

135 **Trustee Kerr** said he thinks more money would be appreciated because there is quite a time
136 commitment for trustees, even above the other commissions.

137 **Trustee Sullivan** said she can see both sides: the money doesn't factor in when deciding to serve
138 your community, but she has paid a babysitter more money that she receives; and serving as a
139 trustee shouldn't cost you money.

140 **Trustee Greenberg** said he doesn't think anyone serves for the money, but there is a good
141 argument that running for BOT is not a positive use of time for people whose time is valuable.

142 **Trustee Dreistadt** said there is an alternative: it shouldn't cost someone to be a BOT member,
143 and be a barrier to someone running for BOT. Retain the current pay scale; but allow for child
144 care to be paid for through a type of flexible spending account.

145 **Trustee Greenberg** suggested it be brought up before the budget cycle for 2017.

146 2. Resolution 2016 - 13, a Resolution Awarding a Bid for Demolition of Structures on Buyout

147 Properties within the Town of Lyons to Young's General Contracting, INC. and Approving an

148 Agreement with Young's General Contracting, INC

149 **Town Engineer Joe Kubala** explained that 25 contractors attended the pre-bid meeting. Five bids

150 were opened on time. One contractor said his bid was in transit with Federal Express, sealed and

151 completed the day before, which was received at Town Hall 40 minutes later. Throughout the

152 RFP, the Town stated its reserved right to change its process, in the best interests of the Town.

153 **Trustee Greenberg** said so, staff accepted the bid, because no one was able to use information at

154 the bid opening to submit a low bid; so you thought your method was acceptable.

155 **Administrator Simonsen** said staff has received legal counsel regarding the method and its

156 acceptance. The accepted bid was \$130,000 less than next lowest bid. However, staff will go over

157 any potential federal issues with counsel, so she would recommend approval of the award,

158 pending legal review.

159 **Trustee Sullivan** made a motion to approve Resolution 2016-13, pending attorney approval

160 **Trustee Weller** seconded, with all voting in favor thereof.

161 3. Discussion/Confirmation Bohn Park RFP

162 **Administrator Simonsen** said this RFP would award final design and Bohn Park could be

163 complete by summer 2017. Simonsen said staff would add "fish habitat restoration" to the RFP.

164 4. Resolution 2016-14, a Resolution Authorizing the Payment of Refunds to the Lyons Property

165 Owners who were Inadvertently Charged More than the Maximum Fee Set by the State for solar

166 Energy System Installations, Using Unexpended Funds from the Energy Efficiency Upgrade

167 Program.

168 **Toby Russell, Sustainability Coordinator** explained there are two steps to reduce future permit

169 costs to at or below the mandated \$500 cap.

170 1. Through an RFP, the Town will select a building permit services company that will include a flat

171 fee for solar inspections, as mandated by the State.

172 2. The Town could absorb the cost of all new net meters, because they will soon be installed for

173 all residents, regardless of whether or not they install solar PV systems. This would reduce cost

174 of permit.

175 For current net solar customers, there is only the ability to refund those residents who paid more

176 than the \$500 in permitting costs. This money could come from unspent 2015 funds in the

177 Sustainable Futures budget from the Energy Efficiency Upgrade Program line item.

178 **Trustee Greenberg** said the Town needs to look at a way to compensate the electric fund,

179 without harming those people who cannot afford to install net metering, or who are renters, and

180 have no choice but to pay increased costs. The BOT can continue to raise rates for all; but those

181 who can afford to escape the rate increases are able to do so by installing an expensive system.

182 **Mayor O'Brien** asked Russell to keep the BOT informed on any progress on net metering.

183 **Trustee Weller** made a motion to approve Resolution 2016-14.

184 **Trustee Johnson** seconded, with six voting in favor and one abstention: Trustee Kerr.

185 XI. Items Removed from the Consent Agenda

186 **Trustee Sullivan** made a motion to adjourn from BOT to Local Liquor Authority, seconded by Trustee

187 Dreistadt, with all voting in favor thereof.

188 XII. Lyons Local Liquor Authority

189 1. Corner Collective Workshop, Art Gallery Permit

190 **Trustee Sullivan** made a motion to approve the art gallery permit with the requirement that a

191 safety plan be submitted and approved by the Deputy Town Clerk.

192 **Trustee Dreistadt** seconded, with all voting in favor thereof.

- 193 XIII. Trustee Reports 
- 194 Trustee Weller said Boulder County Transportation Policy Advisory Committee doubts the success of a
- 195 transportation tax, and will not be pursuing one at this time; the SFC approved 9 Health Fair in April.
- 196 Trustee Sullivan attended the ecology board meeting and they are revisiting their goals for the year, based
- 197 on the 2016 budget. Mayor O'Brien will attend the Boulder County Consortium of Cities and Metro
- 198 Mayors Caucus to get the Legislative Update. Trustee Greenberg said the library board would like to
- 199 approve two board members on consent agenda; he asked for an update on ice melt/salt issue. Simonsen
- 200 said Public Works is already using rock salt and sand. It is pet-friendly substance, but not plant friendly.
- 201 Simonsen will have new update at next meeting. Greenberg said he will follow up with school officials
- 202 regarding Town residents' use of the sledding hill on school property; Trustee Dreistadt said the LAHC will
- 203 meet Tuesday, to discuss 'Last Thursdays,' an art-focused night during the summer; Trustee Johnson said
- 204 the Parks and Rec. Commission will meet Feb. 8 to discuss park updates and recreation opportunities.
- 205 They have sent out an event survey, and look forward to getting results back. On Feb. 25, there will be a
- 206 legislative open house at Oskar Blues with Rollie Heath and Jonathon Singer.
- 207 XIV. Staff Reports
- 208 The Library Board will meet Tuesday night; street light construction should begin any day this week,
- 209 pending weather. It appears from the meeting last Friday morning that all goals from LRAP would be
- 210 completed by 2017, except for one item, the 2nd Avenue Bridge. The Municipal Campus design, funded by
- 211 DOLA, will begin this quarter.
- 212 XV. Adjournment 9:23 p.m.
- 213 Respectfully Submitted by
- 214
- 215
- 216
- 217
-
- Jacquelyn Watson, CMC, Deputy Town Clerk
-
- John O'Brien, Mayor

Agenda Item X - 3

Meeting Date: February 16, 2016

Subject: Resolution 2016-16

Presenter: Town Administrator Victoria Simonsen

Background: The Town and the Church of Latter Day Saints have agreed on the terms of a permanent easement for the Town to build, construct, keep and maintain water drainage facilities on property owned by the LDS Church as more particularly described in the easement and the BOT's desires to formally accept the easement.

Staff Recommendations: Approval of the permanent easement

**TOWN OF LYONS, COLORADO
RESOLUTION 2016- 16**

**A RESOLUTION ACCEPTING A PERMANENT EASEMENT TO BUILD, CONSTRUCT,
KEEP, AND MAINTAIN WATER DRAINAGE FACILITIES ON PROPERTY OWNED BY THE
CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS**

WHEREAS, the Town of Lyons (the "Town") has the authority to negotiate and accept interests in land, including easements; and

WHEREAS, the flood of September 2013 caused extensive damage to the drainage ditch that has historically been on property owned by the Church of Jesus Christ of Latter-Day Saints located in Lyons Valley Park – Filing No. 5; and

WHEREAS, the permanent drainage easement is essential to preserve the health, safety, and welfare of the citizens of the Town of Lyons because the drainage area serves as storm water drainage, an overflow channel if the St. Vrain river overflows its banks, and a filter to protect the Town's water source; and

WHEREAS, the Town and the Church of Jesus Christ of Latter-Day Saints have agreed on the terms of a permanent easement for the Town to build, construct, keep, and maintain water drainage facilities on property owned by the Church of Jesus Christ of Latter-Day Saints as more particularly described in the easement, and the Town's Board of Trustees desires to formally accept the easement.

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

Section 1. The Town Board of Trustees hereby accepts a Permanent Drainage Easement across the property owned by the Church of Jesus Christ of Latter-Day Saints in substantially the form of the easement attached hereto, subject to minor modifications as approved by the Town Attorney.

ADOPTED this 16th day of FEBRUARY 2016.

TOWN OF LYONS

By: _____
John E. O'Brien, Mayor

ATTEST:

Debra K. Anthony, Town Clerk

WHEN RECORDED RETURN TO:

Town of Lyons
432 5th Avenue
Lyons, Colorado 80540
Attn: _____

With A Copy To:

Corporation of the Presiding Bishop of
The Church of Jesus Christ of Latter-day Saints
Real Estate Services Division
Attn: Property No. 545-3046
50 East North Temple, 12th Floor
Salt Lake City, UT 84150

DRAINAGE EASEMENT AGREEMENT

WHEREAS, the Corporation of the Presiding Bishop of the Church of Jesus Christ of Latter-day Saints, a Utah corporation sole (“Grantor”), is the record owner of Lyons Valley Park Filing No. 5, Lot B (“Grantor’s Parcel”); and

WHEREAS, Grantor desires to grant to the Town of Lyons, a statutory municipality of the State of Colorado, 432 5th Avenue, Lyons, Colorado 80540 (“Grantee”), a perpetual, non-exclusive drainage easement (“Easement”) in property situated in the Town of Lyons as more particularly described in Exhibits A and B, attached and incorporated herein by reference (“Easement Area”); and

WHEREAS, Grantor and Grantee desire to enter into this Drainage Easement Agreement (“Agreement”) to establish the terms and conditions of the Easement.

Now, therefore, in consideration of the sum of One Dollar (\$1.00) and for other good and sufficient considerations to be paid by Grantee, the receipt of which is hereby expressly acknowledged, Grantor hereby grants, remises, releases, and forever quitclaims unto Grantee a perpetual, non-exclusive easement for drainage improvements, including the right to survey, build, construct, install, replace, remove, keep, operate, repair, and maintain water drainage facilities on, under, across, and through the Easement Area effective February 16, 2016.

Except on Sunday, as provided in Paragraph 2 of this Agreement, said Grantee shall have the right at all times to go upon the lands herein described to survey, build, construct, install, replace, remove, keep, operate, maintain and repair the said drainage facilities as may be necessary, and while nothing in this Easement shall be construed so as to grant any right to said Grantee which shall in any way interfere with the safe use by Grantor of the land adjacent to and above said drainage facilities, Grantor shall not use nor attempt to use said property in such manner as

would interfere with the proper, safe and continuous maintenance and use of said drainage facilities.

Special Provisions:

Notwithstanding the foregoing, this Easement is subject to the following terms and conditions:

1. Condition of Easement Area and Risk of Entry. Grantee accepts the Easement Area and all aspects thereof in "AS IS," "WHERE IS" condition, without warranties, either express or implied, "WITH ALL FAULTS," including but not limited to both latent and patent defects, and the existence of hazardous materials, if any. Grantee hereby waives all warranties, express or implied, regarding the title, condition and use of the Easement Area, including, but not limited to any warranty of merchantability or fitness for a particular purpose. Without limiting the generality of the foregoing, this easement is granted to Grantee subject to: (a) any state of facts which an accurate ALTA/ASCM survey (with Table A items) or physical inspection of the Easement Area might show, (b) all zoning regulations, restrictions, rules and ordinances, building restrictions and other laws and regulations now in effect or hereafter adopted by any governmental authority having jurisdiction; and (c) reservations, easements, rights-of-way, covenants, conditions, restrictions, encroachments, liens, and encumbrances and all other matters of record or enforceable at law or in equity. Grantee must obtain any and all consents, approvals, permissions, and agreements to cross, encumber or encroach upon any other easements or rights of others related to its use of the easement and improvement of the Easement Area. Grantee, its agents and contractors, shall enter upon the Easement Area at their sole risk and hazard, and Grantee, for itself, its agents, contractors, and successors and assigns hereby releases Grantor from any and all claims relating to the condition of the Easement Area and the entry thereon by Grantee and its agents and contractors.

2. Construction of the Improvements. Grantee will conduct all construction activities in a good and workmanlike manner and in compliance with all laws, rules, and ordinances. Except in emergencies, no construction work will be performed on the Easement Area on Sundays.

3. Reservation by Grantor. Grantor hereby reserves the right to use the Easement Area for any use not inconsistent with Grantee's permitted use of the Easement Area, including, but not limited to, placing driveways, parking areas, and landscaping on the Easement Area, provided that such improvements do not interfere with Grantee's rights under this Agreement. Grantor hereby reserves any existing rights of access across the Easement Area.

4. Maintenance and Restoration. Grantee, at its sole cost and expense, shall maintain and repair any and all improvements installed by Grantee in good order and condition. Grantee shall promptly repair any damage to the Easement Area or Grantor's Parcel and Grantor's improvements located thereon (including, without limitation, any and all landscaping, trees, fences, water and/or irrigation pipes, lines and ditches, curbs, gutters, asphalt surfaces, fences, signs, lighting, buildings, etc.) caused by Grantee and/or Grantee's agents or contractors, and shall restore the Grantor's Parcel and the improvements thereon to the same or better condition as they existed prior to any entry onto or work performed on the Easement Area or the Grantor's Parcel by Grantee and Grantee's agents or contractors.

5. Compliance with Laws. In its construction activities and its use of the easement, Grantee will comply with all present or future laws, statutes, codes, acts, ordinances, rules, regulations, orders, judgments, decrees, injunctions, rules, regulations, permits, licenses, authorizations, directions and requirements of and agreements with all governments, departments, commissions, boards, courts, authorities, agencies, officials and officers, foreseen or unforeseen, ordinary or extraordinary, including, without limitation, any building, zoning and land use laws.

6. Indemnification. Unless prohibited by law, Grantee shall indemnify, defend, and hold Grantor and its employees, officers, divisions, subsidiaries, partners, members and affiliated companies and its and their employees, officers, members, directors, agents, representatives, and professional consultants and its and their respective successors and assigns (collectively, the “**Indemnitees**”) harmless from and against any loss, damage, injury, accident, fire or other casualty, liability, claim, cost or expense (including, but not limited to, reasonable attorneys’ fees) of any kind or character to any person or property, including the property of the Indemnitees, (collectively, the “**Claims**”) arising from or relating to: (a) any use of the Easement Area, Grantor’s Parcel, and/or adjacent areas by Grantee or Grantee’s agents, (b) any act or omission of Grantee or any of Grantee’s agents, (c) any bodily injury, property damage, accident, fire or other casualty to or involving Grantee or Grantee’s agents and its or their property on the Easement Area, the Grantor’s Parcel and/or adjacent areas, (d) any violation or alleged violation by Grantee or Grantee’s agents of any law or regulation now or hereafter enacted which causes loss or damage to Grantor, (e) any breach by Grantee of its obligations under this Agreement, which causes loss to Grantor, and (f) any enforcement of Grantor of any provision of this Agreement and any cost of removing Grantee from the Easement Area or restoring the same as provided herein; provided, however, that the foregoing indemnity shall not apply to the extent any such Claim is ultimately established by a court of competent jurisdiction to have been caused solely by the negligent or willful misconduct of the Indemnitees. Grantee, as a material part of the consideration of this Agreement, waives all claims or demands against Grantor and the other Indemnitees for any such loss, damage or injury of Grantee or Grantee’s property. The indemnity provided by Grantee in favor of the Indemnitees in this Agreement shall not require payment as a condition precedent. The terms and conditions of this Paragraph 6 shall survive the termination of this Agreement.

7. Insurance. Grantee will ensure that prior to Grantee or Grantee’s agents entering onto the Easement Area or the Grantor’s Parcel, Grantee and all of Grantee’s agents and other such parties who assist with the construction, maintenance or use of the Easement Area, each obtain similar policies and which, at a minimum, provide Grantor the protections set forth below. Grantee’s Agents must obtain and maintain the following insurance coverages and policies prior to working in the Easement Area:

7.1 Liability Coverage. A commercial general liability insurance policy insuring Grantee’s interests against claims for personal injury, bodily injury, death, property damage occurring on, in or about the Easement Area and the ways immediately adjoining the Easement Area, covering personal injury liability, bodily injury liability and property damage liability) with limits of not less than Two Million Dollars (\$2,000,000.00) per occurrence and in

the aggregate. The coverage set forth above shall be primary coverage and shall apply specifically to the Grantee's premises and operations;

7.2 Workers' Compensation Insurance. All Workers' Compensation and Employers' Liability Insurance required under applicable Workers' Compensation Acts and/or applicable law; and

7.3 Automobile Insurance. Automobile Liability Insurance with a minimum limit of not less than One Million Dollars (\$1,000,000.00) Combined Single Limit per accident, and coverage applying to "Any Auto."

8. Liens. Grantee will keep the Easement Area and Grantor's Parcel free from any liens arising out of any work performed, materials furnished, or obligations incurred by, through, for or under Grantee, and Grantee will indemnify, hold harmless and agree to defend Grantor from any liens that may be placed on the Easement Area or Grantor's Parcel pertaining to any work performed, materials furnished or obligations incurred by, through, for, or under Grantee or any of Grantee's Agents, unless prohibited by law. Any such liens must be released of record within thirty (30) days.

9. Notices. Any notice required or desired to be given under this Agreement shall be considered given either: (i) when delivered in person to the recipient named below, (ii) three (3) days after deposit in the United States mail in a sealed envelope or container, either registered or certified mail, return receipt requested, postage prepaid, addressed by name to the person and party intended. All notices shall be given at the following addresses:

If to Grantor: Corporation of the Presiding Bishop of
The Church of Jesus Christ of Latter-day Saints
Attn: Real Estate [PN 545-3046]
50 E. North Temple, 12th Floor
Salt Lake City, Utah 84150

If to Grantee: Public Works Department
Town of Lyons
432 5th Avenue,
Lyons, Colorado 80540

Either party may designate a different individual or address for notices, by giving written notice thereof in the manner described above.

10. Miscellaneous.

10.1. Interpretation. Section titles and captions to this Agreement are for convenience only and shall not be deemed part of this Agreement and in no way define, limit, augment, extend, or describe the scope, content, or intent of any part of this Agreement. The parties acknowledge and agree that all of the terms and conditions of this Agreement are

contractual in nature and shall be interpreted under any applicable law as contractual obligations, and each party waives any claims or defenses to the contrary.

10.2. Applicable Law; Venue. This Agreement shall be construed in accordance with and governed by the laws of the State of Colorado. Venue for any action arising under this Agreement shall be in the appropriate court for Boulder County, Colorado.

10.3. Run with the Land/Successors. Subject to the terms and conditions of this Agreement, the Easement granted herein shall be perpetual and shall run with the land, and the terms and conditions of this Agreement shall inure to the benefit of and be binding upon the parties, their successors and assigns.

10.4. Integration. This Agreement constitutes the entire agreement between the parties pertaining to the subject matter hereof, and supersedes all prior agreements and understandings pertaining thereto. No covenant, representation, or condition not expressed in this Agreement shall affect or be deemed to interpret, change, or restrict the express provision hereof. Any amendment or modification to this Agreement shall be in writing and signed by authorized agents or officers of the parties.

10.5. Waiver. No failure by any party to insist upon the strict performance of any covenant, duty, agreement, or condition of this Agreement or to exercise any rights or remedy for a breach of this Agreement shall constitute a waiver of any such breach or of such right or remedy or of any other covenant, agreement, term, or condition.

10.6. Rights and Remedies. The rights and remedies of any of the parties stated herein are not intended to be exclusive, and the exercise of one or more of the provisions of this Agreement shall not preclude the exercise of any other provisions. Each of the parties confirms that damages at law may be an inadequate remedy for a breach or threatened breach of any provision hereof. The respective rights and obligations hereunder shall be enforceable by specific performance, injunction, or other equitable remedy, but nothing herein contained is intended to or shall limit or affect any rights at law or by statute or otherwise of any party aggrieved as against the other party for a breach or threatened breach of any provision hereof, it being the intent of this Paragraph 10.6 to make clear the agreement of the parties that the respective rights and obligations of the parties hereunder shall be enforceable in equity as well as at law or otherwise.

10.7. Enforceability and Litigation Expenses. If any action, suit, or proceeding is brought by a party or parties hereto with respect to a matter or matters covered by this Agreement, all costs and expenses of the prevailing party or parties incident to such proceeding, including reasonable attorneys' fees, shall be paid by the non-prevailing party or parties.

10.8. Authorization. Each individual executing this Agreement represents and warrants that he or she has been duly authorized by appropriate action of the governing body of the party for which he/she signs to execute and deliver this Agreement in the capacity and for the entity set forth where he/she signs and that as a result of his/her signature, this Agreement shall be binding upon the party for which he/she signs.

10.9. No Public Use/Dedication. The Easement Area is and shall at all times remain the private property of Grantor. The use of the Easement Area is permissive and shall be limited to the express purposes contained herein by Grantee. Neither Grantee, nor its successors or assigns, nor the public shall acquire nor be entitled to claim or assert any rights to the Easement Area beyond the express terms and conditions of this Agreement. Notwithstanding this Paragraph 10.9, with prior written approval of Grantor, which approval shall not be unreasonably withheld, Grantee may assign to any appropriate local governmental entity or to any public utility provider any and all rights to use, and all obligations associated with, the Easement Area, provided that such assignment shall also be subject to the terms of this Agreement.

10.10. Counterparts and Electronic Transmission. This Agreement may be executed in any number of counterparts, provided each counterpart is identical in its terms. Each such counterpart, when executed and delivered will be deemed to be an original, and all such counterparts shall be deemed to constitute one and the same instrument. Facsimile or other electronic transmission of a signed counterpart shall be deemed to constitute delivery of the signed original.

EXECUTED by Grantor and Grantee as of the date first above written.

GRANTOR:

CORPORATION OF THE PRESIDING
BISHOP OF THE CHURCH OF JESUS
CHRIST OF LATTER-DAY SAINTS,
a Utah corporation sole

By: _____
Name: _____
Its: Authorized Agent

GRANTEE:

TOWN OF LYONS, a Statutory municipality
of the state of Colorado

By: _____
Name: _____
Title: _____

Accepted and recommended for approval
TOWN OF LYONS

Victoria Simonsen
Town Administrator
Town of Lyons, Colorado
Authorized Agent for the Town of Lyons

[Acknowledgements to follow]

STATE OF UTAH)
 :SS
COUNTY OF SALT LAKE)

On this ____ day of _____, 2014, personally appeared before me _____, personally known to me to be an Authorized Agent of CORPORATION OF THE PRESIDING BISHOP OF THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS, a Utah corporation sole, who acknowledged before me that he signed the foregoing instrument as Authorized Agent for CORPORATION OF THE PRESIDING BISHOP OF THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS, a Utah corporation sole, and that the seal impressed on the within instrument is the seal of said corporation; and that said instrument is the free and voluntary act of said corporation, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument on behalf of said corporation and that said corporation executed the same.

WITNESS my hand and official seal.

Notary Public for the State of Utah

STATE OF COLORADO)
 :SS
COUNTY OF BOULDER)

On this ____ day of _____, 2014, before me appeared _____, to me personally known, and who, being by me duly sworn, did say that he/she is the _____ of the TOWN OF LYONS, a statutory municipality of the State of Colorado, and that the foregoing instrument was signed in behalf of said Town by authority duly conferred upon him or her and _____ acknowledged said instrument to be the free act and deed of said Town.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at my office in _____, the day and year last above written.

SEAL

Notary Public in and for said County and State

My term expires _____

EXHIBIT A

LEGAL DESCRIPTION FOR
PERMANENT DRAINAGE EASEMENT

**Lyons Valley Park – Filing No. 5, Lot A
A portion of the Northeast ¼ of Section 19 and the Northwest ¼ of Section 20,
Township 3 North, Range 70 West of the 6th Principal Meridian
Town of Lyons, Boulder County, Colorado**

Drainage Easement

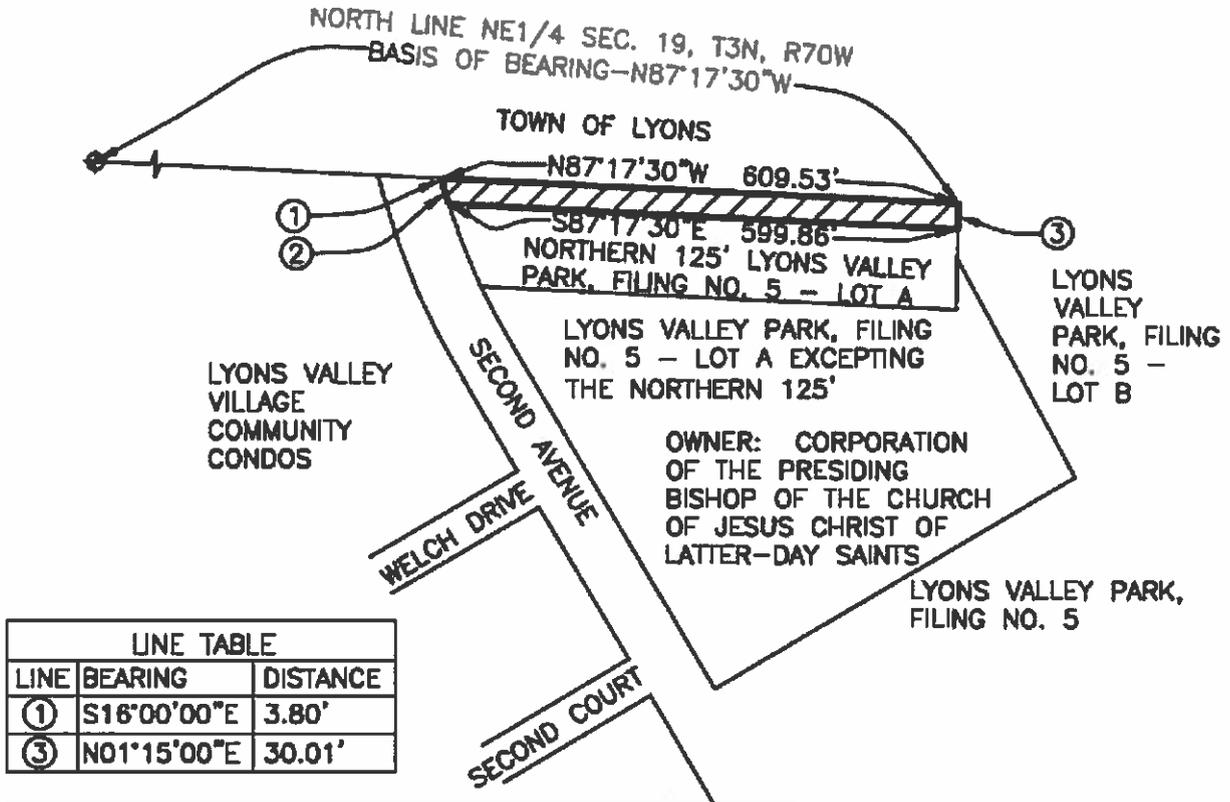
A 30' wide parcel of land located in the Northeast Quarter of the Northeast Quarter of Section 19, Township 3 North, Range 70 West of the Sixth Principal Meridian, Town of Lyons, Boulder County, State of Colorado more particularly described as follows:

Commencing at the Northeast Corner of said Section 19, also being the Point of Beginning.
Thence N87°17'30"W a distance of 609.53 feet along the North line of said Section 19 to a point on the easterly right-of-way line of Second Avenue;
Thence S16°00'00"E along said easterly right-of-way a distance of 3.80 feet to a point of curve to the left;
Thence along said easterly right-of-way and said curve to the left having a radius of 766.00 feet, a central angle of 2°05'30", a distance of 27.96 feet and whose chord bears S16°31'35"E a distance of 27.96 feet;
Thence S 87°17'30" E a distance of 599.86 feet;
Thence N 01°15'00" E a distance of 30.01 feet to the Point of Beginning.

Parcel contains 0.4165 acres (18,144 square feet) more or less.

EXHIBIT B

DEPICTION FOR
PERMANENT DRAINAGE EASEMENT



LINE TABLE		
LINE	BEARING	DISTANCE
①	S16°00'00\"E	3.80'
③	N01°15'00\"E	30.01'

CURVE TABLE					
CURVE	RADIUS	DISTANCE	CENTRAL ANGLE	CHORD BEARING	CHORD DISTANCE
②	766.00'	27.96'	02°05'30\"	S16°31'35\"E	27.96'

BASIS OF BEARING;
Bearings are based on the North line of NE 1/4 of Sec. 19, which is assumed to bear N87°17'30\"W between monuments found on said line

**PARCEL CONTAINS 18,144 Sq. Ft.
(0.4165 ACRES)**



SCALE: 1" = 200' NORTH

REVISED	-	-	PREPARED BY	ANDERSON AND HASTINGS CONSULTANTS INC.	
APPROVED	JVH	03/06/14	PROJECT	LDS LYONS (LONGS PEAK WARD)	
CHECKED	JVH	03/06/14	LOCATION (BY-300)	200 2ND AVENUE	
DRAWN	BMC	03/06/14	JOB NO.	050-1980	SHEET 1 OF 1
SURVEYED	-	-	PROJECT NO.	.	
ACTION	BY	DATE			

Agenda Item: X-4

Meeting Date: February 15, 2016

Subject: Resolution approving Contract Change Order #2 with Bryan Construction for rehabilitation/renovation of the Lyons Depot Building.

Background Information: The Board is aware that Town staff has been working diligently towards the repair and rehabilitation of the Lyons Depot Library through grants provided by DOLA Energy Mineral Impact Fund, History Colorado- The State Historic Fund, Lyons Community Foundation, and Longmont Community Foundation in addition to insurance payment for flood and hail damage. The attached Change Order #2 for Bryan Construction summarizes 5 additional construction changes requested by the project for a net change order of \$3186.

All individual change orders in this set are minor. PCO 017 is a credit thanks to Raul and Abraham Vasquez of Blue Mountain Stone, Inc. They are donating sandstone wall caps for along the ramp from the freight building addition to the original depot. This upgrade will be more attractive than the budgeted laminate and visually tie the buildings together. PCO 016 and 021 were required to connect the heating and AC per code. PCO 018 and 023 allow finishing of the original baggage room without addition of non-historic base or ceiling boards.

After this adjustment there is \$9287 of the original \$27,632 in contingency funds remaining for the project. The work is greater than 80% complete. A couple other small change orders are expected. If contingency funds remain available we plan to add back items such as window coverings that were removed from scope as part of value engineering.

Interior completion is still anticipated early March with exterior completion estimated for April, but could be earlier or later depending on weather.

Recommended Action: Approve Resolution 2016- 17 , approving Contract Change Order #2 in the amount of \$3186 to the contract with Bryan Construction, Inc. for the Lyons Depot Library Rehabilitation/Renovation.

RESOLUTION 2016-17

A RESOLUTION APPROVING CHANGE ORDER #2 IN THE AMOUNT OF \$3,186 TO THE CONTRACT WITH BRYAN CONSTRUCTION, INC. FOR THE LYONS DEPOT LIBRARY REHABILITATION/RENOVATION

WHEREAS, the Lyons Depot Library suffered substantial damage in the September 2013 flood; and

WHEREAS, in accordance with the Town's purchasing policies, the Town solicited bids on two occasions for the renovation of the Lyons Depot Library; and

WHEREAS, the Board approved a contract with Bryan Construction, Inc. for a not-to-exceed amount of \$514,922.00 to complete the renovation of the Library; and

WHEREAS, in the course of construction additional work was required that could not reasonably have been discovered before construction began; and

WHEREAS, the Board approved Resolution 2016-10 for Contract Change Order #1 with Bryan Construction for \$15,159; and

WHEREAS, Bryan Construction has prepared additional change orders for a net amount of \$3,186 that will allow work to address identified issues; and

WHEREAS, now that the foundation and building structure has been fully exposed, Bryan does not expect any more large change orders; and

WHEREAS, this additional change order is within the original contingency of \$27,632, and sufficient amount remains if needed for future change orders or other contingencies; and

WHEREAS, this change will result in a new contract value of not-to-exceed \$533,267.

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

Section 1. The Town Board of Trustees hereby approves the Contract Change Order #2 submitted by Bryan Construction in an amount of \$3,186 for additional work on the Lyons Depot Building.

Section 2. The Mayor or Mayor Pro Tem is hereby authorized to execute the Change Order to reflect the Town's approval, and the Town Clerk is authorized to attest the Mayor's signature.

ADOPTED this 16th Day of February, 2016.

TOWN OF LYONS

By: _____
John E. O'Brien, Mayor

ATTEST:

Debra K. Anthony, Town Clerk

Item # X -5

Meeting Date: 2/16/2016

Subject: Meadow Park Phase II Construction Update

Background Information: In September of 2015 Krische Construction began flood recovery work in Meadow Park to complete phase II. The project is moving along and is still on schedule to be completed in May of 2016. Work completed to date includes clearing and grubbing of site, tree removal, sewer line installation with manholes one through nine, new gas main to the restrooms, electric main lines, and foundation pours for new restroom, picnic shelter and WPA Shelter, framing of the new restroom, completion of river structures one through four, survey work. The next phase of work will continue through the winter and will encompass the remainder of river structures three through eight, framing of concessions stand, new restroom and WPA Shelter, water main installation, grading, survey of remaining park features to include the ice rink, playgrounds, trails, camping sites, lighting, signage and landscaping.

Like any large construction project we have incurred some add services/change orders to the original contract. Some of these changes have been credits for design changes or material adjustments and others have been additional charges for items that were not in the drawings during the bidding process. These change orders have not caused any delay to the project schedule and are listed below;

		CREDIT	ADD
Change Order # 8	Add Sewer line at Concession Building		\$4,106.00
Change Order # 9	Changes to east playground		\$2,332.00
Change Order # 10	Waterline to Ice Rink and add valve box		\$4,446.00
Change Order # 11	Deleted and added to COP #22A		
Change Order # 13	Credit to delete 6" electrical main/use existing	\$8,268.00	
Change Order # 15	Credit for deletion of sanitary napkin dispensers	\$186.00	
Change Order # 16	Powder coat drinking fountains		\$705.00
Change Order # 20	Add coin change machines/power		\$4,649.00
Change Order # 22A	Shower coin box (5)		\$9,441.00
Change Order # 22B	Electric for shower coin boxes		\$4,179.00
	Total	\$8,454.00	\$29,858.00

The Meadow Park Phase II contract was a not to exceed amount of \$6,172,760.00 but has a contingency to include these change orders. Change orders 1-7 were an additional \$11,707, change orders 8-22A/B are an additional \$21,404 which brings the total adds on for the contract to \$33,111.00

**TOWN OF LYONS, COLORADO
RESOLUTION 2016-19**

**A RESOLUTION APPROVING CHANGE ORDERS 8-22B WITH THE EXCEPTION OF
CHANGE ORDERS 12, 14, 17-19 and 21 TO KRISCHE CONSTRUCTION FOR MEADOW
PARK PHASE II CONSTRUCTION**

WHEREAS, Meadow Park in the Town of Lyons suffered serious damage in the September 2013 flood; and

WHEREAS, in accordance with the Town's purchasing policies, the Town staff solicited bids for the second phase of reconstruction of Meadow Park and awarded the contract to Krische Construction; and

WHEREAS, large construction projects inevitably incur change orders, and this project is no exception; and

WHEREAS, change orders 1-7 in the amount of \$11,707.00 were presented to the Town's Board of Trustees for approval on January 18, 2016; and

WHEREAS, change orders 8-22B have now been presented to the Town in the amount of \$21,404.00, with the exception of change orders **12, 14, 17-19 and 21**, for which pricing is still being determined, bringing the total for all approved change orders to date to \$33,111.00; and

WHEREAS, the Meadow Park Phase II contract has a not-to-exceed amount of \$6,172,760.00 but included a contingency provision for the purpose of covering change orders.

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

Section 1. The Town Board of Trustees hereby approves requests for change orders 8-22B, with the exception of change orders **12, 14, 17-19 and 21** to Krische for Meadow Park Phase II construction, in the amount of \$21,404. The Board further ratifies and incorporates into this Resolution the Board's previous approval, by motion, of change orders 1-7.

Section 2. The Mayor or Mayor Pro Tem is hereby authorized to execute any such documents as are necessary to implement this Resolution, with input as needed from the Town Administrator, Town Engineer, and Town Attorney.

ADOPTED this 16th day of February 2016.

TOWN OF LYONS

By: _____
John E. O'Brien, Mayor

ATTEST:

Debra K. Anthony, Town Clerk

Item # XI- 1

RESOLUTION 2016-18

February 16, 2016

Storm Water Master Plan

The Town of Lyons was awarded a CDBG-DR Grant for a Storm Water Master Plan in the amount of \$235,884 and for an Electrical Cost of Service and CIP Study in the amount of \$80,000 for a total grant award of \$315,884. These are the awarded amounts for the studies. The requested funds for these studies were based on reported costs for similar scopes of work in other Denver Metro communities and areas. The contract for the grant is dated 10/10/2015.

Town Staff prepared the RFP with feedback and input from the Utility and Engineering Board and the Sustainable Futures Commission. Town Staff then issued a Request for Proposal advertised through the Rocky Mountain E-Purchasing web site and on the Town of Lyons Web Site. One firm, Icon Engineering, Inc submitted a proposal and was determined to be qualified and responsive. The proposed cost for the scope of work in the RFP came in above budget at \$291,500.

Town Staff then reviewed the scope of work in the RFP again with the Utility and Engineering Board and the Sustainable futures commission and suggested amendments that were agreed upon by those two groups. Town Staff then discussed these amendments with the Grantor and confirmed that the amendments will still provide the required deliverable and meet grant requirements. The amendments essentially consist of a reduction in time for the consultant in regard to public outreach and meetings and building in efficiencies to the program data collection. Both of these efforts will be augmented by Staff and the Boards/Commissions to make up for the scope reduction for the consultant.

Town Staff has expended some of the grant amount preparing and issuing the RFP, therefore the estimated remaining budget for the Storm Water Master Plan is \$231,000.

Town staff then negotiated a reduced scope of work with the Consultant. The Consultant's amended fee for this scope reduction is shown on the attached document and is \$249,800 (approximately \$19,000 over or 8% of the remaining amount in the grant). There were no matching funds required for this grant.

Based on the proposals, coordination with Boards and Commissions, amendments to the scope and fee, staff recommends awarding the contract to Icon Engineering Inc, 7000 S. Yosemite Street, Suite 120, Centennial, CO 80112 for a not to exceed amount of \$249,800. The project will be complete and all deliverables provided to the Town on or prior to December 1, 2016.

Since this project exceeds the grant amount, Town staff recommends that the Board approve this contract and proceed to a budget adjustment or allow Staff to amend the Contract with the State to move funds into the Storm Water grant and reduce the electric grant. Note that Town staff is currently working with the Grantor and the Boards/Commissions on an amendment to the scope of the electric grant to capture the desired outcome regarding rates and cost of service, however the complete program of capital improvements and cost of service will not be achievable in the grant amount. The remaining grant amount, reduced to transfer to the Storm Water Master Plan, appears sufficient to cover the cost of the Electric Rate Study only, however that project has not been re-posted for bids yet. Staff is working with the Grantor and the Boards/Commissions to finalize a scope and enable staff to post the RFP for the electric as soon as practical.

**TOWN OF LYONS, COLORADO
RESOLUTION 2016- 18**

**A RESOLUTION AWARDING A BID TO AND APPROVING A CONTRACT WITH ICON ENGINEERING
INC, TO CONDUCT A STORM DRAINAGE MASTER PLAN**

WHEREAS, the Town of Lyons was awarded a CDBG-DR grant (CDBG-DR P15-044) and is under contract with the State of Colorado for the completion of a Stormwater Master Plan study and Electric Capital Improvement and Rate Study, a combined grant amount of \$315,884; and

WHEREAS, the Town prepared and issued a Request for Proposals from contractors able to complete the Stormwater Master Plan study in accordance with the Grant and Contract with the State; and

WHEREAS, one firm submitted a proposal, and that firm was found to be qualified as judged by the Town Staff and Utility and Engineering Board; and

WHEREAS, the scope of work and ensuing proposal exceeded the budget for the project and Town Staff, with recommendations from the Utility and Engineering Board and Sustainable Futures Commission, has adjusted the scope of work in a manner that the grant requirements can be met and the desired outcome still attainable; and

WHEREAS, following the suggested adjustments in scope and corresponding reduction in proposed compensation, Town staff determined that Icon Engineering, Inc. was the lowest responsible bidder, although the adjusted scope and compensation will result in the project still being over budget by approximately \$20,000 when accounting for expenses already incurred to the grant; and

WHEREAS, Town staff therefore recommends that the Board of Trustees award the bid for the Stormwater Master Plan study to Icon Engineering, Inc. and proceed with a budget adjustment to cover the difference, or proceed with requesting that the Grantor shift funds to this study from the electric study.

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

Section 1. The Board of Trustees hereby awards the bid for the Stormwater Master Plan study to Icon Engineering, Inc. in accordance with the terms and conditions of the RFP and Icon Engineering's proposal, and approves the contract with Icon Engineering, Inc. in an amount not to exceed \$249,800.00. The Mayor or Mayor Pro Tem are hereby authorized to sign the contract and any other necessary documents and the Town Clerk is authorized to attest the Mayor or Mayor Pro Tem's signature.

ADOPTED THIS 16th DAY OF FEBRUARY 2016.

TOWN OF LYONS, COLORADO

John E. O'Brien, Mayor

ATTEST:

Debra K. Anthony, Town Clerk

Town of Lyons
DISASTER RECOVERY SERVICES AGREEMENT

This **DISASTER RECOVERY SERVICES AGREEMENT** ("Agreement") is made and entered into this 16th day of February 2016, by and between the TOWN OF LYONS, COLORADO, a municipal corporation of the State of Colorado, with offices at 432 5th Avenue, Lyons, Colorado 80540 (the "Town"), and ICON ENGINEERING, INC. with offices at 7000 S. Yosemite Street, Suite 120, Centennial, CO 80033 (the "Contractor").

WITNESSETH

WHEREAS, the Town requires certain professional services as more fully described in Exhibit A;

WHEREAS, the Town issued a Request for Proposals for the services which are the subject of this Agreement; and

WHEREAS, the time for submittal of proposals has passed, and the Town has evaluated the proposals submitted against previously established criteria; and

WHEREAS, the Town has identified the Contractor as the most qualified responsible bidder; and

WHEREAS, the Contractor represents that it possesses the necessary qualifications to perform these services; and

WHEREAS, the Town desires to contract with the Contractor subject to the terms of this Agreement.

NOW, THEREFORE, for the consideration herein expressed, it is agreed as follows by and between the Town and the Contractor that the Contractor shall perform the following:

1.0 SERVICES AND PURPOSE OF AGREEMENT

- 1.1 **Services.** The Town desires to achieve, secure, receive, or obtain certain service(s) or work product(s) as more specifically described in **Exhibit A** (the "Services"). Exhibit A describes the requirements and deliverables required by this Agreement and is incorporated herein by reference. As an independent contractor, the Contractor offers and agrees to perform and/or deliver the Services in accordance with the terms and conditions of this Agreement. The Parties recognize and acknowledge that, although the Town has requested certain general services to be performed or certain work product to be produced, the Contractor has offered to the Town the process, procedures, terms, and conditions under which the Contractor plans and proposes to achieve or produce the services and/or work product(s) and the Town, through this Agreement, has accepted such process, procedures, terms, and conditions as binding on the Parties.

- 1.2 Town Representative. The Town assigns [Representative's Name] as the Town Representative for this Agreement. The Town Representative will monitor the Contractor's progress and performance under this Agreement and shall be available to the Contractor to respond to questions, assist in understanding Town policies, procedures, and practices, and supervise the performance of any Town obligations under this Agreement.
- 1.3 Changes to Services. Any changes to the Services that are mutually agreed upon between the Town and the Contractor shall be made in a formal writing referencing this Agreement and, only upon execution by both Parties of such formal writing, shall become an amendment to the Services described in this Agreement. To be effective, any written change must be signed by the Contractor and by the Town or by a person expressly authorized in writing to sign on behalf of the Town. Changes to the Services or to this Agreement shall not be made through oral agreement or electronic mail messages.
- 1.4 Meeting Attendance. The Contractor shall attend such meetings of the Town relative to the Scope of Work set forth in Exhibit A as may be requested by the Town. Any requirement made by the named representatives of the Town shall be given with reasonable notice to the Contractor so that a representative may attend.
- 1.5 Agreement to Comply with Requisite Provisions Based On Funding Source. If checked below, the Town will pay in whole or in part for the Services rendered hereunder with federal or State based grant funding. Contractor agrees to comply with all provisions set forth in any Attachment as noted and if checked)
- Attachment A, Federal Emergency Management Agency's ("FEMA") Grant Program Requirements for Procurement Contracts if FEMA funding is used for the Work
 - Attachment B, Colorado Community Development Block Grant Disaster Recovery Program funds (hereinafter referred to as CDBG-DR funds) Requirements for Contracts if CDBG-DR funding is used for the Work
- 1.6 Lawful Performance. It is further agreed that no party to this Agreement will perform contrary to any state, federal, or county law, or any of the ordinances of the Town of Lyons, Colorado.

2.0 COMPENSATION

- 2.1 Commencement of and Compensation for Services. Following execution of this Agreement by the Town, the Contractor shall be authorized to and shall commence performance of the Services as described in Exhibit A, subject to the requirements and limitations on compensation as provided by this Section 2.0 and its subsections. Compensation to be paid hereunder shall not exceed TWO HUNDRED FORTYNINE THOUSAND EIGHT HUNDRED AND NO/100 Dollars (\$249,800.00) unless a larger amount is agreed to by and between the Parties in accordance with the amendment requirements of this Agreement.

- A. Method of Compensation. The Contractor shall perform the Services and shall invoice the Town for work performed based on the rates and/or compensation methodology and amounts described in Exhibit B subject to the not to exceed amount set forth in this Section. Monthly, partial, progress payments shall be made by the Town to the Contractor for the percentage of the Scope of Work completed. Progress payments shall not constitute a waiver of the right of the Town to require the fulfillment of all material terms of this Agreement and the delivery of all improvements embraced in this Agreement.
- B. Final payment may be requested by the Contractor upon completion and acceptance, by the Town, of all work or Services as set forth in Exhibit A. The total amount of final payment shall consist of the compensation set forth in paragraph 2.1, as adjusted in accordance with approved change orders, if applicable, less all previous payments to the Contractor.
- C. Should work beyond that described in Exhibit A be required, it will be paid for as extra work at a cost to be agreed upon in separate written agreement by the Town and the Contractor prior to commencement of the additional work. Such additional agreements shall be executed and approved by all persons required by Town purchasing ordinances or policies.
- D. The Town, before making any payment, may require the Contractor to furnish releases or receipts from any or all persons performing work under this Agreement and/or supplying material or services to the Contractor, or any subcontractor if this is deemed necessary to protect the Town's interest. The Town, however, may in its discretion make payment in part or full to the Contractor without requiring the furnishing of such releases or receipts.

2.2 Reimbursable Expenses. If this Agreement is for lump sum compensation, there shall be no reimbursable expenses. If the Agreement is for compensation based on a time and materials methodology, the following shall be considered "reimbursable expenses" for purposes of this Agreement and may be billed to the Town without administrative mark-up but which must be accounted for by the Contractor and proof of payment shall be provided by the Contractor with the Contractor's monthly invoices:

- None
- Vehicle Mileage (billed at not more than the prevailing per mile charge permitted by the IRS as a tax deductible business expense)
- Printing and Photocopying Related to the Services (billed at actual cost)
- Long Distance Telephone Charges Related to the Services
- Postage and Delivery Services
- Lodging and Meals (but only with prior written approval of the Town as to dates and maximum amount)

Any fee, cost, charge, or expense incurred by the Contractor not otherwise specifically authorized by this Agreement shall be deemed a non-reimbursable cost

that shall be borne by the Contractor and shall not be billed or invoiced to the Town and shall not be paid by the Town.

- 2.3 Increases in Compensation or Reimbursable Expenses. Any increases or modification to the compensation or reimbursable expenses shall be subject to the approval of the Town and shall be made only by written amendment of this Agreement executed by both Parties.
- 2.4 Payment Processing. The Contractor shall submit invoices and requests for payment in a form acceptable to the Town. Invoices shall not be submitted more often than once each month unless otherwise approved by this Agreement or in writing by the Town in accordance with the amendment requirements of this Agreement. Unless otherwise directed or accepted by the Town, all invoices shall contain sufficient information to account for all appropriate measure(s) of Contractor work effort (e.g., task completion, work product delivery, or time) and all authorized reimbursable expenses for the Services during the stated period of the invoice. Following receipt of a Contractor's invoice, the Town shall promptly review the Contractor's invoice. All Town payments for Services rendered pursuant to this Agreement shall be issued in the business name of Contractor only, and in no event shall any such payments be issued to an individual. In no event shall any Town payments to Contractor be in the form of or based upon a salary or an hourly wage rate.
- 2.5 Town Dispute of Invoice or Invoiced Item(s). The Town may dispute any Contractor compensation and/or reimbursable expense requested by the Contractor described in any invoice and may request additional information from the Contractor substantiating any and all compensation sought by the Contractor before accepting the invoice. When additional information is requested by the Town, the Town shall advise the Contractor in writing, identifying the specific item(s) that are in dispute and giving specific reasons for any request for information. The Town shall pay the Contractor within forty-five (45) days of the receipt of an invoice for any undisputed charges or, if the Town disputes an item or invoice and additional information is requested, within thirty (30) days of acceptance of the item or invoice by the Town following receipt of the information requested and resolution of the dispute. To the extent possible, undisputed charges within the same invoice as disputed charges shall be timely paid in accordance with this Agreement. Payment by the Town shall be deemed made and completed upon hand delivery to the Contractor or designee of the Contractor or upon deposit of such payment or notice in the U.S. Mail, postage pre-paid, addressed to the Contractor.

3.0 CONTRACTOR'S REPRESENTATIONS AND OFFERED PERFORMANCE

The Contractor offers to perform the Services in accordance with the following Contractor-elected practices and procedures. By this Agreement, the Town accepts such offer and the following are hereby made part of the terms and conditions of this Agreement:

- 3.1 General. The Contractor shall become fully acquainted with the available information related to the Services. The Contractor shall affirmatively request from

the Town Representative and the Town such information that the Contractor, based on the Contractor's professional experience, should reasonably expect is available and which would be relevant to the performance of the Services. The Contractor shall promptly inform the Town concerning ambiguities and uncertainties related to the Contractor's performance that are not addressed by the Agreement. The Contractor shall provide all of the Services in a timely and professional manner. The Contractor shall comply with all applicable federal, state and local laws, ordinances, regulations, and resolutions.

- 3.2 Independent Contractor. The Contractor shall perform the Services as an independent contractor and shall not be deemed by virtue of this Agreement to have entered into any partnership, joint venture, employer/employee or other relationship with the Town. This Agreement does not require the Contractor to work exclusively for the Town. This Agreement shall not be interpreted as the Town dictating or directing the Contractor's performance or the time of performance beyond a completion schedule and a range of mutually agreeable work hours, but shall be interpreted as the Contractor's offer and Town acceptance of terms and conditions for performance. The Contractor's business operations shall not be combined with the Town by virtue of this Agreement, and the Town will not provide any training to Contractor, its agents, or employees beyond that minimal level required for performance of the Services. The Parties acknowledge that the Contractor may require some assistance or direction from the Town in order for the Services to meet the Town's contractual expectations. Any provisions in this Agreement that may appear to grant the Town the right to direct or control Contractor or the Services shall be construed as Town plans or specifications regarding the Services.
- 3.3 Liability for Employment-Related Rights and Compensation. The Contractor shall be solely responsible for all compensation, benefits, insurance and employment-related rights of any person providing Services hereunder during the course of or arising or accruing as a result of any employment, whether past or present, with the Contractor, as well as all legal costs including attorney's fees incurred in the defense of any conflict or legal action resulting from such employment or related to the corporate amenities of such employment. The Contractor will comply with all laws, regulations, municipal codes, and ordinances and other requirements and standards applicable to the Contractor's employees, including, without limitation, federal and state laws governing wages and overtime, equal employment, safety and health, employees' citizenship, withholdings, reports and record keeping. **CONTRACTOR ACKNOWLEDGES THAT NEITHER IT NOR ITS AGENTS OR EMPLOYEES ARE ENTITLED TO UNEMPLOYMENT INSURANCE BENEFITS UNLESS CONTRACTOR OR SOME ENTITY OTHER THAN THE TOWN PROVIDES SUCH BENEFITS. CONTRACTOR FURTHER ACKNOWLEDGES THAT NEITHER IT NOR ITS AGENTS OR EMPLOYEES ARE ENTITLED TO WORKERS' COMPENSATION BENEFITS. CONTRACTOR ALSO ACKNOWLEDGES THAT IT IS OBLIGATED TO PAY FEDERAL AND STATE INCOME TAX ON ANY MONEYS EARNED OR PAID PURSUANT TO THIS AGREEMENT.** To the maximum extent permitted by law, Contractor waives all claims against the Town for any Employee Benefits; the Contractor will defend the Town from any claim and will indemnify the

Town against any liability for any Employee Benefits for the Contractor imposed on the Town ; and the Contractor will reimburse the Town for any award, judgment, or fine against the Town based on the position the Contractor was ever the Town 's employee, and all attorneys' fees and costs the Town reasonably incurs defending itself against any such liability.

- 3.4 Interaction with Public. The Contractor recognizes that its conduct during the performance of the Services hereunder reflects upon its reputation in the community as well as upon the public perception of the Town. Therefore, the Contractor offers and warrants to the Town that the Contractor, its agents and employees will conduct all of their interactions with the citizens and the public relating to the performance of the Services hereunder in such a manner as to provide customer service that reflects positively upon its reputation and the Town's public image.
- 3.5 Subcontractors. The Parties recognize and agree that subcontractors may be utilized by the Contractor for the performance of certain Services if and as described more particularly in Exhibit A; however, the engagement or use of subcontractors will not relieve or excuse the Contractor from performance of any obligations imposed in accordance with this Agreement and Contractor shall remain solely responsible for ensuring that any subcontractors engaged to perform Services hereunder shall perform such Services in accordance with all terms and conditions of this Agreement.
- 3.6 Standard of Performance. In performing the Services, the Contractor warrants that it shall use that degree of care, skill, and professionalism ordinarily exercised under similar circumstances by highly competent members of the same profession practicing in the State of Colorado. The Contractor represents to the Town that the Contractor is, and its employees or sub-contractors performing such Services are, properly licensed and/or registered within the State of Colorado for the performance of the Services (if licensure and/or registration is required by applicable law) and that the Contractor and employees possess the skills, knowledge, and abilities to perform the Services competently, timely, and professionally in accordance with this Agreement. In addition, the Contractor warrants and represents that it will provide the Services in accordance with more specific standards of performance as are included within Exhibit A. The Contractor represents, covenants and agrees that the Services will be provided to the Town free from any material errors. The Contractor's failure to meet or exceed any of the foregoing standards and warranties may be considered a material breach of this Agreement and may be grounds for termination of the Agreement pursuant to Section 4.0 below, in addition to any other remedies as provided in Section 9.0 below.
- 3.7 Review of Books and Records. The Contractor shall promptly comply with any written Town request for the Town or any of its duly authorized representatives to reasonably access and review any books, documents, papers, and records of the Contractor that are pertinent to the Contractor's performance under this Agreement for the purpose of the Town performing an audit, examination, or other review of the Services.

- 3.8 Licenses and Permits. The Contractor shall be responsible at the Contractor's expense for obtaining, and maintaining in a valid and effective status, all licenses and permits necessary to perform the Services unless specifically stated otherwise in this Agreement.
- 3.9 Affirmative Action. The Contractor warrants that it will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The Contractor warrants that it will take affirmative action to ensure applicants are employed, and employees are treated during employment without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
- 3.10 Employment of or Contracts with Illegal Aliens. The Contractor shall not knowingly employ or contract with an illegal alien to perform work under this Agreement. The Contractor shall not contract with a subcontractor that fails to certify that the subcontractor does not knowingly employ or contract with any illegal aliens. By entering into this Agreement, the Contractor certifies as of the date of this Agreement that it does not knowingly employ or contract with an illegal alien who will perform work under this contract for Services and that the Contractor will participate in the e-verify program or department program in order to confirm the employment eligibility of all employees who are newly hired for employment to perform work under the public contract for services. The Contractor is prohibited from using either the e-verify program or the department program procedures to undertake pre-employment screening of job applicants while this Agreement is being performed. If the Contractor obtains actual knowledge that a subcontractor performing work under this Agreement knowingly employs or contracts with an illegal alien, the Contractor shall be required to notify the subcontractor and the Town within three (3) days that the Contractor has actual knowledge that a subcontractor is employing or contracting with an illegal alien. The Contractor shall terminate the subcontract if the subcontractor does not stop employing or contracting with the illegal alien within three (3) days of receiving the notice regarding Contractor's actual knowledge. The Contractor shall not terminate the subcontract if, during such three (3) days, the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien. The Contractor is required to comply with any reasonable request made by the Department of Labor and Employment made in the course of an investigation undertaken to determine compliance with this provision and applicable state law. If the Contractor violates this provision, the Town may terminate this Agreement, and the Contractor may be liable for actual and/or consequential damages incurred by the Town, notwithstanding any limitation on such damages provided by such Agreement.
- 3.11 Duty to Warn. The Contractor agrees to call to the Town's attention errors in any drawings, plans, sketches, instructions, information, requirements, procedures, and/or other data supplied to the Contractor (by the Town or by any other party) that it becomes aware of and believes may be unsuitable, improper, or inaccurate in a

material way. However, the Contractor shall not independently verify the validity, completeness or accuracy of such information unless included in the Services or otherwise expressly engaged to do so by the Town.

4.0 TERM AND TERMINATION

4.1 Term. This Agreement shall be effective on the 17TH DAY of 2016 at 12:01 a.m., (the "Effective Date") and shall terminate at the earlier of the date on which all obligations of the parties have been met (to include all Services have been completed) or 11:59 p.m. on November 30th, 2016, or on a prior date of termination as may be permitted by this Agreement; provided, however, that the Parties may mutually agree in writing to extend the term of this Agreement, subject to annual appropriation. Those provisions that survive termination, to include the indemnification obligations and any warranty obligations, shall remain in effect past termination.

4.2 Continuing Services Required. The Contractor shall perform the Services in accordance with this Agreement commencing on the Effective Date until such Services are terminated or suspended in accordance with this Agreement. The Contractor shall not temporarily delay, postpone, or suspend the performance of the Services without the written consent of the Town Council, Town Manager, the Town Representative, or other Town employee expressly authorized in writing to direct the Contractor's services.

4.3 Town Unilateral Termination. This Agreement may be terminated by the Town for any or no reason upon written notice delivered to the Contractor at least ten (10) days prior to termination. In the event of the Town's exercise of the right of unilateral termination as provided by this paragraph:

A. Unless otherwise provided in any notice of termination, the Contractor shall provide no further services in connection with this Agreement after receipt of a notice of termination; and

B. All finished or unfinished documents, data, studies and reports prepared by the Contractor pursuant to this Agreement shall be delivered by the Contractor to the Town and shall become the property of the Town; and

C. The Contractor shall submit to the Town a final accounting and final invoice of charges for all outstanding and unpaid Services and reimbursable expenses performed prior to the Contractor's receipt of notice of termination and for any services authorized to be performed by the notice of termination as provided by Section 4.3(A) above. Such final accounting and final invoice shall be delivered to the Town within thirty (30) days of the date of termination; thereafter, no other invoice, bill, or other form of statement of charges owing to the Contractor shall be submitted to or accepted by the Town.

- 4.4 Termination for Non-Performance. Should a party to this Agreement fail to materially perform in accordance with the terms and conditions of this Agreement, this Agreement may be terminated by the performing party if the performing party first provides written notice to the non-performing party which notice shall specify the non-performance, provide both a demand to cure the non-performance and reasonable time to cure the non-performance, and state a date upon which the Agreement shall be terminated if there is a failure to timely cure the non-performance. For purpose of this Section 4.4, "reasonable time" shall be not less than five (5) business days. In the event of a failure to timely cure a non-performance and upon the date of the resulting termination for non-performance, the Contractor shall prepare a final accounting and final invoice of charges for all performed but unpaid Services and authorized reimbursable expenses. Such final accounting and final invoice shall be delivered to the Town within fifteen (15) days of the date of termination; thereafter, no other invoice, bill, or other form of statement of charges owing to the Contractor shall be submitted to or accepted by the Town. Provided that notice of non-performance is provided in accordance with this Section 4.4, nothing in this Section 4.4 shall prevent, preclude, or limit any claim or action for default or breach of contract resulting from non-performance by a Party.
- 4.5 Unilateral Suspension of Services. The Town may suspend the Contractor's performance of the Services at the Town's discretion and for any reason by delivery of written notice of suspension to the Contractor which notice shall state a specific date of suspension. Upon receipt of such notice of suspension, the Contractor shall immediately cease performance of the Services on the date of suspension except: (1) as may be specifically authorized by the notice of suspension (e.g., to secure the work area from damage due to weather or to complete a specific report or study); or (2) for the submission of an invoice for Services performed prior to the date of suspension in accordance with this Agreement.
- 4.6 Delivery of Notice of Termination. Any notice of termination permitted by this Section 4.0 and its subsections shall be addressed to the person signing this Agreement on behalf of either Town or Contractor at the address shown below or such other address as either party may notify the other of and shall be deemed given upon delivery if personally delivered, or forty-eight (48) hours after deposited in the United States mail, postage prepaid, registered or certified mail, return receipt requested.

5.0 INSURANCE

- 5.1 Insurance Generally. During the term of this Agreement, the Contractor shall obtain and shall continuously maintain, at the Contractor's expense, insurance of the kind and in the minimum amounts specified as follows by checking the appropriate boxes:

The Contractor shall obtain and maintain the types, forms, and coverage(s) of insurance deemed by the Contractor to be sufficient to meet or exceed the

Contractor's minimum statutory and legal obligations arising under this Agreement ("Contractor Insurance"); or

- The Contractor shall secure and maintain the following ("Required Insurance"):
 - Worker's Compensation Insurance in the minimum amount required by applicable law for all employees and other persons as may be required by law. Such policy of insurance shall be endorsed to include the Town as a Certificate Holder.
 - Comprehensive General Liability insurance with minimum combined single limits of ONE MILLION Dollars (\$1,000,000.00) each occurrence and of TWO MILLION Dollars (\$2,000,000.00) aggregate. The policy shall be applicable to all premises and all operations of the Contractor. The policy shall include coverage for bodily injury, broad form property damage (including completed operations), personal injury (including coverage for contractual and employee acts), blanket contractual, independent contractors, products, and completed operations. The policy shall contain a severability of interests provision. Coverage shall be provided on an "occurrence" basis as opposed to a "claims made" basis. Such insurance shall be endorsed to name the Town as Certificate Holder and name the Town, and its elected officials, officers, employees and agents as additional insured parties.
 - Comprehensive Automobile Liability insurance with minimum combined single limits for bodily injury and property damage of not less than FIVE HUNDRED THOUSAND Dollars (\$500,000.00) each occurrence with respect to each of the Contractor's owned, hired and non-owned vehicles assigned to or used in performance of the Services. The policy shall contain a severability of interests provision. Such insurance coverage must extend to all levels of subcontractors. Such coverage must include all automotive equipment used in the performance of the Agreement, both on the work site and off the work site, and such coverage shall include non-ownership and hired cars coverage. Such insurance shall be endorsed to name the Town as Certificate Holder and name the Town, and its elected officials, officers, employees and agents as additional insured parties.
 - Professional Liability (errors and omissions) Insurance with a minimum limit of coverage of ONE MILLION Dollars (\$1,000,000.00) per claim and annual aggregate. Such policy of insurance shall be obtained and maintained for one (1) year following completion of all Services under this Agreement. Such policy of insurance shall be endorsed to include the Town as a Certificate Holder.

The Required Insurance shall be procured and maintained with insurers with an A- or better rating as determined by Best's Key Rating Guide. All Required Insurance

shall be continuously maintained to cover all liability, claims, demands, and other obligations assumed by the Contractor.

5.2 Additional Requirements for All Policies. In addition to specific requirements imposed on insurance by this Section 5.0 and its subsections, insurance shall conform to all of the following:

A. For both Contractor Insurance and Required Insurance, all policies of insurance shall be primary insurance, and any insurance carried by the Town, its officers, or its employees shall be excess and not contributory insurance to that provided by the Contractor; provided, however, that the Town shall not be obligated to obtain or maintain any insurance whatsoever for any claim, damage, or purpose arising from or related to this Agreement and the Services. The Contractor shall not be an insured party for any Town-obtained insurance policy or coverage.

B. For both Contractor Insurance and Required Insurance, the Contractor shall be solely responsible for any deductible losses.

C. For Required Insurance, no policy of insurance shall contain any exclusion for bodily injury or property damage arising from completed operations.

D. For Required Insurance, every policy of insurance shall provide that the Town will receive notice no less than thirty (30) days prior to any cancellation, termination, or a material change in such policy or in the alternative, the Contractor shall provide such notice as soon as reasonably practicable and in no event less than thirty (30) days prior to any cancellation, termination, or a material change in such policy.

5.3 Failure to Obtain or Maintain Insurance. The Contractor's failure to obtain and continuously maintain policies of insurance in accordance with this Section 5.0 and its subsections shall not limit, prevent, preclude, excuse, or modify any liability, claims, demands, or other obligations of the Contractor arising from performance or non-performance of this Agreement. Failure on the part of the Contractor to obtain and to continuously maintain policies providing the required coverage, conditions, restrictions, notices, and minimum limits shall constitute a material breach of this Agreement upon which the Town may immediately terminate this Agreement, or, at its discretion, the Town may procure or renew any such policy or any extended reporting period thereto and may pay any and all premiums in connection therewith, and all monies so paid by the Town shall be repaid by Contractor to the Town immediately upon demand by the Town, or at the Town's sole discretion, the Town may offset the cost of the premiums against any monies due to the Contractor from the Town pursuant to this Agreement.

5.4 Insurance Certificates. Prior to commencement of the Services, the Contractor shall submit to the Town certificates of insurance for all Required Insurance. Insurance limits, term of insurance, insured parties, and other information sufficient to demonstrate conformance with this Section 5.0 and its subsections shall be indicated on each certificate of insurance. Certificates of insurance shall reference

the Project Name as identified on the first page of this Agreement. The Town may request and the Contractor shall provide within three (3) business days of such request a current certified copy of any policy of Required Insurance and any endorsement of such policy. The Town may, at its election, withhold payment for Services until the requested insurance policies are received and found to be in accordance with the Agreement.

6.0 CLAIMS, INDEMNIFICATION, HOLD HARMLESS AND DEFENSE

- 6.1 Notices of Claim. A Party shall notify the other Party immediately and in writing in the event that a Party learns of a third-party claim or an allegation of a third-party claim arising or resulting from the Parties' performance or failure to perform pursuant to this Agreement. The Parties shall reasonably cooperate in sharing information concerning potential claims.
- 6.2 Claims Challenging Town Law, Ordinance, Rule, or Policy/Procedure. In the event any claim is asserted by a third-party against the Town and/or the Contractor alleging that any law, statute, ordinance, rule or approved Town policy or procedure is unlawful, unconstitutional or otherwise improper, then:
- A. The Contractor shall not be entitled to and shall not defend such claim; and
 - B. The Town may, at its sole discretion, elect to defend, not defend, settle, confess, compromise, or otherwise direct the manner in which such claim is addressed; and
 - C. The Contractor shall reasonably cooperate with the Town in any Town defense of such claim although the Contractor shall bear any cost or expense incurred by the Contractor in such cooperation, including but not limited to the Contractor's cost and expense incurred in consultation with its own legal counsel; and
 - D. Only if authorized by law and without waiving the provisions of the Colorado Constitution or the Colorado Governmental Immunity Act, the Town shall indemnify and hold Contractor harmless for any damages, liability, expenses, or court awards, including costs and attorney's fees that are or may be awarded as a result of any loss, injury or damage sustained or claimed to have been sustained by any third-party, including but not limited to, any person, firm, partnership, or corporation, in connection with or arising out of such claim.
- 6.3 Indemnification for Certain Claims. For any claim not within the scope of Section 6.2 above, Contractor expressly agrees to indemnify and hold harmless the Town, and any of its council members, board members, commissioners, officials, officers, agents, Contractors, attorneys, or employees from any and all damages, liability, expenses, or court awards, including costs and attorney's fees that are or may be awarded as a result of any loss, injury or damage sustained or claimed to have been sustained by any third-party, including but not limited to, any person, firm, partnership, or corporation, in connection with or arising out of any intentional, reckless, negligent or tortious conduct, error, omission, or act of commission by

Contractor or any of its employees, agents, or others acting on Contractor's behalf in performance of the Services. Nothing in this Agreement shall be construed as constituting a covenant, promise, or agreement by the Contractor to indemnify or hold the Town, its elected officials, board members, commissioners, officials, officers, agents, contractors, attorneys, or employees harmless for any negligence solely attributable to the Town, its elected officials, boards, commissions, officials, officers, agents, Contractors, attorneys, or employees. The Contractor's obligation to indemnify pursuant to this Section shall survive the completion of the Services and shall survive the termination of this Agreement.

6.4 Defense of Claims.

- A. Claims Against Both the Town and Contractor. In the event any claim is asserted by a third-party against both the Town and Contractor arising out of any Party's performance of the Services which claim is not within the scope of Section 6.2 above, the Town shall be entitled to elect to defend such claim on behalf of both the Town and Contractor subject to the provisions governing indemnification set forth in this Section. In the event that the Town elects to defend such claim, the Town shall consult with Contractor in such defense but the Town is entitled to exercise its independent discretion in the manner of defense, including but not limited to the selection of litigation counsel and the discretion to settle, confess, compromise, or otherwise direct and dispose of any claim. In the event that the Town elects to defend such claim, Contractor may at its own cost and expense elect to assume the defense of Contractor, in which case Contractor shall bear its own attorneys' fees, costs, and expenses in such defense and such fees, costs, and expenses shall not be subject to indemnification pursuant to this Section.
- B. Claims Against Only One Party. In the event of any claim asserted by a third-party against only one Party to this Agreement arising out of any Party's performance of the Services which claim is not within the scope of Section 6.2 above, the Party shall be entitled to elect to defend such claim on behalf of such Party subject to the provisions governing indemnification set forth in this Section. Where appropriate, the defending Party may also elect to join the other Party through third-party practice or otherwise in accordance with the Colorado Rules of Civil Procedure or other applicable rules, in which case the joined Party may defend such claim subject to indemnification pursuant to this Section. In the event that a Party elects to intervene voluntarily in any claim asserted against the other Party arising out of any Party's performance of the Services or any claim that any law, statute, ordinance, rule or approved Town policy or procedure is unlawful, unconstitutional or otherwise improper, the intervening Party shall bear its own attorneys' fees, costs, and expenses in such intervention and such fees, costs, and expenses shall not be subject to indemnification pursuant to this Section.

7.0 RECORDS AND OWNERSHIP OF DOCUMENTS

- 7.1 Retention and Open Records Act Compliance. All records of the Contractor related to the provision of Services hereunder, including public records as

defined in the Colorado Open Records Act ("CORA"), and records produced or maintained in accordance with this Agreement, are to be retained and stored in accordance with the Town's records retention and disposal policies. Those records which constitute "public records" under CORA are to be at the Town offices or accessible and opened for public inspection in accordance with CORA and Town policies. Public records requests for such records shall be processed in accordance with Town policies. Contractor agrees to allow access by the Town and the public to all documents subject to disclosure under applicable law. Contractor's willful failure or refusal to comply with the provisions of this Section shall result in the immediate termination of this Agreement by the Town. For purposes of CORA, the Town Clerk is the custodian of all records produced or created as a result of this Agreement. Nothing contained herein shall limit the Contractor's right to defend against disclosure of records alleged to be public.

- 7.2 Town's Right of Inspection. The Town shall have the right to request that the Contractor provide to the Town a list of all records of the Contractor related to the provision of Services hereunder retained by the Contractor in accordance with this subsection and the storage location and method. Contractor agrees to allow inspection at reasonable times by the Town of all documents and records produced or maintained in accordance with this Agreement.
- 7.3 Ownership. Any work product, materials, and documents produced by the Contractor pursuant to this Agreement shall become property of the Town of Lyons upon delivery and shall not be made subject to any copyright unless authorized by the Town. Other materials, methodology and proprietary work used or provided by the Contractor to the Town not specifically created and delivered pursuant to the Services outlined in this Agreement may be protected by a copyright held by the Contractor and the Contractor reserves all rights granted to it by any copyright. The Town shall not reproduce, sell, or otherwise make copies of any copyrighted material, subject to the following exceptions: (1) for exclusive use internally by Town staff and/or Town contractors; or (2) pursuant to a request under the Colorado Open Records Act, C.R.S. § 24-72-203, to the extent that such statute applies; or (3) pursuant to law, regulation, or court order. The Contractor waives any right to prevent its name from being used in connection with the Services.
- 7.4 Return of Records to Town. At the Town's request, upon expiration or termination of this Agreement, all records of the Contractor related to the provision of Services hereunder, including public records as defined in the Colorado Open Records Act ("CORA"), and records produced or maintained in accordance with this Agreement, are to be returned to the Town in a reasonable format and with an index as determined and requested by the Town.

8.0 FORCE MAJEURE

Neither the Contractor nor the Town shall be liable for any delay in, or failure of performance of, any covenant or promise contained in this Agreement, nor shall any delay or failure constitute default or give rise to any liability for damages if, and only to extent that, such delay or failure is

caused by "force majeure." As used in this Agreement, "force majeure" means acts of God, acts of the public enemy, acts of terrorism, unusually severe weather, fires, floods, epidemics, quarantines, strikes, labor disputes and freight embargoes, to the extent such events were not the result of, or were not aggravated by, the acts or omissions of the non-performing or delayed party.

9.0 REMEDIES

In addition to any other remedies provided for in this Agreement, and without limiting its remedies available at law, the Town may exercise the following remedial actions if the Contractor substantially fails to perform the duties and obligations of this Agreement. Substantial failure to perform the duties and obligations of this Agreement shall mean a significant, insufficient, incorrect, or improper performance, activities or inactions by the Contractor. The remedial actions include:

- A. Suspend the Contractor's performance pending necessary corrective action as specified by the Town without the Contractor's entitlement to an adjustment in any charge, fee, rate, price, cost, or schedule; and/or
- B. Withhold payment to the Contractor until the necessary services or corrections in performance are satisfactorily completed; and/or
- C. Deny payment for those services which have not been satisfactorily performed, and which, due to circumstances caused by the Contractor, cannot be performed, or if performed would be of no value to the Town ; and/or
- D. Terminate this Agreement in accordance with this Agreement; and/or
- E. Other remedies as may be provided by attached addendum or addenda.

The foregoing remedies are cumulative and the Town, in its sole discretion, may exercise any or all of the remedies individually or simultaneously.

10.0 MISCELLANEOUS PROVISIONS

- 10.1 No Waiver of Rights. A waiver by any Party to this Agreement of the breach of any term or provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach by either Party. The Town's approval or acceptance of, or payment for, services shall not be construed to operate as a waiver of any rights or benefits to be provided under this Agreement. No covenant or term of this Agreement shall be deemed to be waived by the Town except in writing signed by the Town Council or by a person expressly authorized to sign such waiver, and any written waiver of a right shall not be construed to be a waiver of any other right or to be a continuing waiver unless specifically stated.
- 10.2 No Waiver of Governmental Immunity. Nothing in this Agreement shall be construed to waive, limit, or otherwise modify any governmental immunity that

may be available by law to the Town, its officials, employees, contractors, or agents, or any other person acting on behalf of the Town and, in particular, governmental immunity afforded or available pursuant to the Colorado Governmental Immunity Act, Title 24, Article 10 of the Colorado Revised Statutes.

- 10.3 Binding Effect. The Parties agree that this Agreement, by its terms, shall be binding upon the successors, heirs, legal representatives, and assigns; provided that this Section 10.3 shall not authorize assignment.
- 10.4 No Third-party Beneficiaries. Nothing contained in this Agreement is intended to or shall create a contractual relationship with, cause of action in favor of, or claim for relief for, any third-party, including any agent, sub-consultant or sub-contractor of Contractor. Absolutely no third-party beneficiaries are intended by this Agreement. Any third-party receiving a benefit from this Agreement is an incidental and unintended beneficiary only.
- 10.5 Article X, Section 20/TABOR. The Parties understand and acknowledge that the Town is subject to Article X, § 20 of the Colorado Constitution ("TABOR"). The Parties do not intend to violate the terms and requirements of TABOR by the execution of this Agreement. It is understood and agreed that this Agreement does not create a multi-fiscal year direct or indirect debt or obligation within the meaning of TABOR and, therefore, notwithstanding anything in this Agreement to the contrary, all payment obligations of the Town are expressly dependent and conditioned upon the continuing availability of funds beyond the term of the Town's current fiscal period ending upon the next succeeding December 31. Financial obligations of the Town payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available in accordance with the rules, regulations, and resolutions of Town of Centennial, and other applicable law. Upon the failure to appropriate such funds, this Agreement shall be terminated.
- 10.6 Governing Law, Venue, and Enforcement. This Agreement shall be governed by and interpreted according to the law of the State of Colorado. Venue for any action arising under this Agreement shall be in the appropriate court for Boulder County, Colorado. To reduce the cost of dispute resolution and to expedite the resolution of disputes under this Agreement, the Parties hereby waive any and all right either may have to request a jury trial in any civil action relating primarily to the enforcement of this Agreement. The Parties agree that the rule that ambiguities in a contract are to be construed against the drafting party shall not apply to the interpretation of this Agreement. If there is any conflict between the language of this Agreement and any exhibit or attachment, the language of this Agreement shall govern.
- 10.7 Survival of Terms and Conditions. The Parties understand and agree that all terms and conditions of the Agreement that require continued performance, compliance, or effect beyond the termination date of the Agreement shall survive

such termination date and shall be enforceable in the event of a failure to perform or comply.

- 10.8 Assignment and Release. All or part of the rights, duties, obligations, responsibilities, or benefits set forth in this Agreement shall not be assigned by the Contractor without the express written consent of the Town. Any written assignment shall expressly refer to this Agreement, specify the particular rights, duties, obligations, responsibilities, or benefits so assigned, and shall not be effective unless approved by the Town through the authorizing agent executing this Agreement. No assignment shall release the Contractor from performance of any duty, obligation, or responsibility unless such release is clearly expressed in such written document of assignment.
- 10.9 Interpretation and Mutual Negotiation. It is the intent of the Parties that this Agreement shall in all instances be interpreted to reflect the Contractor's status as an independent contractor with the Town and that in no event shall this Agreement be interpreted as establishing an employment relationship between the Town and either Contractor or Contractor's employees, agents, or representatives. The Parties agree that this Agreement is the result of mutual negotiation between the Parties and that the Agreement shall not be construed against the Town on grounds relating to drafting, revision, review, or recommendation by any agent or representative of the Town. The Parties further agree that all warranties in this Agreement are made by the Contractor to induce the Town to accept the Contractor's offer to enter into this Agreement and have been incorporated into the Agreement at the Contractor's request.
- 10.10 Paragraph Captions. The captions of the paragraphs and sections are set forth only for the convenience and reference of the Parties and are not intended in any way to define, limit or describe the scope or intent of this Agreement.
- 10.11 Agreement Controls. In the event a conflict exists between this Agreement and any term in any exhibit attached or incorporated into this Agreement, the terms in this Agreement shall supersede the terms in such exhibit.
- 10.12 Integration and Amendment. This Agreement represents the entire and integrated agreement between the Town and the Contractor and supersedes all prior negotiations, representations, or agreements, either written or oral. Any amendments to this Agreement must be in writing and be signed by both the Town and the Contractor.
- 10.13 Severability. Invalidation of any of the provisions of this Agreement or any paragraph, sentence, clause, phrase, or word herein or the application thereof in any given circumstance shall not affect the validity of any other provision of this Agreement.
- 10.14 Incorporation of Exhibits. Unless otherwise stated in this Agreement, exhibits, applications, or documents referenced in this Agreement shall be incorporated

into this Agreement for all purposes. In the event of a conflict between any incorporated exhibit and this Agreement, the provisions of this Agreement shall govern and control.

- 10.15 **Notices.** Unless otherwise specifically required by a provision of this Agreement, any notice required or permitted by this Agreement shall be in writing and shall be deemed to have been sufficiently given for all purposes if sent by certified mail or registered mail, postage and fees prepaid, addressed to the Party to whom such notice is to be given at the address set forth below or at such other address as has been previously furnished in writing, to the other Party. Such notice shall be deemed to have been given when deposited in the United States Mail properly addressed to the intended recipient.

If to the Town :

If to Contractor:

<p>Town Administrator Lyons Town Hall PO Box 49 (mail) 432 5th Ave (delivery) Lyons, CO 80540</p>	<p>Contractor's Name Icon Engineering, Inc 7000 S Yosemite St, Suite 120 Centennial Colorado 80033</p>
<p>With Copy to: Town Attorney Widner Michow & Cox LLP 13133 E. Arapahoe Road, Suite 100 Centennial, Colorado 80112</p>	<p>With Copy to:</p>

- 10.16 **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall constitute an original and all of which shall constitute one and the same document. In addition, the Parties specifically acknowledge and agree that electronic signatures shall be effective for all purposes, in accordance with the provisions of the Uniform Electronic Transactions Act, Title 24, Article 71.3 of the Colorado Revised Statutes.

11.0 ATTACHMENTS

The following are attached to this Agreement for reference:

- Contractor's Certificate(s) of Insurance
- Contractor Proof of Professional Licensing
- Other

12.0 AUTHORITY

The individuals executing this Agreement represent that they are expressly authorized to enter into this Agreement on behalf of Town of Lyons and the Contractor and bind their respective entities.

REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK-SIGNATURE PAGE FOLLOWS

THIS AGREEMENT is executed and made effective as provided above.

TOWN OF LYONS, COLORADO:

Approval by Town Board of Trustees

Not Required

By: _____
Mayor or Mayor Pro Tem

ATTEST:

Debra K. Anthony Town Clerk

Approval by Town Administrator

Not Required

By: _____
Victoria Simonsen, Town Administrator

APPROVED AS TO FORM (*Excluding Exhibits*)

Not Required

For Town Attorney's Office

CONTRACTOR:

By: _____

Printed name: _____

Its: _____

STATE OF _____)
COUNTY OF _____) ss.

The foregoing Disaster Recovery Services Agreement was acknowledged before me this ____ day of _____, 2015, by _____ as _____ of _____, a _____.

Witness my hand and official seal.

My commission expires: _____.

Notary Public
(Required for all contracts (C.R.S. § 8-40-202(2)(b)(IV)))

**EXHIBIT A
SCOPE OF SERVICES**

**EXHIBIT B
COMPENSATION**

EXHIBIT A

SCOPE OF WORK

Scope of Services

Below is a general list of the services provided by the Consultant as anticipated by the Town. Consultant will be required to review this scope of services and include any additional information or exceptions within their proposed scope to achieve the Town's goals:

The Consultant shall perform or supply all necessary services as specified in this document with regards to surveying, research, analysis, design, soil investigation, report preparation, green infrastructure technics, environmental research, utility coordination, local drainage study, storm water modeling, right of way review, public process and other associated engineering work.

All work shall be performed under the direction and supervision of a Licensed Professional Engineer, registered with the Colorado State Board of Registration for Professional Engineers and Professional Land Surveyors. Some activities may require work on land not controlled by the Town. In such cases, the Consultant shall obtain the necessary written permission to enter the premises, on forms provided by the Town. Included in this written permission will be the names and telephone numbers of persons to contact should notification prior to entry be necessary. These written permissions will apply to Town of Lyons personnel as well as Consultant personnel. Signed copies of the written permission will be submitted to the Town's Project Manager prior to entering private property for survey work.

A pre-design meeting will be held including an on-site inspection to ensure that the Consultant is familiar with the existing conditions as well as the project requirements and Town and CDBG goals. This meeting will be coordinated by the Consultant and conducted by the Project Manager.

As part of the proposal, the Consultant shall develop and submit a detailed scope of work that meets the requirements of the CDBG-DR and The Town of Lyons Design Standards and Construction Specifications. The scope of work should include, but may not be limited to, the following tasks:

Meeting and engaging with Town staff - In order to fully understand existing infrastructure and determine areas of concern within the town, the consultant team will need to meet extensively with town staff including public works, planning, finance, parks and recreation, sustainability, fire, ecology, public safety, etc.

Public engagement – This planning process will be assisted by the knowledge and experience of town staff, however planning should include the input of the community. Public engagement must be considered in this planning process. Public engagement includes workshops, open houses, commission meetings, and board of trustees meetings. The consultant should address techniques they intend to engage the public in their proposal.

Mapping – The Town of Lyons has detailed mapping along the creek corridors and otherwise limited mapping resources. The planning/engineering team will need to review the available mapping and consider how they will utilize that mapping for hydrologic analysis of existing drainage ways. Additional on the ground analysis will be necessary to fully map and analyze all current infrastructure and drainage ways, including facilities on private property. A list of known facilities is provided in the Exhibits and more features may be found during site investigations.

Coordination with other planning efforts – The Town is currently engaged in several planning, financing and infrastructure projects concurrent with this effort. These and all existing plans will need to be taken into consideration in this planning effort.

Reporting – The consultant team should provide a 33% review copy to town staff, a 75% draft plan for public comment and following an appropriate comment period a full report to be approved by the Utility and Engineering Board and the Board of Trustees. The final report and all enclosures, references and attachments shall fully address all items listed in the scope of work as well as feedback received from both Town staff and public comment.

Inventory and Analysis of Existing Public and Private Infrastructure – A comprehensive evaluation of the existing facilities related to storm water runoff, especially those impacted by the 2013 flooding. This inventory will involve coordination with previous and ongoing planning efforts of the Town and where necessary those of neighboring jurisdictions.

Proposed System Improvements – Recommend improvements to the existing infrastructure analyzed in the above section. Alternatives will be evaluated to determine the most environmentally conscious, economical, and sustainable solution in accordance with the Town goals.

Sustainability– The Town's goals as set forth In the *Lyons Sustainability Action Plan* include the desire to “Design and maintain a network of green infrastructure features”. These include but are not limited to bio retention, rain gardens, bio swales, infiltration trenches, riparian buffers and permeable surfaces. The Town desires to implement low impact design solutions and integrated management practices that serve the storm water needs of the town while improving quality of life, and lowering the impacts on town resources and the surrounding environment.

Resilience – The Stormwater Master Plan needs to incorporate resiliency throughout all of its recommendations. This includes the incorporation of concepts of green infrastructure to reduce stormwater at its source where practical while minimizing the amount of runoff during severe weather events. Incorporate resiliency by tracking the following items in the event of 2, 10, 50 and 100 yr. storms and location of properties currently at risk of localized flooding and building damage;

- List of public facilities (e.g. playgrounds, bike trails, buildings, equipment storage, pump houses, etc) at risk of flooding,
- Locations and number of miles of roadway potentially impacted by street flooding and/or flooding of drainage ways

Capital Improvement Plan – Conceptual level cost estimates will be included as part of the capital improvement plan for projects identified in the planning efforts. Projects are prioritized and categorized into near-term (0-3 years), medium-term (4-7 years), and long-term (7+ years) improvements.

Suggested Development Standards – Recommended best management practices for new developments shall be provided in order to ensure that new growth and its associated infrastructure best integrates into the existing system. Furthermore, specific minimum design and specification criteria, including green water infrastructure standards, shall be provided for analysis of future storm drainage facilities.

System Maintenance – A summary of system maintenance items to be frequently addressed in order to maintain the functionality of the water, sanitary sewer, green infrastructure systems and drainage and roadway systems.

System Management Requirements – A summary of system requirements to maintain the highest order of efficiencies while minimizing ecological impact from the proposed improvements in order to

accommodate future needs and generations well in to the future.

Funding Options– A summary of the available grants and loan options from various agencies.

Flood Area Hazard Delineation – Provide “proposed” flood area hazard delineations for the major drainages through the Town based on existing conditions for the 100-year event. Include a memorandum and discussion regarding the benefits and disadvantages to the Town and the Citizens if the Town were to implement and adopt a flood zone within the FAHD area. Include an analysis that depicts the FAHD if runoff rates were to increase by 120% from what is calculated. Include a discussion regarding the effect of future storm drainage improvements on the FAHD.

Storm Water Utility – Provide an outline of a storm water utility program for the Town. Include requirements as set forth by the State for the establishment of a storm water utility. Provide a working model in a spreadsheet format that allows the Town to evaluate variables that would affect cost of service or maintenance, the model being developed through the process.

ATTACHMENT B
COMMUNITY DEVELOPMENT BLOCK GRANT DISASTER RECOVERY
("CDBG-DR") FUNDS PROGRAM REQUIREMENTS

The work or services under the contract with the Town of Lyons ("Town") to which this Attachment B is attached ("Agreement") is/are funded in whole or in part through State of Colorado Community Development Block Grant Disaster Recovery Program ("CDBG-DR") funds, which require compliance with all the provisions contained in this Attachment B to the Agreement and all other applicable Federal and State laws and regulations. The provisions below are incorporated into and made part of the Agreement. If the Agreement is between the Town and the "Consultant," the term "Contractor" as used herein shall mean the "Consultant."

1.0 PROVISIONS REQUIRED BY LAW DEEMED INSERTED: Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to be inserted herein and the Agreement shall be read and enforced as though it were included herein, and if through mistake or otherwise any provision is not inserted, or is not correctly inserted, then upon the application of either party the Agreement shall forthwith be physically amended to make such insertion or correction.

2.0 AGREEMENT TO EXECUTE OTHER REQUIRED DOCUMENTS: Contractor and all subcontractors, by entering into the Agreement, understand and agree that funding for the Work is provided under federal and/or state programs with specific contracting requirements. To the extent any such requirement is not otherwise set forth herein, Contractor agrees to execute such amendments or further agreements as may be necessary to ensure that the Town funding for the Work is provided.

3.0 NOTICE OF STATE AND FEDERAL REPORTING REQUIREMENTS AND REGULATIONS: The work or services funded under the Agreement are funded in whole or in part through State of Colorado Community Development Block Grant Disaster Recovery Program ("CDBG-DR") funds, which require compliance with certain financial, payroll, employment and performance reporting provisions, to include without limitation the regulations set forth in 24 CFR Part 570, the Community Development Block Grant (CDBG) Program Regulations. It is important that the Contractor is aware of these reporting requirements, as the Town may require and the Contractor agrees to provide all information, documentation, and other reporting in order to satisfy reporting requirements to the State of Colorado which, in turn, will enable the State of Colorado to satisfy federal reporting requirements. Failure of Contractor or any subcontractor or subconsultant to provide required data or information to ensure compliance with these reporting requirements is a material breach of the Agreement.

4.0 RECORDS AND RETENTION: The Contractor agrees to maintain such records and follow such procedures as may be required under the CDBG-DR Program and any such procedures as the Town may prescribe. In general, such records will include information pertaining to the Agreement, obligations and unobligated balances, assets and liabilities, outlays, equal opportunity, labor standards (as appropriate), and performance.

All such records and all other records pertinent to the Agreement and work or services performed thereunder shall be retained by the Contractor for a period of three years after final audit of the Town's CDBG-DR project, unless a longer period is required to resolve audit findings or litigation. In such cases, the Town shall request a longer period of record retention.

5.0 ACCESS TO RECORDS AND SITE WHERE APPROPRIATE: The Town and other authorized representatives of the state and federal government shall have access to any books, documents, papers and records of the Contractor which are directly pertinent to the Agreement for the purpose of making audit, examination, excerpts, and transcriptions. The Contractor agrees to provide the Town, the State of Colorado, the federal agencies with interest in the Agreement or any of the activities undertaken pursuant thereto, or their authorized representatives access to construction or other work sites, if any, pertaining to the work being completed under this Agreement.

6.0 AUDIT: The Town, the State Auditor, and HUD or their delegates shall have the right to review and monitor the financial and other components of the work and services provided and undertaken as part of the CDBG-DR project and the Agreement, by whatever legal and reasonable means are deemed expedient by the Town, the State Auditor and HUD.

7.0 COMPLIANCE WITH LAWS AND INDEMNIFICATION: The Agreement is funded in

whole or in part with CDBG funds through the Town's Community Development Block Grant Program as administered by the Colorado Division of Local Government, Department of Local Affairs and/or with funds administered by the Division of Homeland Security and Emergency Management in the Department of Public Safety. Contractor shall comply with those regulations and restrictions normally associated with federally-funded programs and any other requirements that the state may prescribe, whether or not herein recited. The Contractor shall comply with all applicable laws, ordinances and codes of the state and local government. Contractor shall indemnify and hold the Town, its officials, agents, and employees, harmless with respect to any damages arising or alleged to arise from any act performed by Contractor or which should have been performed by Contractor tort in performing any of the obligations under the Agreement.

8.0 TITLE VI OF THE CIVIL RIGHTS ACT OF 1964: Contractor shall comply with Title VI of the Civil Rights Act of 1964, which provides that no person shall, on the grounds of race, color, creed, religion, sex or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

9.0 SECTION 109 OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974: Contractor shall comply with Section 109 of the Housing and Community Development Act of 1974, which provides that no person in the United States shall on the grounds of race, color, creed, religion, sex or national origin be excluded from participation in, be denied benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title.

10.0 AGE DISCRIMINATION ACT OF 1975, AS AMENDED: Contractor shall comply with the Age Discrimination Act of 1975, as amended, which provides that no person shall be excluded from participation, denied program benefits, or subjected to discrimination on the basis of age under any program or activity receiving federal funding assistance. (42 U.S.C. 610 et. seq.)

11.0 SECTION 504 OF THE REHABILITATION ACT OF 1973, AS AMENDED: Contractor shall comply with Section 504 of the Rehabilitation Act of 1973, as amended, which provides that No otherwise qualified individual shall, solely by reason or his or her disability, be excluded from participation (including employment), denied program benefits, or subjected to discrimination under any program or activity receiving Federal funds. (29 U.S.C. 794)

12.0 AMERICANS WITH DISABILITIES ACT OF 1990: Contractor or Consultant shall comply with Public Law 101-336, Americans with Disabilities Act of 1990 which provides, subject to such Act, that no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.

13.0 SECTION 3 OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1968 COMPLIANCE:

1. The work or services to be performed or provided under this Agreement is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u, which requires that, to the greatest extent feasible, opportunities for training and employment be given lower-income residents of the project area; and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part, by persons residing in the area of the project.
2. Contractor shall comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of HUD set forth in 24 CFR 135, and all applicable rules and orders of HUD and CTED issued thereunder prior to the execution of this Agreement. Both the Town and the Contractor certify and agree that they are under no contractual or other disability that would prevent them from complying with these provisions.
3. Contractor will send to each labor organization or representative of workers with which they have a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or workers' representative of their commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

4. Contractor will include this Section 3 clause in every subcontract for work in connection with the Agreement and will, at the direction of the Town, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the Secretary of HUD, 24 CFR Part 135. Contractor or Consultant will not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR Part 135 and will not let any subcontract, unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.
5. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of HUD and CTED issued hereunder prior to the execution of the Agreement, shall be a condition of the federal financial assistance provided to the project contemplated by the Agreement. Failure to fulfill these requirements may subject the Town, its consultants and subcontractors, its successors and assigns to those sanctions specified by the grant or loan agreement or contract through which federal assistance is provided, and to such sanctions as are specified by 24 CFR Part 135.

14.0 PROTECTION OF LIVES AND HEALTH: The Contractor shall exercise proper precaution at all times for the protection of persons and property and shall be responsible for all damages to persons or property, either on or off the site, which occur as a result of his prosecution of the work. The safety provisions of applicable laws and building and construction codes, in addition to specific safety and health regulations described by Chapter XIII, Bureau of Labor Standards, Department of Labor, Part 1518, Safety and Health Regulations for Construction, as outlined in the Federal Register, Volume No. 75, Saturday, April 17, 1971. Title 29 - LABOR, shall be observed and the Contractor shall take or cause to be taken, such additional safety and health measures as the Town may determine to be reasonably necessary.

15.0 INTEREST OF MEMBERS OF OR DELEGATE TO CONGRESS: No members of or Delegate to Congress shall be admitted to any share or part of this Contract or to any benefit that may arise therefrom, but this provision shall not be construed to extend to this Contract if made with a corporation for its general benefit.

16.0 OTHER PROHIBITED INTERESTS: No official of the Town who is authorized in such capacity and on behalf of the Town to negotiate, make, accept or approve, or to take part in negotiating, making, accepting, or approving any architectural, engineering, inspection, construction or material supply contract or any subcontract in connection with the construction of the project, if for construction, shall become directly or indirectly interested personally in the Agreement or in any part hereof. No officer, employee, architect, attorney, engineer or inspector of or for the Town who is authorized in such capacity and on behalf of the Town to exercise any legislative, executive, supervisory or other similar functions in connection with the construction of the project, if for construction, shall become directly or indirectly interested personally in the Agreement or in any part thereof, any material supply contract, subcontract, insurance contract, or any other contract pertaining to the project.

17.0 ARCHITECTURAL BARRIERS: All design specifications for the construction of any building or residence shall provide access to the physically handicapped in accordance with the Architectural Barriers Act of 1968; the American With Disabilities Act of 1990 (28 CFR Part 36), and Colorado Revised Statute, CRS 9-5-101 to 112.

18.0 GOVERNMENT-WIDE RESTRICTION ON LOBBYING: CDBG funds shall not be used to influence or attempt to influence federal officials. Disclosure forms must be filed when non-CDBG funds are used for such purposes. Certification of compliance by the state to include the certification language in grant awards it makes to units of general local government is required at all tiers and the Town and Contractor, if required, shall certify accordingly as imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to civil penalty of not less than \$10,000 and not more than \$100,000 for each failure.

19.0 EMPLOYMENT OF CERTAIN PERSONS PROHIBITED: No person under the age of sixteen years and no person who, at the time, is serving sentence in a penal or correctional institution shall be employed on the work covered in this Agreement.

20.0 COPELAND ANTI-KICKBACK ACT (44 C.F.R. SECTION 13.36(i)(4)):

(a) Contractor. The Contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this contract.

(b) Subcontracts. The Contractor or subcontractor shall insert in any subcontracts the clause in subparagraph (1) above and such other clauses as the Town, or the State may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these Contract clauses.

(c) Breach. A breach of the subparagraph contract clauses (1) or (2) above may be grounds for termination of the Contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

21.0 PUBLIC CONTRACT FOR SERVICES – EMPLOYMENT ELIGIBILITY VERIFICATION: In accordance with C.R.S. 8-17.5-101 and 102, the Contractor certifies through execution of this Agreement that it will not knowingly employ or contract with an illegal alien who will perform work under this Agreement .

(a) The Contractor will participate in the E-Verify Program, the employment verification program established by the Colorado Department of Labor and Employment, in order to confirm the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement.

(b) The Contractor shall notify the owner and the Colorado Department of Labor and Employment of its participation in the employment verification program.

(c) The Contractor shall not enter into a contract with a subcontractor that fails to certify to the contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Agreement or use either the E-Verify Program or Colorado Department of Labor and Employment verification program procedures to undertake pre-employment screening of job applicants while the Agreement is being performed.

(d) If the Contractor obtains actual knowledge that a subcontractor knowingly employs or contracts with an illegal alien, the Contractor is required to:

- (1) Notify the subcontractor and the Department of Local Affairs within three days of obtaining actual knowledge of the employment or contract with an illegal alien.
- (2) Terminate the subcontract if within three days of receiving the notice the subcontractor does not stop employing or contracting with the illegal alien unless, during such three days, the subcontractor provides information that it did not knowingly employ or contract with an illegal alien.
- (3) Comply with any reasonable request by the Colorado Department of Labor and Employment in the course of an investigation pursuant to authority established pursuant to C.R.S. §8-17.5-102(5)(a).

(e) The Department of Local Affairs or the Owner may terminate this Agreement for any violation of this provision and the Contractor shall be liable for actual and consequential damages to the Department of Local Affairs and the Owner.

22.0 QUESTIONS CONCERNING CERTAIN FEDERAL STATUTES AND REGULATIONS: All questions arising under this Agreement which relate to the application or interpretation of (a) the Copeland Anti-Kickback Act, (b) the Contract Work Hours and Safety Standards Act, (c) the Davis-Bacon Act, (d) the regulations issued by the Secretary of Labor, United States Department of Labor, pursuant to said Acts, or (e) the labor standards provisions of any other pertinent Federal statute, shall be referred through the Town and to the Secretary of Labor, United States Department of Labor, for said Secretary's appropriate ruling or interpretation which shall be authoritative and may be relied upon for the purposes of this Agreement .

23.0 SUBCONTRACTS: The Contractor will insert or cause to be included in any subcontract covering any of the work or services covered by this Agreement the Federal Labor Standards Provisions contained herein and such other clauses as the Department of Housing and Urban Development or Colorado Department of Local Affairs may, by instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts which they may enter into, together with a clause requiring this insertion in any further subcontracts that may in turn be made.

24.0 CERTIFICATION OF COMPLIANCE WITH AIR AND WATER ACTS: (Applicable to Federally assisted construction contracts and related subcontracts exceeding \$100,000). During the performance of this Agreement, the Contractor and all subcontractors shall comply with the requirements of the Clean Air Act, as amended, 42 USC 1857 et. seq., the Federal Water Pollution Control Act, as amended, 33 USC 1251 et. seq., and the regulations of the Environmental Protection Agency with respect thereto, at 40 CFR 15, as amended. In addition to the foregoing requirements, all nonexempt contractors and subcontractors shall furnish to the Town, the following:

(a) A stipulation by the contractor or subcontractors, that any facility to be utilized in the performance of any nonexempt contract or subcontract, is not listed on the List of Violating Facilities issued by the Environmental Protection Agency (EPA) pursuant to 40 CFR 15.20.

(b) Agreement by the Contractor to comply with all the requirements of Section 114 of the Clean Air Act, as amended, (42 USC 1857c-8) and Section 308 of the Federal Water Pollution Control Act, as amended, (33 USC 1318) relating to inspection, monitoring, entry, reports and information, as well as all other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder.

(c) A stipulation that as a condition for the award of the Agreement, prompt notice will be given of any notification received from the Director, Office of Federal Activities, EPA, indicating that a facility utilized, or to be utilized for the Agreement, is under consideration to be listed on the EPA List of Violating Facilities.

(d) Agreement by the Contractor that he will include, or cause to be included, the criteria and requirements in Paragraph (a) through (d) of this section in every nonexempt subcontract and requiring that the Contractor will take such action as the Government may direct as a means of enforcing such provisions.

25.0 EMPLOYMENT PRACTICES: The Contractor (1) shall, to the greatest extent practicable, follow hiring and employment practices for work on the project which will provide new job opportunities for the unemployed and underemployed, and (2) shall insert or cause to be inserted the same provision in each construction subcontract.

26.0 EQUAL EMPLOYMENT OPPORTUNITY: During the performance of this Agreement, the Contractor agrees as follows:

(a) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to, the following: Employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(b) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.

(c) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(d) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(e) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(f) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(g) The Contractor will include the portion of the sentence immediately preceding subparagraph (1) and the provisions of subparagraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, That in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the Contractor may request the United States to enter into such litigation to protect the interests of the United States."

27.0 SUBCONTRACTING WITH SMALL AND MINORITY FIRMS, WOMEN'S BUSINESS ENTERPRISE, AND LABOR SURPLUS AREA FIRMS: The Contractor shall take the following steps to ensure that, whenever possible, subcontracts are awarded to small business firms, minority firms, women's business enterprises, and labor surplus area firms:

(a) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

(b) Ensuring that small and minority businesses and women's business enterprises are solicited whenever they are potential sources;

(c) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses and women's business enterprises;

(d) Establishing delivery schedules, where the requirements of the contract permit, which encourage participation by small and minority businesses and women's business enterprises; and

(e) Using the services and assistance of the U.S. Small Business Administration, the Minority Business Development Agency of the U.S. Department of Commerce, and State and local governmental small business agencies.

28.0 BREACH OF FEDERAL LABOR STANDARDS PROVISIONS; CONTRACT TERMINATION; DEBARMENT: Contractor shall comply with the Federal Labor Standards provisions contained in Section 35.0. A breach of Section 23.0, this Section and/or any of the Federal Labor Standards Provisions attached hereto or as may be in effect, may be grounds for termination of the Agreement, and for debarment as provided in 29 CFR 5.6. In addition to the causes for termination of this Agreement as herein elsewhere set forth, the Town reserves the right to terminate this Agreement if the Contractor or any subcontractor whose subcontract covers any of the work covered by this Agreement shall breach any of the Federal Labor Standards Provisions.

29.0 CLAIMS AND DISPUTES PERTAINING TO WAGE RATES: Claims and disputes pertaining to wage rates or to classifications of laborers and mechanics employed upon the work covered by this Agreement shall be promptly reported by the Contractor in writing to the Town for referral to the Secretary of Labor, United States Department of Labor, whose decision shall be final with respect thereto.

30.0 PAYROLLS AND BASIC PAYROLL RECORDS OF CONTRACTOR AND SUBCONTRACTORS: In accordance with the Federal Labor Standards set forth in Section ___ hereof, Contractor and each subcontractor shall prepare his payrolls on forms satisfactory to and in accordance with instructions to be furnished by the Town. The Contractor shall submit weekly to the Town certified copies of all payrolls of the Contractor and of the subcontractors, it being understood that the Contractor shall be responsible for the submission of copies of payrolls of all subcontractors. Each such payroll shall contain the "Weekly Statement of Compliance" set forth in Section 3.3 of Title 29, Code of Federal Regulations and all other requirements of the Federal Labor Standards Provisions set forth in Section 35.0 of this Attachment. The Town requires that payrolls and basic payroll records of the Contractor and each subcontractor covering all laborers and mechanics employed upon the work covered by this Agreement shall be maintained during the course of the work and preserved for a period of 5 years thereafter. Such payrolls and basic payroll records shall contain the information required by Federal Labor Standards provisions.

31.0 SPECIFIC COVERAGE OF CERTAIN TYPES OF WORK BY EMPLOYEES: The transporting of materials and supplies to or from the site of the Project or Program to which this Agreement pertains by the employees of the Contractor or of any subcontractor, and the manufacturing or furnishing of materials, articles, supplies, or equipment on the site of the Project or Program to which this Agreement pertains by persons employed by the Contractor or by any subcontractor, shall, for the purposes of this Agreement, and without limiting the generality of the foregoing provisions of this Agreement, be deemed to be work to which the Federal Labor Standards Provisions are applicable.

32.0 DAVIS BACON/PREVAILING WAGES: Contractor/Subcontractor is responsible for determining the applicable prevailing wage requirements pertaining to Contractor/Subcontractor's Work and will strictly comply with the requirements. Contractor/Subcontractor will keep complete and accurate records containing the name, address, the occupational title or titles for the work performed, the rate of pay, daily and weekly hours worked for each occupational title, deductions made, and actual wages paid for work performed by each worker. Unless provided with specific documentations, Subcontractor will submit a Statement of Compliance, and a reasonable number of certified copies of current payroll records on the forms required with each request for payment. Receipt of the information will be a condition precedent to making any payments to the Subcontractor.

33.0 UNDERPAYMENT OF WAGES OR SALARIES: In case of underpayment of wages by the Contractor or by any subcontractor to laborers or mechanics employed by the Contractor or subcontractor upon the work covered by this Agreement, the Town, in addition to such other rights as may be afforded it under the Agreement shall withhold from the Contractor, out of any payments due the Contractor, so much thereof as the Town may consider necessary to pay such laborers or mechanics the full amount of wages required by this Agreement. The amount so withheld may be disbursed by the Town for and on account of the Contractor or the subcontractor (as may be appropriate), to the respective laborers or mechanics to whom the same is due or on their behalf to plans, funds, or programs for any type of fringe benefit prescribed in the applicable wage determination.

34.0 SUSPENSION AND DEBARMENT: This Section applies if this Agreement/Contract or any subcontract awarded hereunder is for a "covered transaction" to include:

(a) This Contract or any subcontract awarded hereunder is awarded in the amount of at least \$25,000, or

(b) This Contract or any subcontract awarded hereunder requires the approval of a federal agency, regardless of amount.

A. If this Contract or any subcontract awarded hereunder is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000, the Contractor is required to verify that none of the Contractor or any subcontractor as the case may be, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935). By signing this Agreement, the Contractor certifies, to the best of its knowledge and belief, that it and its principals:

- (1) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by a federal department or agency;
 - (2) have not within a five-year period preceding this Agreement had one or more public transactions (federal, State or local) terminated for cause or default; and
 - (3) have not within a five-year period preceding this proposal been convicted of or had a civil judgment rendered against them for (a) the commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, State or local) transaction or contract under public transaction, or (b) violation of federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property
- B. The Contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- C. This certification is a material representation of fact relied upon by the Town. If it is later determined that the Contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the State of Colorado and the Town), the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
- D. The Contractor agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C throughout the period of this Contract. The Contractor further agrees to include a provision requiring such compliance in its lower tier covered transactions.”

35.0 FEDERAL LABOR STANDARDS PROVISIONS

U.S. Department of Housing and Urban Development

Applicability

The Project or Program to which the construction work covered by this contract pertains is being assisted by the United States of America and the following Federal Labor Standards Provisions are included in this Contract pursuant to the provisions applicable to such Federal assistance.

A. 1. (i) Minimum Wages. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR 5.5(a)(1)(ii) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible, place where it can be easily seen by the workers.

(ii) (a) Any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met:

- (1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and
- (2) The classification is utilized in the area by the construction industry; and
- (3) The proposed wage rate, including any bona fide

fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

b) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB control number 1215-0140.)

(c) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

(d) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(ii)(b) or (c) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

2. Withholding. HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor so much of the accrued payments or advances as may be considered

necessary to pay laborers and mechanics, including apprentices, trainees and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee or helper, employed or working on the site of the work, all or part of the wages required by the contract, HUD or its designee may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the contractor, disburse such amounts withheld for and on account of the contractor or subcontractor to the respective employees to whom they are due. The Comptroller General shall make such disbursements in the case of direct Davis-Bacon Act contracts.

3. (i) Payrolls and basic records. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section 1(b)(2)(B) of the Davis-bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5 (a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0140 and 1215-0017.)

(ii) (a) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i) except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from

the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this subparagraph for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to HUD or its designee. (Approved by the Office of Management and Budget under OMB Control Number 1215-0149.)

(b) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under 29 CFR 5.5 (a)(3)(ii), the appropriate information is being maintained under 29 CFR 5.5(a)(3)(i), and that such information is correct and complete;

Previous editions are obsolete

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR Part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(c) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by subparagraph A.3.(ii)(b).

(d) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under subparagraph A.3.(i) available for inspection, copying, or transcription by authorized representatives of HUD or its designee or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, HUD or its designee may, after written notice to the contractor, sponsor, applicant or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records

available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and Trainees.

(i) **Apprentices.** Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) **Trainees.** Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee

must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by

Previous editions are obsolete the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) **Equal employment opportunity.** The utilization of apprentices, trainees and journeymen under 29 CFR Part 5 shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR Part 3 which are incorporated by reference in this contract

6. Subcontracts. The contractor or subcontractor will insert in any subcontracts the clauses contained in subparagraphs 1 through 11 in this paragraph A and such other clauses as HUD or its designee may by appropriate instructions require, and a copy of the applicable prevailing wage decision, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this paragraph.

7. Contract termination; debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act Requirements.

All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract

9. Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and HUD or its designee, the U.S. Department of Labor, or the employees or their representatives.

10. (i) Certification of Eligibility. By entering into this contract the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001. Additionally, U.S. Criminal Code, Section 1 01 0, Title 18, U.S.C., "Federal Housing Administration transactions", provides in part: "Whoever, for the purpose of . . . influencing in any way the action of such Administration..... makes, utters or publishes any statement knowing the same to be false..... shall be fined not more than \$5,000 or imprisoned not more than two years, or both."

11. Complaints, Proceedings, or Testimony by Employees. No laborer or mechanic to whom the wage, salary, or other labor standards provisions of this Contract are applicable shall be discharged or in any other manner discriminated against by the Contractor or any subcontractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the labor standards applicable under this Contract to his employer.

B. Contract Work Hours and Safety Standards Act. The provisions of this paragraph B are applicable where the amount of the prime contract exceeds \$100,000. As used in this paragraph, the terms "laborers" and "mechanics" include watchmen and guards

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which the individual is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in subparagraph (1) of this paragraph, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such

territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subparagraph (1) of this paragraph, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the clause set forth in subparagraph (1) of this paragraph.

(3) Withholding for unpaid wages and liquidated damages. HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contract, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act which is held by the same prime contractor such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph (2) of this paragraph.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in subparagraph (1) through (4) of this paragraph and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in subparagraphs (1) through (4) of this paragraph.

C. Health and Safety. The provisions of this paragraph C are applicable where the amount of the prime contract exceeds \$100,000.

(1) No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.

(2) The Contractor shall comply with all regulations issued by the Secretary of Labor pursuant to Title 29 Part 1926 and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act, (Public Law 91-54, 83 Stat 96). 40 USC 3701 et seq.

(3) The contractor shall include the provisions of this paragraph in every subcontract so that such provisions will be binding on each subcontractor. The contractor shall take such action with respect to any subcontractor as the Secretary of Housing and Urban Development or the Secretary of Labor shall direct as a means of enforcing such provisions.

Accepted by Contractor on
_____, 20__

By: _____

Title

Accepted by Town of Lyons on
_____, 20__

By: _____

Title

ESTIMATED PROJECT SCOPE, SCHEDULE, and COST

PROJECT NAME: Lyons Stormwater Masterplan
 CLIENT: Town of Lyons
 PREPARED BY: TC
 CHECKED BY: CJ
 DATE: 12/1/2015

Tasks	2015				2016				AUG Weeks	SEP Weeks	OCT Weeks	NOV Weeks	Average Hours per Task	Estimated Dollars per Task
	JAN Weeks	FEB Weeks	MARCH Weeks	APRIL Weeks	MAY Weeks	JUNE Weeks	JULY Weeks	AUG Weeks						
A. Meeting and Engagement with Town Staff													228	\$ 22,800
B. Public Engagement													0	\$ -
C. Mapping		10	20	20	20	20	20	20					256	\$ 25,600
D. Coordinating with other Planning Efforts		5	5	5	5	5	5	5					35	\$ 3,500
E. Reporting				10	20	20	20	20		20	40	40	270	\$ 27,000
F. Inventory and Analysis of Existing Infrastructure			40	40	40	40	20	20					448	\$ 44,800
G. Proposed System Improvements				10	10	40	40	40	20	20			300	\$ 30,000
H. Sustainability (water quality BMPs)					10	10	10	10					80	\$ 8,000
I. Resilience (related to inventory)						10	10	10		20			80	\$ 8,000
J. Capital Improvement Plan			10	10	10		10	20	10				120	\$ 12,000
K. Suggested Development Standards		10	10	10									36	\$ 3,600
L. System Maintenance			10	10	10				20				60	\$ 6,000
M. System Management Requirements													0	\$ -
N. Funding Options													0	\$ -
O. Flood Hazard Area Delineation				40	40	40	40	20	20	20	40	40	540	\$ 54,000
P. Storm Water Utility								10		10	20	20	60	\$ 6,000
Q. Public Outreach													0	\$ -
<div style="display: flex; justify-content: space-between;"> Color bands indicate relative magnitude - green low, red high 2498 </div>													2498	\$ 249,800

Total Fee \$ 249,800