

Gene A. Meisner  
Commissioner District One

Rocky L. Samber, Chairman  
Commissioner District Two

David G. Donaldson  
Commissioner District Three



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**OFFICE OF THE BOARD  
LOGAN COUNTY COMMISSIONERS**

315 MAIN STREET SUITE 2  
STERLING, COLORADO 80751

**AGENDA**

**Logan County Board of Commissioners  
Logan County Courthouse, 315 Main Street, Sterling, Colorado  
Tuesday, May 17, 2016 - 9:00 a.m.**

**Call to Order  
Pledge of Allegiance  
Revisions to Agenda  
Consent Agenda**

Approval of the Minutes of the May 10, 2016 meeting.

Acknowledge the receipt of the Treasurer's report for the month of April, 2016.

Acknowledge the receipt of the Clerk and Recorder's report for the month of April, 2016.

**Unfinished Business**

Consideration of the award of the bid for the 2016 Overlay Program.

**New Business**

Consideration of the award of the bid for Fairgrounds Sweeping during the Logan County Fair.

Consideration of the award of the bid for Grandstand and Exhibit Center Cleaning during the Logan County Fair.

The Board will set the dates for the 2017 and 2018 Logan County Fair and Rodeo.

Consideration of the approval of an agreement for Solid Waste Disposition between Logan County and Energy Recovery Partners LLC for transfer of municipal solid waste from the Logan County Landfill to an energy facility to be located in Morgan County where the waste will be utilized as feedstock for a pyrolysis process to generate a synthetic gas which will be burned to generate electricity.

**Other Business  
Miscellaneous Business/Announcements**

The next regular business meeting will be scheduled for Tuesday, May 24, 2016, at 9:00 a.m. at the Logan County Courthouse.

**Executive Session as Needed  
Adjournment**

May 10, 2016

The Logan County Board of Commissioners met in regular session with the following members present constituting a quorum of the members thereof:

Rocky L. Samber	Chairman
David G. Donaldson	Commissioner
Gene A. Meisner	Commissioner

Also present:

Alan Samber	Logan County Attorney
Marie Granillo	Logan County Deputy Clerk
Rob Quint	Logan County Planning and Zoning
Kim Sellers	Logan County Chambers
Dave Conley	Logan County Tax Board
CJ Kukus	McAtee Construction
Dave Lieber	
Callie Jones	Journal Advocate
Forrest Hershberger	South Platte Sentinel

Chairman Samber called the meeting to order at 9:00 a.m. The meeting opened with the Pledge of Allegiance.

Chairman Samber asked if there were any revisions for today's agenda. None were indicated.

The Board continued with the Consent Agenda items:

- Approval of the Minutes of the April 26, 2016 meeting.
- Acknowledgement of the receipt of the Landfill Supervisor's report for the month of April, 2016.
- Acknowledgement of the receipt of the Tourist Information Center Coordinator's report for the month of April, 2016.

Commissioner Meisner moved to approve the Consent Agenda Tuesday, May 10, 2016 Board meeting. Commissioner Donaldson seconded and the motion carried 3-0.

Chairman Samber continued with New Business:

Chairman Samber opened a public hearing concerning the Special Events Liquor License on behalf of the Logan County Chamber of Commerce for the sale of Malt, Vinous and Spirituous liquor on June 18, 2016 at the Logan County Fairgrounds.

- Kim Sellers, Logan County Chambers, addressed the Board

Chairman Samber closed the public hearing on the Special Events Liquor License on behalf of the Logan County Chamber of Commerce.

Commissioner Donaldson made a motion to approve the application for the Special Events permit from the Logan County Chamber of Commerce to sell Malt, Vinous and Spirituous liquor on June 18, 2016 for the tractor pull events at the Logan County Fairgrounds and authorize the chairman to sign. Commissioner Meisner seconded and the motion carried 3-0.

Chairman Samber opened proposals for the 2016 Overlay Program.

- McAtee Construction, Sterling, Colorado. \$79.50 unit price per ton (grade F)  
\$105,600.00 base bid for Cottonwood  
Subdivision  
\$181,754.00 removal and haul away

Commissioner Meisner moved to accept the proposal for the 2016 Overlay Program and refer to the Road and Bridge Department for the recommendation. Commissioner Donaldson seconded and the motion carried 3-0.

Consideration of the approval of the following Logan County Lodging Tax Board Projects:

- Tree Sculptures Brochure in the amount of \$1,142.00.
- Heritage Festival in the amount of \$2,500.00.

Commissioner Donaldson made a motion to approve the Logan County Lodging Tax Board funding request for the Tree Sculptures Brochures for 1,000 of them in the amount of \$1,142.00. Commissioner Meisner seconded and the motion carried 3-0.

Commissioner Meisner moved to approve the Lodging Tax Board of the Heritage Festival in the amount of \$2,500.00 for the year 2016. Commissioner Donaldson seconded and the motion carried 3-0.

Commissioner Donaldson made a motion to approve an agreement between Logan County and Tallgrass Pony Express and the issuance of ROW Permit #2016-4 for use of the county right-of-way across CR 35 between NE/4 of Section 26 and NW/4 of Section 25 of T9N, R53W, Logan County, Colorado for repair of a 20" pipeline. Commissioner Meisner seconded and the motion carried 3-0.

Commissioner Meisner moved to approve an agreement between Logan County and Tallgrass Pony Express and the issuance of ROW Permit #2016-5 for use of the counties right-of-way across CR 44 between SE/4 of Section 16 and NE/4 of Section 21 of T9N, R53W, Logan County, Colorado for repair of a 20" pipeline. Commissioner Donaldson seconded and the motion carried 3-0.

Commissioner Donaldson made a motion to approve the Exhibit B to contract #1309-16-02, an addition to software license agreement between Logan County and Computer Information Concepts, Incorporated on behalf of the Logan County Finance Department and authorize the chairman to sign. Commissioner Meisner seconded and the motion carried 3-0.

Commissioner Meisner moved to approve an agreement between Logan County and Romeo Entertainment Group to provide consultant services to secure and provide entertainment (A Thousand Horses, Canaan Smith and Jana Kramer) for the Logan County Fair, 2016, and authorize the chairman to sign. Commissioner Donaldson seconded and the motion carried 3-0.

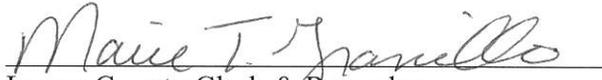
Commissioner Donaldson made a motion to approve an Agency Agreement for Public Service Company of Colorado gas transportation services. The agreement will update the transport service with Continuum that will be transferred to CenterPoint Energy Services and authorize the chairman to sign. Commissioner Meisner seconded and the motion carried 3-0.

The Board moved on to Miscellaneous Business/Announcements:

The next regular business meeting is scheduled for Tuesday, May 17, 2016 at 9:00 a.m. in the hearing chambers at the Logan County Courthouse.

There being no further business to come before the Board the meeting was adjourned at 9:31 a.m.

Submitted by:

  
\_\_\_\_\_  
Logan County Clerk & Recorder

Approved: May 17, 2016

BOARD OF COUNTY COMMISSIONERS  
LOGAN COUNTY, COLORADO

(seal)

By: \_\_\_\_\_  
Rocky L. Samber, Chairman

Attest:

\_\_\_\_\_  
Logan County Clerk & Recorder

**COMPARISON CLERK FEES COLLECTED FOR APRIL 2016**

**RECORDING FEES RETAINED**

	<u>2015</u>	<u>2016</u>	↑	↓
Real Estate Recording	8,665.00	8,240.00		
Surcharges	399.00	386.00		
Documentary Fees	673.67 (40)	1,267.64 (57)		
Torrens Title Recording (1/2 to General Fund)	150.00 (05)	40.00 (1)		
Marriage/Civil License	63.00 (09)	91.00 (13)		
Copies/Faxes	597.25	587.00		
Misc. Recording	910.00	1,101.50		
Misc. Election	0.00	93.37		
Short Check Fees	20.00	20.00		
<b>Total</b>	<b>\$11,477.92</b>	<b>\$11,826.51</b>		\$348.59

**RECORDING FEES TO STATE**

Marriage/Civil License CO	180.00	260.00
Marriage/Civil License VR	27.00	39.00
<b>TOTAL TO STATE</b>	<b>\$207.00</b>	<b>\$299.00</b>

**MOTOR VEHICLE FEES RETAINED**

State Sales Tax Vendor Fee	884.03	1,132.54	
City Sales Tax Vendor Fee	1,396.41	1,141.45	
Summary Title Apps	2,731.00	2,634.00	
Other Fees	6,503.80	3,461.37	
No Insurance Ticket Fees	488.00	408.75	
Total County Registration Fees	10,126.30	9,931.40	
County Special Purpose Fund (General Fund)	1,384.50	1,363.50	
Police Training Vendor Fee (General Fund)	100.58	99.25	
Registration Fees (\$1.50/\$2.50)	8,565.00	8,329.00	
County MV Late Reg Fees	2,100.00	2,380.00	
Ownership Tax Collected	149,762.74	142,624.06	
Ownership Tax collected by Dept of Rev (Class A)	49,110.39	61,868.21	
Ownership Tax collected by Dept of Rev (Class F)	1,889.75	1,283.61	
County Sales Tax	25,586.40	25,942.59	
<b>Total</b>	<b>\$260,628.90</b>	<b>\$262,599.73</b>	\$1,970.83

**MOTOR VEHICLE FEES TO STATE**

Sales Tax -- State of Colorado	25,663.79	32,877.51	
Registration Remittance Fees	173,396.15	170,238.34	
Title Remittance Fees	2,033.80	1,940.20	
Sales Tax -- RTA	800.53	710.67	
<b>Total</b>	<b>\$201,894.27</b>	<b>\$205,766.72</b>	<b>State</b> \$3,872.45

**MOTOR VEHICLE FEES TO CITY**

Sales Tax -- City of Sterling	\$26,531.57	21,687.42
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<b>FEES RETAINED THIS MONTH</b>	<b>\$323,106.96</b>	<b>\$274,426.24</b>	<b>Month</b> \$48,680.72
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<b>FEES RETAINED YEAR TO DATE</b>	<b>\$1,355,665.45</b>	<b>\$1,088,257.18</b>	<b>YTD</b> \$267,408.27
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**LOGAN COUNTY TREASURER'S MONTHLY REPORT  
REPORT OF COUNTY FUNDS ONLY  
APRIL 2016**

COUNTY FUNDS	3/31/16 BALANCE	PROPERTY TAXES	SPECIFIC OWNERSHIP	MISC COLLECTIONS	TRANSFERS IN (OUT)	WARRANTS	TREAS FEES	4/30/16 BALANCE
010 COUNTY GENERAL	\$ 6,515,052.15	\$ 1,518,914.48	\$ 64,699.58	\$ 193,318.74	\$ -	\$ (836,914.65)	\$ (31,559.48)	\$ 7,423,510.82
020 ROAD & BRIDGE	\$ 2,941,247.75	\$ 91,826.88	\$ 4,618.12	\$ 552,184.62	\$ -	\$ (399,752.57)	\$ (6,568.36)	\$ 3,183,556.44
050 CAPITAL EXPENDITURES	\$ 524,766.72	\$ 144,555.13	\$ 6,157.58	\$ 81,300.30	\$ -	\$ (48,096.73)	\$ (2,891.10)	\$ 705,791.90
060 JUSTICE CENTER	\$ 2,415,266.78	\$ -	\$ -	\$ 124,310.19	\$ -	\$ -	\$ (2,362.36)	\$ 2,537,214.61
070 TELEVISION FUND	\$ 41,044.97	\$ 12,648.64	\$ 538.88	\$ -	\$ -	\$ (2,508.47)	\$ (252.98)	\$ 51,471.04
080 PEST CONTROL	\$ 199,157.58	\$ 35,639.12	\$ 1,207.53	\$ -	\$ -	\$ (17,796.21)	\$ (712.78)	\$ 217,495.24
100 LODGING TAX	\$ 178,053.88	\$ -	\$ -	\$ 4,105.93	\$ -	\$ (1,499.89)	\$ -	\$ 180,659.92
110 SOLID WASTE	\$ 754,014.64	\$ -	\$ -	\$ 24,177.49	\$ -	\$ (36,573.93)	\$ -	\$ 741,618.20
111 SOL WST CLOSURE	\$ 346,851.92	\$ -	\$ -	\$ 1,158.12	\$ -	\$ -	\$ -	\$ 348,010.04
120 CONSERVATION TRUST	\$ 45,844.89	\$ -	\$ -	\$ 2.79	\$ -	\$ (1,147.51)	\$ -	\$ 44,700.17
300 CONTINGENT	\$ 526,027.55	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 526,027.55
444 CLERK DIGITAL CONV.	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
600 AMBULANCE FUND	\$ 315,427.53	\$ -	\$ -	\$ 58,217.90	\$ -	\$ (6,683.54)	\$ -	\$ 366,961.89
% TAX COLLECTED TO DATE								62.05%
<b>TOTALS</b>	<b>\$ 14,802,756.36</b>	<b>\$ 1,803,584.25</b>	<b>\$ 77,221.69</b>	<b>\$ 1,038,776.08</b>	<b>\$ -</b>	<b>\$ (1,350,973.50)</b>	<b>\$ (44,347.06)</b>	<b>\$ 16,327,017.82</b>

STATE OF COLORADO )  
 : ss.  
 COUNTY OF LOGAN )

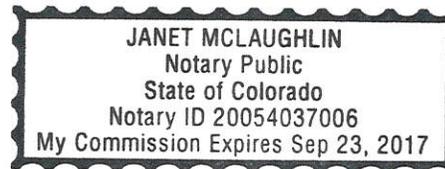
I hereby certify that the Logan County Treasurer's Office collected property taxes totaling \$5,700,295.88 for the month of APRIL 2016 which amount includes taxes for the County and all taxing authorities within the Treasurer's jurisdiction. The total Treasurer's Fees collected on all of said taxes for the month of APRIL 2016 is \$66,946.59 which includes fees for the County and all taxing authorities.

  
Patricia Bartlett, Logan County Treasurer

Subscribed and sworn to before me this 10th day of MAY 2016, by Patricia Bartlett, Logan County Treasurer.  
Witness my hand and official seal.

My Commission expires: 09/23/17

  
Notary Public



**Logan County 2016 Overlay Program**  
**Specifications**

The Logan County Board of Commissioners is accepting sealed proposals for the 2016 Overlay Program. All proposers shall submit proposals in accordance with the following specifications:

1. It shall be the responsibility of the proposer to furnish all the necessary equipment, materials, and personnel to complete the project in an efficient, thorough and workman-like manner.
2. Overlay Requirements:
  - a. The new asphalt mat shall be laid in two lifts. The first lift shall be a leveling course with a compacted thickness of not less than 1 ¼ inches. The finish lift shall have a compacted thickness of one inch.
  - b. The asphalt aggregates shall meet the Colorado Department of Highways Standard Specifications for Road and Bridge Construction, Grade F, with mineral filler or lime slurry.
  - c. ¾ inch screened aggregate shall be utilized by successful proposer.
  - d. The new asphalt mat shall have a width of the existing road.
  - e. The tack coat shall be CSS.1-H and must be applied not more than 1 hour before asphalt paving is to be laid.
  - f. The amount to be overlaid will depend on the price of the final contract. Actual roads to be overlaid will need final approval of road and bridge foreman if price exceeds budgeted dollars for all roads proposed for overlay for 2016.
  - g. All asphalt products should meet specifications of Grade F.
3. All Proposers shall include a bid bond with their proposal. The bid bond shall be in the amount of 5% of the proposal submitted.
4. The successful proposer shall furnish a performance bond and a payment bond prior to the commencement of any work on the project. Said bonds shall be for 100% of the total proposal.
5. Logan County shall be responsible for furnishing all equipment, materials and personnel to complete any base course preparations in an efficient, thorough and workman-like manner.
6. Prior to the commencement of any work on the project, the successful proposer shall furnish evidence of insurance in the form of an insurance certificate specifying the following coverages and corresponding limits of liability of not less than:
  - a. General Liability \$350,000.00 (per person) \$990,000.00 (per occurrence).
  - b. Automobile \$350,000.00 (per person) \$990,000.00 (per occurrence).

- c. Workers Compensation Insurance in accordance with Colorado law.
7. The project shall be fully completed by September 30, 2016.
8. All contractors are required to submit proposals on a **cost per ton basis**.
9. The hot bituminous pavement will be paid for at the unit price proposed per ton. The unit price proposed per ton shall include all costs for the laying and compacting of said pavement. Payment will be rendered to the successful proposer on the basis of scale tickets furnished to Logan County from an approved scale (the weighing cost shall be included in the proposal submitted).
10. All requests for payment by the successful proposer shall be received by the Logan County Road and Bridge Department. Ten (10%) percent of all approved pay requests shall be withheld by Logan County until the final acceptance of the project. Final acceptance of the project will be contingent upon the approval of the Board of County Commissioners.
11. Any work above and beyond the scope of these specifications shall be approved in writing, by the Board of County Commissioners and the successful proposer prior to the commencement of any additional work.
12. **All proposals shall be submitted in a sealed envelope marked "Overlay Proposal" by 5:00 p.m., Monday, May 9, 2016 to the Logan County Commissioners Office, 315 Main Street, Sterling, CO 80751.**
13. Proposals will be **opened at 9:00 a.m. on Tuesday, May 10, 2016** at the Logan County Courthouse, 315 Main Street, Sterling.
14. The Logan County Board of Commissioners reserves the right to reject any or all proposals and to accept the proposal which is deemed to be in the best interest of Logan County.
15. The 2016 Overlay Project will be awarded by contract which is attached to these specifications. All terms and instructions included in these specifications shall become part of said contract. NEW: In the interest of time, please complete and sign the contract and include with your proposal.
16. In preparing proposals, contractors are to refer to these specifications and contract, and attachments (if any) to these specifications.
17. For further information regarding this project, please contact the Logan County Road and Bridge Department at 522-3426.
18. The Contractor is responsible for all signage in accordance with the Manual on Uniform Traffic Control Devices. Flag persons as necessary will also be the responsibility of the contractor.
19. The County may periodically have a specimen tested to ensure compliance with the specifications. A minimum density of 93% will be required. The County will be responsible for such testing to ensure that the Grade F and minimum density requirements are met.

- 20. To be considered, all proposers must file a current copy of the Colorado Department of Highways qualified bidder letter.
- 21. If anticipated funds become available, additional miles may be added to the contract.
- 22. Temporary striping will be provided by the Contractor. Cost for the striping shall be included in the proposal of the contractor. The temporary striping will be in place prior to the end of the first working day after the asphalt mat has been completed.

Proposal Price Using Grading F Unit Price Per Ton: \$ 79.<sup>50</sup>

\* This price is for County Roads other than Cottonwood subdivision. Please see attached proposal

Company Name: McAtee Construction Company

for Cottonwood Subdivision  
alternates.

By: 

Title: Construction Manager

Address: P.O. Box 1908

City/State/Zip: Sterling, CO 80751

Phone: (970) 522-3647

Fax: (970) 522-9725

E-mail: dgebhart@simoncontractors.com

Attest: 

# McAtee Construction Company

dba McAtee Paving Company    Sterling Redi Mix Company    Green Bros. Ready Mix  
P.O. Box 1908    Sterling, Colorado 80751  
Phone No. 970-522-3647    Fax No. 970-522-9725

TO: Logan County

5/9/2016

RE: Cotton Wood Alternate  
Sterling, CO

MCATEE CONSTRUCTION HEREBY SUBMITS A PROPOSAL TO  
PROVIDE ALL LABOR, MATERIALS, AND EQUIPMENT TO COMPLETE THE FOLLOWING:

ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	TOTAL
<b>Base Bid</b>	2.25" Asphalt Overlay	1,200.00	TN	\$ 88.00	\$ 105,600.00
					<b>\$ 105,600.00</b>
<b>Alternate</b>	Process Reclaimed Asphalt Base	9,350.00	SY	\$ 4.00	\$ 37,400.00
	Remove And Haul Excess Material	780.00	CY	\$ 13.40	\$ 10,452.00
	3" Asphalt Paving	1,557.00	TN	\$ 86.00	\$ 133,902.00
					<b>\$ 181,754.00</b>

CLARIFICATIONS:

- 1 Price Includes one move-in. Add \$2,500 for each additional mob.
- 2 Please add 1% if bond is required.
- 3 McAtee Construction will not provide guarantee/warranty on surfaces designed at less than 1% slope.
- 4 Price does not include cold weather protection, survey, testing, utility adjustments, or striping.
- 5 Prices are for the 2016 construction season.
- 6 Invoice will be based on actual installed quantities.

NOTE: This proposal may be withdrawn by us if not accepted within 30 days.

Payment to be made within 30 days following completion and billing date, 1.5% interest monthly on remaining balance.

All legal fees and expenses incurred in the collection of monies due will be the responsibility of the owner

Please call if you have any questions.

MCATEE CONSTRUCTION

Acceptance of Proposal



Darren, Gebhart  
(970)522-3647

\_\_\_\_\_  
Date

approved  
of

# PRO-TECH PAVEMENT MAINTENANCE CO.

Protecting your investment in Pavement since 1990

19798 Marigold Dr.  
Sterling, CO 80751

P.O. Box 312  
Paxton, NE 69155

970-521-0316    970-580-5976    ~~308-289-9070~~

Fax: 970-521-6594

## PROPOSAL AND ACCEPTANCE

PROPOSAL SUBMITTED TO <i>Logan Co Fair</i>		PHONE	DATE <i>5-12-16</i>
STREET		JOB NAME <i>Logan County Fair Sweepings</i>	
CITY, STATE AND ZIP CODE <i>Sterling Co</i>		JOB LOCATION <i>Sterling Co</i>	
ARCHITECT	DATE OF PLANS	JOB PHONE	

We hereby submit specifications and estimates for:

*Rain Sweepings*  
*Before and After Fair*  
*Every Day of Fair*

*10 hrs X 80<sup>00</sup>/hr*

*800<sup>00</sup>*

1996

We Propose hereby to furnish material and labor — complete in accordance with above specifications, for the sum of:

dollars (\$ *800<sup>00</sup>* )

Payment to be made as follows:

*Upon Completion*

All material is guaranteed to be as specified. All work to be completed in a workman-like manner according to standard practices. Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, tornado and other necessary insurance. Our workers are fully covered by Workmen's Compensation Insurance.

Authorized Signature *Rocky Newborn*

Note: This proposal may be withdrawn by us if not accepted within \_\_\_\_\_ days.

Acceptance of Proposal - The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

Signature \_\_\_\_\_

Date of Acceptance \_\_\_\_\_

Signature \_\_\_\_\_

**2016 Logan County Fair  
Specifications for  
Grandstand & Exhibit Center Clean Up**

522-4018

approved

Proposal to provide clean up services and exhibit center grandstand seating at the Logan County Fairgrounds during the 2016 Logan County Fair on each day (once per day unless otherwise indicated) for a maximum of ten (10) grandstand cleanups and nine (9) exhibit center cleanup services for the following dates and times.

**Cleaning Time Table for Grandstand Seating**

	Monday	August	1	9:00 a.m.
	Tuesday	August	2	2:00 p.m.
	Wednesday	August	3	2:00 p.m.
	Thursday	August	4	2:00 p.m.
	Friday	August	5	2:00 p.m.
	Saturday	August	6	8:00 a.m.
	Saturday	August	6	11:00 a.m.
	Sunday	August	7	3:00 p.m.
Monday	August	8		9:00 a.m.

**Cleaning Time Table for Exhibit Center Seating**

	30	Saturday	August	5:00 p.m.
		Sunday	August	
	31	Monday	August	6:00 p.m.
		Tuesday	August	1
		Wednesday	August	2
	3	Thursday	August	4:00 p.m.
	4	Friday	August	4:00 p.m.
	5	Saturday	August	4:00 p.m.
	6	Saturday	August	8:00 a.m.
	6	<b>Saturday</b>	<b>August</b>	<b>11:30 a.m. (Recheck before Sale)</b>
Sunday		August	7	5:30 p.m.
		Monday	August	8
				9:00 a.m.

**Cleaning Time Table for Office in the Back by Holding Pens**

	Tuesday	August	2	10:00 p.m.
	Thursday	August	4	10:00 p.m.
	Friday	August	5	9:00 p.m.

The services provided all include pick up trash (1) one hour before event, a thorough removal of trash and debris from the grandstand areas after event, as well as wiping up spills on benches. Dust seats in the Exhibit Center. Brooms will be the responsibility of the proposer. Trash bags, buckets, and towels will be furnished by Logan County. Sweep and Mop the Office in the back by pens.

Proposer will provide no fewer than eight (8) cleanup workers to perform this service and continual supervision of these workers while performing their duties. Supervisor(s) will not be employees of Logan County but will work in close cooperation with County official and will be available at all times during cleanups to ensure a satisfactory cleanup service and to serve as liaison between the workers performing the service and County officials. Specifications will be met or payment will be withheld. **Group will not be allowed to enter the grandstands for cleaning until crowd has left the stands.**

This proposal is submitted to the Commissioners for Logan County for the bid of \$ 3,500.

Name of Organization

Fleming Girl's Basketball

Agent

35463 CR 14

Fleming, CO 80728

Address

970-520-0631

Telephone Number

Person

Kirkwood     Randy    

Telephone Number at Fair Time

Additional Contact

## **AGREEMENT FOR SOLID WASTE DISPOSITION**

This Agreement is made and entered into this \_\_\_\_ day of May, 2016, by and between **Logan County**, a political subdivision of the State of Colorado, herein called “Logan County,” and **Energy Recovery Partners LLC**, a Wyoming Limited Liability Company authorized to do business in the State of Colorado, herein called “ERP”.

**Whereas**, Logan County operates a licensed solid waste disposal site (as defined in 36 CFR 6.3) located at 24235 U.S. Highway 6, Sterling, Logan County, Colorado (hereinafter “Logan County Landfill”) which accepts municipal solid waste, garbage, refuse and similar solid waste material discarded from residential, commercial, institutional and community activities, including materials that can be recycled (“MSW”); and

**Whereas**, ERP proposes to develop and operate a waste to energy facility to be located in Morgan County, Colorado (the “Energy Facility”), where Eligible MSW (as hereinafter defined) including scrap tires will be utilized as feedstock for a pyrolysis process to generate a synthetic gas which will be burned to generate electricity.

**Whereas**, ERP proposes to develop and operate a waste transfer facility at the Logan County Landfill where MSW will be received and Eligible MSW will be separated and transferred to the Energy Facility.

**Whereas**, Logan County is willing to direct all MSW otherwise to be disposed in the Logan County Landfill to be routed to the ERP Transfer Facility under the terms of this Agreement.

NOW, THEREFORE, for \$10.00 and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Logan County and ERP agree to the following:

1. **Term.** The term of this Agreement shall begin upon formal approval and signature by the parties hereto, and shall terminate on the 26<sup>th</sup> year anniversary of the Commencement Date specified in Section 3 hereof, unless sooner terminated pursuant to the terms of this Agreement. By delivery of written notice to extend to Logan County not later than 90 days prior to the expiration of the primary term hereof, ERP shall have a onetime option to extend the term hereof for an additional 10-year period upon the same terms and conditions specified herein and otherwise upon mutual agreement of the parties.
2. **Landfill Operation and Revenues.**
  - (a) Logan County shall remain responsible for the operation and maintenance of Logan County Landfill and continue to provide such landfill services to the local communities as it may determine from time to time in its sole discretion. Nothing herein shall preclude Logan County from hiring subcontractors or third party operators to perform operations at the Logan County Landfill, subject to the terms of this Agreement, or to perform any or all of its obligations hereunder. Nothing herein shall preclude Logan

County from conducting operations at the Logan County Landfill other than the operation of a landfill and ERP disclaims any interest in such other operations or the revenue therefrom.

(b) Logan County shall continue to collect and be entitled to receive all revenue, from the operation of the Logan County Landfill as provided in its fee schedule as it may be amended from time to time. Logan County shall be responsible for the collection of such fees.

3. **Direction to Transfer MSW.** At a date to be mutually determined by the parties (the “Commencement Date”), and subject to all of the terms and conditions of this Agreement, Logan County will direct transportation of all MSW which would otherwise be delivered to the Logan County Landfill to be routed to the ERP Transfer Facility without fee or other charge to ERP. ERP will receive the MSW at the Transfer Facility. Notwithstanding the foregoing, Logan County shall be entitled to temporarily divert the MSW waste stream back to Logan County Landfill when necessary for cause as determined by Logan County Landfill personnel. “Cause” shall include but is not limited to situations involving, a court order, an emergency, excessive wait lines to enter the Transfer Facility, an out-of-service Transfer Facility and the like. Further, the unintentional, incidental deposit of MSW in the Logan County Landfill, as opposed to deposit with the Transfer Facility as contemplated herein, shall not constitute an event of default hereunder on the part of Logan County and shall not give rise to an action for damages against Logan County.
4. **Direction to Transfer Tires.** On the Commencement Date or other date as agreed to by the parties, Logan County will direct transportation of scrap tires which would otherwise be delivered to the Logan County Landfill to the Transfer Facility. Logan County will continue to collect tipping fees for the tires which would have been delivered to the Logan County Landfill and shall be responsible for the collection thereof. Logan County will allow ERP to accept the tires and transport them to the Energy Facility without fee or other charge to ERP. ERP shall be entitled to receive all end user fees associated with the scrap tires it receives and shall be responsible for the collection thereof. All such tires must be handled and transported in accordance with State of Colorado regulations for scrap tires.
5. **Transfer Facility Inspection.** When the MSW is unloaded at the Transfer Facility and prior to the time the delivery truck leaves, ERP personnel shall inspect it to determine whether the MSW is Eligible MSW (as defined on Appendix A) and segregate the Eligible MSW for transfer to the Energy Facility. Logan County Landfill personnel shall be entitled to be physically present for such inspections. ERP shall assume responsibility and ownership of the Eligible MSW once it is segregated (“Accepted MSW”). On-site ERP staff will then record the delivery and package the Accepted MSW for transfer to the ERP Energy Facility. ERP will inspect all MSW and remove all Accepted MSW from the Transfer Facility within 24 hours (48 hours on weekends) after it is unloaded at the Transfer Facility by the waste originator, subject to matters of force majeure. Logan County shall have no responsibility or liability for Accepted MSW. ERP will be

responsible to provide any oversight or staff that it deems necessary to supervise the unloading and inspection of the MSW at the Transfer Facility, and for the loading and transport of same to the Energy Facility, all at its own expense.

6. **Ineligible MSW.** ERP will have the right to return MSW that is not Eligible MSW and which has been segregated during the inspection process at the Transfer Facility. ERP reserves the right to reject MSW that is deemed at the Transfer Facility to be hazardous or may cause health related concerns for ERP employees or otherwise not Eligible MSW, at the time ERP staff inspects the MSW at the Logan County Landfill. Rejected MSW shall be loaded into a container by ERP personnel, weighed and deposited at Logan County Landfill or shall be returned to waste originator as determined by Logan County policies and Logan County Landfill personnel.
7. **Return of Unused Waste Stream.** At the Energy Facility, ERP will sort, store and process the combustible solid waste for use in a gasification process to generate electricity. ERP shall have the right to return solid waste items which are determined at the Energy Facility not suitable for gasification such as glass or no. 3 plastics without fee or charge by Logan County if such materials are otherwise allowed by Logan County as acceptable waste as determined by Logan County Landfill personnel in accordance with Logan County Landfill policies then in effect. All such returned materials will be allocated in accordance with the procedure and in the percentages as set forth on Appendix B. ERP will record and report the monthly description and weight totals of any solid waste returned to the Logan County Landfill. Notwithstanding the foregoing ERP shall not be entitled to return any Accepted MSW that is deemed to be hazardous after removal from the Transfer Facility, and Logan County shall have no responsibility or liability for the same.
8. **Third Party Disposal.** ERP reserves the right to negotiate and enter into contracts with third-party entities for the purpose of selling or disposing of materials removed from the Transfer Facility but otherwise rejected or sorted out of the waste stream at the Energy Facility, and receive the proceeds thereof.
9. **Construction of Transfer Facility.** ERP will be required to construct the Transfer Facility at Logan County Landfill according to plans approved by Logan County at ERP's sole cost. ERP shall negotiate a lease (the "Lease") with Logan County for the siting of the Transfer Facility at a mutually agreeable location at the Logan County Landfill, for a term coextensive with the term of this Agreement and which provides such other terms as specified in the email dated May 13, 2016 from Steven M. Sommers to Alan Samber and as shall be negotiated by the parties. All costs for the construction of the Transfer Facility shall be borne by ERP. ERP acknowledges and agrees that it must fully comply with any land use and regulatory requirements of Logan County and obtain any permits or permissions needed from Logan County for the development of the Transfer Facility and its operation at the sole expense of ERP. This Agreement is specifically contingent upon execution of the Lease and the satisfaction of such conditions.

10. **Secured Waste.** ERP will secure all MSW delivered to the Transfer Facility at Logan County Landfill to avoid litter and blowing trash to the surrounding area and provide cleanup as needed for occurrences.
11. **Avoidance of Nuisance.** ERP will monitor and control nuisance concerns such as rodents and flying insects at the Transfer Facility and promptly undertake commercially reasonable curative actions in the event a nuisance should occur.
12. **Local Workforce.** ERP will make every effort to employ a local workforce, comprised of individuals from the area served by Morgan, Logan and Washington Counties.
13. **Meetings.** ERP will attend all meetings of the governing board of Logan County which are scheduled to hear and discuss concerns pertaining to this Agreement or to MSW handling at the Transfer Facility.
14. **Records.** ERP will provide appropriate tracking measures to allow Logan County staff to assemble monthly solid waste records outlining source information and tons collected.
15. **Logan County Priority.** The waste stream available from Logan County Landfill, Washington County Landfill and Morgan County Landfill shall be the primary sources of waste to be utilized at the Energy Facility, and shall be so used prior to obtaining additional waste sources for the Energy Facility.
16. **Inspection.** ERP will allow Logan County and Logan County Landfill personnel and consultants to inspect and to review solid waste handling, storage, packaging, processing and transporting procedures at the Transfer Facility at any time during business hours. ERP reserves the right to refuse admittance and inspection of the Transfer Facility to persons other than Logan County and Logan County Landfill personnel or their consultants. Upon not less than two (2) business days prior written notice, ERP will allow Logan County and Logan County Landfill personnel and their consultants to inspect and review procedures at the Energy Facility. ERP shall be entitled to require a confidentiality agreement from any person other than Logan County or Logan County personnel, as a condition to their admittance to the Transfer Facility or Energy Facility. Such confidentiality agreement shall provide that the information obtained shall not be disclosed to third parties or used for any purpose other than the legitimate concerns of Logan County and Logan County Landfill and the fulfillment and performance of the matters contained herein and in the Lease or other related agreement executed by ERP and Logan County in connection with herewith.
17. **Display of Permits.** ERP will secure, display and maintain all solid waste handling permits, emission permits and air quality monitoring records required by the State of Colorado for the Transfer Facility and the transport of solid waste as herein

contemplated. Copies of all such permits will be delivered to Logan County upon request.

18. **Compliance with Laws.** ERP will comply with all state, federal, county and local laws, ordinance, rules and regulations regarding the construction and operation of the Transfer Facility and the handling, transport, storage and processing of MSW, including, but not limited to, laws, ordinances, rules and regulations pertaining to environmental, zoning, health, safety, building and litter.
19. **Insurance.** ERP shall maintain insurance from an insurance company authorized to write casualty insurance in the State of Colorado in commercially reasonable amounts and coverages as will protect ERP and Logan County from claims for bodily injury, death, or property damage, including environmental liability, pollution liability and automobile liability, which may arise from its operations at the Transfer Facility. Such insurance shall provide liability coverage in a commercially reasonable amount but not less than \$2,000,000.00 per occurrence. As a condition to the Commencement Date, ERP shall have obtained all insurance required under this section and shall have delivered a certificate of insurance, insurance binder or a certified copy of insurance policy to Logan County. Logan County shall be named as an additional insured under the insurance policy. Said insurance policy shall contain a clause providing that it will not be canceled by the insurance company without thirty (30) days prior written notice to Logan County of intention to cancel.
20. **Financial Security.** ERP shall provide and furnish financial security which may take the form of a deposit, bond or environmental insurance, or other type of security instrument acceptable to Logan County, to provide security for the payment and performance of the obligations arising hereunder and under the Lease and for the clean-up and restoration of the Transfer Facility upon expiration of the Lease term, as shall be provided in the Lease. If the parties cannot agree upon the amount and terms of said financial security, then this Agreement shall immediately terminate without further liability to either party.
21. **Restriction on Assignment.**
  - (a) This Agreement shall be assignable in whole or in part by Logan County to any third party operator, subcontractor or transferee of the Logan County Landfill upon notice to ERP. This Agreement shall not be assignable by ERP except with the prior written consent of Logan County which shall not be unreasonably withheld or delayed. If ERP desires to assign this Agreement, ERP will give Logan County written notice at least sixty (60) days prior to the anticipated effective date of the Assignment. Logan County will then have a period of thirty (30) days following receipt of such notice and copies of the assignment or other agreement, as applicable, and the financial and credit statements of any proposed assignee, together with detailed information describing such proposed assignee's or occupant's experience in owning and operating a waste transfer facility, to notify ERP in writing that Logan County elects: (i) to permit the assignment; or (ii) to disapprove such proposed assignment, including the reasons for such disapproval. If

Logan County should fail to notify ERP in writing of such election within thirty (30) days of Logan County's receipt of such notice, Logan County will be deemed to have approved the assignment. Notwithstanding the foregoing, the following are hereby deemed to be "Approved Assignments" and will not require Logan County's prior approval: (1) an assignment by ERP to an ERP affiliate; (2) a pledge or mortgage of ERP's interest in this Agreement as contemplated by Section 22 hereof; (3) the transfer of a minority interest in the equity of ERP; or (4) the transfer of a majority or controlling interest in ERP as part of a venture capital financing or refinancing for the development and ownership of the Transfer Facility and Energy Facility. All assignments, including assignments pursuant to an Approved Assignment pursuant to subsection (1) above, but excluding assignments pursuant to (2) through (4) above, shall require the assignee to enter into a written instrument with Logan County in a form satisfactory to Logan County in its reasonable discretion, and the proposed assignee must agree to be bound by all the obligations of ERP hereunder.

(b) Any purported Assignment contrary to the provisions hereof will be void and will constitute an event of default under Section 26 hereof.

(c) Any approval by Logan County to an assignment shall be held to apply only to the specific assignment thereby approved and shall not constitute a waiver of the necessity for such approval to any subsequent assignment. Unless specifically provided in Logan County's approval thereof, no assignment approved by Logan County shall be deemed to constitute a release of ERP or the transferor from the performance of the terms and provisions of this Agreement to be performed by them prior to the effective date of the assignment, and they shall remain fully liable therefor.

22. **Mortgages.** Notwithstanding anything contained in Section 22, ERP will have the right at any time or times and from time to time during the term hereof, without being required to obtain Logan County's prior consent or approval, to mortgage, encumber, pledge or hypothecate all or any portions of ERP's interest under this Agreement.

(a) No such mortgage shall encumber Logan County Landfill or any portion thereof or interest therein other than the interest of ERP in this Agreement.

(b) Notwithstanding any provision to the contrary set forth herein, if this Agreement is terminated for any reason, and if at such time any Mortgagee for which Logan County has received a Mortgagee's Notice holds a security interest in the Agreement so terminated, then, except for termination pursuant to Section 28(c), such Mortgagee shall be entitled to receive a new agreement for the remaining term hereof, upon the same terms and conditions set forth herein, and such Mortgagee shall have the same rights and obligations under such new agreement as if such Mortgagee had acquired the interest in this Agreement through foreclosure of its Mortgage; provided that, as a condition to such new agreement, such Mortgagee cures any and all delinquent payments and other monetary events of default under this Agreement and commences to cure and diligently proceeds to completion as quickly as practicable (but in no event longer than ninety (90) days, except in an emergency, in which event the non-monetary event of default must be

cured or the emergency situation must be alleviated immediately) the cure of any other events of default. No such termination of this Agreement (other than as specified in Section 28(c) hereof) shall in any manner affect the rights of any Mortgagee until all of the following events have occurred: (i) Logan County shall have notified such Mortgagee in writing of the termination of this Agreement, and (ii) such Mortgagee shall have failed to execute and deliver a new agreement within thirty (30) days after receipt of Logan County's notice; or the events described in clauses (i) and (ii) above have occurred, but such Mortgagee has failed within such thirty (30) day period to cure any and all delinquent payments and other monetary events of default under this Agreement and to commence to cure any other events of default, provided that such Mortgagee's failure to diligently proceed to cure a non-monetary event of default within the aforesaid ninety (90) day period or sooner if required for an emergency shall also constitute an event of default.

(c) Within thirty (30) days following the date of the Mortgage, the Mortgagee or ERP will give to Logan County a notice ("Mortgagee's Notice") specifying the name and address of the Mortgagee. Following receipt of such Mortgagee's Notice, Logan County will give to the Mortgagee a copy of any and all notices from time to time given to ERP by Logan County (including, without limitation, any notice of a default) at the same time as and whenever any such notice will thereafter be required or permitted to be given by Logan County to ERP under this Agreement, addressed to such Mortgagee at the address last furnished to Logan County, and otherwise in accordance with this Agreement.

(d) Without prejudice to its rights against ERP, without payment of any additional sums to Logan County and within the time periods and as otherwise provided herein, Mortgagee will have the right, but not the obligation, to pay any amounts due hereunder, to effect any insurance, to pay any impositions, to make any repairs and alterations, to do any other act or thing required or permitted of ERP hereunder or which may be necessary and proper to be done in the performance and observance of the agreements, covenants and conditions hereof, to remedy any default of ERP or cause the same to be remedied, to acquire ERP's interest hereunder or to commence foreclosure or other appropriate proceedings. For such purposes Logan County and ERP hereby authorize Mortgagee to exercise any of ERP's rights and powers and to perform any of ERP's obligations under this Agreement, and, subject to the provisions of this Agreement, under the Mortgage. Logan County will accept the timely and proper performance by the Mortgagee of any covenant, condition or agreement on ERP's part to be performed by ERP hereunder.

(e) In the event of default by ERP, Logan County shall not be entitled to exercise any of its rights or pursue any of its remedies which arise by reason of such event of default until the following events have occurred:

- (i) Written notice describing the event of default in reasonable detail shall have been given to the Mortgagee for which Logan County has received a Mortgagee's Notice.
- (ii) Such Mortgagee shall have failed to cure any event of default described in

such notice that can be cured by the payment of money within thirty (30) days after such notice is given to the Mortgagee; or if the event of default so described is in the performance of any other covenant or condition of this Agreement which cannot be cured by the payment of money, then Mortgagee shall have failed to cure such event of default within forty-five (45) days after such notice is given; provided, however, that if the Event of Default is not an emergency situation and is of such a nature that it cannot reasonably be cured within any such forty-five (45) day period, then Mortgagee shall have such additional time as is reasonably necessary to cure such event of default, provided that Mortgagee has commenced the curing of such event of default within such forty five (45) day period, and thereafter has proceeded diligently to cure the same as quickly as practicable, but in any event no later than ninety (90) days after receiving written notice of such event of default.

Any Mortgagee will have the right but not the obligation to cure any Event of Default by ERP in accordance with the provisions of this Agreement. It is the intent of the parties that the respective cure periods for ERP and Mortgagee will run concurrently. Logan County and ERP agree that Mortgagee may enter upon the premises to cure any event of default of ERP hereunder at all reasonable times and, provided Mortgagee is fully and completely complying with obligations and covenants of the ERP under this Agreement, neither Logan County nor ERP shall in any way obstruct or limit Mortgagee's right of entry upon the Property. Nothing contained herein shall in any manner obligate Mortgagee to cure any event of default of ERP.

(f) Logan County and ERP shall not modify, amend, or change the provisions of this Agreement, without the prior written consent of a Mortgagee for which Logan County has received a Mortgagee's Notice, which consent shall not be unreasonably withheld, delayed or conditioned. ERP shall not agree to voluntarily terminate this Agreement without the consent of a Mortgagee unless the obligations to all Mortgagees which are secured hereby have been paid in full.

(g) No Mortgagee which takes a security interest in this Agreement estate shall be liable to Logan County as an assignee of ERP, unless, and until such time as, such Mortgagee shall have acquired the rights of ERP hereunder through foreclosure or other appropriate proceedings in the nature thereof, or by assignment in lieu of foreclosure, or as a result of any other action or remedy provided for by Mortgagee's Mortgage, or which may otherwise be provided by law; provided, however, that at such time, the Mortgagee shall thereupon be liable for all obligations and liabilities of ERP, accrued and accruing thereafter. Except as otherwise provided in this Agreement, such actions by Mortgagee shall not require the consent of Logan County nor will it constitute a breach of any provision of or a default under this Agreement or the Lease and upon foreclosure, sale or conveyance Logan County will recognize Mortgagee or any other purchaser at foreclosure sale or other appropriate proceedings in the nature thereof, or transferee by assignment in lieu of foreclosure, as ERP hereunder. Any Mortgagee or other purchaser or transferee which so acquires the Agreement shall, subject to the terms and provisions

of this Agreement, be entitled to further assign this Agreement in the same manner as provided for herein.

23. **Abandonment of Project.** In the event that ERP fails to obtain funding and take substantial steps to obtain permits for the development of the Energy Facility and Transfer Facility within twelve (12) months from the date of this Agreement, or if such steps are taken, in the event that ERP fails to continue the development of the Energy Facility and Transfer Facility with reasonable diligence to completion, this Agreement may be terminated by either party in its sole discretion.
24. **Applicable Law.** This Agreement shall be construed and interpreted in accordance with the laws of the State of Colorado.
25. **Modifications in Writing.** The parties agree that this Agreement may be modified by the parties; however, no change or modification shall be valid unless the same is in writing and signed by the parties hereto and any Mortgagee.
26. **Events of Default.** The following shall constitute an event of default under this Agreement:
  - (a) ERP fails to pay as, where and when due any money payable by ERP hereunder or fails to cure any default under this Agreement which may be cured by the payment of money, and such failure is not cured within ten (10) days after the date of delivery of Logan County's notice to ERP that payment is due.
  - (b) ERP fails to perform and observe any agreement, covenant, or other obligation of this Agreement in any material respect (other than the obligation to pay money) as and when performance and observance is due and such failure is not cured within thirty (30) days of written notice of such failure from Logan County or, in the case of a failure the nature of which cannot reasonably be cured within thirty (30) days, ERP fails to commence a cure during such thirty (30) day period and fails to diligently pursue the completion of such cure as soon as reasonably possible thereafter, but in no event will the cure period be in excess of ninety (90) days from when the cure period was commenced as hereinabove provided.
  - (c) Any representation or warranty contained in, or made in connection with the performance of ERP under this Agreement, or in any certificate furnished pursuant hereto, shall have been incorrect when made in any material respect which is not cured within thirty (30) days after delivery of notice thereof to ERP.
  - (d) If ERP shall become insolvent or shall cease to pay its debts as they mature, or shall voluntarily file a petition seeking reorganization of, or the appointment of a receiver, trustee or liquidation for ERP or a substantial portion of its assets, or to effect a plan or other arrangements with creditors, or shall be adjudicated bankrupt, or shall make a voluntary assignment for the benefit of creditors.

(e) If an involuntary petition shall be filed against ERP under any bankruptcy, insolvency or similar law or seeking the reorganization of or the appointment of any receiver, trustee or liquidator for ERP, or of a substantial part of the property of ERP, or a writ or warrant of attachment or similar process shall be issued against a substantial part of the property of ERP, and such petition shall not be dismissed, or such writ or warrant of attachment or similar process shall not be released or bonded, within sixty (60) days after filing or levy.

(f) If any final judgment for the payment of money that is not fully covered by liability insurance and is in excess of \$25,000 shall be rendered against ERP, and within thirty (30) days shall not be discharged, or an appeal therefrom taken and execution thereon effectively stayed pending such appeal, and if such judgment be affirmed on such appeal, the same shall not be discharged within thirty (30) days.

(g) If ERP shall default under the Lease without cure within the grace periods provided therein.

27. **Remedies.** Upon the occurrence of any event of default by ERP without cure within the grace periods provided above, Logan County may immediately terminate this Agreement by written notice to ERP and any Mortgagee and upon such termination Logan County shall be under no further obligation to comply with the terms of this Agreement or to take any other action with respect to this Agreement. In such event Logan County may proceed with every remedy available at law or equity or provided for herein or in any document executed in connection herewith. Nothing contained herein shall be construed to limit any other remedy or right which Logan County may have under applicable law.

28. **Sale/Cessation of Landfill.**

(a) In the event Logan County sells or otherwise transfers the Logan County Landfill, such sale shall be made subject to the terms of this Agreement which shall remain in effect as against the transferee and shall run with the land.

(b) In the event Logan County ceases to operate the Logan County Landfill at its current location and provides a substitute landfill facility, this Agreement shall be applicable to the substitute facility and remain in full force and effect.

(c) In the event Logan County ceases to operate the Logan County Landfill without transfer and without providing a substitute facility for its citizens, by reason of a loss of license or otherwise, Logan County shall be entitled to terminate this Agreement upon thirty (30) days prior written notice to ERP and any Mortgagee, without cure rights by ERP or any Mortgagee.

29. **TABOR.** All obligations of Logan County hereunder are subject to the prior appropriations of monies expressly made by the County Commissioners of Logan County for the purposes of this Agreement. By this Agreement, Logan County does not pledge present cash reserves for payment or performance hereunder in future fiscal years. This

Agreement is not intended to create a multiple fiscal year, direct or indirect, debt or financial obligation of Logan County.

30. **ERP Termination.** ERP shall be entitled to terminate this Agreement upon 30 days prior written notice to Logan County in the event ERP ceases to operate the Energy Facility.
31. **Indemnification.** ERP shall indemnify, hold harmless and, not excluding Logan County's right to participate, defend Logan County and its officers, officials, agents, and employees from and against any and all liabilities, claims, actions, damages, losses, or expenses including without limitation reasonable attorney's fees and costs (herein collectively referred to as "claims") for bodily injury or personal injury including death, or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of ERP or any of its officers, directors, agents, employees or contractors. This indemnity includes any claim or amount arising out of or recovered under worker's compensation laws or arising out of the failure of ERP to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. It is the specific intention of the parties that Logan County shall be indemnified by ERP from and against any and all claims arising from the ownership or operation of the Transfer Facility, in all instances, except for claims arising solely from the negligent or willful acts or omissions of Logan County, Logan County personnel, or its agents or contractors. It is agreed that ERP will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. In consideration of this Agreement, ERP agrees to waive all rights of subrogation against Logan County, its officers, agents and employees for losses arising from the activity conducted by ERP.
32. **Non-Waiver.** The parties hereto understand and agree that Logan County is relying on, and does not waive or intend to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities, and protections afforded by the Colorado Governmental Immunity Act, et seq., as from time to time amended or otherwise available to Logan County, its elected officials, employees, agents, and volunteers.
33. **Permits.** The parties acknowledge that the Colorado Department of Public Health and Environment ("CDPHE") maintains regulatory authority over the disposal of solid waste, and that the operations contemplated by this Agreement will require the approval of the CDPHE and perhaps other state or federal agencies, as well as the issuance of appropriate permits by the CDPHE. Logan County's performance obligations under this Agreement are expressly conditional on the CDPHE-approved amendment of Logan County's Engineering Design and Operation Plan for Logan County Landfill, in a form and manner acceptable to Logan County in its sole discretion; Logan County's receipt of appropriate CDPHE permits to enable Logan County to operate Logan County Landfill as both a "transfer station" and solid waste disposal site; CDPHE approval of the specific waste handling procedures contemplated by this Agreement; and Logan County's receipt of any other permits or approvals that are presently undetermined but which may become necessary in order to further the purposes of this Agreement.

34. **Notices.**

(a) Delivery of Notices – Method and Time: Any and all notices or other communications or deliveries required or permitted to be given or made pursuant to any of the provisions of this Lease shall be deemed to have been duly given or made for all purposes (i) upon delivery by hand delivery, (ii) one (1) business day following deposit with a nationally recognized overnight courier for next business day delivery, or (iii) the next business day if sent by e-mail (with prompt oral confirmation of receipt).

(b) Notice to Logan County: All notices, demands or requests from ERP to Logan County will be given to Logan County at:

Board of Logan County Commissioners  
Attn: Jennifer Crow  
315 Main St. Suite 2  
Sterling, CO 80751  
Email: [jcrow@logancountyco.gov](mailto:jcrow@logancountyco.gov)

With a copy to:

Logan County Attorney's Office  
Attn: Alan Samber  
508 S. 10<sup>th</sup> Avenue  
Sterling, CO 80751  
[asamber@loganco.gov](mailto:asamber@loganco.gov)

(d) Notice to ERP: All notices, demands or requests from Logan County to ERP will be given to ERP at:

CR Energy Concepts, LLC  
8250 Spruce Mountain Road  
Suite 102  
Larkspur, CO 80118  
Attention: Joseph Yavorski  
Email: [jyavorski@creative-energy-sys.com](mailto:jyavorski@creative-energy-sys.com)

With a copy to:

Brownstein Hyatt Farber Schreck, LLP  
410 17th Street, Suite 2200  
Denver, CO 80202  
Attention: Steven M. Sommers  
Email: [ssommers@bhfs.com](mailto:ssommers@bhfs.com)

(e) Change of Address: Each Party will have the right, from time to time, to designate a different address by notice given in conformity with this section.

35. **Estoppel Certificates**. Logan County and ERP will execute and deliver, within ten (10) days after receipt of a written request, its certificate certifying (a) that this Agreement is unmodified and in full force and effect (or, if there have been modifications, that this Agreement is in full force and effect, as modified, and stating such modifications), (b) whether there are then existing any charges, offsets or defenses alleged against the enforcement by Logan County or ERP of any agreement, covenant or condition of this Agreement on the part of Logan County or ERP, respectively, to be performed or observed (and, if so, specifying the same), and (c) whether there are then existing any defaults by Logan County or any event of default by ERP in the performance or observance by Logan County or ERP, respectively, of any agreement, covenant or condition of this Agreement on the part of Logan County or ERP to be performed or observed and whether any notice has been given to Logan County or ERP of any default which has not been cured (and, if so, specifying the same).
36. **Governmental Immunity**. Logan County and its officers, attorneys and employees are relying on , and do not waive by any provision of this Agreement, the monetary limitations and any other rights, immunities and protections provided by the Colorado Governmental Immunity Act, C.R.S. 24-10-101 et seq., as amended, or otherwise available to Logan County and its officers, attorneys or employees.
37. **Third Parties**. There are no intended third party beneficiaries to this Agreement.

## Signature Page

APPROVED:

LOGAN COUNTY

\_\_\_\_\_  
Chairman, Board of County  
Commissioners

Date: \_\_\_\_\_ 2016

ATTEST:

\_\_\_\_\_  
County Clerk

APPROVED:

ENERGY RECOVERY PARTNERS, LLC  
a Wyoming limited liability company

By \_\_\_\_\_  
Joseph D. Yavorski  
Managing Member

## **Appendix A: Eligible MSW**

Eligible MSW shall include all MSW except the following:

(i) petroleum-contained materials, pesticides, medical or biologic waste, chemicals, acids, barrels-drums, paints/solvents, asbestos, sealers, adhesives, polychlorinated biphenyls (“PCB”), flammable explosives, radioactive materials, chemicals known to cause cancer or reproductive toxicity, pollutants, contaminants, hazardous wastes, toxic substances or related materials, including but not limited to, any substances defined as or included in the definition of “hazardous substances,” “hazardous wastes,” “hazardous materials,” or “toxic substances,” under any federal, state or local laws, ordinances or regulations, now or hereafter in effect, relating to environmental conditions, industrial hygiene or Hazardous Substances, including but not limited to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Section 9601, et seq., the Hazardous Materials Transportation Act, 49 U.S.C. Section 7401, et seq., the Toxic Substances Control Act, 15 U.S.C. Sections 2601 through 2629, the Safe Drinking Water Act, 42 U.S.C. Sections 300f through 300j, the Clean Air Act, 42 U.S.C. Sections 7401 through 7626; and any similar federal, state and local laws, ordinances and regulations now or hereafter adopted, published and/or promulgated pursuant thereto (“Hazardous Substance Laws”);

(ii) animal waste and animal carcasses;

(iii) items deemed unsuitable for waste to energy gasification process; and/or

(iv) items unsuitable for deposit at Logan County Landfill as it may determine from time to time.

## **Appendix B: Waste Stream Return Procedure**

The Energy Facility will operate with Eligible MSW provided by multiple waste stream providers, being initially and primarily Morgan, Logan and Washington counties and Northern Colorado Disposal of Weld County. The noncombustible waste stream which ERP cannot use will be returned to the landfills of the waste stream providers on a prorated basis, based upon the amount of Eligible MSW supplied by a waste stream provider as it bears to the total supplied by all waste stream providers. For example, if Logan County provides 20 % of the waste stream, ERP shall be entitled to return 20% of the noncombustible waste stream to Logan County Landfill at ERP's expense but without fee or charge from Logan County. For efficiency ERP will be allowed to truck the noncombustible waste stream back to the sources based on full containers. Thus one day we might deliver a truckload of noncombustible materials to Morgan County and the 2 days later there may only be a delivery to Washington County. This will result in a temporary and minor misallocation of returned noncombustible materials. ERP will undertake a proper allocation and readjustment as necessary each calendar quarter to ensure that each waste stream provider receives its proper share. ERP will coordinate its delivery schedule with the waste stream provider to ensure efficient use of ERP and landfill personnel.