

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, October 18, 2016 - 9:00 a.m.

Call to Order
Pledge of Allegiance
Revisions to Agenda
Consent Agenda

Approval of the Minutes of the October 11, 2016 meeting.

Acknowledge the receipt of the Clerk and Recorder's Report for the month of September, 2016.

Appointment of members to the Logan County Fair Board.

Unfinished Business

Consideration of the approval of Resolution 2016-34 and an application for a Conditional Use Permit on behalf of Pawnee Ridge Homeowner's Association for the operation of a de-watering pipeline in the Northeast Quarter of the Southeast Quarter of Section 24, Township 8 North, Range 53 West of the 6th PM and the Northwest Quarter of the Southwest Quarter of Section 19, Township 8 North, Range 52 West of the 6th PM, Logan County, Colorado.

New Business

Consideration of the approval of Resolution 2016-35 and an application for Subdivision Exemption on behalf of Clinton and Nicole Fiscus to create a 6.80-acre tract from a 239-acre Agricultural parcel, in an "A" Agricultural District in the North Half of the Southeast Quarter (N2SE4) of Section 35, Township 6 North, Range 54 West of the Sixth Principal Meridian, Logan County, Colorado, also known as 10014 U.S. Highway 6, Merino, Colorado.

Consideration of the approval of Solar Power Production Agreements between Logan County and Clean Energy Collective for participation in the community solar garden Solar Rewards Program.

Other Business **Miscellaneous Business/Announcements**

The next regular business meeting will be scheduled for Tuesday, October 25, 2016, at 9:00 a.m. at the Logan County Courthouse.

Executive Session as Needed **Adjournment**

October 11, 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:

Marie Granillo	Logan County Deputy Clerk
Rob Quint	Logan County Planning and Zoning
Sanford St John	Pawnee Ridge Homeowners Association
Gene Thim	Pawnee Ridge Homeowners Association
Marilee Johnson	Tourist Information Center
Alan E Gentz	Self
Dave Conley	Lodging Tax Board
Bryan Ruf	Self
Julie Gentz	Self
Callie Jones	Journal Advocate

Chairman Samber called the meeting to order at 9:03 a.m. The meeting opened with the Pledge of Allegiance.

Chairman Samber asked if there were any revisions for the agenda. None were indicated.

The Board continued with the Consent Agenda items:

- Approval of the Minutes of the October 4, 2016 meeting.
- Acknowledgement of the receipt of the Landfill Supervisor's report for the month of September, 2016.
- Acknowledgement of the receipt of the Public Trustee's report for the third quarter of 2016.
- Acknowledgement of the receipt of the Treasurer's report for the month of September, 2016.

Commissioner Donaldson made a motion to approve the Consent Agenda for the October 11, 2016 Commissioners business meeting. Commissioner Samber seconded and the motion carried 2-0.

Chairman Samber continued with Unfinished Business:

Consideration of the approval of Resolution 2016-34 and an application for a Conditional Use

Permit on behalf of Pawnee Ridge Homeowner's Association for the operation of a de-watering pipeline in the Northeast Quarter of the Southeast Quarter of Section 24, Township 8 North, Range 53 West of the 6th PM and the Northwest Quarter of the Southwest Quarter of Section 19, Township 8 North, Range 52 West of the 6th PM, Logan County, Colorado.

Chairman Samber is a member of the Pawnee Ridge Homeowners Association; Chairman Samber recused himself and turned the business meeting over to the Vice Chairman Commissioner Donaldson.

Vice Chairman Donaldson opened a public hearing concerning Resolution 2016-34.

- Rob Quint from the Planning and Zoning Department addressed the Board with details regarding Resolution 2016-34.
- Sanford St John addressed the Board.
- Gene Thim addressed the Board.
- Bryan Ruf addressed the Board.
- Alan Gents addressed the Board.

Vice Chairman Donaldson closed the public hearing concerning Resolution 2016-34.

Commissioner Meisner moved to table Resolution 2016-34 definitely until the October 18, 2016 business meeting. Vice Chairman Donaldson seconded and the motion carried 2-0.

Chairman Samber continued with New Business:

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

- International Sportsmans Expo booth - \$2,084.
- Tourist Information Center Operating budget 2017 - \$10,650.

Commissioner Donaldson made a motion to approve the International Sportsmans Expo request in the amount up to \$2,084. Commissioner Meisner seconded and the motion carried 3-0.

Commissioner Meisner moved to approve the Lodging Tax Board Tourist Information Center Operating budget for 2017 of \$10,850. Commissioner Donaldson seconded and the motion carried 3-0.

The Board moved on to Miscellaneous Business/Announcements:

The next regular business meeting is scheduled for Tuesday, October 18, 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 10:03 a.m.

Submitted by:


Logan County Deputy Clerk

Approved: October 18, 2016

BOARD OF COUNTY COMMISSIONERS
LOGAN COUNTY, COLORADO

seal)

By: _____
Rocky L. Samber, Chairman

Attest:

Logan County Clerk & Recorder

COMPARISON CLERK FEES COLLECTED FOR SEPTEMBER 2016

RECORDING FEES RETAINED

	<u>2015</u>	<u>2016</u>	↑	↓
Real Estate Recording	7,690.00	7,630.00		
Surcharges	415.00	351.00		
Documentary Fees	558.15 (44)	631.40 (42)		
Torrens Title Recording (1/2 to General Fund)	320.00 (02)	40.00 (2)		
Marriage/Civil License	119.00 (17)	140.00 (20)		
Copies/Faxes	471.50	813.75		
Misc. Recording	1,207.70	1,893.50		
Misc. Election	0.00	0.00		
Short Check Fees	20.00	20.00		
Total	\$10,801.35	\$11,519.65		\$718.30

RECORDING FEES TO STATE

Marriage/Civil License CO	340.00	400.00
Marriage/Civil License VR	51.00	60.00
TOTAL TO STATE	\$391.00	\$460.00

MOTOR VEHICLE FEES RETAINED

State Sales Tax Vendor Fee	1,010.60	876.03	
City Sales Tax Vendor Fee	1,515.41	1,020.07	
Summary Title Apps	2,737.00	2,665.50	
Other Fees	5,438.85	4,813.48	
No Insurance Ticket Fees	251.50	823.08	
Total County Registration Fees	9,852.20	10,379.20	
County Special Purpose Fund (General Fund)	1,339.50	1,450.00	
Police Training Vendor Fee (General Fund)	99.55	109.30	
Registration Fees (\$1.50/\$2.50)	8,417.50	9,048.00	
County MV Late Reg Fees	1,930.00	2,260.00	
Ownership Tax Collected	146,285.09	152,887.33	
Ownership Tax collected by Dept of Rev (Class A)	28,639.12	21,773.11	
Ownership Tax collected by Dept of Rev (Class F)	4,343.19	312.78	
County Sales Tax	30,151.66	23,530.33	
Total	\$242,011.17	\$231,948.21	\$10,062.96

MOTOR VEHICLE FEES TO STATE

Sales Tax -- State of Colorado	29,337.92	25,431.10	
Registration Remittance Fees	185,201.79	200,237.04	
Title Remittance Fees	2,017.10	2,000.90	
Sales Tax -- RTA	1,111.04	669.96	State
Total	\$217,667.85	\$228,339.00	\$10,671.15

MOTOR VEHICLE FEES TO CITY

Sales Tax -- City of Sterling	\$28,792.06	19,381.01
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FEES RETAINED THIS MONTH \$285,794.83

\$243,467.86 **Month**
\$42,326.97

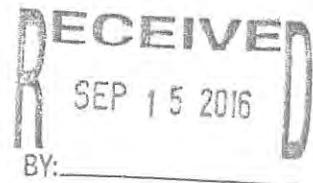
FEES RETAINED YEAR TO DATE \$2,904,097.69

\$2,396,384.62 **YTD**
\$507,713.07

Logan County Advisory Board Fair Board Application

Name: AARON HETTINGER
 Mailing Address: 4560 CR 23
 City/State/Zip: MERINO, CO 80741
 Telephone: _____ Cell Phone: 970-571-2975
 Occupation: Manager/outside sales Email Address: aaronh240@yahoo.com
Napa Auto Parts

- | | |
|--|--|
| <input type="checkbox"/> Queen Coordinator | <input type="checkbox"/> Rodeo |
| <input type="checkbox"/> Entertainment | <input type="checkbox"/> Horse Events |
| <input type="checkbox"/> Commercial Exhibits & Parking | <input type="checkbox"/> 4-H Rodeo |
| <input type="checkbox"/> Advertising & Promotions | <input type="checkbox"/> Grandstands & Security |
| <input checked="" type="checkbox"/> Livestock Exhibits | <input type="checkbox"/> Youth & Open Class Exhibits |
| <input type="checkbox"/> Parade | <input type="checkbox"/> Demolition Derby |
| <input type="checkbox"/> Fair Manager | <input type="checkbox"/> Bull Riding Chairperson |

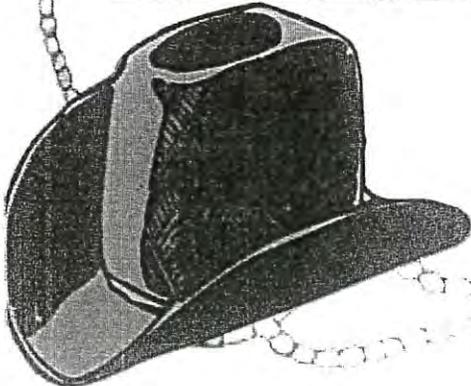


My Qualifications are:

I showed lambs & hogs for thirteen years & then
have been a superintendent for the lamb show for the last
24 years, helped with 4-H FFA Rodeo and help with the
Livestock sale

I am interested in serving because:

I have always felt someone was here to help me while
I was showing, so it is my turn to pay back to help the
best kids we have in Logan County!



Aaron Hettinger
Signature

8-22-16
Date

Logan County Advisory Board Fair Board Application

Name: Alex Barton
Mailing Address: 511 Tonguil Rd.
City/State/Zip: Sterling, Colorado 80751
Cell Telephone: (970) 520-5766 Cell Phone: _____
Occupation: Warehouse Supervisor Email Address: akwtbarton@gmail.com
Trinidad Benham

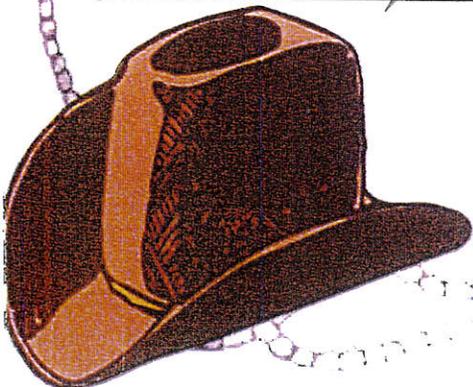
- | | |
|---|--|
| <input type="checkbox"/> Queen Coordinator | <input type="checkbox"/> Rodeo |
| <input type="checkbox"/> Entertainment | <input type="checkbox"/> Horse Events |
| <input checked="" type="checkbox"/> Commercial Exhibits & Parking | <input type="checkbox"/> 4-H Rodeo |
| <input type="checkbox"/> Advertising & Promotions | <input type="checkbox"/> Grandstands & Security |
| <input type="checkbox"/> Livestock Exhibits | <input type="checkbox"/> Youth & Open Class Exhibits |
| <input type="checkbox"/> Parade | <input type="checkbox"/> Demolition Derby |
| <input type="checkbox"/> Fair Manager | <input type="checkbox"/> Bull Riding Chairperson |

My Qualifications are:

Great people skills.
Previously held this position on the Board.

I am interested in serving because:

We have a great County Fair which I have
been involved with from when I was a child. I
want to help keep it going.



Alex Barton 10/12/14
Signature Date

RESOLUTION

NO. 2016-34

Conditional Use Permit

A RESOLUTION GRANTING THE APPROVAL OF A CONDITIONAL USE PERMIT TO PAWNEE RIDGE HOMEOWNER'S ASSOCIATION FOR THE OPERATION OF A DE-WATERING PIPELINE IN THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 24, TOWNSHIP 8 NORTH, RANGE 53 WEST OF THE 6TH PM AND THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 19, TOWNSHIP 8 NORTH, RANGE 52 WEST OF THE 6TH PM, LOGAN COUNTY, COLORADO.

WHEREAS, Pawnee Ridge Homeowners Association has applied for the approval of a Conditional Use Permit (CUP) to design, construct, install, operate, and maintain a de-watering pipeline to aid in managing groundwater levels in and near the Pawnee Ridge Subdivision, Logan County; and

WHEREAS, the pipeline will consist of the installation of approximately 1,830 feet of 4-6 inch PVC pipe, commencing in the Northeast Quarter of the Southeast Quarter (NE4SE4) of Section 24, Township 8 North, Range 53 West of the 6th P.M., then proceeding in a northerly direction 660 feet in the County Road right-of-way, generally paralleling County Road 37, crossing under the intersection of County Road 37 and Greenway Drive from the west to the east in a northeasterly direction, and entering the Northwest Quarter of the Southwest Quarter (NW4SW4) of Section 19, Township 8 North, Range 52 West of the 6th P.M. for a distance of 120 feet, then proceeding north for a distance of 260 feet and then proceeding east, generally paralleling the north boundary of the Southwest Quarter (SW4) of Section 19, Township 8 North, Range 52 West of the 6th P.M. for a distance of 530 feet, then proceeding in a southeasterly direction for 260 feet where it will surface in the Northeast Quarter of the Southwest Quarter (NE4SW4) of Section 19, Township 8 North, Range 52 West, 6th P.M.; and

WHEREAS, the affected areas are currently zoned Agricultural and Residential Suburban with a Conditional Use Permit required for "Underground utility lines for the transmission or collection of water, sewage, natural gas, or oil".; and

WHEREAS, the Logan County Planning Commission, after reviewing all materials, taking testimony of the applicant and surrounding property owners, and finding no issues that would limit or deny this application, recommended approval of the application for the requested Conditional Use Permit (CUP) at its regular meeting on September 20, 2016, and

WHEREAS, all legal notices have been posted and published as required by the Logan County Zoning Resolution; and

WHEREAS, a public hearing on the application was held by the Logan County Board of County Commissioners at its regular meeting on October 18, 2016.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF LOGAN COUNTY, COLORADO:

APPROVAL:

I.

The application of Pawnee Ridge Homeowners Association for a Conditional Use Permit (CUP) to design, construct, install, operate and maintain a de-watering pipeline, in the form and locations described above, is hereby GRANTED, subject to the conditions set forth below.

II. FINDINGS OF FACT:

The use is compatible with existing land uses in the area, which is zoned Agricultural and Residential Suburban district.

CONDITIONS

III.

1. The permit will require a definitive pipeline route to be specifically identified, mapped and approved in advance of construction by the Logan County Planning & Zoning Department and Road & Bridge Department, and will be conditional on all appropriate licenses or easements to cross or enter private land for that route being obtained and remaining in place at all relevant times. The project may commence where appropriate licenses and easements are in place.
2. The applicant shall apply for and obtain separate right-of-way use permits from Logan County, and comply with any conditions on those permits, prior to constructing the pipeline with any county road right-of-way.
3. The pipeline shall be buried at a minimum depth required by Logan County Zoning Regulations (generally 48 inches with some exceptions as provided in the regulations) or at a depth specified per licenses or easements, whichever is deeper. However, it shall be buried as required by Logan County (48 inches below the bottom of the borrow ditch) in any county road right-of-way.
4. The initial permit term shall be for five (5) years on the identified and approved pipeline corridor, subject to renewal for continuing permitted use on and after October 18, 2021. If any changes, such as alterations or enlargements, occur to the corridor identified and approved herein, the applicant shall be responsible for seeking and obtaining separate approval of a permit and term of approval for those proposed changes.
5. The Conditional Use Permit shall be monitored and subject to periodic review for ongoing compliance with the Logan County Zoning Resolution and any other applicable Federal, State and local rules and regulations.

BE IT FURTHER RESOLVED, that the Applicant shall remain responsible for complying with all of the foregoing conditions and all other applicable Logan County zoning or other land use and building regulations. The Board of County Commissioners of Logan County retains continuing jurisdiction over the permit to address future issues concerning the permit and to ensure compliance with the conditions of the permit. Noncompliance with any of the conditions may be cause for revocation of the permit.

Done the 18th day of October, 2016

LOGAN COUNTY BOARD OF COMMISSIONERS
LOGAN COUNTY, COLORADO

Rocky L. Samber, Chairman (Aye)(Nay)

Gene A. Meisner (Aye)(Nay)

David G. Donaldson (Aye)(Nay)

I, Pamela M. Bacon, County Clerk and Recorder in and for the County of Logan, State of Colorado, do hereby certify that the foregoing Resolution was duly adopted by the Board of County Commissioners of the County of Logan and State of Colorado, in regular session on the this 18th day of October, 2016.

County Clerk and Recorder

LOGAN COUNTY CONDITIONAL USE PERMIT APPLICATION
AS REQUIRED BY THE LOGAN COUNTY ZONING RESOLUTION
DEPARTMENT OF PLANNING & ZONING
LOGAN COUNTY COURTHOUSE
STERLING, COLORADO 80751

Cup application # C2016-3

Applicant Name: Sanford St. John for
PAWNEE RIDGE HOMEOWNERS ASSOC. Phone: 970-466-1661

Address: PO Box 1544 STERLING, CO 80751

Landowner Name: N/A Phone: _____

Address: _____

Description of Property:
Legal: $\frac{1}{4}$ Section _____ Section _____ Township _____ Range _____

Address: _____ Access off CR or Hwy: _____

New Address Needed: Y or N _____ Subdivision Name: _____

Filing _____ Lot _____ Block _____ Tract _____ Lot Size _____

Current Zoning: AG/RS Current Land Use: AG/Residential

Proposed Conditional Use: LAYING 6" PVC PIPE FOR DE-WATERING
DAKOTA ROAD AREA OF PAWNEE RIDGE

Terms of Conditional Use: 50 YEARS OR UNTIL A MORE PERMANENT
SOLUTION IS DETERMINED.

Building Plans: N/A

I, (We), hereunto submit this application for a Conditional Use Permit to the Board of County Commissioners, together with such plans, details and information of the proposed conditional use. I, (We), further understand that the Board of Logan County Commissioners may, in addition to granting a Conditional Use Permit, impose additional conditions to comply with the purpose and interest of the Logan County Zoning Resolutions and Zoning Map.

Dated at Sterling, Colorado, this 3rd day of August

Signature of Applicant: Sanford St. John

Signature of Landowner: _____

PAWNEE RIDGE HOMEOWNERS
DEWATERING CUP
E2SE4 Section 24-08-53 and
W2SW4 Section 19-08-52

FOR COUNTY USE

Application Fee: One hundred dollars (\$100.00) paid 8/3/2016 /#1778 Rct.#180

Date of Planning Commission: September 20, 2016

Recommendation of Planning Commission: Approval Denial

Recommended Conditions of Conditional Use Permit: 5 year renewal with condition of for conditional use permit

Sam White
Chairperson, Planning Commission

COUNTY COMMISSIONERS ACTION:

Conditions of Conditional Use Permit:

Date Granted: _____

Date Denied: _____

Rocky Samber (Aye) (Nay)

Gene Meisner (Aye) (Nay)

David G Donaldson (Aye) (Nay)

PAWNEE RIDGE HOMEOWNERS
DEWATERING CUP
E2SE4 Section 24-08-53 and
W2SW4 Section 19-08-52

The proposed de-watering project begins with a bore under CR37 from the St. John property on the east side of CR37, going west under CR37, 700' from the intersection of CR37 and Greenway Drive. This will be 4" PVC pipe, connected to the St. John permitted dewatering well.

The second bore under CR37 will be from the Thim property on the east side of CR37, going west under CR37, 587' from the intersection of CR37 and Greenway Drive. This is also 4" PVC pipe and will connect to the Thim permitted dewatering well..

From the bore at the St. John property, on the west side of CR37 the 4" pipe will be connected to 6" PVC pipe. The 6" pipe will extend north for 660' in an open trench, at a minimum of 48" deep, in the County right-of-way on the Sterling Cottonwoods, Inc./David Hammer property on the west side of CR37. (Consent form from David Hammer is included.)

The 4" pipe from the Thim bore will connect to the 6" pipe, 113' from where the St. John pipe connects to the 6" pipe.

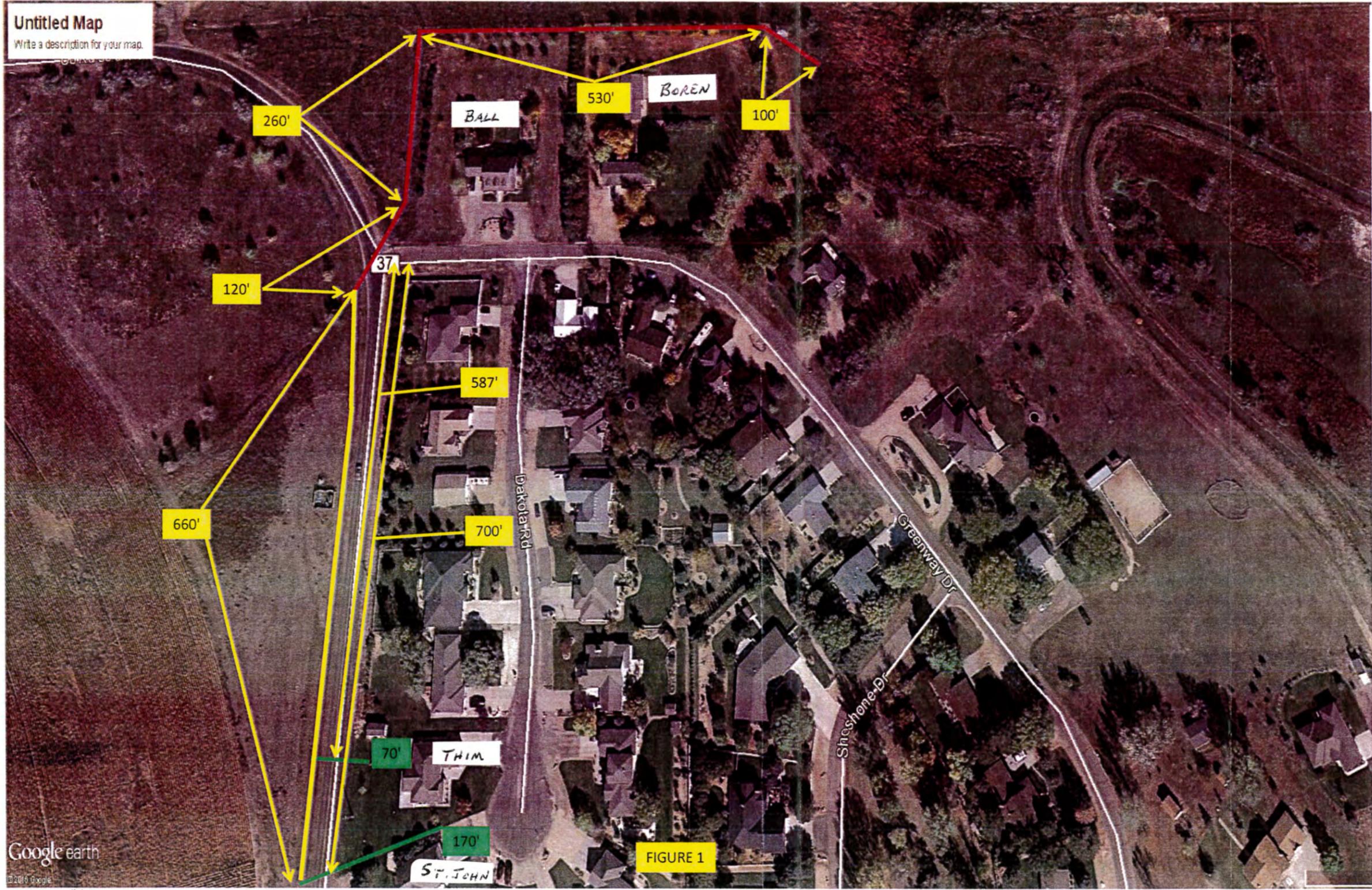
At the end of the 660' of open trench a third bore will be done, this one heading northeast under CR37 at the intersection of CR37 and Greenway Drive, but not going under Greenway Drive. This bore will be 120' long and the pipe will be 6" PVC. The property on the west side of CR37 at this point is owned by the County.

At the end of the 120' northeasterly bore, the bore then turns straight north along the west side of the David Ball property for 260', at which point it turns east for 530' along the north edge of the David Ball and Dennis Boren properties. The bore then turns southeast for another 100' at which point it drains into the Alan Gentz property.

PAWNEE RIDGE HOMEOWNERS
DEWATERING CUP
E2SE4 Section 24-08-53 and
W2SW4 Section 19-08-52

W-N-E
S

Untitled Map
Write a description for your map.



Google earth
© 2016 Google

Green = 4" bore
Yellow = Open trench
Red = 6" bore

PAWNEE RIDGE HOMEOWNERS
DEWATERING CUP
E2SE4 Section 24-08-53 and
W2SW4 Section 19-08-52

RESOLUTION

NO. 2016-35

Clinton Fiscus and Nicole Fiscus Subdivision Exemption

WHEREAS, Clinton and Nicole Fiscus have petitioned the Board of County Commissioners, Logan County, Colorado, to exempt the following legally described property:

A parcel of land in the North Half of the Southeast Quarter (N2SE4) of Section 35, Township 6 North, Range 54 West of the Sixth Principal Meridian, Logan County, Colorado, said parcel being more particularly described as follows:

Commencing at the Northwest corner of said SE4 of Section 35; thence South 0°34'50" East along the West line of said SE4 of Section 35 a distance of 396.72 feet to the true point of beginning; thence North 89°24'55" East a distance of 528.83 feet; thence South 0°34'50" East a distance of 560.00 feet; thence South 89°24'55" West a distance of 528.83 feet to a point on the West line of said SE4; thence North 0°34'50" West along the West line of said SE4 a distance of 560.00 feet to the point of beginning and containing 6.80 acres, more or less, subject to U.S. Highway 6 Right-of-way along the West line of said SE4 and to a utility easement, said easement being the East 55 feet of the West 85 feet of the above described parcel.

Also known as 10014 U.S. Highway 6, Merino CO 80741

(As represented on official Subdivision Exemption Plat # 2016-35)

from the definitions of "Subdivision" or "Subdivision Land" and for a determination that the above premises are not within the purposes of C.R.S. § 30-28-101, and Senate Bill 35, adopted by the Colorado General Assembly in 1972; and

WHEREAS, this 6.80 acre tract is subdivided from a 239 acre Agricultural parcel, in an "A" Agricultural District, and,

WHEREAS, the Chairman of the Logan County Planning Commission recommended approval of this application after reviewing the application, studying the staff review, and reviewing the plat on October 12, 2016; and

WHEREAS, The Board of County Commissioners approved the recommendation on October 18, 2016.

NOW THEREFORE, BE IT RESOLVED pursuant to the authority set forth in C.R.S. § 30-28-101(10)(d), the above described property is exempt from the definition of "Subdivision" or "Subdivided Land" as set forth in C.R.S. § 30-28-101, provided that no further subdividing on the above described premises shall be made without the approval of the Board of County Commissioners.

DONE on Tuesday, this 18th day of October, 2016.

LOGAN COUNTY BOARD OF COMMISSIONERS
LOGAN COUNTY, COLORADO

(Aye)(Nay)
Rocky L. Samber

(Aye)(Nay)
Gene A. Meisner

(Aye)(Nay)
David G. Donaldson

I, Pamela M. Bacon, County Clerk and Recorder in and for the County of Logan, State of Colorado, do hereby certify that the foregoing Resolution was adopted by the Board of County Commissioners of the County of Logan and State of Colorado, in regular session on the this 18th day of October, 2016.

County Clerk and Recorder

Applicant: Clinton Fiscus
Legal: N2SE4 & NE4 35-6-54

Date Received in the Office of the Director of Planning or his/her designee to the Planning Commission:

Application (is) (is not) complete as submitted. Named individual reviewing the submitted application: _____

FORM 7. APPLICATION FOR SUBDIVISION EXEMPTION PLAT APPROVAL

(To be filed in duplicate)

(Incomplete Applications will not be accepted)

Date 9-7-2016

1. Name of Subdivision Exemption Clinton Fiscus and Nicole Fiscus

2. Name of Applicant Clinton Fiscus Phone 970 520-7307

Address 30542 CR 76 Eaton, CO 80615
(Street No. and Name) (Post Office) (State) (Zip Code)

3. Name of Local Agent _____ Phone _____

Address _____
(Street No. and Name) (Post Office) (State) (Zip Code)

4. Owner of Record Clinton & Nicole Fiscus Phone _____

Address Same as above
(Street No. and Name) (Post Office) (State) (Zip Code)

5. Prospective Buyer Albert & Carol Amen Phone _____

Address _____
(Street No. and Name) (Post Office) (State) (Zip Code)

6. Land Surveyor Leibert McAttee Phone _____

Address _____
(Street No. and Name) (Post Office) (State) (Zip Code)

7. Attorney _____ Phone _____

Address _____
(Street No. and Name) (Post Office) (State) (Zip Code)

8. Subdivision Exemption Location: on the East side of Hwy 6

_____ Feet _____ of _____
(Direction) (Street)

9. Postal Delivery Area 80741 School District RE-4

10. Total Acreage 239 Zone AG Number of Lots 2

11. Tax Map Designation: Section/Township/Range 35-06-54 Lot(s) _____

FISCUS, CLINTON & NICOLE
Subdivision Exemption 6.80 Acres
10014 Hwy 6, Merino
N2SE4 & NE4 35-06-54

Applicant: Clinton Fiscus
Legal: N2SE4 & NE4 35-6-54

12. Has the Board of Zoning Appeals granted variance, exception, or conditional permit concerning this property?

If so, list Case No. and Name NA

13. If Deed is recorded in Torrens System: Number NA

14. If Deed is recorded in General System: Book 926 Page 162

15. Current Land Use: Ag

16. Proposed Use of Each Parcel: Residential & Ag

17. Proposed Water and Sewer Facilities: Existing

18. Proposed Public Access to each new parcel: Existing

19. Reason for request of this exemption (may use additional pages):
Sell

List all contiguous holdings in the same ownership: Section/Township/Range NA Lot(s)

Attached hereto is an affidavit of ownership indicating the dates the respective holdings of land were acquired, together with the book and page of each conveyance into the present owner as recorded with the Logan County Clerk and Recorder. This affidavit shall indicate the legal owner of the property; the contract owner of the property, and the date the Contract of Sale was executed. IN THE EVENT OF CORPORATE OWNERSHIP: A list of all directors, officers, and stockholders of each corporation owning more than five percent (5%) of any class of stock must be attached [this need only be provided if Developer is requesting special assessment financing, the formation of improvement district(s) or benefit district(s)].

The applicant hereby consents to the provisions of Article 8.2 A&B of the Logan County Subdivision Regulations.

STATE OF COLORADO

) SS:

COUNTY OF LOGAN

_____ hereby depose and say that all of the above statements and the statements contained in the papers submitted herewith are true.

Clinton Fiscus
(Applicant Signature)

Mailing Address 20542 CR 76

Weld CO 80615
(County) (State) (Zip Code)

Subscribed and sworn to before me this day of _____

FISCUS, CLINTON & NICOLE
Subdivision Exemption 6.80 Acres
10014 Hwy 6, Merino
N2SE4 & NE4 35-06-54

Applicant: Clinton Ficus
Legal: N2SE4 & NE4 35-6-54

MY COMMISSION EXPIRES:

FOR COUNTY USE

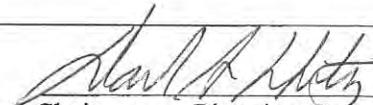
pd. 9-7-2016 ✓ #1392 Rct. 196
✓ #1393 Rct. 196

Application Fee: One Hundred Dollars (\$100.00) and Eleven Dollars (\$11.00) in a separate check for recording fee.

Date of Planning Commission: 10-12-2016

Recommendation of Planning Commission: Approval Denial

Recommended Conditions of Subdivision Exemption:


Chairperson, Planning Commission

COUNTY COMMISSIONERS ACTION:

Conditions of Subdivision Exemption:

Date Granted: _____

Date Denied: _____

David G Donaldson (Aye) (Nay)

Gene Meisner (Aye) (Nay)

Rocky Samber (Aye) (Nay)

FISCUS, CLINTON & NICOLE
Subdivision Exemption 6.80 Acres
10014 Hwy 6, Merino
N2SE4 & NE4 35-06-54

SOLAR PRODUCTION AGREEMENT

(Colorado Local Governmental Units)

This Solar Production Agreement (the "Agreement") is entered into as of _____, 2016 (the "Effective Date") and is by and between **CEC SOLAR # 1128, LLC**, LLC, as seller (the "Seller"), and Logan County, Colorado, a Colorado statutory county, as buyer (the "Buyer"). In this Agreement, Seller and Buyer are sometimes referred to individually as a "Party" and collectively as the "Parties."

Whereas, Buyer is a Colorado municipality, county, school district, special district or other political subdivision; and

Whereas, Seller has offered to provide to Buyer under this Agreement a means of procuring low-cost electrical energy as utility cost-savings measures under C.R.S. 29-12.5-101 et seq; and

Whereas, pursuant to this Agreement, Buyer can purchase an interest in a solar energy generation installation, and obtain utility credits from the sale of the solar energy generated by such facility so as to decrease Buyer's utility costs; and

Whereas, the Board has received the analysis and recommendations concerning such utility cost-savings measure from a person experienced in the design and implementation of utility cost-savings measure; and

Whereas, the Board has found pursuant to C.R.S. 29-12.5-103 that the amount of money the Buyer would spend on such utility cost-savings measure is not likely to exceed the amount of money the Buyer would save in energy costs over the term of this Agreement; and

Whereas, the Board has found that the obligations entered into by the Buyer under this Agreement shall not cause the total outstanding indebtedness incurred by the Buyer under C.R.S. 29-12.5-103 to exceed the applicable limit set forth in C.R.S. 29-12.5-103(2)(b).

Now therefore, in consideration of the mutual covenants herein contained, and for other good and valuable consideration, the Parties hereby mutually agree as follows:

1. **Definitions.** Under this Agreement, the following terms are defined as follows:

"Affiliate" means any person or entity that directly, or indirectly through one or more intermediaries, controls or is controlled by or partnered with, or is under common control with the person or entity specified.

"Board" means the governing body of the above referenced Buyer.

"Buyer's Allocation" means the Buyer's Production Capacity expressed as a percentage of the entire nameplate capacity of the Solar Energy Facility.

"Buyer's Production Capacity" means the amount of Production Capacity purchased under this Agreement, as referenced in Section 2 and Appendix A below.

"Buyer's Solar Interest" means the Buyer's Production Capacity and the Buyer's Solar Output, and excludes any Environmental Attributes or Tax Incentives.

"Buyer's Solar Output" means the Solar Output of the Solar Energy Facility, multiplied by the Buyer's Allocation.

"Commercial Operations Date" means the date on which the Solar Energy Facility generates electric energy on a commercial basis, and the interconnection to the utility's electric grid has been authorized and is functioning with the Utility. Such date shall be specified by Seller either in

Attachment A to this Agreement, or by a separate notice provided to Buyer pursuant to Section 6 of this Agreement.

“Environmental Attributes” means any credit, benefit, reduction, offset, financial incentive, and other beneficial allowance that is in effect as of the Effective Date or may come into effect in the future, including, to the extent applicable and without limitation, (i) all environmental and renewable energy attributes and credits of any kind and nature resulting from or associated with the Solar Energy Facility, its production capacity and/or electricity generation, (ii) government financial incentives, (iii) greenhouse gas offsets under the Regional Greenhouse Gas Initiative, (iv) renewable energy credits or renewable energy certificates (each referred to as “RECs”) or any similar certificates or credits under the laws of any jurisdiction, including but not limited to Solar RECs, and (v) other allowances howsoever named or referred to, with respect to any and all fuel, emissions, air quality, or other environmental characteristics, resulting from the use of solar energy generation or the avoidance of the emission of any gas, chemical or other substance into the air, soil or water attributable to the Solar Energy Facility, its production capacity and/or electricity generation.

“Facility Meter” means a revenue-grade meter maintained by Seller at the Solar Energy Facility and used to measure the electricity delivered by the Solar Energy Facility to such meter.

“Force Majeure” or **“Force Majeure Event”** means any event or circumstance not within the reasonable control of the affected Party which precludes that Party from carrying out, in whole or in part, its obligations under this Agreement, including, but not limited to, Acts of God, hurricanes or tornados, fires, epidemics, landslides, earthquakes, floods, other natural catastrophes, strikes, lock outs or other industrial disturbances. A Party may not assert an event of Force Majeure to excuse it from performing due to any governmental act, failure to act, or order, where it was reasonably within such Party’s power to prevent such act, failure to act, or order. Notwithstanding the contrary, economic hardship or unavailability of funds shall not constitute a Force Majeure Event of either Party, and any such discretionary acts, failures to act or orders of any kind by Buyer may not be asserted as an event of Force Majeure by Buyer.

“Interconnection Agreement” shall mean the interconnection service agreement(s) entered into with the Utility, which authorizes the interconnection of the Solar Energy Facility to the Utility grid.

“Interconnection Point” means the point at which the Utility takes delivery of generated electrical output from the Solar Energy Facility.

“kWh” means kilowatt hour.

“Production Capacity” means the nameplate of the entire Solar Energy Facility, as listed in Appendix A hereto.

“Production Month” means a monthly period during which electricity is delivered from the Solar Energy Facility to the Interconnection Point, occurring after the Commercial Operations Date and before the end of the Term.

“Program” means the Utility’s Solar Rewards Community Service Program whereby customers may sell generated electricity to the Utility pursuant to the terms and conditions of the Utility’s Colorado PUC No. 7 Tariff, Schedule SRCS, as amended from time to time with the Colorado Public Utilities Commission (the “CPUC”), or such other power purchase agreement, tariff and/or other agreement(s) selected by Seller from time to time for sale of Buyer’s Solar Output.

“Solar Bill Credit” means the bill credit calculated by the Utility pursuant to the terms and conditions of the Program.

“Solar Energy Facility” shall mean the photoelectric solar generation facility described in Appendix A.

“**Solar Output**” means the total amount of electricity generated by the Solar Energy Facility and delivered to the Utility at the Interconnection Point from the Commercial Operations Date until the end of the Term, expressed in terms of kilowatt hours (“kWh”) on a monthly or other basis.

“**Tax Incentives**” means any tax credits, incentives or depreciation allowances established under any federal or state law, including without limitation investment tax credits (including any grants or payments in lieu thereof) and any tax deductions or other benefits under the Internal Revenue Code or applicable federal, state, or local law available as a result of the ownership and operation of the Solar Energy Facility or the output generated by the Solar Energy Facility (including, without limitation, tax credits (including any grants or payments in lieu thereof) and accelerated, bonus or other depreciation.

“**Term**” shall have the meaning set forth in Section 6.

“**Utility**” means Xcel Energy.

“**Utility Account**” means Buyer’s account with the Utility for utility services at the Utility Service Location.

“**Utility Service Location**” means the premises at which Buyer receives utility services from the Utility under the Utility Account.

2. **Buyer’s Production Capacity and Buyer’s Solar Output.** Under this Agreement, the Buyer purchases the Buyer’s Production Capacity and the Buyer’s Solar Output associated therewith (collectively referred to as “Buyer’s Solar Interest”). The Buyer’s Production Capacity purchased under this Agreement is from particular solar panels (the “Selected Solar Panels”) located in the Solar Energy Facility. The Selected Solar Panels shall represent a nameplate capacity equal to 40% of the total nameplate capacity of the Solar Energy Facility, rounded to the nearest full panel. Within 30 days of the Commercial Operations Date, CEC shall notify Buyer of the serial number, nameplate capacity and other identifying information for each of the Selected Solar Panels. Buyer acknowledges that the Utility limits the amount of Production Capacity available to Buyer under this Agreement, as more fully set forth in Section 4 hereto.
3. **Sale of Buyer’s Solar Output to Utility.** The Utility currently offers the Program whereby customers can sell generated electricity to the Utility pursuant to the terms of the Program. Seller agrees to assist Buyer with such sale as detailed more fully in this Section 3 below.
 - 3.1. **Delivery of Buyer’s Solar Output.** In connection with the Program, beginning upon the Commercial Operations Date and continuing monthly until the end of the Term, Seller hereby agrees to deliver the Buyer’s Solar Output to the Utility at the Interconnection Point, and to provide to the Utility the information requested by the Utility (the “Bill Credit Information”) to calculate the Solar Bill Credits payable to the Buyer under the Program based upon the delivery of the Buyer’s Solar Output for such month to the Utility.
 - 3.2. **Bill Credit Information.** Bill Credit Information includes, but is not limited to the Buyer’s name, address, the Buyer’s Utility Service Location, the Utility Account numbers associated with the Utility Service Location, the nameplate capacity of the Selected Solar Panels, and the Buyer’s Solar Output. Seller agrees to be, and Buyer hereby appoints Seller, as Buyer’s exclusive representative for submitting Bill Credit Information to the Utility, with full power and authority to supply to the Utility such information as may be required by the Utility under the Program. This authorization does not restrict Buyer from communicating with, instructing or directing the Utility with respect to other matters pertaining to electric service at the Utility Service Location, or asking the Utility questions regarding Buyer’s participation in the Program. In addition, Buyer hereby authorizes the Utility to release to Seller the consumption and other account information of Buyer to help Seller to carry out the terms of this Agreement and the Program, and agrees to execute any documents that either Seller or the Utility may request to permit the release of such information.

- 3.3. **Sale of Buyer's Solar Output.** Buyer hereby appoints Seller, as Buyer's exclusive representative with full power and authority to deliver, assign, transfer, and sell all of Buyer's Solar Output in connection with the Program, and to enter into, administer, and enforce on Buyer's behalf any agreements related to such delivery, assignment, transfer and sale. For this purpose, Buyer hereby waives, relinquishes, and quitclaims any right, claim, and interest in the Solar Output and associated Environmental Attributes, and agrees to execute any additional documents and instruments needed by Seller to effect or evidence the transfer of the Solar Output to the Utility.
4. **Program Limits and Other Acknowledgments Regarding Program.** In connection with this Agreement, Buyer acknowledges that:
- 4.1. The Program imposes a limit (listed as the Program Limit in Appendix C) which restricts the total photoelectric generating capacity which Buyer may have under the Program, whether purchased under this Agreement or otherwise, and Buyer agrees that Seller is not obligated to request, and that the Utility is not obligated to make, any payment or Solar Bill Credit to the extent Buyer's photoelectric generating capacity exceeds those limitations. Buyer acknowledges that the limitations set forth in Appendix C are derived from the Program, and that this Agreement will be deemed automatically amended to incorporate any changes to corresponding provisions in the Program.
- 4.2. Solar Bill Credits are calculated solely by the Utility under the Program, and are subject to Program terms and conditions. Buyer acknowledges and agrees that Seller's sole obligation regarding payments to Buyer is to request and use commercially reasonable efforts to require Utility to make Solar Bill Credits.
- 4.3. The duration, terms and conditions of the Program, including the rate used to determine Solar Bill Credits, are subject to the sole and exclusive control of Utility and/or the CPUC, and that Seller has not made any representations or warranties with respect to the expected duration of the Program or the amounts to be provided by Utility as Solar Bill Credits.
- 4.4. Buyer must be and remain a customer of the Utility for electric service throughout the Term of this Agreement, and be in conformance with the requirements of this Agreement and the Utility.
5. **Environmental Attributes and Tax Incentives Excluded.** Buyer acknowledges and agrees that Buyer's Solar Interest does not include any Environmental Attributes or Tax Incentives associated with the Solar Energy Facility, and Buyer agrees that Buyer will not claim the Environmental Attributes or Tax Incentives associated with the Solar Energy Facility and will promptly execute any additional documents and/or authorizations as Seller may request to assist any Seller in retaining, or in delivering to the Utility or to another third party, such Environmental Attributes and/or Tax Incentives, as determined by Seller.
6. **Commercial Operations Date, and Term.** If the Commercial Operation Date is not known by the Effective Date of this Agreement, Seller will provide Buyer with notice of the Commercial Operation Date once known. The Term of this Agreement begins upon the Effective Date, and ends 20 years after the Commercial Operations Date unless this Agreement is terminated earlier in accordance with its terms and conditions, in which case the Term shall end upon such early termination. The period from the Commercial Operations Date until the 20th anniversary thereof is referred to herein as the "Scheduled Term".
7. **Payment to Seller.**
- 7.1. Buyer acknowledges that in order to bill on a more timely basis, the measurement of the electricity produced by the Solar Energy Facility shall be based upon Seller's meter readings at the Facility Meter.
- 7.2. In this regard, Buyer shall make monthly payments to Seller under this Agreement in an amount (the "Monthly Payment Amount") equal to (i) the Buyer's Allocation of the amount of electricity

delivered by the Solar Energy Facility to the Facility Meter during a Production Month, multiplied by (ii) the price per kWh in effect during the year in which the Production Month occurs as set forth in the Appendix B Price List.

- 7.3. The Monthly Payment Amount shall be due by the sixtieth (60th) day after the end of the Production Month. Seller shall provide Buyer with an invoice showing the Monthly Payment Amount within thirty (30) days following the end of the Production Month.
 - 7.4. The Monthly Payment Amount does not include taxes. The term "taxes" includes any federal, state, and local ad valorem, property, occupation, generation, privilege, sales, use, consumption, excise, or transaction tax, and other taxes, regulatory fees, surcharges, or other similar charges, which shall be Buyer's responsibility, but does not include any income taxes imposed on Seller's revenues due to the sale of Buyer's Solar Interest to Buyer under this Agreement, which income taxes are solely Seller's responsibility.
 - 7.5. Any payment due Buyer under this Agreement but not paid when due shall bear interest from the due date until paid at the rate of 1.5% percent per month, or the highest rate allowed by law, whichever is lower.
8. **Operations and Maintenance of the Solar Energy Facility.** Beginning on the Commercial Operations Date through the end of the Term, Seller will be responsible for the operation and maintenance of the Solar Energy Facility, as follows:
- 8.1. **Operations and Maintenance Services.** Seller will operate the Solar Energy Facility, and provide customary maintenance services designed to keep the Solar Energy Facility in good working condition. Seller will use qualified personnel to perform such services in accordance with industry standards, and will pay such persons reasonable compensation for performing such services. Seller will initially appoint or have appointed Energy Equipment Limited as property manager to operate and maintain the Solar Energy Facility.
9. **Change of Utility Service Location.**
- 9.1. **Providing Advance Notice.** Buyer agrees to provide Seller with ninety (90) days advance notice of any change which may cause Buyer to not be the Utility's customer for the Utility Service Location.
 - 9.2. **New Location Within Utility Service Territory.** Buyer agrees that if Buyer shall cease to be Utility's customer at the Utility Service Location and within thirty (30) days thereof move to a new location within the service territory of Utility, that Buyer will take all steps and provide all information required by Utility under the Program to substitute Buyer's new service location as the Utility Service Location under this Agreement, and this Agreement shall continue in effect. Buyer acknowledges that if the Utility Service Location or any new service location exceeds the Program Limit set forth in Schedule C or otherwise does not comply with the Utility's requirements, Buyer's ability to participate in the Program may cease or be limited in accordance with Program requirements.
 - 9.3. **Other Termination of Utility Service.** If Buyer ceases to be a Utility customer for electric service at the Utility Service Location, then Buyer will give Seller six (6) month's advance notice of such Utility Service Location change. The Seller shall find a substitute buyer for Buyer's Solar Output, which buyer is satisfactory to Seller in Seller's sole discretion, including without limitation such buyer's creditworthiness, then Buyer shall not be responsible to pay Seller for Monthly Payment Amounts which correspond to Production Months occurring from and after the date Seller and such substitute buyer shall enter into a Solar Production Agreement in regard to Buyer's Solar Output, In the event that this Agreement is terminated by Buyer prior to the end of the Selected Term, the amount due under this Section 9.3 shall be accelerated as of the date of such termination.

10. **Seller's General Agreements.** In connection with this Agreement, Seller agrees that Seller at all times shall perform Seller's obligations under the Program, and that Seller will exercise commercially reasonable efforts to maintain the Program in effect for the Term of this Agreement.

11. **Buyer's General Agreements.** In connection with this Agreement, Buyer agrees that:

- 11.1. Buyer will provide to Utility all applications, documentation and information required by Utility and otherwise to qualify Buyer to participate in the Program.
- 11.2. Buyer has not transferred, assigned or sold any interest in the Solar Energy Facility, or in the Production Capacity, Solar Output, Environmental Attributes or Tax Incentives to any other person or entity, and will not do so during the Term of this Agreement. Buyer has not provided to any other person or entity any of the authority granted to Seller under this Agreement and will not do so during the Term of this Agreement.
- 11.3. Buyer has not granted or placed or allowed others to place any liens, security interests, or other encumbrances on the Selected Solar Panels, Buyer's Production Capacity, Solar Output, Environmental Attributes or Buyer's Solar Interest, and will not do so during the Term of this Agreement.
- 11.4. Buyer understands that the Buyer's Production Capacity and Solar Output will vary from time to time based upon solar availability, weather, seasonality, degradation and other conditions, and that the Expected Annual Production of the Selected Solar Panels is an estimate of solar panel capability under ideal conditions, which may not occur.
- 11.5. Buyer understands that Seller has not guaranteed or made any representations or warranties that the operation of the Solar Energy Facility will be uninterrupted or error free, or any minimum Solar Output or Solar Bill Credits shall be obtained.
- 11.6. Buyer agrees to keep its Utility account for the Utility Service Location in active status, and to pay on a current basis such amounts as may be due the Utility in connection with such account. Buyer shall make no claim against Seller or Seller's affiliates or assigns for amounts which may be payable to Buyer from the Utility under the Program or in connection with this Agreement.

12. **Events of Early Termination.**

12.1. **Material Events.** The Term of this Agreement shall be subject to early termination by Seller based upon any of the following events ("Material Events"),:

- (a) At such time as the Utility ceases to offer the Program or a comparable substitute.
- (b) In the event that the Commercial Operations Date has not occurred for the Facility within three years of the Effective Date hereof.

12.2. **Termination for Material Event.** From and after the occurrence of any Material Event, either Party shall have the right, but not the obligation, to terminate this Agreement on the basis of such Material Event. Such termination shall be effective upon the date which either Party provides, in accordance with Section 16, written notice of such termination to the other Party. The Parties agree that neither the occurrence of a Material Event nor termination of this Agreement in accordance with this Section for a Material Event shall be considered to be a default or breach under this Agreement.

13. **Events of Default; Termination for Default**

13.1. **Buyer Default.** Each of the following events will constitute a default on the part of Buyer (a "Buyer Default"):

- (a) Except as otherwise expressly permitted of Buyer in this Agreement, Buyer terminates this Agreement before the end of the Term.
- (b) Buyer fail to pay any amount due under this Agreement when due, and such failure continues for an additional ten (10) days after such amount is due.
- (c) Buyer breaches any warranty or representation of Buyer set forth in this Agreement, or fails to perform any material obligation of this Agreement (other than failure to pay), and such breach or failure is not cured by Buyer within thirty (30) days after Buyer receives written notice of such breach or failure from Seller, or, if such breach of failure is not capable of cure within such thirty (30) day period, then Buyer (i) fails to begin such cure within ten (10) days of such written notice or (ii) to complete the cure of such breach or failure with sixty (60) days of such written notice using diligent efforts.
- (d) Buyer institutes or consents to any proceeding in bankruptcy pertaining to Buyer or its property; or fails to obtain the dismissal of any such proceeding within thirty days of filing; or a receiver, trustee or similar official is appointed for Buyer or a substantially all of Buyer's property or assets; or such property or assets become subject to attachment, execution or other judicial seizure; or Buyer is adjudicated to be insolvent.
- (e) Buyer attempts to claim any RECs, Environmental Attributes or Tax Incentives in connection with the Solar Energy Facility or Buyer's Solar Interest.

13.2. Seller Default. Each of the following events will constitute a default on the part of Seller (a "Seller Default") provided there is no concurrent Buyer Default:

- (a) Seller breaches any warranty or representation of Seller set forth in this Agreement, or fails to perform any material obligation of this Agreement, and such breach or failure is not cured by Seller within thirty (30) days after Seller receives written notice of such breach or failure from Buyer, or, if such breach of failure is not capable of cure within such thirty (30) day period, then Seller (i) fails to begin such cure within ten (10) days of such written notice or (ii) to complete the cure of such breach or failure with sixty (60) days of such written notice using diligent efforts.

13.3. Buyer's Remedies in Case of Seller's Default. If a Seller Default occurs and is continuing after the expiration of the cure period applicable thereto, then, Buyer may terminate this Agreement by written notice to Seller without further obligation other than to pay the Monthly Payment for all Production Months (or partial Production Months) occurring prior to the date of such written notice from Buyer.

13.4. Seller's Remedies in Case of Buyer's Default. If a Buyer Default occurs and is continuing after the expiration of the cure period applicable thereto, Seller shall be entitled to terminate this Agreement for breach, and/or to seek such remedies as are available to Seller at law or in equity including specific performance.

14. Force Majeure. Except as specifically provided herein, if by reason of Force Majeure, a Party is unable to carry out, either in whole or in part, any of its obligations herein contained, such Party (the "Affected Party") shall not be deemed to be in default during the continuation of such inability, provided that: (i) the Affected Party, within two (2) weeks after being affected by the Force Majeure event, gives the other Party hereto written notice describing the particulars of the occurrence and the anticipated period of delay; (ii) the suspension of performance be of no greater scope and of no longer duration than is required by the Force Majeure event; (iii) no obligations of the Party which were to be performed prior to the Force Majeure event shall be excused as a result of the occurrence thereof; and (iv) the Affected Party shall use commercially reasonable efforts to remedy with all reasonable dispatch the cause or causes preventing it from carrying out its obligations.

15. Assignment.

15.1. Assignment by Buyer. Buyer may not assign this Agreement or Buyer's Solar Interest without Seller's prior written consent, which shall not be unreasonably withheld.

15.2. Assignment by Seller. Seller may assign this Agreement, or any of its rights, duties, or obligations under this Agreement, to another entity or individual, including any Affiliate, whether by contract, change of control, operation of law or otherwise, without Buyer's consent.

15.3. Collateral Assignment.

(a) General. Seller shall be entitled to collaterally assign, pledge, grant security interests in, or otherwise encumber its rights and interests in this Agreement to one or more entities providing financing (hereinafter "Lender") without further consent of Buyer. Buyer agrees to reasonably cooperate with Seller and its Lender in connection with such financing, and to provide such information and acknowledgements as Seller or its Lender may reasonably request within ten (10) days of any such request therefor.

(b) Notices to Lenders. From time to time, Seller or its Lender may provide Buyer with written notice of any Lender to which interests have been granted pursuant to Section 15.3(a) above. As a precondition to exercising any rights or remedies related to any default by Seller under this Agreement, Buyer shall give written notice of the default to Lender at the same time it delivers notice of default to Seller, including the specifics of any such default. Lender shall have the same amount of time to cure the default under this Agreement as is given to Seller hereunder, and the same right as Seller to cure any default. The cure period for Lender shall begin to run upon the date Lender receives such written notice from Buyer. Failure of Buyer to provide Lender with such notice shall not diminish Buyer's rights against Seller, but shall preserve all rights of Lender to cure any default.

(c) Right to Cure Defaults; Substitution. To prevent termination of this Agreement, the Lender shall have the right, but not the obligation, at any time to perform any act necessary to cure any default and to prevent the termination of this Agreement. In the event of an uncured default by Seller, or in the event of a termination of this agreement by operation of law or otherwise, Lender shall have the right, but not the obligation, to substitute itself for Seller under this Agreement, or (ii) to require Buyer enter into a new agreement with Lender substantially identical to this Agreement for a period equal to the duration of the Scheduled Term of this Agreement.

16. Notices. In the event that any notice or other communication is required or permitted to be given hereunder, such notice or communications will be in writing and may be delivered in person or sent by certified mail, overnight courier or transmitted by facsimile to the address of the addressee as specified below. Except as otherwise provided, all such notices or other communications will be deemed to have been duly given and received upon receipt.

To Seller: **CEC SOLAR # 1128, LLC**
12010 Hwy 61, Sterling, CO 80751

Attn: Manager
Fax No.: 970-692-2592

To Buyer: Logan County, Colorado, a Colorado statutory county
Chair, [Board of County Commissioners of Logan County](#)
[315 Main Street, Suite 2](#)
[Sterling, CO 80751](#)

17. **Reporting and Marketing.** Buyer authorizes Seller and Seller's Affiliates to use Buyer's name and the nameplate capacity allocated to Buyer hereunder (such information referenced herein as Buyer's "Customer Information") for reporting purposes, such as official reporting to governmental authorities, the Utility, public utility commissions and similar organizations, and in marketing materials that Seller or Seller's Affiliates generate or distribute. Seller agrees that following written notice from Buyer to opt out of Seller's marketing program, Seller will no longer identify Buyer by name in Seller's marketing materials. Under no circumstances, except as required by law and as otherwise provided in this Agreement, will Seller release or otherwise publish any information collected from Buyer other than the above Customer Information.
18. **Applicability of Open Records Act.** The parties acknowledge and agree (a) that Buyer is required to comply with the Colorado Open Records Act, and (b) that the terms of this Agreement contain and constitute confidential and privileged market information and trade secrets of Seller, which if disclosed to Seller's competitors could harm the Seller. Customer will advise Company of any request for the foregoing information under the Open Records Act. Notwithstanding the forgoing, Seller understands that the Buyer may disclose this Agreement (redacted for pricing) in accordance with the Buyer's approval process.
19. **Governmental Immunity.** Buyers and its officers, attorneys and employees, are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations or 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 Customer and its officers, attorneys or employees, as applicable hereto.
20. **Entire Agreement.** This Agreement constitutes the entire agreement between the Parties relating to the subject matter hereof and supersedes any other agreement or understanding, written or oral.
21. **Additional Agreements.**
- 21.1. **Authority.** Each Party represents and warrants that it has full authority to execute and deliver this Agreement and to perform their obligations under this Agreement, and that the person whose signature appears on the Agreement is duly authorized to enter into this Agreement on behalf of that Party.
- 21.2. **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which shall constitute one and the same agreement. The counterparts of this Agreement and the schedules and exhibits hereto, may be executed and delivered by facsimile or other electronic signature by any of the Parties to any other Party and the receiving Party may rely on the receipt of such document so executed and delivered by facsimile or other electronic means as if the original had been received.
- 21.3. **Modification and Waiver.** This Agreement may not be amended, changed, modified, or altered unless such amendment, change, modification, or alteration is in writing and signed by all of the Parties to this Agreement or their respective successor(s) in interest. This Agreement inures to the benefit of and is binding upon the Parties and each of their respective successors and permitted assigns.
- 21.4. **Governing Law.** This Agreement and the rights and duties of the Parties hereunder shall be governed by and shall be construed, enforced and performed in accordance with the laws of the State of Colorado without regard to principles of conflicts of law.
- 21.5. **Survival.** In the event of expiration or earlier termination of this Agreement, the following sections shall survive: Sections 3.2, 3.3, 4, 5, 7, 15, 16, 17, 18, 19, and 21.
- 21.6. **Severability.** Should any terms of this Agreement be declared void or unenforceable by any court of competent jurisdiction, such terms will be amended to achieve as nearly as possible

the same economic effect for the parties as the original terms and the remainder of the Agreement will remain in full force and effect.

21.7. Service Contract. This Agreement is a service contract pursuant to Section 7701(e)(3) of the Internal Revenue Code.

21.8. No Partnership. Nothing contained in this Agreement will constitute either party to this Agreement as a joint venturer, employee, or partner of the other, or render either party to this Agreement liable for any debts, obligations, acts, omissions, representations, or contracts of the other, including without limitation Buyer's obligations to the Utility for electric service.

IN WITNESS WHEREOF, each Party has caused this Agreement to be duly executed by its authorized representative as of the date of last signature provided below.

SELLER

BUYER

CEC SOLAR # 1128, LLC

Logan County, Colorado, a Colorado statutory county

By:

By: _____

Name:

Name: _____

Title: Manager

Title: _____

Date:

Date: _____

List of Exhibits to Agreement

Appendix A – Solar Energy Facility

Appendix B – Price List

Appendix C – Program Limits

**Appendix A
Buyer and Facility Information**

Commercial Operations Date: TBD

Effective Date: TBD

Buyer's Allocation: 40.00%

**Estimated initial annual amount of
Buyer's Solar Output ("Estimated
Initial Annual Production"): 1,572,000kWh**

Buyer's Production Capacity: 800kW

Facility Location: 12010 Hwy 61, Sterling, CO 80751

Facility Name: Xcel Logan 1

Facility Company Name: CEC SOLAR # 1128, LLC

Email: Rsamber@logancountyco.gov

Fax: 970-522-4018

Tel: 970-522-0888

Initial Meter # for Crediting: Meter: W45360T Premise: 301288416

Utility Service Location: 110 Riverview Rd. Sterling, Co 80751

Buyer's Name(s): Logan County, Colorado, a Colorado statutory county

Appendix B Price List

The following is the Price List referenced in Section 7.2 of the Agreement:

Year	PPA Cost (\$/kWh)
1	0.0614
2	0.0630
3	0.0646
4	0.0662
5	0.0678
6	0.0695
7	0.0713
8	0.0730
9	0.0749
10	0.0767
11	0.0787
12	0.0806
13	0.0826
14	0.0847
15	0.0868
16	0.0890
17	0.0912
18	0.0935
19	0.0958
20	0.0982

Buyer acknowledges that the foregoing Price List sets forth a fixed price per kWh for each of the years listed above, and includes a [2.5%] annual escalator.

Buyer further acknowledges that the foregoing Price List is intended to fix the price paid by Buyer per kWh in connection with the Monthly Payment Amounts under this Agreement.

Seller does not warranty or represent that the foregoing Price List will bear any particular relationship, either now or in the future, to the rates which may be (i) payable by Buyer to the Utility for electricity from time to time, or (ii) used by the Utility to calculate Solar Bill Credits from time to time.

Buyer has undertaken an independent evaluation of the Price List, and has determined that the Price List is reasonable for purposes of calculating the Monthly Payment Amounts under this Agreement, and agrees that Buyer shall not assert, and hereby waives, claims challenging the validity or use of the Price List in connection with the Monthly Payment Amounts due from Buyer under this Agreement.

Appendix C

Program Limit

The Program Limit under this Agreement is equal to 120% of Buyer's Maximum average annual electric power consumption at the Utility Service Location.

Buyer agrees that the Estimated Initial Annual Production as set forth in Appendix A shall not exceed the Program Limit.

In addition, Buyer acknowledges that the benefit Buyer receives from Buyer's Solar Interest can be reduced if Buyer's Utility Service Location is eligible for solar energy credits or net-metering based upon solar electricity generating equipment other than Buyer's Solar Interest in the Solar Energy Facility. In this regard, the Program Limit shall apply based upon the Buyer's Production Capacity plus the capacity of such other solar electricity generating equipment, taken together.

SOLAR PRODUCTION AGREEMENT

(Colorado Local Governmental Units)

This Solar Production Agreement (the "Agreement") is entered into as of _____, 2016 (the "Effective Date") and is by and between **CEC SOLAR # 1133, LLC**, LLC, as seller (the "Seller"), and Logan County, Colorado, a Colorado statutory county, as buyer (the "Buyer"). In this Agreement, Seller and Buyer are sometimes referred to individually as a "Party" and collectively as the "Parties."

Whereas, Buyer is a Colorado municipality, county, school district, special district or other political subdivision; and

Whereas, Seller has offered to provide to Buyer under this Agreement a means of procuring low-cost electrical energy as utility cost-savings measures under C.R.S. 29-12.5-101 et seq; and

Whereas, pursuant to this Agreement, Buyer can purchase an interest in a solar energy generation installation, and obtain utility credits from the sale of the solar energy generated by such facility so as to decrease Buyer's utility costs; and

Whereas, the Board has received the analysis and recommendations concerning such utility cost-savings measure from a person experienced in the design and implementation of utility cost-savings measure; and

Whereas, the Board has found pursuant to C.R.S. 29-12.5-103 that the amount of money the Buyer would spend on such utility cost-savings measure is not likely to exceed the amount of money the Buyer would save in energy costs over the term of this Agreement; and

Whereas, the Board has found that the obligations entered into by the Buyer under this Agreement shall not cause the total outstanding indebtedness incurred by the Buyer under C.R.S. 29-12.5-103 to exceed the applicable limit set forth in C.R.S. 29-12.5-103(2)(b).

Now therefore, in consideration of the mutual covenants herein contained, and for other good and valuable consideration, the Parties hereby mutually agree as follows:

1. **Definitions.** Under this Agreement, the following terms are defined as follows:

"Affiliate" means any person or entity that directly, or indirectly through one or more intermediaries, controls or is controlled by or partnered with, or is under common control with the person or entity specified.

"Board" means the governing body of the above referenced Buyer.

"Buyer's Allocation" means the Buyer's Production Capacity expressed as a percentage of the entire nameplate capacity of the Solar Energy Facility.

"Buyer's Production Capacity" means the amount of Production Capacity purchased under this Agreement, as referenced in Section 2 and Appendix A below.

"Buyer's Solar Interest" means the Buyer's Production Capacity and the Buyer's Solar Output, and excludes any Environmental Attributes or Tax Incentives.

"Buyer's Solar Output" means the Solar Output of the Solar Energy Facility, multiplied by the Buyer's Allocation.

"Commercial Operations Date" means the date on which the Solar Energy Facility generates electric energy on a commercial basis, and the interconnection to the utility's electric grid has been authorized and is functioning with the Utility. Such date shall be specified by Seller either in

Attachment A to this Agreement, or by a separate notice provided to Buyer pursuant to Section 6 of this Agreement.

“Environmental Attributes” means any credit, benefit, reduction, offset, financial incentive, and other beneficial allowance that is in effect as of the Effective Date or may come into effect in the future, including, to the extent applicable and without limitation, (i) all environmental and renewable energy attributes and credits of any kind and nature resulting from or associated with the Solar Energy Facility, its production capacity and/or electricity generation, (ii) government financial incentives, (iii) greenhouse gas offsets under the Regional Greenhouse Gas Initiative, (iv) renewable energy credits or renewable energy certificates (each referred to as “RECs”) or any similar certificates or credits under the laws of any jurisdiction, including but not limited to Solar RECs, and (v) other allowances howsoever named or referred to, with respect to any and all fuel, emissions, air quality, or other environmental characteristics, resulting from the use of solar energy generation or the avoidance of the emission of any gas, chemical or other substance into the air, soil or water attributable to the Solar Energy Facility, its production capacity and/or electricity generation.

“Facility Meter” means a revenue-grade meter maintained by Seller at the Solar Energy Facility and used to measure the electricity delivered by the Solar Energy Facility to such meter.

“Force Majeure” or **“Force Majeure Event”** means any event or circumstance not within the reasonable control of the affected Party which precludes that Party from carrying out, in whole or in part, its obligations under this Agreement, including, but not limited to, Acts of God, hurricanes or tornados, fires, epidemics, landslides, earthquakes, floods, other natural catastrophes, strikes, lock outs or other industrial disturbances. A Party may not assert an event of Force Majeure to excuse it from performing due to any governmental act, failure to act, or order, where it was reasonably within such Party’s power to prevent such act, failure to act, or order. Notwithstanding the contrary, economic hardship or unavailability of funds shall not constitute a Force Majeure Event of either Party, and any such discretionary acts, failures to act or orders of any kind by Buyer may not be asserted as an event of Force Majeure by Buyer.

“Interconnection Agreement” shall mean the interconnection service agreement(s) entered into with the Utility, which authorizes the interconnection of the Solar Energy Facility to the Utility grid.

“Interconnection Point” means the point at which the Utility takes delivery of generated electrical output from the Solar Energy Facility.

“kWh” means kilowatt hour.

“Production Capacity” means the nameplate of the entire Solar Energy Facility, as listed in Appendix A hereto.

“Production Month” means a monthly period during which electricity is delivered from the Solar Energy Facility to the Interconnection Point, occurring after the Commercial Operations Date and before the end of the Term.

“Program” means the Utility’s Solar Rewards Community Service Program whereby customers may sell generated electricity to the Utility pursuant to the terms and conditions of the Utility’s Colorado PUC No. 7 Tariff, Schedule SRCS, as amended from time to time with the Colorado Public Utilities Commission (the “CPUC”), or such other power purchase agreement, tariff and/or other agreement(s) selected by Seller from time to time for sale of Buyer’s Solar Output.

“Solar Bill Credit” means the bill credit calculated by the Utility pursuant to the terms and conditions of the Program.

“Solar Energy Facility” shall mean the photoelectric solar generation facility described in Appendix A.

“**Solar Output**” means the total amount of electricity generated by the Solar Energy Facility and delivered to the Utility at the Interconnection Point from the Commercial Operations Date until the end of the Term, expressed in terms of kilowatt hours (“kWh”) on a monthly or other basis.

“**Tax Incentives**” means any tax credits, incentives or depreciation allowances established under any federal or state law, including without limitation investment tax credits (including any grants or payments in lieu thereof) and any tax deductions or other benefits under the Internal Revenue Code or applicable federal, state, or local law available as a result of the ownership and operation of the Solar Energy Facility or the output generated by the Solar Energy Facility (including, without limitation, tax credits (including any grants or payments in lieu thereof) and accelerated, bonus or other depreciation.

“**Term**” shall have the meaning set forth in Section 6.

“**Utility**” means Xcel Energy.

“**Utility Account**” means Buyer’s account with the Utility for utility services at the Utility Service Location.

“**Utility Service Location**” means the premises at which Buyer receives utility services from the Utility under the Utility Account.

2. **Buyer’s Production Capacity and Buyer’s Solar Output.** Under this Agreement, the Buyer purchases the Buyer’s Production Capacity and the Buyer’s Solar Output associated therewith (collectively referred to as “Buyer’s Solar Interest”). The Buyer’s Production Capacity purchased under this Agreement is from particular solar panels (the “Selected Solar Panels”) located in the Solar Energy Facility. The Selected Solar Panels shall represent a nameplate capacity equal to 40% of the total nameplate capacity of the Solar Energy Facility, rounded to the nearest full panel. Within 30 days of the Commercial Operations Date, CEC shall notify Buyer of the serial number, nameplate capacity and other identifying information for each of the Selected Solar Panels. Buyer acknowledges that the Utility limits the amount of Production Capacity available to Buyer under this Agreement, as more fully set forth in Section 4 hereto.
3. **Sale of Buyer’s Solar Output to Utility.** The Utility currently offers the Program whereby customers can sell generated electricity to the Utility pursuant to the terms of the Program. Seller agrees to assist Buyer with such sale as detailed more fully in this Section 3 below.
 - 3.1. **Delivery of Buyer’s Solar Output.** In connection with the Program, beginning upon the Commercial Operations Date and continuing monthly until the end of the Term, Seller hereby agrees to deliver the Buyer’s Solar Output to the Utility at the Interconnection Point, and to provide to the Utility the information requested by the Utility (the “Bill Credit Information”) to calculate the Solar Bill Credits payable to the Buyer under the Program based upon the delivery of the Buyer’s Solar Output for such month to the Utility.
 - 3.2. **Bill Credit Information.** Bill Credit Information includes, but is not limited to the Buyer’s name, address, the Buyer’s Utility Service Location, the Utility Account numbers associated with the Utility Service Location, the nameplate capacity of the Selected Solar Panels, and the Buyer’s Solar Output. Seller agrees to be, and Buyer hereby appoints Seller, as Buyer’s exclusive representative for submitting Bill Credit Information to the Utility, with full power and authority to supply to the Utility such information as may be required by the Utility under the Program. This authorization does not restrict Buyer from communicating with, instructing or directing the Utility with respect to other matters pertaining to electric service at the Utility Service Location, or asking the Utility questions regarding Buyer’s participation in the Program. In addition, Buyer hereby authorizes the Utility to release to Seller the consumption and other account information of Buyer to help Seller to carry out the terms of this Agreement and the Program, and agrees to execute any documents that either Seller or the Utility may request to permit the release of such information.

- 3.3. **Sale of Buyer's Solar Output.** Buyer hereby appoints Seller, as Buyer's exclusive representative with full power and authority to deliver, assign, transfer, and sell all of Buyer's Solar Output in connection with the Program, and to enter into, administer, and enforce on Buyer's behalf any agreements related to such delivery, assignment, transfer and sale. For this purpose, Buyer hereby waives, relinquishes, and quitclaims any right, claim, and interest in the Solar Output and associated Environmental Attributes, and agrees to execute any additional documents and instruments needed by Seller to effect or evidence the transfer of the Solar Output to the Utility.
4. **Program Limits and Other Acknowledgments Regarding Program.** In connection with this Agreement, Buyer acknowledges that:
- 4.1. The Program imposes a limit (listed as the Program Limit in Appendix C) which restricts the total photoelectric generating capacity which Buyer may have under the Program, whether purchased under this Agreement or otherwise, and Buyer agrees that Seller is not obligated to request, and that the Utility is not obligated to make, any payment or Solar Bill Credit to the extent Buyer's photoelectric generating capacity exceeds those limitations. Buyer acknowledges that the limitations set forth in Appendix C are derived from the Program, and that this Agreement will be deemed automatically amended to incorporate any changes to corresponding provisions in the Program.
- 4.2. Solar Bill Credits are calculated solely by the Utility under the Program, and are subject to Program terms and conditions. Buyer acknowledges and agrees that Seller's sole obligation regarding payments to Buyer is to request and use commercially reasonable efforts to require Utility to make Solar Bill Credits.
- 4.3. The duration, terms and conditions of the Program, including the rate used to determine Solar Bill Credits, are subject to the sole and exclusive control of Utility and/or the CPUC, and that Seller has not made any representations or warranties with respect to the expected duration of the Program or the amounts to be provided by Utility as Solar Bill Credits.
- 4.4. Buyer must be and remain a customer of the Utility for electric service throughout the Term of this Agreement, and be in conformance with the requirements of this Agreement and the Utility.
5. **Environmental Attributes and Tax Incentives Excluded.** Buyer acknowledges and agrees that Buyer's Solar Interest does not include any Environmental Attributes or Tax Incentives associated with the Solar Energy Facility, and Buyer agrees that Buyer will not claim the Environmental Attributes or Tax Incentives associated with the Solar Energy Facility and will promptly execute any additional documents and/or authorizations as Seller may request to assist any Seller in retaining, or in delivering to the Utility or to another third party, such Environmental Attributes and/or Tax Incentives, as determined by Seller.
6. **Commercial Operations Date, and Term.** If the Commercial Operation Date is not known by the Effective Date of this Agreement, Seller will provide Buyer with notice of the Commercial Operation Date once known. The Term of this Agreement begins upon the Effective Date, and ends 20 years after the Commercial Operations Date unless this Agreement is terminated earlier in accordance with its terms and conditions, in which case the Term shall end upon such early termination. The period from the Commercial Operations Date until the 20th anniversary thereof is referred to herein as the "Scheduled Term".
7. **Payment to Seller.**
- 7.1. Buyer acknowledges that in order to bill on a more timely basis, the measurement of the electricity produced by the Solar Energy Facility shall be based upon Seller's meter readings at the Facility Meter.
- 7.2. In this regard, Buyer shall make monthly payments to Seller under this Agreement in an amount (the "Monthly Payment Amount") equal to (i) the Buyer's Allocation of the amount of electricity

delivered by the Solar Energy Facility to the Facility Meter during a Production Month, multiplied by (ii) the price per kWh in effect during the year in which the Production Month occurs as set forth in the Appendix B Price List.

- 7.3. The Monthly Payment Amount shall be due by the sixtieth (60th) day after the end of the Production Month. Seller shall provide Buyer with an invoice showing the Monthly Payment Amount within thirty (30) days following the end of the Production Month.
 - 7.4. The Monthly Payment Amount does not include taxes. The term "taxes" includes any federal, state, and local ad valorem, property, occupation, generation, privilege, sales, use, consumption, excise, or transaction tax, and other taxes, regulatory fees, surcharges, or other similar charges, which shall be Buyer's responsibility, but does not include any income taxes imposed on Seller's revenues due to the sale of Buyer's Solar Interest to Buyer under this Agreement, which income taxes are solely Seller's responsibility.
 - 7.5. Any payment due Buyer under this Agreement but not paid when due shall bear interest from the due date until paid at the rate of 1.5% percent per month, or the highest rate allowed by law, whichever is lower.
8. **Operations and Maintenance of the Solar Energy Facility.** Beginning on the Commercial Operations Date through the end of the Term, Seller will be responsible for the operation and maintenance of the Solar Energy Facility, as follows:
- 8.1. **Operations and Maintenance Services.** Seller will operate the Solar Energy Facility, and provide customary maintenance services designed to keep the Solar Energy Facility in good working condition. Seller will use qualified personnel to perform such services in accordance with industry standards, and will pay such persons reasonable compensation for performing such services. Seller will initially appoint or have appointed Energy Equipment Limited as property manager to operate and maintain the Solar Energy Facility.
9. **Change of Utility Service Location.**
- 9.1. **Providing Advance Notice.** Buyer agrees to provide Seller with ninety (90) days advance notice of any change which may cause Buyer to not be the Utility's customer for the Utility Service Location.
 - 9.2. **New Location Within Utility Service Territory.** Buyer agrees that if Buyer shall cease to be Utility's customer at the Utility Service Location and within thirty (30) days thereof move to a new location within the service territory of Utility, that Buyer will take all steps and provide all information required by Utility under the Program to substitute Buyer's new service location as the Utility Service Location under this Agreement, and this Agreement shall continue in effect. Buyer acknowledges that if the Utility Service Location or any new service location exceeds the Program Limit set forth in Schedule C or otherwise does not comply with the Utility's requirements, Buyer's ability to participate in the Program may cease or be limited in accordance with Program requirements.
 - 9.3. **Other Termination of Utility Service.** If Buyer ceases to be a Utility customer for electric service at the Utility Service Location, then Buyer will give Seller six (6) month's advance notice of such Utility Service Location change. The Seller shall find a substitute buyer for Buyer's Solar Output, which buyer is satisfactory to Seller in Seller's sole discretion, including without limitation such buyer's creditworthiness, then Buyer shall not be responsible to pay Seller for Monthly Payment Amounts which correspond to Production Months occurring from and after the date Seller and such substitute buyer shall enter into a Solar Production Agreement in regard to Buyer's Solar Output, In the event that this Agreement is terminated by Buyer prior to the end of the Selected Term, the amount due under this Section 9.3 shall be accelerated as of the date of such termination.

10. **Seller's General Agreements.** In connection with this Agreement, Seller agrees that Seller at all times shall perform Seller's obligations under the Program, and that Seller will exercise commercially reasonable efforts to maintain the Program in effect for the Term of this Agreement.

11. **Buyer's General Agreements.** In connection with this Agreement, Buyer agrees that:

- 11.1. Buyer will provide to Utility all applications, documentation and information required by Utility and otherwise to qualify Buyer to participate in the Program.
- 11.2. Buyer has not transferred, assigned or sold any interest in the Solar Energy Facility, or in the Production Capacity, Solar Output, Environmental Attributes or Tax Incentives to any other person or entity, and will not do so during the Term of this Agreement. Buyer has not provided to any other person or entity any of the authority granted to Seller under this Agreement and will not do so during the Term of this Agreement.
- 11.3. Buyer has not granted or placed or allowed others to place any liens, security interests, or other encumbrances on the Selected Solar Panels, Buyer's Production Capacity, Solar Output, Environmental Attributes or Buyer's Solar Interest, and will not do so during the Term of this Agreement.
- 11.4. Buyer understands that the Buyer's Production Capacity and Solar Output will vary from time to time based upon solar availability, weather, seasonality, degradation and other conditions, and that the Expected Annual Production of the Selected Solar Panels is an estimate of solar panel capability under ideal conditions, which may not occur.
- 11.5. Buyer understands that Seller has not guaranteed or made any representations or warranties that the operation of the Solar Energy Facility will be uninterrupted or error free, or any minimum Solar Output or Solar Bill Credits shall be obtained.
- 11.6. Buyer agrees to keep its Utility account for the Utility Service Location in active status, and to pay on a current basis such amounts as may be due the Utility in connection with such account. Buyer shall make no claim against Seller or Seller's affiliates or assigns for amounts which may be payable to Buyer from the Utility under the Program or in connection with this Agreement.

12. **Events of Early Termination.**

12.1. **Material Events.** The Term of this Agreement shall be subject to early termination by Seller based upon any of the following events ("Material Events"),:

- (a) At such time as the Utility ceases to offer the Program or a comparable substitute.
- (b) In the event that the Commercial Operations Date has not occurred for the Facility within three years of the Effective Date hereof.

12.2. **Termination for Material Event.** From and after the occurrence of any Material Event, either Party shall have the right, but not the obligation, to terminate this Agreement on the basis of such Material Event. Such termination shall be effective upon the date which either Party provides, in accordance with Section 16, written notice of such termination to the other Party. The Parties agree that neither the occurrence of a Material Event nor termination of this Agreement in accordance with this Section for a Material Event shall be considered to be a default or breach under this Agreement.

13. **Events of Default; Termination for Default**

13.1. **Buyer Default.** Each of the following events will constitute a default on the part of Buyer (a "Buyer Default"):

- (a) Except as otherwise expressly permitted of Buyer in this Agreement, Buyer terminates this Agreement before the end of the Term.
- (b) Buyer fail to pay any amount due under this Agreement when due, and such failure continues for an additional ten (10) days after such amount is due.
- (c) Buyer breaches any warranty or representation of Buyer set forth in this Agreement, or fails to perform any material obligation of this Agreement (other than failure to pay), and such breach or failure is not cured by Buyer within thirty (30) days after Buyer receives written notice of such breach or failure from Seller, or, if such breach of failure is not capable of cure within such thirty (30) day period, then Buyer (i) fails to begin such cure within ten (10) days of such written notice or (ii) to complete the cure of such breach or failure with sixty (60) days of such written notice using diligent efforts.
- (d) Buyer institutes or consents to any proceeding in bankruptcy pertaining to Buyer or its property; or fails to obtain the dismissal of any such proceeding within thirty days of filing; or a receiver, trustee or similar official is appointed for Buyer or a substantially all of Buyer's property or assets; or such property or assets become subject to attachment, execution or other judicial seizure; or Buyer is adjudicated to be insolvent.
- (e) Buyer attempts to claim any RECs, Environmental Attributes or Tax Incentives in connection with the Solar Energy Facility or Buyer's Solar Interest.

13.2. Seller Default. Each of the following events will constitute a default on the part of Seller (a "Seller Default") provided there is no concurrent Buyer Default:

- (a) Seller breaches any warranty or representation of Seller set forth in this Agreement, or fails to perform any material obligation of this Agreement, and such breach or failure is not cured by Seller within thirty (30) days after Seller receives written notice of such breach or failure from Buyer, or, if such breach of failure is not capable of cure within such thirty (30) day period, then Seller (i) fails to begin such cure within ten (10) days of such written notice or (ii) to complete the cure of such breach or failure with sixty (60) days of such written notice using diligent efforts.

13.3. Buyer's Remedies in Case of Seller's Default. If a Seller Default occurs and is continuing after the expiration of the cure period applicable thereto, then, Buyer may terminate this Agreement by written notice to Seller without further obligation other than to pay the Monthly Payment for all Production Months (or partial Production Months) occurring prior to the date of such written notice from Buyer.

13.4. Seller's Remedies in Case of Buyer's Default. If a Buyer Default occurs and is continuing after the expiration of the cure period applicable thereto, Seller shall be entitled to terminate this Agreement for breach, and/or to seek such remedies as are available to Seller at law or in equity including specific performance.

14. Force Majeure. Except as specifically provided herein, if by reason of Force Majeure, a Party is unable to carry out, either in whole or in part, any of its obligations herein contained, such Party (the "Affected Party") shall not be deemed to be in default during the continuation of such inability, provided that: (i) the Affected Party, within two (2) weeks after being affected by the Force Majeure event, gives the other Party hereto written notice describing the particulars of the occurrence and the anticipated period of delay; (ii) the suspension of performance be of no greater scope and of no longer duration than is required by the Force Majeure event; (iii) no obligations of the Party which were to be performed prior to the Force Majeure event shall be excused as a result of the occurrence thereof; and (iv) the Affected Party shall use commercially reasonable efforts to remedy with all reasonable dispatch the cause or causes preventing it from carrying out its obligations.

15. Assignment.

15.1. Assignment by Buyer. Buyer may not assign this Agreement or Buyer's Solar Interest without Seller's prior written consent, which shall not be unreasonably withheld.

15.2. Assignment by Seller. Seller may assign this Agreement, or any of its rights, duties, or obligations under this Agreement, to another entity or individual, including any Affiliate, whether by contract, change of control, operation of law or otherwise, without Buyer's consent.

15.3. Collateral Assignment.

(a) General. Seller shall be entitled to collaterally assign, pledge, grant security interests in, or otherwise encumber its rights and interests in this Agreement to one or more entities providing financing (hereinafter "Lender") without further consent of Buyer. Buyer agrees to reasonably cooperate with Seller and its Lender in connection with such financing, and to provide such information and acknowledgements as Seller or its Lender may reasonably request within ten (10) days of any such request therefor.

(b) Notices to Lenders. From time to time, Seller or its Lender may provide Buyer with written notice of any Lender to which interests have been granted pursuant to Section 15.3(a) above. As a precondition to exercising any rights or remedies related to any default by Seller under this Agreement, Buyer shall give written notice of the default to Lender at the same time it delivers notice of default to Seller, including the specifics of any such default. Lender shall have the same amount of time to cure the default under this Agreement as is given to Seller hereunder, and the same right as Seller to cure any default. The cure period for Lender shall begin to run upon the date Lender receives such written notice from Buyer. Failure of Buyer to provide Lender with such notice shall not diminish Buyer's rights against Seller, but shall preserve all rights of Lender to cure any default.

(c) Right to Cure Defaults; Substitution. To prevent termination of this Agreement, the Lender shall have the right, but not the obligation, at any time to perform any act necessary to cure any default and to prevent the termination of this Agreement. In the event of an uncured default by Seller, or in the event of a termination of this agreement by operation of law or otherwise, Lender shall have the right, but not the obligation, to substitute itself for Seller under this Agreement, or (ii) to require Buyer enter into a new agreement with Lender substantially identical to this Agreement for a period equal to the duration of the Scheduled Term of this Agreement.

16. Notices. In the event that any notice or other communication is required or permitted to be given hereunder, such notice or communications will be in writing and may be delivered in person or sent by certified mail, overnight courier or transmitted by facsimile to the address of the addressee as specified below. Except as otherwise provided, all such notices or other communications will be deemed to have been duly given and received upon receipt.

To Seller: **CEC SOLAR # 1133, LLC**
15990 CR 29 Platteville CO 80651

Attn: Manager
Fax No.: 970-692-2592

To Buyer: Logan County, Colorado, a Colorado statutory county
Chair, [Board of County Commissioners of Logan County](#)
[315 Main Street, Suite 2](#)
[Sterling, CO 80751](#)

17. **Reporting and Marketing.** Buyer authorizes Seller and Seller's Affiliates to use Buyer's name and the nameplate capacity allocated to Buyer hereunder (such information referenced herein as Buyer's "Customer Information") for reporting purposes, such as official reporting to governmental authorities, the Utility, public utility commissions and similar organizations, and in marketing materials that Seller or Seller's Affiliates generate or distribute. Seller agrees that following written notice from Buyer to opt out of Seller's marketing program, Seller will no longer identify Buyer by name in Seller's marketing materials. Under no circumstances, except as required by law and as otherwise provided in this Agreement, will Seller release or otherwise publish any information collected from Buyer other than the above Customer Information.
18. **Applicability of Open Records Act.** The parties acknowledge and agree (a) that Buyer is required to comply with the Colorado Open Records Act, and (b) that the terms of this Agreement contain and constitute confidential and privileged market information and trade secrets of Seller, which if disclosed to Seller's competitors could harm the Seller. Customer will advise Company of any request for the foregoing information under the Open Records Act. Notwithstanding the forgoing, Seller understands that the Buyer may disclose this Agreement (redacted for pricing) in accordance with the Buyer's approval process.
19. **Governmental Immunity.** Buyers and its officers, attorneys and employees, are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations or 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 Customer and its officers, attorneys or employees, as applicable hereto.
20. **Entire Agreement.** This Agreement constitutes the entire agreement between the Parties relating to the subject matter hereof and supersedes any other agreement or understanding, written or oral.
21. **Additional Agreements.**
- 21.1. **Authority.** Each Party represents and warrants that it has full authority to execute and deliver this Agreement and to perform their obligations under this Agreement, and that the person whose signature appears on the Agreement is duly authorized to enter into this Agreement on behalf of that Party.
- 21.2. **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which shall constitute one and the same agreement. The counterparts of this Agreement and the schedules and exhibits hereto, may be executed and delivered by facsimile or other electronic signature by any of the Parties to any other Party and the receiving Party may rely on the receipt of such document so executed and delivered by facsimile or other electronic means as if the original had been received.
- 21.3. **Modification and Waiver.** This Agreement may not be amended, changed, modified, or altered unless such amendment, change, modification, or alteration is in writing and signed by all of the Parties to this Agreement or their respective successor(s) in interest. This Agreement inures to the benefit of and is binding upon the Parties and each of their respective successors and permitted assigns.
- 21.4. **Governing Law.** This Agreement and the rights and duties of the Parties hereunder shall be governed by and shall be construed, enforced and performed in accordance with the laws of the State of Colorado without regard to principles of conflicts of law.
- 21.5. **Survival.** In the event of expiration or earlier termination of this Agreement, the following sections shall survive: Sections 3.2, 3.3, 4, 5, 7, 15, 16, 17, 18, 19, and 21.
- 21.6. **Severability.** Should any terms of this Agreement be declared void or unenforceable by any court of competent jurisdiction, such terms will be amended to achieve as nearly as possible

the same economic effect for the parties as the original terms and the remainder of the Agreement will remain in full force and effect.

21.7. Service Contract. This Agreement is a service contract pursuant to Section 7701(e)(3) of the Internal Revenue Code.

21.8. No Partnership. Nothing contained in this Agreement will constitute either party to this Agreement as a joint venturer, employee, or partner of the other, or render either party to this Agreement liable for any debts, obligations, acts, omissions, representations, or contracts of the other, including without limitation Buyer's obligations to the Utility for electric service.

IN WITNESS WHEREOF, each Party has caused this Agreement to be duly executed by its authorized representative as of the date of last signature provided below.

SELLER

BUYER

CEC SOLAR # 1133, LLC

Logan County, Colorado, a Colorado statutory county

By:

By: _____

Name:

Name: _____

Title: Manager

Title: _____

Date:

Date: _____

List of Exhibits to Agreement

Appendix A – Solar Energy Facility

Appendix B – Price List

Appendix C – Program Limits

**Appendix A
Buyer and Facility Information**

Commercial Operations Date: TBD

Effective Date: TBD

Buyer's Allocation: 40.00%

**Estimated initial annual amount of
Buyer's Solar Output ("Estimated
Initial Annual Production"): 805,200kWh**

Buyer's Production Capacity: 400kW

Facility Location: 15990 CR 29 Platteville CO 80651

Facility Name: Xcel Weld 1

Facility Company Name: CEC SOLAR # 1133, LLC

Email: Rsamber@logancountyco.gov

Fax: 970-522-4018

Tel: 970-522-0888

Initial Meter # for Crediting:

Meter: W45360T Premise: 301288416 = 129.24kW

Meter: W37736T Premise: 304036246 = 180.32kW

Meter: 53878461 Premise: 300679941 = 90.44kW.

Utility Service Location:

110 Riverview Rd. Sterling, Co 80751

31 Main St. Sterling Co 80751

508 S 10 Ave. 1 Sterling Co 80751

Buyer's Name(s): Logan County, Colorado, a Colorado Statutory County

**Appendix B
Price List**

The following is the Price List referenced in Section 7.2 of the Agreement:

Year	PPA Cost (\$/kWh)
1	0.0614
2	0.0630
3	0.0646
4	0.0662
5	0.0678
6	0.0695
7	0.0713
8	0.0730
9	0.0749
10	0.0767
11	0.0787
12	0.0806
13	0.0826
14	0.0847
15	0.0868
16	0.0890
17	0.0912
18	0.0935
19	0.0958
20	0.0982

Buyer acknowledges that the foregoing Price List sets forth a fixed price per kWh for each of the years listed above, and includes a [2.5%] annual escalator.

Buyer further acknowledges that the foregoing Price List is intended to fix the price paid by Buyer per kWh in connection with the Monthly Payment Amounts under this Agreement.

Seller does not warranty or represent that the foregoing Price List will bear any particular relationship, either now or in the future, to the rates which may be (i) payable by Buyer to the Utility for electricity from time to time, or (ii) used by the Utility to calculate Solar Bill Credits from time to time.

Buyer has undertaken an independent evaluation of the Price List, and has determined that the Price List is reasonable for purposes of calculating the Monthly Payment Amounts under this Agreement, and agrees that Buyer shall not assert, and hereby waives, claims challenging the validity or use of the Price List in connection with the Monthly Payment Amounts due from Buyer under this Agreement.

Appendix C

Program Limit

The Program Limit under this Agreement is equal to 120% of Buyer's Maximum average annual electric power consumption at the Utility Service Location.

Buyer agrees that the Estimated Initial Annual Production as set forth in Appendix A shall not exceed the Program Limit.

In addition, Buyer acknowledges that the benefit Buyer receives from Buyer's Solar Interest can be reduced if Buyer's Utility Service Location is eligible for solar energy credits or net-metering based upon solar electricity generating equipment other than Buyer's Solar Interest in the Solar Energy Facility. In this regard, the Program Limit shall apply based upon the Buyer's Production Capacity plus the capacity of such other solar electricity generating equipment, taken together.