



# Arapahoe County

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Relay Colorado 711

## Board Summary Report

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**File #:** 22-676

**Agenda Date:** 11/22/2022

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**To:** Board of County Commissioners

**Through:** Ron Carl, County Attorney

**Prepared By:**

Ben Swartzendruber, Assistant County Attorney

**Subject:**

Third Amendment to Purchase and Sale Agreement for County Line Landfill

**Purpose and Request:**

The Board is requested to adopt a resolution authorizing the Chair to execute the “Third Amendment to Purchase and Sale Agreement” pertaining to the County Line Landfill, by which the parties will again extend the current “contingency period” and allow additional time to obtain Douglas County development approvals before executing the long-term ground lease approved by the parties.

**Background and Discussion:** In April 2020, the County entered a Purchase and Sale Agreement (“PSA”) to sell the County Line Landfill to HRH-470 LLC. Since the PSA was executed, HRH-470 has been working on obtaining approvals from Douglas County that would allow it to develop the property as it deems necessary and has also had conversations with the Colorado Department of Public Health and Environment (“CDPHE”) regarding the monitoring and maintenance obligations that will be required at the landfill moving forward. Based on certain concerns raised by CDPHE, the parties determined it was necessary to convert the pending sale to a long-term ground lease under which HRH-470 will continue its efforts to develop the property while constructing a system that is intended to divert groundwater from infiltrating the landfill waste and lower the leachate level to an elevation acceptable to CDPHE and allow it to then take title to the property. The parties executed a Second Amendment to PSA effective May 18, 2022 allowing HRH additional time to obtain Douglas County development approvals and confirming the parties will execute the long-term ground lease once those approvals are obtained. The Third Amendment is now necessary to allow more time for HRH to continue working toward the pending development approvals.

**Alternatives:** There are no viable alternatives at this time if the Board wants to continue with the disposition of County Line Landfill.

**Fiscal Impact:** The County is currently paying approximately \$250,000+ per year in monitoring and maintenance costs. Executing the Third Amendment to PSA will allow the County to shift those costs to HRH once Douglas County approvals are obtained and the parties execute the ground lease. Rejecting the Third Amendment would cause HRH-470 to terminate the PSA and leave the landfill property and its associated annual monitoring and maintenance costs and environmental liability in the hands of the County.

**Alignment with Strategic Plan:**

- ☒ Be fiscally sustainable
- ☒ Provide essential and mandated service
- ☒ Be community focused

**Concurrence:** The Facilities and Fleet Department concurs with this request.

**Resolution:** A copy of the draft resolution is attached.