



Agenda Commentary

Item Title/ Subject: Land Lease Agreement Amendment Allied Waste (Republic)

Staff Source: City Manager, Steve Hewitt

Date: Feb. 13, 2014

Background/Subject Information:

Small section of Land (1.7 acres) is the current Allied (Republic) Transfer Station location. Allied owns the facility and rents the land. This is separate from our Trash Agreement (expires 2016 with unlimited 5 year term extensions). David Higgins took over as the new General Manager of Oklahoma late 2013 and we negotiated a new contract. However, corporate rejected a new long-term agreement. Corporate has submitted a 5 year amendment extension to the current lease.

Lease agreement had a \$100.00 per month fee to the City; we have negotiated an increase of \$125.00. This amendment would end 2019.

Recommendation:

Staff recommends (City Attorney has reviewed and approved).

Price/Cost: \$1500.00 per year (\$125.00 per month) Revenue to Solid Waste Authority

FIRST AMENDMENT TO LEASE AGREEMENT

THIS FIRST AMENDMENT TO LEASE AGREEMENT (the "First Amendment"), is entered into this _____ day of _____ 2014 by and between CLINTON PUBLIC WORKS AUTHORITY, having its principal place of business at 415 Gary Boulevard, P.O. Box 1177, Clinton, Oklahoma, 73601 (hereinafter "Landlord"), and ALLIED WASTE SYSTEMS, INC., having its principal place of business at 7540 SW 59th Street, Oklahoma City, Oklahoma, 73179 ("Tenant").

RECITALS

WHEREAS, Landlord and Tenant entered into Lease Agreement dated November 2, 1993 (herein called the "Lease"), covering that certain parcel of land on East Commerce Street, Clinton, (the "Premises") situated in Custer County, State of Oklahoma, more particularly described as follows, to-wit:

A tract of land located in the North half of the N.E. Quarter of section 36, Township 12 North, Range 17 W.I.H.; Beginning at a point on the north section line a distance of 895.0 feet east of the Northwest corner of Northeast Quarter of said section; thence, south and parallel to the West Quarter section line a distance of 360.0 feet; thence east and parallel to the north section line a distance of 300.0 feet; thence north 26 degrees, 33 minutes West a distance of 404.76 feet to a point on the north section line of said section; thence west along the north section line a distance of 115.0 feet to the point of beginning, containing 1.715 acres, more or less. All in Custer County, Oklahoma. All of the oil, gas and other minerals therein are reserved to Lessors and their assigns,

WHEREAS, Landlord and Tenant desire to amend the Lease to extend the Lease term by sixty (60) additional months, upon the terms and conditions described in this First Amendment.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants contained in this First Amendment and in the Lease, the parties agree as follows:

1. The provisions of this First Amendment shall supersede any inconsistent provisions contained in the Lease, regardless of whether such inconsistent provisions are contained in the printed portion of the Lease or any rider or addendum annexed thereto and made part thereof. All capitalized items not otherwise defined in this First Amendment shall have the same meanings ascribed to them in the Lease.
2. The Term of this First Amendment shall commence on March 1, 2014 and expire at midnight the last day of February, 2019.
3. Tenant is requesting no Tenant Improvements and agrees to accept the Premises in "As Is" condition.

4. Effective on and after the Effective Date, Base Rental for the Premises shall be adjusted to \$125.00 per month.
5. This Agreement may not be changed orally, and shall be binding upon and shall inure to the benefit of the parties to it, their respective heirs, successors and, as permitted, their assigns.
6. Except as otherwise provided in this First Amendment, all terms and conditions of the Lease shall remain in full force and effect.

IN WITNESS HEREOF, Landlord and Tenant have duly executed this First Amendment to Lease Agreement as of the day and year first written above.

LANDLORD:

CLINTON PUBLIC WORKS AUTHORITY,
an Oklahoma Municipal Trust

By: _____
Seth Adams, Chairman of the Trustees

ATTEST:

[Seal]

Secretary of the Trustees

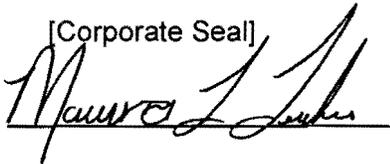
TENANT:

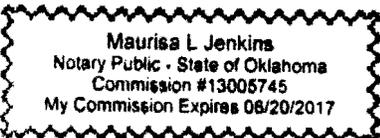
ALLIED WASTE SYSTEMS, INC.
an Oklahoma Corporation

By: 
David Higgins, General Manager

ATTEST:

[Corporate Seal]





LEASE AGREEMENT

THIS LEASE AGREEMENT ("the Lease") made this 2nd day of November, 1993, by and between the CLINTON PUBLIC WORKS AUTHORITY, having its principal place of business at 415 Gary Boulevard, P.O. Box 1177, Clinton, Oklahoma, 73601 (hereinafter "Landlord"), and TRI-COUNTY DISPOSAL, INC., having its principal place of business at 3612 South Highway 81, El Reno, Oklahoma, 73036 (hereinafter "Tenant");

W I T N E S S E T H:

SECTION 1 - PREMISES

The Landlord hereby leases to the Tenant, and the Tenant hereby leases from the Landlord, upon and subject to the terms, conditions, covenants and provisions hereof, all of that certain tract, piece or parcel of land on East Commerce Street, Clinton, (the "Premises") situated in Custer County, State of Oklahoma, more particularly described as follows, to-wit:

A tract of land located in the North Half of the N.E. Quarter of Section 36, Township 12 North, Range 17 W.I.M.; Beginning at a point on the north section line a distance of 895.0 feet east of the Northwest corner of Northeast Quarter of said section; thence, south and parallel to the West Quarter section line a distance of 360.0 feet; thence east and parallel to the north section line a distance of 300.0 feet; thence North 26° degrees, 33 minutes West a distance of 404.76 feet to a point on the north section line of said section; thence west along the north section line a distance of 115.0 feet to the point of beginning, containing 1.715 acres, more or less. All in Custer County, Oklahoma. All of the oil, gas and other minerals therein are reserved to Lessors and their assigns,

[A diagram showing the location of the subject tract of land is attached hereto as Exhibit "A"]

together with any and all improvements, appurtenances and rights, including surface rights but less and except mineral rights, belonging or pertaining thereto. This Lease does not grant any rights the Landlord may hold as a government in trust for the general public, nor does it grant any interest in sub-surface mineral rights which are in conflict with the provisions of Section 21 of this Agreement.

SECTION 2 - USE OF PREMISES

The premises (sometimes hereinafter referred to as the "Solid Waste Transfer Station") are to be used for the processing of municipal solid waste to be transferred for disposal pursuant to a Solid Waste Disposal Agreement having been executed previous to this date between the Tenant and the Clinton Public Works Authority.

The Tenant shall not use the property for any other purpose without the express written permission from the Landlord, which will not be unreasonably withheld. In determining the reasonableness of the Agreement, or refusal to agree to other uses on the property, the primary consideration shall be the issue of an increased risk to the Landlord as the owner of the property under state and federal environmental laws and regulations as they now exist or as they may hereafter be amended.

Processing is hereby defined as sorting, baling, recycling, and any other appropriate, approved or legal means of handling or processing municipal solid waste, and shall be operated in conformance with all applicable state and federal laws and

regulations. Processing shall not include burying or disposal of any materials on the premises.

Tenant will not permit any hazardous waste or toxic chemicals to be stored, processed or disposed of in said premises.

SECTION 3 - TERM

The term of this Lease shall commence upon the "Effective Date", which shall be such time that this Lease is executed by both parties, and the Solid Waste Disposal Agreement between the Tenant and the Clinton Public Works Authority has been executed by each party thereto. Of and from the effective date, the terms shall be for a period of ten (10) years with an option to extend this Lease Agreement for two additional five (5) year periods.

SECTION 4 - PAYMENT

Tenant covenants and agrees to pay to the Landlord the sum of ONE-THOUSAND-TWO-HUNDRED (\$1,200.00) per year during the term of this Agreement, payable at the rate of \$100.00 per month.

SECTION 5 - STATE AND FEDERAL AUTHORIZATIONS

During the term of this Lease Agreement, the Tenant hereby covenants and agrees that it shall have an approved permit from the Department of Environmental Quality of the State of Oklahoma and such other permits that may be required by other state agencies and/or the federal government to operate a Solid Waste Transfer Station.

SECTION 6 - TAXES

Tenant shall, during the term of this Lease, pay and discharge punctually, as and when the same shall become due and payable, all

taxes, special and general assessments, and each and every installment thereof, which shall or may, during the term of this Lease Agreement, be charged, levied, assessed, imposed, become due and payable, with the respect to, the premises or any part thereof, together with all interest and penalties thereon, under or by virtue of all present or future laws, ordinances, requirements, orders, directives, rules or regulations of federal, state, county and city governments, and all other governmental authorities whatsoever. Additionally, the Tenant shall pay all sewer rents and charges for water, steam, heat, gas, hot water, electricity, light and power, and other utility services furnished to the premises during the term of this Lease, so long as the Tenant requests utility services.

**SECTION 7 - IMPROVEMENTS, REPAIRS, ADDITIONS,
REPLACEMENTS, DAMAGE**

In addition to the Solid Waste Transfer Station to be constructed by the Tenant on the premises, pursuant to the Solid Waste Transfer Disposal Agreement being executed simultaneously this date, the Tenant shall have the right, at its own cost and expense, to construct on the premises such buildings, parking areas, driveways, walks and other similar and dissimilar improvements as the Tenant shall from time to time determine, provided that the same shall be in compliance with all then applicable building codes and ordinances of The City of Clinton or as they may be amended from time to time. This does not impair Landlord's rights to impose generally applicable building or utilities standards and conditions as a government. Further, such

improvements shall be related directly to the Waste Transfer Station.

7.1 Tenant shall, at all times during the terms of this Lease, and at its own cost and expense, keep and maintain, or cause to be kept and maintained, in good repair and condition (ordinary wear and tear excepted) all buildings and improvements at any time erected thereon. The Landlord shall not be required to furnish any services or facilities or to make any improvements, repairs or alterations in or to the premises during the term of this Lease Agreement.

7.2 Until the termination of this Lease, title to any building or buildings, or improvements situated or erected on the premises, and the equipment and other items installed thereon and any subsequent alteration, change or addition thereto, shall remain solely the property of the Tenant; and Tenant alone shall be entitled to deduct depreciation on Tenant's income tax returns for such building or buildings, equipment and/or other items, improvements, additions, changes or alterations.

7.3 Upon termination of this Lease Agreement, however brought about, Tenant shall quit and surrender the premises, and the buildings and permanent improvements thereon may be removed within a reasonable period of time, not to exceed ninety (90) days, after such termination at the option of

the Tenant, provided that any damage caused by reason of removal shall be repaired at the expense of the Tenant. Any buildings and permanent improvements remaining on the premises after a reasonable period following the expiration of the term of this Lease Agreement (not to exceed a period of ninety (90) days) shall be deemed abandoned by the Tenant and shall become the property of the Landlord.

7.4 All fixtures installed by the Tenant on the premises shall be the property of the Tenant, and may be removed by it at any time during the term of this Lease Agreement or during a reasonable period following the expiration of the Lease (not to exceed ninety (90) days). Any such fixtures remaining on the premises after the expiration of the term of this Lease Agreement shall be deemed abandoned by the Tenant and shall become the property of the Landlord.

7.5 The Tenant shall pay any and all taxes or increase in taxes relating to any buildings or improvements placed on the premises.

7.6 Any damages to the property, or equipment on the property, owned by the Tenant shall be repaired, replaced, or removed by the Tenant during the term of the Lease, and no later than the expiration of the Lease Agreement.

SECTION 8 - REQUIREMENTS OF PUBLIC AUTHORITY AND INDEMNITY

8.1 During the term of this Lease, Tenant shall, at its own cost and expense, observe and comply with all applicable laws, ordinances, requirements, orders, directives, rules and regulations of federal, state and local authorities, and of all other governmental authorities having jurisdiction over solid waste transfer stations or the premises or appurtenances thereto, or any part thereof, whether the same are enforced at the commencement of the term of this Lease or may in the future be enacted or adopted.

8.2 The Landlord agrees to execute and deliver any appropriate documents which may be necessary or proper to permit Tenant to contest the validity or application of any such law, ordinance, requirement, order, directive, rule or regulation, and fully cooperate with Tenant in such context.

8.3 The Tenant shall indemnify and hold Landlord harmless from any liability, damage or expense, including but not limited to, judgments or orders, whether judicial or administrative, expenses of investigation and reasonable attorney's fees, to which the Landlord may become subject to the extent resulting:

- (a) as a result of any violation or alleged violation of any law or regulation, including but not limited to, actions by The State of Oklahoma or any agency thereof, or the federal

government, pursuant to CERCLA (42 U.S.C. § 9601, et seq.) the Resource Conservation and Recovery Act as amended, or any regulations promulgated thereunder;

(b) as a result of the Tenant's use of the premises or of its activities conducted thereon by Tenant, its agents or employees, with or without Tenant's knowledge or permission; or

(c) as a result of the negligence or willful misconduct of Tenant, its agents or employees;

(d) as a result of actions by the Tenant in the operation of the Solid Waste Transfer Facility pursuant to a agreement entered into simultaneously this date, which results in an action by The State of Oklahoma or any agency of the federal government pursuant to CERCLA (42 U.S. C. § 9601, et seq), the Resource Conservation and Recovery Act as amended, or any regulations promulgated thereunder by either the Environmental Protection Agency or the Department of Environmental Quality of the State of Oklahoma wherein the Landlord is named as a potentially responsible party as the owner of the lease premises.

All of the above indemnities as identified in

subparagraphs 8.3 (a) through (d) shall survive a termination of this Lease Agreement.

8.4 In the event the Tenant shall be in default under this Section 8, the Landlord, in addition to any and all remedies it may have in law under equity, may terminate this Lease upon written notice to the Tenant to be provided to the Tenant at its notice address as contained in this Lease Agreement.

SECTION 9. - COVENANT AGAINST LIENS

If, because of any act or omission of the Tenant, any Mechanics' Lien or other lien, including any lien known as a "Superfund Lien", under CERCLA or any other environmental statute then in existence, charge or order for the payment of money shall be filed against the Landlord or any portion of the premises, the Tenant shall, at its own expense, cause the same to be discharged of record or bonded within a reasonable period of time after written notice from the Landlord to Tenant of the filing of said lien.

SECTION 10. - TESTING OF THE PREMISES

The parties hereto acknowledge that the Landlord has caused to be conducted an Environmental Assessment of the property. The results of said Environmental Assessment have not been received as of this date. The Landlord hereby covenants and agrees to provide the results of said Environmental Assessment to the Tenant to establish that the subject premises are "environmentally clean" and contain no contamination subject to any federal or state law which

would require remediation of the site. In the event that the Environmental Assessment should return results from surface and sub-surface tests which determine that action levels for remediation have been established for any contamination at the site, Landlord covenants and agrees to conduct such remediation, or at its sole discretion, may substitute another location in the City of Clinton. Tenant covenants and agrees that it shall not begin any construction on said premises until the Environmental Assessment has been completed and provided to Tenant. Both parties acknowledge that the "Effective Date" of the Lease Agreement shall not commence until said reports have been received regarding the environmental condition of the property.

SECTION 11. - SIGNS

Tenant shall have the right to install, maintain or replace in, on, over, or in front of the premises, or in any part thereof, such signs and advertising matters the Tenant may desire; provided, however, that such signs shall relate only to the use of the premises by the Tenant and the Tenant shall comply with any applicable requirements of governmental authorities having jurisdiction, and shall obtain any necessary permits for such signs.

SECTION 12. - INSURANCE

The Tenant shall provide at its sole expense, and keep in force during the term of this Lease Agreement, general liability insurance in a good and solid insurance company or companies licensed to do business in the state of Oklahoma, as selected by

the Tenant, in the following amounts:

<u>COVERAGE</u>	<u>LIMITS OF LIABILITY</u>
Workers' Compensation	Statutory Requirements
Property Damage/Bodily Injury Liability except automobiles	\$1,000,000.00 per occurrence
Automobile, Bodily Injury Liability	\$1,000,000.00 per occurrence;

Operator shall name the Authority and The City of Clinton as an additional insured on said policies.

During the term of this Lease Agreement, the Tenant shall keep all buildings and improvements erected by the Tenant on the premises at all times insured for the benefit of the Tenant against loss or damage by fire and customary extended coverage. All such policies of certificates thereof shall be held by the Tenant.

In the event the Tenant chooses to purchase environmental insurance, the Tenant shall have Landlord made an additional insured under the policy at Tenant's expense. In the event the Tenant is required by law to obtain environmental and pollution liability, insurance for non-sudden and accidental occurrences at the Transfer Facility, Tenant shall provide the Landlord with a copy of the Certificate of Insurance provided to the regulatory agency imposing the insurance requirement.

SECTION 13. - UTILITY EASEMENTS

Tenant shall have the right to enter into reasonable agreements with utility companies creating temporary easements in favor of such companies as are required in order to service the

premises, and Landlord covenants and agrees to consent thereto and to execute any and all documents, agreements and instruments, and to take all other actions in order to effectuate the same, all at Tenant's cost and expense.

SECTION 14. - EXECUTION OF DOCUMENTS BY LANDLORD

The Landlord represents and warrants that it shall execute, acknowledge and deliver any instrument or instruments required of the Landlord to effectuate the provisions of this Lease Agreement.

SECTION 15. - QUIET ENJOYMENT AND LANDLORD'S REPRESENTATIONS, WARRANTIES AND INDEMNITY

15.1 The Tenant, upon paying the rent and additional rent (if any) and all sums and charges to be paid by it as herein provided, in observing and keeping all covenants, warranties, agreements and conditions of the Lease on its parts to be kept, shall quietly have and enjoy the premises during the terms of this Lease.

15.2 Landlord makes the following representations and warranties to Tenant, all of which shall survive termination of this Lease:

15.2.1 Landlord has fee simple title to the premises and the power and authority to execute and deliver this Lease and carry out and perform all covenants to be performed by it hereunder.

15.2.2 The premises are free from all mortgages, encumbrances, liens, violations of law, leases, tenancies, easements, restrictions and agreements of any kind whatsoever affecting

the premises, except as may be expressly noted in Exhibit 1 attached hereto and made a part hereof, provided that if there shall be any outstanding oil, gas or other mineral exploration, mining or development leases or rights affecting the surface or mineral estate of the premises, Landlord shall promptly undertake to eliminate, amend or restrict such leases or rights in a way that Tenant's contemplated use and enjoyment of the premises is not hindered or delayed.

15.2.3 At the time of the commencement of the term on the "Effective Date", sole and undisturbed physical possession of the entire premises will be delivered to Tenant, free and clear of all encumbrances, liens, defects in title, violations of law, leases, tenancies, easements, restrictions and agreements, except as set forth above.

15.2.4 Landlord has not received notice of, and to the best of Landlord's knowledge, there are no violations of, any governmental rules, regulations, or orders with regard to the use or condition of the premises.

15.2.5 All the premises are contiguous.

15.2.6 No portion of the premises has been, or to the

best knowledge of the Landlord is likely to be, designated as a historical monument or landmark by any government agency having such authority to do so. There are no graveyards on the premises, to the best knowledge of the Landlord.

15.2.7 At Tenant's request, Landlord shall execute any application for zoning, special or conditional use permits, variances, site assignments and other land use approvals necessarily advisable in connection with the Tenant's contemplated use of the premises.

SECTION 16. - DEFAULTS

16.1 In the event of any one or more of the following events shall have occurred and shall have not been remedied as hereinafter provided, Landlord shall or may take actions as provided in Section 16.2.

- (a) The occurrence of any event set forth in Section 17 (Bankruptcy and Insolvency) without appearing the same as therein provided;
- (b) Tenant's failure to pay any rent when the same shall be due and payable and the continuance of such failure for a period of ten (10) days after the receipt by Tenant of notice in writing from Landlord;
- (c) Tenant's failure to materially perform any of the

other covenants, conditions and agreements herein contained on the Tenant's part to be kept or performed, and the continuance of such failure without the curing of the same for a period of thirty (30) days after the receipt by Tenant of the notice in writing from the Landlord specifying in detail the nature of such failure, and provided Tenant shall not cure such failures provided in Section 16.2 of this Section.

16.2 The Landlord may, at its option, give Tenant a notice of election to end the term of this Lease Agreement upon a date specified of such notices, which date shall not be less than ten (10) business days (Saturdays, Sundays and legal holidays excluded) after the receipt by Tenant of such notice from the Landlord, and upon the date specified in said notice, the term and estate hereby vested in Tenant shall cease and any and all right, title and interest of Tenant hereunder shall likewise cease without further notice or lapse of time, as fully and with like effect as if the entire term of this Lease had elapsed but Tenant shall continue to be liable to the Landlord as hereinafter provided. The curing of any default(s) within the above time limits by any of the aforesaid parties or combination thereof shall constitute a curing of any default(s) with like effect as if the Tenant has cured the same hereunder.

In the event that Landlord gives notice of a default of such nature that it can not be cured within such period as set forth above, then such default shall not be deemed to continue so long as Tenant, after receiving such notice, proceeds to cure the default as soon as reasonably possible and continues to take all steps necessary to complete the same within a period of time which, under all prevailing circumstances, shall be reasonable. No default shall be deemed to be continuing and not cured if and so long as Tenant shall be proceeding to cure the same in good faith or be delayed in, or prevented from, curing the same by the occurrence of any event specified in Section 16 hereof.

16.3 Notwithstanding anything to the contrary contained in this Section 16, in the event that any default(s) of the Tenant shall be cured in any manner, such default(s) shall be deemed not to have occurred, and Tenant's rights hereunder shall continue unaffected by such default(s).

16.4 Upon any termination of the term of this Lease pursuant to Paragraph 16.1 of this Section 16 or at any time thereafter, Landlord may, in addition to and without prejudice or any other rights and remedies Landlord shall have at law or in equity, re-enter the Premises and recover possession thereof and dispossess any or all occupants of the Premises in the manner prescribed by the statute relating to summary proceedings, or similar

statutes; but Tenant, in such case, shall remain liable to Landlord as hereinafter provided.

16.5 In case of any such default, re-entry, expiration and/or dispossession by summary proceedings:

1. Rent shall become due thereupon and be paid up to the time of such re-entry, expiration and/or dispossession and
2. Landlord shall use its best efforts to litigate all damages and relet the Premises or any part of parts thereof, either in the name of Landlord or otherwise, for a term equal to or exceeding the period which would otherwise have constituted the balance of the term of this Lease, provided, Landlord shall not grant unreasonable concessions or free rent.

SECTION 17 - BANKRUPTCY AND INSOLVENCY

If, after the commencement of the term of this Lease:

- A. The Tenant shall be adjudicated a bankrupt or adjudged to be insolvent;
- B. A receiver or trustee shall be appointed for the Tenant's property and affairs;
- C. The Tenant shall make an assignment for the benefit of creditors or shall file a petition in bankruptcy or insolvency or for reorganization or shall make application for the appointment of a receiver; or
- D. Any execution or attachment shall be issued against the tenant, whereby the Premises or any building or buildings or any improvements thereon shall be taken or occupied, or attempted to be taken or occupied, by someone other than the Tenant, except as may herein be permitted, and such adjudication, appointment, assignment, petition,

execution or attachment shall not be set aside, vacated discharged or bonded within one hundred twenty (120) days after the issuance of the same, then a default hereunder shall be deemed to have occurred so that the provisions of Section 16 hereof shall become effective and Landlord shall have the rights and remedies provided for therein.

Notwithstanding anything to the contrary hereinabove contained, however, upon the occurrence of a default pursuant to this Section 19, if Rent due and payable hereunder shall continue to be paid and the other covenants, conditions, and agreements of this Lease on Tenant's part to be kept and performed shall continue to be kept and performed, no event of default shall have been deemed to have occurred and the provisions of Section 19 hereof shall not become effective.

SECTION 18 - WAIVERS

Failure of Landlord or Tenant to complain of any act or omission on the part of the other party, no matter how long the same may continue, shall not be deemed to be a waiver by said party of any of its rights hereunder. No waiver by Landlord or Tenant at any time, express or implied, or any breach of any provisions of this lease, shall be deemed a waiver or a breach of any other provision of this Lease or a consent to any subsequent breach of the same or any other provisions.

SECTION 19 - MAINTENANCE OF TITLE

Landlord shall pay off, satisfy and discharge, as each becomes due, all mortgages, encumbrances or liens whatsoever which may exist

or be payable for, on or against the fee title to the Premises during the term of this Lease; and upon Landlord's default, Tenant, at Tenant's option, but without any duty to do so, may satisfy or discharge any such valid mortgages, encumbrances or liens and thereupon be subrogated to the rights and remedies of the holder thereof, have a lien against the Premises therefore and in addition thereto may retain and apply the rents accruing hereunder toward satisfying same or toward reimbursing Tenant.

SECTION 20 - FORCE MAJEURE

In the event that Landlord or Tenant shall be delayed in, hindered in or prevented from the performance of any act required hereunder by reason of inability to procure materials, failure of power, restrictive Governmental laws or regulations (whether valid or invalid), judicial or administrative orders, riots, insurrection, the act, failure to act or default of the other party, war or other reason beyond their control, then performance of such act shall be excused for the period of the delay and the period of the performance of any such act shall be extended for a period equivalent to the period of such delay.

SECTION 21 - MINERAL RIGHTS

21.1 The Landlord represents and warrants to the Tenant that the Premises are not subject to any lease or agreement for the exploration or development of any mineral or substance (including, but not limited to oil, gas, lignite, uranium, sulphur, sand and gravel) whether solid, liquid or gas, however produced or extracted,

lying upon, in or underlying the Premises.

21.2 During the term of this Lease, Landlord will not, except as provided for in Section 21.3, explore for or develop any mineral or substance lying upon or underlying the Premises, and further not enter into or execute any lease or agreement for the exploration or development of any mineral or substance lying upon or underlying the Premises, except for oil and/or gas in accordance with the terms of this Lease. During the term of this Lease, Landlord will not conduct nor grant to third parties the right to conduct seismic explorations or soil borings or core tests upon the Premises except with the prior written consent of Tenant.

21.3 The Landlord shall have the right to conduct oil and/or gas operations upon the Premises; provided however, that such oil and/or gas operations shall only be conducted upon the portion of the Premises which have no effect on the operations of the Transfer Station or lie outside the perimeter of the Transfer Station and at surface location (including drill sites) which have been previously approved in writing by the Tenant, and subject to the payment by Landlord to Tenant of reasonable costs for the use of the Premise for oil and/or gas operations (including, but not limited to drilling, producing, marketing, transportation and ingress and egress to the operations) conducted upon the Premises. Landlord agrees

to indemnify and hold Tenant, its agents, employees or invitees harmless against any and all claims, demands, damages, costs and expenses including reasonable attorneys' fees, for the defense of, or arising from the conduct of Landlord, its agents, employees, assignees, or lessees in the conduct of oil and/or gas operations on the Premises.

- 21.4 Landlord expressly agrees that all oil and/or gas operations or leases or agreements for the exploration and development of oil and/or gas, upon the Premises shall be subordinate to and inferior to all rights of the Tenant created under this Lease and shall not interfere with the Tenant's use of the Premises

SECTION 22 - NOTICES

- 22.1 Every notice, approval, consent or other communication authorized or required by this Lease shall not be effective unless same shall be in writing and sent postage prepaid by United States registered or certified mail, return receipt requested, directed to the other party at its address hereinabove first mentioned, or such other party at its address hereinabove first mentioned, or such other address as either party may designate by notice given pursuant to this Section 23.
- 22.2 With respect to any claim for indemnification, the party claiming a right to indemnity shall (i) give written notice thereof within a reasonable period following the

event or occurrence as to which the right to indemnification is or may be asserted and (ii) allow the other party (including its employees, agents and counsel) reasonable access to any of its employees, property and records for the purpose of conducting an investigation of such claim and for the purpose of obtaining statements, photographs, and chemical analysis and taking such other steps as may be necessary to preserve evidence of the occurrence on which the claim is based; provided, however, such access to the Landlord's employees, property and records shall be limited to the following departments of the Landlord; the Department of Sanitation and the Utilities Department of their successors.

SECTION 23 - GOVERNING LAW

This Lease, and the performance hereof, shall be governed, interpreted, and construed and regulated by the laws of the State of Oklahoma.

SECTION 24 - PARTIAL INVALIDITY

If any term, covenant, condition or provision of this Lease or the application thereof to any person or circumstance shall, at any time or to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term, covenant, condition and provision of this Lease shall be valid and be enforced to the fullest extent permitted by law.

SECTION 25 - SHORT FORM LEASE

The parties will at any time, at the request of either one, promptly execute duplicate originals of an instrument, in recordable form, which will constitute a short form of this Lease, setting forth a description of the Premises, the term of this Lease and any other portions thereof, excepting the rental provisions, as either party may request.

SECTION 26 - INTERPRETATION

Wherever herein the singular number is used, the same shall include the plural, and the masculine gender shall include the feminine and neuter genders, and vice versa, as the context shall require. The section headings used herein are for reference and convenience only and shall not enter into the interpretation hereof. This lease may be executed in several counterparts, each of which shall be an original, but all of which shall constitute one and the same instrument.

SECTION 27 - ENTIRE AGREEMENT

No oral statement or prior written matter shall have any force or effect. Tenant and Landlord agree that they are not relying on any representations or agreements, other than those contained in this Lease and the attached exhibits hereto, which are made a part hereof. This Lease shall not be modified, except by a writing subscribed by all parties.

SECTION 28 - NON-ASSIGNABILITY

28.1 Tenant may not surrender, assign or sublet this lease or any portion of the Premises.

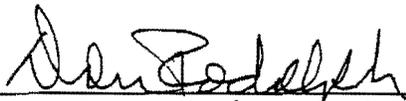
28.2 That Landlord will not convey or encumber the Premises unless such conveyance or encumbrance is specifically subrogated to this Lease and Tenant's rights and responsibilities hereunder; further, after the termination of this Lease the Landlord will take no action, conveyance, encumbrance or use of the Premises that would inhibit or prohibit Tenant from taking whatever action necessary to fulfill its obligations and responsibilities for reclamation and restoration of the Premises in satisfaction of the regulations of the Oklahoma State Department of Health or the Environmental Protection Agency or any other federal or state agency then having regulatory authority over Solid Waste Transfer Stations.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands the day and year first above written.

LANDLORD:

CLINTON PUBLIC WORKS AUTHORITY,
an Oklahoma Municipal Trust

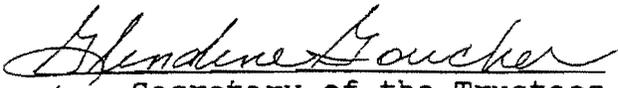
By:



Don Rodolph, Chairman of the
Trustees

ATTEST:

[Seal]



Secretary of the Trustees

TENANT:

TRI-COUNTY DISPOSAL, INC.
an Oklahoma Corporation

By: William E. Turner
William Turner, President

ATTEST:

[Corporate Seal]

Sheri Turner
Sheri Turner, Secretary

VERIFICATION

STATE OF OKLAHOMA)
) ss:
COUNTY OF CUSTER)

I, Don Rodolph, of lawful age, being first duly sworn, state that I am the Chairman of the Clinton Public Works Authority, above named; that I have read and understand the foregoing Lease Agreement, and that I executed the same in my capacity as Chairman of the Clinton Public Works Authority.

Don Rodolph
Don Rodolph

SUBSCRIBED and sworn to before me this 2nd day of November, 1993.

Glendon Goucher
Notary Public

My Commission Expires:

May 7, 1997

VERIFICATION

STATE OF OKLAHOMA)
)
COUNTY OF CUSTER) ss:

I, William Turner, of lawful age, being first duly sworn, state that I am the President of Tri-County Disposal, Inc., above named; that I have read and understand the foregoing Lease Agreement, and that I executed the same in my capacity as President of Tri-County Disposal Service, Inc.

William E Turner
William Turner

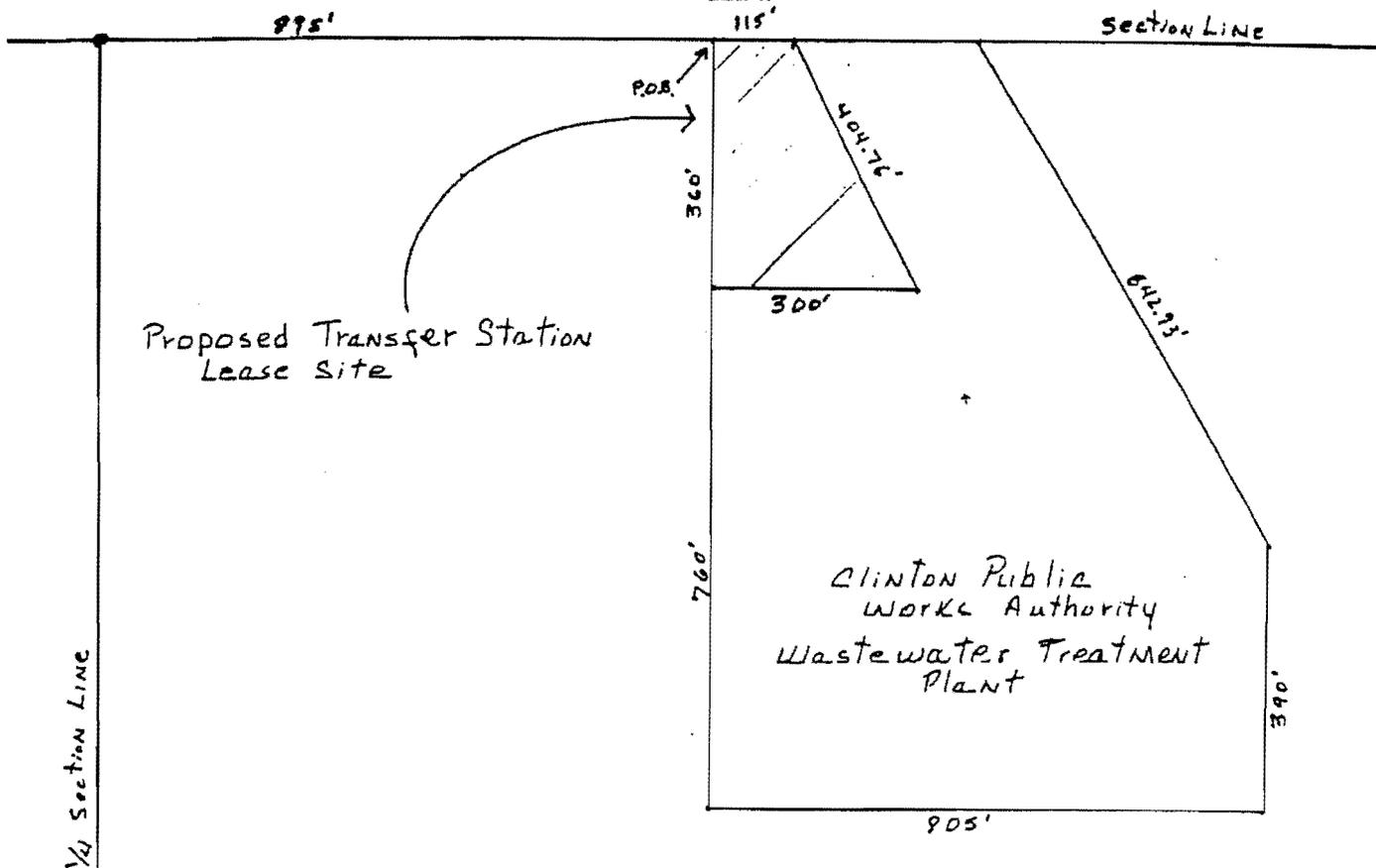
SUBSCRIBED and sworn to before me this 2nd day of November, 1993.

Audino M. Carley
Notary Public



R. 17 W.

EXHIBIT A



LEGAL DESCRIPTION

Site for Lease to Tri County Disposal for Clinton Transfer Station

A tract of land located in the North Half of the N. E. Quarter of Section 36, Township 12 North, Range 17 W.I.M.; Beginning at a point on the north section line a distance of 895.0 feet east of the Northwest corner of Northeast Quarter of said section; thence, south and parallel to the West Quarter section line a distance of 360.0 feet; thence east and parallel to the north section line a distance of 300.0 feet; thence North 26° degrees, 33 minutes West a distance of 404.76 feet to a point on the north section line of said section; thence west along the north section line a distance of 115.0 feet to the point of beginning, containing 1.715 acres, more or less. All in Custer County, Oklahoma. All of the oil, gas and other minerals therein are reserved to Lessors and their assigns.

Size of tract: 1.715 acres, more or less