



FARMRAIL CORPORATION
LAND LEASE
(Orient Line)

Lease No. 201621

THIS LEASE is made this ___ day of _____, 20__ by and between **FARMRAIL CORPORATION**, with its principal office at 1601 West Gary Boulevard, Post Office Box 1750, Clinton, Oklahoma 73601 ("LESSOR"), and **CITY OF CLINTON** whose principal address is P.O. Box 1177, Clinton, OK 73601("LESSEE").

WITNESSETH:

A. LESSOR is a common carrier railroad subject to the jurisdiction of the Surface Transportation Board, and the owner of the railroad right of way and related property (a) between Milepost 378.0 at or near Thomas, OK, and Milepost 386 near Custer City, OK, and (b) between Milepost 398 near Clinton, OK and Milepost 479.69 south of Elmer, OK.

B. LESSEE is a customer of LESSOR that wishes to lease a parcel adjacent to the railroad right of way in Clinton, OK, as more specifically defined herein (the "leased premises"), for the purposes a road.

C. This Lease sets forth the entire understanding of the parties hereto with respect to the transactions contemplated hereby. Any previous agreements or understandings between the parties or their predecessors regarding the subject matter hereof, including without limitation Farmrail Corporation **LEASE NO. 96010** originally issued to **CITY OF CLINTON** dated March 1, 1996, are cancelled and superseded by this Lease.

NOW THEREFORE, for the mutual promises set forth herein, and intending to be legally bound, LESSOR and LESSEE agree as follows:

1. Term. (a) The term of this Lease shall commence on January 1, 2016("Commencement Date") and unless sooner terminated as hereinafter provided, shall expire on December 31, 2025.

(b) This Lease may be terminated by either party on any anniversary of the Commencement Date upon 30 days' prior written notice to the other.

2. Premises. (a) In consideration of the rent hereinafter provided to be paid by LESSEE to

LESSOR and of the covenants, agreements and undertakings of LESSEE hereinafter set forth, LESSOR hereby leases to LESSEE the following described premises located at Clinton, Oklahoma, having a total of 0.80 acres more or less (the "leased premises"). A plat or diagram of the leased premises is attached for reference.

(b) LESSOR specifically reserves the right to permit the installation and operation of utility, transmission or communication lines through, over, under or across the leased premises provided that such use does not unreasonably interfere with LESSEE's authorized use of the leased premises, it being agreed that this Lease is subject and subordinate to any and all such rights, easements and uses.

3. Rent. (a) LESSEE shall pay to LESSOR as annual rent for use of the leased premises, the base sum of **One and no/100 Dollars (\$1.00)**.

(b) LESSEE shall pay as additional rent all taxes and assessments, general, special or otherwise, which may be charged, assessed, imposed or payable upon the leased premises during the term or any continued term hereof as a result of this Lease. If the leased premises are not taxed separately but as a part of a larger tract or parcel or in connection therewith, then LESSEE shall pay a reasonable and equitable portion of the taxes and assessments upon the whole tract or parcel based upon the relation of the market value of the parcel leased to the market value of the whole tax parcel; the apportionment shall be fixed and determined by LESSOR and if not protested by LESSEE in writing within thirty (30) days of receipt of the apportionment, LESSOR's determination shall be binding and conclusive. LESSEE shall also pay to LESSOR, all taxes and assessments, general, special or otherwise, which during the term or imposed upon any improvements of LESSEE now located or hereafter placed upon the leased premises, or if such taxes and assessments are billed or charged directly to LESSEE, then LESSEE shall pay the same directly to the taxing authorities on or before the date the same are due and produce tax receipts to Lessor, for examination, within thirty (30) days after payment thereof.

(d) LESSEE shall pay to LESSOR, the additional rent described in subparagraph (b) above, and elsewhere in the Lease, within thirty (30) days after invoice rendered therefor.

4. Use and Inspection. (a) LESSEE shall use the leased premises solely as a site for a **road**. LESSEE further agrees to use said premises in a manner that will not interfere with the conduct of LESSOR's business or with the safe operation of trains, other railroad equipment or adjacent facilities.

(b) LESSEE has thoroughly inspected the leased premises and hereby accepts them in their present "AS IS" condition, and agrees based on such inspection and not upon any representation of LESSOR, that the leased premises are satisfactory for LESSEE's business purposes.

(c) LESSEE agrees to obtain, at its expense, all licenses and permits necessary for the use stated above, to comply with all applicable federal, state, county and municipal laws, orders, regulations and ordinances (including but not limited to inspection, sanitation, safety devices, fire prevention, environmental protection, pollution control and other matters) connected with the maintenance and use of the leased premises.

(d) LESSEE further agrees that if the leased premises are not used for the purpose(s) as stated in this paragraph 4 within 90 days of the Commencement Date, then LESSOR at LESSOR'S option may terminate this Lease on written notice to Lessee.

5. Improvements. (a) LESSEE agrees, at LESSEE's sole cost and expense, to construct, install, maintain and operate on the leased premises the following buildings, other structures and facilities suitable for the authorized use of the leased premises, plans for which shall be submitted to and subject to prior written approval of LESSOR:

(i) **Road**

(b) LESSEE agrees to obtain, at its expense, all licenses and permits necessary for the construction of the improvements stated above, to comply with all applicable federal, state, county and municipal laws, orders, regulations and ordinances (including but not limited to inspection, sanitation, safety devices, fire prevention, environmental protection, pollution control and other matters) connected with the construction and maintenance of the improvements, and to protect, defend, indemnify and hold harmless LESSOR from any fines, judgments or penalties arising from any violation by LESSEE of any said laws, orders, regulations or ordinances.

(c) LESSEE shall not construct, install, maintain or operate, on the leased premises or the leased track or railroad right of way, any underground pipe, conduit, structure, opening or excavation of any kind without the prior submission of plans to, and written consent of, LESSOR. LESSOR may withhold its approval in its sole discretion.

(d) LESSEE agrees not to make any further alterations, additions or improvements to the leased premises without prior submission of plans to, and written approval of, LESSOR. LESSOR may withhold its approval in its sole discretion.

6. Utilities. LESSEE shall be responsible to contract for, install and supply, at its sole cost and expense, all utilities required for the conduct of LESSEE's business, subject to prior approval of LESSOR and compliance with all federal, state, county and municipal laws, orders, regulations and ordinances connected with the installation, maintenance and use of said utilities. The construction or installation of utilities shall be subject to the provisions of paragraph 5(d) above.

7. Maintenance; Appearance. LESSEE shall, at LESSEE's sole cost and expense, maintain the improvements, grounds, including mowing of grass, care of shrubbery and general landscaping, and to keep the parking area, driveways, alleys and remainder of the leased premises in good order and repair, and in a condition satisfactory to LESSOR.

8. Clearance. (a) In addition to the requirements for construction and installation set forth in paragraph 3 above, LESSEE shall not to construct, install, place or allow to remain, over any tracks on the leased premises, any material, structure or other obstruction less than 30 feet above the top of the rail, or alongside any such track less than 10 feet from outside edge of rail thereof, and to maintain greater clearance if requested by LESSOR or required by statute or order of any competent public authority.

(b) LESSEE shall keep the area between the rails and within the lateral clearance limit of any tracks on the leased premises free and clear of debris and obstructions of any kind. All gates, doors or windows of any adjacent building or enclosure shall be of the sliding type, shall open away from the track, or otherwise shall provide the clearance specified above.

(c) Regardless of any other provision of this Lease, all loss, injury or damage of any kind to any person arising directly or indirectly out of a breach of this paragraph 8 shall be the sole responsibility of LESSEE.

9. Insurance. (a) Prior to the commencement of this Lease, LESSEE shall procure, and shall thereafter maintain during the continuance of the Term, at its sole cost and expense, the following insurance coverage:

(i) Commercial General Liability (CGL) insurance that contains broad form contractual liability with a combined single limit of a minimum of \$1,000,000 each occurrence and an aggregate limit of at least \$1,000,000. If said CGL policy does not automatically cover LESSEE's contractual liability under this Agreement, a specific endorsement adding such coverage shall be purchased by LESSEE. The contractual liability section of, or endorsement to, the policy must NOT exclude activities within fifty feet (50') of the railroad right of way. Coverage shall be primary and non-contributory in regards to LESSOR, and shall contain a waiver of subrogation in favor of LESSOR. LESSOR shall be named as an additional insured under this insurance.

(ii) Worker's Compensation and Employers Liability insurance including coverage for, but not limited to:

(1) Industry's statutory liability under the worker's compensation laws of the state(s) in which the work is to be performed. Even if optional under State law, the insurance must cover all employees.

(2) Employers' Liability (Part B) with limits of at least \$500,000 each accident, \$500,000 by disease policy limit, \$500,000 by disease each employee.

Such policy shall contain a waiver of subrogation in favor of LESSOR.

(b) CGL coverage may be provided by a combination of primary and umbrella or excess policies. If Industry utilizes umbrella or excess policies, these policies must "follow form" and afford no less coverage than the primary policy.

(c) Should said CGL policy be written on a "claims made" basis instead of a "per occurrence" basis, LESSEE shall arrange for adequate time (at least 2 years) after termination for reporting losses.

(d) All insurance shall be issued under standard form policies issued by insurers authorized to do business in Oklahoma, and rated "A" or better by Best's Insurance Report, "AA" or better by Standard & Poor's Insurance Rating Service, or "Aa" or better by Moody's Investor Service. LESSOR reserves the right to reject as inadequate any insurance coverage provided by a company that is rated less than the ratings indicated above.

(e) LESSEE shall provide a certificate of such insurance to LESSOR upon the execution of this Lease. LESSEE shall also provide a certificate annually of such insurance to LESSOR prior to each anniversary of the Commencement Date.

(f) Notwithstanding the provisions of this paragraph 9, LESSEE may self-insure in any amount LESSEE's liability under this Agreement, provided that LESSEE's self-insurance program is approved in writing by LESSOR in its sole discretion prior to commencement of the term or any calendar year of the term.

(g) Failure to provide contractual liability coverage or adequate reporting time shall be a default under paragraph 16 below. The fact that insurance is obtained by LESSEE will not be deemed to release or diminish the liability of LESSEE. Damages recoverable by LESSOR from LESSEE or any third party will not be limited by the amount of the required insurance coverage.

10. Hazardous Materials. Notwithstanding any other provisions of this Lease, LESSEE shall and does hereby expressly agree that:

(a) LESSEE shall be responsible for compliance with all applicable laws and regulations related to the handling and temporary storage of dangerous, hazardous or solid materials, commodities or wastes, whether explosive, combustible, flammable, poisonous or otherwise ("Hazardous Materials") on the leased premises, and shall be solely liable for any damages, penalties, costs or charges incurred by Railroad for Industry's failure to so comply.

(b) In the event the leased premises is used for the handling or temporary storage of, or the inbound or outbound movement of tank or other cars containing, Hazardous Materials, LESSEE hereby assumes and agrees to defend, indemnify, and hold harmless LESSOR from and against all loss, damage, costs, expenses (including attorneys' fees), claims, suits and judgments, whatsoever, arising from or growing out of any injuries (including death), loss or damage which may be caused or contributed to by the presence of such cars and the hazardous nature of the commodities for which such cars are used, and whether such injuries, loss or damage result from fire, explosion, spillage, emitting, release into the environment, leaking, collapse or any other cause, including LESSOR's joint or concurring negligence. LESSOR shall be responsible only for damages caused directly and solely by the intentional or willful tortious acts of its employees.

(c) In the event of leakage or spillage, or release into the environment, LESSEE, at its own expense, shall promptly clean and neutralize the right of way to the satisfaction of LESSOR and any public authority having jurisdiction over said leakage or spillage. LESSEE shall promptly (within 48 hours) notify LESSOR and such public authority(ies) (including any designated Response Center) of such spill or leak unless an earlier time is required by law. Should the release, leakage or spillage result in a fine, penalty, cost or charge being incurred by LESSOR, LESSEE shall promptly and fully reimburse and indemnify Railroad on account thereof.

11. Waiver. LESSEE waives all right to question the validity of this Lease or any of its provisions, or the right or power of LESSOR to execute and enforce the same, and waives all

right to claim damages in the event LESSEE shall be evicted from or is required to surrender possession of the leased premises for any reason whatsoever.

12. Landlord's Lien. LESSOR is hereby granted a lien upon all buildings and structures erected by LESSEE on, and upon all of LESSEE's property on, the leased premises to secure payment of rent or other obligations of LESSEE to LESSOR under this Lease. LESSEE may remove from said premises any such buildings, structures or property at any time prior to the expiration or any termination of this Lease, provided that LESSEE not then be in default in the payment of rent or in performance of any obligation under this Lease, and provided that LESSEE restores the leased premises to the condition that existed at the commencement of the Lease.

13. Casualty. In case any buildings or other structures upon the leased premises shall at any time during the term hereof be destroyed in whole or in part by fire, tornado, flood or other act of God, LESSEE shall give LESSOR immediate written notice of such occurrence, and LESSEE shall have 180 days thereafter in which to rebuild same, in accordance with plans approved by LESSOR. In the event the property so destroyed shall not be rebuilt in a manner satisfactory to LESSOR within said time, this Lease may be terminated by LESSOR.

14. Right of Entry. LESSOR's representatives shall, at all reasonable times, have right of entry and free access to the leased premises for the purpose of inspecting the same to determine its condition, to determine whether or not LESSEE is using the leased premises for the purpose and in the manner herein set forth, to construct or repair any track or signals, or to make use of the leased premises when necessary to clear any derailment or to restore service over any track, or for any reason whatsoever. The right of entry does not affect the allocation of liability set forth in paragraphs 10 and 11 above.

15. Default. If LESSEE (a) defaults in the payment of any rent, tax or reimbursement provided for under this Lease, late payment penalties, returned check charges or other sums due from LESSEE after reasonable attempts by LESSOR to collect same, or (b) upon breach or violation by LESSEE of any other covenants, agreements, undertakings, provisions, terms, applicable laws or conditions of this Lease, LESSOR may, after 10 days' written notice to LESSEE, take any or any combination of the following actions (i) immediately terminate this Lease, (ii) assert its landlord's lien rights, (iii) take possession of the leased premises by due process of law, and remove therefrom LESSEE and all persons occupying said premises or any part thereof, or (iv) require LESSEE to remove all of its property from said premises within 30 days following receipt of termination notice, unless such 30-day period shall be extended in writing by LESSOR in its sole discretion. In any event, LESSEE understands and agrees that failure to remove its property from said premises within the period specified or established in writing as provided herein shall constitute LESSEE's abandonment of such property, and LESSOR thereafter may consider same to be part of the realty. Failure by LESSOR to enforce one or more of the remedies herein provided upon an event of default shall not be construed to constitute a waiver of such default. In addition, LESSOR reserves the right to avail itself of any and all rights and remedies available to it by operation of law or equity and any proceeding by appropriate court action to enforce performance by LESSEE of the applicable provisions of this lease or to secure damages for the breach thereof, including reasonable attorney's fees. LESSOR may waive any default of LESSEE at any time without affecting or impairing any right arising from any subsequent default. LESSEE agrees to

reimburse LESSOR for the costs of any claims, suits, judgments, attorney's fees, court costs and all other related expenses incurred by LESSOR arising from or growing out of LESSEE's default under this Lease. No action or proceeding by LESSOR under this paragraph shall in any manner release or discharge the covenants, agreements and undertakings of LESSEE or any of the obligations, risks or duties herein assumed by LESSEE which may have accrued as of the date of any default.

16. Condemnation. If the whole or any substantial part of the leased premises shall be acquired or condemned by eminent domain for any public or quasi-public use or purpose, then the term of this Lease shall cease from the date of title vesting in such proceeding, LESSOR shall be entitled to all of the proceeds from condemnation, and LESSEE shall have no claim for the value of any unexpired term of the Lease.

17. Expiration; Termination. (a) LESSEE shall surrender possession of the leased premises to LESSOR within 30 days following expiration, cancellation or termination of this Lease in the same condition as of the commencement of this Lease, reasonable wear and tear and acts of God excepted. If for any reason, the leased premises is damaged or destroyed, LESSEE agrees to pay LESSOR's full cost and expense of restoring or repairing the leased premises to the condition as of the commencement of the Lease. In addition, LESSEE shall return the leased premises free and clear of any and all environmental contamination. Termination shall not relieve either party of any liability that has accrued prior to termination.

(b) Notwithstanding the foregoing provisions in this paragraph 18, LESSOR shall have the right to purchase any improvements made to this property by LESSEE at their depreciated value, or at a value as agreed upon between LESSEE and LESSOR.

(c) Expiration, cancellation or termination of this Lease will not affect any of the rights, obligations or liabilities of the parties that have accrued prior to termination. LESSEE shall not be entitled to the refund of any prepaid rent upon any cancellation or termination of this Lease.

18. Holding Over. Should LESSEE hold over the leased premises after expiration of this Lease, unless otherwise agreed in writing by LESSOR in its sole discretion, such holding over shall constitute and be construed as a tenancy from month to month, at a rent equal to 1/12th of the base rent then payable, plus 50% of such amount. The inclusion of the preceding sentence shall not be construed as LESSOR's permission for LESSEE to hold over, nor shall acceptance of rent therefor waive any accrued rights of LESSOR, accrued liabilities of LESSEE, or any default or termination of this Lease.

19. Miscellaneous Provisions. (a) LESSEE agrees not to sublet the leased premises or any part thereof, or assign this Lease or any interest therein. This Lease is personal to LESSEE and shall not inure to the benefit of any receiver, trustee or other officer, or of any assignee for the benefit of creditors, as an asset of LESSEE, but shall terminate upon the appointment of any such receiver, trustee or other officer or the making of any such assignment.

(b) This Lease shall be binding upon the parties hereto, their heirs, executors, administrators, successors and permitted assigns. LESSEE agrees to provide written notice

to LESSOR of any name changes.

(c) The pronouns used herein as referring to LESSEE shall be understood to refer to LESSEE whether LESSEE be a natural person, a partnership, a corporation, any other organization or legal entity, or any combination thereof.

(d) All notices and communications required hereunder shall be given by email, facsimile, overnight delivery service, or if mailed by registered mail, postage prepaid, and addressed to the other party as follows:

To LESSOR: Farmrail Corporation
 P.O. Box 1750
 Clinton, OK 73601
 Fax#: (580)323-4568
 Email: heathersheppard@farmrail.com

To LESSEE: Clinton City Clerk
 P.O. Box 1750
 Clinton, OK 73601

Or to such other address as may be from time to time be given by either party by written notice to the other party.

(e) No oral promises, agreements or warranties shall be deemed part of this Lease, nor shall any alteration, amendment, supplement or waiver of any of the provisions of this Lease be binding upon either party hereto unless the same be supplemented, altered, changed or amended by written agreement executed by both LESSOR and LESSEE.

(f) This Lease shall not become binding upon LESSOR until executed by LESSOR's authorized representative.

(g) LESSEE agrees that it will not allow, permit or suffer any liens to be filed which in any way affect LESSOR's right, title and interest in and to the leased premises. LESSEE shall cause any such lien to be released within 15 days from the date such lien is asserted, claimed or filed, and failure to do so shall constitute a default hereunder.

(h) No advertising shall be placed upon the leased premises without the prior written consent of LESSOR.

(i) LESSEE warrants and agrees to take no action arising out of its use or occupancy of the leased premises that violates the provisions of state or federal laws, rules and regulations which prohibit discrimination against any person by reason of race, color, sex, religion or national origin.

(j) LESSEE agrees to pay and discharge all reasonable costs, attorneys' fees, or other costs of litigation that LESSOR may incur in enforcing or defending compliance with this Lease.

(k) Any dispute arising out of the performance of this Lease shall be resolved in accordance with the laws of the State of Oklahoma for contracts made and to be performed in Oklahoma.

IN WITNESS WHEREOF, the parties hereto have executed this Lease as of the day and year first written.

FARMRAIL CORPORATION

CITY OF CLINTON

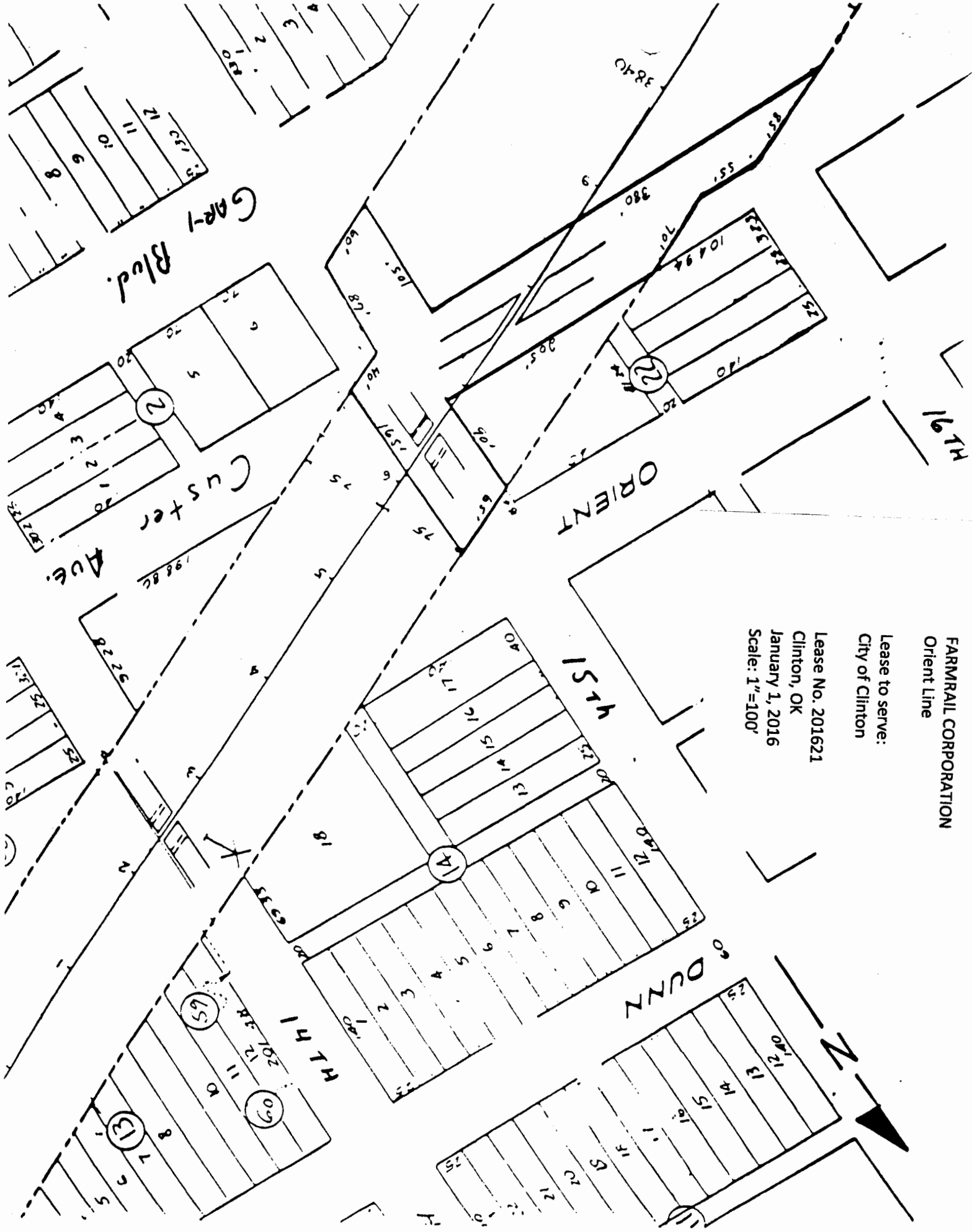
By: Heather Sheppard
Heather Sheppard
Marketing Representative

By: _____
Seth Adams
Mayor

FARMRAIL CORPORATION
Orient Line

Lease to serve:
City of Clinton

Lease No. 201621
Clinton, OK
January 1, 2016
Scale: 1"=100'



Farmrail Corporation: Orient Line

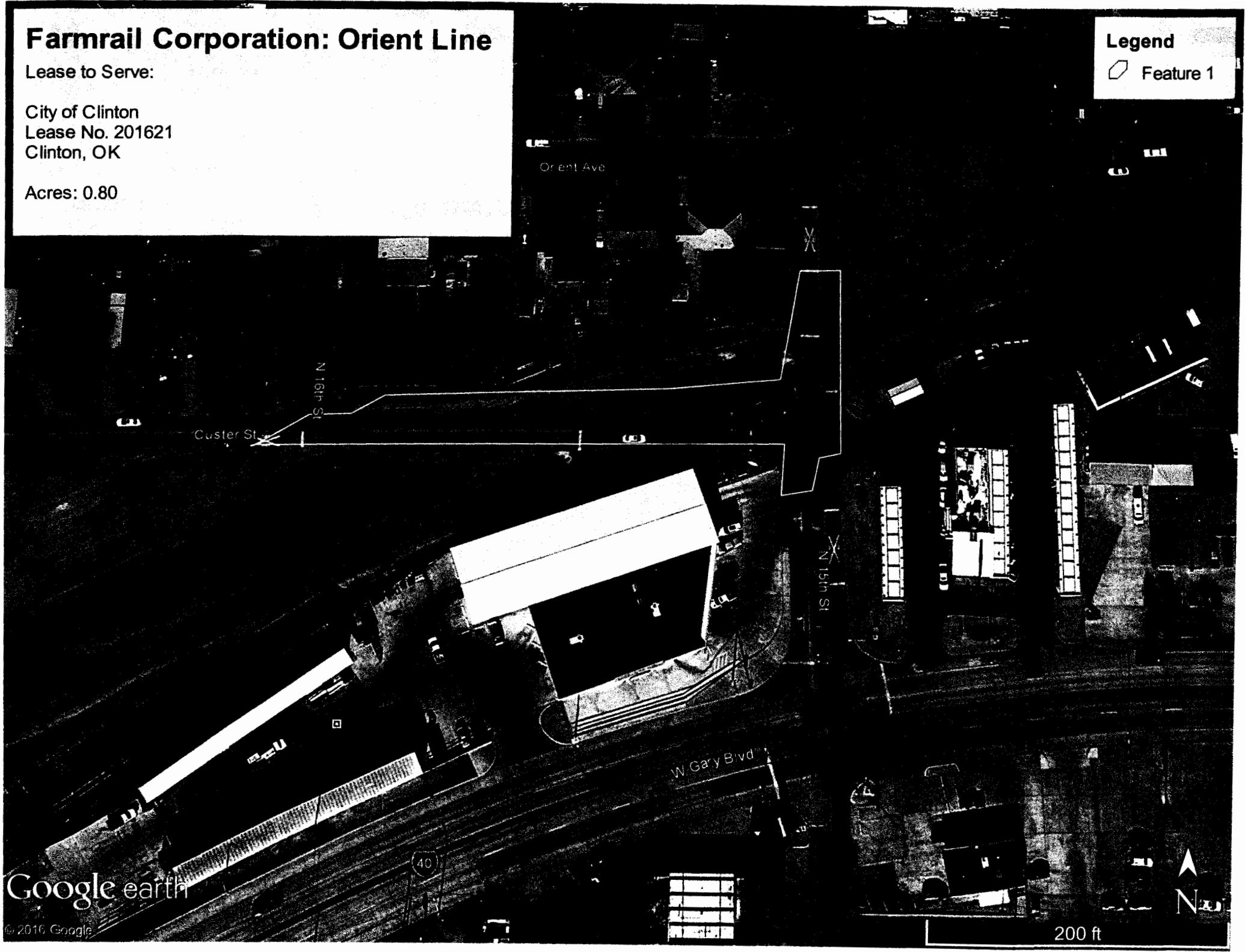
Lease to Serve:

City of Clinton
Lease No. 201621
Clinton, OK

Acres: 0.80

Legend

□ Feature 1



Google earth

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200 ft

