



Agenda Commentary

Item Title/ Subject: Second Amendment to Lease with Republic Services

Staff Source: Gene McCullough, Acting/Interim City Manager

Date: September 15, 2020

History/Background Information: Republic Services leases the property that their transfer station operates on. This has been in affect since at least 1993 in some fashion.

Subject Summary: The current lease agreement expired on February 28, 2019, and operations are continuing based on the previous lease on a month-to-month basis.

Recommendation: Approve lease agreement with Republic.

Price/Cost: \$125/month

SECOND AMENDMENT TO LEASE

THIS SECOND AMENDMENT TO LEASE (the “Second Amendment”) is entered into effective this ____ day of _____, 2020, by and between CLINTON PUBLIC WORKS AUTHORITY (the “**Landlord**”), having its principal place of business at 415 Gary Boulevard, P.O. Box 1177, Clinton, Oklahoma 73601, and ALLIED WASTE SYSTEMS, INC., a Delaware corporation (the “**Tenant**”), successor by merger to Tri-County Disposal, Inc., having its principal place of business at 7540 SW 59th Street, Oklahoma City, Oklahoma 73179.

RECITALS

WHEREAS, Landlord and Tenant entered into Lease Agreement dated November 2, 1993, as amended by that First Amendment to Lease Agreement dated February 18, 2014 (collectively, herein called the “**Lease**”), covering that certain parcel of land on East Commerce Street, Clinton, situated in Custer County, State Oklahoma, as more specifically described in the Lease (the “**Premises**”); and

WHEREAS, Landlord and Tenant hereby acknowledge that (i) the Lease term expired on February 28, 2019, and (ii) Tenant has remained in possession of the Premises and has been performing under the Lease on a month-to-month basis since March 1, 2019, subject to the terms and conditions of the Lease; and

WHEREAS, Landlord and Tenant desire to amend the Lease to extend the Lease term upon the terms and conditions described in this Second Amendment.

AGREEMENT

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

1. The provisions of this Second 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 Second Amendment shall have the same meanings ascribed to them in the Lease. The parties acknowledge that the above recitals to this Second Amendment are true and correct, and agree that the same are incorporated by reference into the body of this Second Amendment.
2. The term of the Lease is extended to expire at midnight the last day of February, 2024.
3. Base Rental under the Lease shall remain the same at \$125.00 per month.
4. Tenant is requesting no tenant improvements be made by Landlord and agrees to accept the Premises in an “As Is” condition, subject to the terms of the Lease.
5. Pursuant to Section 22.1 of the Lease, Tenant requests that notice be sent to the address in the first paragraph of this Second Amendment and to the following additional address:

With a copy to: c/o Republic Services
18500 North Allied Way
Phoenix, AZ 85054
Attn: General Counsel

6. Landlord and Tenant represent and warrant to each other that (a) the Lease is in full force and effect, (b) the Lease is the legal, valid and binding obligation of each party, enforceable in accordance with its terms, (c) to the best of each party's knowledge, there are no defaults under the Lease, nor claims by any party against the other, or any state of facts which, with the giving of notice, the passage of time or both, might constitute a default on the part of either party under the Lease.

7. This Second Amendment and the Lease may not be changed orally, and shall be binding upon and shall inure to the benefit of the parties and their respective heirs, successors and, as permitted, their assigns.

8. Except as otherwise provided in this Second Amendment, all terms and conditions of the Lease shall remain in full force and effect.

9. Landlord and Tenant each warrant to the other that no broker or agent has been employed with respect to this Second Amendment and each agrees to indemnify and hold the other harmless for, from and against any claims by any broker or agent claiming compensation in respect of this Second Amendment alleging an agreement by Landlord or Tenant, as the case may be.

10. This Second Amendment may be executed in counterparts, each of which shall be deemed an original and all of which shall be one Second Amendment. A signature received by electronic mail in "portable document format" (".pdf") shall be deemed an original.

[Signatures appear on next page(s)]

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

LANDLORD:

CLINTON PUBLIC WORKS AUTHORITY,
an Oklahoma Municipal Trust

By: _____

Name: _____

Title: _____

ATTEST:

TENANT:

ALLIED WASTE SYSTEMS, INC., a
Delaware corporation

By: _____

Name: _____

Title: _____

ATTEST:
