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DA's
Robert Morris

FILED
NO. 99-193

PUBLIC/PRIVATE LEASE AGREEMENT

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THIS AGREEMENT is entered between Douglas Disposal, Inc., (DDI) a Nevada corporation, and Douglas County, a political subdivision of the State of Nevada (County).

BARBARA REED
CLERK
BY *[Signature]* DEPUTY

RECITALS

DDI is the holder of an exclusive franchise for the collection and disposal of garbage and debris in portions of Douglas County, Nevada, under an Amended Franchise Agreement dated April 25, 1996.

DDI is the owner of certain real property situated in Douglas County, Nevada (APN 29-110-21) being more particularly described on Exhibit A (site).

County wants to construct a transfer station on the site, to be operated by DDI under the franchise agreement.

AGREEMENT

NOW, THEREFORE, for and in consideration of the mutual promises contained herein, the parties agree as follows:

1. DDI agrees to lease the property described on Exhibit A to County for a period of twenty-five (25) years plus the time for construction of the transfer station, to commence on the 1st day of January, 2000 and continue for a period of twenty-five (25) years after the transfer station is delivered to DDI for occupancy. If County has complied with the terms of this Agreement, County is hereby granted an option to extend the term of this lease, after its initial termination date, for an additional fifteen (15) years, upon the same terms and conditions of this agreement, except that rent will be renegotiated for such

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additional term. Renegotiation of rent will be based on conditions then prevailing, including, but not limited to facilities expansion, land values the source of funding and useful life of the same, as well as laws, regulations and practices governing waste disposal.

2. County agrees to construct a transfer station to accommodate disposal and recycling activities on the property in a manner that complies with Federal and State law governing waste disposal. The project is in the design phase at this time, but conforms generally to the Engineering Design Report submitted to the Board of County Commissioners on June 3, 1999, which estimated its area at 27,255 square feet. Construction shall take place in the year 2000.

3. The consideration for the initial term of the lease is the construction of the transfer facility, as well as nominal rent, in the amount of One Dollar (\$1.00) per year. Rent for the extended term, under the option granted in Paragraph 1, shall be negotiated as set forth therein.

4. DDI will be entitled to occupy and operate the transfer facility under the Amended Franchise Agreement, as follows:

A. In addition to franchise fees required under the franchise agreement, DDI will pay Douglas County a sub-lease payment, or rent, in the amount of \$50,000 per year for a period of twenty-five (25) years for use of the transfer facility. This sub-lease payment begins to accrue on January 1, 2000, and is payable in the amount of \$25,000 on June 30, 2000, and \$50,000 per year on the anniversary date each year thereafter, with a

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final payment pro-rated if the lease term expires on a date other than June 30 at the end of the term. If additional facilities are constructed, if the term of the franchise is extended beyond the twenty-five years, or if the franchise is terminated, then this fee is subject to renegotiation. The County agrees to amend the Amended Franchise Agreement, Paragraph IV, to provide for a term of fifteen (15) years, commencing on the date the transfer station is delivered to DDI for occupancy with an option to renew for an additional ten (10) years.

C. DDI will carry insurance in connection with its occupation and management of the transfer facility, naming Douglas County as an additional insured, including minimum coverage as provided for in the Amended Franchise Agreement. In addition to the liability insurance provided in the agreement, DDI will carry fire and all risk insurance for the facility for its insurable value, in a form subject to the approval of the County.

A certificate of insurance or other evidence that such coverage is in effect will be provided by DDI to County commencing on the date of occupancy of the facility, and on an annual basis thereafter, during the life of the franchise, as amended.

D. DDI's occupation and operation of the transfer facility shall comply with all applicable State, Federal and local laws, as well as regulations of State and Federal agencies applicable to operation of the facility. The operation and maintenance of the facility shall generally conform to the Douglas County

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Transfer Station Plan of Operations report submitted to the County, dated September 9, 1999.

5. DDI will be solely responsible for maintenance of the facility. A maintenance schedule will be developed by the parties prior to occupancy of the new facility in accordance with the Plan of Operations report. If needed maintenance is not covered therein, DDI will be responsible to perform it. As owner of the facility, the County will have the right to direct reasonable maintenance. If reasonably necessary maintenance is not performed by DDI on the County's direction, then after notice to DDI and a hearing by the Board of Commissioners the County will have the right to enter the facility, conduct the maintenance, and impose a surcharge on DDI's franchise fee to pay for it.

At its request, DDI will be subrogated to the County's rights, contractual, warranty or otherwise connected with the construction of the facility.

6. During construction, the County will carry adequate liability and risk insurance in connection with its membership in the Nevada Public Agency insurance pool, and will cause its contractors to carry minimum coverage equivalent to those stated in paragraph 4 (C), above. The risk of loss will pass to DDI upon its use of the facility, or upon issuance of the certificate of occupancy, whichever first occurs. Each party is responsible for its own conduct. DDI agrees to hold the County harmless from any liability associated with the conduct of DDI, its agents, officers, contractors and employees, and defend and indemnify Douglas County in connection therewith. The County agrees to

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hold DDI harmless from any liability associated with the conduct of Douglas County, its agents, officers, contractors and employees, and defend and indemnify DDI in connection therewith.

A. The parties recognize that federal, state, and local agencies with responsibility for defining hazardous waste and for regulating the collection, hauling or disposing of such substances, are continually providing new definitions, tests and regulation concerning these substances. Under this agreement, it is DDI's responsibility to keep current with the regulations and tests on such substances, to identify such substances, and to comply with all federal, state, and local regulations concerning such substances. DDI shall make every reasonable effort to prohibit the collection and the disposal of hazardous waste in any manner inconsistent with federal, state or local law.

B. DDI shall not collect, handle, process, transport, arrange for the transport of or dispose of hazardous waste, except for any program relating to hazardous waste requested by the County. DDI shall conduct a visual inspection during the course of its normal operating procedure for the purpose of discovering and identifying any inadvertently collected hazardous waste. Upon discovery or identification of hazardous waste, DDI shall notify all agencies with jurisdiction over the hazardous waste.

8. DDI shall defend with counsel reasonably acceptable to the County and indemnify the County from and against any and all liabilities, costs, claims and damages which are caused by DDI's

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failure to comply with all federal, state and local laws legally binding on DDI.

A. DDI agrees that it shall protect, defend with counsel reasonably acceptable to the County, indemnify and hold harmless the County, its officers, employees and agents from and against any and all liabilities, fines, penalties, claims, losses, charges, damages, or judgments, including attorney's fees, arising out of or resulting in any way from DDI's use or operation of the transfer station, unless such claim is due to the sole negligence or willful acts of the County, its officers, employees or agents. In addition, upon request of the County, DDI shall defend with counsel reasonably acceptable to the County, and indemnify and hold harmless the County from any and all litigation and claims, damages and liabilities arising from any action brought to challenge or enforce this agreement; provided, however, that DDI's obligations extend only to actions brought against or by persons not parties to this agreement. County agrees to defend or to assist in the defense of the agreement.

B. Any obligation of DDI to indemnify under this section shall become due and payable when and as any liability, fine, penalty, claim, loss, charge, damage, or judgment incurred by or imposed on any County party becomes due and payable. DDI may elect to defend any liability, fine, penalty, claim, loss, charge, damage, or judgment with counsel and may settle any such matter by paying the settlement.

C. DDI shall protect, defend with counsel reasonably

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acceptable to the County, indemnify and hold harmless the County from and against all claims, actual damages (including, but not limited to, special and consequential damages), natural resources damages, punitive damages, injuries, costs, responses, remediation and removal costs, losses, demands, debts, liens, liabilities, causes of action, suits, legal or administrative proceedings, interest, fines, charges, penalties and expenses (including, but not limited to, attorneys and expert witness fees and costs incurred in connection with defending against any of the foregoing or in enforcing this indemnity) of any kind whatsoever paid, incurred or suffered by, or asserted against, the indemnified County arising from or attributable to any repair, cleanup, or detoxification, or preparation, and implementation of any removal, remediation, response, closure or other plan (regardless of whether undertaken due to governmental action), concerning the release or threatened release of any hazardous substance or hazardous waste into the environment. The foregoing indemnity is intended to operate as an agreement pursuant to '107(e) of the Comprehensive Environmental Response and Liability Act, 42 U.S.C. ' 9607(e), to defend, protect and hold harmless and indemnify the County from liability. This provision shall survive the termination of this agreement. Nothing contained herein shall be construed to limit DDI's rights to seek indemnification against or from third parties , including County, who deposit hazardous materials in the waste stream or at the transfer station.

9. The lease will survive the termination, abandonment or

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lapse of the franchise agreement, as amended, the dissolution, bankruptcy, receivership, insolvency or any default of DDI.

10. This agreement shall be governed by the laws of the State of Nevada. In case of a conflict between the terms of this agreement and the Amended Franchise Agreement, then this agreement will control.

11. Neither this agreement, nor any term hereof, may be assigned without the prior written consent of the other party.

12. This agreement shall be binding on, and inure to the benefit of, the parties, their heirs, successors and assigns.

Date:

DOUGLAS DISPOSAL, INC.

By: *Jeffrey R. Fisher*

Date:

DOUGLAS COUNTY, NEVADA

By: *Barbara Reed*

ATTEST:
BARBARA REED
DOUGLAS COUNTY CLERK

By: *Barbara Reed*

Order No.: 94071288

Exhibit A

LEGAL DESCRIPTION

The land referred to herein is situated in the State of Nevada County of Douglas, described as follows:

A parcel of land located within the South one-half of the North one-half of Section 18, Township 12 North, Range 21 East, M.D.B. & M., Douglas County, Nevada, being more particularly described as follows:

BEGINNING at the Northeast corner of the West one-half of the Southwest one-quarter of the Northeast one-quarter of said Section 18; thence South 01°07'04" West, along the East line of said West one-half, 940.70 feet; thence North 82°55'37" West, 602.68 feet; thence South 82°59'17" West, 311.61 feet; thence South 80°22'08" West, 87.53 feet; thence South 82°59'17" West, 59.90 feet; thence 163.87 feet along the arc of a curve to the right having a central angle of 29°54'02" and a radius of 314.00 feet (chord bears North 82°03'42" West, 162.01 feet); thence North 67°06'41" West, 48.37 feet; thence 34.65 feet along the arc of a curve to the left having a central angle of 39°42'30" and a radius of 50.00 feet, (chord bears North 86°57'56" West, 33.96 feet), to a point on the West line of the East one-half of the Southeast one-quarter of the Northwest one-quarter of said Section 18; thence North 00°58'26" East, along said West line, 717.70 feet to a fence line; thence South 83°47'49" East, along said fence line, 178.48 feet; thence North 06°52'50" East, continuing along said fence line, 145.86 feet to a point on the North line of the South one-half of the Northwest one-quarter of said Section 18; thence North 87°55'20" East, along said North line, 458.18 feet to the center-North one-sixteenth corner of said Section 18; thence North 87°54'26" East, along the North line of the South one-half of the Northeast one-quarter of said Section 18, 645.85 feet to the POINT OF BEGINNING.

Said premises more fully shown as Parcel 1, as set forth in that certain Record of Survey #30 for Douglas County, recorded October 8, 1993, in Book 1093, Page 1241, as Document No. 319680, Official Records of Douglas County, Nevada.

Assessor's Parcel No. 29-110-21.

TOGETHER WITH an appurtenant 50 foot non-exclusive private access and public utility easement as set forth on the herein-above Record of Survey.

REQUESTED BY
STEWART TITLE OF DOUGLAS COUNTY

IN OFFICE OF THE CLERK OF
DOUGLAS COUNTY, NEVADA

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8/23/94
K. J. DEPUTY

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COPY

REQUESTED BY
DOUGLAS COUNTY
IN OFFICIAL RECORDS OF
DOUGLAS CO., NEVADA

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LINDA SLATER
RECORDER

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CERTIFIED COPY

The document to which this certificate is attached is a full, true and correct copy of the original on file and on record in my office.

DATE: November 19, 1999
B. Reed Clerk of the 5th Judicial District Court
of the State of Nevada, in and for the County of Douglas.
By Carol M. Mullock Deputy

SEAL

DOUGLAS COUNTY