

ATTACHMENTS FILED
WITH THE CLERK OF THE BOARD
FORM APPROVED COUNTY COUNSEL
BY: Synthia M. Gunzel DATE: 11-28-10
SYNTHIA M. GUNZEL Departmental Conference

Dep't Recomm.: ☐ Consent ☒ Policy
Per Exec. Ofc.: ☐ Consent ☒ Policy

SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

625



FROM: Waste Management Department

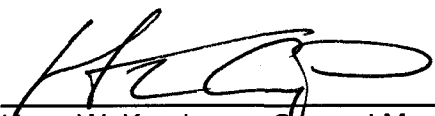
SUBMITTAL DATE:
October 27, 2010

SUBJECT: Consent of Assignment of Master Lease with Agri Service, Inc. to Burrtec Waste Industries, Inc.

RECOMMENDED MOTION: That the Board of Supervisors:

1. Consent to the Assignment dated October 27, 2010, from Agri Service, Inc., as Assignor, to Burrtec Waste Industries, Inc. as Assignee; and
2. Authorize the General Manager-Chief Engineer to execute the Consent to the Assignment of the Master Lease and other documents necessary to complete this transaction.

BACKGROUND: The Waste Management Department received a notice on October 12, 2010, of the pending sale of Agri Service's Coachella Compost Site and request for County Consent to an Assignment between Agri Service, Inc., as Seller and Assignor, and Burrtec Waste Industries, as Buyer and Assignee of that certain Master Lease dated December 1, 2009, between the County of Riverside, (continued on page 2)



Hans W. Kernkamp, General Manager-Chief Engineer

FINANCIAL DATA	Current F.Y. Total Cost:	\$ 0	In Current Year Budget:	YES
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	NO
	Annual Net County Cost:	\$ 0	For Fiscal Year:	2010/11

SOURCE OF FUNDS:	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION:

APPROVE

BY: 
Alex Gann

County Executive Office Signature

BACKGROUND: (cont.)

on behalf of the Waste Management Department and Agri Service, Inc. Section 18c. of the Master Lease provides that Lessee shall not assign this Lease to any person or entity without County's consent, which consent may be given or withheld in County's sole and absolute discretion.

Burrtec Waste Industries, Inc., has fulfilled the Department's two conditions in order for it to recommend Consent to the Assignment: (1) a replacement maintenance assurance, clean up/restoration bond (or other acceptable assurance approved by County Counsel) in the amount of \$50,000 in the name of Burrtec Waste Industries, Inc., and (2) replacement insurance certificates and endorsements in the name of Burrtec Waste Industries, Inc.

The Department recommends that the Board of Supervisors consent to the Assignment of the Master Lease (attached) and requests that the General Manager-Chief Engineer be authorized to execute the Consent to the Assignment and any other accompanying documents in order to complete the transaction. County Counsel has reviewed and approved as to form the Consent to the Assignment.

HWK/GRA:ft

Attachment

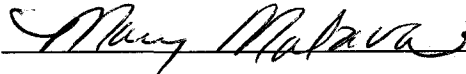
PD# 94601

ASSIGNMENT

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, the undersigned, AGRI SERVICE, INC., a California corporation, hereby transfers and assigns to BURRTEC WASTE INDUSTRIES, INC., a California corporation, all rights, title and interest of the undersigned under that certain Master Lease dated December 1, 2009 between the County of Riverside, on behalf of its Waste Management Department and Agri Service, Inc., pertain to the premises described as consisting of approximately 35.27 acres located in an Unincorporated area of Riverside County, California at the closed Coachella Landfill which is also a part of the Riverside County Recycling Market Development Zone for the permitted purposes provided therein, said Lease attached as Exhibit "A". The execution of this Assignment and the transfer of all rights, title and interest herein are contingent upon the acceptance and approval by the Riverside County Board of Supervisors.

DATED: 10/27/2010

AGRI SERVICE, INC., a California corporation
380 South Melrose Drive, Suite 203
Vista, California 92081

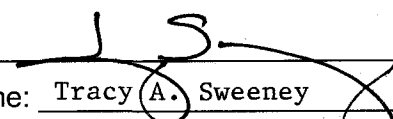
By: 
Name: Mary Matava
Its: President

ACCEPTANCE AND AGREEMENT

The undersigned, BURRTEC WASTE INDUSTRIES, INC., a California corporation, named in the foregoing Assignment, hereby accepts said Assignment and hereby agrees to keep, perform and be bound by all of the terms, covenants and conditions of said Lease on the part of the Lessee therein to be kept and performed to all intents and purposes as though the undersigned Assignee was the original Lessee thereunder.

DATED: 10/27/2010

BURRTEC WASTE INDUSTRIES, INC., a
California corporation
9890 Cherry Avenue
Fontana, California 92335

By: 
Name: Tracy A. Sweeney
Its: Chief Operating Officer

MASTER LEASE

LESSEE Name: Agri Service, Inc.

Riverside County, herein called COUNTY, leases to Agri Service, Inc. herein called LESSEE, the property described below upon the following terms and conditions set forth herein.

1. Description. The premises leased hereby consisting of approximately 35.27 acres located in an Unincorporated County area of Riverside County, California at the closed Coachella Landfill which is also a part of the Riverside County Recycling Market Development Zone, referred to herein as the "Premises", as more particularly described on Exhibit A (and drawn on Exhibit A-1) attached hereto and, by this reference made a part of this Lease.

2. Use.

(a) The Premises are leased hereby for the exclusive purpose of providing the financing, permitting, design, construction and operation of a compost and wood chip facility (The Facility). The facility to be constructed on the Premises is described on Exhibit B (and drawn on Exhibit B-1).

(b) LESSEE will operate the fee booth, provide and maintain a seventy foot electronically operated scale and set prices for all services. At no time shall a hauler from the unincorporated portion of the County be charged a higher rate than any like customer for comparable services.

(c) The Facility shall be open to the public for receipt of green and wood waste six (6) days per week. The Facility shall be staffed and open for public use at a minimum between the hours of 6:30 a.m. and 4:30 p.m. Monday through Friday and between the hours of 7:00 a.m. and 3:00 p.m. on Saturday. Station personnel may man the Facility as needed from 6:00 a.m. to 8:00 p.m. (estimated) for efficient station operations, it being stipulated that the site will typically not accept green and wood waste except during daylight hours.

(d) Green and Wood waste and other approved feedstocks (See Exhibit B) from sources within Riverside County and its Cities shall be given first priority to use this composting facility over other sources; so long as the green and wood waste and other approved feedstocks meet quality standards required for the site. Access to the use of this facility by Riverside County and its Cities shall be confirmed monthly by the applicant's submittal of the tonnage tracking information described in Section 2 (e).

(e) LESSEE shall operate a tonnage tracking system that will determine on a daily basis the amount and origin of generation for the green and wood waste delivered to the Facility. The tonnage tracking system shall be fully compatible with the COUNTY'S current system. LESSEE shall provide COUNTY with monthly reports broken down by origin of generation for the green and wood waste stream delivered to the Facility within fifteen (15) days of the end of the calendar month, and a year-end report that displays all data broken down by month along with a year total for the calendar year. The format of said reports shall be approved by the COUNTY.

(f) LESSEE agrees to provide COUNTY with the "overs" that result from its composting process and palm mulch which generally meet the specifications attached in Exhibit C,

warrants that the uses contemplated by this Master Lease are currently in compliance with all environmental clearance requirements, zoning and land use regulations applicable to the Site as of the commencement of the Master Lease.

3. Title.

(a) COUNTY shall deliver to LESSEE a Preliminary Title Report issued by Chicago Title Company (the "Title Company"). LESSEE's leasehold interest in the Land shall be insured once construction has begun on the Facility by a CLTA Policy of Leasehold Title insurance (the "Policy"). The Policy of title insurance provided for pursuant to this Section shall insure LESSEE's interest in the Land free and clear of all liens, encumbrances, restrictions, and rights of way of record; subject only to the following permitted conditions of title ("Permitted Title Exceptions"):

(1) The applicable zoning, building and development regulations of any city, county, state or federal jurisdiction affecting the land; and

(2) Exceptions to coverage: The printed exceptions and exclusions contained in the Policy and Preliminary Title Report 92035781 – K26 dated November 18, 1999.

(b) LESSEE shall have the option of purchasing an ALTA Extended coverage Policy of Leasehold Title Insurance. If LESSEE elects to purchase an ALTA Policy, LESSEE shall notify COUNTY of such fact within 5 days after the date hereof and shall cause a licensed surveyor or civil engineer to conduct a survey of the Land, to prepare from the survey a legal description satisfactory to the Title Company, and to prepare a plot plan showing the location of any streets, easement, and rights of way over or in favor of the Land, and shall then promptly obtain the initials of the parties on such survey within 30 days after receipt of the Preliminary Title Report. LESSEE shall use the survey for approving or disapproving the Preliminary Title Report and the Policy of title insurance; and

(c) The cost of LESSEE's Policy of title insurance equal to a CLTA Standard Coverage Policy shall be paid by COUNTY. The additional cost for the ALTA Extended Coverage Policy, and the cost of any survey ordered by LESSEE, if any, shall be paid by LESSEE.

4. Term.

The Term of this Lease shall commence on the date it is executed by the COUNTY'S Board of Supervisors ("the Commencement Date"), and shall end 10 years after the Commencement Date, unless sooner terminated as provided for herein or unless extended by mutual agreement of COUNTY and LESSEE.

5. Lease Payment.

(a) LESSEE shall pay the sum equal to 5% of the total gross tip fees for incoming feedstock material per month to COUNTY as payment for the leased premises for the use described in Section 2 hereof, payable, in arrears fifteen (15) days after the end of each calendar month, (the "Base Rental").

(b) COUNTY agrees to reimburse LESSEE semiannually (in December and

written consent to proceed. Requests for approval will be granted or denied within ten (10) days, and will not be unreasonably denied or delayed. Any denial shall be in writing and shall be accompanied by detailed reasons for the denial.

(b) Once the plans and specifications are approved by COUNTY, LESSEE shall with reasonable diligence prosecute to completion all construction of the improvements. LESSEE shall have the responsibility for supplying all technical information and preparing all permits relevant to the project that are required by federal, state, and local regulatory agencies.

(c) All work shall be performed in a good and workmanlike manner, shall substantially comply with the plans and specifications submitted to COUNTY and shall comply with all applicable governmental permits, laws, ordinances and regulations. The parties acknowledge that it is common practice in the construction industry to make minor changes during the course of construction without substantially altering the plans and specifications previously approved by COUNTY; on completion of the work, LESSEE shall give COUNTY notice of all changes in plans and specifications made during the course of the work and shall, at the same time, supply COUNTY with "as built" drawings accurately reflecting all such changes.

(d) **Ownership of Improvements.** The improvements on the Premises shall be owned by LESSEE until the expiration or sooner termination of the Term. LESSEE shall not, however, remove any improvements from the Premises nor waste, destroy or modify any improvements on the Premises, except as permitted by this Lease or in the normal course of business for repair, modification for enhanced operation, or replacement as further provided in paragraph 7(a). The parties covenant and agree for themselves and all persons claiming under them that the improvements are real property. Upon expiration or sooner termination of the Term of this Lease, all permanent improvements on the Premises shown on Exhibit E, but exclusive of unattached furnishings, rolling stock and other detachable processing and handling equipment shall, with compensation to LESSEE amounting to payment of \$1.00 as permitted in this Lease, thereupon become COUNTY's property free and clear of all claims and encumbrances to or against them by LESSEE or any third person, and LESSEE shall defend and indemnify COUNTY against all liability and loss arising from any competing claims of ownership. COUNTY reserves the right to negotiate or seek proposals for the continued operation of the facility at that time.

Notwithstanding the foregoing language, in the event that this Lease is terminated prior to the natural expiration of its term as a result of a breach of the COUNTY, then in addition to any other damages which LESSEE may be entitled to receive from the COUNTY, COUNTY shall be obligated to purchase all fixed improvements on the Premises at a price equal to LESSEE's then unamortized book value of such improvements including, without limitation, unamortized financing costs or any bank costs incurred as a result of the early termination.

In the event that this Lease is terminated prior to the natural expiration of its term as a result of a material breach of the LESSEE, then in addition to any other damages which COUNTY may be entitled to receive from the LESSEE, LESSEE shall be obligated to pay in full the outstanding balance, if any, for all fixed improvements on the Premises, and the ownership of the improvements shall be immediately transferred to COUNTY per Section 7(e) herein.

(e) LESSEE, or its contract operator, shall provide a maintenance assurance, clean up/restoration bond (or other acceptable assurance approved by COUNTY'S counsel) in the amount of \$50,000 which sum shall be available to COUNTY to provide maintenance assurance, clean up or environmental remediation to the leased or adjoining parcels in the event LESSEE activities cause

improvements in place. COUNTY shall not be required to furnish any services or facilities or to make any repairs or alterations of any kind in or on the Premises. COUNTY's election to perform any obligation of LESSEE under this provision or LESSEE's failure or refusal to do so shall not constitute a waiver of any right or remedy for LESSEE's default, and LESSEE shall promptly reimburse, defend and indemnify COUNTY against all liability, loss, cost and expense arising from such election.

(d) In determining whether LESSEE has acted promptly as required under the foregoing section, one of the criteria to be considered is the availability of any applicable insurance proceeds.

(e) LESSEE waives the provisions of California Civil Code Sections 1941 and 1942 with respect to COUNTY's obligations for leasability of the Premises and LESSEE's right to make repairs and deduct the expenses of such repairs from Lease payments. LESSEE also waives the right to deduct the expenses from the required disposal fees due COUNTY.

10. Destruction.

(a) **Lease to govern LESSEE's Rights.** LESSEE waives the provisions of Civil Code Sections 1932(2) and 1933(4) with respect to any destruction of the Premises, and agrees that LESSEE's rights in case of destruction shall be governed solely by the provisions of this Lease.

(b) **Restoration by LESSEE.** In addition to the requirements of Section 7 (e), LESSEE shall promptly and diligently repair, paint, restore and replace as required to maintain the Premises in first class condition and repair, or to remedy all damage to or destruction of all or any part of the improvements from any cause whatsoever required to be insured against pursuant to this Lease. The completed work of maintenance, compliance, repair, restoration or replacement shall be equal in value, quality and use to the condition of the improvements before the event giving rise to the work, except as expressly provided to the contrary in this Lease. COUNTY shall not be required to furnish any services or facilities or to make any repairs or alterations of any kind in or on the Premises. COUNTY's election to perform any obligation of LESSEE under this provision or LESSEE's failure or refusal to do so shall not constitute a waiver of any right or remedy for LESSEE's default, and LESSEE shall promptly reimburse, defend and indemnify COUNTY against all liability, loss, cost and expense arising from it. Any casualty or destruction shall not terminate this Lease. In reconstructing the improvements, LESSEE shall comply with (a) the Conditions of Major Construction set forth in Exhibit D and (b) the provisions of Section 7.

11. Utilities. LESSEE shall pay any applicable connection charges and pay for all utility services, including, but not limited to, telephone, electric, water, gas, and sewer services as may be required in the maintenance, operation and use of the leased premises.

12. Inspection of Premises. COUNTY, through its duly authorized agents, shall have, at any reasonable time, the right to enter the leased premises for the purpose of inspecting, monitoring and evaluating the obligations of LESSEE hereunder and for the purpose of doing any and all things which it is obligated and has a right to do under this Lease.

13. Quiet Enjoyment. LESSEE shall have, hold and quietly enjoy the use of the leased premises so long as it shall fully and faithfully perform the terms and conditions that it is required to do under this Lease.

(b) Remedies.

(1) Cumulative Nature Of Remedies. If any default by LESSEE shall continue uncured, following written notice thereof to LESSEE from COUNTY as required by this Lease, for the period, if any, applicable to the default under the applicable provision of this Lease, COUNTY shall have the remedies described in this subsection (b) in addition to all other rights and remedies provided by law or equity, to which COUNTY may resort cumulatively or in the alternative.

(2) Termination. COUNTY may at COUNTY's election following determination of default terminate this Lease by giving LESSEE notice of termination. In the event COUNTY terminates this Lease, COUNTY may recover possession of the Premises (which LESSEE shall surrender and vacate upon demand) and remove all persons and unattached property therefrom, and COUNTY shall be entitled to recover any other additional remedies COUNTY may have at law or in equity and LESSEE shall promptly cooperate with COUNTY, performing any necessary administrative acts to transfer the California Integrated Waste Management Board (CIWMB) operating permit, and any other operations related permits, to COUNTY.

(3) Continuation of the Lease. Even though LESSEE has breached this Lease and abandoned the Premises, at COUNTY's option this Lease shall continue in effect for so long as COUNTY does not terminate LESSEE's right to possession, and COUNTY may enforce all of its rights and remedies hereunder, including the right to recover rent as it comes due under this Lease, and in such event COUNTY will permit LESSEE to sublet the Premises or to assign its interest in the Lease, or both, with the consent of COUNTY, which consent will not unreasonably be withheld provided the proposed assignee or subLESSEE is satisfactory to COUNTY as to credit and experience and ability to perform the obligations of LESSEE, and will occupy the Premises for the same purposes specified herein. For purposes of this subsection, the following shall not constitute a termination of LESSEE's right to possession: (i) acts of maintenance or preservation or efforts to relet the Premises; or (ii) the appointment of a receiver under the initiative of COUNTY to protect COUNTY's interest under this Lease.

(4) Use of LESSEE's Personal Property. COUNTY may for a period not more than one year at COUNTY's election use LESSEE's personal property located on, about or appurtenant to the Premises or any of such property and fixtures without compensation and without liability for use or damage, or store them for the account and at the cost of LESSEE. The election of one remedy for any one item shall not foreclose an election of any other remedy for another item or for the same item at a later time.

(5) Assignment of Subrents. LESSEE assigns to COUNTY all subrents and other sums falling due from sublessee, licensees, and concessionaires (herein called sublessee) during any period in which LESSEE is in default, and LESSEE shall not have any right to such sums during that period. This assignment is subject and subordinate to any and all assignments of the same subrents and other sums to the lender under the first leasehold encumbrance. COUNTY may at COUNTY's election reenter the Premises with or without process of law, without terminating this Lease, and either or both collect these sums or bring action for the recovery of the sums directly from such obligors. COUNTY shall receive and collect all subrents and proceeds from reletting, applying them: first, to the payment of reasonable expenses (including attorneys' fees or brokers' commissions or both) paid or incurred by or on behalf of COUNTY in recovering possession, placing the Premises in good condition, and preparing or altering the Premises for reletting; second, to the reasonable expense of securing new sublessee; third, to the fulfillment of LESSEE's covenants to the end of the

of LESSEE or its successor-in-interest, LESSEE or its successor-in-interest shall provide notice thereof to the COUNTY within 7 days of such indictment, complaint or allegation. Such notice shall contain a description of the indictment, complaint or allegation, as well as a copy of such indictment or complaint or other matters of public record related thereto. In addition to the foregoing, LESSEE or its successor-in-interest shall provide the COUNTY with copies of any reports required to be prepared by LESSEE or its successor-in-interest pursuant to federal securities laws, including quarterly and annual reports.

(b) In the event any employee for LESSEE or official of the operations contractor or their successor-in-interests or any environment or design professional hired by LESSEE or the operations contractor or their successor-in-interests, who has direct responsibility for any phase of the development or operations at the compost and wood chip facility, including but not by way of limitation, any similar personnel for LESSEE or an operations contractor or their successor-in-interests having a responsibility for transferring or delivering green and/or wood waste to the facility or market, is convicted, indicted by a Grand Jury, or named as a defendant in a felony complaint filed in the Superior Court or a complaint filed in Federal Court associated with conduct of doing business for LESSEE or an operations contractor or their successor-in-interests, this person shall upon written request from the COUNTY be immediately removed from any assignment whatsoever, directly associated with the development or operation of the compost and wood chip facility during the pendency of trial and/or following conviction.

(c) In the event any employee of LESSEE or director or official of an operations contractor is ever convicted of a felony associated with the solid waste management and/or the green and wood waste processing business, said employee, director or official will be immediately terminated from such position.

17. Insurance and Indemnity.

(a) Insurance.

LESSEE shall obtain, and keep in force for the term of this Lease Agreement the following insurance policies which cover any acts or omissions of LESSEE, or its employees, contractors, and agents engaged in the provision of service specified in the Lease Agreement:

- (1) Worker's Compensation coverage in accordance with the statutory requirements of the State of California.
- (2) LESSEE shall obtain and maintain in full force and effect throughout the entire Term of this Lease Agreement a Broad Form Comprehensive General Liability (occurrence) Policy with a minimum limit of three million dollars (\$3,000,000.00) aggregate and two million dollars (\$2,000,000) per occurrence for bodily injury and property damage. Said insurance shall protect LESSEE, COUNTY, and the Riverside County Waste Resources Management District (District), and their elected or appointed officials, employees, and agents, from any claim for damages for bodily injury, including accidental death, as well as from any claim for property damage which may arise from operation of the Premises and vehicles while on the Premises or a COUNTY landfill site, whether such operations be by LESSEE itself, or by its agents and/or employees. Copies of the policies or

18. Assignment, Subletting and Encumbering.

(a) Except as provided in Section 18 (b) (c) and (d) hereof to the contrary, LESSEE shall not voluntarily assign or encumber its interest in this Lease, in the Land, or in the Premises, or sublease substantially all or any part of the Land or the Premises, or allow any other person or entity (except LESSEE's authorized representatives) to occupy or use all or any part of the Premises. For the purposes hereof, an "encumbrance" shall mean mortgage, deed of trust, land sale contract, lease or other financing device. Assignment, subleasing or encumbering the Premises is absolutely prohibited. Any attempted assignment, encumbrance, or sublease shall be voidable and, at COUNTY's election, shall constitute a default hereunder. No consent to any assignment, encumbrance, or sublease shall constitute a further waiver of the provisions of this section.

(b) LESSEE shall have the right to sublet the Premises or any portion thereof, for occupancy leases with COUNTY's prior written consent, which consent shall not unreasonably be withheld.

(1) Each sublease shall contain a provision, satisfactory to COUNTY and to each lender having an interest at the time the sublease is executed, requiring the subLESSEE to attorn to COUNTY, or, in the event of any proceeding to foreclose any leasehold encumbrance, to the lender, or any person designated in a notice from such lender, if LESSEE defaults under this Lease and if the sublessee is notified by COUNTY or the lender of LESSEE's default and is instructed to make such sublessee's rental payments to COUNTY or the lender or designated person.

(2) LESSEE shall, promptly after execution of each sublease, notify COUNTY of the name and mailing address of the sublessee and shall, on demand, permit COUNTY to examine and copy the sublease.

(3) All subleases shall be "triple net" leases, with the rent payable thereunder to be net of all operating costs, maintenance, taxes, insurance, and utilities (unless LESSEE has received COUNTY's prior written consent to different terms).

(4) Notwithstanding any other provision contained in this Lease, COUNTY shall consent to a sublease between LESSEE and an operator selected by LESSEE to construct and operate the Facility required under this Lease. Such an operator can include any person, entity, or joint powers authority between two or more public entities.

(c) **Allowable Assignment.** Prior to completion of all improvements constituting the Project and after COUNTY's issuance of a Certificate of Completion therefor, LESSEE shall not assign this Lease to any person or entity without COUNTY's consent, which consent may be given or withheld in COUNTY's sole and absolute discretion.

(d) **Encumbrance or Assignment as Security.** Notwithstanding any other provision contained in this Lease, LESSEE shall have the right to encumber or assign its interest in this Lease by means of a leasehold encumbrance to any lender or COUNTY for the purpose of financing the construction of the improvements and for the purpose of providing a construction or take-out loan (in a principal amount not to exceed the actual total cost of constructing the improvements), subject to the following limitations:

granting of any and all approvals required in connection therewith.

(10) Without the consent of COUNTY, which consent shall not be unreasonably denied or delayed, LESSEE shall not enter into any such financing utilizing the leasehold estate as collateral: (i) which is of a priority lower than third priority, or (ii) in which the lender is not an institutional lender.

19. **Toxic Materials.** During the Term of this Lease and any extensions thereof, LESSEE shall not violate any federal, state or local law, or ordinance or regulation, relating to industrial hygiene or to the environmental condition on, under or about the leased premises including, but not limited to, soil and groundwater conditions. Further, LESSEE, its successors, assigns and sublessee, shall not use, generate, manufacture, produce, store or dispose of on, under or about the leased premises or transport to or from the leased premises any flammable explosives, asbestos, radioactive materials, hazardous wastes, toxic substances or related injurious materials, whether injurious by themselves or in combination with other materials (collectively, "hazardous materials"). For the purpose of this Lease, hazardous materials shall include, but not be limited to, substances defined as "hazardous substances," "hazardous materials," or "toxic substances" in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Section 9601, et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq.; and those substances defined as "hazardous wastes" in Section 25117 of the California Health and Safety Code or as "hazardous substances" in Section 25316 of the California Health and Safety Code; and in the regulations adopted in publications promulgated pursuant to said laws. Notwithstanding the foregoing, LESSEE shall not be responsible for any hazardous materials relating to or released as a result of the operations of the household hazardous waste facility if COUNTY is the operator of it.

20. **Free from Liens.** LESSEE shall pay, when due, all sums of money that may become due for any labor, services, material, supplies, or equipment, alleged to have been furnished or to be furnished to LESSEE, in, upon, or about the leased premises, and which may be secured by a mechanics', materialmen's or other lien against the leased premises or COUNTY's interest therein, and will cause each such lien to be fully discharged and released at the time the performance of any obligation secured by such lien matures or becomes due; provided, however, that if LESSEE desires to contest any such lien, it may do so, but notwithstanding any such contest, if such lien shall be reduced to final judgement, and such judgement or such process as may be issued for the enforcement thereof is not promptly stayed, or if so stayed, and said stay thereafter expires, then and in such event, LESSEE shall forthwith pay and discharge said judgement.

21. **Employees and Agents of LESSEE.** It is understood and agreed that all persons hired or engaged by LESSEE shall be considered to be employees or agents of LESSEE and not of COUNTY.

22. **Binding on Successors.** LESSEE, its assigns and successors in interest, shall be bound by all the terms and conditions contained in this Lease, and all of the parties thereto shall be jointly and severally liable hereunder.

23. **Severability.** The invalidity of any provision in this Lease as determined by a court of competent jurisdiction shall in no way affect the validity of any other provision hereof.

24. **Mediation.** LESSEE and COUNTY agree to mediate any controversy or dispute between them involving the construction or the enforcement of any of the terms, provisions or

28. Estoppel Certificates.

(a) In the event of a proposed sale or refinancing of the Premises or any part thereof, at any time and from time to time, within twenty (20) days after notice of request by either party, the other party shall execute, acknowledge, and deliver to the requesting party, or to such other recipient as the notice shall direct, a statement certifying that this Lease is unmodified and in full force and effect; or, if there have been modifications, that it is in full force and effect as modified in the manner specified in the statement and acknowledging that there are no uncured defaults or failures to perform any covenant or Provision of this Lease on the part of the requesting party or specifying any such defaults or failures which are claimed to exist. The statement shall also state the dates to which the Rent and any other charges have been paid in advance. The statement shall be such that it can be relied on by any auditor, creditor, commercial banker, and investment banker of either party and by any prospective purchaser or the lender of the Premises or all or any part or parts of LESSEE's or COUNTY's interests under this Lease.

(b) Either party's failure to execute, acknowledge, and deliver, on request, the certified statement described above within the specified time shall constitute acknowledgment by such party to all persons entitled to rely on the statement that this Lease is unmodified and in full force and effect and that the rent and other charges have been duly and fully paid to and including the respective due dates immediately preceding the date of the notice of request and shall constitute a waiver, with respect to all persons entitled to rely on the statement, of any defaults on the requesting party's part that may exist before the date of the notice.

29. Surrender of Premises. At the expiration or earlier termination of the Term, LESSEE shall surrender to COUNTY the possession of the Premises. Surrender or removal of improvements shall be as directed in the provisions of this Lease on ownership of improvements at expiration or termination. LESSEE shall leave the surrendered property and any other property in good and broom clean condition. All property that LESSEE is not required to surrender but that LESSEE does abandon shall, at COUNTY's election, become COUNTY's property at expiration or the sooner termination of this Lease.

30. No Discrimination.

LESSEE shall not discriminate in its recruiting, hiring, promotion, demotion or termination practices on the basis of race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status or sex in the performance of this contract and, to the extent they shall be found to be applicable hereto, shall comply with the provisions of the California Fair Employment Practices Act (commencing with Section 1410 of the Labor Code), and the Federal Civil Rights Act of 1964 (P.L. 88-352).

31. Miscellaneous.

(a) **Governing Law.** This Lease shall be construed and interpreted in accordance with the laws of the State of California.

(b) **Covenants and Conditions.** All provisions, whether covenants or conditions, on the part of LESSEE shall be deemed to be both covenants and conditions.

(c) **Transfer of COUNTY's Interest.** COUNTY shall not transfer its interest in the premises except upon the assumption by the transferee of all obligations and liabilities relating to

of any leasehold or fee lender, and sufficient to give constructive notice of this Lease to subsequent purchasers and lenders.

(k) Execution in Counterparts. This Lease, or the memorandum of this Lease, or both, may be executed in two or more counterparts, each of which shall be an original, but all of which shall constitute one and the same instrument.

32. Permits, Licenses and Taxes. LESSEE shall secure, at its expense, all necessary permits and licenses as it may be required to obtain, and LESSEE shall pay for all fees and taxes levied or required by any authorized public entity. LESSEE recognizes and understands that this Lease may create a possessory interest subject to property taxation and that LESSEE may be subject to the payment of property taxes levied on such interest.

33. Paragraph Headings. The paragraph headings herein are for the convenience of the parties only, and shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions or language of this Lease.

34. COUNTY's Representative. COUNTY hereby appoints the General Manager-Chief Engineer of the COUNTY Waste Management Department as its authorized representative to administer this Lease.

35. COUNTY Periodic Access and Joint Use. It is expressly understood that COUNTY personnel and/or its contractors and agents will from time to time enter and cross the premises for purposes of access, construction and maintenance of the closed landfill and use of remaining COUNTY property. LESSEE agrees that it (and its authorized operator) will cooperate with all such agents, allowing ingress and egress, as needed to accommodate these activities, and allow short term equipment and material storage in the leased premises as may be mutually agreed upon which does not unreasonably interfere with LESSEE's activities. Routine periodic access for inspection and maintenance of the closed landfill, operation of the gas extraction system, and for air and ground water monitoring are anticipated without special coordination, providing however, during the compost and wood chip facility operating hours, COUNTY personnel will report in at the fee booth, to identify themselves and state their intended activity. Access for contracting agents doing construction activities for the COUNTY or lessees of some of the remaining COUNTY property will be granted following coordination meetings whereby specific uses and activities will be described and agreed to between the parties affected, prior to beginning. LESSEE shall not deny reasonably required access or short term joint uses.

LESSEE and COUNTY agree that nothing herein precludes COUNTY from entering into lease agreements with other vendors for COUNTY land that is outside the boundaries of the Premises. Except as provided for in the existing Master Lease with the Coachella/Indio Waste Transfer Authority, COUNTY shall not lease any portion or allow any other portion of the landfill property to be subleased to a green waste processing or composting operation. Green waste is defined in Title 14 of the Public Resources Code.

36. Entire Lease. This Lease is intended by the parties hereto as a final expression of their understanding with respect to the subject matter hereof and as a complete and exclusive statement of the terms and conditions thereof and supersedes any and all prior and contemporaneous leases, agreements and understandings, oral or written, in connection therewith. This Lease may be changed or modified only upon the written consent of the parties hereto.

IN WITNESS WHEREOF, this Agreement has been executed and is effective on the date the Board of Directors takes action on it.

RIVERSIDE COUNTY WASTE
MANAGEMENT DEPARTMENT

AGRI SERVICE, INC

Dated: 11-16-09

Dated: November 17, 2009

RECOMMENDED FOR APPROVAL

By: [Signature]
Hans Kernkamp
General Manager-Chief Engineer
RIVERSIDE COUNTY WASTE
MANAGEMENT DEPARTMENT

By: [Signature]
Title: President

By: [Signature]
Chairman, Board of Supervisors
JEFF STONE

ATTESTED:

By: [Signature]

APPROVED:

By: [Signature]
Neal Kipnis, Deputy County Counsel

EXHIBIT A

LEGAL DESCRIPTION

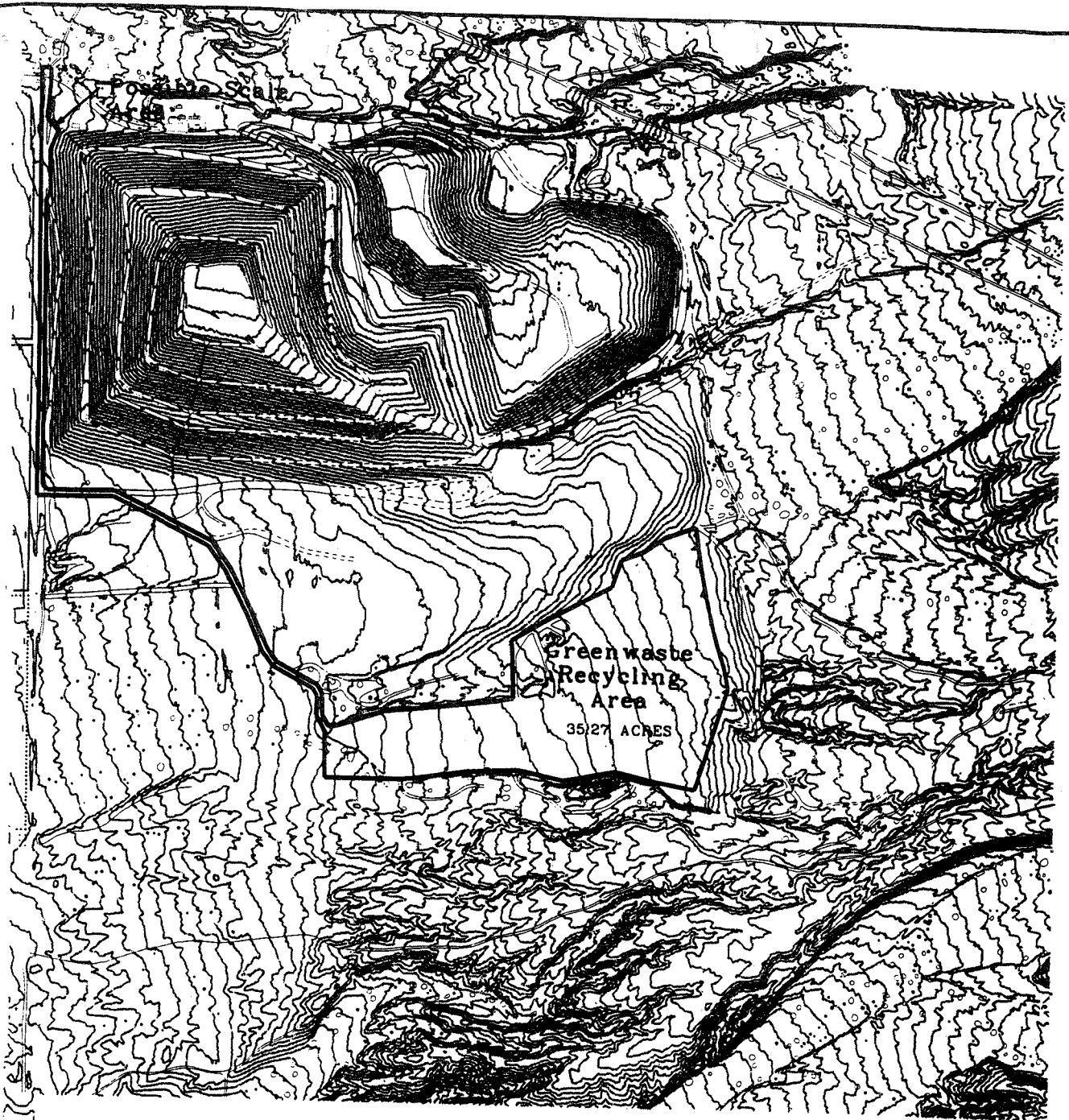
GREEN WASTE FACILITY AREA WITHIN COUNTY OF RIVERSIDE PROPERTY

That certain parcel of land situated in the unincorporated territory of the County of Riverside, State of California, being that portion of Section 22, Township 5 South, Range 8 East, San Bernardino Base and Meridian according to the official plat thereof described as follows:

BEGINNING at the Northwesterly corner of said section 22;

thence South 89-53-07 East 50.0001 feet,
thence South 00-02-49 East 73.3500 feet,
thence South 06-01-04 West 189.3434 feet,
thence South 45-54-35 East 88.1873 feet,
thence South 24-07-38 West 109.5502 feet,
thence South 00-52-52 East 110.5331 feet,
thence South 00-53-11 East 110.5432 feet,
thence South 30-02-33 West 43.2044 feet,
thence South 00-02-49 East 1468.5705 feet,
thence South 45-03-26 East 35.3624 feet,
thence North 89-57-15 East 349.1901 feet,
thence South 64-03-06 East 570.5926 feet,
thence South 35-43-01 East 166.0896 feet,
thence South 26-52-31 East 260.1032 feet,
thence South 23-16-53 East 200.8872 feet,
thence South 36-24-03 East 81.1047 feet,
thence South 61-40-47 East 238.9958 feet,

thence South 15-36-11 East 104.3973 feet,
thence South 18-10-28 East 98.0411 feet,
thence South 11-11-17 East 47.0543 feet,
thence South 11-11-48 East 65.4558 feet,
thence South 18-04-06 West 556.3130 feet,
thence North 79-08-09 West 222.3554 feet,
thence North 76-33-34 West 196.9132 feet,
thence South 78-54-14 West 272.3209 feet,
thence North 78-09-24 West 242.5022 feet,
thence South 87-05-14 West 14.1683 feet,
thence South 87-03-31 West 243.4107 feet,
thence South 81-10-27 West 259.9884 feet,
thence South 81-10-29 West 77.1737 feet,
thence South 90-00-00 West 398.1300 feet,
thence North 00-00-00 East 239.0600 feet,
thence North 28-43-30 West 89.8241 feet,
thence North 00-00-00 East 103.1200 feet,
thence North 28-24-10 West 42.9501 feet,
thence North 61-40-53 West 236.7539 feet,
thence North 36-24-24 West 91.2870 feet,
thence North 23-16-40 West 203.3965 feet,
thence North 26-52-35 West 256.8430 feet,
thence North 35-42-47 West 156.2038 feet,
thence North 64-03-09 West 556.0977 feet,



**Waste Management Department Land to be Leased to
Salado Creek Enterprises, LLC**

for Development of a Greenwaste Recycling Area

Land to be Leased to Salado Creek Enterprises, LLC

(35.27 ACRES)

The County (or its designated agent) reserves the right of access for ingress and egress at all times across the leased property for maintenance of it's landfill and any other purpose it chooses for use of it's remaining property.



Section 22 T.5S. R.8E. Exhibit A-1



**Riverside County
Waste Management Department**

Coachella Sanitary Landfill

Greenwaste Lease Area

sites/coach/99co/spec/greenwaste/co9911_greenwaste

Date: November 5, 1999

Scale: 1"=800'

Exhibit B

Facility Description

1. The compost and wood chip facility will have a design capacity of 75,000 tons per year. Up to 10,000 tons per year of food waste may be used as a feedstock material, in addition to green and wood waste material, but together not to exceed a combined volume of 75,000 tons per year.

Liquid Grease –trap waste may supplement processed water usage, up to 12,500 gallons per day.
2. The facility will have a fee booth, office and a seventy foot electronically operated scale.
3. The facility shall have a hazardous waste load check program.
4. The facility shall have a tonnage tracking system that will determine on a daily basis the amount and origin of generation for the green and wood waste delivered to the Facility.
5. A liner with permeability resistance equal to or greater than the liner concept shown on Exhibit "B-II", shall be installed beneath any part of the site proposed for active compost activities where application of water on a frequent basis is required to promote the microbial action.
6. Features and uses to support the primary functions of the Facility as generally described in Section 2, including but not limited to fuel facilities, spare parts storage, office facilities and maintenance facilities and all incidental storage and support facilities are permitted under the Base Lease rate described in Section 5.

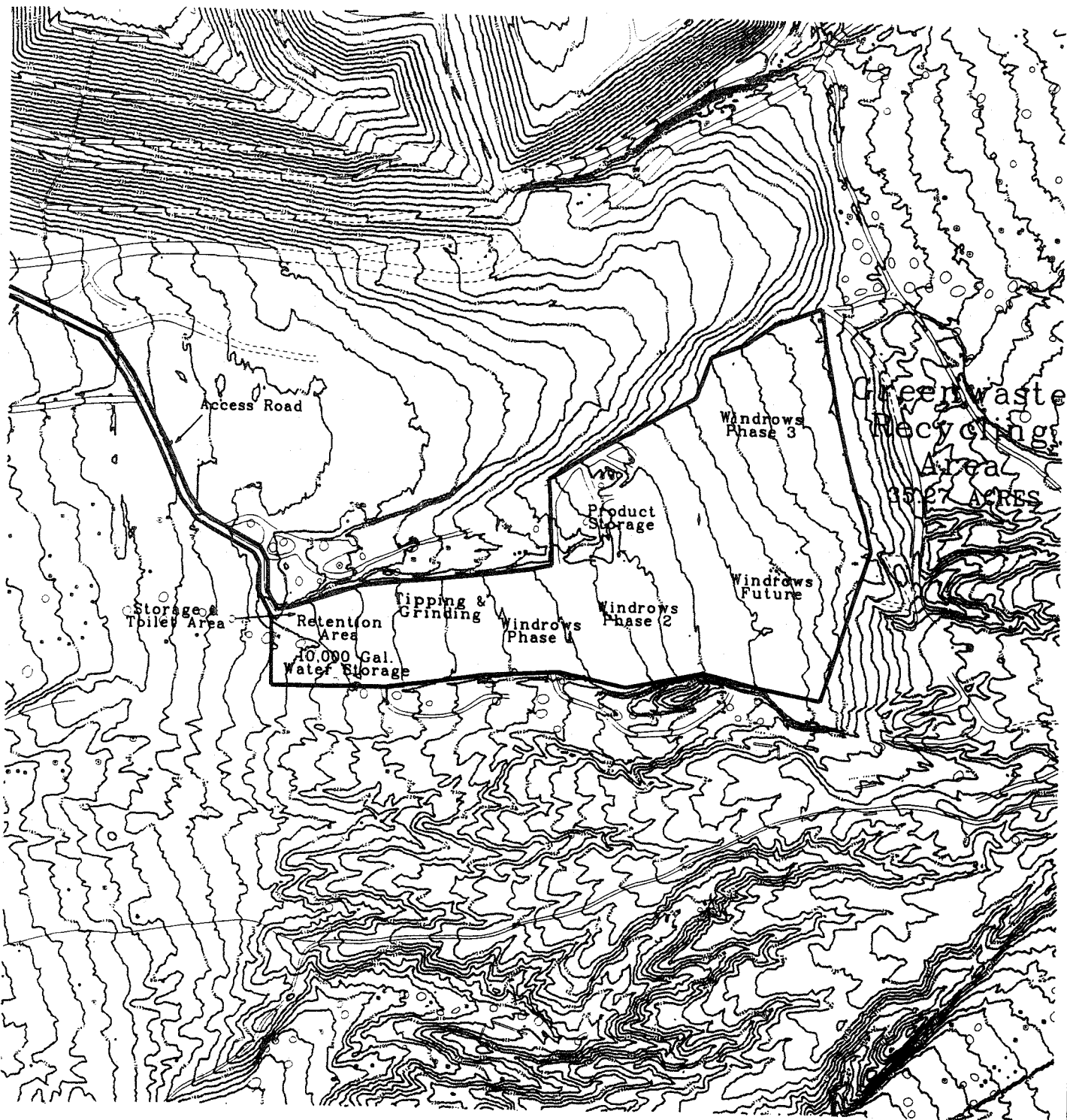


Exhibit B-1



Riverside County
Waste Management Department

Coachella Sanitary Landfill
Greenwaste Site Map

sites/coach/99co/spec/greenwaste/co9911_greenwaste.sm.dgn	Date: November 5, 1999
Photo Date : Sep. 1999	Scale : 1"=500'

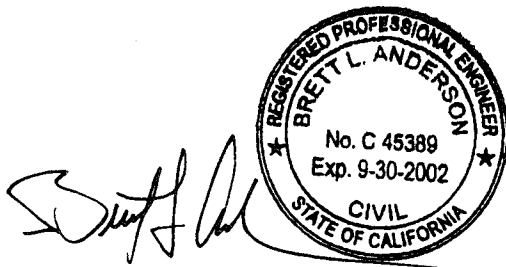
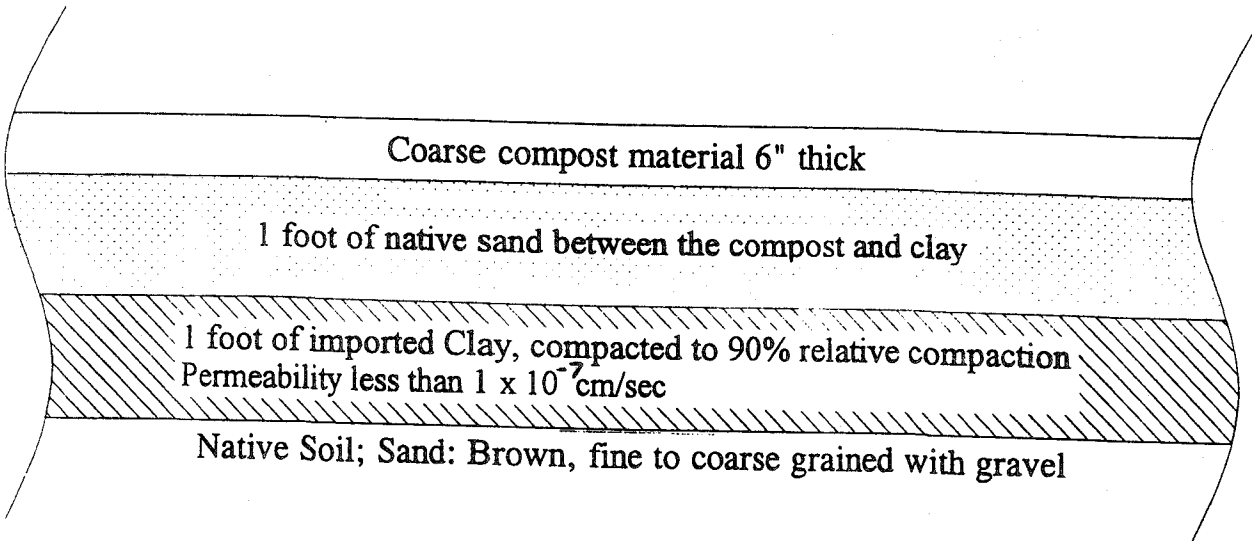


Exhibit B-II

Profile of Clay Liner	
County Greenwaste Site Dump Riverside County, California	
Sladden Engineering	
DATE: 12-6-99	JOB NO.: 544-9195

Exhibit C

Specification: Mulch for Erosion Control

Unless otherwise specified, mulch shall consist of at least 99.9 percent by weight of urban green waste material consisting of chipped, shredded, or ground woody landscape material, clean processed recycled wood products, tree bark, or any combination thereof. The mulch shall not contain more than two percent grass by weight.

The particle size of the mulch shall be between $\frac{1}{2}$ and three inches in length and not less than $\frac{1}{2}$ inch in width and $\frac{1}{8}$ inch in thickness. At least 85 percent, by volume, of the mulch shall conform to the sizes specified. No particle shall exceed five inches in size, in any dimension.

The mulch shall be free of deleterious materials such as clods, coarse objects, and rocks. The moisture content of the mulch shall not be excessive as determined by the County.

The mulch shall not contain paint or petroleum products; or excessive or unhealthy levels of herbicides or fungicides, as determined by the County.

The County may perform or cause to be performed, random or selected testing for contaminants at the County's sole discretion, for protection of the health and safety of personnel or the environment.

A Certificate of Compliance for mulch shall be furnished to the County when requested. This certificate shall ensure conformance to the specification herein.

As an option to this specification, the County may elect to accept ground palm tree material at its discretion.

EXHIBIT D

CONDITIONS OF CONSTRUCTION

Before any work of construction, alteration or repair is commenced on the Land or the Premises, and before any building materials have been delivered to the Land or the Premises by LESSEE or under LESSEE's authority, LESSEE shall comply with all the following conditions or procure COUNTY's written waiver of the condition or conditions:

1. LESSEE shall prepare final working plans and specifications substantially conforming to preliminary plans previously reviewed by COUNTY, and shall submit them concurrently to COUNTY and to the appropriate governmental agencies for approval. Changes from the preliminary plans shall be considered to be within the scope of the preliminary plans (a) if they are not substantial or if they are made to comply with suggestions, requests or requirements of a governmental agency or official in connection with the application for permit or approval, and (b) if they do not depart substantially in size, utility, or value from the improvements described in the plans and specifications heretofore submitted by LESSEE to COUNTY.

The construction plans and specifications shall be prepared by an architect or engineer licensed to practice in California, including but not limited to preliminary grading and drainage plans, soil tests, utilities, sewer and service connections, locations of ingress and egress to and from public thoroughfares, curbs, gutters, parkways, street lighting, designs and locations for outdoor signs, storage areas, architecture and landscaping, all sufficient to enable potential contractors and subcontractors to make reasonably accurate bid estimates. All improvements shall be constructed within the exterior property lines of the Premises; provided that required work beyond the Premises on utilities, access, and conditional use requirements do not violate this Provision. With the plans, LESSEE shall deliver to COUNTY the certificate of the Person who prepared the plans and specifications certifying that LESSEE has fully paid for them or waiving payment and waiving any right to a Lien for preparing them and permitting COUNTY to use the plans without payment for purposes relevant to and consistent with this Lease.

COUNTY shall coordinate with the appropriate governmental agencies throughout the approval process, and shall supply any input deemed necessary by the COUNTY through such governmental agencies. LESSEE shall ensure that COUNTY receives concurrent copies of all correspondence, documents and drawings ("Papers") submitted by LESSEE to the various governmental agencies, and shall promptly deliver to COUNTY copies of all Papers received by LESSEE from such governmental agencies. COUNTY acknowledges that final approval of the plans and specifications by the appropriate governmental agencies shall constitute its approval, as well. LESSEE shall deliver to COUNTY one complete set of Plans and Specifications as approved by the governmental agencies.

2. Notify COUNTY of LESSEE's intention to commence a work of improvement at least twenty (20) days before commencement of any such work or delivery of any materials in connection therewith. The notice shall specify the approximate location and nature of the intended improvements. COUNTY shall have the right to post and maintain on the Premises any notices of nonresponsibility provided for under applicable law, and to inspect the Land and the Premises in relation to the construction at all reasonable times.

3. Furnish COUNTY with a true copy of LESSEE's contract with the general contractor and with evidence of the general contractor's financial condition for COUNTY's approval. The

LESSEE is an independent contractor and not the agent of COUNTY. COUNTY shall not have any responsibility for payment to any contractor or supplier of LESSEE. Notwithstanding the foregoing, LESSEE understands that it may be subject to certain public contract requirements as provided by law, and to the extent that LESSEE is subject to such requirements, LESSEE shall comply with all such requirements.

Exhibit E
Infrastructure Elements

Permanent Improvements – Total Cost (As agreed upon during the first lease between County and Lessee)

<u>Leasehold Improvement</u>	<u>Cost</u>
Road	\$16,988.40
Liner Grading	\$92,828.82
Liner	\$136,719.78
Water Line (above tee)	\$127,015.14
Water Line (shared with Burrtec)	<u>\$118,004.50</u>
Total	<u>\$491,556.64</u>

Unattached furnishings, rolling stock and other detachable processing and handling equipment

*Grinder

*Scale

*Office

*Loader

*Water Trucks

*Fuel Tank