

**HARDIN COUNTY FISCAL COURT  
RESOLUTION NO. 2022-208**

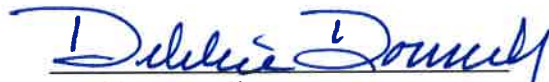
**BE IT RESOLVED**, upon recommendation of Judge/Executive Harry L. Berry, to approve the First Amendment to the Sanitary Landfill Franchise Agreement between Hardin County Fiscal Court and Santek Environmental of Kentucky, LLC.

**BE IT FURTHER RESOLVED**, to authorize the County Judge/Executive to sign all documents concerning the First Amendment to the Sanitary Landfill Franchise Agreement.

**ADOPTED**, by the Hardin County Fiscal Court in its regular meeting on 11 October 2022.

  
\_\_\_\_\_  
Harry L. Berry  
Hardin County Judge/Executive

ATTEST:

  
\_\_\_\_\_  
Debbie Donnelly  
Hardin County Clerk

**FIRST AMENDMENT TO  
SANITARY LANDFILL FRANCHISE AGREEMENT**

**THIS FIRST AMENDMENT TO SANITARY LANDFILL FRANCHISE AGREEMENT** (the "**First Amendment**") is effective as of October 11, 2022 (the "**First Amendment Effective Date**") by and between **HARDIN COUNTY FISCAL COURT, KENTUCKY** (the "**County**"), a governmental entity created under the laws of the Commonwealth of Kentucky and the entity having legal jurisdiction over the ownership and management of the Municipal solid waste facility known as the Hardin County Landfill, also known as Pearl Hollow Landfill, and **SANTEK ENVIRONMENTAL OF KENTUCKY, LLC**, a limited liability corporation organized under the laws of the Commonwealth of Kentucky ("**Contractor**"), and authorized and licensed to do business in the Commonwealth of Kentucky (collectively, the "**Parties**").

**WITNESSETH**

**WHEREAS**, the County and Contractor are parties to that certain Sanitary Landfill Franchise Agreement dated July 1, 2019 (the "**Original Agreement**");

**WHEREAS**, the Parties desire to amend the Original Agreement as set forth herein; and

**NOW, THEREFORE**, in consideration of the mutual covenants and promises of the Parties, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **Recitals**. The recitals set forth above are true and correct and are hereby incorporated herein by reference. Any capitalized terms used herein but not defined have the same meaning as that ascribed to them in the Original Agreement.

2. **Section 5.2, Hours of Operation**. Effective only as of and following the First Amendment Effective Date, delete **Section 5.2(a)** and **(b)** in their entirety and replace those subsections with the following:

- (a) Waste haulers and the public shall only deliver Solid Waste at the Landfill according to the days and hours set forth by law and in all relevant permits. Subject to the foregoing, the Landfill will be open for business, at a minimum, Monday through Friday from 6:00 a.m. to 5:00 p.m., Eastern Time.
- (b) The Landfill shall be open at least one Saturday each month from 7:00 a.m. to 2:00 p.m. Eastern Time. The Contractor shall open on any Saturday that the County designates as a "Free Dump Day" for Hardin County residents.

3. **Section 5.8, Use of Landfill and Facility Accessibility**. Effective only as of and following the First Amendment Effective Date, delete **Section 5.8(a)** and replace this subsection with the following:

- (a) The County hereby grants to the Contractor the exclusive right of control of the Landfill and all improvements thereon for all land lying west of the blue line stream as depicted in **Exhibit A** for the purposes of controlling access to and providing security for the Landfill. The Contractor may utilize, at no charge, the natural resources of the Landfill property for all land lying west of the blue line stream as depicted in **Exhibit A** including all available soils located on the property, in order to perform its obligations hereunder. This includes the maintenance of all equipment and the use of soils for any operational use, such as for roads, berms, cover and construction. The only exception is that the County shall retain the right to market and harvest the timber, as depicted in **Exhibit A**, and receive the proceeds therefrom. All permanent real property improvements to the Landfill made by the Contractor

during the term of this Agreement shall remain on the property and become the property of the County after the Term of this Agreement.

4. **Section 10.2(c), Tipping Fees and Other Charges.** Effective only as of and following the First Amendment Effective Date, the fourth paragraph of Section 10.2(c), which currently reads as follows:

Subject to a maximum rate of \$40.00 per ton during the Term, which maximum can only be raised by mutual agreement of both parties, Hardin County Generated Solid Waste may be adjusted by Contractor as of the first day of the first calendar month following the anniversary of the Commencement Date (the "Adjustment Month"), to reflect increases, if any, during the previous twelve month period ending in calendar month immediately preceding the Adjustment Month, in the Consumer Price Index for All Urban Consumers: Water and sewer and trash collection services, as issued by the Bureau of Labor Statistics of the United States Department of Labor (the "Price Index"). In the event that Hardin County Generated Solid Waste rate is adjusted per this paragraph, such adjusted rate for Hardin County Generated Solid Waste shall be established for the next twelve (12) months, based on the result of multiplying the then current rate for Hardin County Generated Solid Waste by a fraction, the numerator of which shall be the Price Index ending in such month, and the denominator of which shall be the Price Index ending in its counterpart the preceding year:

is hereby amended to read:

- (1) For all Hardin County Generated Solid Waste, subject to a maximum rate of \$40.00 per ton during the Term (such maximum rate shall be determined less any and all governmental fees, taxes, charges and any state remediation fees), which maximum can only be raised by mutual agreement of both parties, Hardin County Generated Solid Waste may be adjusted by Contractor each calendar year effective as of April 1<sup>st</sup>, to reflect increases, if any, during the previous calendar year period, in the Consumer Price Index for All Urban Consumers: Water and sewer and trash collection services, as issued by the Bureau of Labor Statistics of the United States Department of Labor (the "Price Index"). In the event that Hardin County Generated Solid Waste rate is adjusted per this paragraph, such adjusted rate for Hardin County Generated Solid Waste shall be established for the next twelve (12) months, based on the result of multiplying the then current rate for Hardin County Generated Solid Waste by a fraction, the numerator of which shall be the Price Index ending in such month, and the denominator of which shall be the Price Index ending in its counterpart the preceding year:

$$\text{current Rate} \times \frac{\text{Price Index for target month, current year}}{\text{Price Index for target month, preceding year}}$$

- (2) For all Process Waste, subject to a maximum rate of \$60.00 per ton during the Term (such maximum rate shall be determined less any and all governmental fees, taxes, charges and any state remediation fees), which maximum can only be raised by mutual agreement of both parties, Process Waste may be adjusted by Contractor as of the first day of the Adjustment Month, to reflect increases, if any, during the previous twelve month period ending in calendar month immediately preceding the Adjustment Month, in the Price Index. In the event that the Process Waste rate is adjusted per this paragraph, such adjusted rate for Process Waste shall be established for the next twelve (12) months, based on

the result of multiplying the then current rate for Process Waste by a fraction, the numerator of which shall be the Price Index ending in such month, and the denominator of which shall be the Price Index ending in its counterpart the preceding year:

$$\text{current Rate} \times \frac{\text{Price Index for target month, current year}}{\text{Price Index for target month, preceding year}}$$

5. **Section 10.4, Host Fees.** Effective only as of and following the First Amendment Effective Date, delete Section 10.4 and replace this section with the following:

**Host Fees.** The Contractor shall pay the County a per ton host fee for all Solid Waste disposed of at the Landfill during the term of this Agreement in which Contractor collected a tipping fee, which host fee shall be in a fixed-per ton amount equal to (a) \$10.66 for each such ton (except for Governmental and Quasi- Governmental Non-Industrial Sludge, which host fees shall be \$4.22) up to 180,000 tons in an Agreement Year, and (b) \$6.99 (except for Governmental and Quasi- Governmental Non-Industrial Sludge, which host fee shall be \$2.76) for each such ton for any and all tons above 180,000 tons in an Agreement Year, provided, that as long as the County maintains valid, effective and enforced Flow Control, the aggregate annual amount of such host fees to be paid to the County for host fees shall not be less than \$1,087,500.00 (150,000 tons multiplied by \$7.25). Host fees shall be paid to the County on or before the 20<sup>th</sup> day of the following month for which they are due, and to the extent that the aggregate amount paid to County each calendar year is less than \$1,087,500.00, then Contractor shall make an additional payment for the deficiency on or before the last day of January of the next year. Notwithstanding the foregoing, anytime that the Hardin County Generated Solid Waste rate is increased by Contractor pursuant to an increase in the Price Index, the Host Fee shall be increased by a proportional amount. For instance, if the Hardin County Generated Solid Waste rate increases 2% over its previous rate due to a Price Index change, the Host Fee shall increase by 2% over its previous amount. Host Fees are not applicable to any waste in which a tipping fee is not charged or collected, and/or Host Fees are netted out prior to payment.

6. **Process Waste.** Effective only as of and following the First Amendment Effective Date, the rate for Process Waste is \$45 per ton, plus any and all governmental fees, taxes, charges and any state remediation fees.

7. **New Exhibit A.** Effective only as of and following the First Amendment Effective Date, the Exhibit A attached hereto is hereby added as Exhibit A to the Original Agreement.

8. **Authority.** Each individual signing this First Amendment expressly represents and warrants that he/she has the right, legal capacity and full authority to execute this First Amendment.

9. **Conflicting Terms.** In the event of a conflict between the terms of this First Amendment and those contained in the Original Agreement, the terms of this First Amendment will control and prevail.

10. **Ratification.** Except as specifically provided in this First Amendment, each and every provision of the Original Agreement, as amended through the date hereof, remains, and is, in all respects, in full force and effect.

11. **Counterparts.** This First Amendment may be executed in any number of counterparts, including facsimile and .pdf, each of which constitutes an original and all of which, collectively, constitute one and the same instrument. The signatures of the Parties need not appear on the same counterpart.

12. **Miscellaneous.** (i) The provisions hereof are binding upon and inure to the benefit of the Parties and their respective successors and assigns; and (ii) this First Amendment and the Original Agreement constitute the entire understanding between the Parties in respect to the subject matter hereof.

*[Signatures on Following Page]*

IN WITNESS WHEREOF, the Parties have executed this First Amendment as of the First Amendment Effective Date.

**HARDIN COUNTY FISCAL COURT, KENTUCKY,**  
a governmental entity created under the laws of  
the Commonwealth of Kentucky

By: 

Print Name: Harry L. Berry

Title: Judge/Executive

**SANTEK ENVIRONMENTAL OF KENTUCKY, LLC,**  
a limited liability corporation organized under the laws of  
the Commonwealth of Kentucky

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

*[Rest of page intentionally left blank]*

Exhibit A

Pearl Hollow Landfill Map

