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VIA EMAIL

Matt Gallen, Chair
Town of Hudson Board of Health
78 Main Street
Hudson, MA 01749
matthew.gallen@gmail.com

**Re: Solid Waste Management Agreement dated Nov. 15, 2021 between the Town of Hudson and B-P Trucking, Inc.
1 Municipal Drive, Hudson, MA**

Dear Chair Gallen:

In your email correspondence sent December 15, 2025, at 9:33 p.m., you assert that Section 2.02(f) of the above-referenced Solid Waste Management Agreement (“SWMA”) creates a contractual obligation for B-P Trucking, Inc. (“B-P”), to “bring all requested improvements that want to be made to the Transfer Station to the Board of Health for approval.” As such, you requested “that the modifications to the Transfer Station be presented to the Board of Health at one of our upcoming meetings (the next being January 13th @ 5:30pm) to begin the discussions to fulfill this contractual obligation.” You further state: “Contractually this approval is required or the expansion cannot take place.”

I am compelled to respond to inform you that whatever contractual obligation is created by Section 2.02(f) of the SWMA applies only after the commencement of commercial operations of the new transfer station facility and is therefore not ripe at the current time. B-P has no obligation under this provision to seek approval from the Board of Health for any improvements or modifications to the current transfer station or to the proposed future transfer station separate and apart from the Board’s proceeding on B-P’s Request for Minor Modification to Site Assignment made pursuant to and governed by 310 CMR 16.22(3).

Section 2.02(f) provides as follows: “During the term of the Lease, the CONTRACTOR [B-P] may at its expense make such improvements as it shall deem necessary or appropriate to enable it, with approval of the TOWN, which approval shall not be unreasonably withheld, to operate the New Transfer Station at the Site or to otherwise perform its obligations as provided herein.”

The key phrase here is “[d]uring the term of the Lease.” At the time of execution of the SWMA, there was no lease agreement between B-P and the Town regarding the proposed new transfer station. Section 2.01 of the SWMA contemplated the future execution of a ground lease for the Site. Specifically, Section 2.01(a) provided that “[t]he TOWN shall lease to CONTRACTOR the land

defined as the ‘Site’ above,” and Section 2.01(b) provided that “[t]he initial term of the Lease shall be twenty (20) years.” This is the only reference to the term of the contemplated lease in the SWMA.

The Town (by and through the Board of Health) and B-P executed the contemplated lease several weeks later, on December 6, 2021. The Lease contained three terms: (i) a Permitting Term, commencing on the Effective Date and running until the start of construction activities on site; (ii) a Construction Term, commencing at the end of the Permitting Term (i.e., the start of construction) and running until the Commercial Operation Date (i.e., the date when B-P is granted all governmental permissions to operate the new transfer station); and (iii) the Initial Term, commencing on the Commercial Operation Date and running for 20 years. See Lease, at ¶ 3.

Because the only reference to a lease term in the SWMA is to the 20-year Initial Term in Section 2.01(b), the reference to the “term of the Lease” in Section 2.02(f) can only refer to that Initial Term. Thus, the obligations in Section 2.02(f) that apply “[d]uring the term of the Lease” can only apply after commencement of the Initial Term of the Lease, which by definition will only occur after the Commercial Operation Date of the new transfer station. Because the Lease is still in the Permitting Term, the Initial Term has not commenced, and the obligations of Section 2.02(f) are not yet ripe.

The clear purpose of Section 2.02(f) is to provide some mechanism for Board of Health oversight of future improvements to the new transfer station, after it is operational, which may not trigger Board review under the site assignment regulations at 310 CMR 16.00. B-P looks forward to working with the Board in the future if and when the approval process contemplated in Section 2.02(f) is implicated.

Best regards,



Peter F. Durning

cc: Lauren Antonelli, M.A., Hudson Health Department
Thomas Gregory, Hudson Town Manager
Eric Ryder, Hudson Director of Public Works
Gary DePaolo, B-P Trucking, Inc.
Stephen DePaolo, B-P Trucking, Inc.
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