



FLORIDA DEPARTMENT OF Environmental Protection

Southwest District Office
13051 North Telecom Parkway #101
Temple Terrace, Florida 33637-0926

Ron DeSantis
Governor

Jeanette Nuñez
Lt. Governor

Noah Valenstein
Secretary

April 3, 2020

Universal Environmental Solutions, LLC.
Attn: Mr. Ed Kinley, President
1650 Hemlock Street
Tampa, FL 33605
ekinley@uestampa.com

Re: Proposed First Amendment to Consent Order OGC File No. 18-1323
Universal Environmental Solutions, LLC.
HW Facility ID #FLR000199802
Hillsborough County

Dear Mr. Kinley:

Enclosed is the proposed First Amendment to Consent Order, OGC File No. 18-1323, regarding the above-referenced facility. Please review, sign, and return the First Amendment to Consent Order First Amendment by **May 4, 2020**, if in agreement. If not in agreement, please contact the Department immediately. Upon return of the signed First Amendment to Consent Order, I shall execute it and a copy will be sent to you.

The executed First Amendment to Consent Order constitutes final agency action of the Department, which shall be enforceable pursuant to Sections 120.69 and 403.121, Florida Statutes. By countersigning the First Amendment to Consent Order, the Department waives its right to seek judicial imposition of damages, costs and expenses, or civil penalties for the alleged violations. By signing the First Amendment to Consent Order, you, as the Respondent, acknowledges and waives its right to a hearing and appeal of the terms of the First Amendment to Consent Order.

If the signed original First Amendment to Consent Order is not received by the Department by **May 4, 2020**, the Department will assume that you are not interested in the settlement on the above terms, and the matter may be referred to the Office of General Counsel for formal enforcement action. None of your rights or substantial interests are determined by the First Amendment to Consent Order until it is signed and filed with the Department.

Universal Environmental Solutions, LLC.
Proposed First Amendment to Consent Order OGC File No.: 18-1323
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Should you have any questions, please contact Shannon Kennedy at (813) 470-5789 or via e-mail at Shannon.Kennedy@FloridaDEP.gov. Thank you for your cooperation.

Sincerely,



Mary E. Yeargan, PG
Southwest District Director
Florida Department of Environmental Protection

Enclosure: Proposed First Amendment to Consent Order

ec: Kelley Boatwright, DEP – Kelley.M.Boatwright@FloridaDEP.gov
Shannon Kennedy, DEP – Shannon.Kennedy@FloridaDEP.gov
Abigail Bridges, DEP – Abigail.Bridges@FloridaDEP.gov
Gerry Javier, EPC – Javier@epchc.org

BEFORE THE STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

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|-----------------------------|---|----------------------|
| STATE OF FLORIDA DEPARTMENT |) | IN THE OFFICE OF THE |
| OF ENVIRONMENTAL PROTECTION |) | SOUTHWEST DISTRICT |
| |) | |
| v. |) | OGC FILE NO. 18-1323 |
| |) | |
| UNIVERSAL ENVIRONMENTAL |) | |
| SOLUTIONS, LLC. |) | |
| _____ |) | |

FIRST AMENDMENT TO CONSENT ORDER

The State of Florida Department of Environmental Protection (Department) and Universal Environmental Solutions, LLC. (UES) (Respondent) (Department and Respondent, collectively, “the Parties”) entered into Consent Order OGC File No. 18-1323, effective November 15, 2018 (Original Order) to reach settlement of certain matters at issue between the Parties. The Parties now desire to enter this First Amendment to Consent Order to allow the below-described amendments to the Original Order.

The Department finds and the Respondent admit the following:

1. Since entering the Original Order, it has been determined that, in order to fully implement the in-kind project as approved by the Department on March 20, 2019, Respondent will need an extension of time beyond the September 16, 2019, deadline.
2. The Department finds the change to the in-kind project timeline is reasonable. As such, it is hereby agreed between the Parties that this First Amendment to Consent Order shall amend the Original Order only to the extent specifically stated herein, and that all the provisions of the Original Order not addressed herein shall remain in full force and effect.

Having reached a resolution of the matter Respondent and the Department mutually agree and it is

ORDERED:

3. Attachment “Exhibit I In-Kind Projects,” paragraph e of the Original Order shall be amended to read as follows:
 - e. On or before December 1, 2021, Respondent shall complete the entire in-kind project.
4. All terms and conditions of the Original Order shall remain in full force and effect, except as expressly provided in this First Amendment to Consent Order.

5. Respondent acknowledges and waives its right to an administrative hearing pursuant to sections 120.569 and 120.57, Florida Statutes, on the terms of this First Amendment to Consent Order. Respondent also acknowledges and waives its right to appeal the terms of this First Amendment to Consent Order pursuant to section 120.68, Florida Statutes.

6. Electronic signatures or other versions of the parties' signatures, such as .pdf or facsimile, shall be valid and have the same force and effect as originals. No modifications of the terms of this First Amendment to Consent Order will be effective until reduced to writing, executed by both Respondent and the Department, and filed with the clerk of the Department.

7. The terms and conditions set forth in this First Amendment to Consent Order may be enforced in a court of competent jurisdiction pursuant to sections 120.69 and 403.121, Florida Statutes. Failure to comply with the terms of this First Amendment to Consent Order constitutes a violation of section 403.161(1)(b), Florida Statutes.

8. This First Amendment to Consent Order is a final order of the Department pursuant to Section 120.52(7), Florida Statutes, and it is final and effective on the date filed with the Clerk of the Department unless a Petition for Administrative Hearing is filed in accordance with Chapter 120, Florida Statutes. Upon the timely filing of a petition this First Amendment to Consent Order will not be effective until further order of the Department.

Persons who are not parties to this First Amendment to Consent Order, but whose substantial interests are affected by it, have a right to petition for an administrative hearing under sections 120.569 and 120.57, Florida Statutes. Because the administrative hearing process is designed to formulate final agency action, the filing of a petition concerning this First Amendment to Consent Order means that the Department's final action may be different from the position it has taken in the First Amendment to Consent Order.

The petition for administrative hearing must contain all of the following information:

- a) The OGC Number assigned to this First Amendment to Consent Order;
- b) The name, address, and telephone number of each petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding;
- c) An explanation of how the petitioner's substantial interests will be affected by the First Amendment to Consent Order;

- d) A statement of when and how the petitioner received notice of the First Amendment to Consent Order;
- e) Either a statement of all material facts disputed by the petitioner or a statement that the petitioner does not dispute any material facts;
- f) A statement of the specific facts the petitioner contends warrant reversal or modification of the First Amendment to Consent Order;
- g) A statement of the rules or statutes the petitioner contends require reversal or modification of the First Amendment to Consent Order; and
- h) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the Department to take with respect to the First Amendment to Consent Order.

The petition must be filed (received) at the Department's Office of General Counsel, 3900 Commonwealth Boulevard, MS# 35, Tallahassee, Florida 32399-3000 within 21 days of receipt of this notice. A copy of the petition must also be mailed at the time of filing to the Southwest District Office at 13051 N. Telecom Parkway, Suite 101, Temple Terrace, Florida 33637. Failure to file a petition within the 21-day period constitutes a person's waiver of the right to request an administrative hearing and to participate as a party to this proceeding under sections 120.569 and 120.57, Florida Statutes. Before the deadline for filing a petition, a person whose substantial interests are affected by this First Amendment to Consent Order may choose to pursue mediation as an alternative remedy under section 120.573, Florida Statutes. Choosing mediation will not adversely affect such person's right to request an administrative hearing if mediation does not result in a settlement. Additional information about mediation is provided in section 120.573, Florida Statutes and Rule 62-110.106(12), Florida Administrative Code.

FOR THE RESPONDENT:

Universal Environmental Solutions, LLC.,
Ed Kinley, President

Date

DONE AND ORDERED this ___ day of _____, 2020, in Hillsborough County, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

Mary Yeargan, P.G.
District Director
Southwest District

Filed, on this date, pursuant to section 120.52, F.S., with the designated Department Clerk, receipt of which is hereby acknowledged.

Clerk

Date

Copies furnished to:
Lea Crandall, Agency Clerk
Mail Station 35