



FLORIDA DEPARTMENT OF Environmental Protection

CENTRAL DISTRICT OFFICE
3319 MAGUIRE BLVD., SUITE 232
ORLANDO, FLORIDA 32803

Ron DeSantis
Governor

Jeanette Nuñez
Lt. Governor

Noah Valenstein
Secretary

January 26, 2021

Jason Wadsworth, CEO
Universal Contracting & Construction Inc.
9075 Ellis Road
West Melbourne, FL 32904
jasonwadsworth@gmail.com

Re: Universal Contracting & Construction, Inc.
SW Facility ID #106406
Air Permit #:0090270
OGC Case No: 20-1463
Brevard County

Dear Mr. Wadsworth:

Enclosed is the executed Consent Order to resolve the above referenced case. This copy is for your records.

Should you have any questions or comments, please contact Mary Powers at 407-897-2921 or via e-mail at Mary.Powers@FloridaDEP.gov.

Your cooperation in this matter will be appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "Aaron Watkins".

Aaron Watkins
Director, Central District

Enclosure: Consent Order OGC#20-1463

cc: Lea Crandall, OGC
Zoey Carr, Central District
Daun Festa, Central District
David Smicherko, Central District
Mary Powers, Central District
Brian Dailey, Central District



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January 12, 2021

Jason Wadsworth, CEO
Universal Contracting & Construction Inc.
9075 Ellis Road
West Melbourne, FL 32904
jasonwadsworth@gmail.com

Re: Universal Contracting & Construction, Inc.
SW Facility ID #106406
Air Permit #:0090270
OGC Case No: 20-1463
Brevard County

Dear Mr. Wadsworth:

Enclosed is a Consent Order ("Order") prepared by the Department for resolution of the referenced enforcement case. Please review this document and within 10 days of receipt, either:
1) return a signed copy to the Department or 2) provide comments and suggested changes. Once fully executed, a copy of the final document will be forwarded to you.

Should you have any questions or comments, please contact Mary Powers at 407-897-2921 or via e-mail at Mary.Powers@FloridaDEP.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Aaron Watkins", is written over a horizontal line.

Aaron Watkins, Director
Central District

Enclosure: Consent Order OGC#20 1463

cc: Zoey Carr, Central District
Daun Festa, Central District
Nathan Hess, Central District
David Smicherko, Central District
Mary Powers, Central District
Brian Dailey, Central District

BEFORE THE STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION)	IN THE OFFICE OF THE CENTRAL DISTRICT
)	
v.)	OGC FILE NO. 20-1463
)	
UNIVERSAL CONTRACTING & CONSTRUCTION, INC.)	
)	
<hr style="width: 100%;"/>)	

CONSENT ORDER

This Consent Order ("Order") is entered into between the State of Florida Department of Environmental Protection ("Department") and Universal Contracting & Construction, Inc. ("Respondent") to reach settlement of certain matters at issue between the Department and Respondent.

The Department finds and Respondent admits the following:

1. The Department is the administrative agency of the State of Florida having the power and duty to administer and enforce the provisions of the Florida Resource Recovery and Management Act, Sections 403.702, et seq., Florida Statutes ("F.S."), and the rules promulgated and authorized in Title 62, Florida Administrative Code ("F.A.C."). The Department has jurisdiction over the matters addressed in this Order.
2. Respondent is a "person" within the meaning of Sections 403.031(5) and 403.703(22), F.S.
3. Respondent owns and operates a Yard Trash Disposal Facility located at 9075 Ellis Road West Melbourne, FL 32904 in Brevard County ("Facility"). A portable Air Curtain Incinerator is utilized to dispose of yard trash and land-clearing debris that is stored on site. The WACS I.D. No. associated with this facility is 106406. The AIRS ID No. associated with the facility is 0090270.
4. Respondent operates the Facility under General Permit No. 038744-001-SO, which was issued January 22, 2020, and Air Permit No. 0090270-001-AC, which was issued

June 4, 2020. The Notice of Intent for General Permit No. 038744-001-SO was received on January 14, 2020.

5. The Department finds that the following violation(s) occurred:
 - a) The site plan submitted by the Respondent to the Department as part of the Notification of Intent to Use a General Permit for a Yard Trash Disposal Facility depicts a fire hydrant to be installed on the northern edge of the Facility. As of the date of this notice, Respondent has not installed or constructed a fire hydrant at the Facility in accordance with the submitted and approved site plan.
 - b) The site plan submitted by the Respondent to the Department as part of the Notification of Intent to Use a General Permit for a Yard Trash Disposal Facility depicts a 6-foot tall chain-link fence to be installed on the western edge of the Facility. As of the date of this notice, Respondent has not installed or constructed the 6-foot tall chain-link fence in accordance with the submitted and approved site plan.
 - c) On two separate inspections, Department personnel observed smoke, soot, ash, and other particulate matter emanating from the Air Curtain Incinerator at the Facility migrate off-site. The Facility failed to prevent objectionable odors from traveling off site in accordance with permit requirements.
 - d) The Facility failed to maintain a 50-foot buffer between the yard trash and wetlands (water bodies) that exist on site. Yard trash debris was approximately 10 feet from the edge of the delineated wetland in the southwest corner of the property.
 - e) The Facility failed the visible emissions test on October 8, 2020, in accordance with the EPA Method 9 Visible Emissions Test Procedures.
 - f) The Facility failed the visible emissions test on October 15, 2020, in accordance with the EPA Method 9 Visible Emissions Test Procedures.

- g) Air Permit 0090270-001-AC issued to Respondent on June 4, 2020 authorizes the installation and operation of Air Curtain Incinerator Model No. S-327. On October 15, 2020 Department personnel observed that Respondent installed and is operating an unpermitted Air Curtain Incinerator Model No. S-330 at the Facility. Respondent failed to construct in compliance with Air Permit 0090270-001-AC.
- h) The Facility failed to implement proper BMPs to prevent unconfined particulate matter from leaving the site.

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

ORDERED:

6. Respondent shall comply with the following corrective actions within the stated time periods:

- a) Within 30 days of the effective date of this Order, Respondent shall remove all remaining yard trash material from on site and provide proof to the Department that the material was taken to a permitted/registered facility for processing and/or disposal.
- b) Within 30 days of the effective date of this Order, Respondent shall relinquish all Department permits associated with the operations that took place at 9075 Ellis Road West Melbourne, FL 32904 ("Facility"). This includes General Permit No. 038744-001-SO, which was issued January 22, 2020, and Air Permit No. 0090270-001-AC, which was issued June 4, 2020.

7. Within 30 days of the effective date of this Order, Respondent shall pay the Department \$5,000 in settlement of the regulatory matters addressed in this Order. This amount includes \$4,500 for civil penalties and \$500 for costs and expenses incurred by the Department during the investigation of this matter and the preparation and tracking of this Order.

8. Respondent agrees to pay the Department stipulated penalties in the amount of \$1,000 per day for each and every day Respondent fails to timely comply with any of the requirements of paragraph 6 of this Order. The Department may demand stipulated penalties at any time after violations occur. Respondent shall pay stipulated penalties owed within 30 days of the Department's issuance of written demand for payment and shall do so as further described in paragraph 9, below. Nothing in this paragraph shall prevent the Department from filing suit to specifically enforce any terms of this Order. Any stipulated penalties assessed under this paragraph shall be in addition to the civil penalties agreed to in paragraph 7 of this Order. Respondent shall make all payments required by this Order by cashier's check, money order or on-line payment. Cashier's check or money order shall be made payable to the "Department of Environmental Protection" and shall include both the OGC number assigned to this Order and the notation "Water Quality Assurance Trust Fund." Online payments by e-check can be made by going to the DEP Business Portal at: <http://www.fldepportal.com/go/pay/>. It will take a number of days after this order becomes final, effective and filed with the Clerk of the Department before ability to make online payment is available.

9. Except as otherwise provided, all submittals and payments required by this Order shall be sent to DEP_CD@floridadep.gov, and copied to David Smicherko, Environmental Manager, Department of Environmental Protection, Central District, 3319 Maguire Boulevard, Suite 232, Orlando, Florida 32803-3767.

10. Respondent shall allow all authorized representatives of the Department access to the Facility and the Property at reasonable times for the purpose of determining compliance with the terms of this Order and the rules and statutes administered by the Department.

11. In the event of a sale or conveyance of the Facility or of the Property upon which the Facility is located, if all of the requirements of this Order have not been fully satisfied, Respondent shall, at least 30 days prior to the sale or conveyance of the Facility or Property, (a) notify the Department of such sale or conveyance, (b) provide the name and address of the purchaser, operator, or person(s) in control of the Facility, and (c) provide a copy of this Order

with all attachments to the purchaser, operator, or person(s) in control of the Facility. The sale or conveyance of the Facility or the Property does not relieve Respondent of the obligations imposed in this Order.

12. If any event, including administrative or judicial challenges by third parties unrelated to Respondent, occurs which causes delay or the reasonable likelihood of delay in complying with the requirements of this Order, Respondent shall have the burden of proving the delay was or will be caused by circumstances beyond the reasonable control of Respondent and could not have been or cannot be overcome by Respondent's due diligence. Neither economic circumstances nor the failure of a contractor, subcontractor, materialman, or other agent (collectively referred to as "contractor") to whom responsibility for performance is delegated to meet contractually imposed deadlines shall be considered circumstances beyond the control of Respondent (unless the cause of the contractor's late performance was also beyond the contractor's control). Upon occurrence of an event causing delay, or upon becoming aware of a potential for delay, Respondent shall notify the Department by the next working day and shall, within seven calendar days notify the Department in writing of (a) the anticipated length and cause of the delay, (b) the measures taken or to be taken to prevent or minimize the delay, and (c) the timetable by which Respondent intends to implement these measures. If the parties can agree that the delay or anticipated delay has been or will be caused by circumstances beyond the reasonable control of Respondent, the time for performance hereunder shall be extended. The agreement to extend compliance must identify the provision or provisions extended, the new compliance date or dates, and the additional measures Respondent must take to avoid or minimize the delay, if any. Failure of Respondent to comply with the notice requirements of this paragraph in a timely manner constitutes a waiver of Respondent's right to request an extension of time for compliance for those circumstances.

13. The Department, for and in consideration of the complete and timely performance by Respondent of all the obligations agreed to in this Order, hereby conditionally waives its right to seek judicial imposition of damages or civil penalties for alleged violations

up to the date of the filing of this Order. This waiver is conditioned upon Respondent's complete compliance with all of the terms of this Order.

14. This Order is a settlement of the Department's civil and administrative authority arising under Florida law to resolve the matters addressed herein. This Order is not a settlement of any criminal liabilities which may arise under Florida law, nor is it a settlement of any violation which may be prosecuted criminally or civilly under federal law. Entry of this Order does not relieve Respondent of the need to comply with applicable federal, state, or local laws, rules, or ordinances.

15. The Department hereby expressly reserves the right to initiate appropriate legal action to address any violations of statutes or rules administered by the Department that are not specifically resolved by this Order.

16. Respondent is fully aware that a violation of the terms of this Order may subject Respondent to judicial imposition of damages, civil penalties up to \$15,000.00 per day per violation, and criminal penalties.

17. Respondent acknowledges and waives its right to an administrative hearing pursuant to sections 120.569 and 120.57, F.S., on the terms of this Order. Respondent also acknowledges and waives its right to appeal the terms of this Order pursuant to section 120.68, F.S.

18. 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 Order will be effective until reduced to writing, executed by both Respondent and the Department, and filed with the clerk of the Department.

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

20. This Consent Order is a final order of the Department pursuant to section 120.52(7), F.S., 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, F.S.

Upon the timely filing of a petition, this Consent Order will not be effective until further order of the Department.

21. Persons who are not parties to this 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 Consent Order means that the Department's final action may be different from the position it has taken in the Consent Order.

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

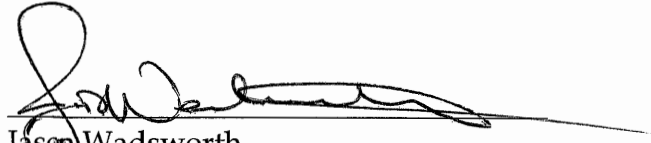
- a) The OGC Number assigned to this Consent Order;
- b) The name, address, and telephone number of each petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding;
- c) An explanation of how the petitioner's substantial interests will be affected by the Consent Order;
- d) A statement of when and how the petitioner received notice of the 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 Consent Order;
- g) A statement of the rules or statutes the petitioner contends require reversal or modification of the 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 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 or received via

electronic correspondence at Agency_Clerk@floridadep.gov, within 21 days of receipt of this notice. A copy of the petition must also be mailed at the time of filing to the Central District Office at State of Florida Department of Environmental Protection, 3319 Maguire Boulevard, Suite 232, Orlando, Florida 32803-3767. 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 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.

23. Rules referenced in this Order are available at
<http://www.dep.state.fl.us/legal/Rules/rulelist.htm>.

FOR THE RESPONDENT:


Jason Wadsworth
CEO, Universal Contracting & Construction, Inc.

01/20/2021
Date

DONE AND ORDERED this ^{26th} day of January, 2021, in Orange County, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION



Aaron Watkins
District Director
Central District

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



Clerk

January 26, 2021

Date

Copies furnished to:

Lea Crandall, Agency Clerk
Mail Station 35