

FORSYTH COUNTY
OFFICE OF ENVIRONMENTAL ASSISTANCE AND PROTECTION

BEFORE THE FORSYTH COUNTY COMMISSION

STATE OF NORTH CAROLINA)
)
COUNTY OF FORSYTH) SPECIAL ORDER BY CONSENT
)
IN THE MATTER OF:)
LIQUID ENVIRONMENTAL SOLUTIONS OF) SOC 2018-002
GEORGIA, LLC)
750 PALMER LANE)
WINSTON-SALEM,)
FORSYTH COUNTY, NC)
)
)
)

This SPECIAL ORDER BY CONSENT (hereinafter known and referred to as the "ORDER") is made and entered into pursuant to Forsyth County Air Quality Control Ordinance and Technical Code, Section 3D-2200, by and between LIQUID ENVIRONMENTAL SOLUTIONS OF GEORGIA, LLC. (hereinafter known and referred to as the "COMPANY") and the FORSYTH COUNTY OFFICE of ENVIRONMENTAL ASSISTANCE and PROTECTION (hereinafter known and referred to as this "OFFICE").

WITNESSETH:

- I. The COMPANY and this OFFICE do hereby stipulate and agree to the following:
 - A. The COMPANY has operated, and is now operating, a food waste byproducts processing facility within the corporate limits of the City of Winston-Salem, in the County of Forsyth, in the State of North Carolina.
 - B. Pursuant to Forsyth County Air Quality Control Ordinance and Technical Code, Section 3D-0522(b), "No person shall cause or permit the emission of odors beyond his property lines which odors are harmful, irritating, or which unreasonably interfere with the use and enjoyment of any person's properties or living conditions, or any public properties or facilities. Such odors are prohibited by this Rule."
 - C. On September 30, 2016, Carolina Resource Recovery located at 750 Palmer Lane was acquired by the COMPANY. On November 8, 2016 the OFFICE received a complaint regarding an irritating odor coming from the facility. OFFICE personnel conducted an investigation and the complaint was substantiated. The OFFICE requested a revised odor control plan from the COMPANY. The COMPANY submitted a revised odor control plan on November 28, 2016. Between February 15, 2017, and September 6, 2017, the OFFICE received and substantiated four more complaints involving irritating odors crossing the COMPANY'S property

lines. On September 16, 2017, the OFFICE issued the COMPANY a Notice of Violation, and Civil Penalty of \$250.00 for failure to control odors across COMPANY property lines.

- D. On November 28, 2017, the OFFICE and the COMPANY held a meeting at which time the COMPANY proposed significant updates to the facility, including enclosure of the offloading, and waste storage areas, as well as the possible addition of a second scrubber.
- E. On December 6, 2017, the OFFICE received a complaint regarding an irritating odor coming from the facility. OFFICE personnel conducted an investigation and the complaint was substantiated. On December 11, 2017 the OFFICE issued the COMPANY a Notice of Violation, and second Civil Penalty of \$500.00 for failure to control odors across COMPANY property lines.
- F. On February 23, 2018, the OFFICE received a complaint regarding an irritating odor coming from the facility. OFFICE personnel conducted an investigation and the complaint was substantiated. On February 26, 2018 the OFFICE issued the COMPANY a Notice of Violation, and third Civil Penalty of \$2,000.00 for failure to control odors across COMPANY property lines.
- G. On March 1, 2018, the COMPANY responded to the February 26, Notice of Violation with a formal letter indicating that they were moving forward with their plans to update the facility's odor control capabilities.

II. THEREFORE: The COMPANY and this OFFICE, desiring to resolve and settle all matters at issue between them as herein described, agree to enter into this ORDER and to be bound by the terms and conditions stated herein.

A. The COMPANY, desiring to operate in a safe and environmentally sound manner, in accordance with the rules and regulations of the CODE, does hereby agree to perform the following activities (numbers 1 and 2 below are conditions precedent to the execution of this ORDER, but are included for clarity):

- 1. Prior to the execution of this ORDER, Company shall, at its own cost, hire a consultant, to be approved by the OFFICE, to evaluate and modify the construction plans for the improvements (the "ODOR CONSULTANT"). The ODOR CONSULTANT shall have expertise in odor management for the food waste byproducts processing industry. The ODOR CONSULTANT shall assess whether the proposed construction will be in conformity with best practical treatment, maintenance, and control of odors in the food waste byproducts processing industry (BPT) and recommend any changes necessary to be in conformity with BPT. The COMPANY and the OFFICE will then agree, such agreement not to be unreasonably withheld, on design and construction plans that have been validated by the ODOR CONSULTANT as being in conformance with BPT and are mutually acceptable to the parties (the "APPROVED DESIGN"). The OFFICE agrees that once constructed and in operation, the OFFICE will consider the COMPANY to have implemented BPT and accord it such consideration for future enforcement actions. This process will allow COMPANY to avoid

construction changes or additions being needed after plans have been approved and construction commenced. The ODOR CONSULTANT may continue to assist COMPANY throughout this process.

2. Upon approval of the APPROVED DESIGN by both parties, the OFFICE shall commence its public review process. Upon completion of the public review process according to the Forsyth County Code of Ordinances, the parties shall execute this ORDER.
3. Within 45 days of execution of this ORDER, the COMPANY shall submit applications for all necessary construction permits for the project.
4. The COMPANY shall provide copies of the necessary contract(s) for the purchase and installation of the additional odor control technology for the project within 15 days of COMPANY's receipt of all necessary construction permit copies from the relevant permitting authorities.
5. The COMPANY shall commence construction according to the specifications in the required permits(s) no later than October 8, 2018.
6. The COMPANY shall complete construction modifications including installation of additional odor control technology, and be fully operational no later than March 8, 2019.
7. The COMPANY shall submit, no later than 14 days after the deadline for completing each milestone required in Paragraphs II.A.3 through II.A.5, a written certification, addressed to the attention of the Director of this Office, certifying whether such milestone has been completed.

III. In the event that the COMPANY fails to comply with any deadline as set out in this ORDER, or fails to achieve final compliance with any applicable requirement in this ORDER, the COMPANY agrees that, unless excused under Paragraph IV.C:

- A. The COMPANY will pay this OFFICE \$500 per day for the first 5 days, and \$1000 per day thereafter.
- B. Failure within thirty (30) days of receipt of the Office Director's written demand to pay the penalties will be grounds for a collection action, which the County Attorney is hereby authorized to initiate. The only issue in such an action will be whether thirty (30) days has elapsed.
- C. The COMPANY's obligation to comply with the requirements set forth in this ORDER for which a stipulated penalty may be assessed, may be delayed or excused only to the extent that noncompliance is caused by circumstances beyond control of the COMPANY, or by delays caused by the OFFICE of other governmental entities, as determined by the Director of this Office.
 1. Contractor delays or failure to obtain funding will NOT be considered events beyond the COMPANY's control. However, Contractor delays directly resulting from Acts of God or other Force Majeure may be considered events beyond the COMPANY's control.

2. If any such delaying event occurs, the COMPANY shall notify the Director of this Office in writing within ten (10) days of encountering or discovering the delaying event, describing in detail the event or delay, the precise cause(s) of the event or delay, the measure(s) taken and to be taken by the COMPANY to prevent or minimize the event or delay, and the schedule by which those measures will be implemented.
 3. If the COMPANY establishes good cause for its failure to comply with any part of this ORDER, this Office and the COMPANY shall jointly stipulate and agree to a written modification of this ORDER.
 4. Extension of any compliance date pursuant to this ORDER shall not extend any subsequent deadlines established in the ORDER unless the subsequent deadline necessarily is dependent upon completion of the earlier deadline.
- IV. This ORDER shall pertain only to the equipment, emissions sources and operations subject to modifications as described in Paragraph II.A.1-7 of this ORDER. Any violation of Air Quality Standards resulting from other emissions sources, and/or equipment for which the COMPANY is responsible, shall subject the COMPANY to appropriate enforcement action pursuant to Section 3A of the CODE and North Carolina General Statute 143-215.114.
- V. The COMPANY agrees to waive any rights it may have to seek judicial review to challenge this ORDER, or to seek injunctive relief for a stay of enforcement of this ORDER in connection with any judicial review of the Forsyth County Air Quality Control Ordinance. This Office acknowledges that this waiver does not prohibit the COMPANY from seeking modification of this ORDER if any regulatory standards upon which this ORDER is based are changed subsequent to its execution. In such cases, the COMPANY may petition the Director of this Office that the ORDER be modified to reflect those regulatory changes.
- VI. In the event this OFFICE finds that reports, plans, specifications, or permit applications required by Paragraph II.A are in any respect deficient, or if additional information is necessary to comply with the requirements of the CODE or North Carolina General Statutes 143-215.107 *et seq.*, any regulations promulgated thereunder, or any other applicable laws or regulations, the COMPANY shall be notified by the Director of this Office as soon as possible. The COMPANY shall be afforded an opportunity to modify, amend, or supplement its submissions to make such submissions complete and appropriate.
- VII. All notices and reports required from the COMPANY to this OFFICE as established by this ORDER shall be delivered to:
- Minor Barnette, Director
201 North Chestnut Street
Winston-Salem, North Carolina 27101-4120
- VIII. This ORDER constitutes full and final settlement and satisfaction of all matters addressed Herein, and any and all claims or prospective claims that the Office has or may have for

violations of regulations described in Paragraph I hereof, as of the date this ORDER is approved by this OFFICE.

- IX. The OFFICE will investigate any and all complaints that may arise during the term of this ORDER, and hereby agrees to hold in abeyance any enforcement action, including but not limited to fines, in response to observed violations of Forsyth County Air Quality Control Ordinance and Technical Code, Section 3D-0522(b) which result from the operation of equipment and emissions sources and processes subject to modification pursuant to this ORDER, until such time as this ORDER has ended or the COMPANY is found in violation of this ORDER.
- X. Upon completion of the construction by COMPANY related to this ORDER, the COMPANY shall provide the OFFICE with a confirmatory letter from the ODOR CONSULTANT indicating that the BPT technology is being used
- XI. This ORDER shall not affect the COMPANY's obligation to comply with any Federal, State, or local laws or regulations.
- XII. Final approval and entry into this ORDER are subject to the requirements that this OFFICE give notice of proposed consent decrees to the public, and that the public have at least thirty (30) days from such notice within which to comment on the ORDER.
- XIII. Should any provision of this ORDER be declared by a court of competent jurisdiction to be inconsistent with Federal, State, or local laws or regulations, and therefore unenforceable, the remaining provisions hereof shall remain in full force and effect.
- XIV. Any modifications of this ORDER must be agreed to in writing signed by both parties.
- XV. Except as otherwise set forth herein, this ORDER is not, and shall not be interpreted to be a permit, or modification of an existing permit under Federal, State or local law, and shall not be construed to waive or relieve the COMPANY of its obligations to comply in the future with any permit.
- XVI. This Special Order by Consent is effective on execution by the FORSYTH COUNTY OFFICE OF ENVIRONMENTAL ASSISTANCE AND PROTECTION and shall expire upon completion of all physical and operational changes necessary to achieve compliance. or by March 31, 2019, whichever is earlier.

ATTESTED:

LIQUID ENVIRONMENTAL SOLUTIONS OF
GEORGIA LLC

BY: _____
(RO & Title)

DATE: _____

APPROVED AND ACCEPTED:

BY: _____

(Director)

DATE: _____

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