

1 **Section 4. Severability.** In the event any title, section, paragraph, item, sentence, clause, phrase, or
2 word of this resolution is declared or adjudged to be invalid or unconstitutional, such declaration or
3 adjudication shall not affect the remaining portions of the resolution, which shall remain in full force and
4 effect as if the portion so declared or adjudged invalid or unconstitutional were not originally a part of the
5 resolution.

6 **Section 5. Repealer.** All laws, ordinances, resolutions, or parts of the same, that are inconsistent
7 with the provisions of this resolution, are hereby repealed to the extent of such inconsistency.

8 **ADOPTED: March 19, 2024**

9 **ATTEST:**

APPROVED:

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11 _____
12 **Susan Langley, City Clerk**

_____ **Frank Scott, Jr., Mayor**

13 **APPROVED AS TO LEGAL FORM:**

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16 **Thomas M. Carpenter, City Attorney**

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1 **Exhibit A**

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3 **ARKANSAS DEPARTMENT OF ENERGY AND ENVIRONMENT, DIVI-**
4 **SION OF ENVIRONMENTAL QUALITY**

5
6 IN THE MATTER OF:

7
8 AFIN: 60-01071

LIS No. _____

9
10 CITY OF LITTLE ROCK
11 SOLID WASTE FACILITY
12 d/b/a LITTLE ROCK LANDFILL
13 10803 IRONTON CUTOFF ROAD
14 LITTLE ROCK, ARKANSAS 72206

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16 **CONSENT ADMINISTRATIVE ORDER**

17 This Consent Administrative Order (CAO) is issued, pursuant to the authority delegated under the
18 Federal Clean Air Act, 42 U.S.C. § 7401 *et seq.*, and the Federal Regulations issued thereunder. In
19 addition, this CAO is issued pursuant to the authority of the Arkansas Water and Air Pollution Control Act
20 (the Act), Ark. Code Ann. § 8-4-101 *et seq.*, Arkansas Pollution Control and Ecology Commission
21 (APC&EC) Rule 7, APC&EC Rule 8, APC&EC Rule 18, APC&EC Rule 19, and APC&EC Rule 26.

22 The issues herein having been settled by agreement of City of Little Rock, Solid Waste Facility, d/b/a
23 Little Rock Landfill (Respondent) and the Director of the Division of Environmental Quality (DEQ), it is
24 hereby agreed and stipulated that the following FINDINGS OF FACT and ORDER AND AGREEMENT
25 be entered.

26 **FINDINGS OF FACT**

27 1. Respondent owns and operates a Municipal Solid Waste Landfill, located at 10803 Ironton Cutoff
28 Road in Little Rock, Pulaski County, Arkansas.

29 2. The Air Permit referenced in this CAO is 1781-AOP-R3 (the Permit). The Permit was issued on July
30 21, 2020.

31 3. Ark. Code Ann. § 8-4-217(a)(3) provides:

32 (a) It shall be unlawful for any person to:

33 (3) Violate any provisions of this Chapter or of any rule or order adopted by the
34 Arkansas Pollution Control and Ecology Commission under this Chapter or of a permit
35 issued under this chapter by DEQ;

1 4. Ark. Code Ann. § 8-4-103(c)(1)(A) provides, “Any person that violates any provision of this Chapter
2 and rules, permits or plans issued pursuant to this Chapter may be assessed an Administrative Civil
3 Penalty not to exceed Ten Thousand Dollars (\$10,000.00) per violation.”

4 5. Pursuant to Ark. Code Ann. § 8-4-103(c)(1)(B) as referenced by Ark. Code Ann. § 8- 4-304, “Each
5 day of a continuing violation may be deemed a separate violation for purposes of penalty assessment.”

6 6. On March 14, 2023, DEQ personnel conducted a routine compliance inspection of Respondent’s
7 facility. The reporting period was February 2021 through February 2023.

8 7. General Provision 23 of the Permit authorizes only those pollutant emitting activities addressed in
9 the Permit.

10 8. During the inspection, it was found that the following generators had been replaced without
11 modification of the permit.

12 a. SN-14: 48kW Emergency Generator (2014) - Collections Building

13 b. SN-15: 20kW Emergency Generator (2013) - Scale House Building

14 c. SN-16: 20kW Emergency Generator (2014) - Fueling Site

15 Such an act violates General Provision 23 of the Permit and therefore violates Ark. Code Ann. § 8-4-
16 217(a)(3) as referenced by Ark. Code Ann. § 8-4-304.

17 9. In correspondence dated April 12, 2023, DEQ personnel notified Respondent of the violations
18 found during the inspection. This was intended to provide Respondent with the opportunity to review the
19 violations and submit additional information deemed appropriate regarding the violations.

20 10. In correspondence dated May 8, 2023, Respondent provided a response with additional
21 information to DEQ. This response stated they would prepare a permit modification application to remove
22 the sources no longer present at the facility and add the unpermitted sources to the Permit.

23 11. In correspondence dated June 13, 2023, DEQ personnel notified Respondent that the violations found
24 during the inspection relating to the three (3) unpermitted emergency generators were routing through
25 formal enforcement channels.

26 12. On October 2, 2023, DEQ personnel sent Respondent a proposed CAO. In response to the proposed
27 CAO Respondent submitted a permit modification application on November 8, 2023, for the three (3)
28 unpermitted emergency generators at the facility.

29 **ORDER AND AGREEMENT**

30 **WHEREFORE**, Respondent, neither admitting nor denying the factual and legal allegations con-
31 tained in this CAO, and DEQ do hereby agree and stipulate as follows:

32 1. This CAO addresses all violations referenced in the FINDINGS OF FACT.

33 2. In compromise and full settlement of the violations specified in the FINDINGS OF FACT,
34 Respondent agrees to pay a Civil Penalty of Five Thousand, Nine Hundred Forty Dollars
35 (5,940.00). Payment is due within thirty (30) calendar days of the effective date of this CAO.

1 Such payment shall be made payable to:

2 DEQ, Fiscal Division

3 5301 Northshore Drive

4 North Little Rock, Arkansas 72118-5317.

5 In the event that Respondent fails to pay the Civil Penalty within the prescribed time, DEQ shall
6 be entitled to attorneys' fees and costs associated with collection.

7 3. All applicable submissions required by this CAO are subject to approval by DEQ. In the event
8 of any deficiency, Respondent shall, within fifteen (15) calendar days of notification by DEQ,
9 and submit any additional information requested. Failure to respond adequately to the Notice
10 of Deficiency within fifteen (15) calendar days constitutes a failure to meet a deadline and is
11 subject to the civil penalties established in the following Paragraph.

12 4. Failure to meet the limits, requirements, or deadlines of this CAO, or the applicable approved
13 schedules provided for herein, constitutes a violation of this CAO. If Respondent fails to meet
14 any limits, requirements, or deadlines, Respondent shall pay, on demand, to DEQ Civil
15 Penalties according to the following schedule:

16 (a) First day through the fourteenth day: \$100.00 per day

17 (b) Fifteenth day through the thirtieth day: \$500.00 per day

18 (c) More than thirty (30) days: \$1,000.00 per day

19 Stipulated penalties shall be paid within thirty (30) calendar days of receipt of DEQ's demand
20 to Respondent for such penalties. These stipulated penalties may be imposed for delay in
21 scheduled performance and shall be in addition to any other remedies or sanctions that may
22 be available to DEQ by reason of Respondent's failure to comply with the requirements of this
23 CAO. DEQ reserves its rights to collect other penalties and fines pursuant to its enforcement
24 authority in lieu of the stipulated penalties set forth above.

25 5. If any event, including, but not limited to, an occurrence of nature, causes or may cause a
26 delay in the achievement of compliance by Respondent with the requirements or deadlines of this
27 CAO, Respondent shall notify DEQ in writing as soon as reasonably possible after it is apparent
28 that a delay will result, but in no case after the due dates have passed. The notification shall
29 describe in detail the anticipated length of the delay, the precise cause of the delay, the measures
30 being taken and to be taken to minimize the delay, and the timetable by which those measures
31 will be implemented.

32 6. DEQ may grant an extension of any provision of this CAO, provided that Respondent requests
33 such an extension in writing and provided that the delay or anticipated delay has or will be
34 caused by circumstances beyond the control of and without the fault of Respondent. The time
35 for performance may be extended for a reasonable period, but in no event longer than the

1 period of delay resulting from such circumstances. The burden of proving that any delay is
2 caused by circumstances beyond the control of and without the fault of Respondent and the
3 length of the delay attributable to such circumstances shall rest with Respondent. Failure to
4 notify DEQ promptly, as provided in the previous Paragraph of the ORDER AND AGREE-
5 MENT, shall be grounds for a denial of an extension.

6 7. This CAO is subject to public review and comment in accordance with Ark. Code Ann. § 8-4-
7 103(d), and therefore is not effective until thirty (30) calendar days after public notice of the
8 CAO is given. DEQ retains the right and discretion to rescind this CAO based on comments
9 received within the thirty (30)-day public comment period.

10 8. As provided by APC&EC Rule 8, this matter is subject to being reopened upon Commission
11 initiative or in the event a petition to set aside this CAO is granted by the Commission.

12 9. Nothing contained in this CAO shall relieve Respondent of any obligations imposed by any
13 other applicable Local, State, or Federal Laws. Except as specifically provided herein, nothing
14 contained in this CAO shall be deemed in any way to relieve Respondent of responsibilities
15 contained in the permit.

16 10. Nothing in this CAO shall be construed as a waiver by DEQ of its enforcement authority over
17 alleged violations not specifically addressed herein. In addition, this CAO neither exonerates
18 Respondent from any past, present or future conduct that is not expressly addressed herein,
19 nor relieves Respondent of the responsibilities for obtaining any necessary permits.

20 11. This Order has been reviewed and approved by the City Council of the City of Little Rock in a
21 duly convened meeting with a quorum present. See a copy of the resolution, attached as
22 Exhibit A.

23 12. The City Council of the City of Little Rock has authorized the Mayor and the City Clerk to
24 sign this Order on behalf of the City. See Exhibit A.

25 13. The City Council of the City of Little Rock has authorized the Mayor and Treasurer to expend
26 funds for compliance activities required by this Order including, but not limited to, the
27 payment of a civil penalty in the amount listed above. See Exhibit A.

28 **SO ORDERED THIS _____ DAY OF _____, 2024.**

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32 **CALEB J. OSBORNE**
33 **DIVISION OF ENVIRONMENTAL QUALITY, DIRECTOR**
34 **CHIEF ADMINISTRATOR, ENVIRONMENT**
35 **ARKANSAS DEPARTMENT OF ENERGY & ENVIRONMENT**

1 **APPROVED AS TO FORM AND CONTENT:**

2 **CITY OF LITTLE ROCK**

3 **SOLID WASTE FACILITY**

4 **d/b/a LITTLE ROCK LANDFILL**

5

6 BY: _____(Signature)

7

8 Frank Scott, Jr. _____(Typed or printed name)

9

10 TITLE: Mayor _____

11

12 DATE: _____

13

14 ATTEST: _____(Signature)

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16 Susan Langley _____(Typed or printed name)

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18 TITLE: City Clerk _____

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20 DATE: _____

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