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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

In the Matter of: The Public Health Trust of Miami-Dade County DBA Jackson Memorial Hospital 1611 N.W. 12th Avenue Miami, Florida 33136 EPA ID No.: FLD981474216 Respondent.	Docket No. RCRA-04-2021-2100(b) Proceeding Under Section 3008(a) of the Resource Conservation and Recovery Act, 42 U.S.C. § 6928(a)

CONSENT AGREEMENT

I. NATURE OF ACTION

1. This is an administrative penalty assessment proceeding brought under Section 3008(a) of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6928(a) (RCRA or the Act) and Sections 22.13(b) and 22.18 of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), as codified at Title 40 of the Code of Federal Regulations (C.F.R.), Part 22.

2. This Consent Agreement and the attached Final Order shall collectively be referred to as the CAFO.

3. Having found that settlement is consistent with the provisions and objectives of the Act and applicable regulations, the Parties have agreed to settle this action pursuant to 40 C.F.R. § 22.18 and consent to the entry of this CAFO without adjudication of any issues of law or fact herein.

II. PARTIES

4. Complainant is the Chief of the Chemical Safety and Land Enforcement Branch, Enforcement and Compliance Assurance Division, United States Environmental Protection Agency Region 4, who has been delegated the authority on behalf of the Administrator of the EPA to enter into this CAFO pursuant to 40 C.F.R. Part 22 and Section 3008(a) of the Act.

5. Respondent is The Public Health Trust of Miami-Dade County DBA Jackson Memorial Hospital, a County Public Health Trust providing services in Miami-Dade County, State of

Florida. This proceeding pertains to Respondent's facility located at and adjoining 1611 N.W. 12th Avenue, Miami, Florida 33136 (Facility).

III. GOVERNING LAW

6. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the State of Florida (State) has received final authorization to carry out a hazardous waste program in lieu of the federal program set forth in RCRA. The requirements of the authorized State program are found at Fla. Stat. § 403.702 *et seq* and Fla. Admin. Code Ann. r. 62-730 *et seq*.

7. Pursuant to Section 3006(g) of RCRA, 42 U.S.C. § 6926(g), the requirements established by the Hazardous and Solid Waste Amendments of 1984 (HSWA), Pub. L. 98-616, are immediately effective in all states regardless of their authorization status and are implemented by the EPA until a state is granted final authorization with respect to those requirements. The State has received final authorization for certain portions of HSWA, including those recited herein.

8. Although the EPA has granted the State authority to enforce its own hazardous waste program, the EPA retains jurisdiction and authority to initiate an independent enforcement action pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2). This authority is exercised by the EPA in the manner set forth in the Memorandum of Agreement between the EPA and the State.

9. As the State's authorized hazardous waste program operates in lieu of the federal RCRA program, the citations for the violations of those authorized provisions alleged herein will be to the authorized State program; however, for ease of reference, the federal citations will follow in brackets.

10. Pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), Complainant has given notice of this action to the State before issuance of this CAFO.

11. Section 403.721 of the Florida Statutes, Fla. Stat. § 403.721 [Section 3002(a) of RCRA, 42 U.S.C. § 6922(a)], requires the promulgation of standards applicable to generators of hazardous waste. The implementing regulations for these standards are found at Fla. Admin. Code Ann. r. 62-730.160 [40 C.F.R. Part 262].

12. Section 403.722 of the Florida Statutes, Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925], sets forth the requirement that a facility treating, storing, or disposing of hazardous waste must have a permit or interim status. The implementing regulations for this requirement are found at Fla. Admin. Code Ann. r. 62-730.180(1) (permitted) and Fla. Admin. Code Ann. r. 62-730.180(2) (interim status)] [40 C.F.R. Parts 264 (permitted) and 265 (interim status)].

13. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.2], a "solid waste" is any discarded material that is not otherwise excluded from the regulations. A discarded material includes any material that is abandoned by being stored in lieu of being disposed.

14. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.3], a solid waste is a "hazardous waste" if it meets any of the criteria set forth in Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.3(a)(2)] and is not otherwise excluded from regulation as a hazardous waste by Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.4(b)].

15. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. §§ 261.3(a)(2)(i) and 261.20], solid wastes that exhibit any of the characteristics identified in Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. §§ 261.21-24] are characteristic hazardous waste and are provided with the EPA Hazardous Waste Numbers D001 through D043.

16. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. §§ 261.20 and 261.21], a solid waste that exhibits the characteristic of ignitability is a hazardous waste and is identified with the EPA Hazardous Waste Number D001.

17. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. §§ 261.20 and 261.22], a solid waste that exhibits the characteristic of corrosivity is a hazardous waste and is identified with the EPA Hazardous Waste Number D002.

18. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. §§ 261.20 and 261.24], a solid waste that exhibits the characteristic of toxicity is a hazardous waste and is identified with the EPA Hazardous Waste Number associated with the toxic contaminant causing it to be hazardous. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.24], a solid waste that exhibits the characteristic of toxicity for chromium is identified with the EPA Hazardous Waste Number D007.

19. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. §§ 261.3(a)(2)(ii) and 261.30], a solid waste is a listed "hazardous waste" if it is listed in Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. Part 261, Subpart D].

20. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.31], solid waste generated from non-specific sources are listed hazardous wastes and are identified with the EPA Hazardous Waste Nos. F001 through F039.

21. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.31], a solid waste from a non-specific source that is included among the following spent non-halogenated solvents is identified with the EPA Hazardous Waste Number F003: xylene, acetone, ethyl acetate, ethyl benzene, ethyl ether, methyl isobutyl ketone, n-butyl alcohol, cyclohexanone, and methanol; all spent solvent mixtures/blends containing, before use, only the above spent non-halogenated solvents; and all spent solvent mixtures/blends containing, before use, one or more of the above non-halogenated solvents, and, a total of ten percent or more (by volume) of one or more of those solvents listed in F001, F002, F004, and F005; and still bottoms from the recovery of these spent solvents and spent solvent mixtures.

22. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.31], a solid waste from a non-specific source that is included among the following spent non-halogenated solvents is identified with the EPA Hazardous Waste Number F005: toluene, methyl ethyl ketone, carbon disulfide, isobutanol, pyridine, benzene, 2-ethoxyethanol, and 2-nitropropane; all spent solvent mixtures/blends containing, before use, a total of ten percent or more (by volume) of one or more of the above non-halogenated solvents or those solvents listed in F001, F002, or F004; and still bottoms from the recovery of these spent solvents and spent solvent mixtures.

23. Pursuant to Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10], a "generator" is defined as any person, by site, whose act or process produces hazardous waste identified or listed in Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. Part 261], or whose act first causes a hazardous waste to become subject to regulation.

24. Pursuant to Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10], a "facility" includes all contiguous land, and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste.

25. Pursuant to Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10], a "person" includes an individual, trust, firm, joint stock company, Federal Agency, corporation (including a government corporation), partnership, association, State, municipality, commission, political subdivision of a State, or any interstate body.

26. Pursuant to Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10], an "owner" is "the person who owns a facility or part of a facility" and an "operator" is "the person responsible for the overall operation of a facility."

27. Pursuant to Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10], a "container" is defined as any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled.

28. Pursuant to Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10], "storage" means the holding of a hazardous waste for a temporary period, at the end of which the hazardous waste is treated, disposed of, or stored elsewhere.

29. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.10], a generator of greater than 100 kilograms (220 lbs) but less than 1,000 kilograms (2,200 lbs) of non-acute hazardous waste or less than 1 kilogram (2.2 lbs) of acute hazardous waste in a calendar month is a small quantity generator (SQG).

30. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.15(a)], a generator may accumulate as much as 55 gallons of non-acute hazardous waste in containers at or near the point of generation where wastes initially accumulate, which is under the control of the operator of the process generating the waste, without a permit or without having interim status, as required by Section 403.722 of the Florida Statutes, Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925], and without complying with Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.16(b) or §262.17(a)], except as required in Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.15(a)(7)], provided that the generator complies with the satellite accumulation area (SAA) conditions listed in Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.15(a)] (hereinafter referred to as the "SAA Permit Exemption").

31. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.15(a)(4)], which is a condition of the SAA Permit Exemption, a generator is required to keep containers of hazardous waste closed at all times during accumulation, except when adding, removing, or consolidating waste; or when temporary venting of a container is necessary for the proper operation of equipment, or to prevent dangerous situations, such as build-up of extreme pressure.

32. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.15(a)(5)], which is a condition of the SAA Permit Exemption, a generator is required to mark or label its containers (i) with the words "Hazardous Waste" and (ii) with an indication of the hazards of the contents.

33. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.16], a SQG may accumulate hazardous waste on-site for 180 days or less without a permit or without having interim status, as required by Section 403.722 of the Florida Statutes, Fla. Stat. § 403.722

[Section 3005 of RCRA, 42 U.S.C. § 6925], provided that the generator complies with the conditions listed in Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.16] (hereinafter referred to as the "SQG Permit Exemption").

34. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.16(a)], which is a condition of the SQG Permit Exemption, a SQG can only generate greater than 100 kilograms (220 lbs) but less than 1,000 kilograms (2,200 lbs) of non-acute hazardous waste in a calendar month, specified in the definition of a SQG in Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10].

35. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.16(b)(2)(iv)], which is a condition of the SQG Permit Exemption, a generator is required to, at least weekly, inspect central accumulation areas looking for leaking containers and for deterioration of containers caused by corrosion or other factors.

36. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(3), which is a condition of the SQG Permit Exemption, a generator is required to keep the written documentation of inspections for at least three years from the date of the inspection. At a minimum, such documentation shall include the date and time of the inspection, the legibly printed name of the inspector, the number of containers, the condition of the containers, a notation of the observations made, and the date and nature of any repairs or other remedial actions.

37. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.16(b)(6)(i)(B) and (C)], which is a condition of the SQG Permit Exemption, a generator must mark or label its containers with the following: (B) an indication of the hazards of the contents; and (C) mark or label the date upon which each period of accumulation began clearly visible for inspection on each container.

38. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.16(b)(8)(v)], which is a condition of the SQG Permit Exemption, a generator is required to maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, unless aisle space is not needed for any of these purposes.

39. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.40(a)], which is a condition of the SQG Permit Exemption, a generator must keep a copy of each manifest signed in accordance with Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.23(a)] for three years or until he receives a signed copy from the designated facility which received the waste. This signed copy must be retained as a record for at least three years from the date the waste was accepted by the initial transporter.

40. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.42(b)], which is a condition of the SQG Permit Exemption, a generator who does not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 60 days of the date the waste was accepted by the initial transporter, must submit an exception report, containing a legible copy of the manifest, with some indication that the generator has not received confirmation of delivery, to the EPA Regional Administrator for the Region in which the generator is located.

41. Pursuant to Fla. Admin. Code Ann. r. 62-730.185(1) [40 C.F.R. §273.9], a "small quantity handler of universal waste" (SQHUW) is a universal waste handler who does not accumulate 5,000 kilograms or more of universal waste (batteries, pesticides, mercury-containing equipment, lamps, or aerosol cans, calculated collectively) at any time.

42. Pursuant Fla. Admin. Code Ann. r. 62-730.185(1) [40 C.F.R. § 273.13(d)(1)], a SQHUW must manage universal waste lamps in a way that prevents releases of any universal waste or component of a universal waste to the environment. A SQHUW must contain any lamp in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. Such containers and packages must remain closed and must lack evidence of leakage, spillage or damage that could cause leakage under reasonably foreseeable conditions.

43. Pursuant to Fla. Admin. Code Ann. r. 62-730.185(1) [40 C.F.R. § 273.14(e)], a SQHUW must label or mark each lamp or container of lamps clearly with one of the following phrases: "Universal Waste-Lamp(s),"or "Waste Lamp(s)," or "Used Lamps."

44. Pursuant to Fla. Admin. Code Ann. r. 62-730.185(1) and Fla. Admin. Code Ann. r. 62-737.400(7) [40 C.F.R. § 273.15(a) and (c)], a SQHUW may accumulate universal waste for no longer than one year from the date the universal waste is generated or received from another handler and must be able to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received.

IV. FINDINGS OF FACTS

45. Respondent's Facility is located at and adjoining 1611 N.W. 12th Avenue, Miami, Florida 33136. The Respondent is part of the Jackson Health System, a non-profit academic medical system providing healthcare to Miami-Dade County residents.

46. The Respondent generally delivers acute health care services to communities throughout the Miami-Dade County in Florida. The Facility is a fully operational hospital with pharmacies, laboratories, maintenance shop, heart surgery center, stroke center, chest pain center and a cancer treatment center.

47. Respondent generates 100 kilograms (220 lbs) or more but less than 1,000 kilograms (2,200 lbs) of hazardous waste in a calendar month and therefore is a SQG of hazardous waste. At all times relevant to this CAFO, the Respondent was a SQG of hazardous waste unless otherwise noted.

48. Respondent accumulates less than 5,000 kilograms of universal waste and therefore is an SQHUW.

49. The Respondent submitted a RCRA Subtitle C Site Identification Form (EPA Form 8700-12) that was received by the Florida Department of Environmental Protection (FDEP) on April 23, 2012. The Respondent notified as a SQG of hazardous waste.

50. The Respondent does not have interim status, nor does it have a RCRA permit.

51. On July 16 and 18, 2019, the EPA and the FDEP conducted a RCRA compliance evaluation inspection (CEI) at Respondent's Facility. The EPA's findings from the CEI were documented in a report mailed to Respondent, dated November 19, 2019.

52. At the time of the CEI, the EPA inspector observed that the Respondent failed to close one 5-gallon container of D001, F003, and F005, waste methanol, in the Main Core Lab.

53. At the time of the CEI, the EPA inspector observed that the Respondent failed to mark or label the following hazardous waste containers with an indication of the hazards of the contents: one 5-gallon container of D001, F003, and F005, waste methanol, in the Main Core Lab; two 15-gallon poly containers of D001, F003, and F005, waste methanol, in the Microbiology Lab; one 5-gallon and a 18-gallon of D001, F003, and F005, waste methanol, and one 5-gallon poly container of D002, acid rinse, in the Immunology Lab; one 20-gallon container of D001 and F003, waste xylene, in the Cytology Lab; two 30-gallon containers of D001, F003, and F005, waste xylene, and one 5-gallon container of D002, decal wash waste in the Histology Lab; and one 30-gallon container of D001, used flammable rags, in the Print Shop.

54. After the CEI, based on the documents provided by the Respondent, the EPA determined that the Respondent generated more than 2,200 lbs of hazardous waste during the calendar months of March 2016, October 2018, and September 2019.

55. At the time of the CEI, the Respondent stated to the EPA inspector that the Respondent did not conduct weekly inspections at the Central Accumulation Area and therefore, the Respondent did not keep weekly inspection records for the Central Accumulation Area.

56. At the time of the CEI, the EPA inspector observed that the Respondent failed to mark or label seven containers of D001, F003, and F005, solvent waste, and one container of D007, chromium waste, with an indication of the hazards of the contents and mark or label the date upon which each period of accumulation began clearly visible for inspection on each container in the Central Accumulation Area.

57. At the time of the CEI, the EPA inspector observed that the Respondent failed to have adequate aisle space to allow the unobstructed movement of personnel to inspect the hazardous waste containers in the Central Accumulation Area.

58. At the time of the CEI, the EPA inspector observed that the Respondent could not provide signed copies of hazardous waste manifests from the designated facility which received the waste.

59. At the time of the CEI, the EPA inspector determined that the Respondent did not submit exception reports to the EPA Regional Administrator for the instances in which Respondent did not receive a copy of a manifest with the handwritten signature of the owner or operator of the designated facility within sixty (60) days of the date the waste was accepted by the initial transporter. The exception report must contain a legible copy of the manifest, with some indication that the generator has not received confirmation of delivery.

60. At the time of the CEI, the EPA inspector observed that the Respondent failed to close or properly manage three 7-ft long cardboard boxes of universal waste lamps and forty-one (41) universal waste lamps on the floor of the Maintenance Area in a way that prevents releases of any universal waste or component of universal waste to the environment.

61. At the time of the CEI, the EPA inspector observed that the Respondent failed to mark each lamp or container of lamps clearly with one of the following phrases: "Universal Waste-Lamp(s),"or "Waste Lamp(s)," or "Used Lamps" in the Maintenance Area.

62. At the time of the CEI, the EPA inspectors determined that the Respondent was not able to demonstrate the length of time that the following universal waste batteries and lamps had been accumulated on-site from the date it became a waste: one 5-gallon bucket of universal waste batteries in the Maintenance Area; two 5-gallon containers of universal waste batteries in the Adult Neurosurgery; two 5-gallon containers of universal waste batteries in the Adult Neurosurgery (West Wing 1204); one 5-gallon container of universal waste batteries in the Adult Neurology (West Wing 1104); one 5-gallon container of universal waste batteries in the Surgical Recovery area; and three 7-ft long cardboard boxes of waste lamps and forty-one lamps on the floor of the Maintenance Area.

V. ALLEGED VIOLATIONS

63. Respondent is a "person" within the meaning of Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10].

64. Respondent is the "owner/operator" of a "facility," located at and adjoining 1611 N.W. 12th Avenue, Miami, Florida, as those terms are defined in Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10], at all times relevant to this CAFO.

65. Respondent generates wastes that are "solid wastes" as defined in Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.2].

66. Respondent is a "generator" of "hazardous waste" as those terms are defined in Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10] and Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.3].

67. Respondent is a "small quantity handler of universal waste" as defined in Fla. Admin. Code Ann. r. 62-730.185(1) [40 C.F.R. § 273.9].

68. Respondent failed to keep closed one 5-gallon container of D001, F003, and F005, waste methanol, in the Main Core Lab. The EPA therefore alleges Respondent violated Section 403.722 of the Florida Statutes, Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to keep its containers of hazardous waste closed in accordance with Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.15(a)(4)], which is a condition of the SAA Permit Exemption.

69. The Respondent failed to mark or label the following hazardous waste containers with an indication of the hazards of the contents: one 5-gallon container of D001, F003, and F005, waste methanol, in the Main Core Lab; two 15-gallon poly containers of D001, F003, and F005, waste methanol, in the Microbiology Lab; one 5-gallon and a 18-gallon of D001, F003, and F005, waste methanol, and one 5-gallon poly container of D002, acid rinse, in the Immunology Lab; one 20-gallon container of D001 and F003, waste xylene, in the Cytology Lab; two 30-gallon containers of D001, F003, and F005, waste xylene, and one 5-gallon container of decal wash waste in the Histology Lab; and one 30-gallon container of D001, used flammable rags, in the Print Shop. The EPA therefore alleges Respondent violated Section 403.722 of the Florida Statutes, Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to comply with the marking and labeling requirement in Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.15(a)(5)], which is a condition of the SAA Permit Exemption.

70. Respondent failed to meet a condition for exemption for a SQG, by generating more hazardous waste than the 2,200 lbs allowed as an SQG during the calendar months of March 2016, October 2018, and September 2019. The EPA therefore alleges Respondent violated Section 403.722 of the Florida Statutes, Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to generate less than 2,200 lbs of hazardous waste per calendar month as required in Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.16(a)], which is a condition of the SQG Permit Exemption.

71. Respondent failed to perform weekly inspections of the Central Accumulation Area. The EPA therefore alleges Respondent violated Section 403.722 of the Florida Statutes, Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to comply with the container inspection requirement in Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.16(b)(2)(iv)], which is a condition of the SQG Permit Exemption.

72. Respondent failed to maintain records of weekly inspections of the Central Accumulation Area. The EPA therefore alleges Respondent violated Section 403.722 of the Florida Statutes, Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because the Respondent failed to comply with the recordkeeping requirements of Fla. Admin. Code Ann. r. 62-730.160(3), which is a condition of the SQG Permit Exemption.

73. Respondent failed to mark or label seven containers of solvent waste and one container of chromium waste with an indication of the hazards of the contents and mark or label the date upon which each period of accumulation began on each container in the Central Accumulation Area. The EPA therefore alleges Respondent violated Section 403.722 of the Florida Statutes, Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to comply with the marking and labeling requirements in Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.16(b)(6)(i)(B) and (C)], which is a condition of the SQG Permit Exemption.

74. Respondent did not maintain aisle space to allow the unobstructed movement of personnel and equipment in the Central Accumulation Area. The EPA therefore alleges Respondent violated Section 403.722 of the Florida Statutes, Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to comply with aisle space requirement in Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.16(b)(8)(v)], which is a condition of the SQG Permit Exemption.

75. Respondent failed to keep copies of signed hazardous waste manifests for at least three years from the date the waste was accepted by the initial transporter or until the facility receives a signed copy from the designated facility which received the waste. The EPA therefore alleges Respondent violated Section 403.722 of the Florida Statutes, Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to keep signed copies of hazardous waste manifests as required in Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.40(a)], which is a condition of the SQG Permit Exemption.

76. Respondent failed to submit exception reports to the EPA Regional Administrator for the instances in which Respondent did not receive a copy of a manifest with the handwritten

signature of the owner or operator of the designated facility within sixty (60) days of the date the waste was accepted by the initial transporter. The exception report must contain a legible copy of the manifest, with some indication that the generator has not received confirmation of delivery. The EPA therefore alleges Respondent violated Section 403.722 of the Florida Statutes, Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to submit exception reports in accordance with Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.42(b)], which is a condition of the SQG Permit Exemption.

77. Respondent failed to close or properly manage three 7-ft long cardboard boxes of universal waste lamps and forty-one (41) universal waste lamps on the floor of the Maintenance Area in a way that prevents releases of any universal waste or component of universal waste to the environment. The EPA therefore alleges that Respondent violated Fla. Admin. Code Ann. r. 62-730.185(1) [40 C.F.R § 273.13(d)(1)], by failing to keep universal waste lamps in closed containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps.

78. Respondent failed to mark a container of universal waste lamps with one of the following phrases: "Universal Waste-Lamp(s)," or "Waste Lamp(s)," or "Used Lamps" in the Maintenance Area. The EPA therefore alleges that Respondent violated Fla. Admin. Code Ann. r. 62-730.185(1) [40 C.F.R. § 273.14(e)], by not labeling or marking each lamps or container of lamps clearly with one of the following phrases: "Universal Waste-Lamp(s),"or "Waste Lamp(s)," or "Used Lamps."

79. Respondent failed to demonstrate the length of time that the universal waste lamps in the Maintenance Area and batteries accumulated in a container and/or boxes located in the Maintenance Area, Adult Neurosurgery, Adult Neurosurgery (West Wing 1204), Adult Neurology (West Wing 1104), and Surgical Recovery had been accumulated from the date that that they became a waste. The EPA therefore alleges that Respondent violated Fla. Admin. Code Ann. r. 62-730.185(1) and Fla. Admin. Code Ann. r. 62-737.400(7) [40 C.F.R. § 273.15(a) and (c)], by failing to demonstrate the length of time that universal waste had been accumulated from the date that the universal waste became a waste or was received.

VI. STIPULATIONS

80. The issuance of this CAFO simultaneously commences and concludes this proceeding. 40 C.F.R. § 22.13(b).

81. For the purpose of this proceeding, as required by 40 C.F.R. § 22.18(b)(2), Respondent:

    a. admits that the EPA has jurisdiction over the subject matter alleged in this CAFO;

    b. neither admits nor denies the factual allegations set forth in Section IV (Findings of Facts) of this CAFO;

    c. consents to the assessment of a civil penalty as stated below;

    d. consents to the conditions specified in this CAFO;

e. waives any right to contest the allegations set forth in Section V (Alleged Violations) of this CAFO; and

f. waives its rights to appeal the Final Order accompanying this CAFO.

82. For the purpose of this proceeding, Respondent:

a. agrees that this CAFO states a claim upon which relief may be granted against Respondent;

b. acknowledges that this CAFO constitutes an enforcement action for purposes of considering Respondent's compliance history in any subsequent enforcement actions;

c. waives any and all remedies, claims for relief, and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this CAFO, including any right of judicial review under Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706;

d. waives any rights it may possess at law or in equity to challenge the authority of the EPA to bring a civil action in a United States District Court to compel compliance with the CAFO, and to seek an additional penalty for such noncompliance, and agrees that federal law shall govern in any such civil action;

e. waives any right it may have pursuant to 40 C.F.R. § 22.8 to be present during any discussions with, or to be served with and reply to, any memorandum or communication addressed to EPA officials where the purpose of such discussion, memorandum, or communication is to persuade such official to accept and issue this CAFO; and

f. agrees to comply with the terms of this CAFO.

83. By executing this CAFO, Respondent certifies to the best of its knowledge that Respondent is currently in compliance with all relevant requirements of the Act and its implementing regulations, and that all violations alleged herein, which are neither admitted nor denied, have been corrected.

84. In accordance with 40 C.F.R. § 22.5, the individuals named in the certificate of service are authorized to receive service related to this proceeding and the Parties agree to receive service by electronic means.

VII. TERMS OF PAYMENT

85. Respondent consents to the payment of a civil penalty, which was calculated in accordance with the Act, in the amount of **EIGHTY SEVEN THOUSAND DOLLARS ($87,000.00)**, which is to be paid within thirty (30) calendar days of the Effective Date of this CAFO.

86. Payment shall be made by cashier's check, certified check, by electronic funds transfer (EFT), or by Automated Clearing House (ACH) (also known as REX or remittance express). If paying by check, the check shall be payable to: Treasurer, United States of America, and the Facility name and docket number for this matter shall be referenced on the face of the check.

a. If Respondent sends payment by the U.S. Postal Service, the payment shall be addressed to:

United States Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000

b. If Respondent sends payment by non-U.S. Postal express mail delivery, the payment shall be sent to:

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines & Penalties
1005 Convention Plaza
Mail Station: SL-MO-C2-GL
St. Louis, Missouri 63101
Contact Number: (314) 425-1819

c. If paying by EFT, Respondent shall transfer the payment to:

Federal Reserve Bank of New York
ABA: 021030004
Account Number: 68010727
SWIFT address: FRNYUS33
33 Liberty Street
New York, New York 10045
Field Tag 4200 of the Fedwire message should read:
"D 68010727 Environmental Protection Agency"

d. If paying by ACH, Respondent shall remit payment to:

US Treasury REX / Cashlink ACH Receiver
ABA: 051036706
Account Number: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 – checking
Physical location of US Treasury facility:
5700 Rivertech Court
Riverdale, Maryland 20737
Contact: Craig Steffen, (513) 487-2091
REX (Remittance Express): 1-866-234-5681

87. Respondent shall send proof of payment, within 24 hours of payment of the civil penalty, to:

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960
R4_Regional_Hearing_Clerk@epa.gov

and

Parvez Mallick
RCRA Enforcement Section
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960
mallick.parvez@epa.gov

88. "Proof of payment" means, as applicable, a copy of the check, confirmation of credit card or debit card payment, confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to the EPA requirements, in the amount due, and identified with the Facility name and "Docket No. RCRA-04-2021-2100(b)."

89. Pursuant to 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondent fails to remit the civil penalty as agreed to herein, the EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the costs of processing and handling the delinquent claim. Accordingly, the EPA may require the Respondent to pay the following amounts on any amount overdue:

    a. Interest. Interest will begin to accrue on the civil penalty from the Effective Date of this CAFO. If the civil penalty is paid within 30 days of the Effective Date of this CAFO, Interest is waived. However, if the civil penalty is not paid in full within 30 days, Interest will continue to accrue on any unpaid portion until the unpaid portion of the civil penalty and accrued Interest are paid. Interest will be assessed at the rate of the United States Treasury tax and loan rate, as established by the Secretary of the Treasury, in accordance with 31 U.S.C. § 3717(a)(1), 31 C.F.R. § 901.9(b)(2), and 40 C.F.R. § 13.11(a).

    b. Non-Payment Penalty. On any portion of a civil penalty or a stipulated penalty more than ninety (90) calendar days past due, Respondent must pay a non-payment penalty of not more than six percent (6%) per annum, which will accrue from the date the penalty payment became due and is not paid, as provided in 31 U.S.C. § 3717(e)(2) and 31 C.F.R. § 901.9(d). This non-payment penalty is in addition to charges which accrue or may accrue under subparagraphs (a) and (c) and will be assessed monthly. 40 C.F.R. § 13.11(c).

    c. Monthly Handling Charge. Respondent must pay a late payment handling charge to cover the administrative costs of processing and handling the delinquent claim, based on either actual or average cost incurred. 31 C.F.R. § 901.9(b)(c), and 40 C.F.R. § 13.11(b). Administrative costs will be assessed monthly throughout the period the debt is overdue except as provided by 40 C.F.R. § 13.12.

90. In addition to what is stated in the prior Paragraph, if Respondent fails to timely pay any portion of the penalty assessed under this CAFO, the EPA may:

    a. refer the debt to a credit reporting agency or a collection agency, 40 C.F.R. §§ 13.13 and 13.14;

b. collect the debt by administrative offset (i.e., the withholding of money payable by the United States to, or held by the United States for, a person to satisfy the debt the person owes the Government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, 40 C.F.R. Part 13, Subparts C and H;

c. suspend or revoke Respondent's licenses or other privileges, or suspend or disqualify Respondent from doing business with the EPA or engaging in programs the EPA sponsors or funds, 40 C.F.R. § 13.17; and/or

d. refer the debt to the Department of Justice as provided in 40 C.F.R. § 13.33. In any such judicial action, the validity, amount, and appropriateness of the penalty and of this CAFO shall not be subject to review.

91. Penalties paid pursuant to this CAFO shall not be deductible for purposes of federal taxes.

VIII. EFFECT OF CAFO

92. In accordance with 40 C.F.R. § 22.18(c), Respondent's full compliance with this CAFO shall only resolve Respondent's liability for federal civil penalties for the violations and facts specifically alleged above.

93. Full payment of the civil penalty, as provided in Section VII (Terms of Payment), shall not in any case affect the right of the EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law 40 C.F.R. § 22.18(c).

94. Any violation of this CAFO may result in a civil penalty for each day of continued noncompliance with the CAFO and/or the suspension or revocation of any federal or state permit issued to the violator, as provided in Section 3008(c) of the Act, 42 U.S.C § 6928(c).

95. Nothing in this CAFO shall relieve Respondent of the duty to comply with all applicable provisions of the Act and other federal, state, or local laws or statutes, nor shall it restrict the EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit, except as expressly provided herein.

96. Nothing herein shall be construed to limit the power of the EPA to undertake any action against Respondent or any person in response to conditions that may present an imminent and substantial endangerment as provided under the Act.

97. The terms, conditions, and compliance requirements of this CAFO may not be modified or amended except upon the written agreement of both Parties, and approval of the Regional Judicial Officer.

98. The provisions of this CAFO shall apply to and be binding upon Respondent and its officers, directors, employees, agents, trustees, servants, authorized representatives, successors, and assigns.

99. Any change in the legal status of the Respondent, or change in ownership, partnership, corporate or legal status relating to the Facility, will not in any way alter Respondent's obligations and responsibilities under this CAFO.

100. By signing this Consent Agreement, Respondent acknowledges that this CAFO will be available to the public and agrees that this CAFO does not contain any confidential business information or personally identifiable information.

101. By signing this Consent Agreement, the Complainant and the undersigned representative of Respondent each certify that he or she is fully authorized to execute and enter into the terms and conditions of this CAFO and has the legal capacity to bind the party he or she represents to this CAFO.

102. By signing this Consent Agreement, both Parties agree that each Party's obligations under this CAFO constitute sufficient consideration for the other Party's obligations.

103. By signing this Consent Agreement, Respondent certifies that the information it has supplied concerning this matter was at the time of submission, and continues to be, true, accurate, and complete for each such submission, response, and statement. Respondent acknowledges that there are significant penalties for submitting false or misleading information, including the possibility of fines and imprisonment for knowing submission of such information, under 18 U.S.C. § 1001.

104. The EPA also reserves the right to revoke this CAFO and settlement penalty if and to the extent that the EPA finds, after signing this CAFO, that any information provided by Respondent was materially false or inaccurate at the time such information was provided to the EPA. If such false or inaccurate material was provided, the EPA reserves the right to assess and collect any and all civil penalties for any violation described herein. The EPA shall give Respondent notice of its intent to revoke, which shall not be effective until received by Respondent in writing.

105. Unless specifically stated otherwise in this CAFO, each party shall bear its own attorney's fees, costs, and disbursements incurred in this proceeding.

106. It is the intent of the parties that the provisions of this CAFO are severable. If any provision or authority of this CAFO or the application of this CAFO to any party or circumstances is held by any judicial or administrative authority to be invalid or unenforceable, the application of such provisions to other parties or circumstances and the remainder of the CAFO shall remain in force and shall not be affected thereby.

IX. EFFECTIVE DATE

107. This CAFO shall become effective after execution of the Final Order by the Regional Judicial Officer, on the date of filing with the Hearing Clerk.

[Remainder of Page Intentionally Left Blank

Complainant and Respondent will Each Sign on Separate Pages.]

The foregoing Consent Agreement In the Matter of **The Public** Health Trust of Miami-Dade County DBA Jackson Memorial Hospital, Docket No. RCRA-04-2021-2100(b), is Hereby Stipulated, Agreed, and Approved for Entry.

FOR RESPONDENT:

Signature _____ Date 3/2/21

Printed Name: Carlos Migoya

Title: President and CEO

Address: 1611 NW 12 AVENUE, Miami, FL 33136

The foregoing Consent Agreement In the Matter of The Public Health Trust of Miami-Dade County DBA Jackson Memorial Hospital, Docket No. RCRA-04-2021-2100(b), is Hereby Stipulated, Agreed, and Approved for Entry.

FOR COMPLAINANT:

KIMBERLY BINGHAM

Digitally signed by KIMBERLY BINGHAM
Date: 2021.03.12 11:55:04 -05'00'

Kimberly L. Bingham
Chief
Chemical Safety and Land Enforcement Branch
U.S. Environmental Protection Agency, Region 4

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

In the Matter of: The Public Health Trust of Miami-Dade County DBA Jackson Memorial Hospital 1611 N.W. 12th Avenue Miami, Florida 33136 EPA ID No.: FLD981474216 Respondent.	Docket No. RCRA-04-2021-2100(b) Proceeding Under Section 3008(a) of the Resource Conservation and Recovery Act, 42 U.S.C. § 6928(a)

The Regional Judicial Officer is authorized to ratify this Consent Agreement which memorializes a settlement between Complainant and Respondent. 40 C.F.R. §§ 22.4(b) and 22.18(b)(3). The foregoing Consent Agreement is, therefore, hereby approved, ratified and incorporated by reference into this Final Order in accordance with the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, 40 C.F.R. Part 22.

The Respondent is hereby ORDERED to comply with all of the terms of the foregoing Consent Agreement effective immediately upon filing of this Consent Agreement and Final Order with the Regional Hearing Clerk. This Final Order disposes of this matter pursuant to 40 C.F.R. §§ 22.18 and 22.31.

BEING AGREED, IT IS SO ORDERED.

TANYA FLOYD

Digitally signed by TANYA FLOYD
Date: 2021.03.15 18:48:25 -04'00'

Tanya Floyd
Regional Judicial Officer

CERTIFICATE OF SERVICE

I certify that the foregoing Consent Agreement and Final Order, in the Matter of The The Public Health Trust of Miami-Dade County DBA Jackson Memorial Hospital, Docket No. RCRA-04-2021-2100(b), were filed and copies of the same were emailed to the parties as indicated below.

Via email to all parties at the following email addresses:

To Respondent:

Wayne Ferdinand, Director
Environmental Health & Safety
Jackson Memorial Hospital
WFerdinand@jhsmiami.org
1500 NW 12th Avenue
Miami, Florida 33136
(305) 585-2903

Dominic Minardi, Associate Director
Environmental Health & Safety
Jackson Memorial Hospital
DMinardi@jhsmiami.org
1500 NW 12th Avenue
Miami, Florida 33136
(305) 585-2964

To EPA:

Parvez Mallick, Environmental Engineer
mallick.parvez@epa.gov
(404) 562-8594

F. Marshall Binford, Associate Regional Counsel
binford.marshall@epa.gov
(404) 562-9543

Quantindra Smith
smith.quantindra@epa.gov
(404) 562-8564

U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

SAUNDI WILSON Digitally signed by SAUNDI WILSON
Date: 2021.03.16 08:04:02 -04'00'

Saundi Wilson
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960