



Office of the City Clerk

City Hall
121 N. LaSalle St.
Room 107
Chicago, IL 60602
www.chicityclerk.com

Legislation Text

File #: O2014-6905, **Version:** 1

ORDINANCE FOR LONG TERM EASEMENT

WHEREAS, The City of Chicago ("City") is a home rule unit of government by virtue of the provisions of the Constitution of the State of Illinois of 1970 and, as such, may exercise any power and perform any function pertaining to its government and affairs; and

WHEREAS, the City wishes to support the charitable, educational and philanthropic activities of established Not for Profit Corporations and encourage the continued viability and growth of their activities; and

WHEREAS, in furtherance of such activities, many Not for Profit Corporations must move large numbers of vulnerable clients between adjacent properties that are bisected by public streets and alleys that are still required for public use; and

WHEREAS, the City wishes to facilitate Not for Profit-originated services to the public, and provide safe passage above public street(s) and alley(s) where necessary, for no compensation; and

WHEREAS, Presence Saints Mary & Elizabeth Medical Center, an Illinois Not for Profit corporation organized and existing under and by virtue of the Statutes of the State of Illinois ("Grantee") is owner of the hospital properties commonly identified as 2200 -2224, 2234 - 2248, & 2201 - 2259 W. Division Street (together, the "Site"); and

WHEREAS, Grantee currently uses the Site for hospital purposes; and

WHEREAS, the City Council of the City of Chicago, after due investigation and consideration, has determined that the nature and extent of the public use and the public interest to be subserved is such as to warrant a long term easement for a pedestrian overpass over the public street described in the following ordinance; and

WHEREAS, Grantee has constructed a pedestrian overpass (the "Pedestrian Overpass") to bridge the public right of way between hospital buildings at the Site; and

WHEREAS, Grantee has expended substantial sums in constructing the Pedestrian Overpass and related construction in order to facilitate the interconnection between the hospital buildings at the Site; and

WHEREAS, the Pedestrian Overpass will continue to promote public health, safety and welfare by allowing patients, medical staff, program participants, staff and visitors to traverse between the Grantee's Site's hospital buildings, protected from weather and from vehicular traffic; and

WHEREAS, the Pedestrian Overpass requires the use of the public right-of-way, specifically the air rights above the street; and

WHEREAS, the Department of Transportation has determined that the Pedestrian Overpass will not interfere with the City's traffic infrastructure and will benefit the citizens of the City of Chicago; and

WHEREAS, the City is willing to grant Grantee an easement on the same terms and conditions set forth in the Public Way Easement Agreement (the "Public Way Easement Agreement") attached hereto and incorporated herein as Exhibit A; now, therefore,

Be it Ordained by the City Council of the City of Chicago;

SECTION 1. The foregoing recitals are hereby incorporated herein and adopted as the findings of the City Council.

SECTION 2. The Commissioner of the Department of Transportation (the "Commissioner") or a designee of the Commissioner is each hereby authorized, along with the approval of the City's Corporation Counsel as to form and legality, to execute and deliver the Public Way Easement Agreement between Grantee and the City, in the form attached hereto as Exhibit A and made a part hereof, and such other supporting documents as may be necessary or appropriate to carry out and comply with the provisions of the Public Way Easement Agreement.

SECTION 3. If any provision of this ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such provision shall not affect any of the other provisions of this ordinance.

SECTION 4. The Public Way Easement Agreement herein provided for is made upon the express condition that within one hundred eighty (180) days after the passage of this ordinance, Presence Saints Mary & Elizabeth Medical Center shall file or cause to be filed for recording in the Office of the Recorder of Deeds of Cook County, Illinois a copy of the Public Way Easement Agreement, together with its accompanying Plat of Easement as approved by the Department of Transportation's Superintendent of Maps and Plats, as well as a separately recorded oversized and legible copy of the same Plat of Easement for greater clarity.

SECTION 5. This ordinance shall take effect upon its passage and need not be recorded.

SECTION 6. The Public Way Easement Agreement will take effect upon recording.
Easement approved:

Commissioner of Transportation

Approved as to form and legality
Richard Wendy Deputy Corporation Counsel
Honorable Proco Joe Moreno Alderman 1st Ward
oh Waqu

Honorable ScoJk Waguespack Alderman SZ^Ward

EXHIBIT B TO ORDINANCE

This Instrument Prepared By and After
Recording Return to: Karen Bielarz
Senior Counsel City of Chicago
Department of Law 121 North LaSalle
Street Room 600
Chicago, Illinois 60602

(The Above Space For Recorder's Use Only)

Public Way Easement Agreement (Pedestrian
Bridge)

This Agreement (the "Agreement") is entered into as of this day of 2014, by and between the City of Chicago, an Illinois home rule municipal corporation, by and through its Department of Transportation, (the "City") and Presence Saints Mary and Elizabeth Medical Center, a not-for-profit corporation organized and existing under and by virtue of the statutes of the State of Illinois ("Grantee"). City and Grantee together shall be referred to herein from time to time as the "Parties".

Witnesseth:

WHEREAS, Grantee is the owner of real property commonly known as 2200-2224, 2234-2248, and 2201-2259 W. Division Street, Chicago, Illinois, as legally described on Exhibit A attached hereto and made a part hereof (the "Property"), and currently improved with buildings that serve as the Grantee's medical campus; and;

WHEREAS, Grantee, an Illinois not for profit institution, is the owner of the medical buildings along W. Division Street bounded by N. Oakley Boulevard and N. Leavitt Street; and

WHEREAS, the adjacent buildings together shall be referred to herein from time to time as the Overpass Buildings ("Overpass Buildings"); and

WHEREAS, Grantee erected and was previously permitted for a pedestrian overpass ("Overpass") to connect the Overpass Buildings over and above the grade of the City's public right-of-way ("Street") by approximately one thousand six hundred and forty one (1641) square feet, and twenty six thousand nine hundred and seventy eight (26,978) cubic feet, more or less ("Easement Area"), as more fully described on the Plat of Easement ("Plat") attached hereto as Exhibit B: and

WHEREAS, the Overpass will continue to require the use of the street, specifically use of certain of the air rights above the street, as more fully depicted on the Plat; and

1

WHEREAS, the Grantee requires the use of the Overpass, which lies above the grade of the street, and the Easement Area, for safe pedestrian movement within the Overpass Buildings; and

WHEREAS, the Overpass will benefit the facility by allowing vulnerable patients, visitors, doctors and other pedestrians to traverse between the Overpass Buildings protected from the weather and vehicular traffic; and

NOW, THEREFORE, in consideration of the above preambles, the mutual covenants herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Grant of Easement Area. The City hereby grants to Grantee an easement ("Easement") to use and occupy, in accordance with this Agreement, those certain limited air rights in and above the Street in the Easement Area, as identified and legally described on the Plat, for the installation, operation, maintenance, repair and replacement of the Overpass. The Parties hereto may, upon review and approval of the Commissioner ("Commissioner") of the Department of Transportation, or any successor department ("CDOT"), substitute a revised Easement legal description for the Easement legal description set forth on Exhibit C attached hereto and made a part hereof, subject to review and approval of the City's Corporation Counsel.

2. Terms. The following terms and conditions apply to the Easement:

a) The Easement is an easement appurtenant in favor of Presence Saints Mary and Elizabeth Medical Center and its successors and assigns.

b) The Easement is granted for a term of twenty (20) years ("Term") provided that the Grantee or any successor to Grantee as owner of the hospital is recognized by the Federal Government as a not-for-profit entity.

c) The Easement shall burden the Easement Area as the servient tenement.

d) Grantee warrants to the City that it is the owner ("Owner") of the adjacent Property, is owner of the Overpass structure, and that the Grantee has sufficient title and fee interest to/in the Property to enter into this Agreement.

e) The public way Easement granted pursuant to this Agreement constitutes a contemporaneous grant of interest in real property and is not executory in nature.

f) Grantee shall not transfer any interest in the Easement without prior written consent by the Commissioner, which shall not be unreasonably withheld (provided, however, that such consent shall not be

required in connection with any transfer of ownership of the hospital to another not-for-profit corporation).

2

3. Grantee's Obligations.

a) The Grantee expressly warrants that the Overpass is designed and constructed in compliance with all federal, state and local laws and regulations. The Grantee further expressly warrants that the Overpass is designed and constructed in compliance with accessibility standards, including, but not limited to: (1) the Americans with Disabilities Act of 1990, 42 U.S.C. 12101, et seq., and the regulations promulgated thereunder; (2) the Illinois Environmental Barriers Act (410 ILCS 25/1 et seq. (1996)); (3) The Illinois Accessibility Code, 71 Ill. A. Code 400; and (4) all local City ordinances, codes, regulations.

b) The Grantee shall be responsible for obtaining ongoing approvals of and payment for any and all removals, relocations, alterations, additional maintenance and restorations of or to any utility or public service structures or facilities, or any structures or facilities located in or adjacent to the Easement Area which are owned by the City, including pavements, bridges, poles, and other facilities and utilities, which are or may be necessary or appropriate to facilitate work related to the Overpass. The Grantee shall be responsible for obtaining the consent of and making suitable arrangements with all entities owning and having an interest in such structures and facilities, including any City department.

(d) The Grantee shall secure all necessary permits, including but not limited to, building permits.

4. Uses Within the Easement Areas.

a) The Overpass shall be open for use by the public at such times that the Overpass Buildings are open to the public.

b) The Grantee may not authorize the use of the Overpass for any purpose that will substantially interfere with the use of the Overpass by the public.

c) The Grantee may utilize the Overpass for exhibits, displays and the like that shall not substantially interfere with the public's use described in this Agreement.

d) Grantee may establish reasonable rules and regulations related to the use by the public of the Overpass. Grantee may at its sole discretion control the use of and access to the Overpass Buildings through the Overpass. Notwithstanding the foregoing, the City reserves a right to access the Overpass and Easement Area for City business purposes and services available to all similarly situated improvements.

5. Overpass Alterations.

Grantee may from time to time replace, remodel or demolish all or any portion of the Overpass so long as the Grantee secures the prior written approval of the Commissioner (or any successor department's Commissioner) and City Council for alterations that may affect the Easement Area or other portions of the

public right-of-way before making any alterations to the Overpass that would change the description provided on the Plat.

6. Not for Profit. The Grantee covenants that it is a not-for-profit entity. In the event of a change in the Grantee's not-for-profit status, or Grantee's transfer of any interest

3

i

in the Easement, except as permitted by Section 2(f) hereof, the Easement will immediately terminate and the new owner of the Property must apply for an easement or promptly remove the Overpass at the new owner's sole cost and expense.

7. Removal and Restoration. Grantee shall have the right to terminate this Easement at any time. Upon termination of the Easement granted by this Agreement the Grantee, without cost or expense to the City, shall promptly remove the Overpass, and all other structures and facilities related to the Overpass as may be located in the Easement Area and other affected public way at the Grantee's sole cost and expense. Grantee shall restore the public way to the extent altered, disturbed, or damaged by the installation, construction, use, operation, inspection, maintenance, repair, replacement or removal of the Overpass, and all work related thereto, to a proper condition under the supervision and to the satisfaction of the Commissioner and in accordance with the Municipal Code of Chicago.

8. Indemnity. Except with respect to the negligent or wrongful intentional acts of City (to the extent the same are the cause of an injury or loss to a third person), Grantee hereby indemnifies and agrees to hold harmless and defend City from and against any and all claims, demands, damages, lawsuits, legal proceedings, losses, liens, liabilities, judgments, orders or decrees, and all reasonable costs and expenses (including, without limitation, reasonable attorneys' fees, court costs, and other reasonable expenses related to litigation), arising from or as a result of the death of, or any accident, injury, loss or damage whatsoever caused to the City, any natural person, or the City's property, including but not limited to the Easement Area and all other impacted City right-of-way, the property of any person, arising out of, or occurring in any manner relating to the Easement Area, or the Overpass. In the event any legal action is taken against City or its agents or any claim is made relating to the Easement Area or the Overpass, the City may elect to tender said defense to Grantee which shall and must defend such action or claim at Grantee's own expense and City shall cooperate with Grantee in the defense thereof. City shall have the right to join Grantee as a party defendant in any such legal action. This indemnity shall not be the exclusive remedy of the City, and City shall maintain whatever other right of indemnity it may have under common law, by statute, or by ordinance.

9. Grantee's Operation. Maintenance and Security of the Easement Area and Overpass during the Term of this Agreement.

a) Grantee shall maintain the Easement Area and Overpass at its sole cost and expense.

b) Grantee shall maintain the Easement Area and Overpass so that the improvement does not unduly interfere with any use of the public way by the City, the public, or any person or entity authorized to use or occupy the public way.

c) Grantee shall conduct regular, documented inspections of the Overpass and the Easement Area and maintain the Overpass and Easement Area in a structurally sound, clean, aesthetically attractive,

and usable condition consistent with the public use required by this Agreement. All Overpass and Easement Area maintenance records shall be made available to CDOT upon CDOT's written request for such documentation to Grantee.

- (d) Grantee shall attach no fixtures, post no verbiage, signage, symbols, art or

4

advertising of any kind on the structure, or on the interior of the structure that may be visible from the exterior, other than the name of Grantee hospital in fixed letters no larger than one sixth of the functional height of the structure as permitted under a compensated Use of the Public Way permit submitted to the Department of Business Affairs & Consumer Protection, or its successor department. The Grantee shall not lease nor enter into any agreement for the Overpass or Easement Area lying over, under, on or in the public way for advertising space purposes, or for any other promotional use(s) for the Grantee or any third parties.

e) Grantee shall cooperate with the City concerning the coordination of uses of the public way, including prompt responses to inquiries, attending meetings and site visits, and providing complete disclosure of information concerning the Easement Area and Overpass.

f) Grantee shall pay for any and all utility expenses incurred with respect to the operation, maintenance, repair, replacement, and/or removal, or any part thereof, of the Overpass, or any part thereof, within the Easement Area.

g) Grantee shall provide security over the Easement Area and Overpass at its sole cost and expense.

10. City Has No Maintenance and Operational Duties. The Grantee acknowledges that City is not responsible for the operation, maintenance, repair, replacement, and/or removal, or any part thereof, of or security of the Easement Area and the Overpass, and City has no obligations with respect thereto (other than the provision, through the exercise of the City's right to access the Overpass and Easement Area for City business purposes and services available to all similarly situated improvements).

11. Insurance.

a) The Grantee shall procure and maintain, at all times, or shall cause to be procured and maintained, all of the types and coverages of insurance specified below, with insurance companies authorized to do business in the State of Illinois, covering all operations under this Agreement, whether performed by the Grantee or any of its contractors.

- b) The kinds and amounts of insurance required are as follows:

- (i) Workers' Compensation and Occupational Disease Insurance.

Workers' Compensation and Occupational Disease Insurance, in statutory amounts, covering all employees who are to provide Work under this Agreement. Employers' liability coverage with limits of not less than One Million Dollars (\$1,000,000) each accident, illness or disease.

- (ii) Commercial Liability Insurance (Primary and Umbrella).

Commercial General Liability Insurance, or equivalent, with limits of not less than Five Million Dollars (\$5,000,000) per occurrence for bodily injury, personal injury, and property

5

damage liability. All premises and operations, products/completed operations, independent contractors, explosion, collapse, underground, pollution (if commercially available), separation of insureds, defense and contractual liability coverages are to be included. The City is to be named as an additional insured on a primary non-contributory basis for any liability related directly or indirectly to this Agreement.

Contractors performing work for Grantee must maintain limits of not less than \$2,000,000 with the same terms herein.

(iii) Automobile Liability Insurance. (Primary and Umbrella)

When any motor vehicles (owned, non-owned and hired) are used in connection with work to be performed, the Grantee provide or cause to be provided, Automobile Liability Insurance with limits of not less than Two Million Dollars (\$2,000,000) per occurrence for bodily injury and property damage. The City is to be named as an additional insured on a primary, non-contributory basis.

Contractor performing work for Grantee must maintain limits of not less than \$1,000,000 with the same terms herein.

(c) Additional Requirements

The Grantee must provide and cause any of its contractors to provide the City of Chicago, Department of Transportation, 30 North LaSalle Street, Room 500, Chicago, Illinois 60602-2570, original Certificates of Insurance, to be in force on the date of this Agreement, and Renewal Certificates of Insurance, or such similar evidence, if the coverages have an expiration or renewal date occurring during the term of this Agreement. The receipt of any certificate does not constitute agreement by the City that the insurance requirements in the Agreement have been fully met or that the insurance policies indicated on the certificate are in compliance with all Agreement requirements. The failure of the City to obtain certificates or other insurance evidence from Grantee and contractor is not a waiver by the City of any requirements for the Grantee to obtain and maintain the specified coverages. The Grantee and contractor must advise all insurers of the Agreement provisions regarding insurance. Non-conforming insurance does not relieve Grantee and contractor of the obligation to provide insurance as specified herein. Non-fulfillment of the insurance conditions may constitute a violation of the Agreement, and the City retains the right to stop work until proper evidence of insurance is provided.

Grantee agrees to make commercially reasonable efforts to obtain from its insurers, when and if available in the industry, a certificate providing that such coverage shall not be suspended, voided, canceled, non-renewed, or reduced in scope or limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City.

Any deductibles or self-insured retentions on referenced insurance coverages must be borne by Grantee and contractor.

The Grantee hereby agrees and will cause its contractors to agree that insurers waive their rights of subrogation against the City of Chicago, its employees, elected officials, agents, or representatives.

6

The coverages and limits furnished by Grantee and contractor in no way limit the Grantee's and contractor's liabilities and responsibilities specified within the Agreement or by law.

Any insurance or self-insurance programs maintained by the City of Chicago do not contribute with insurance provided by the Grantee and contractor under the Agreement.

The required insurance to be carried is not limited by any limitations expressed in the indemnification language in this Agreement or any limitation placed on the indemnity in this Agreement given as a matter of law.

If Grantee or contractor is a joint venture or limited liability company, the insurance policies must name the joint venture or limited liability company as a named insured.

The Grantee must require the contractor to provide the insurance required herein. All contractors are subject to the same insurance requirements of Grantee unless otherwise specified in this Agreement.

The City's Risk Management Department maintains the right to modify, delete, alter or change these requirements.

12. Default. The Grantee shall be in default hereunder in the event of a material breach by Grantee of any term or condition of this Agreement including, but not limited to, a representation or warranty, where Grantee has failed to cure such breach within sixty (60) days after written notice of breach is given to Grantee by City setting forth the nature of such breach. Failure of City to give written notice of breach to Grantee shall not be deemed to be a waiver of the City's right to assert such breach at a later time. If the default is not capable of being cured within the sixty (60) day period, then provided Grantee has commenced to cure the default and is diligently proceeding to cure the default within the sixty (60) day period, and thereafter diligently prosecutes such cure through to completion, then the sixty (60) day period shall be extended for the length of time that is reasonably necessary to cure the default. If the default is not cured in the time period provided for herein, the City may institute such proceedings at law or in equity as may be necessary or desirable to cure and remedy the default, including but not limited to, termination of this Agreement and removal of the Overpass at the Grantee's sole expense.

13. Compliance With Law. The Grantee agrees that the Easement Area and Overpass shall be used, and any alterations to the Overpass shall be constructed, installed, used, operated, inspected, maintained, repaired and replaced in complete compliance with all applicable laws, statutes and ordinances.

14. Partial Invalidity. If any clause, sentence or other portion of this Agreement shall become illegal, null or void for any reason, or shall be held by any court of competent jurisdiction to be so, the remaining portion hereof shall remain in full force and effect.

15. Notices. Any and all notices or other communications required or permitted pursuant hereto shall be in writing and shall be deemed to have been given if and when personally delivered or on the next

following business day if transmitted by reputable overnight carrier. Notices shall be addressed to Grantee and City at their respective

7

addresses set forth below, or to such substitute address as Grantee or City may have designated by notice in accordance herewith:

If to City:

Commissioner of Transportation 30 North LaSalle
Street, Room 500 Chicago, Illinois 60602 Attn: Maps
and Plats / Vacations

With a copy to: Department of

Law
121 North LaSalle Street, Room 600
Chicago, Illinois 60602
Attn: Senior Corporation Counsel
Real Estate and Land Use Division

If to Grantee:

Presence Saints Mary and Elizabeth Medical Center c/o Presence RHC
Corporation 200 S. Wacker Drive Chicago, Illinois 60606 Attn: General
Counsel

With a copy to:

Ms. Donna Pugh
Foley & Lardner, LLP
321 N. Clark Street, Suite 2800
Chicago, IL 60654

16. Illinois Law. This Agreement has been negotiated, executed and delivered at Chicago, Illinois and shall be construed and enforced in accordance with the laws of Illinois, including the law of public trust with respect to the use and occupation of the public way.

17. Execution And Recordation of Agreement. The execution and recordation of this Agreement shall be subject to the finalization of all utility negotiations and further provided that the Grantee supplies the City with sufficient proof of ownership of the Property, and any other documents that the City may deem necessary.

18. No Third-Party Beneficiaries. This Agreement shall be binding upon and inure to the benefit solely of Grantee and City and their respective successors, assigns, licensees and legal representatives. This document and the terms hereof are intended solely for the benefit of the parties hereto and their successors,

licensee and assigns, as

8

expressly referred to herein. No other person shall have any rights, responsibilities or obligations hereunder nor may such person enforce any of the terms or be entitled to any of the benefits hereof.

19. Authority and Validity. Each party represents and warrants to the other party that (i) this Agreement has been duly authorized, executed and delivered by it and (ii) this Agreement constitutes the legal, valid and binding obligation of it, enforceable against it in accordance with its terms.

20. Miscellaneous.

a) The terms, benefits, and privileges set forth in this Agreement shall be deemed and taken to be covenants running with the Property and shall be binding upon the Grantee, its successors and assigns having any interest in the Property.

b) If any provision of this Agreement, or any paragraph, sentence, clause, phrase, or word or the application thereof is held invalid, illegal, null or void for any reason, or shall be held by any court of competent jurisdiction to be so, the remainder of this Agreement shall be construed as if such invalid part were never included and this Agreement shall be and remain valid and enforceable to the fullest extent permitted by law provided that this Agreement, in its entirety as so reconstituted, does not represent a material change to the rights or obligations of either of the Parties.

c) In the event the time for performance hereunder falls on a Saturday, Sunday, or legal holiday, the actual time for performance shall be the next business day.

d) This Agreement and the accompanying Plat shall be governed by, and construed in accordance with, the internal laws of the State of Illinois. In the event that an adjudication of any kind shall be required in connection with this Agreement, the Parties agree that the venue therefor shall be the state or federal courts located in Cook County, Illinois, whichever may be applicable.

e) This Agreement constitutes the entire contract between the Parties with respect to the subject matter of this Agreement, and may not be modified except by an instrument in writing signed by all the Parties and dated a date subsequent to the date of this Agreement.

f) Each Party agrees that it will execute and deliver such other reasonable documents and take such other reasonable actions as may be reasonably requested by the other party to effectuate the purposes and intention of this Agreement.

21. Business Relationships.

The Grantee acknowledges (A) receipt of a copy of Section 2-156-030 (b) of the Municipal Code of Chicago, (B) that it has read such provision and understands that pursuant to such Section 2-156-030 (b) it is illegal for any elected official of the City, or any person acting at the direction of such official, to contact, either orally or in writing, any other City official or employee with respect to any matter involving any person with whom the elected City official or employee has a "Business Relationship" (as defined in Section 2-156-080 of the Municipal Code of Chicago), or to participate in any discussion in any City Council committee hearing or in any City Council meeting or to vote on any matter involving the person with whom an elected official has a Business Relationship, and (c) notwithstanding anything to the contrary contained in this

Agreement, that a violation of Section 2-156-030 (b) by an elected official, or any person acting at the direction of such official, with respect to any transaction contemplated by this Agreement shall be grounds for termination of this Agreement and the transactions contemplated hereby. The Grantee hereby represents and warrants that no violation of Section 2-156-030 (b) has occurred with respect to this Agreement or the transactions contemplated hereby.

22. Patriot Act Certification.

The Grantee represents and warrants that neither the Grantee nor any Affiliate thereof (as defined in the next paragraph) is listed on any of the following lists maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury, the Bureau of Industry and Security of the U.S. Department of Commerce or their successors, or on any other list of persons or entities with which the City may not do business under any applicable law, rule, regulation, order or judgment: the Specially Designated Nationals List, the Denied Persons List, the Unverified List, the Entity List and the Debarred List.

As used in the above paragraph, an "Affiliate" shall be deemed to be a person or entity related to the Grantee that, directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with Grantee, and a person or entity shall be deemed to be controlled by another person or entity, if controlled in any manner whatsoever that results in control in fact by that other person or entity (or that other person or entity and any persons or entities with whom that other person or entity is acting jointly or in concert), whether directly or indirectly and whether through share ownership, a trust, a contract or otherwise.

23. Prohibition on Certain Contributions Mayoral Executive Order 2011-4.

Grantee agrees that Grantee, any person or entity who directly or indirectly has an ownership or beneficial interest in Grantee of more than 7.5 percent ("Owners"), spouses and domestic partners of such Owners, Grantee's contractors (i.e., any person or entity in direct contractual privity with Grantee regarding the subject matter of this Agreement) ("Contractors"), any person or entity who directly or indirectly has an ownership or beneficial interest in any Contractor of more than 7.5 percent ("Sub-owners") and spouses and domestic partners of such Sub-owners (Grantee and all the other preceding classes of persons and entities are together, the "Identified Parties"), shall not make a contribution of any amount to the Mayor of the City of Chicago (the "Mayor") or to his political fundraising committee (i) after execution of this Agreement by Grantee, (ii) while this Agreement or any Other Contract is executory, (iii) during the term of this Agreement or any Other Contract between Grantee and the City, or (iv) during any period while an extension of this Agreement or any Other Contract is being sought or negotiated.

Grantee represents and warrants that from the later to occur of (a) May 16, 2011, and (b) the date the City approached the Grantee or the date the Grantee approached the City, as applicable, regarding the formulation of this Agreement, no Identified Parties have made a contribution of any amount to the Mayor or to his political fundraising committee.

Grantee agrees that it shall not: (a) coerce, compel or intimidate its employees to make a contribution of any amount to the Mayor or to the Mayor's political fundraising committee; (b) reimburse its employees for a contribution of any amount made to the Mayor or to the Mayor's political fundraising committee; or (c) Bundle or solicit others to bundle contributions to the Mayor or to his political fundraising committee.

10

Grantee agrees that the Identified Parties must not engage in any conduct whatsoever designed to intentionally violate this provision or Mayoral Executive Order No. 2011-4 or to entice, direct or solicit others to intentionally violate this provision or Mayoral Executive Order No. 2011-4.

Grantee agrees that a violation of, non-compliance with, misrepresentation with respect to, or breach of any covenant or warranty under this provision or violation of Mayoral Executive Order No. 2011-4 constitutes a breach and default under this Agreement, and under any Other Contract for which no opportunity to cure will be granted, unless the City, in its sole discretion, elects to grant such an opportunity to cure. Such breach and default entitles the City to all remedies (including without limitation termination for default) under this Agreement, under any Other Contract, at law and in equity. This provision amends any Other Contract and supersedes any inconsistent provision contained therein.

If Grantee intentionally violates this provision or Mayoral Executive Order No. 2011-4 prior to the closing of this Agreement, the City may elect to decline to close the transaction contemplated by this Agreement.

For purposes of this provision:

"Bundle" means to collect contributions from more than one source, which is then delivered by one person to the Mayor or to his political fundraising committee.

"Other Contract" means any other agreement with the City of Chicago to which Grantee is a party that is (i) formed under the authority of chapter 2-92 of the Municipal Code of Chicago; (ii) entered into for the purchase or lease of real or personal property; or (iii) for materials, supplies, equipment or services which are approved or authorized by the City Council of the City of Chicago.

"Contribution" means a "political contribution" as defined in Chapter 2-156 of the Municipal Code of Chicago, as amended.

Individuals are "Domestic Partners" if they satisfy the following criteria:

- A) they are each other's sole domestic partner, responsible for each other's common welfare; and
- B) neither party is married; and
- C) the partners are not related by blood closer than would bar marriage in the State of Illinois; and
- D) each partner is at least 18 years of age, and the partners are the same sex, and the partners reside at the same residence; and
- E) two of the following four conditions exist for the partners:
 - 1. The partners have been residing together for at least 12 months.
 - 2. The partners have common or joint ownership of a residence.
 - 3. The partners have at least two of the following arrangements:
 - a. joint ownership of a motor vehicle;
 - b. a joint credit account;
 - c. a joint checking account;
 - d. a lease for a residence identifying both domestic partners as tenants.
 - 4. Each partner identifies the other partner as a primary beneficiary in a will.

"Political fundraising committee" means a "political fundraising committee" as defined in Chapter 2-156 of the Municipal Code of Chicago, as amended.

24. Failure To Maintain Eligibility To Do Business With The City.

Failure by Grantee or any controlling person (as defined in Section 1-23-010 of the Municipal Code of Chicago) thereof to maintain eligibility to do business with the City of Chicago as required by Section 1-23-030 of the Municipal Code of Chicago shall be grounds for termination of the Agreement and the transactions contemplated thereby. Grantee shall at all times comply with Section 2-154-020 of the Municipal Code of Chicago.

25. Inspector General and Legislative Inspector General.

It is the duty of every officer, employee, department, agency, contractor, subcontractor, Grantee and licensee of the City, and every applicant for certification of eligibility for a City contract or program, to cooperate with the City's Legislative Inspector General and with the City's Inspector General in any investigation or hearing undertaken pursuant to Chapters 2-55 and 2-56, respectively, of the Municipal Code of Chicago. The Grantee understands and will abide by all provisions of Chapters 2-55 and 2-56 of the Municipal Code of Chicago.

26. Waste Ordinance Provisions.

In accordance with Section 11-4-1600(e) of the Municipal Code of Chicago, Grantee warrants and represents that it, and to the best of its knowledge, its contractors and subcontractors, have not violated and are not in violation of any provisions of Section 7-28 or Section 11-4 of the Municipal Code (the "Waste Sections"). During the period while this Amendment is executory, Grantee's, any general contractor's or any subcontractor's violation of the Waste Sections, whether or not relating to the performance of this Agreement, constitutes a breach of and an event of default under this Agreement, for which the opportunity to cure, if curable, will be granted only at the sole designation of the Chief Procurement Officer. Such breach and default entitles the City to all remedies under the Amendment, at law or in equity. This section does not limit Grantee's, general contractor's and its subcontractor's duty to comply with all applicable federal, state, county and municipal laws, statutes, ordinances and executive orders, in effect now or later, and whether or not they appear in this Amendment. Noncompliance with these terms and conditions may be used by the City as grounds for the termination of this Amendment, and may further affect Grantee's eligibility for future contract awards.

27. Shakman Accord.

a) The City is subject to the May 31, 2007 Order entitled "Agreed Settlement Order and Accord" (the "Shakman Accord") and the August 16, 2007 "City of Chicago Hiring Plan" (the "City Hiring Plan") entered in *Shakman v. Democratic Organization of Cook County*, Case No 69 C 2145 (United States District Court for the Northern District of Illinois). Among other things, the Shakman Accord and the City Hiring Plan prohibit the City from hiring persons as governmental employees in non-exempt positions on the basis of political reasons or factors.

b) Grantee is aware that City policy prohibits City employees from directing any individual to apply for a position with Grantee, either as an employee or as a subcontractor, and from directing Grantee to

hire an individual as an employee or as a subcontractor. Accordingly,

12

Grantee must follow its own hiring and contracting procedures, without being influenced by City employees. Any and all personnel provided by Grantee under this Agreement are employees or subcontractors of Grantee, not employees of the City of Chicago. This Agreement is not intended to and does not constitute, create, give rise to, or otherwise recognize an employer-employee relationship of any kind between the City and any personnel provided by Grantee.

c) Grantee will not condition, base, or knowingly prejudice or affect any term or aspect to the employment of any personnel provided under this Agreement, or offer employment to any individual to provide services under this Agreement, based upon or because of any political reason or factor, including, without limitation, any individual's political affiliation, membership in a political organization or party, political support or activity, political financial contributions, promises of such political support, activity or financial contributions, or such individual's political sponsorship or recommendation. For purposes of this Agreement, a political organization or party is an identifiable group or entity that has as its primary purpose the support of or opposition to candidates for elected public office. Individual political activities are the activities of individual persons in support of or in opposition to political organizations or parties or candidates for elected public office.

d) In the event of any communication to Grantee by a City employee or City official in violation of Section 27 (b) above, or advocating a violation of Section 27 (c) above, Grantee will, as soon as is reasonably practicable, report such communication to the Hiring Oversight Section of the City's Office of the Inspector General ("IGO Hiring Oversight"), and also to the head of the relevant City Department utilizing services provided under this Agreement. Grantee will also cooperate with any inquiries by IGO Hiring Oversight or the Shakman Monitor's Office related to the contract.

THE BALANCE OF THIS PAGE IS INTENTIONALLY LEFT BLANK

13

IN WITNESS WHEREOF, Grantee and City have caused this Agreement to be executed by their duly authorized officers, as of the day and year first written above.

PRESENCE SAINTS MARY AND ELIZABETH MEDICAL CENTER

an Illinois not for profit corporation

By: _ Name: Title:

CITY OF CHICAGO,

a municipal corporation,

by and through its Department of Transportation

By:

Name:
Commissioner

Rebekah

Scheinfeld

Title:

Approved As To Form And Legality (excluding the
Legal Descriptions):

CITY OF CHICAGO Department of
Law of

By:

Name: Karen Bielarz Title: Senior Counsel

14

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, _____, a Notary Public in and for said County, in the State aforesaid, do hereby certify that Rebekah Scheinfeld personally known to me to be the Commissioner of the Department of Transportation of the City of Chicago, an Illinois municipal corporation, and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and being first duly sworn by me acknowledged that as the Commissioner, she signed and delivered the instrument pursuant to authority given by the City of Chicago, as her free and voluntary act and as the free and voluntary act and deed of the corporation, for the uses and purposes therein set forth.

GIVEN under my notarial seal this _____ day of _____, 2014.

NOTARY PUBLIC

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, _____, a Notary Public in and for said County, in the State aforesaid, do hereby certify that _____, personally known to me to be the _____ of _____, and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and being first duly sworn by me severally acknowledged that as such _____, he signed and delivered the instrument pursuant to authority given by _____ as his free and voluntary act and as the free and voluntary act and deed of _____, for the uses and purposes therein set forth.

GIVEN under my notarial seal this _____ day of _____, 2014.

NOTARY PUBLIC

15

**EXHIBIT A LEGAL DESCRIPTION OF PRESENCE SAINTS MARY &
ELIZABETH MEDICAL CENTER**

LAND ON NORTH SIDE OF WEST DIVISION STREET (NORTH OF SKYBRIDGE)-PARCEL I:

LOTS 23 THROUGH 47 BOTH INCLUSIVE IN BLOCK 16 IN THE SUBDIVISION OF THE WEST $\frac{1}{2}$ OF THE NORTHWEST V* OF SECTION 6, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN (ACKNOWLEDGED BY WATSON, TOWER AND DAVIS), RECORDED OCTOBER 10, 1856, ANTE-FIRE, AND RE-RECORDED JUNE 23, 1857, ANTE-FIRE, TOGETHER WITH ALL OF THE VACATED ALLEYS LYING WITHIN SAID BLOCK 16 AND, ALSO TOGETHER WITH THAT PART OF VACATED NORTH BELL AVENUE LYING BETWEEN SAID BLOCKS 15 AND 16 AND LYING SOUTH OF A LINE DRAWN BETWEEN THE NORTHEAST CORNER OF SAID BLOCK 15 AND THE NORTHWEST CORNER OF SAID BLOCK 16 AND LYING NORTH OF A LINE DRAWN BETWEEN THE SOUTHEAST CORNER OF SAID BLOCK 15 AND THE SOUTHWEST CORNER OF SAID BLOCK 16, ALL TAKEN AS ONE TRACT IN COOK COUNTY, ILLINOIS

EXCEPTING THEREFROM:

THAT PART OF BLOCKS 15 AND 16 IN THE SUBDIVISION OF THE WEST $\frac{1}{2}$ OF THE NORTHWEST % OF SECTION 6, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN (ACKNOWLEDGE BY WATSON, TOWER AND DAVIS), RECORDED OCTOBER 10, 1856, ANTE-FIRE, AND RE-RECORDED JUNE 23, 1857, ANTE-FIRE, TOGETHER WITH ALL OF THE VACATED ALLEYS LYING WITHIN SAID BLOCKS 15 AND 16 AND, ALSO TOGETHER WITH THAT PART OF VACATED NORTH BELL AVENUE LYING BETWEEN SAID BLOCKS 15 AND 16 AND LYING SOUTH OF A LINE DRAWN BETWEEN THE NORTHEAST CORNER OF SAID BLOCK 15 AND THE NORTHWEST CORNER OF SAID BLOCK 16 AND LYING NORTH OF A LINE DRAWN BETWEEN THE SOUTHEAST CORNER OF SAID BLOCK 16 AND LYING NORTH OF A LINE BETWEEN THE SOUTH EAST CORNER OF SAID BLOCK 15 AND THE SOUTHWEST CORNER OF SAID BLOCK 16, ALL TAKEN AS ONE TRACT, BOUNDED AND DESCRIBED AS FOLLOWS: BEGINNING AT A POINT IN THE SOUTH LINE OF SAID BLOCK 16 155.36 FEET WEST OF THE SOUTHEAST CORNER OF SAID BLOCK 16; THENCE NORTH 89 DEGREES 55 MINUTES 22 SECONDS WEST ALONG SAID SOUTH LINE A DISTANCE OF 175.69 FEET; THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST A DISTANCE OF 154.00 FEET; THENCE SOUTH 89 DEGREES 55 MINUTES 22 SECONDS EAST ALONG A LINE 154.00 FEET NORTH OF AND PARALLEL WITH SAID SOUTH LINE, A DISTANCE OF 175.69 FEET; THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS WEST 154.00 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS

PARCEL II:

THAT PART OF BLOCKS 15 AND 16 IN THE SUBDIVISION OF THE WEST $\frac{1}{2}$ OF THE NORTHWEST $\frac{1}{4}$ OF SECTION 6, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN (ACKNOWLEDGE BY WATSON, TOWER AND DAVIS), RECORDED OCTOBER 10, 1856, ANTE-FIRE, AND RE-RECORDED JUNE 23, 1857, ANTE-FIRE, TOGETHER WITH ALL OF THE VACATED ALLEYS LYING WITHIN SAID BLOCKS 15 AND

16

16 AND, ALSO TOGETHER WITH THAT PART OF VACATED NORTH BELL AVENUE LYING BETWEEN SAID BLOCKS 15 AND 16 AND LYING SOUTH OF A LINE DRAWN BETWEEN THE NORTHEAST CORNER OF SAID BLOCK 15 AND THE NORTHWEST CORNER OF SAID BLOCK 16 AND LYING NORTH OF A LINE DRAWN BETWEEN THE SOUTHEAST CORNER OF SAID BLOCK 16 AND LYING NORTH OF A LINE BETWEEN THE SOUTH EAST CORNER OF SAID BLOCK 15 AND THE SOUTHWEST CORNER OF SAID BLOCK 16, ALL TAKEN AS ONE TRACT, BOUNDED AND DESCRIBED AS FOLLOWS: BEGINNING AT A POINT IN THE SOUTH LINE OF SAID BLOCK 16 155.36 FEET WEST OF THE SOUTHEAST CORNER OF SAID BLOCK 16; THENCE NORTH 89 DEGREES 55 MINUTES 22 SECONDS WEST ALONG SAID SOUTH LINE A DISTANCE OF 175.69 FEET; THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST A DISTANCE OF 154.00 FEET; THENCE SOUTH 89 DEGREES 55 MINUTES 22 SECONDS EAST ALONG A LINE 154.00 FEET NORTH OF AND PARALLEL WITH SAID SOUTH LINE, A DISTANCE OF 175.69 FEET; THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS WEST 154.00 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS

COMMONLY KNOWN AS 2233 WEST DIVISION STREET, CHICAGO, IL

PROPERTY INDEX NUMBERS:

17-06-125-001-0000

17-06-125-005-0000

17-06-125-043-0000

17-06-125-044-0000

17-06-125-045-0000

LAND ON SOUTH SIDE OF WEST DIVISION STREET (SOUTH OF SKYBRIDGE)-PARCEL I:

THE SOUTH HALF (EXCEPT THE NORTH 33 FEET THEREOF TAKEN FOR WEST HADDON AVENUE) OF BLOCK 3 IN SUFREN'S SUBDIVISION OF THE SOUTHWEST QUARTER OF SECTION 6, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL II:

LOTS 1 AND 2, THE WEST HALF OF LOT 7, ALL OF LOTS 46 TO 50, INCLUSIVE, THE VACATED 16 FOOT ALLEY EAST OF AND ADJOINING SAID LOT 45 AND LOTS 46 TO 50, INCLUSIVE, IN THE SUBDIVISION OF THE NORTH PART OF BLOCK 3 IN SUFREN'S SUBDIVISION OF THE SOUTHWEST QUARTER OF SECTION 6, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL III:

LOTS 1, 2, 3 AND 4 IN THE RESUBDIVISION OF LOTS 3 TO 6, INCLUSIVE, AND THE EAST HALF OF LOT 7 IN THE SUBDIVISION OF THE NORTH PART OF BLOCK 3 IN SUFREN'S SUBDIVISION OF THE SOUTHWEST QUARTER OF SECTION 6, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

17

PARCEL IV:

ALL OF THE PUBLIC ALLEYS AND ALL THAT PART OF HADDON AVENUE VACATED BY ORDINANCE PASSED BY THE CITY COUNCIL OF THE CITY OF CHICAGO ON NOVEMBER 21, 1971 AND RECORDED IN THE OFFICE OF RECORDER OF DEEDS OF COOK COUNTY, ILLINOIS ON JANUARY 4, 1972 AS DOCUMENT NO. 21766647.

PARCEL V:

EASEMENTS IN FAVOR OF PARCELS I THRU IV AS CREATED BY EASEMENT AND COVENANT AGREEMENT MADE BY ST. MARY'S AND ELIZABETH MEDICAL CENTER AND RESURRECTION SERVICES RECORDED MAY 27, 2010 AS DOCUMENT NO. 1014710022.

COMMONLY KNOWN AS 2233 WEST DIVISION STREET, CHICAGO, IL

PROPERTY INDEX NUMBERS: 17-06-301-024-0000

18

EXHIBIT B

PLAT OF EASEMENT (Attached)

19

• 5 5

W
53 W
CO

>-< 11
K 5

o
>-E3
X
: £

3

o m 5 o P⁰
z o: o Q: □ U Q.

X UJ
(5
85
.si
5
5*1
5*
8
if
hi pi
Begg

2"o 5s-| x"s is
5*5
5Z
2 in
E5«

8-- *I
E3
fess
Sp

S3 °£ o 11 «|« II2
15 B
JS g

18

3 S3-,
MSB If *§^s SSajig 5
t-w> o m a --'
roE?5o5"G? 855o
?n

EXHIBIT C
LEGAL DESCRIPTION OF EASEMENT AREA

A 3 DIMENSIONAL EASEMENT 16.41 FEET IN WIDTH OVER THAT PART OF WEST DIVISION STREET RIGHT OF WAY (PER DOCUMENT RECORDED JULY 10, 1857 AS NO. 88896), LYING BELOW A HORIZONTAL PLANE AT THE VERTICAL ELEVATION (CHICAGO CITY DATUM) OF 51.73 FEET AND ABOVE THE HORIZONTAL PLANE CREATED BY CONNECTING THE VERTICES FORMED BY THE VERTICAL ELEVATION POINTS (SAID POINTS ALL HAVING A VERTICAL ELEVATION OF 35.29 FEET) ATTACHED TO THE FOLLOWING CALLS OF THE PERIMETER DESCRIBED AS FOLLOWS: COMMENCING AT THE INTERSECTION OF THE SOUTH LINE OF SAID WEST DIVISION STREET WITH THE WEST LINE OF NORTH LEAVITT STREET (PER DOCUMENT RECORDED JULY 10, 1857 AS NO. 88896); THENCE SOUTH 90°00'00" WEST (ON AN ASSUMED BEARING) ALONG THE SOUTH LINE OF SAID WEST DIVISION STREET, 277.24 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 90°00'00" WEST ALONG THE LAST DESCRIBED COURSE 16.41 FEET; THENCE NORTH 00°05'11" WEST, 100.00 FEET TO A POINT ON THE NORTH LINE OF WEST DIVISION STREET RIGHT OF WAY AFORESAID; THENCE NORTH 90°00'00"^M EAST, ALONG SAID RIGHT OF WAY 16.41 FEET; THENCE SOUTH 00°05'11" EAST, 100.00 FEET TO THE POINT OF BEGINNING, IN THE CITY OF CHICAGO, COOK COUNTY, ILLINOIS.

CONTAINING: 1,641.00 SQ. FT., 26,978.04 CU. FT., MORE OR LESS

22

EXHIBIT D
PLANS (Attached)

23