ITEM # 22-0225

LEASE AGREEMENT BETWEEN THE CITY OF SANTA FE AND ST. VINCENT HOSPITAL

This LEASE AGREEMENT ("Lease Agreement") is made and entered into as of the date of the last signature ("Effective Date"), by and between the CITY OF SANTA FE, a municipal corporation ("City" or "Lessor") and ST. VINCENT HOSPITAL d/b/a CHRISTUS St. Vincent Regional Medical Center, a New Mexico non-profit corporation ("Lessee"), collectively the "Parties".

WHEREAS, Lessee provides important health services to Northern New Mexico, including the residents of the City of Santa Fe;

WHEREAS, Lessee has alerted the City that it has certain employees who have been evacuated from their homes due to fire danger ("Forced Evacuation") who are unable to afford or find alternative housing in the area, making them indigent (the Employees);

WHEREAS, under the New Mexico Constitution, the City may provide care and maintenance for indigent persons without just compensation in return;

WHEREAS, the City has available apartments at the Midtown Campus that would allow the Employees to be stabilized in housing during the evacuation and allow the Employees and the Lessee to continue to support the community with healthcare services.

WITNESSETH:

In consideration of the Lessee's promises herein, Lessor hereby gives Lessee a Lease Agreement, revocable and terminable as hereinafter provided, to enter on, make use of, the real property of Lessor as follows:

1. PREMISES

Lessor allows Lessee to use and/or occupy, subject to the terms and conditions of this Lease Agreement, those certain existing City-owned buildings known as Buildings 6a-1 and 6a-2 (Student Apartments) containing eight (8) two-bedroom apartments of approximately 625 square-feet each, adjacent laundry/office accessory building (approximately 400 square-feet), parking lots and any other common areas associated with the Premises, all located at 1600 Saint Michael's Drive on the Midtown Campus (the "Premises"), as shown on **Exhibit A** of this Lease Agreement.

Lessee accepts the Premises in its present state and agrees that it is in good condition, without any representation or warranty by Lessor as to the condition of the Premises.

2. LEASE TERM

a. Initial Term. The initial term of this Lease Agreement shall commence at 12:00 a.m. on the Effective Date. The term of this Lease Agreement shall be the duration of the Employees' Forced Evacuations from their homes due to fire risk, with a maximum term of six (6) weeks unless terminated earlier in accordance with the terms stated herein.

b. Option Term. In the event that an Employee's home is not habitable when the Forced Evacuation ends and/or upon termination of this Agreement, then the Parties may either execute an amendment to extend the term or enter into discussions for a new agreement. The Parties agree that Employee's shall be allowed to remain in the Premises during negotiations for extension of this Agreement.

c. Hold Over. In the event any Employee or Employee's family member remains in possession of the Premises after the expiration of the Term of this Lease Agreement or after the expiration of the Forced Evacuation, such possession may, at the sole option of Lessor, be continued as a month-to-month tenancy. During any such month-to-month tenancy, the Base Rent due shall be prorated and payable on a monthly basis, and the terms and conditions of the Lease Agreement shall be otherwise applicable.

3. RENT

a. Initial Term Rent. No rent is due during the initial term.

b. Base Rent. Monthly rent of $1,100 per apartment is due if any of the Employees remain in the Leased Premises beyond the Initial Term. The Base Rent is due without notice or demand and without deduction or offset for any cause whatsoever. Lessee shall make payments to; City of Santa Fe, Treasury Division, 200 Lincoln Ave., Room 114, Santa Fe, NM, 87504.

c. Penalty for Late Rent Payment. If money payable to Lessor as a condition of this Lease Agreement is not paid in full when due, a penalty of 10% of the amount due and unpaid shall be added to the amount due, and the total sum of the then-due rental payment plus penalty shall become immediately due and payable to Lessor. A further penalty of 10% of the amount due and unpaid, including previously assessed penalties, shall be added for each additional month that said amount remains unpaid. The assessment and collection of the 10% penalty is in addition to any other rights of Lessor, if Lessee does not faithfully perform the terms, covenants and conditions of this Lease Agreement.

4. USE OF PREMISES

a. Conditions of Use. Lessee shall use the Premises solely for the specific purpose of housing Employees and their immediate families, the persons with whom they lived prior to the fire.

b. Improvement of the Premises. Lessee may, with the prior written consent of Lessor and at no cost to Lessor, make minor improvements to the Premises as it deems necessary in furtherance of the intended use of the Premises as provided in Section 4.A above. Lessee shall, upon Lessor's request, remove all such improvements made to the Premises at the termination of this Lease Agreement.

c. Trade Fixtures. All trade fixtures installed by Lessee after the Effective Date of this Lease Agreement shall remain the property of Lessee, who may remove the same upon termination of this Lease Agreement, provided that removal shall be done in such a manner as not to injure or damage the Premises. In the event that Lessee fails to remove said trade fixtures after receipt of notice from Lessor to do so, Lessor may remove and dispose of the same as it sees fit and Lessee agrees to sell, assign, transfer and set over to Lessor all of Lessee's right, title and interest in and to said trade fixtures and any personal property not removed by Lessee. Lessee further agrees that should Lessor remove said trade fixtures pursuant to this paragraph. that Lessee shall pay Lessor upon demand the cost of such removal, plus the cost of transportation and disposal thereof.

d. Compliance with Laws. Lessee's use of the Premises shall at all times be in compliance with the City of Santa Fe Municipal Code and other applicable local, state and federal regulations including but not limited to compliance with the City of Santa Fe Integrated Pest Management Policy (§ 1 0-7 SFCC 1987) (the Pest Management Policy).

5. REPAIRS & MAINTENANCE

a. Lessee shall not cause or permit any waste, damage or injury to the Premises or to any improvements made to the Premises.

b. To the best of Lessor's knowledge there have been no prior acts that may have caused the existence of hazardous waste on or about the Property. In the event such existence should arise, Lessor agrees to take steps necessary to remediate the hazardous waste and also to ensure the safety of Lessee, its employees, agents, visitors and/or contractors.

c. Lessee shall, at its sole expense, keep and maintain the Premises in good and clean condition at all times;

d. Lessee shall be responsible for the costs of any and all required repairs, replacements, and capital improvements to the Premises that arise during the Term of this Lease Agreement that are (i) necessitated by Lessee's intentional acts or negligence (ii) not caused prior to Lessee's occupancy and/or (iii) related to damage that was caused by the conduct of Lessee's occupying tenant. Lessee shall contact Sam Burnett, (505-955-5933) for coordination of purchases and oversight of improvements or replacements.

e. Lessor shall be responsible for maintenance and repairs associated with the structural components of the Premises including, but not limited to, the (i) roof (ii) all items associated with heating, ventilated and refrigerated air conditioning equipment and systems (iii) structural floor and subfloors (iv) structural columns and beams (iv) exterior walls and windows (v) stairwells (vi) elevators, if applicable (vii) electric and plumbing systems including fire sprinkler systems (viii) electrical, water, gas connections to the building and (iv) other structural elements of the building associated with the Premises.

f. Maintenance obligations set forth herein shall be made promptly as and when necessary and shall be at least equal in quality of materials and workmanship to that originally existing in the Premises.

g. Lessor shall also be responsible for any costs to the City for it to maintain the landscaping and plants between the building and the sidewalk along the entire perimeter of the building.
h. Lessor shall at all times and in a timely manner, provide a safe Premises by eliminating conditions caused by, including and not limited to, snow, ice, debris, mold and standing water.
i. Lessor reserves the right to inspect the Premises at any time during the Term of this Lease Agreement to verify Lessee's compliance with this Section 6. In the event Lessee fails to maintain the Premises at a standard acceptable to the Lessor, as determined in Lessor's sole discretion, Lessor may terminate this Lease Agreement in accordance with Section 13 herein.
j. Repair and maintenance shall be to the sole satisfaction of Lessor, and if Lessee fails to fulfill any duty imposed under this Section 6 within a reasonable period of time, City may, and is not required to, perform those duties at Lessee's sole cost. Lessee shall promptly cooperate with Lessor if Lessor undertakes to perform such duties. No action by Lessor taken pursuant to the Section 6 shall constitute a waiver of Lessee's obligations. Lessee's obligations under this Section 6 shall survive the expiration or termination of this Lease Agreement.
k. If Lessor fails to properly keep and maintain the Premises, and such failure continues for 5 calendar days following written notice thereof from Lessee without Lessor commencing to cure such failure then, in addition to any other remedies which Lessee may have, Lessee, at its sole option, may perform any necessary repairs or take such necessary actions to cure the issue, and in connection therewith pay or incur reasonable expenses ("**Self-Help Remedy**"). In addition, if any failure by Lessor to perform its obligations in this section results in a dangerous condition or an emergency situation for Lessee then Lessee has the right immediately to elect such Self-Help Remedy.

6. UTILITIES & SERVICES

Lessor covenants that the utility systems, including, but not limited to water, electricity, natural gas, sanitary sewer and storm sewer (the "**Utilities**") are in good working order and repair.

Beginning on the Effective Date and until the termination of this Lease Agreement, the responsibility and costs for providing utilities and services to the Premises shall be the responsibility of the Parties as specified below:

a. Responsibility of Lessor. All natural gas, electricity, domestic water, and sanitary sewer service shall be provided to the Premises by Lessor.
b. Responsibility of Lessee. All telephone, cable or satellite television, wired or wireless internet, security alarm services, security video services, security monitoring services, solid waste collection services, cleaning, and repair services which solely serve the Premises, shall be coordinated and paid for by Lessee. Any utilities or services not specified herein shall be the responsibility of the Lessee.

7. TAXES

Lessee shall pay all taxes levied and assessed, if any, upon any personal property, fixtures and improvements belonging to Lessee and located upon the demised Premises, and all leasehold and possessory interest taxes levied or assessed by any proper taxing authority.

8. SUBLEASE, ASSIGNMENT OR TRANSFER

Lessee shall not sublet, assign or otherwise transfer this Lease Agreement, without the prior written consent of Lessor, which Lessor may withhold for any or no reason. Any such actions taken by Lessee shall result in the immediate termination of this Lease Agreement.

9. INSURANCE

Lessee shall at all times maintain and provide adequate insurance coverage which includes, without limitation, each of the following:

a. Casualty Insurance. Lessee shall carry and maintain in full force and effect during the term of this Lease Agreement casualty insurance ("extended coverage" and "additional extended coverage") as may be available for the Premises in an amount sufficient to restore and replace existing structures and improvements if lost or damaged by any form of casualty. Lessee shall cause the City of Santa Fe to be named as a loss payee on such policy of insurance.

b. Liability Insurance. Lessee shall carry and maintain in full force and effect during the Term of this Lease Agreement, general liability insurance covering bodily injury and property damage, in a form and with an insurance company acceptable to Lessor, with limits of coverage not less than as stated in the New Mexico Tort Claims Act for each person injured and for each accident resulting in damage to property, against all claims and lawsuits arising from Lessee's use of the Premises. Lessee shall cause the City of Santa Fe to be named as an additional insured on such policy of insurance.

c. Workman's Compensation Insurance. Lessee shall carry and maintain in full force and effect during the Term of this Lease Agreement, workers' compensation insurance at statutory limits for its employees working at the Premises. Lessee shall cause the City of Santa Fe to be named as an additional insured on such policy of insurance. Lessee may, at its option, provide proof of such coverage through a self-insurance policy to Lessor.

d. Certificates of Insurance. Prior to the Effective Date of this Lease Agreement, and thereafter at any time during the Term of this Lease Agreement that Lessor requests, Lessee shall provide Lessor with certificates of insurance for each policy evidencing that the coverage required hereunder is current. Such policy shall provide that the coverage evidenced thereby shall not be terminated or modified for any reason without thirty (30) days prior written notice to the Lessor. A certificate or policy which states that failure to give such notice imposes no obligation on the part of the insurer shall be unacceptable to Lessor, and Lessee shall be responsible for removing such language from such certificate or policy.

10. INDEMNIFICATION

Lessee shall indemnify, hold harmless and defend Lessor from all losses, damages, claims or judgments, including payment of all attorney's fees and costs, on account of any suit, judgment, execution, claim, action or demand whatsoever arising from damages occurring on the Premises and Lessee's use of the Premises hereunder, including use of the Premises by

Lessee's employees, agents, representatives, contractors, agents, guests, invitees or pem1itted assigns.

Lessee shall cause any and all agreements that Lessee enters into with any of the above parties to contain language indemnifying Lessor as provided in this Section.

11. NEW MEXICO TORT CLAIMS ACT

Any liability incurred by Lessor in connection with the Lease Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, Section 41-4-1, et seq. NMSA 1978, as amended. The City and its "public employees" as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, do not waive any defense, and do not waive any limitation of liability pursuant to law. No provision of this License modifies or waives any provision of the New Mexico Tort Claims Act.

12. EASEMENTS

Lessor reserves the exclusive right to grant access, utility or other easements on or through the Premises. Lessor shall notify Lessee in writing prior to Lessor's grant of any easement through the Premises.

13. TERMINATION

a. Either Party may terminate this Lease Agreement upon failure of the other party to comply with any provisions contained herein. Notice of termination shall be made via certified or registered mail specifying:
   i. the breach;
   ii. the action required to cure the breach;
   iii. a date, not less than fifteen (15) days from the date the notice is hand delivered or mailed to Lessee, by which such breach must be cured; and
   iv. that failure to cure such breach on or before the date specified in the notice will result in termination of the Lease Agreement.

b. Lessee may terminate this Lease Agreement with written notice to Lessor at least thirty (30) days prior to the termination date.

c. Lessee acknowledges and understands that the premises are part of a process of planning and disposition of the midtown site, and as such all properties on the former Santa Fe University of Art and Design are subject to sale or lease as part of the City's program to redevelop the site. As such, at any time after January 15, 2021, the Lessor may terminate the lease agreement with written notice to the Lessee at least sixty (60) days prior to the termination date. Pursuant to such termination, Lessee is responsible for all cost and expenses associated with relocation.

d. At the termination of this Lease Agreement Lessee shall surrender the Premises in the condition in which they were at the inception of this Lease Agreement, excepting:
   i. Deterioration caused through reasonable use and ordinary wear and tear;
   ii. Alterations, improvements or conditions made with Lessor's written approval.

14. NOTICE

Any required notice will be deemed delivered, given and received (i) when personally hand delivered, or (ii) five days after the same are deposited in the United States mail, postage prepaid, registered, addressed to the applicable party at the address indicated below for such party, or at such other address as may be designated by either party in a written notice to the other party:

To Lessor: City of Santa Fe Attn. City Manager P.O. Box 909 Santa Fe, NM 87504	To Lessee: ST. VINCENT HOSPITAL d/b/a CHRISTUS St. Vincent Regional Medical Center Angelo Valencia, Angelo.valencia@stvin.org
With a copy to: City of Santa Fe Attn. Asset Development Manager P.O. Box 909 Santa Fe, New Mexico 87504	**With a copy to:** CHRISTUS Health 919 Hidden Ridge Irving, Texas 75038 Attention: Law Department, Real Estate Counsel Email: greg.mcconnell@christushealth.org lisa.oberthier@christushealth.org

15. NO WAIVER

No waiver of a breach of any of the provisions contained in this Lease Agreement shall be construed to be a waiver of any succeeding breach of the same or any other provisions.

16. SEVERABILITY

In the event that one or more of the provisions contained in this Lease Agreement or any application thereof shall be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein and any other application thereof shall not in any way be affected or impaired thereby.

17. ENTIRE AGREEMENT

The foregoing constitutes the entire Lease Agreement between the Parties, represents their entire understanding, and defines all of their respective rights, title, and interests as well as all of their duties, responsibilities and obligations. Any and all prior lease agreements and understandings between the Parties related to the Premises, if any, are merged herein. This Lease Agreement shall not be modified or amended except by a written document signed by the Parties.

18. BINDING EFFECT

This Lease Agreement shall be binding upon and insure to the benefit of the Parties hereto and their respective successors and permitted assigns.

19. LITIGATION EXPENSE

. In the event of litigation between the Parties, Lessee shall pay any necessary costs, including reasonable attorney's fees, expenses and other costs of collection or otherwise, which Lessor shall incur in enforcing this Lease Agreement or in recovering any and all damages caused to the Premises by Lessee, or Lessee's contractors, agents, employees or permitted assigns.

20. HEADINGS

The section headings contained in this Lease Agreement are for reference purposes only and shall not affect the meaning or interpretation of this Lease Agreement.

21. APPLICABLE LAW; VENUE

In any action, suit or legal dispute arising from this Lease Agreement, Lessee agrees that the laws of the State of New Mexico shall govern. The Parties agree that any action or suit arising from this Lease Agreement shall be commenced in a federal or state court of competent jurisdiction in New Mexico. Any action or suit commenced in the courts of the State of New Mexico shall be brought in the First Judicial District Court.

22. AMENDMENT

This Lease Agreement shall not be altered, changed or modified except by an amendment in writing executed by the Parties hereto.

23. QUIET ENJOYMENT

Landlord agrees that so long as a default by Tenant under this Lease is not continuing beyond applicable cure periods, Tenant will have peaceful and quiet possession of the Premises for Tenant's intended use.

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IN WITNESS WHEREOF, the parties have executed this Lease Agreement as of this 17 day of May, 2022.

LESSOR:
CITY OF SANTA FE

John Blair
John Blair (May 17, 2022 10:15 EDT)

JOHN BLAIR, CITY MANAGER

ATTEST:

KRISTINE MIHELCIC, CITY CLERK

APPROVED AS TO FORM FOR LEGAL SUFFICIENCY:

ERIN K. MCSHERRY, CITY ATTORNEY

APPROVED AT TO FINANCE:

Alexis Lotero
Alexis Lotero (May 16, 2022 21:36 MDT)

ALEXIS LOTERO, ACTING FINANCE DIRECTOR

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LESSEE: ST. VINCENT HOSPITAL

Hope Wade

Hope Wade, Chief Operating Officer

STATE OF NEW MEXICO)
) ss.
COUNTY OF SANTA FE)

The foregoing instrument was acknowledged before me this 10th day of May 2022 by Mary Louise Pacheco,

Mary Louise Pacheco

Notary Public

My commission expires: 12/06/2025

Mary Louise Pacheco
NOTARY PUBLIC-STATE OF NEW MEXICO
Commission # 1136218
My Comm. Expires 12/06/2025

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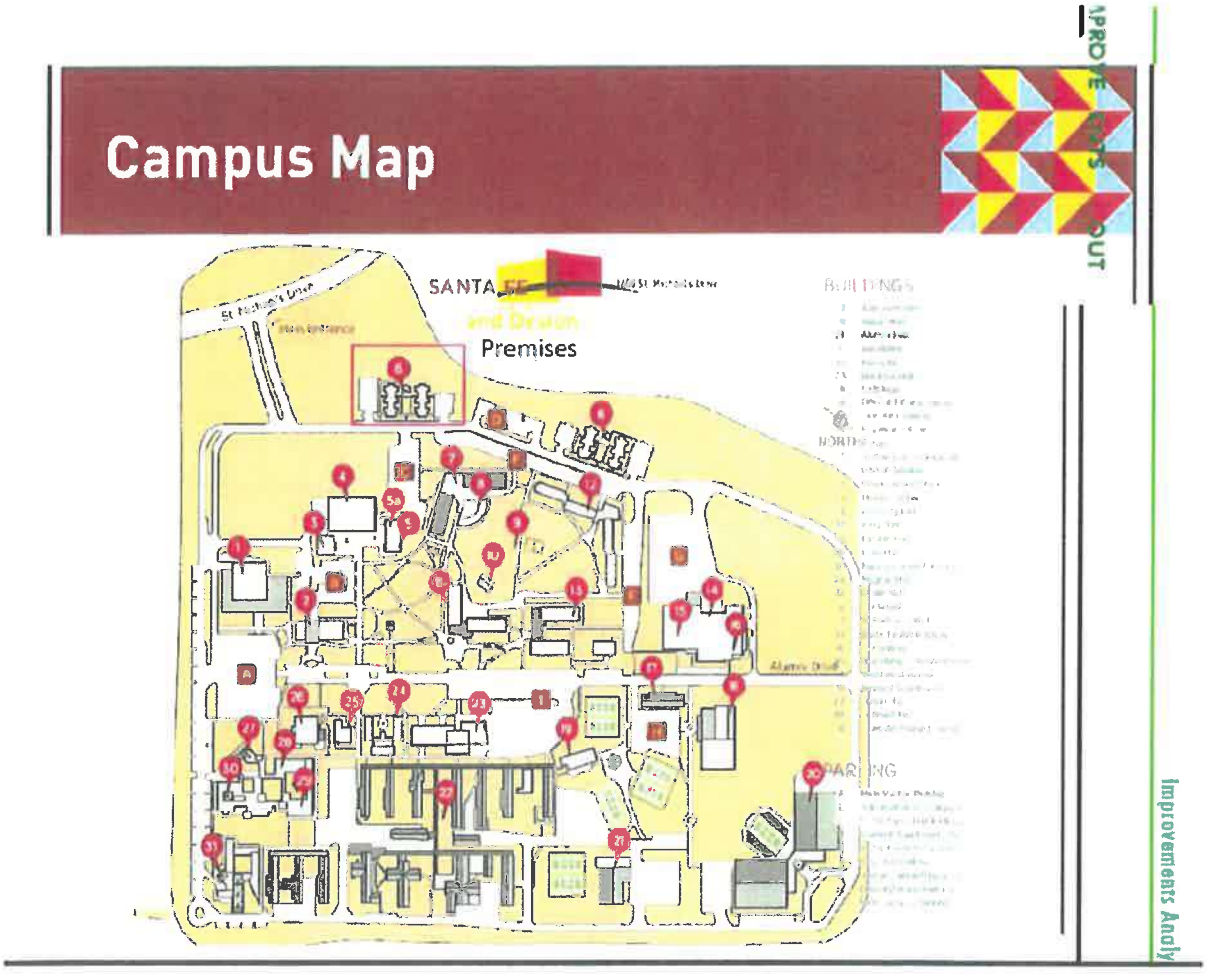
EXHIBIT A