

Lease Agreement

THIS Lease Agreement ("Lease") is made and entered into this this 10 day of April, 2020, by and between Grand and Broadway Development Inc. ("Lessor"), and the City of St. Louis, Missouri, by and through the Director of Health & Hospitals/Health Commissioner, Dr. Frederick Echols, M.D. ("Lessee").

WHEREAS, On March 13, 2020, a nationwide emergency was declared pursuant to Section 501(b) of the Stafford Act; and

WHEREAS, the State of Missouri's Director of the Department of Health and Senior Services, finding it necessary to protect public health and prevent the further spread of COVID-19, pursuant to the authority granted under section 192.020, RSMo, and 19 CSR 20-20.040, issued a statewide "Stay at Home" order on April 3, 2020; and

WHEREAS, President Trump signed the CARES act March 27, 2020 and the Mega Waivers authority were granted on March 31, 2020 to respond to the coronavirus outbreak, the CARE Act made available ESG-CV funds to supplement the Fiscal Year (FY) 2020 ESG funding provided under the Further Consolidated Appropriations Act, 2020 (Public Law 116-94); and

WHEREAS, the recipients of the ESG-CV funds may deviate from applicable procurement standards when using these funds to procure goods and services to prevent, prepare for and respond to coronavirus, not withstanding, 24 CFR 576.407 (f) and 2 CFR 200.317-200.326; and

WHEREAS the funds may be used to provide homelessness prevention assistance (as authorized under 24 CFR 576.103 or subsequent HUD notices) to any individual or family who does not have income higher than HUD's Very Low Income limit for the area and meets the criteria in paragraphs (1)(ii) and (1) (iii) of the "at risk homelessness" definition in 24 CFR 576.3; and

WHEREAS, the CARES Act authorizes the HUD Secretary to grant waivers of and specify alternative requirement for statutes and regulations, the Secretary administers in connection with the use of the ESG funds (except for requirements related to fair housing, nondiscrimination, labor standards and the environment. These waivers and alternative requirements can be issued when necessary to expedite and facilitate the use of funds to prevent, prepare for and respond to coronavirus; and

WHEREAS, Dr. Echols has determined that incurring the expenses herein is necessary to suppress or mitigate a contagious disease pursuant to Art XIII, section 14-C(c) of the Charter and to prevent, prepare for and respond to coronavirus;

NOW THEREFORE, IN CONSIDERATION OF Lessor leasing certain premises to Lessee, and other good and valuable consideration, including the mutual promises and covenants by the parties herein, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **Premises and Use.** Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, subject to the terms and conditions of this Lease, the property commonly known as the First Western Inn motel, located at 4828 North Broadway, St. Louis, Missouri 63147 ("Premises"), including all guest rooms, together with certain services provided by Lessor as described herein. The Premises shall be used for the purpose of operating a shelter facility for the City's homeless population during the COVID-19 pandemic to prevent possible community spread and assuring public health and safety (the "Use"). No person known to have COVID-19 shall be brought to or allowed to remain at the Premises.
2. **Term.** This Lease shall commence on April 1, 2020 ("Commencement Date") and continue for a term of ninety (90) days (the "Initial Term"). Lessee may extend the Term for up to two additional thirty (30) day periods (each an "Extension Term" and, collectively with the Initial Term, the "Term") with fourteen (14) day written notice to Lessor in advance of the expiration of the existing Term. This Lease may not be terminated by Lessee during the Term, except as the result of a material breach by Lessor that has not been cured within fourteen (14) days after written notice of such default has been given by Lessee to Lessor. The post-mark of any mailing or the time-date stamp of any electronic (email) communication of the written notice shall be evidence of the date of the notice. Lessor may terminate this Lease as the result of a material breach by Lessee that has not been cured within fourteen (14) days after written notice of such default has been given by Lessor to Lessee. Lessee shall be responsible for prorated Lease payments if the Lease is terminated prior to the end of the Term.
3. **Lease Payments and Lessee Obligations.**

Lessee shall be obligated to pay \$45,000.00 per month (with each 30-day period being deemed a month) to Lessor during the term of the Lease, including any Extension Term. The first such payment shall be due on the Commencement Date; and each successive payment shall be due on the first day of the next 30-day period under this Lease. Payments shall be paid to Lessor at 8711 St. Charles Rock Road, St. Louis, MO 63114 or such other address as Lessor specifies in writing. In addition, Lessee shall:

- a. Prior to bringing any guest to the Premises, inspect each room and notify Lessor of any necessary repairs or maintenance as soon as practicable.

- b. Be responsible for maintaining the Premises and the furniture, fixtures, and equipment therein, during the Term, using reasonable diligence in the care and maintenance of the Premises, and shall not make any alteration or modification of the Premises without Lessor's prior written approval.
- c. Limit guest occupancy to one person per room; and maintain compliance with social distancing recommendations.
- d. Provide an armed security guard, who shall be legally able to maintain the peace, 24 hours a day, seven days a week. Such guard will be an on or off-duty Sheriff, US Marshall, or City police officer. If none of such officers are available, then such guard may be provided by a third party that is licensed to provide such service and with personnel that are licensed to carry a firearm.
- e. Should a guest of Lessee seek to interact with Lessor's manager or staff, Lessee's personnel and/or security guard shall intercede and directly handle any issue or concerns that such guest has.
- f. Provide staff to oversee guests and to deliver food to the guests at least two times per day, seven days a week, at the City's expense. Such staff shall be at the Premises no less than six hours per day; generally, between the hours of 9 a.m. and 12 p.m. and 3 p.m. and 6 p.m. Guests shall be required, by the City, to dispose of any food and container wastes in the outdoor dumpster located at the Premises.
- g. Screen each potential guest for temperature and symptoms of COVID-19 prior to placement at the Premises. Records of screening of guests (including date, time, location, and result) shall be maintained by Lessee for a minimum of five (5) years after the Term, and available to Lessor in the event of any claim made against Lessor.
- h. Lessee will use reasonable diligence to prevent individuals (i) with symptoms of COVID 19, (ii) under a quarantine order, and/or (iii) who have tested positive for COVID 19 from being guests at the Premises. Should any guest display symptoms of COVID 19 or signs of a fever after placement at the Premises, Lessee shall promptly remove said guest from the Premises and shall have the room and any common area such individual had been in disinfected through procedures recommended by the Center for Disease Control or other agency qualified as an expert to make such a recommendation, at Lessee's sole cost and expense. Lessee shall provide Lessor a certificate, from a qualified inspection company, certifying that such disinfection has been properly completed, prior to any other guest being allowed to enter such areas and, in all events, within five (5) days after the end of the Term.
- i. Arrange for placement of, and have maintained and monitored at all times during the Term, a police mobile camera trailer in the parking lot of the Premises.
- j. Repair or replace any property that is damaged during the Lease Term, except for damage caused by acts of God, weather or forces beyond Lessee's control.



It is agreed that acts of the guests Lessee places at the Premises shall not be considered as beyond Lessee's control; and, in all events, Lessee shall be responsible to repair any damage caused by any guest or Lessee employee, contractor, or agent.

- k. Arrange for sanitizing fogging of the rooms at the beginning of the Lease Term, every two weeks thereafter, and upon vacating the Premises. Such latter fogging shall be completed within five (5) days following the end of the Term.
- l. Provide blankets for each room sufficient for the needs of Lessee's guests.

4. Obligations of Lessor.

In consideration for the Lease payments required in Section 3 of this Lease, Lessee shall be entitled to use and occupy the Premises for the Use and, in addition, Lessor shall be required to provide the following at no additional cost:

- a. Lessor shall provide twice weekly cleaning and laundry service for all guest rooms, except any that have been occupied by a guest showing symptoms of COVID 19 that have not yet been disinfected in accordance with Section 3 (f).
- b. Lessor shall furnish all utilities, including but not limited to all lighting, heating, cooling, electric, sewer, water (hot and cold), and trash service to the Premises (to include the provision of an outdoor dumpster at the Premises); provided that it shall not be a default hereunder if such utility service becomes unavailable through a failure of the utility company system, so long as Lessor uses reasonable diligence to report such outage to the utility company.
- c. Lessor shall allow Lessee and the residents access to Lessor's campus wifi and internet; or Lessor may provide an alternative source of wifi and internet for residents;
- d. Lessor shall comply with all laws and ordinances now in force or hereinafter enacted in respect to the use of the Premises.
- e. Lessor shall provide a set of sheets and pillowcase for each room, which Lessor shall launder in accordance with Section 4 (a).
- f. Lessor shall provide 1 bath towel; 1 hand towel; and 1 wash cloth for each room, which Lessor shall launder in accordance with Section 4 (a).
- g. Lessor shall provide a manager, on site, who shall make and provide guest room keys to the Lessor's designated personnel; but such manager shall not have any interaction with Lessee's guests.
- h. Lessor shall maintain property casualty insurance and liability on the Premises, insuring against the acts of Lessor or its manager, staff, or other employees or agents.

5. Liability.

Lessee is a government entity and self-funds payments for claims arising from injuries and damages caused by the negligent acts and omissions of its employees. Lessee shall be responsible for any damages, claims, or causes of action for damage to persons or property which occurs on the Premises and which was caused by the action or inaction of Lessee or by guests. Lessee shall not be liable to Lessor or any other person or corporation, including employees, for any damages, claims, or causes of action for damage to their persons or property which occurs on the Premises and the surrounding property which may be caused by the Lessor's staff or by the condition of such property for any reason unless such event is directly caused by the negligence or intentional acts of Lessee's guests, Lessee, or Lessee's agents or employees. Lessee assumes responsibility for any damage claims made, alleged or proved (including, but not limited to, attorneys fees and court costs) by any guest, invitee, employee, agent, and/or contractor of Lessee, and/or by any other person not acting at the direction of Lessor as a result of Lessee's Use of the Premises or otherwise related to the Premises and arising during the Term or the performance of Lessee's post-Term obligations hereunder (e.g., fogging). This provision shall survive expiration and/or termination of the Lease.

6. Notice. Notices to Lessee must be directed to:

Valerie Russell, Commissioner
Department of Human Services
1520 Market Street, Room
St. Louis, MO 63102
Telephone: (314) 657-1651
davisva@stlouis-mo.gov

Dr. Frederick Echols
Director of Health & Hospitals/Health Commissioner,
1520 Market Street, Suite 4045
St. Louis, MO 63103
Telephone: (314) 657-1528
echolsf@stlouis-mo.gov

With a copy to:
City Counselor
1200 Market, Room 314
St. Louis, MO 63103
Telephone: (314) 622-3361
bushj@stlouis-mo.gov

Notices to Lessor must be directed to:

Grand and Broadway Development Inc.
Attn.: Ankit Patel
8711 St. Charles Rock Rd.
St. John, MO 63114
Telephone: 314.426.3115 ext. 102
ankit@sasakcorporation.com

With a copy to:

Sue A. Schultz, Esq.
Sandberg, Phoenix & von Gontard, P.C.
600 Washington Ave., 15th Floor
St. Louis, MO 63101
Telephone: (314) 425-8431
sschultz@sandbergphoenix.com

7. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Missouri. It is further agreed by the parties that any action at law, suit in equity, or other judicial proceeding to enforce or construe this Lease, or regarding its alleged breach, shall be instituted in the Circuit Court of St. Louis City, Missouri (Twenty-Second Judicial Circuit) or in the United States District Court for the Eastern District of Missouri.
8. **Possible Funding Requirements.** The Parties understand and agree that the City is attempting to address threats to public health on an emergency basis and may seek reimbursement of its costs hereunder from State or Federal agencies, including the Federal Emergency Management Agency ("FEMA"). Lessor agrees to comply with all applicable Federal and State laws, regulations, executive orders, FEMA policies, procedures, and directives as needed to assist the City in seeking such reimbursement, including but not limited to:
 - a. Compliance with the following access to records requirements: (i) Lessor agrees to provide the City, State officials and/or Federal officials including the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Lessor which are directly pertinent to this Agreement for the purposes of making audits, examinations, excerpts, and transcriptions; (ii) Lessor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed; (iii) Lessor agrees to provide the FEMA Administrator or his authorized representatives, if applicable, access to the work site hereunder; (iv) In compliance with the Disaster Recovery Act of 2018, the City and Lessor acknowledge and agree that no language in this Agreement is intended to prohibit audits or internal reviews by the FEMA



Administrator or the Comptroller General of the United States or other government officials.

- b. Lessor shall not use Department of Homeland Security seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.
- c. If the City seeks financial assistance from FEMA, the Parties acknowledge and agree that FEMA financial assistance will or may be used to fund all or a portion of the Agreement. In such case, Lessor will comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives. To such end, the City will provide written notice to Lessor, if assistance is being obtained from FEMA; and the City shall provide a copy of all applicable Federal laws, regulations, executive orders, FEMA policies, procedures, and directives for which compliance will then be required.
- d. The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the Agreement.
- e. Lessor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to its actions pertaining to this Agreement.
- f. Lessor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

Notwithstanding the foregoing, should any law, order, regulation or other act of FEMA, Lessor, or any governing authority result in Lessor incurring an expense in addition to the expenses contemplated to be incurred, or otherwise not receiving the rental revenue contemplated herein, to comply with the current laws, orders, and regulations expressly listed above, Lessee shall reimburse Lessor for the reasonable costs of and/or lost revenue resulting from such compliance. This provision shall survive the expiration and/or termination of this Lease.

9. **Entire Agreement.** This is the entire agreement and no amendment or modification may be made without the written, mutual agreement of the parties hereto.

9. **Warranties and Representations.**

The individual executing this Lease on behalf of Lessor represents and warrants that he/she possesses full authority to execute this Lease.

Lessee represents and warrants that Dr. Frederick Echols, Director of Health & Hospitals/Health Commissioner of the City of St. Louis, is authorized to execute this Lease on behalf of the City of St. Louis pursuant to his emergency powers and authority under the Charter of the City of St. Louis, Article XIII, Section 14-C (c).

IN WITNESS WHEREOF, the parties have caused this Lease to be signed by their authorized officials the day and year first above written.

LESSEE

CITY OF ST. LOUIS

By:  _____

Dr. Frederick Echols, Director of Health & Hospitals/Health Commissioner of the City of St. Louis

LESSOR:

GRAND AND BROADWAY DEVELOPMENT INC.

By:  _____
Ankit A. Patel, President

Register: _____