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Illinois Anti-Predatory
Lending Database
Program

Certificate of Exemption

Report Mortgage Fraud
800-532-8785



Doc# 1710306129 Fee \$54.00

RHSP FEE:\$9.00 RPRF FEE: \$1.00

KAREN A. YARBROUGH

COOK COUNTY RECORDER OF DEEDS

DATE: 04/13/2017 03:33 PM PG: 1 OF 9

The property identified as: **PIN:** 19-24-406-003-0000

Address:

Street: 6801 South California Avenue

Street line 2:

City: Chicago

State: IL

ZIP Code: 60629

Lender: Debofsky, Sherman & Casciari, PC

Borrower: Holy Cross Hospital

Loan / Mortgage Amount: \$4,000,000.00

This property is located within the program area and the transaction is exempt from the requirements of 765 ILCS 7770 et seq. because the application was taken by an exempt entity.

Certificate number: D59AFE05-6068-43FC-8B33-0D541DC4AB93

Execution date: 4/11/2017

Bm

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**This instrument prepared by
and after recording return to:**

Mark DeBofsky
DeBofsky, Sherman & Casciari, PC
200 West Madison Street, Suite 2670
Chicago, IL 60606

MORTGAGE AND SECURITY AGREEMENT

THIS MORTGAGE AND SECURITY AGREEMENT (this "**Mortgage**") is made as of the 13th day of April, 2017, by **HOLY CROSS HOSPITAL**, an Illinois not-for-profit corporation (the "**Mortgagor**"), with an address at c/o Sinai Health System, California Avenue at 15th Street, Chicago, Illinois 60608 in favor of **DEBOFSKY, SHERMAN & CASCIARI, PC**, for the benefit of Corinne Butler and Andrea Fitzsimmons, in their individual capacities and for the benefit of any class certified in *Butler v. Holy Cross Hospital*, U.S. District Court for the Northern District of Illinois Case No. 1:16-cv-05907, as to which they serve as class representatives (the "**Mortgagee**"), with an address at 200 West Madison Street, Suite 2670 Chicago, IL 60606.

WHEREAS, the Mortgagor is the owner of a certain tract or parcel of land described in Exhibit A attached hereto and made a part hereof, together with the improvements now or hereafter erected thereon; and

WHEREAS, the Mortgagor and certain other parties have entered into a Settlement Agreement dated as of March 1, 2017 (the "**Agreement**"). Mortgagor is one of the "Defendants" as defined in the Agreement. Mortgagee is counsel for "Plaintiffs" and the "Settlement Class", as those terms are defined in the Agreement, and is authorized and appointed to act as Mortgagee for the benefit of Plaintiffs and the Settlement Class by order of the Court entered March 9, 2017 in *Butler v. Holy Cross Hospital*, U.S. District Court for the Northern District of Illinois Case No. 1:16-cv-05907. It is a requirement of the Agreement that Mortgagor execute and deliver this Mortgage in favor of Mortgagee as security for the payment by the Defendants to the Plaintiffs and the Settlement Class under the Agreement of the amount of \$4,000,000, plus interest that may accrue in the Escrow Account provided for in the Agreement, and expenses, including reasonable attorneys' fees, incurred in enforcing the Agreement and/or this Mortgage (the "**Obligations**");

NOW, THEREFORE, for the purpose of securing the payment and performance of the Obligations the Mortgagor, for good and valuable consideration, receipt of which is hereby

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acknowledged, and intending to be legally bound hereby, hereby **MORTGAGES, WARRANTS, CONVEYS, TRANSFERS AND ASSIGNS TO MORTGAGEE AND ITS SUCCESSORS AND ASSIGNS, AND HEREBY GRANTS TO MORTGAGEE AND ITS SUCCESSORS AND ASSIGNS A CONTINUING SECURITY INTEREST IN, TO, AND UNDER ALL OF THE FOLLOWING DESCRIBED PROPERTY, ALL ACCESSIONS AND ADDITIONS THERETO, ALL SUBSTITUTIONS THEREFOR AND REPLACEMENTS AND PROCEEDS THEREOF, AND ALL REVERSIONS AND REMAINDERS OF SUCH PROPERTY NOW OWNED OR HELD OR HEREAFTER ACQUIRED** (collectively, the "Property"), to wit:

(a) All of the Mortgagor's estate in the premises described in Exhibit A, together with all of the easements, rights of way, privileges, liberties, hereditaments, gores, streets, alleys, passages, ways, waters, watercourses, rights and appurtenances thereunto belonging or appertaining including, without limitation all water rights and air rights, and all of the Mortgagor's estate, right, title, interest, claim and demand therein and in the public streets and ways adjacent thereto, either in law or in equity (the "Land");

(b) All the buildings, structures and improvements of every kind and description now or hereafter erected or placed on the Land (the "Improvements"); and

(c) All proceeds of the conversion, voluntary or involuntary, of any of the foregoing into cash or liquidated claims.

TO HAVE AND TO HOLD the Property unto Mortgagee, its successors and assigns, hereby expressly waiving and releasing any and all right, benefit, privilege, advantage or exemption under and by virtue of any and all statutes and laws of the State of Illinois providing for the exemption of homesteads from sale on execution or otherwise.

Provided, however, that if the Defendants shall pay to the Plaintiffs the Obligations in full in accordance with the terms of the Agreement, then the estate hereby granted and conveyed shall become null and void.

The total amount hereby secured at any one time outstanding shall not exceed the Obligations.

1. Representations and Warranties. The Mortgagor represents and warrants to the Mortgagee that its name, type of organization, jurisdiction of organization and chief executive office are true and complete as set forth in the heading of this Mortgage.

2. Legal Requirements. Until all of the Obligations shall have been fully paid, satisfied and discharged the Mortgagor shall in all material respects comply with and conform to all present and future laws, statutes, codes, ordinances, orders and regulations and all covenants, restrictions and conditions which may be applicable to the Mortgagor or to any of the Property (collectively, "Legal Requirements").

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3. **Insurance.** The Mortgagor shall keep the Property continuously insured in the coverages and amounts in which the Mortgagor currently insures the Property on the date of this Mortgage.

4. **Rights of Mortgagee to Insurance Proceeds.** In the event of loss, the Mortgagor shall have the exclusive right to adjust, collect and compromise all insurance claims.

5. **Condemnation.** Any award or compensation for property taken or for damage to property not taken, whether as a result of such proceedings or in lieu thereof, shall be received and collected directly by the Mortgagor.

6. **Rights and Remedies of Mortgagee.** If the Defendants shall fail to pay the Obligations in accordance with the terms of the Agreement, the Mortgagee shall have the right immediately or at any time thereafter to foreclose the lien of this Mortgage:

(a) Upon the filing of any complaint for that purpose, the court in which such complaint is filed may, upon application of Mortgagee, in Mortgagee's sole and absolute discretion, appoint Mortgagee as a mortgagee-in-possession or appoint a receiver of the Property (a "Receiver") pursuant to the Illinois Mortgage Foreclosure Law, as amended (735 ILCS 5/15-1101, *et seq.*) (the "Mortgage Foreclosure Act").

(b) The court may, from time to time, authorize said Receiver to apply the net amounts remaining in his hands, after deducting reasonable compensation for the Receiver and his counsel as allowed by the court, in payment (in whole or in part) of any or all of the Obligations. The excess of the proceeds of sale, if any, shall then be paid to Mortgagor (or such other person or party as is applicable in accordance with applicable Legal Requirements).

(c) This Mortgage may be foreclosed once against all, or successively against any portion or portions, of the Property, as Mortgagee may elect, until all of the Property has been foreclosed against and sold, all in accordance with applicable law.

(d) In the case of any sale of the Property pursuant to any judgment or decree of any court at public auction or otherwise, Mortgagee may become the purchaser, and for the purpose of making settlement for or payment of the purchase price, shall be entitled to deliver over and use the Agreement and any claims for the debt in order that there may be credited as paid on the purchase price the amount of the debt.

7. **Application of Proceeds.** The Mortgagee shall apply the proceeds of any foreclosure sale of, or other disposition or realization upon, or rents or profits from, the Property to satisfy the Obligations in such order of application as the Mortgagee shall determine in its exclusive discretion.

8. **Certain Waivers.**

(a) The Mortgagor hereby waives and releases all benefit that might accrue to the Mortgagor by virtue of any present or future law exempting the Property, or any part of the proceeds arising from any sale thereof, from attachment, levy or sale on execution, or providing

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for any stay of execution, exemption from civil process or extension of time for payment or any rights of marshalling in the event of any sale hereunder of the Property.

(b) Mortgagor, on behalf of itself and all persons or other parties now or hereafter interested in the Property, to the fullest extent permitted by applicable Legal Requirements hereby waives all rights under all appraisal, homestead, moratorium, valuation, exemption, stay, extension, and redemption statutes, laws or equities now or hereafter existing, and hereby further waives the pleading of any statute of limitations as a defense to any and all Obligations secured by this Mortgage. Mortgagor, on its own behalf and on behalf of each and every person or other party acquiring any interest in or title to the Property subsequent to the date of this Mortgage, hereby irrevocably waives any and all rights of redemption from sale under any order or decree of foreclosure of this Mortgage or under any power contained herein or under any sale pursuant to any statute, order, decree or judgment of any court.

9. **Notices.** All notices, demands, requests, consents, approvals and other communications required or permitted hereunder must be in writing and will be given in the manner for notices set forth in the Agreement.

10. **Preservation of Rights.** The Mortgagee's rights and remedies hereunder are cumulative and not exclusive of any other rights or remedies which the Mortgagee may have under other agreements, at law or in equity.

11. **Illegality.** If any provision contained in this Mortgage should be invalid, illegal or unenforceable in any respect, it shall not affect or impair the validity, legality and enforceability of the remaining provisions of this Mortgage.

12. **Entire Agreement.** This Mortgage (including the documents and instruments referred to herein) constitutes the entire agreement and supersedes all other prior agreements and understandings, both written and oral, between the parties with respect to the subject matter hereof.

13. **Survival; Successors and Assigns.** This Mortgage will be binding upon and inure to the benefit of the Mortgagor and the Mortgagee and their respective heirs, executors, administrators, successors and assigns.

14. **Interpretation.** In this Mortgage, unless the Mortgagor and Mortgagee otherwise agree in writing, the singular includes the plural and the plural the singular; words importing any gender include the other genders; references to statutes are to be construed as including all statutory provisions consolidating, amending or replacing the statute referred to; the word "or" shall be deemed to include "and/or", the words "including", "includes" and "include" shall be deemed to be followed by the words "without limitation"; references to articles, sections (or subdivisions of sections) or exhibits are to those of this Mortgage; and references to agreements and other contractual instruments shall be deemed to include all subsequent amendments and other modifications to such instruments, but only to the extent such amendments and other modifications are not prohibited by the terms of this Mortgage. Section headings in this Mortgage are included for convenience of reference only and shall not constitute a part of this

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Mortgage for any other purpose. If this Mortgage is executed by more than one party as Mortgageor, the obligations of such persons or entities will be joint and several.

15. **No Merger.** It being the desire and intention of the parties hereto that this Mortgage and the lien hereof do not merge in fee simple title to the Property, it is hereby understood and agreed that should Mortgagee acquire an additional or other interests in or to the Property or the ownership thereof, then, unless a contrary intent is manifested by Mortgagee as evidenced by an express statement to that effect in an appropriate document duly recorded, this Mortgage and the lien hereof shall not merge in the fee simple title, toward the end that this Mortgage may be foreclosed as if owned by a stranger to the fee simple title.

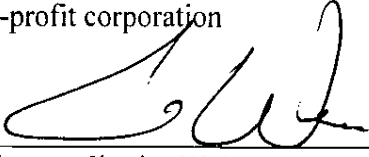
16. **Governing Law and Jurisdiction.** This Mortgage has been delivered to and accepted by the Mortgagee and will be deemed to be made in the State of Illinois.

17. **WAIVER OF JURY TRIAL.** THE MORTGAGOR IRREVOCABLY WAIVES ANY AND ALL RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY ACTION, PROCEEDING OR CLAIM OF ANY NATURE RELATING TO THIS MORTGAGE, ANY DOCUMENTS EXECUTED IN CONNECTION WITH THIS MORTGAGE OR ANY TRANSACTION CONTEMPLATED IN ANY OF SUCH DOCUMENTS. THE MORTGAGOR ACKNOWLEDGES THAT THE FOREGOING WAIVER IS KNOWING AND VOLUNTARY.

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WITNESS the due execution hereof as a document under seal, as of the date first written above, with the intent to be legally bound hereby.

HOLY CROSS HOSPITAL, an Illinois not-for-profit corporation

By: 
Print Name: Charles Weis
Title: Executive Vice President and Chief Financial Officer


Property of Cook County Notary Public Office

ACKNOWLEDGMENT

STATE OF ILLINOIS)
) ss:
COUNTY OF COOK)

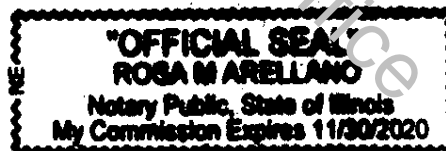
On this, the 11 day of April, 2020, before me, a Notary Public, the undersigned officer, personally appeared Charles Weis, known to me (or satisfactorily proven) to be the person whose name is subscribed to the foregoing instrument as Exe. Vice President/ CFO of Holy Cross Hospital, an Illinois not-for-profit corporation and acknowledged that he/she executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.



Notary Public

My commission expires: 11/30/2020



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EXHIBIT A

Legal Description

BLOCKS 5 AND 6 (EXCEPT THE EAST 150 FEET OF BLOCK 6 AND EXCEPT THE WEST 35 FEET OF THE EAST 185 FEET OF THE SOUTH 180 FEET OF BLOCK 6) IN HIRSH AND YOUNGS SUBDIVISION OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 24, TOWNSHIP 38 NORTH, RANGE 13, EAST OF THE THIRD PRICIPAL MERIDIAN, AND ALSO THAT PART OF VACATED WEST 68TH STREET LYING EASTERLY OF THE EAST LINE OF SOUTH CALIFORNIA AVENUE AND WESTERLY OF THE WEST LINE OF SOUTH WASHTENAW AVENUE (EXCEPT THE EAST 150 FEET OF THE SOUTH ONE HALF THEREOF, LYING NORTH OF AND ADJOINING BLOCK 6) IN HIRSH AND YOUNG'S SUBDIVISON OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 24, TOWNSHIP 38 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, ALL IN COOK COUNTY, ILLINOIS.

VACATED PART OF SOUTH FAIRFIELD AVENUE EAST OF AND ADJOINING THE EAST LINE OF BLOCK 5 AND WEST OF AND ADJOINING THE WEST LINE OF BLOCK 6, IN HIRSH AND YOUNG'S SUBDIVISION OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 24, TOWNSHIP 38 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS, THAT PART OF SAID STREET BEING OTHERWISE COMMONLY DESCRIBED AS THAT PART OF SOUTH FAIRFIELD AVENUE BETWEEN THE SOUTH LINE OF WEST 68TH STREET AND THE NORTH LINE OF WEST 69TH STREET, CHICAGO IN COOK COUNTY, ILLINOIS.

LOTS 13, 14, 15 AND 16 IN WILLIAM H. BRITTIGAN'S RESUBDIVISON OF LOTS 1 TO 11, BOTH INCLUSIVE, IN BLOCK 1 AND LOTS 1 TO 11, BOTH INCLUSIVE, IN BLOCK 2 IN C.S. THORNTONS SUBDIVISION OF THE WEST HALF OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 24, TOWNSHIP 38 NORTH RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

LOTS 9 AND 10 IN WILLIAM BRITTIGAN'S RESUBDIVISON OF LOT 1 TO 11, BOTH INCLUSIVE, IN BLOCK 1 AND LOTS 1 TO 11, BOTH INCLUSIVE, IN BLOCK 2, IN C.S. THORNTON'S SUBDIVISON OF THE WEST HALF OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 24, TOWNSHIP 38 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

LOTS 11 AND 12 IN WILLIAM BRITTIGAN'S RESUBDIVISON OF LOT 1 TO 11, BOTH INCLUSIVE, IN BLOCK 1 AND LOTS 1 TO 11, BOTH INCLUSIVE, IN BLOCK 2, IN C.S. THORNTON'S SUBDIVISON OF THE WEST HALF OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 24, TOWNSHIP 38 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

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Commonly known as: 6801 South California Avenue, Chicago, Illinois 60629

P.I.N.s: 19-24-406-003-0000
19-24-413-001-0000
19-24-413-002-0000
19-24-413-003-0000
19-24-413-004-0000
19-24-413-005-0000
19-24-413-006-0000
19-24-413-007-0000
19-24-413-008-0000

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