

File No. 110513

Committee Item No. \_\_\_\_\_

Board Item No. 43

### COMMITTEE/BOARD OF SUPERVISORS

#### AGENDA PACKET CONTENTS LIST

Committee \_\_\_\_\_

Date \_\_\_\_\_

Board of Supervisors Meeting

Date May 17, 2011

#### Cmte Board

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| <input type="checkbox"/> | <input type="checkbox"/>            | Budget Analyst Report                        |
| <input type="checkbox"/> | <input type="checkbox"/>            | Legislative Analyst Report                   |
| <input type="checkbox"/> | <input type="checkbox"/>            | Introduction Form (for hearings)             |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/> | <input type="checkbox"/>            | MOU                                          |
| <input type="checkbox"/> | <input type="checkbox"/>            | Grant Information Form                       |
| <input type="checkbox"/> | <input type="checkbox"/>            | Grant Budget                                 |
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Completed by: Joy Lamug

Date May 12, 2011

Completed by: \_\_\_\_\_

Date \_\_\_\_\_

An asterisked item represents the cover sheet to a document that exceeds 20 pages. The complete document is in the file.

1 [Ground Lease - Redevelopment Agency - Carroll Street Senior Community - 5800 Third  
2 Street]

3 **Resolution approving and authorizing the Redevelopment Agency of the City and**  
4 **County of San Francisco to execute a lease of land at 5800 Third Street, Lot No. 3,**  
5 **northwest corner of the larger 5800 Third Street site, Assessor's Block No. 5431A, Lot**  
6 **No. 042 with Bayview Supportive Housing, LLC, a California limited liability company,**  
7 **for a term of 55 years for the purpose of developing housing for very low-income**  
8 **senior households.**

9  
10 WHEREAS, The Redevelopment Agency of the City and County ("Agency") and the  
11 City desire to increase the City's supply of affordable housing and encourage affordable  
12 housing development through financial and other forms of assistance; and,

13  
14 WHEREAS, on May 23, 2006, The Board of Supervisors approved and adopted by  
15 Ordinance No. 113-06, the Redevelopment for the Bayview Hunters Point Redevelopment  
16 Project ("Redevelopment Plan"), and on August 3, 2010 the Board of Supervisors approved  
17 and adopted by Ordinance No. 210-10 an amendment to the Redevelopment Plan, in order to  
18 undertake a variety of projects and activities to alleviate blighting conditions; and,

19  
20 WHEREAS, The Agency-owned parcel located at the northwest corner of 5800 Third  
21 Street, Assessor's Block 5431A, Lot 042, and in the Bayview Hunters Point Redevelopment  
22 Project Area ("Site"); is an underutilized and unimproved lot; and,

23  
24 WHEREAS, The Agency believes that the redevelopment of the Site, pursuant to the  
25 proposed Ground Lease Agreement, a copy of which is on file with the Clerk of the Board  
under File No. 110513 ("Agreement"), is in the vital and best interests of the City and the

1 public health, safety, and welfare of its residents, and in accord with the public purposes and  
2 provisions of the applicable State and Federal laws, including the California Community  
3 Redevelopment Law, Health and Safety Code Sections 33000 et seq. ("Community  
4 Redevelopment Law"); and,

5 WHEREAS, The Bayview Hunter's Point Project Area Committee has expressed their  
6 support for the development of the Carroll Street Senior Community ("Project") on the Site;  
7 and,

8  
9 WHEREAS, The Agency Commission selected Bayview Supportive Housing, LLC, a  
10 California limited liability company an affiliate of Bayview Hunters Point Multipurpose Senior  
11 Services, Inc., and McCormack Baron Salazar, ("Developer"), to develop and operate the  
12 Project as housing units for very low-income senior households; and,

13 WHEREAS, The Developer has applied to the Agency for predevelopment funding to  
14 develop the Project as affordable rental housing; and,

15  
16 WHEREAS, The Agency intends to provide the Developer with financial assistance to  
17 leverage equity from an allocation of low-income housing tax credits and other funding  
18 sources in order to construct approximately 120 units of affordable rental housing, support  
19 service space, and ground floor services (plus one manager's unit); and,

20 WHEREAS, The Project has been presented, as part of the Choice Neighborhoods  
21 Grant Initiative ("Choice Neighborhoods") Program, with an opportunity to secure Project  
22 Based Section 8 vouchers; and,

1           WHEREAS, The Agency has proposed the Agreement with the Developer to allow the  
2 Developer to construct and operate improvements on the Site while allowing the Agency to  
3 ensure that the affordability of the housing is maintained over the long term; and,

4           WHEREAS, On May 3, 2011, by Resolution No. 56-2011, the Agency Commission  
5 authorized the Agreement with the Developer, in which the Agency will lease the Site for  
6 Fifteen Thousand Dollars (\$15,000.00) per year for 55 years, in exchange for the Developer's  
7 agreement, among other things, to operate the Project with rent levels affordable to Lower  
8 Income Households. A copy of Agency Commission Resolution No. 56-2011 is on file with  
9 the Clerk of the Board of Supervisors in File No. 110513 and incorporated by reference  
10 herein as though fully set forth; and,

11           WHEREAS, Because the Site was purchased with tax increment, Section 33433 of the  
12 Community Redevelopment Law, requires the Board of Supervisors to conduct a public  
13 hearing and approve of the Agency's sale or lease of the Site; and,

14           WHEREAS, Pursuant to Section 33433 of the community Redevelopment Law, on May  
15 17, 2011, the Board of Supervisors held a duly noticed public hearing on the Agreement. The  
16 hearing has been closed. Notice of such hearing was published in accordance with Sections  
17 33433 of the Community Redevelopment Law; and,

18           WHEREAS, The Agency has prepared and submitted a report in accordance with the  
19 requirements of Section 33433 of the Community Redevelopment Law, including a copy of the  
20 proposed Agreement, and a summary of the transaction describing the cost of the Agreement  
21 to the Agency, the value of the property interest to be conveyed, the lease price and other  
22 information was made available for the public inspection and is on file with the Clerk of the  
23  
24  
25



1 Board of Supervisors in File No. 110513 and incorporated herein by reference as through fully  
2 set forth; and,

3 WHEREAS, By Resolution No. 122-2010, the Agency Commission adopted a Final  
4 Mitigated Negative Declaration prepared for the Project by the City Planning Department  
5 finding that it reflected the independent judgment and analysis by the Agency, and was  
6 adequate and prepared in accordance with the California Environmental Quality Act  
7 (California Public Resources Code Sections 21000 et seq.); now, therefore, be it  
8

9 RESOLVED, That the Board of Supervisors does hereby find and determine that:  
10 (1) the lease of the Site from the Agency to the Developer in accordance with the Agreement  
11 will provide housing for very low-income seniors and is consistent with the Agency's citywide  
12 Tax Increment Affordable Housing Program, pursuant to of the Community Redevelopment  
13 Law Section 33342.2; (2) the less than fair market value rent of approximately Fifteen  
14 Thousand Dollars (\$15,000.00) per year for a term of fifty-five (55) years is necessary to  
15 achieve affordability for very low income households; and (3) the consideration to be received  
16 by the Agency is not less than the fair reuse value at the use and with the covenants and  
17 conditions and developments costs authorized by the Agreement; and, be it  
18

19 FURTHER RESOLVED, That the Board of Supervisors hereby approves and  
20 authorizes the Agency to execute the Agreement with the Developer, substantially in the form  
21 on file with the Clerk of the Board of Supervisors in File No. 110513 and lodged with the  
22 Agency General Counsel, and make such revisions to the Agreement as do not materially  
23 increase the obligations or liabilities of the Agency or materially decrease the benefits to the  
24  
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1 Agency, as determined by the Agency's Executive Director, and to take any such further  
2 actions as necessary or appropriate to implement the Agreement.  
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## RESOLUTION NO. 56-2011

*Adopted May 3, 2011*

**AUTHORIZING A GROUND LEASE AGREEMENT WITH BAYVIEW SUPPORTIVE HOUSING, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY, FOR THE DEVELOPMENT OF 121 UNITS OF VERY LOW-INCOME SENIOR RENTAL HOUSING, 5800 THIRD STREET, LOT 3, AND MAKING ENVIRONMENTAL FINDINGS PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT; BAYVIEW HUNTERS POINT REDEVELOPMENT PROJECT AREA; CITYWIDE TAX INCREMENT HOUSING PROGRAM**

**BASIS FOR RESOLUTION**

1. In furtherance of the objectives of the California Community Redevelopment Law (Health and Safety Code Section 33000 et seq.), the Redevelopment Agency of the City and County of San Francisco (the "Agency") undertakes programs for the reconstruction and rehabilitation of blighted areas in the City and County of San Francisco (the "City").
2. On May 16, 2006, by Ordinance No. 113-06, the City's Board of Supervisors adopted the Bayview Hunters Point Redevelopment Project Area in order to undertake a variety of projects and activities to alleviate blighting conditions. The Bayview Hunters Point Redevelopment Plan became effective on September 19, 2006.
3. It is the mission of Bayview Hunters Point Multipurpose Senior Services, Inc. ("BHPMSS"), a nonprofit public benefit corporation, to secure the rights and dignity of elders and their families, and to respect and empower seniors. It is the mission of McCormack Baron Salazar ("MBS"), a Missouri corporation, to rebuild neighborhoods in central cities across the United States that have deteriorated through neglect and disinvestment. BHPMSS and MBS have created Bayview Supportive Housing, LLC (the "Tenant"), to develop 5800 Third Street, Lot 3 (the "Site").
4. On December 17, 2008, BHPMSS entered into a Purchase and Sale Agreement with SF Third Street Equity Partners, LLC, to purchase 5800 Third Street, Lot 3, which is located on the northwest corner of the larger parcel, for the purpose of redeveloping it as rental housing for very low-income seniors (the "Purchase Agreement").
5. On September 21, 2010, the Agency authorized an Assignment and Assumption Agreement with the BHPMSS for the Purchase Agreement. On September 30, 2010, the Agency took ownership of the Site.

6. The Tenant intends to redevelop the Site as approximately 121 units of rental housing for very low-income seniors with a ground floor senior center (the "Project").
7. On January 18, 2011, by Resolution No. 4-2011, the Commission authorized a loan in an amount not to exceed \$684,000 to fund predevelopment costs related to architecture, engineering, and other related activities necessary to carry the project through to schematic design approval (the "Predevelopment Loan Agreement").
8. The Tenant is now requesting a ground lease from the Agency, as part of the second round application for the U.S. Department of Housing and Urban Development ("HUD") Choice Neighborhoods Initiative Grant Program ("Choice Neighborhoods"). MBS has proposed to identify the Project as a potential relocation site for any Alice Griffith senior residents who choose not to return to Alice Griffith. In doing so, MBS can then apply for project-based vouchers to be used at the Project, thereby creating a benefit to the Project as well as to any senior residents of Alice Griffith who may choose to partake of the targeted senior services that will be available at the Project.
9. MBS must demonstrate site control of any site for which they are proposing to use as a potential relocation site. A long term ground lease meets the site control threshold as defined by HUD.
10. The ground lease is conditioned upon MBS receiving the Choice Neighborhoods award and at the close of construction financing.
11. The San Francisco Planning Department (the "Planning Department") published a Preliminary Mitigated Negative Declaration (the "Preliminary MND") for the Project on April 30, 2005 pursuant to the California Environmental Quality Act ("CEQA"). On May 19, 2005 and May 20, 2005, appeals of the Preliminary MND were received by the Planning Department. After conducting a duly noticed public hearing, the Planning Commission determined that the proposed Project would not cause significant impacts and upheld the MND.
12. On September 1, 2005, the Planning Commission adopted a Final MND for the proposed Project. The Final MND describes the proposed Project, assesses the potential environmental impacts of the Project, and identifies mitigation measures to preclude significant impacts or reduce such impacts to less than significant levels. On September 1, 2005, the Planning Commission also approved a Conditional Use Application and the Mitigation Monitoring Program that attaches the mitigation measures contained in the Final MND to the Conditional Use authorization.
13. On September 21, 2010, the Agency Commission adopted Resolution No. 122-2010, wherein the Commission adopted the Final MND and determined that the Assignment and Assumption Agreement with Bayview Hunters Point Multipurpose Senior Services, Inc., was consistent with the project description

contained in the Final MND, would not result in any significant impacts not identified in the MND or any impact identified in the MND that would be substantially more severe.

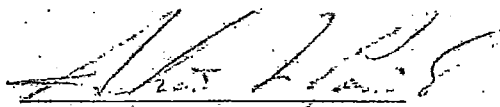
14. The environmental findings adopted in accordance with CEQA by the Agency Commission in Resolution No. 122-2010 were and remain adequate, accurate, and objective and are incorporated herein by reference as applicable to the proposed Ground Lease Agreement with Bayview Supportive Housing, LLC.
15. The Final MND and related documents have been and continue to be available for review by the Agency Commission and the public and are part of the record before the Agency Commission.

### RESOLUTION

**ACCORDINGLY, IT IS RESOLVED** by the Redevelopment Agency of the City and County of San Francisco as follows:

1. It has reviewed the Final Mitigated Negative Declaration for the Project, and hereby adopts the environmental findings pursuant to the California Environmental Quality Act set forth herein and in Agency Resolution No. 122-2010, dated September 21, 2010.
2. The Executive Director is authorized to enter into a Ground Lease Agreement with Bayview Supportive Housing, LLC, a California limited liability company, (whose members consist of Bayview Hunters Point Multipurpose Senior Services, Inc., a nonprofit public benefit corporation, and McCormack Baron Salazar ("MBS"), a Missouri corporation or a wholly owned affiliate of MBS) in conjunction with the development of 121 very low-income senior rental housing units and a ground floor senior center, 5800 Third Street, Lot 3, within the Bayview Hunters Point Redevelopment Project Area, substantially in the form lodged with the Agency General Counsel.

**APPROVED AS TO FORM:**

  
James B. Morales  
Agency General Counsel





April 26, 2011

## SUMMARY OF CARROLL AVENUE SENIOR HOUSING DEVELOPMENT

### **Action Requested:**

Approving the Redevelopment Agency of the City and County of San Francisco's ("Agency") lease of the land at Assessor's Block 5431A, Lot 042, to Bayview Supportive Housing, LLC, a California limited liability company ("Developer"), for 55 years for the purpose of creating a housing development for very low-income senior households ("Ground Lease").

### **Project Summary:**

The Carroll Avenue Senior Housing site ("Property"; "Site"), currently an unimproved surface parking lot, is located at 5800 Third Street, Lot 3, the northwest corner of the larger 5800 Third Street site, Assessor's Block 5431A, Lot 042, in San Francisco's Bayview Hunters Point neighborhood. On September 21, 2010, the Agency authorized an Assignment and Assumption Agreement of a Purchase and Sale Agreement the Site which allowed the Agency to take ownership of the Site. At that same meeting, the Commission also authorized an Exclusive Negotiations Agreement ("ENA") with Bayview Hunters Point Multipurpose Senior Services, Inc. ("BHPMSS") and McCormack Baron Salazar ("MBS") (together, the "Developer"), the two entities that will be responsible for co-developing the Site into approximately 120 very low-income rental housing units for very low income seniors (plus one manager's unit) and a senior services center (the "Project").

The Agency has since closed on the acquisition of the Site, and the Developer has created a new entity, Bayview Supportive Housing, LLC, to implement the ENA. On January 18, 2011, the Agency Commission authorized a tax increment loan in an amount not to exceed \$684,000 to fund predevelopment activities through schematic design. The Developer is currently going through the design process, and exploring possible construction and operational financing options. The Developer will seek to use resources such as Low Income Housing Tax Credits, Tax-Exempt Mortgage Revenue Bonds, or other sources available for very low-income senior housing developments to finance the construction of the Project. Based on the information that the Agency has received to date, the Agency anticipates providing a loan of approximately \$16,000,000, which includes the purchase of the land. The Agency loan will carry a 3% interest rate. This amount is based on the Project receiving 120 Project Based Section 8's to subsidize the units. Through the ground lease, the Agency will maintain ownership of the land and the Developer will own and operate the improvements.

The Agency has successfully used the proposed financing and lease structure for many similar affordable housing developments in San Francisco. This structure provides developers with the site control necessary to build and preserve affordable housing, while allowing the Agency to ensure that the affordability of the housing is maintained over the long term. Because the

Agency has purchased the land using tax increment funds, the Board of Supervisors must approve the Ground Lease Agreement.

Property: Assessor's Block 5431A, Lot 042

Land Owner: Redevelopment Agency of the City and County of San Francisco, a public body, corporate and politic of the State of California

Proposed Developer/  
Lessee: Bayview Supportive Housing, LLC, a California limited liability company

Length of Lease: 55 years plus one option for 44 years

Lease Payment: \$15,000 annual rent

Use of Property: Affordable housing for very low-income senior households



San Francisco  
Redevelopment Agency

One South Van Ness Avenue  
San Francisco, CA 94103

415.749.2400



EDWIN M. LEE, Mayor

Rick Swig, President  
Darshan Singh, Vice President  
Rosario M. Anaya  
Miguel M. Bustos  
Francee Covington  
Leroy King  
Agnes Briones Ubalde

Fred Blackwell, Executive Director

April 26, 2011

450-020.11-146

### 33433 Report

This report is submitted pursuant to Section 33433 of the California Health and Safety Code. Specifically, the Section states that before any property that was acquired, in whole or in part, with tax increment moneys is sold or leased for development, the sale or lease shall first be approved by the legislative body by a resolution after a public hearing. The Board of Supervisors is the legislative body for purposes of Section 33433.

The San Francisco Redevelopment Agency ("Agency") administers a Citywide Affordable Housing Program for the purposes of funding the development of affordable housing, pursuant to the Community Redevelopment Law of the State of California, the California Constitution, and all applicable local codes and ordinances. The Program, in place since 1989, has facilitated the acquisition, construction, and/or rehabilitation of affordable housing throughout the City and County of San Francisco through the use of the Agency's tax increment funds and its authority as a tax-exempt mortgage revenue bond issuer.

It is anticipated that approximately 121 units of permanent, affordable housing for very low income seniors (the "Project") will be developed. The property is currently an unimproved surface parking lot at the northwest corner of the larger 5800 Third Street site, in San Francisco's Bayview Hunter's Point Redevelopment Project Area, Assessor's Block 5431A, Lot 042 (the "Site"). On September 21, 2010, the Commission authorized an Assignment and Assumption Agreement of a Purchase and Sale Agreement for Lot 3 at a site locate at 5800 3<sup>rd</sup> Street and Carroll Avenue, (the "Site") which allowed the Agency to take ownership of the Site. At that same meeting, the Commission also authorized an Exclusive Negotiations Agreement ("ENA") with Bayview Hunters Point Multipurpose Senior Services, Inc. ("BHPMSS") and McCormack Baron Salazar ("MBS") (together, the "Developer"), the two entities that will be responsible for co-developing the Site into approximately 120 very low-income rental housing units for very low income seniors (plus one manager's unit) and a senior services center (the "Project"). Since that time, the Agency purchased the Site with an acquisition cost of \$8,511,709, which includes five months of interest due, and the Developer has created a new entity, Bayview Supportive Housing, LLC, to implement the ENA.

To facilitate the Project's development, the Agency authorized a predevelopment loan with the Developer in an amount not to exceed \$684,000 to fund predevelopment activities through schematic design. The Agency will continue to own the Property, but will provide site control to the Developer through a long term ground lease ("Ground Lease"). Through this Ground Lease, the Agency will maintain ownership of the land and the Developer will own and operate the improvements.

Currently, the Developer now seeks to execute the Ground Lease associated with the Project. MBS, a member of the Developer, is also a member of the development team for the Alice Griffith Public Housing Revitalization project ("Alice Griffith"), for which MBS is a finalist in the U.S. Department of Housing and Urban Development's ("HUD") Choice Neighborhoods Initiative Grant Program ("Choice Neighborhoods"). If awarded a Choice Neighborhoods Grant, MBS would be able to receive Section 8 rental housing vouchers for eligible seniors currently residing at Alice Griffith who wish to relocate to the Project where they would be able to receive more targeted senior services. The Ground Lease allows MBS to demonstrate site control to HUD.

The following summarizes the project in accordance with Section 33433 requirements:

- A. "A copy of the proposed sale or lease." Please refer to the Ground Lease Agreement (Attachment 1).
- B. "A summary which describes and specifies all of the following:"
  - (i) "The cost of the agreement to the agency, including land acquisition costs, clearance costs, and relocation costs, the costs of any improvements to be provided by the Agency, plus the expected interest on any loans or bonds to finance the agreements"

The total cost of the Agency's 2010 acquisition of the land was \$8,380,733, plus interest and closing costs. The Agency will not incur clearance, relocation, or improvement costs. Furthermore, no interest will be generated on loans or bonds used to finance the land acquisition or the subsequent lease to the Developer.

- (ii) "The estimated value of the interest to be conveyed or leased, determined at the highest and best uses permitted under the plan."

The value of the land at 5800 Third Street, Lot 3 that is to be leased to the Developer, determined as of March 23, 2010, at the highest and best use permitted under the plan is \$8,900,000.

- (iii) "The estimated value of the interest to be conveyed or leased, determined at the use and with the conditions, covenants, and development costs required by the sale or lease. The purchase price or present value of the lease payments that the lessor will be required to make during the term of the lease. If the sale price or total rental amount is less than the fair market value of the interest to be conveyed or leased, determined at the highest and best use consistent with the redevelopment plan, then the agency shall provide as part of the summary an explanation of the reasons for the difference."

The estimated value of the land to be conveyed, determined with the conditions, covenants, and development costs required by the sale, is \$8,900,000. The property is being leased to the developer for a period of 55 years. The annual ground rent is \$890,000, but with only \$15,000 guaranteed. The balance of the annual rent is to be paid from residual receipts to the extent any surplus cash is available. The present value of the anticipated lease payments is \$184,779, using a blended discount rate of 8% percent.

The present value of the fixed total rental amount, including the residual land interest at the end of the 55-year term, is substantially less than the fair market value of the interest to be leased, determined at the highest and best use. Only \$15,000 of the annual rent is guaranteed and the remainder is to be paid from "surplus cash" generated by the Project annually, i.e., operating income that is in excess of operating expenses. The less than fair market value rent is necessary to achieve affordability for Very Low Income Senior Households and the consideration to be received by the Agency is not less than the fair reuse value at the use and with the covenants and conditions and development costs authorized by the Ground Lease. This lease structure is necessary to ensure the continued and successful operation of the Project, but creates a high level of uncertainty regarding the value of the rents that the Agency will actually collect. This risk factor is reflected in the blended discount rate used to calculate the present value of the projected lease payments.

- (iv) "An explanation of why the sales or lease of the property will assist in the elimination of blight, with reference to all supporting facts and materials relied upon in making this explanation."

The lease of the property will assist in the elimination of blight by providing housing opportunities for a population – very low-income seniors – that is underserved by the market and therefore at serious risk of homelessness. In addition, the lease and development of this property will transform a vacant, underutilized parcel, bringing quality architecture, new homes, and neighborhood-serving community space to the community.

- (v) This report has been made available to the public at the offices of the San Francisco Redevelopment Agency, 1 South Van Ness Avenue, 5<sup>th</sup> Floor, San Francisco, California, no later than the time of publication of the first notice of hearing as mandated by California Health and Safety Code Section 33433.



1 **CARROLL AVENUE SENIOR HOUSING GROUND LEASE**

2  
3 **by and between the**

4 **REDEVELOPMENT AGENCY OF THE**  
5 **CITY AND COUNTY OF SAN FRANCISCO**

6 **as Landlord**

7  
8 **and**

9  
10 **BAYVIEW SUPPORTIVE HOUSING,**  
11 **a California Limited Liability Company**

12 **as Tenant**

13 **Dated as of May 3, 2011**

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Attachments to Ground Lease

1. Legal Description of Site
2. Schedule of Performance
3. Agency Consent of Leasehold Mortgage
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5. BVHP ECP
6. Income Computation and Certification

1 GROUND LEASE

2 This ground lease ("Ground Lease") is effective, \_\_\_\_\_ 2011, by and between the  
3 REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO, a  
4 public body, corporate and politic (the "Agency"), as Landlord, and BAYVIEW SUPPORTIVE  
5 HOUSING, LLC, a California limited liability company comprised of \_\_\_\_\_ and  
6 \_\_\_\_\_ (the "Tenant").

7 RECITALS

8 A. In furtherance of the objectives of the California Community  
9 Redevelopment Law (Health and Safety Code, section 33000 et seq. the "Law"), the Agency  
10 undertakes programs for the rehabilitation of blighted areas in the City and County of San  
11 Francisco (the "City").

12 B. The Agency has established an affordable housing program to promote the  
13 retention and development of housing which is affordable to very low to moderate-income  
14 households.

15 C. The Agency desires to encourage the development of residential rental  
16 developments as affordable housing by lending or expending tax increment housing set-aside  
17 funds for such developments and by providing developers with site control necessary for such  
18 developments in the form of long-term ground leases.

19 D. Landlord is the fee owner of the land located at 5800 Third Street, San  
20 Francisco, California and further described in Exhibit A attached hereto ("Site"). Landlord  
21 desires to lease the Site for the development of approximately 121 units of very low-income

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1 senior rental housing plus one manager's unit, associated parking, services space and other  
2 ancillary uses listed in this Ground Lease (the "Project").

3 E. McCormack Baron Salazar ("MBS") in conjunction with the San Francisco  
4 Housing Authority are finalists for a U.S. Department of Housing and Urban Development  
5 Choice Neighborhoods Grant ("Choice Neighborhoods"). If awarded, it is the intent of MBS to  
6 transfer to its wholly owned subsidiary \_\_\_\_\_, any Section 8 vouchers it received as part of the  
7 Choice Neighborhoods award. It is the intent of the Tenant to then use Choice Neighborhoods  
8 project based rental vouchers for relocated eligible applicants from the Alice Griffith Public  
9 Housing development to the Project.

10 F. If MBS does not receive a Choice Neighborhoods award, then this Ground  
11 Lease shall not become effective pursuant to its terms and the parties may negotiate a new ground  
12 lease for this Site as affordable housing, such negotiations shall commence no later than January  
13 9, 2012.

14 G. The Agency believes that the fulfillment of the terms and conditions of this  
15 Ground Lease are in the vital and best interests of the City and the health, safety, morals and  
16 welfare of its residents, and in full accord with the public purposes and provisions of applicable  
17 State and Federal laws and requirements.

18 **NOW THEREFORE**, in consideration of the mutual obligations of the parties hereto, the  
19 Agency hereby leases to Tenant, and Tenant hereby leases from the Agency, the Site, for the  
20 Term (as defined in Article 2), and subject to the terms, covenants, agreements and conditions  
21 hereinafter set forth, to each and all of which the Agency and Tenant hereby mutually agree.

1 **ARTICLE 1: DEFINITIONS**

2 Terms used herein have the meanings given them when first used or as set forth in this  
3 Article 1, unless the context clearly requires otherwise.

4 **1.01 Agency** means the Redevelopment Agency of the City and County of San  
5 Francisco, a public body, corporate and politic, exercising its functions and powers and organized  
6 and existing under the Community Redevelopment Law of the State of California and includes  
7 any successor public agency designated by or pursuant to law. The Agency is the owner of the  
8 Site.

9 **1.02 Agreement Date** means the date set forth on the cover page.

10 **1.03 Area Median Income** (or "AMI") means the median household or family income  
11 for the San Francisco area adjusted for household size, as determined pursuant to Section 50093  
12 of the California Health and Safety Code.

13 **1.04 CAM Payments** means payments received by Tenant from all subtenants and City  
14 or its successor and assigns for common area maintenance expenses as set by Tenant pursuant to  
15 its lease agreement with its subtenants.

16 **1.05 Critical Activity(ies)** means an activity or item of the Improvements which, if  
17 delayed or extended, will delay Substantial Completion or the Final Completion Date.

18 **1.06 Effective Date** means the date upon which: (a) evidence of Choice Neighborhood  
19 award, satisfactory to the Agency and (b) close of escrow for all financing required to construct  
20 the Project, but in no event no later than January 9, 2012.

21 **1.07 First Lease payment Year** means the year in which the Project receives a

1 Certificate of Occupancy for all residential units.

2       **1.08 First Mortgage Lender** means a bank or other entity holding the first deed of trust  
3 on the Leasehold Estate; and in the event of the bond financing, the issuer and the entity providing  
4 the credit enhancement shall both be First Mortgage Lender.

5       **1.09 Ground Lease** means this Ground Lease of the Site to the Tenant from the  
6 Agency, as amended from time to time.

7       **1.10 Improvements** means all physical construction, including all structures, fixtures  
8 and other improvements to be constructed on the Site.

9       **1.11 Lease Year** means each calendar year during the term hereof, beginning on  
10 January 1 and ending on December 31, provided that the "First Lease Year" shall commence on  
11 the Effective Date and continue through December 31st of that same calendar year. Furthermore,  
12 the "Last Lease Year" shall end upon the expiration of the Term hereof.

13       **1.12 Leasehold Estate** means the estate held by the Tenant pursuant to and created by  
14 this Ground Lease.

15       **1.13 Leasehold Mortgage** means any mortgage, deed of trust, trust indenture, letter of  
16 credit or other security instrument, including but not limited to the deeds of trust securing the First  
17 Mortgage Lender and which are part of the Loan Documents, and any assignment of the rents,  
18 issues and profits from the Site, or any portion thereof, which constitute a lien on the Leasehold  
19 Estate created by this Ground Lease and will be approved in writing by the Agency.

20       **1.14 Lender** means any entity holding a Leasehold Mortgage.

21       **1.15 Loan Documents** means that certain Predevelopment Tax Increment Loan

1 Agreement dated January 18, 2011, including the Note, Deed of Trust, Declaration of  
2 Restrictions, and any other documents executed or delivered in connection with the Tax  
3 Increment Predevelopment Loan Agreement.

4 **1.16 New Developer** is defined in Section 10.15.

5 **1.17 Notice of Completion ("NOC")** means is defined in Section 10.14.

6 **1.18 Occupant** means any person or entity authorized by Tenant to occupy a residential  
7 unit on the Site, or any portion thereof.

8 **1.19 Premises** means the Site together with any Improvements thereon.

9 **1.20 Project** means the development, consisting of approximately 121 units of  
10 affordable housing with supportive services plus one manager's unit, associated parking and other  
11 ancillary uses on the Site permitted by this Ground lease and approved by the Agency. If  
12 indicated by context, Project means the leasehold interest in the Site and the fee interest in the  
13 Improvements on the Site.

14 **1.21 Project Expenses** means all charges incurred by Tenant in the operation of the  
15 Project including but not limited to: (a) lease payments, utilities, real estate and/or possessory  
16 interest taxes, assessments, and liability, fire and other hazard insurance premiums; (b) salaries,  
17 wages and other compensation due and payable to the employees or agents of Tenant who  
18 maintain, administer, operate or provide services in connection with the Project, including all  
19 withholding taxes, insurance premiums, Social Security payments and other payroll taxes or  
20 payments required for such employees; (c) payments of required interest and principal, if any, on  
21 any construction or permanent financing secured by the Project; (d) all other expenses incurred by

1 Tenant to cover routine operating and services provision costs of the Project, including  
2 maintenance and repair and the reasonable fee of any managing agent; (e) any extraordinary  
3 expenses as approved in advance by the Agency; (f) deposits to reserves accounts required to be  
4 established under the Loan Documents, and (g) an asset management fee of \$17,200 per year  
5 increasing 3.5% annually, which fee may be revised based on the Mayor's Office of Housing  
6 Asset Management Fee and the Partnership Management Fee Policy (attached hereto as  
7 Attachment 12) by notice from the Agency's Executive Director for Housing prior to the  
8 completion of the Improvements.

9 **1.22 Project Income** means all revenue, income receipts, and other consideration  
10 actually received from the operation of leasing the Improvements and Project. Project Income  
11 shall include but not be limited to: all rents, fees and charges paid by tenants; Section 8 or other  
12 rental subsidy payments received for the dwelling units; supportive services funding, if to the  
13 Tenant; commercial lease income; deposits forfeited by tenants; all cancellation fees, price index  
14 adjustments and any other rental adjustments to leases or rental agreements; proceeds from  
15 vending and laundry room machines; and the proceeds of business interruption or similar  
16 insurance. Project Income shall not include tenants' security deposits, loan proceeds, capital  
17 contributions or similar advances.

18 **1.23 Site** means the real property located at 5800 Third Stret, San Francisco, as shown  
19 in the Site Legal Description, Attachment 1.

20 **1.24 Subsequent Owner** means any successor (including a Lender or an affiliate or  
21 assignee of a Lender as applicable) to the Tenant's interest in the Leasehold Estate and the

1 Improvements who acquires such interest as a result of a foreclosure, deed in lieu of foreclosure,  
2 or transfer from a Lender, its affiliate, and any successors to any such person or entity:

3 **1.25 Surplus Cash** means the excess of Project Income over Project Expenses. All  
4 permitted uses and distributions of Surplus Cash shall be governed by Section 6.02(f) of this  
5 Ground Lease.

6 **1.26 Tenant** means Bayview Supportive Housing, LLC, a California limited liability  
7 corporation (or a Subsequent Owner, where appropriate), whose members are Bayview Hunters  
8 Point Multipurpose Senior Services, Inc. ("BHPMSS") and MBA Development Corp., a Missouri  
9 corporation.

10 **1.27 Very Low-Income Households** means a tenant household with at least one  
11 occupant who is sixty-two years of age or older and whose initial income does not exceed Fifty  
12 Percent (50%) of Area Median Income, based on actual household size, and whose subsequent  
13 income does not exceed One Hundred Twenty Percent (120%) of AMI, based on actual household  
14 size.

15 Whenever an "Attachment" is referenced, it means an attachment to this Ground Lease  
16 unless otherwise specifically identified. Whenever a section, article or paragraph is referenced, it  
17 is a reference to this Ground Lease unless otherwise specifically referenced.

18 **ARTICLE 2: TERM**

19 (a) **Initial Term.** The term of this Ground Lease shall commence upon the Effective  
20 Date and shall end fifty-five (55) years from that date ("Term"), unless extended pursuant to  
21 section (b) below.



1 (b) Option for Extension. Provided that the Tenant is not in default of the terms of its  
2 obligations to the Agency either at the time of giving of an Extension Notice, as described in  
3 subparagraph (c) below, or on the last day of the term (the "Termination Date"), the term of this  
4 Ground Lease may be extended at the option of the Tenant for one forty-four (44) year period as  
5 provided below.

6 (c) Notice of Extension. Not later than one hundred eighty (180) days prior to the  
7 Termination Date, the Tenant may notify the Agency in writing that it wishes to exercise its  
8 option to extend the term of this Ground Lease (an "Extension Notice"). The extended term shall  
9 be for 44 years from the Termination Date, which option the Tenant may exercise only once, for a  
10 total Ground Lease term of not to exceed ninety-nine (99) years.

11 (d) Rent During Extended Term Rent for any extended term will be as set forth in  
12 Article 4.

13 (e) Right of First Refusal. If, the Agency desires to sell its interest in the Site, the  
14 Tenant will have the right of first refusal to negotiate for the purchase of the Site provided that the  
15 Tenant agrees to maintain the Site as a very low-income housing development for fifty-five (55)  
16 years from the date of purchase.

### 17 **ARTICLE 3: FINANCING**

18 Tenant shall submit to the Agency evidence satisfactory to the Agency that Tenant has  
19 sufficient equity capital and commitments for construction and permanent financing, and/or such  
20 other evidence of capacity to proceed with the construction of the Improvements in accordance  
21 with the dates specified in the Schedule of Performance, Attachment 3.

1 ARTICLE 4: RENT

2 4.01 Annual Rent

3 (a) Tenant shall pay to the Agency Eight Hundred Ninety Thousand Dollars  
4 (\$890,000) (the "Annual Rent") per year for each year of the Term of this Ground Lease, which  
5 shall be equal to ten percent (10%) of the appraised value of the Site as determined by an MAI  
6 appraiser selected by and at the sole cost of the Agency. Annual Rent consists of Base Rent and  
7 Residual Rent, as defined in Sections 4.02 and 4.03 below, without offset of any kind (except as  
8 otherwise permitted by this Lease) and without necessity of demand, notice or invoice.

9 (b) If the Tenant elects to extend the term of this Ground Lease pursuant to Article 2  
10 above, Annual Rent during any such extended term shall be set by mutual agreement of the  
11 parties, taking into account the affordable housing restrictions contained in Section 9.02, project  
12 debt (including any surplus cash debt obligations) and the annual income expected to be  
13 generated by the Project. If the parties cannot agree on Annual Rent, either party may invoke a  
14 neutral third-party process and shall agree on a neutral third-party appraiser to set the Annual  
15 Rent at fair market rent in accordance with the then-prevailing practice for resolving similar rent  
16 determination disputes in San Francisco taking into account the affordable housing restrictions  
17 contained in Section 9.02 project debt (including any surplus cash debt obligations) and the  
18 annual income expected to be generated by the Project or, in the event that there is no then-  
19 prevailing practice, in accordance with the rules of the American Arbitration Association.  
20 Provided, however, that after the neutral third party process, Tenant, in its sole discretion may  
21 rescind the Extension Notice if it does not wish to extend the Term of this Ground Lease.

1           4.02   Base Rent

2           (a)    “Base Rent”, means FIFTEEN THOUSAND DOLLARS (\$15,000) per annum.

3   Base Rent shall be due and payable in arrears on January 31st of each Lease Year, however no  
4   Base Rent shall be due until after completion of the Improvements. The first Base Rent payment  
5   shall be due on the January 31<sup>st</sup> of the calendar year following the First Lease Payment Year; and  
6   provided, further, that in the event that the Tenant or any Subsequent Owner fails, after notice and  
7   opportunity to cure, to comply with the provisions of Section 9.02, Base Rent shall be increased  
8   to the full amount of the Annual Rent.

9           (b)    If the Project does not have sufficient Project Income to pay Base Rent and the  
10   Agency has received written notice from Tenant regarding its inability to pay Base Rent from  
11   Project Income, the unpaid amount shall be deferred and all such deferred amounts shall accrue  
12   without interest until paid (“**Base Rent Accrual**”). The Base Rent Accrual shall be due and  
13   payable each year from and to the extent Surplus Cash is available to make such payments and, in  
14   any event, upon the earlier of sale of the Project or termination of this Ground Lease.

15           (c)    If Tenant has not provided Agency with written notice that it cannot pay Base Rent  
16   due to insufficient Project Income, the Agency shall assess a late payment penalty of two percent  
17   (2%) for each month or any part thereof that any Base Rent payment is delinquent. The Tenant  
18   may request in writing that the Agency waive such penalties by describing the reasons for  
19   Tenant’s failure to pay Base Rent and Tenant’s proposed actions to insure that Base Rent will be  
20   paid in the future. The Agency may, in its sole discretion, waive in writing all or a portion of  
21   such penalties if it finds that Tenant’s failure to pay Base Rent was beyond Tenant’s control and

1 that Tenant is diligently pursuing reasonable solutions to such failure to pay.

2 **4.03 Residual Rent**

3 "Residual Rent" means, in any given Lease Year, ten percent of the appraised value of the  
4 land as established prior to the Effective Date minus the Base Rent, or Nine Hundred Fifteen  
5 Thousand Dollars (\$915,000). However Residual Rent shall never be less than Zero Dollars  
6 (\$0.00) Residual Rent shall be due in arrears on April 15th of each Lease Year payable only to the  
7 extent of Surplus Cash as provided in Section 6.02(f), and any unpaid Residual Rent shall accrue.  
8 Furthermore, Residual Rent shall not be due during any Lease Year prior to the First Lease  
9 Payment Year. Tenant shall certify to the Agency in writing by April 15 that available Surplus  
10 Cash is insufficient to pay Residual Rent and Tenant shall provide to Agency any supporting  
11 documentation reasonably requested by Agency to allow Agency to verify the insufficiency.

12 **4.04 Triple Net Lease**

13 From and after the Effective Date, this Ground Lease is a triple net lease and the Tenant  
14 shall be responsible to pay all costs, charges, taxes, impositions and other obligations related  
15 thereto. From and after the Effective Date, if the Agency pays any such amounts, whether to cure  
16 a default or otherwise protect its interests hereunder, the Agency will be entitled to be reimbursed  
17 by Tenant the full amount of such payments as additional rent within thirty (30) days of written  
18 demand by Agency. Failure to timely pay the additional rent shall be an Event of Default.

19 **ARTICLE 5: AGENCY COVENANTS**

20 The Agency is duly created and validly existing in good standing under the Law, and has  
21 full right, power and authority to enter into and perform its obligations under this Ground Lease.

1 Agency covenants and warrants that the Tenant and its tenants shall have, hold and enjoy, during  
2 the lease term, peaceful, quiet and undisputed possession of the Site leased without hindrance or  
3 molestation by or from anyone so long as the Tenant is not in default under this Ground Lease.

4 **ARTICLE 6: TENANT COVENANTS**

5 Tenant covenants and agrees for itself, and its successors and assigns to or of the Site, or  
6 any part thereof, that:

7 **6.01 Limited Liability Company/Authority**

8 Tenant is a California limited liability company and has full rights, power and authority to  
9 enter into and perform its obligations under this Ground Lease.

10 **6.02 Use of Site and Rents**

11 During the term of this Ground Lease (which means from and after the Effective Date),  
12 Tenant and such successors and assigns shall comply with the following requirements:

13 **6.02(a) Permitted Uses**

14 The permitted uses of the Project are listed in Article 9 and in the case of Lender  
15 foreclosure, in Section 26.06. Except as specifically permitted under this Ground Lease, no other  
16 uses are permitted.

17 **6.02(b) Non-Discrimination**

18 Tenant shall not discriminate against or segregate any person or group of persons  
19 on account of race, color, creed, religion, ancestry, national origin, sex, gender identity, marital or  
20 domestic partner status, sexual orientation or disability (including HIV or AIDS status) in the  
21 sale, lease, rental, sublease, transfer, use, occupancy, tenure or enjoyment of the Site or the

1 Improvements, or any part thereof, nor shall Tenant itself or any person claiming under or through  
2 it establish or permit any such practice or practices of discrimination or segregation with  
3 reference to the selection, location, number, use or occupancy, of Occupants, subtenants or  
4 vendees on the Site or Improvements, or any part thereof, except to the extent permitted by law or  
5 required by funding source. Tenant shall not discriminate against tenants with certificates or  
6 vouchers under the Section 8 program or any successor rent subsidy program.

7 **6.02(c) Non-Discriminatory Advertising**

8 All advertising (including signs) for sublease of the whole or any part of the Site  
9 shall include the legend "Equal Housing Opportunity" in type or lettering of easily legible size  
10 and design.

11 **6.02(d) Access for Disabled Persons**

12 Comply with all applicable laws providing for access for persons with disabilities,  
13 including, but not limited to, the Americans with Disabilities Act and Section 504 of the  
14 Rehabilitation Act of 1973.

15 **6.02(e) Equal Opportunity Marketing Plan**

16 Tenant shall submit a Fair Housing Marketing Plan to be approved by the Agency. The  
17 Fair Housing Marketing Plan must follow the Agency's marketing requirements for such plans.

18 **6.02(e) Lead Based Paint**

19 Tenant agrees to comply with the regulations issued by the Secretary of HUD set forth in  
20 24 CFR Part 35 and all applicable rules and orders issued thereunder which prohibit the use of  
21 lead-based paint in certain residential structures undergoing federally assisted construction and

1 require the elimination of lead-based paint hazards.

2 **6.02(f) Permitted Uses of Surplus Cash**

3 At the end of each lease year following the Completion Date, Tenant shall  
4 calculate Surplus Cash. If the Tenant is found by the Agency to be in compliance with all  
5 applicable requirements and agreements, Tenant shall use Surplus Cash to make the following  
6 payments:

7 (a) First to Base Rent Accrual payments, if any, second to a partnership management fee of  
8 \$17,220 increasing at an annual rate of three percent (3.5%) (which amount may be  
9 revised pursuant to Section 1.20 of this Ground Lease);

10 (b) Then one-third (1/3) of remaining Surplus Cash to Tenant as an incentive management fee  
11 in an amount not to exceed \$500 per unit per year to a maximum of \$50,000, and,

12 (c) The remaining two-thirds (2/3) of Surplus Cash, together with any remaining Surplus  
13 Cash after payment of the Tenant's incentive management fee, shall be allocated to  
14 the Agency. The Agency's portion of Surplus Cash will be applied first to Residual  
15 Rent, and if any Surplus Cash remains, to repayment of any Agency loan.

16 **6.03 Agency Deemed Beneficiary of Covenants**

17 In amplification, and not in restriction, of the provisions of the preceding subsections, it is  
18 intended and agreed that the Agency shall be deemed beneficiary of the agreements and  
19 covenants provided in this Article 6 for and in its own right and also for the purposes of  
20 protecting the interests of the community and other parties, public or private, in whose favor or  
21 for whose benefit such agreements and covenants have been provided. Such agreements and

1 covenants shall run in favor of the Agency for the entire period during which such agreements  
2 and covenants shall be in force and effect, without regard to whether the Agency has any time  
3 been, remains, or is an owner of any land or interest therein to, or in favor of, which such  
4 agreements and covenants relate. The Agency shall have the right, in the event of any breach of  
5 any such agreements or covenants, in each case, after notice and the expiration of cure periods, to  
6 exercise all the rights and remedies and to maintain any actions at law or suits in equity or other  
7 proper proceedings to enforce the curing of such breach of covenants, to which it or any other  
8 beneficiaries of such agreements or covenants may be entitled.

9 **ARTICLE 7: ANNUAL INCOME COMPUTATION AND CERTIFICATION**

10 Forty-five (45) days after recordation of a Notice of Completion (as defined in Section  
11 10.14) by the Tenant for the Improvements, and not later than December 31<sup>st</sup> of each year  
12 thereafter, Tenant will furnish to the Agency a list, in the form set forth in Attachment 8, of all of  
13 the names of the persons who are Occupants of the Improvements, the specific unit which each  
14 person occupies, the household income of the Occupants of each unit, the household size and the  
15 rent being charged to the Occupants of each unit. If any state or federal agency requires an  
16 income certification for Occupants of the Improvements containing the above-referenced  
17 information, the Agency agrees to accept such certification in lieu of Attachment 8 as meeting the  
18 requirements of this Ground Lease.

19 **ARTICLE 8: CONDITION OF SITE - "AS IS"**

20 Neither the Agency, nor any employee, agent or representative of the Agency has made  
21 any representation, warranty or covenant, expressed or implied, with respect to the Site, its



1 physical condition, the condition of any improvements, any environmental laws or regulations, or  
2 any other matter, affecting the use, value, occupancy or enjoyment of the Site other than as set  
3 forth explicitly in this Ground Lease, and the Tenant understands and agrees that the Agency is  
4 making no such representation, warranty or covenant, expressed or implied; it being expressly  
5 understood that the Site is being leased in an "AS IS" condition with respect to all matters.

## 6 **ARTICLE 9: IMPROVEMENTS AND PERMITTED USES**

### 7 **9.01 Scope of Development and Schedule of Performance**

8 Tenant agrees to undertake and complete all physical construction on the Site, if any, as  
9 approved by the Agency, in accordance with the Schedule of Performance, Attachment 3.

### 10 **9.02 Permitted Uses and Occupancy Restrictions**

11 The permitted uses of the Project are limited to approximately one hundred twenty-one  
12 (121) residential senior rental housing units, plus one (1) manager's unit (together "Residential  
13 Units"), associated parking, ground floor common areas, and ground floor services spaces. Upon  
14 the completion of construction, one hundred percent (100%) of the Residential Units, with the  
15 exception of the manager's unit, in the Project shall be occupied or held vacant and available for  
16 rental by Very Low-Income Senior Households. Senior household means age 62 or older.

## 17 **ARTICLE 10: CONSTRUCTION OF IMPROVEMENTS**

### 18 **10.01 General Requirements and Rights of Agency**

19 Construction documents for the construction of the Improvements by Tenant, including:

- 20 (1) the Basic Concept Drawings; (2) the Schematic Drawings; (3) the Design Development  
21 Documents; and, (4) the final Plans and Specifications (the "Final Construction Documents")

1 (collectively the "Construction Documents") shall be prepared by a person registered in and by  
2 the State of California to practice architecture and shall be in conformity with this Ground Lease  
3 and all applicable Federal, State and local laws and regulations. The architect shall use, as  
4 necessary, members of associated design professions, including engineers and landscape  
5 architects

6 Tenant shall submit and the Agency shall disapprove the Construction documents referred  
7 to in this Ground Lease within the times established in the Schedule of Performance. Failure by  
8 the Agency to disapprove within the times established in the Schedule of Performance shall  
9 entitle Tenant to a day for day extension for time for completion of those activities as a direct  
10 result of Agency's failure to timely disapprove the Construction Documents.

#### 11 **10.02 Agency Approvals and Limitation Thereof**

12 The Construction Documents must be approved by the Agency in the manner set  
13 forth below:

##### 14 **10.02(a) Compliance with Redevelopment Plan and Ground Lease**

15 The Agency's approval with respect to the Construction Documents is limited to  
16 determination of their compliance with this Ground Lease, and the Bayview Hunters Point Project  
17 Area Redevelopment Plan. The Construction Documents shall be subject to general architectural  
18 review and guidance by the Agency as part of this review and approval process.

##### 19 **10.02(b) Agency Does Not Approve Compliance with Construction**

##### 20 **Requirements**

21 The Agency's approval is not directed to engineering or structural matters or

1 compliance with building codes and regulations, the Americans with Disabilities Act, or any other  
2 applicable State or Federal law relating to construction standards or requirements.

3 **10.02(c) Agency Determination Final and Conclusive**

4 The Agency's determination respecting the compliance of the Construction  
5 Documents with Redevelopment Requirements shall be final and conclusive (except that it makes  
6 no determination and has no responsibility for the matters set forth in Section 10.02(b), above).

7 **10.03 Construction to be in Compliance with Construction Documents and Law**

8 **10.03(a) Compliance with Agency and City Approved Documents**

9 The construction shall be in strict compliance with the Agency-approved and City-  
10 approved Construction Documents.

11 **10.03(b) Compliance with Local, State and Federal Law**

12 The construction shall be in strict compliance with all applicable local, State and  
13 Federal laws and regulations.

14 **10.04 Approval of Construction Documents by Agency**

15 Tenant shall submit and the Agency shall approve or disapprove the Construction  
16 Documents referred to in this Ground Lease within the times established in the Schedule of  
17 Performance. Failure by the Agency either to approve or disapprove within the times established  
18 in the Schedule of Performance shall entitle Tenant to a day for day extension of time for  
19 completion of any Critical Activities delayed as a direct result of Agency's failure to timely  
20 approve or disapprove the Construction Documents.

21 **10.05 Disapproval of Construction Documents by Agency**

1 If the Agency disapproves the Construction Documents in whole or in part as not being in  
2 compliance with Redevelopment Requirements or this Ground Lease, Tenant shall submit new or  
3 corrected plans which are in compliance within thirty (30) days after written notification to it of  
4 disapproval, and the provision of this section relating to approval, disapproval and re-submission  
5 of corrected Construction Documents shall continue to apply until the Construction Documents  
6 have been approved by the Agency; provided, however, that in any event Tenant must submit  
7 satisfactory Construction Documents (i.e., approved by the Agency) no later than the date  
8 specified therefor in the Schedule of Performance.

9 **10.06 Final Construction Documents to be Approved by Agency**

10 The Final Construction Documents, including all drawings, specifications and other  
11 related documents necessary for the construction of the Improvements in accordance with the  
12 requirements of this Ground Lease must be approved by the Agency's Deputy Executive Director  
13 for Housing.

14 **10.07 Issuance of Building Permits**

15 (a) Tenant shall have the sole responsibility for obtaining all necessary  
16 building permits and shall make application for such permits directly to the City's Department of  
17 Building Inspection. The Agency understands and agrees that Tenant may use the Fast Track  
18 method of permit approval for building the Improvements.

19 (b) The Tenant is advised that the Central Permit Bureau forwards all building  
20 permits to the Agency for Agency approval of compliance with Redevelopment Requirements.  
21 The Agency's approval of compliance with Redevelopment Requirements is limited and does not

1 include Section 10.02b matters. Agency evidences such compliance by signing the permit and  
2 returning the permit to the Central Permit Bureau for issuance directly to the Tenant. Approval of  
3 any intermediate permit, however, is not approval of compliance with all Redevelopment  
4 Requirements necessary for a full and final building permit.

#### 5 **10.08 Performance and Payment Bonds**

6 Prior to commencement of construction of the Improvements, Tenant shall deliver to the  
7 Agency performance and payment bonds, each for the full value of the cost of construction of the  
8 Improvements, which bonds shall name the Agency as co-obligee, or such other completion  
9 security which is acceptable to the Agency.

#### 10 **10.09 Agency Approval of Changes after Commencement of Construction**

11 Once construction has commenced, the only Construction Document matters subject to  
12 further review by the Agency will be requests for any material changes in the Construction  
13 Documents which affect matters previously approved by the Agency. For purposes of  
14 determining materiality in the Construction Documents, any single change order of \$10,000 or  
15 more in value and any change order which causes the aggregate value of all change orders to  
16 exceed \$100,000 shall be considered material and require the Agency's prior written approval  
17 unless waived by the Agency. Permission to make such changes shall be requested by Tenant in  
18 writing directed to the Agency, Attention: Deputy Executive Director for Housing, with a copy to  
19 the Architecture Division Manager. The Agency shall reply in writing giving approval or  
20 disapproval of the changes within ten (10) business days after receiving such request. If the  
21 request is disapproved, the reply must specify the reasons for the disapproval.

1           **10.10 Times for Construction**

2           Tenant agrees for itself, and its successors and assigns to or of the Leasehold Estate or any  
3 part thereof, that Tenant and such successors and assigns shall promptly begin and diligently  
4 prosecute to completion the redevelopment of the Site through the construction of the  
5 Improvements thereon, and that such construction shall in any event commence and thereafter  
6 diligently continue and shall be completed no later than the dates specified in the Schedule of  
7 Performance, subject to force majeure, unless such dates are extended by the Agency.

8           **10.11 Force Majeure**

9           For the purposes of any of the provisions of this Ground Lease, and notwithstanding  
10 anything to the contrary, neither the Agency nor Tenant, as the case may be, shall be considered  
11 in breach or default of its obligations, nor shall there be deemed a failure to satisfy any conditions  
12 with respect to the beginning and completion of construction of the Improvements, or progress in  
13 respect thereto, in the event of enforced delay in the performance of such obligations or  
14 satisfaction of such conditions, due to unforeseeable causes beyond its control and without its  
15 fault or negligence, including, but not restricted to, acts of God, or of the public enemy, acts of the  
16 Government, acts of the other party, fires, floods, epidemics, quarantine restrictions, strikes,  
17 freight embargoes, general scarcity of materials and unusually severe weather or delays of  
18 subcontractors due to such causes; it being the purposes and intent of this provision that in the  
19 event of the occurrence of any such enforced delay, the time or times for the satisfaction of  
20 conditions to this Ground Lease including those with respect to construction of the Improvements,  
21 shall be extended for the period of the enforced delay; provided, however, that the party seeking

1 the benefit of the provisions of this paragraph shall have notified the other party thereof in writing  
2 of the cause or causes thereof within thirty (30) days after the beginning of any such enforced  
3 delay and requested an extension for the period of the enforced delay; and, provided further, that  
4 this paragraph shall not apply to, and nothing contained in this paragraph shall extend or shall be  
5 construed to extend, the time of performance of any of Tenant's obligations to be performed prior  
6 to the commencement of construction, nor shall the failure to timely perform pre-commencement  
7 of construction obligations extend or be construed to extend Tenant's obligations to commence,  
8 prosecute and complete construction of the Improvements in the manner and at the times  
9 specified in this Ground Lease.

#### 10 **10.12 Reports**

11 **10.12(a)** Commencing when construction of the Improvements commences and  
12 continuing until completion of construction of the Improvements, Tenant shall make a report in  
13 writing to the Agency every three (3) months, in such detail as may reasonably be required by the  
14 Agency, as to the actual progress of the Tenant with respect to such construction. Such reporting  
15 requirements may be satisfied by Tenant's provision of draw requests as required pursuant to the  
16 terms of the Loan Agreement. Commencing as of the Effective Date and continuing until  
17 completion of the construction of the Improvements, Tenant shall be subject to inspection by  
18 representatives of the Agency, at reasonable times and upon reasonable advance notice.

19 **10.12(b)** Tenant will have the right to have an employee, agent, or other  
20 representative of Tenant accompany the Agency representative at all times while the Landlord  
21 representative is present on the Site. The Agency and its representatives will exercise due care in

1. entering upon and/or inspecting the Site, and will perform all entry and inspection in a  
2. professional manner and so as to preclude any damage to the Site or Improvements, or any  
3. disruption to the work of construction or operation of the Improvements. The Agency and its  
4. respective representatives will abide by any reasonable safety and security measures Tenant  
5. imposes.

#### 6. **10.13 Access to Site**

7. Commencing as of the Effective Date, Tenant shall permit access to the Site to the Agency  
8. and the City whenever and to the extent necessary to carry out the purposes of the provisions of  
9. this Ground Lease, at reasonable times and upon reasonable advance notice. In accessing the  
10. Site, Agency shall comply with Section 10.12(b).

#### 11. **10.14 Notice of Completion**

12. Promptly upon completion of the construction of the Improvements in accordance with the  
13. provisions of this Ground Lease, Tenant shall file a Notice of Completion ("NOC"), and record  
14. such approved NOC in the San Francisco Recorder's Office. Tenant shall provide Agency with a  
15. copy of the recorded NOC.

#### 16. **10.15 Completion of Improvements by New Developer**

17. In the event Lender or a successor thereto forecloses, obtains a deed in lieu of  
18. foreclosure or otherwise takes title to the improvements and undertakes construction of the  
19. Improvements ("New Developer") (a) such New Developer shall not be bound by the provisions  
20. of the Schedule of Performance with respect to any deadlines for the completion of the  
21. Improvements but shall only be required to complete the Improvements with due diligence and in



1 conformance with a new Schedule of Performance as agreed upon by the New Developer and the  
2 Agency, (b) such New Developer shall only be required to complete the Improvements in  
3 accordance with all applicable building codes and ordinances and the approved Construction  
4 Documents with such changes that are mutually agreed upon by the Agency and the New  
5 Developer pursuant to subsection (c) hereof; and (c) Agency and New Developer shall negotiate  
6 in good faith such reasonable amendments and reasonable modifications to this Lease as the  
7 Parties mutually determine to be reasonably necessary based upon the financial and construction  
8 conditions then existing.

9 **ARTICLE 11: COMPLETION OF IMPROVEMENTS**

10 **11.01 Certificate of Completion - Issuance**

11 Promptly after completion of the construction of the Improvements in accordance with the  
12 provisions of this Ground Lease, and upon the request of Tenant, the Agency will furnish Tenant  
13 with an appropriate instrument so certifying. Such certification by the Agency shall be a  
14 conclusive determination of satisfaction and termination of the agreements and covenants of this  
15 Ground Lease with respect to the obligation of Tenant, and its successors and assigns, to construct  
16 the Improvements in accordance with Agency approved Final Construction Documents and the  
17 dates for the beginning and completion thereof; provided, however, that such determination shall  
18 only be withheld because of failure to carry out specific requirements of the Redevelopment  
19 Requirements or this Ground Lease; provided further, that such certification and such  
20 determination shall not constitute evidence of compliance with or satisfaction of any obligation of  
21 Tenant to any Lender, or any insurer of a mortgage, securing money loaned to finance the

1 construction or any part thereof; provided further, that Agency issuance of any Certificate of  
2 Completion does not relieve Tenant or any other person or entity from any and all City  
3 requirements or conditions to occupancy of the Improvements, which requirements or conditions  
4 must be complied with separately.

5 The Agency may elect to issue to Tenant a Certificate of Completion if no events of  
6 default by Tenant are then existing under this Agreement and Tenant has completed the  
7 Improvements in accordance with this Agreement, except for: (1) punch list items; (2)  
8 landscaping and other outside areas of the Improvements; and (3) other items that do not  
9 adversely affect or impair Tenant's use and occupancy of the Improvements for the purposes  
10 contemplated by this Agreement and that do not preclude the City's issuance of a certificate of  
11 occupancy or other certificate or authorization of Tenant's use and occupancy of the  
12 Improvements. However, the Agency will not be obligated to issue a Certificate of Completion in  
13 these circumstances unless and until Tenant has provided to the Agency, at the Agency's request,  
14 a bond, letter of credit, certificate of deposit, or other security reasonably acceptable to the  
15 Agency in an amount equal to 110% of the estimated cost of completing the items described in  
16 clauses (1) through (3) above, as reasonably determined by the Agency.

17 **11.02 Certifications to be Recordable**

18 All certifications provided for in this section shall be in such form as will enable them to  
19 be recorded with the Recorder of the City.

1           **11.03 Certification of Completion - Non-Issuance Reasons**

2           If the Agency shall refuse or fail to provide any certification in accordance with the  
3 provisions of Section 11.01, the Agency shall provide Tenant with a written statement, within  
4 fifteen (15) days after written request by Tenant, indicating in adequate detail in what respects  
5 Tenant has failed to complete the construction of the Improvements in accordance with the  
6 provisions of this Ground Lease or is otherwise in default hereunder and what measures or acts  
7 will be necessary, in the opinion of the Agency, for Tenant to take or perform in order to obtain  
8 such certification. Failure by the Agency to either issue a certificate of completion or a written  
9 statement within the times provided herein will entitle Tenant to a day for day extension of time  
10 for the period of delay caused by the Agency.

11           **ARTICLE 12: CHANGES TO THE IMPROVEMENTS**

12           **12.01 Post Completion Changes**

13           The Agency has a particular interest in the Project and in the nature and extent of the  
14 permitted changes to the Improvements. Accordingly, it desires to and does hereby impose the  
15 following particular controls on the Site and on the Improvements: during the term of this  
16 Ground Lease, neither Tenant, nor any voluntary or involuntary successor or assign, shall make or  
17 permit any change in the Improvements, as change is hereinafter defined, unless the express prior  
18 written consent for any change shall have been requested in writing from the Agency and  
19 obtained, and, if obtained, upon such terms and conditions as the Agency may require. The  
20 Agency agrees not to withhold or delay its response to such a request unreasonably.

21           **12.02 Definition of Change**

1 'Change' as used in this Article means any alteration, modification, addition and/or  
2 substitution of or to the Site, the Improvements, and/or the density of development which differs  
3 materially from that which existed upon the completion of construction of the Improvements in  
4 accordance with this Ground Lease, and shall include without limitation the exterior design,  
5 exterior materials and/or exterior color. For purposes of the foregoing, exterior shall mean and  
6 include the roof of the Improvements. Changes shall not include repairs, maintenance and  
7 interior alterations in the normal course of operation of a mixed use development or as may be  
8 required in an emergency to protect the safety and well-being of the Project's Occupants, tenants,  
9 or subtenants.

#### 10 **12.03 Enforcement**

11 The Agency shall have any and all remedies in law or equity (including without limitation  
12 restraining orders, injunctions and/or specific performance), judicial or administrative, to enforce  
13 the provisions of this Article 12, including without limitation any threatened breach thereof or any  
14 actual breach or violation thereof.

#### 15 **ARTICLE 13: TITLE TO IMPROVEMENTS**

16 From and after the Effective Date, fee title to any Improvements shall be vested in Tenant  
17 and shall remain vested in, subject to Section 14.01 below. Subject to the rights of any Lenders  
18 and as further consideration for the Agency entering into this Ground Lease, at the expiration or  
19 earlier termination of this Ground Lease, fee title to all the Improvements shall vest in the Agency  
20 without further action of any party, without any obligation by the Agency to pay any  
21 compensation therefor to Tenant and without the necessity of a deed from Tenant to the Agency.

1 **ARTICLE 14: ASSIGNMENT, SUBLEASE OR OTHER CONVEYANCE**

2 **14.01 Assignment, Sublease or Other Conveyance by Tenant**

3 Tenant may not sell, assign, convey, sublease, or transfer in any other mode or form all or  
4 any part of its interest in this Ground Lease or in the Improvements or any portion thereof, other  
5 than to Lender(s), or allow any person or entity to occupy or use all or any part of the Site, other  
6 than leases to residential senior household tenants in the ordinary course of business nor may it  
7 contract or agree to do any of the same, without the prior written approval of the Agency, and the  
8 City and County of San Francisco through approval by the City's Board of Supervisors pursuant  
9 to its authority under California Health and Safety Code Section 33433 for transfers of the  
10 Leasehold Estate, which approval shall not be unreasonably withheld or delayed. The Agency  
11 reserves the right to review and approve any commercial leases and commercial tenants for the  
12 Site.

13 **14.02 Assignment, Sublease or Other Conveyance by Agency**

14 The parties acknowledge that any sale, assignment, transfer or conveyance of all or any  
15 part of the Agency's interest in the Site, the Improvements, or this Ground Lease, is subject to this  
16 Ground Lease. The Agency will require that any purchaser, assignee or transferee expressly  
17 assume all of the obligations of the Agency under this Ground Lease by a written instrument  
18 recordable in the Official Records of the City. This Ground Lease shall not be affected by any  
19 such sale, and Tenant shall attorn to any such purchaser or assignee. In the event that the Agency  
20 intends to sell all or any part of the Site, the Agency shall notify Tenant of the proposed terms of  
21 such sale not later than ninety (90) days before the anticipated close of escrow. Tenant shall have

1 sixty (60) days from the giving of such notice to exercise a right of first refusal to purchase the  
2 Site on the same terms and conditions of such proposed sale to any entity other than the City or a  
3 successor entity of the Agency.

4 **ARTICLE 15: TAXES**

5 Tenant agrees to pay, or cause to be paid, when due to the proper authority, any and all  
6 valid taxes, assessments and similar charges on the Site which become effective after the  
7 execution of this Ground Lease, including all taxes levied or assessed on the possession, use or  
8 occupancy, as distinguished from the ownership, of the Site. Tenant shall not permit any such  
9 taxes, charges or other assessments to become a defaulted lien on the Site or the Improvements  
10 thereon; provided, however, that in the event any such tax, assessment or similar charge is  
11 payable in installments, Tenant may make, or cause to be made, payment in installments; and,  
12 provided further, that Tenant may contest the legal validity or the amount of any tax, assessment  
13 or similar charge, through such proceedings as Tenant considers necessary or appropriate, and  
14 Tenant may defer the payment thereof so long as the validity or amount thereof shall be contested  
15 by Tenant in good faith and without expense to the Agency. In the event of any such contest,  
16 Tenant shall protect, defend and indemnify the Agency against all loss, cost, expense or damage  
17 resulting there from, and should Tenant be unsuccessful in any such contest, Tenant shall  
18 forthwith pay, discharge, or cause to be paid or discharged, such tax, assessment or other similar  
19 charge. The Agency shall furnish such information as Tenant shall reasonably request in  
20 connection with any such contest provided that such information is otherwise available to the  
21 public. The Agency hereby consents to Tenant applying for and obtaining any applicable

1 exemptions from taxes or assessments levied on the Site or on Tenant's interest in the Site.

2 Tenant shall have no obligation under this Section prior to the Effective Date, including  
3 but not limited to any taxes, assessments or other charges levied against the Property which are  
4 incurred prior to the Effective Date.

5 **ARTICLE 16: UTILITIES**

6 From and after the Effective Date, Tenant shall procure water and sewer service from the  
7 City and electricity, telephone, natural gas and any other utility service from the City or utility  
8 companies providing such services, and shall pay all connection and use charges imposed in  
9 connection with such services. From and after the Effective Date, as between the Agency and  
10 Tenant, Tenant shall be responsible for the installation and maintenance of all facilities required  
11 in connection with such utility services to the extent not installed or maintained by the City or the  
12 utility providing such service.

13 **ARTICLE 17: MAINTENANCE**

14 From and after the Effective Date, Tenant, at all times during the term hereof, shall  
15 maintain or cause to be maintained the Premises in good condition and repair to the reasonable  
16 satisfaction of the Agency, including the exterior, interior, substructure and foundation of the  
17 Improvements and all fixtures, equipment and landscaping from time to time located on the Site  
18 or any part thereof. From and after the Effective Date, the Agency shall not be obligated to make  
19 any repairs, replacements or renewals of any kind, nature or description whatsoever to the Site or  
20 any buildings or improvements now or hereafter located thereon.

21 **ARTICLE 18: LIENS**

1 Tenant shall use its best efforts to keep the Site free from any liens arising out of any work  
2 performed or materials furnished by itself or its subtenants. In the event that Tenant shall not  
3 cause the same to be released of record or bonded around within twenty (20) days following  
4 written notice from the Agency of the imposition of any such lien, the Agency shall have, in  
5 addition to all other remedies provided herein and by law, the right but not the obligation to cause  
6 the same to be released by such means as it shall deem proper, including payment of the claim  
7 giving rise to such lien. All sums paid by the Agency for such purpose, and all reasonable  
8 expenses incurred by it in connection therewith, shall be payable to the Agency by Tenant on  
9 demand; provided, however, Tenant shall have the right, upon posting of an adequate bond or  
10 other security, to contest any such lien, and the Agency shall not seek to satisfy or discharge any  
11 such lien unless Tenant has failed so to do within ten (10) days after the final determination of the  
12 validity thereof. In the event of any such contest, Tenant shall protect, defend, and indemnify the  
13 Agency against all loss, cost, expense or damage resulting therefrom. The provisions of this  
14 Section shall not apply prior to the Effective Date or to any liens arising prior to the Effective  
15 Date.

16 **ARTICLE 19: GENERAL REMEDIES**

17 **19.01 Application of Remedies**

18 The provisions of this Article 19 shall govern the parties' remedies for breach of this  
19 Ground Lease.

20 **19.02 Notice and Cure Rights for Tenant**

21 **19.02(a)** The Agency may not exercise its remedies under this Ground Lease



1 for a default by the Tenant unless and until: (i) the Agency has given written notice of any such  
2 default, in accordance with the notice provisions of Article 38, to Tenant, and (ii) such default has  
3 not been cured within sixty (60) days or such longer period as may be set forth herein, following  
4 the giving of such notice or, if such default cannot be cured within such 60-day period, such  
5 longer period, such longer period as is reasonably necessary to cure such default, provided that  
6 such cure has been commenced within such 60-day period and is being prosecuted diligently to  
7 completion. If the Tenant cannot cure a default due to an automatic stay in Bankruptcy court then  
8 any cure period will be tolled during the pendency of such automatic stay.

9           **19.02(b)**       The Agency will not exercise its remedy to terminate this Ground  
10 Lease if the Tenant is attempting to cure the default and such cure requires removal of the  
11 managing member, so long as the Tenant is proceeding diligently to remove the managing  
12 member in order to effect a cure of such default.

13           **19.03 Breach by Agency**

14           If Tenant believes a material breach of this Ground Lease has occurred, Tenant shall first  
15 notify the Agency in writing of the purported breach, giving the Agency sixty (60) days from  
16 receipt of such notice to cure such breach. In the event Agency does not then cure or, if the  
17 breach is not reasonably susceptible to cure within that sixty (60) day period, begin to cure within  
18 sixty (60) days and thereafter diligently prosecute such cure to completion, then Tenant shall be  
19 afforded all of its rights at law or in equity by taking any or all of the following remedies: (i)  
20 terminating in writing this entire Ground Lease with the written consent of each Lender; (ii)  
21 prosecuting an action for damages; (iii) seeking specific performance of this Ground Lease; or

1 (iv) any other remedy available at law or equity.

2 **19.04 Breach by Tenant**

3 **19.04(a) Default by Tenant**

4 The following events each constitute a basis for the Agency to take action against  
5 Tenant:

6 (1) Tenant fails to comply with the Permitted Uses and Occupancy Restrictions  
7 set forth in Section 9.02;

8 (2) Tenant voluntarily or involuntarily assigns, transfers or attempts to transfer  
9 or assign this Ground Lease or any rights in this Ground Lease, or in the Improvements, except as  
10 permitted by this Ground Lease or otherwise with the approval of the Agency;

11 (3) From and after the Effective Date, Tenant, or its successor in interest, shall  
12 fail to pay real estate taxes or assessments on the Premises or any part thereof when due, or shall  
13 place thereon any encumbrance or lien unauthorized by this Ground Lease, or shall suffer any  
14 levy or attachment to be made, or any material supplier's or mechanic's lien or any other  
15 unauthorized encumbrance or lien to attach, and such taxes or assessments shall not have been  
16 paid, or the encumbrance or lien removed or discharged; provided, however, that Tenant shall  
17 have the right to contest any tax or assessment pursuant to Article 15 and Article 18 and, upon the  
18 posting of an adequate bond or other security, to contest any such lien or encumbrance. In the  
19 event of any such contest, Tenant shall protect, indemnify and hold Agency harmless against all  
20 losses and damages, including reasonable attorneys' fees and costs resulting therefrom;

21 (4) Tenant shall be adjudicated bankrupt or insolvent or shall make a transfer

1 in defraud of creditors, or make an assignment for the benefit of creditors, or bring or have  
2 brought against Tenant any action or proceeding of any kind under any provision of the Federal  
3 Bankruptcy Act or under any other insolvency, bankruptcy or reorganization act and, in the event  
4 such proceedings are involuntary, Tenant is not dismissed from the same within sixty (60) days  
5 thereafter; or, a receiver is appointed for a substantial part of the assets of Tenant and such  
6 receiver is not discharged within sixty (60) days;

7 (5) Tenant breaches any other material provision of this Ground Lease;

8 (6) Tenant fails to pay any portion of Annual Rent when due in accordance  
9 with the terms and provisions of this Ground Lease.

#### 10 **19.04(b) Notification and Agency Remedies**

11 Upon the happening of any of the events described in Section 19.04(a) above, and  
12 prior to exercising any remedies, the Agency shall notify Tenant, and each Lender in writing of  
13 the Tenant's purported breach, failure or act, giving Tenant sixty (60) days from receipt of such  
14 notice to cure such breach, failure or act. In the event Tenant does not cure or, if the breach,  
15 failure or act is not reasonably susceptible to cure within that sixty (60) day period, begin to cure  
16 within sixty (60) days and thereafter diligently prosecute such cure to completion, then, subject to  
17 the rights of any Lender and subject to Section 19.02 and Article 26, the Agency thereafter shall  
18 be afforded all of its rights at law or in equity, including any or all of the following remedies: (1)  
19 terminating in writing this Ground Lease; (2) prosecuting an action for damages; or (3) seeking  
20 specific performance of this Ground Lease.

21 Notwithstanding the foregoing, during the 15-year tax credit compliance period,

1 Agency may only terminate this Ground Lease for a default by Tenant under Section 19.04(a)(6)  
2 above.

3 **ARTICLE 20: DAMAGE AND DESTRUCTION**

4 **20.01 Insured Casualty**

5 From and after the Effective Date, if the Improvements or any part thereof are damaged or  
6 destroyed by any cause covered by any policy of insurance required to be maintained by Tenant  
7 hereunder, Tenant shall promptly commence and diligently complete the restoration of the  
8 Improvements as nearly as possible to the condition thereof prior to such damage or destruction;  
9 provided, however, that if more than fifty percent (50%) of the Improvements are destroyed or are  
10 so damaged by fire or other casualty and if the insurance proceeds do not provide at least ninety  
11 percent (90%) of the funds necessary to accomplish the restoration, Tenant, with the written  
12 consent of Lender, may terminate this Ground Lease within thirty (30) days after the later of (i)  
13 the date of such damage or destruction, or (ii) the date on which Tenant is notified of the amount  
14 of insurance proceeds available for restoration. In the event Tenant is required or elects to restore  
15 the Improvements, all proceeds of any policy of insurance required to be maintained by Tenant  
16 under this Ground Lease shall be used by Tenant for that purpose and Tenant shall make up from  
17 its own funds or obtain additional financing as reasonably approved by the Agency any deficiency  
18 between the amount of insurance proceeds available for the work of restoration and the actual cost  
19 thereof. In the event Tenant elects to terminate this Ground Lease pursuant to its right to do so  
20 under this Section 20.01, or elects not to restore the Improvements, the insurance proceeds shall  
21 be divided among the Agency, Tenant and any Lender in accordance with the provisions of

1 Section 20.03.

2 **20.02 Uninsured Casualty**

3 From and after the Effective Date, if (i) more than 50% of the Improvements are damaged  
4 or destroyed and ten percent (10%) or more of the cost of restoration is not within the scope of the  
5 insurance coverage; and (ii) in the reasonable opinion of Tenant, the undamaged portion of the  
6 Improvements cannot be completed or operated on an economically feasible basis; and (iii) there  
7 is not available to Tenant any feasible source of third party financing for restoration reasonably  
8 acceptable to Tenant; then Tenant may, with the written consent of each Lender, other than the  
9 Agency, terminate this Ground Lease upon ninety (90) days written notice to the Agency. If it  
10 appears that the provisions of this Section 20.02 may apply to a particular event of damage or  
11 destruction, Tenant shall notify the Agency promptly and not consent to any settlement or  
12 adjustment of an insurance award without the Agency's written approval, which approval shall not  
13 be unreasonably withheld or delayed. In the event that Tenant terminates this Ground Lease  
14 pursuant to this Section 20.02, all insurance proceeds and damages payable by reason of the  
15 casualty shall be divided among Agency, Tenant and Lenders in accordance with the provisions  
16 of Section 20.03. If Tenant does not have the right, or elects not to exercise the right, to terminate  
17 this Ground Lease as a result of an uninsured casualty, Tenant shall promptly commence and  
18 diligently complete the restoration of the Improvements as nearly as possible to their condition  
19 prior to such damage or destruction in accordance with the provisions of Section 20.01 and shall  
20 be entitled to all available insurance proceeds.

21 **20.03 Distribution of the Insurance Proceeds**

1 In the event of an election by Tenant to terminate and surrender as provided in either  
2 Sections 20.01 or 20.02, the priority and manner for distribution of the proceeds of any insurance  
3 policy required to be maintained by Tenant hereunder shall be as follows:

4 (a) First to the Lenders, in order of their priority, to control, disburse or apply to any  
5 outstanding loan amounts in accordance with the terms their respective Leasehold Mortgages;

6 (b) Second, to pay for the cost of removal of all debris from the Site or adjacent and  
7 underlying property, and for the cost of any work or service required by any statute, law,  
8 ordinance, rule, regulation or order of any federal, state or local government, or any agency or  
9 official thereof, for the protection of persons or property from any risk, or for the abatement of  
10 any nuisance, created by or arising from the casualty or the damage or destruction caused thereby;

11 (c) Third, to compensate Agency for any diminution in the value (as of the date of the  
12 damage or destruction) of the Site as a raw development site caused by or arising from the  
13 damage or destruction; and

14 (d) The remainder to Tenant.

#### 15 **20.04 Clean Up of Housing Site**

16 In the event the Tenant terminates this Ground Lease pursuant to the provisions of  
17 Sections 20.01 or 20.02 and the proceeds of any insurance policy are insufficient to pay the clean-  
18 up and other costs described in Article 20.03(b), Tenant shall have the obligation to pay the  
19 portion of such costs not covered by the insurance proceeds. Tenant shall not have any  
20 obligations related to damage or destruction to the Site prior to the Effective Date.

#### 21 **ARTICLE 21: INDEMNIFICATION**

1           **21.01. General Indemnification**

2           From and after the Effective Date, Tenant shall defend, hold harmless and indemnify the  
3 Agency, the City and County of San Francisco and their respective commissioners, members,  
4 officers, agents and employees of and from all claims, loss, damage, injury, actions, causes of  
5 action and liability of every kind, nature and description directly or indirectly arising out of or  
6 connected with the performance of this Ground Lease and any of Tenant's operation or activities  
7 related thereto, excluding the willful misconduct or the gross negligence of the person or entity  
8 seeking to be defended, indemnified or held harmless.

9           **21.02 Hazardous Materials –Indemnification**

10           **21.02(a)**       From and after the Effective Date, Tenant shall indemnify, defend,  
11 and hold the Agency and the City, and their respective commissioners, officers, agents and  
12 employees (individually, an "Indemnified Party" and collectively, the "Indemnified Parties")  
13 harmless from and against any and all losses, costs, claims, damages, liabilities, and causes of  
14 action of any nature whatsoever (including, without limitation, the reasonable fees and  
15 disbursements of counsel and engineering consultants) incurred by or asserted against any  
16 Indemnified Party in connection with, arising out of, in response to, or in any manner relating to  
17 violation of any Environmental Law by Tenant during the term of the Lease, or any Release  
18 caused by Tenant during the term of the Lease, threatened Release caused by Tenant during the  
19 term of the Lease and any condition of pollution, contamination or Hazardous Substance-related  
20 nuisance on, under or from the Site caused by Tenant during the term of the Lease, and the term  
21 of the Lease commences on the Effective Date..

1 (b) For purposes of this Section 21.02, the following definitions shall apply:

2 (i) "Hazardous Substance" shall have the meaning set forth in the  
3 Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended  
4 as of the date of this Agreement; 42 U.S.C. 9601(14), and in addition shall include, without  
5 limitation, petroleum (including crude oil or any fraction thereof) and petroleum products,  
6 asbestos, asbestos-containing materials, polychlorinated biphenyls ("PCBs"), PCB-containing  
7 materials, all hazardous substances identified in the California Health & Safety Code 25316 and  
8 25281(d), all chemicals listed pursuant to the California Health & Safety Code 25249.8, and any  
9 substance deemed a hazardous substance, hazardous material, hazardous waste, or contaminant  
10 under Environmental Law. The foregoing definition shall not include substances which occur  
11 naturally on the Site or commercially reasonable amounts of hazardous materials used in the  
12 ordinary course of construction and operation of a mixed use development.

13 (ii) "Environmental Law" shall include all federal, state and local laws,  
14 regulations and ordinances governing hazardous waste, wastewater discharges, drinking water, air  
15 emissions, Hazardous Substance releases or reporting requirements, Hazardous Substance use or  
16 storage, and employee or community right-to-know requirements related to the work being  
17 performed under this Agreement.

18 (iii) "Release" shall mean any spillage, leaking, pumping, pouring, emitting,  
19 emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment,  
20 including the abandonment or discharging of barrels, containers, and other closed receptacles  
21 containing any Hazardous Substance.



1 **ARTICLE 22: INSURANCE**

2 **22.01 Insurance**

3 **22.01(a) Insurance Requirements for Tenant**

4 During the term of this Ground Lease (which commences on the Effective Date),  
5 Tenant shall procure and maintain insurance against claims for injuries to persons or damage to  
6 property which may arise from or in connection with the performance of any work hereunder by  
7 the Tenant, its agents, representatives, employees or subcontractors and the Tenant's use and  
8 occupancy of the Site and the Improvements.

9 **22.01(b) Minimum Scope of Insurance**

10 Coverage shall be at least as broad as:

- 11 (1) Insurance Services Office Commercial General Liability coverage  
12 ("occurrence" form CG 00 01) or other form approved by the Agency's Risk Manager.
- 13 (2) Insurance Services Office Automobile Liability coverage, code 1 form  
14 number CA 00 01 – "any auto") or other form approved by the Agency's Risk Manager.
- 15 (3) Workers' Compensation insurance as required by the State of California  
16 and Employer's Liability insurance.
- 17 (4) Professional Liability Insurance: Tenant shall require that all architects,  
18 engineers, and surveyors for the Project have liability insurance covering all negligent acts, errors  
19 and omissions. Tenant shall provide the Landlord with copies of consultants' insurance  
20 certificates showing such coverage.
- 21 (5) Property Insurance, special form coverage against direct physical loss to  
22 the Project, excluding earthquake or flood, during the course of construction and following

1 completion of construction.

2 **22.01(e) Minimum Limits of Insurance**

3 Tenant shall maintain limits no less than:

4 (1) General Liability: \$2,000,000 combined single limit per occurrence for  
5 bodily injury, personal injury and property damage. If Commercial General Liability Insurance or  
6 other form with a general aggregate limit is used, either the general aggregate limit shall apply  
7 separately to this project/location, or the general aggregate limit shall be twice the required  
8 occurrence limit.

9 (2) Automobile Liability: \$1,000,000 per accident for bodily injury and  
10 property damage.

11 (3) Workers' Compensation and Employers Liability: Workers' Compensation  
12 limits as required by the State of California and Employers Liability limits of \$1,000,000 for  
13 bodily injury by accident, and \$1,000,000 per person in the annual aggregate for bodily injury by  
14 disease.

15 (4) Professional Liability: \$1,000,000 per occurrence and in the annual  
16 aggregate, for new construction or remodeling in excess of \$100,000, covering all negligent acts,  
17 errors and omissions of Tenant's architects, engineers and surveyors. If the Professional Liability  
18 Insurance provided by the architects, engineers, or surveyors is "claims made" coverage, Tenant  
19 shall assure that these minimum limits are maintained for no less than three (3) years beyond  
20 completion of the construction or remodeling.

21 (5) Property Insurance:

1 (a) During the course of construction, builder's risk insurance in the  
2 full completed value of the Project.

3 (b) Following completion of construction, full replacement value of the  
4 Project with no coinsurance penalty provision.

5 (6) Review of Minimum Limits: At no less than every five years during the  
6 Term, Landlord may reasonably adjust the Minimum Limits of coverage required in this Section  
7 22.01(c).

8 **22.01(d) Deductibles and Self-Insured Retentions**

9 Any deductibles or self-insured retentions in excess of \$25,000 must be declared to  
10 and approved by Landlord's Risk Manager. In the event deductibles or self-insured retentions are  
11 in excess of \$25,000, at the option of Landlord's Risk Manager, either: the insurer shall reduce or  
12 eliminate such deductibles or self-insured retentions as respects the Landlord, the City and  
13 County of San Francisco, and their respective commissioners, members, officers, agents, and  
14 employees; or the Tenant shall procure a financial guarantee satisfactory to the Agency's Risk  
15 Manager guaranteeing payment of losses and related investigations, claim administration and  
16 defense expenses.

17 **22.01(e) Other Insurance Provisions**

18 The policies are to contain, or be endorsed to contain, the following provisions:

19 (1) General Liability and Automobile Liability Coverage:

20 (a) Additional Insureds: "The San Francisco Redevelopment Agency,  
21 the City and County of San Francisco and their respective Commissioners, members,

1 officers, agents, and employees," are to be named as additional insured as respects:  
2 liability arising out of activities performed by or on behalf of the Tenant; products and  
3 completed operations of the Tenant, premises owned, occupied or used by the Tenant;  
4 and automobiles owned, leased, hired or borrowed by or on behalf of the Tenant. The  
5 coverage shall contain no special limitations on the scope of protection afforded to the  
6 Landlord, the City and County of San Francisco and their respective Commissioners,  
7 members, officers, agents, or employees.

8 (b) Primary Insurance: For any claims related to this Lease, the  
9 Tenant's insurance coverage shall be primary insurance as respects to the Landlord, the  
10 City and County of San Francisco and their respective Commissioners, members,  
11 officers, agents, and employees. Any insurance or self-insurance maintained by the  
12 Landlord, the City and County of San Francisco and their respective Commissioners,  
13 members, officers, agents, or employees shall be excess of the Tenant's insurance and  
14 shall not contribute with it.

15 (c) Reporting Provisions: Any failure to comply with reporting  
16 provisions of the policies shall not affect coverage provided to the Landlord, the City  
17 and County of San Francisco and their respective Commissioners, members, officers,  
18 agents, or employees.

19 (d) Severability of Interests: The Tenant's insurance shall apply  
20 separately to each insured against whom claim is made or suit is brought, except with  
21 respect to the limits of the insurer's liability.

1           (2) Builder's Risk (Course of Construction) Insurance: Contractor may submit  
2 evidence of Builder's Risk insurance in the form of Course of Construction coverage. Such  
3 coverage shall contain the following provision:

4           (a) Landlord shall be named as loss payee as their interest may appear.

5           (3) All Coverages: Each insurance policy required by this clause shall be  
6 endorsed to state that coverage shall not be suspended, voided, canceled by either party, or  
7 reduced in coverage or in limits, except after thirty (30) days' prior written notice has been given  
8 to Landlord, except in the event of suspension for nonpayment of premium, in which case ten (10)  
9 days' notice shall be given.

10           **22.01(f) Acceptability of Insurers**

11           Insurance is to be placed with insurers with a Best's rating of no less than A:VII or  
12 as otherwise approved by the Landlord's Risk Manager.

13           **22.01(g) Verification of Coverage**

14           Tenant shall furnish Landlord with certificates of insurance and with original  
15 endorsements effecting coverage required by this clause at the commencement of this Ground  
16 Lease and annually thereafter. The certificates and endorsements for each insurance policy are to  
17 be signed by a person authorized by that insurer to bind coverage on its behalf. Landlord reserves  
18 the right to require complete, certified copies of all required insurance policies, including  
19 endorsements demonstrating the coverage required by these specifications at any time.

20           **22.01(h) Contractor, Subcontractors and Consultants Insurance**

21           Tenant shall cause its general contractor and all subcontractors and consultants to

1 maintain workers compensation, automobile liability, and commercial general liability insurance  
2 in the amounts and in accordance with the requirements listed above, as applicable, unless  
3 otherwise approved by the Agency's Risk Manager. Tenant must furnish Agency with general  
4 contractor's, architects; and engineers' certificates of insurance and original endorsements  
5 effecting coverage required by this Article 22.01(h).

6 **ARTICLE 23: COMPLIANCE WITH SITE-RELATED AND LEGAL REQUIREMENTS**

7 **23.01 Compliance with Legal Requirements**

8 From and after the Effective Date, Tenant shall at its cost and expense, promptly comply  
9 with all laws, statutes, ordinances and governmental rules, regulations or requirements now in  
10 force or which may hereafter be in force, with the requirements of any board of fire underwriters  
11 or other similar body now or hereafter constituted, with any direction or occupancy certificate  
12 issued pursuant to any law by any public officer or officers, insofar as any thereof relates to or  
13 affects the condition, use or occupancy of the Site. In the event Tenant contests any of the  
14 foregoing, Tenant shall not be obligated to comply therewith to the extent that the application of  
15 the contested law, statute, ordinance, rule, regulation or requirement is stayed by the operation of  
16 law or administrative or judicial order and Tenant indemnifies the Agency against all loss, cost,  
17 expense or damage resulting from noncompliance.

18 **ARTICLE 24: ENTRY**

19 The Agency and its authorized agents shall have the right at all reasonable times during  
20 normal business hours and after forty-eight (48) hours written notice to Tenant (except in the  
21 event of an emergency when no written notice is required), to go on the Site for the purpose of

1 inspecting the same or for the purpose of posting notices of nonresponsibility, or for police or fire  
2 protection. Except in the event of emergency, the provisions of Section 10.11(b) shall apply to  
3 the Agency's entry under this Article 24.

#### 4 **ARTICLE 25: MORTGAGE FINANCING**

##### 5 **25.01 No Encumbrances Except for Development Purposes**

6 Notwithstanding any other provision of this Ground Lease and subject to the prior written  
7 consent of the Agency in the form attached hereto as Attachment 3, which consent shall not be  
8 unreasonably withheld or delayed, Leasehold Mortgages are permitted to be placed upon the  
9 Leasehold Estate only for the purpose of securing loans of funds to be used for financing the  
10 acquisition, design, construction, renovation or reconstruction of the Improvements and any other  
11 expenditures reasonably necessary and appropriate to acquire, own, develop, renovate, or  
12 reconstruct the Improvements under this Ground Lease and in connection with the operation of  
13 the Improvements, and costs and expenses incurred or to be incurred by Tenant in furtherance of  
14 the purposes of this Ground Lease.

##### 15 **25.02 Holder Not Obligated to Construct**

16 The holder of any mortgage, deed of trust or other security interest authorized by Section  
17 25.01 ("Holder" or "Lender"), including the successors or assigns of such Holder, is not obligated  
18 to complete any construction of the Improvements or to guarantee such completion; nor shall any  
19 covenant or any other provision of this Ground Lease be construed so to obligate such Holder.

20 However, in the event the Holder does undertake to complete or guarantee the completion of the  
21 construction of the Improvements, subject to Section 26.06, nothing in this Ground Lease shall be

1 deemed or construed to permit or authorize any such Holder or its successors or assigns to devote  
2 the Site or any portion thereof to any uses, or to construct any Improvements thereon, other than  
3 those uses or Improvements authorized under Section 9.02 subject to any reasonable  
4 modifications in plans proposed by any Holder or its successors in interest proposed for the  
5 viability of the Project, subject to the approval of Landlord which approval shall not unreasonably  
6 withheld. To the extent any Holder or its successors in interest wish to change such uses or  
7 construct different improvements, subject to Section 26.06, that Holder or its successors in  
8 interest must obtain the written consent of the Agency.

9 **25.03 Failure of Holder to Complete Construction**

10 In any case where six months after assumption of obligations pursuant to Section 25.02  
11 above, a Lender, having first exercised its option to complete the construction, has not proceeded  
12 diligently with completion of the construction, the Agency shall be afforded the rights against  
13 such Holder it would otherwise have against Tenant under this Ground Lease for events or  
14 failures occurring after such assumption.

15 **25.04 Default by Tenant and Agency's Rights**

16 **25.04(a) Right of Agency to Cure a Default or Breach by Tenant under a**  
17 **Leasehold Mortgage**

18 In the event of a default or breach by Tenant in or of its obligations under any  
19 Leasehold Mortgage, and Tenant's failure to timely commence or diligently prosecute cure of  
20 such default or breach, the Agency may, at its option, cure such breach or default at any time prior  
21 to one hundred nineteen (119) days after the date on which the Lender files a notice of default. In



1 such event, the Agency shall be entitled to reimbursement from Tenant of all costs and expenses  
2 reasonably incurred by the Agency in curing the default or breach. The Agency shall also be  
3 entitled to a lien upon the Leasehold Estate or any portion thereof to the extent of such costs and  
4 disbursements. Any such lien shall be subject to the lien of any then existing Leasehold Mortgage  
5 authorized by this Ground Lease, including any lien contemplated because of advances yet to be  
6 made. After ninety (90) days following the date of Lender filing a notice of default, the Agency  
7 shall also have the right to assign Tenant's interest in the Ground Lease to another entity, subject  
8 to such Lender's written consent, but which may be conditioned, among other things, upon the  
9 assumption by such other entity of all obligations of the Tenant under the Leasehold Mortgage.

10 **25.04(b) Notice of Default to Agency**

11 Tenant shall use its best efforts to require Lender to give the Agency prompt  
12 written notice of any such default or breach and each Leasehold Mortgage shall so provide and  
13 shall also contain the Agency's right to cure as above set forth.

14 **25.05 Cost of Mortgage Loans to be Paid by Tenant**

15 Tenant covenants and affirms that it shall bear all of the costs and expenses in connection  
16 with (i) the preparation and securing of any Leasehold Mortgage, (ii) the delivery of any  
17 instruments and documents and their filing and recording, if required, and (iii) all taxes and  
18 charges payable in connection with any Leasehold Mortgage.

1 **ARTICLE 26: PROTECTION OF LENDER**

2 **26.01 Notification to Agency**

3 Promptly upon the creation of any Leasehold Mortgage and as a condition precedent to the  
4 existence of any of the rights set forth in this Article 26, each Lender shall give written notice to  
5 the Agency of the Lender's address and of the existence and nature of its Leasehold Mortgage.  
6 Execution of Attachment 5 shall constitute Agency's acknowledgement of Lender's having given  
7 such notice as is required to obtain the rights and protections of a Lender under this Ground  
8 Lease. The Agency hereby acknowledges that the First Mortgage Lender and the Agency are  
9 deemed to have given such written Notice.

10 **26.02 Lender's Rights to Prevent Termination**

11 Each Lender shall have the right, but not the obligation, at any time prior to termination of  
12 this Ground Lease and without payment of any penalty other than the interest on unpaid rent, to  
13 pay all of the rents due hereunder, to effect any insurance, to pay any taxes and assessments, to  
14 make any repairs and improvements, to do any other act or thing required of Tenant hereunder,  
15 and to do any act or thing which may be necessary and proper to be done in the performance and  
16 observance of the agreements, covenants and conditions hereof to prevent a termination of this  
17 Ground Lease to the same effect as if the same had been made, done and performed by Tenant  
18 instead of by Lender.

19 **26.03 Lender's Rights When Tenant Defaults**

20 Should any event of default under this Ground Lease occur, and not be cured within the  
21 applicable cure period, the Agency shall not terminate this Ground Lease nor exercise any other

1 remedy hereunder unless it first gives written notice of such event of default to Lender and

2           **26.03(a)**        If such event of default is a failure to pay a monetary obligation of  
3 Tenant, Lender shall have failed to cure such default within sixty (60) days from the date of  
4 written notice from the Agency to Lender; or

5           **26.03(b)**        If such event of default is not a failure to pay a monetary obligation  
6 of Tenant, Lender shall have failed, within sixty (60) days of receipt of said written notice, either  
7 (a) to remedy such default; or (b) to obtain title to Tenant's interest in the Site in lieu of  
8 foreclosure; or (c) to commence foreclosure or other appropriate proceedings in the nature thereof  
9 (including the appointment of a receiver) and thereafter diligently prosecute such proceedings to  
10 completion, in which case such event of default shall be remedied or deemed remedied in  
11 accordance with Article 26.04 below.

12            All rights of the Agency to terminate this Ground Lease as the result of the occurrence of  
13 any such event of default shall be subject to, and conditioned upon, the Agency having first given  
14 Lender written notice of such event of default and Lender having failed to remedy such default or  
15 acquire Tenant's Leasehold Estate created hereby or commence foreclosure or other appropriate  
16 proceedings in the nature thereof as set forth in and within the time specified by this Section  
17 26.03, and upon the Permitted Limited Partners having failed to proceed as permitted under  
18 Sections 19.02 or 26.06.

19           **26.03(c)        Default Which Cannot be Remedied by Lender**

20            Any event of default under this Ground Lease which in the nature thereof cannot be  
21 remedied by Lender shall be deemed to be remedied if:

1                   **26.03(d)**        within sixty (60) days after receiving notice from the Agency  
2 setting forth the nature of such event of default, or prior thereto, Lender shall have acquired  
3 Tenant's Leasehold Estate created hereby or shall have commenced foreclosure or other  
4 appropriate proceedings in the nature thereof;

5                   **26.03(e)**        Lender shall diligently prosecute any such proceedings to  
6 completion;

7                   **26.03(f)**        Lender shall have fully cured any event of default arising from  
8 failure to pay or perform any monetary obligation in accordance with the terms of this Ground  
9 Lease, and

10                  **26.03(g)**        after gaining possession of the Improvements, Lender shall  
11 diligently proceed to perform all other obligations of Tenant as and when the same are due in  
12 accordance with the terms of this Ground Lease.

13                   **26.03(h)        Court Action Preventing Lender's Action**

14                  If Lender is prohibited by any process or injunction issued by any court or by reason of  
15 any action by any court having jurisdiction of any bankruptcy or insolvency proceeding involving  
16 Tenant from commencing or prosecuting foreclosure or other appropriate proceedings in the  
17 nature thereof, the times specified in Sections 26.03 and 26.04 above for commencing or  
18 prosecuting such foreclosure or other proceedings shall be extended for the period of such  
19 prohibition. If this Ground Lease is terminated or rejected by Tenant in bankruptcy, the Agency  
20 agrees to enter into a new ground lease with the Lender on the same terms set forth in this Ground  
21 Lease.

1           **26.04 Lender's Rights to Record, Foreclose and Assign**

2           The Agency hereby agrees with respect to any Leasehold Mortgage, that

3                   **26.04(a)**       the Lender may cause same to be recorded and enforced, and upon  
4 foreclosure, sell and assign the Leasehold Estate created hereby to an assignee from whom it may  
5 accept a purchase price; subject, however, to Lender's first securing written approval from  
6 Agency, which approval shall not be unreasonably withheld, and if the Subsequent Owner has  
7 elected to maintain the use restrictions of Article 9, said Subsequent Owner shall be controlled by  
8 a California nonprofit public benefit corporation exempt from tax under Section 501(c)(3) of the  
9 Internal Revenue Code such that the Premises receive an exemption from state property taxes as  
10 provided under Section 214 of the California Revenue and Taxation Code. Lender, furthermore,  
11 may acquire title to the Leasehold Estate in any lawful way, and if the Lender shall become the  
12 assignee, may sell and assign said Leasehold Estate subject to Agency approval, which shall not  
13 be unreasonably withheld, and to the Agency's rights under Article 25;

14                   **26.04(b)**       should the Lender acquire the Leasehold Estate hereunder by  
15 foreclosure or other appropriate proceedings in the nature of foreclosure or as the result of any  
16 other action or remedy provided for by any Leasehold Mortgage, or should Lender sell or assign  
17 the same to an Agency approved purchaser or assignee, and any subsequent transfer to an Agency  
18 approved transferee Lender or its its purchaser or assignee, and any subsequent transferee, shall  
19 take said Leasehold Estate subject to all of the provisions of this Ground Lease, and shall, so long  
20 as and only so long as it shall be the owner of such estate, except as provided elsewhere in this  
21 Ground Lease, assume all of the obligations of Tenant under this Ground Lease; provided,

1 however, the Lender or its purchaser or assignee may operate and maintain the approximately one  
2 hundred twenty-one (121) Residential Units without any limitations on the rents charged or the  
3 income of the occupants thereof.

4           **26.04(c)**       the Agency shall mail or deliver to any Lender which has an  
5 outstanding Leasehold Mortgage a duplicate copy of all notices which the Agency may from time  
6 to time give to Tenant pursuant to this Ground Lease and

7           **26.04(d)**       any Permitted Limited Partners of Tenant shall have the same rights  
8 as any Lender under Sections 26.02, 26.03, and 26.04, and any reference to a Lender in said  
9 section shall be deemed to include such limited partners; provided, however, that the rights of  
10 such limited partners shall be subordinate to the rights of any Lender.

11           **26.05 Ground Lease Rent After Lender Foreclosure or Assignment**

12           From and after the time that the Subsequent Owner acquires title to the Leasehold Estate,  
13 Annual Rent shall be set as follows:

14           **26.05(a)**       Any accrued Annual Rent at the time of foreclosure shall not be  
15 assessed against the Subsequent Owner and shall not be an obligation of the Lender, its assignee,  
16 or the Subsequent Owner. However, the Agency reserves the right to pursue its legal and  
17 contractual remedies, if any, against the original Tenant. Subsequent to foreclosure, if the Lender  
18 continues to operate the Project subject to the use and occupancy restrictions of Section 9.02, then  
19 Annual Rent otherwise due may, at the option of the Lender, be deferred until such time as the  
20 Project is no longer operated by the Lender subject to such restrictions. All deferred Annual Rent  
21 shall accrue, with simple interest at six percent (6%) per annum until paid, and shall be due and

1 payable upon sale or assignment of the Project by Lender or within sixty (60) days after Lender  
2 ceases to operate the Project in accordance with such restrictions.

3           **26.05(b)**       If the Subsequent Owner exercises its rights under Section 26.04 to  
4 operate the Project without being subject to Section 9.02, Annual Rent shall be set at the then fair  
5 market rental value taking into account any affordability restrictions agreed to by the Subsequent  
6 Owner, if any, and the Base Rent shall be increased to the new fair market rent pursuant to  
7 Section 26.05 and the provisions of Section 9.02 shall be suspended; provided, however, that the  
8 Agency shall be entitled to reduce Annual Rent by any dollar amount (but not below zero) in its  
9 sole discretion and, in such case, the Subsequent Owner will be required to reduce rent charged to  
10 tenants on a dollar for dollar basis, with respect to such aggregate units occupied by Low Income  
11 Households as the Agency and the Subsequent Owner shall agree. The fair market rental value  
12 shall be determined by a jointly-commissioned appraisal (instructions prepared jointly by the  
13 Subsequent Owner and the Agency, with each party paying one half of the appraiser's fee) that  
14 will include a market land valuation, as well as a market land lease rent level. Absent a market  
15 land lease rent determination, the Annual Rent will be set at an amount equal to ten percent (10%)  
16 of the then appraised market land value. If the parties cannot agree on the joint appraisal  
17 instructions, either party may invoke a neutral third-party process to set the Annual Rent at fair  
18 market rent in accordance with the then-prevailing practice for resolving similar rent  
19 determination disputes in San Francisco or, in the event that there is no then-prevailing practice,  
20 in accordance with the rules of the American Arbitration Association. Provided, however, that  
21 after the neutral third party process, the Lender, in its sole discretion may rescind its written

1 notification of intent to not comply with Section 9.02 of this Ground Lease.

2 **26.06 Permitted Uses After Lender Foreclosure**

3 Notwithstanding the above, in the event of a foreclosure and transfer to a Subsequent  
4 Owner, the Premises shall be operated in accordance with the uses specified in the building  
5 permit with all addenda, as approved by the Agency.

6 **ARTICLE 27: CONDEMNATION AND TAKINGS**

7 **27.01 Parties' Rights and Obligations to be Governed by Agreement**

8 If, during the term of this Ground Lease, there is any condemnation of all or any part of  
9 the Site or any interest in the Leasehold Estate is taken by condemnation, the rights and  
10 obligations of the parties shall be determined pursuant to this Article 27, subject to the rights of  
11 any Lender.

12 **27.02 Total Taking**

13 If the Site is totally taken by condemnation, this Ground Lease shall terminate on the date  
14 the condemnor has the right to possession of the Site.

15 **27.03 Partial Taking**

16 If any portion of the Site is taken by condemnation, this Ground Lease shall remain in  
17 effect, except that Tenant may, with Lender's written consent, elect to terminate this Ground  
18 Lease if, in Tenant's reasonable judgment, the remaining portion of the Improvements is rendered  
19 unsuitable for Tenant's continued use of the Site. If Tenant elects to terminate this Ground Lease,  
20 Tenant must exercise its right to terminate pursuant to this paragraph by giving notice to the  
21 Agency within thirty (30) days after the Agency notifies Tenant of the nature and the extent of the



1 taking. If Tenant elects to terminate this Ground Lease as provided in this Section 27.03, Tenant  
2 also shall notify the Agency of the date of termination, which date shall not be earlier than thirty  
3 (30) days nor later than six (6) months after Tenant has notified the Agency of its election to  
4 terminate; except that this Ground Lease shall terminate on the date the condemnor has the right  
5 to possession of the Site if such date falls on a date before the date of termination as designated by  
6 Tenant. If Tenant does not terminate this Ground Lease within such thirty (30) day notice period,  
7 this Ground Lease shall continue in full force and effect.

#### 8 **27.04 Effect on Rent**

9 If any portion of the Improvements is taken by condemnation and this Ground Lease  
10 remains in full force and effect, then on the date of taking the rent shall be reduced by an amount  
11 that is in the same ratio to the rent as the value of the area of the portion of the Improvements  
12 taken bears to the total value of the Improvements immediately before the date of the taking.

#### 13 **27.05 Restoration of Improvements**

14 If there is a partial taking of the Improvements and this Ground Lease remains in full force  
15 and effect pursuant to Section 27.03, Tenant may, subject to the terms of the Leasehold Mortgage,  
16 use the proceeds of the taking to accomplish all necessary restoration to the Improvements.

#### 17 **27.06 Award and Distribution**

18 Any compensation awarded, paid or received on a total or partial condemnation of the Site  
19 or threat of condemnation of the Site shall belong to and be distributed in the following order:

20 (a) First, to pay the balance due on any outstanding Leasehold Mortgages and other  
21 outstanding or unpaid obligations and/or liabilities, including but not limited to, trade accounts,

1 taxes, payroll accruals and lease residuals, to the extent provided therein; and

2 (b) Second, to the Tenant in an amount equal to the actual equity invested by the  
3 Tenant.

4 **27.07 Payment to Lenders**

5 In the event the Improvements are subject to the lien of a Leasehold Mortgage on the date  
6 when any compensation resulting from a condemnation or threatened condemnation is to be paid  
7 to Tenant, such award shall be disposed of as provided in the Leasehold Mortgage.

8 **ARTICLE 28: ESTOPPEL CERTIFICATE**

9 The Agency or Tenant, as the case may be, shall execute, acknowledge and deliver to the  
10 other and/or to Lender or a Permitted Limited Partner, promptly upon request (and in no event  
11 longer than thirty (30) days following receipt of the request), its certificate certifying (a) that this  
12 Ground Lease is unmodified and in full force and effect (or, if there have been modifications, that  
13 this Ground Lease is in full force and effect, as modified, and stating the modifications), (b) the  
14 dates, if any, to which rent has been paid, (c) whether there are then existing any charges, offsets  
15 or defenses against the enforcement by the Agency or Tenant to be performed or observed and, if  
16 so, specifying the same, and (d) whether there are then existing any defaults by Tenant or the  
17 Agency in the performance or observance by Tenant or the Agency of any agreement, covenant or  
18 condition hereof on the part of Tenant or the Agency to be performed or observed and whether  
19 any notice has been given to Tenant or the Agency of any default which has not been cured and, if  
20 so, specifying the same.

21 **ARTICLE 29: QUITCLAIM**

1           Upon expiration or sooner termination of this Ground Lease, Tenant shall surrender the  
2 Site to the Agency and, at the Agency's request, shall execute, acknowledge, and deliver to the  
3 Agency a good and sufficient quitclaim deed with respect to any interest of Tenant in the Site.  
4 Title to the Improvements shall vest automatically in the Agency as provided in Article 13 herein.

5 **ARTICLE 30: TENANT'S COMPLIANCE WITH BVHP ECP**

6           Tenant agrees to comply with the Bayview Hunters Point Employment and Contracting  
7 Program and related requirements attached hereto as Attachment 5 which consist of:

8           (a)     The Prevailing Wage Policy (adopted by Resolution No. 327-1985 Nov.  
9 12, 1985), attached as part of Attachment 5;

10           (b)     Construction Workforce, attached as set forth as part of Attachment 5;

11           (c)     The Small Business Enterprise (SBE) Policy (adopted by Resolution No.  
12 82-2009, July 27, 2009) attached as part of Attachment 5;

13           (d)     The Minimum Compensation Policy (adopted by Resolution No. 34-2009,  
14 April 7, 2009) attached as part of Attachment 5;

15           (e)     The Health Care Accountability Policy (adopted by Resolution No. 34-  
16 2009, April 7, 2009) attached as part of Attachment 5

17           (f)     The Non-Discrimination in Agency Contracts and Benefits Policy, (adopted by  
18 Resolution No. 175-1997, Sep. 9, 1997) attached as part of Attachment 5.

19 **ARTICLE 31:           CONFLICT OF INTEREST**

1 No commissioner, official, or employee of the Agency shall have any personal or financial  
2 interest, direct or indirect, in this Ground Lease, nor shall any such commissioner, official, or  
3 employee participate in any decision relating to this Ground Lease which affects his or her  
4 personal interests or the interests of any corporation, partnership, or association in which he or she  
5 is directly or indirectly interested.

6 **ARTICLE 32: LIMITATIONS ON CONTRIBUTIONS**

7 Through execution of this Agreement, Tenant acknowledges that it is familiar with section  
8 1.126 of the San Francisco Campaign and Governmental Conduct Code, which prohibits any  
9 person who contracts with the Agency for the rendition of personal services, for the furnishing of  
10 any material, supplies or equipment, for the sale or lease of any land or building, or for a grant,  
11 loan or loan guarantee, from making any campaign contribution to (1) the Mayor or members of  
12 the Board of Supervisors, (2) a candidate for Mayor or Board of Supervisors, or (3) a committee  
13 controlled by such office holder or candidate, at any time from the commencement of negotiations  
14 for the contract until the later of either the termination of negotiations for such contract or six  
15 months after the date the contract is approved. Tenant acknowledges that the foregoing restriction  
16 applies only if the contract or a combination or series of contracts approved by the same  
17 individual or board in a fiscal year have a total anticipated or actual value of \$50,000 or more.  
18 Tenant further acknowledges that the prohibition on contributions applies to each prospective  
19 party to the contract; each member of Tenant's board of directors; Tenant's chairperson, chief  
20 executive officer, chief financial officer and chief operating officer; any person with an ownership  
21 interest of more than 20 percent in Tenant; any subcontractor listed in the bid or contract; and any

1 committee that is sponsored or controlled by Tenant. Additionally, Tenant acknowledges that  
2 Tenant must inform each of the persons described in the preceding sentence of the prohibitions  
3 contained in section 1.126.

4 Finally, Tenant agrees to provide to the Agency the names of each member of Tenant's  
5 board of directors; Tenant's chairperson, chief executive officer, chief financial officer and chief  
6 operating officer; any person with an ownership interest of more than 20 percent in Tenant; any  
7 subcontractor listed in the bid or contract; and any committee that is not sponsored or controlled  
8 by Tenant.

9 **ARTICLE 33: NO PERSONAL LIABILITY**

10 No commissioner, official, or employee of the Agency shall be personally liable to Tenant  
11 or any successor in interest in the event of any default or breach by the Agency or for any amount  
12 which may become due to Tenant or its successors or on any obligations under the terms of this  
13 Ground Lease.

14 **ARTICLE 34: ENERGY CONSERVATION**

15 Tenant agrees that it will use its best efforts to maximize provision of, and incorporation  
16 of, both energy conservation techniques and systems and improved waste-handling methodology  
17 in the construction of the Improvements.

18 **ARTICLE 35: WAIVER**

19 The waiver by the Agency or Tenant of any term, covenant, agreement or condition herein  
20 contained shall not be deemed to be a waiver of any subsequent breach of the same or any other  
21 term, covenant, agreement or condition herein contained, nor shall any custom or practice which

1 may grow up between the parties in the administration of the terms hereof be construed to waive  
2 or to lessen the right of the Agency or Tenant to insist upon the performance by the other in strict  
3 accordance with the said terms. The subsequent acceptance of rent or any other sum of money  
4 hereunder by the Agency shall not be deemed to be a waiver of any preceding breach by Tenant  
5 of any term, covenant, agreement or condition of this Ground Lease, other than the failure of  
6 Tenant to pay the particular rent or other sum so accepted, regardless of the Agency's knowledge  
7 of such preceding breach at the time of acceptance of such rent or other sum.

8 **ARTICLE 36: TENANT RECORDS**

9 Upon reasonable notice during normal business hours, and as often as the Agency may  
10 deem necessary, there shall be made available to the Agency and its authorized representatives for  
11 examination all records, reports, data and information made or kept by Tenant regarding its  
12 activities or operations on the Site. Nothing contained herein shall entitle the Agency to inspect  
13 personal histories of residents or lists of donors or supporters. To the extent that it is permitted by  
14 law to do so, the Agency will respect the confidentiality requirements of Tenant in regard to the  
15 lists furnished by Tenant pursuant to Article 7 hereof, of the names of occupants of the residential  
16 portion of the Site.

17 **ARTICLE 37: NOTICES AND CONSENTS**

18 All notices, demands, consents or approvals which may be or are required to be given by  
19 either party to the other hereunder shall be in writing and shall be deemed to have been fully  
20 given when delivered in person to such representatives of Tenant and the Agency as shall from  
21 time to time be designated by the parties for the receipt of notices, or when deposited in the

1 United States mail, certified, postage prepaid, or by express delivery service with a delivery  
2 receipt and addressed

3 if to Tenant at:

4  
5 With a copy to:

6  
7  
8 if to the Agency at: San Francisco Redevelopment Agency  
9 One South Van Ness Avenue, 5<sup>th</sup> Floor  
10 San Francisco, California 94103  
11 Attn.: Executive Director  
12

13 or to such other address with respect to either party as that party may from time to time  
14 designate by notice to the other given pursuant to the provisions of this Article 38. Any notice  
15 given pursuant to this Article 38 shall be effective on the date of delivery or the date delivery is  
16 refused as shown on the delivery receipt.

17 **ARTICLE 38: HEADINGS**

18 Any titles of the several parts and sections of this Ground Lease are inserted for  
19 convenience of reference only and shall be disregarded in construing or interpreting any of its  
20 provisions. "Paragraph" and "section" may be used interchangeably.

21 **ARTICLE 39: SUCCESSORS AND ASSIGNS**

22 This Ground Lease shall be binding upon and inure to the benefit of the successors and  
23 assigns of the Agency and Tenant and where the term "Tenant" or "Agency" is used in this  
24 Ground Lease, it shall mean and include their respective successors and assigns; provided,  
25 however, that the Agency shall have no obligation under this Ground Lease to, nor shall any  
26 benefit of this Ground Lease accrue to, any unapproved successor or assign of Tenant where

Draft 4.26.11

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1 Agency approval of a successor or assign is required by this Ground Lease. At such time as  
2 Agency sells the Site to any third party, Agency shall require such third party to assume all of the  
3 Agency's obligations hereunder arising on and after the transfer in writing for the benefit Tenant  
4 and its successors and assigns.

5 **ARTICLE 40: TIME**

6 Time is of the essence in the enforcement of the terms and conditions of this Ground  
7 Lease.

8 **ARTICLE 41: PARTIAL INVALIDITY**

9 If any provisions of this Ground Lease shall be determined to be illegal or unenforceable,  
10 such determination shall not affect any other provision of this Ground Lease and all such other  
11 provisions shall remain in full force and effect.

12 **ARTICLE 42: APPLICABLE LAW**

13 This Ground Lease shall be governed by and construed pursuant to the laws of the State of  
14 California.

15 **ARTICLE 43: ATTORNEYS' FEES**

16 If either of the parties hereto commences a lawsuit to enforce any of the terms of this  
17 Ground Lease, the prevailing party will have the right to recover its reasonable attorneys' fees and  
18 costs of suit, including fees and costs on appeal, from the other party.



1 **ARTICLE 44: EXECUTION IN COUNTERPARTS**

2 This Ground Lease and any memorandum hereof may be executed in counterparts, each of  
3 which shall be considered an original, and all of which shall constitute one and the same  
4 instrument.

5 **ARTICLE 45: RECORDATION OF MEMORANDUM OF GROUND LEASE**

6 This Ground Lease shall not be recorded, but a memorandum of this Ground Lease shall  
7 be recorded. The parties shall execute the memorandum in form and substance as required by a  
8 title insurance company insuring Tenant's leasehold estate or the interest of any Leasehold  
9 Mortgagee, and sufficient to give constructive notice of the Ground Lease to subsequent  
10 purchasers and mortgagees.

11 **ARTICLE 46: ACCESS TO SITE**

12 Prior to the Effective Date, the Developer and its representative will have the right of  
13 access and entry upon the Site, for the purpose of obtaining data and making surveys and tests,  
14 including site tests and soil borings necessary to carry out the purposes of this Agreement,  
15 provided, however, that Developer must repair any damage to the Site caused by its access to and  
16 entry upon the Site to the extent reasonably possible and give prior written notice to the Agency  
17 of any such entry and shall, if the Agency so requires, obtain a permit to enter from the Agency  
18 for such entry and comply with such insurance and indemnification requirements as the Agency  
19 may impose with respect to such inspections as contained in the permit to enter. In the case of  
20 invasive tests under any permit to enter granted by the Agency, the Agency may impose such  
21 insurance, indemnification, guaranty and other requirements as the Agency determines

1 appropriate, in their reasonable discretion as contained in the permit to enter.

2 **ARTICLE 47: COMPLETE AGREEMENT**

3 There are no oral agreements between Tenant and the Agency affecting this Ground  
4 Lease, and this Ground Lease supersedes and cancels any and all previous negotiations,  
5 arrangements, agreements and understandings between Tenant and the Agency with respect to the  
6 lease of the Site.  
7



1 IN WITNESS WHEREOF, the Tenant and the Agency have executed this Ground Lease  
2 as of the day and year first above written.

3 **TENANT:**

4 **BAYVIEW SUPPORTIVE HOUSING, LLC**  
5 **a California Limited Liability Company**

6  
7 By:

8  
9  
10 By: \_\_\_\_\_  
11 Its: \_\_\_\_\_  
12

13  
14 **AGENCY AS LANDLORD:**

15 **REDEVELOPMENT AGENCY OF THE CITY**  
16 **AND COUNTY OF SAN FRANCISCO,**  
17 **a public body, corporate and politic**  
18

19 By: \_\_\_\_\_  
20 Amy Lee  
21 Its: Deputy Executive Director for Finance  
22 and Administration  
23

24  
25 **APPROVED AS TO FORM:**

26  
27 By: \_\_\_\_\_  
28 James B. Morales  
29 Agency General Counsel  
30

31  
32 Authorized by Agency Resolution No. \_\_\_\_\_, adopted May 3, 2011

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ATTACHMENT 1

Legal Description of the Site

The Property referred to in this Agreement is the property situated in the City and County of San Francisco, State of California, described as follows:

LOT 3, AS SHOWN ON THE FINAL MAP NO. 5785 FILED FOR RECORD ON AUGUST 25, 2010 IN BOOK 114 OF CONDOMINIUM MAPS, AT PAGES 29-32, SAN FRANCISCO COUNTY RECORDS.

APN: Block 5431A, formerly Lot 001 (portion)  
Block 5431A, currently Lot 042

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5

ATTACHMENT 2

**SCHEDULE OF PERFORMANCE**

	Performance Milestone	Estimated or Actual Date	Contractual Deadline
	Assign PSA/Execute ENA	<u>complete</u>	<u>complete</u>
2.	Predevelopment Financing Commitment	<u>complete</u>	<u>complete</u>
3.	Site Acquisition (final)	<u>complete</u>	<u>Complete</u>
4.	Development Team Selection		
a.	Architect	<u>complete</u>	
b.	General Contractor	<u>3/2011</u>	<u>3/2011</u>
c.	Owner's Representative	<u>2/2011</u>	<u>2/2011</u>
d.	Property Manager	<u>complete</u>	
e.	Service Provider	<u>complete</u>	
5.	Design		
a.	Submittal of Basic Concept Design	<u>2/2011</u>	<u>3/2011</u>
b.	Submittal of Schematic Design & Cost Estimate	<u>5/2011</u>	<u>6/2011</u>
c.	Submittal of Design Development & Cost Estimate	<u>7/2011</u>	<u>8/2011</u>
d.	Submittal of Pre-Bid Set & Cost Estimate (75%-80% CDs)	<u>2/2012</u>	<u>2/2012</u>
6.	Environ Review/Land-Use Entitlements		
a.	CEQA Environ Review Submission	<u>complete</u>	
b.	NEPA Environ Review Submission	<u>n/a</u>	
c.	CUP/PUD/Variances Submission	<u>8/2011</u>	<u>11/2011</u>
6.	Permits		
a.	Building / Site Permit Application Submitted	<u>1/2012</u>	<u>1/2012</u>
b.	Addendum #1 Submitted	<u>3/2012</u>	<u>4/2012</u>
c.	Addendum #2 Submitted	<u>4/2012</u>	<u>6/2012</u>

8.	Request for Bids Issued	<u>2/2012</u>	<u>2/2012</u>
9.	Service Plan Submission		
a.	Preliminary	<u>8/2011</u>	<u>8/2011</u>
b.	Interim	<u>9/2012</u>	<u>9/2012</u>
c.	Update	<u>9/2014</u>	<u>9/2014</u>
10.	Additional City Financing		
a.	Predevelopment Financing Application #2	<u>6/2011</u>	<u>8/2011</u>
b.	Gap Financing Application	<u>1/2012</u>	<u>3/2012</u>
11.	Other Financing		
a.	Construction Financing RFP		
b.	AHP Application	<u>4/2012</u>	<u>4/2012</u>
c.	TCAC/CDLAC Application	<u>3/2012</u>	<u>3/2012</u>
d.	HUD 202 or 811 Application	<u>n/a</u>	<u>n/a</u>
12.	Closing		
a.	Construction Closing	<u>9/2012</u>	<u>11/2012</u>
b.	Permanent Financing Closing	<u>6/2014</u>	<u>9/2014</u>
13.	Construction		
a.	Notice to Proceed	<u>9/2012</u>	<u>12/2012</u>
b.	Temporary Certificate of Occupancy/Cert of Substantial Completion	<u>1/2014</u>	<u>3/2014</u>
14.	Marketing/Rent-up		
a.	Marketing Plan Submission	<u>05/2013</u>	<u>5/2013</u>
b.	Commence Marketing	<u>6/2013</u>	<u>8/2013</u>
c.	95% Occupancy	<u>4/2013</u>	<u>6/2014</u>
15.	Cost Certification/8609	<u>6/2014</u>	<u>8/2014</u>
16.	Close Out MOH/SFRA Loan(s)	<u>6/2014</u>	<u>9/2014</u>

I

1  
2 **ATTACHMENT 3**  
3 **AGENCY CONSENT OF LEASEHOLD MORTGAGE**

4 Date:

5  
6 San Francisco Redevelopment Agency  
7 Attn: Executive Director  
8 One South Van Ness Avenue, 5<sup>th</sup> Floor  
9 San Francisco, CA 94103

10  
11 RE: 5800 Third Street, Lot 3 San Francisco (LEASEHOLD MORTGAGE)

12  
13 Dear Sir or Madam:

14  
15 Pursuant to Section 25.01 of the 5800 3rd Street (Carroll Avenue Senior Housing) Ground Lease, dated  
16 May 3, 2011, between the Redevelopment Agency of the City and County of San Francisco ("Agency")  
17 and Bayview Supportive Housing, LLC, a California limited liability company, we are formally requesting  
18 the Agency's consent to our placing a leasehold mortgage upon the leasehold estate of the above  
19 referenced development. The following information is provided in order for the Agency to provide its  
20 consent:

21  
22 Lender:

23 Principal Amount:

24 Interest:

25 Term:

26  
27 Attached hereto are unexecuted draft loan documents, including the loan agreement, promissory note, and  
28 all associated security agreements which we understand are subject to the review and approval by the  
29 Agency. Furthermore, we are willing to supply any additional documentation related to the leasehold  
30 mortgage which the Agency deems necessary.

31  
32 Sincerely,

33  
34 \_\_\_\_\_  
35 Printed Name and Title

36  
37 enc.

38  
39 By signing this letter, the Agency consents to the leasehold mortgage, pursuant to the terms and conditions  
40 of Section 25.01 of the 5800 3rd Street (Carroll Avenue Senior Housing) Ground Lease, dated May 3,  
41 2011.

42  
43 San Francisco Redevelopment Agency

44 \_\_\_\_\_  
45 Printed Name and Title



**ATTACHMENT 4**  
**OPERATIONAL RULES FOR**  
**CERTIFICATE HOLDERS' PRIORITY**

The Owner hereby agrees that priority for units designated for Low Income Households will be given to persons displaced or to be displaced from their homes by Agency redevelopment activities and who have been issued a form described as the "Certificate of Preference" ("Certificate Holder"), establishing a priority right to claim units outlined in the descending order of priority in paragraph D of this Attachment "4". Final acceptance or rejection of Certificate Holders lies with the Owner. The Owner shall notify the Agency and applicant in writing of the reason for rejection. In order to implement this Attachment "4":

A. The Agency agrees to furnish the following:

1. Written and/or printed notices to Certificate Holders advising them that such units will soon be available;
2. Assistance to Certificate Holders in filing applications; and
3. Verification to the Owner that applicant has been displaced.

B. The Owner agrees to the following:

1. To supply the Agency ninety (90) days prior to accepting lease applications with the information listed below. This information shall not be changed without providing the Agency with ten (10) days written notice.
  - a. A master unit list with the following information:
    - (1) Apartment number;
    - (2) Number of bedrooms and baths;
    - (3) Square footage; and
    - (4) Initial rent to be charged.
  - b. Estimated itemized cost of utilities and services to be paid by tenant by unit size.
  - c. Detailed description of Owner's rules for tenants, which must include:
    - (1) Minimum and maximum income
    - (2) Pet policy
    - (3) Selection process: To insure no discrimination against Low Income Households and Certificate Holders all criteria and the relative weight to be given to each criterion indicated. The Agency shall approve or disapprove the selection process criteria within ten (10) working days after submission thereof to the Agency.
    - (4) Amount of security deposit and all other fees, as well as refund policy regarding same.

- (5) Occupancy requirements must be described in full and found reasonable by the Agency
  - (6) Duration of rental agreement or lease.
  - (7) Copy of rental agreement or lease.
  - (8) The Owner's rules for tenants shall be acceptable for purposes of this sub-paragraph.
- d. Amount of charge for processing applications, if any.
  - e. Description of application process and length of time needed by Owner.
  - f. Copy of rental application and copy of all forms to be used for income verification.
  - g. Periodic notification to the Agency of the Owner's office hours for accepting applications and showing model unit(s).

2. The Owner further agrees that some applicants who apply directly to the Owner may be entitled to priority because of previous displacement. The Owner will, therefore, ask the following questions on all applications for occupancy:

"Have you been displaced or do you expect to be displaced by the San Francisco Redevelopment Agency?"

If the applicant answers affirmatively, the address from which displacement occurred is required. Copies of all applications indicating that such displacement either has taken place or will take place must be forwarded to the Agency within five (5) working days of receipt of such application by the Owner. It is agreed that information received on the application will be considered confidential. The Agency will, in turn, determine within ten (10) working days which such applicants are then qualified or will qualify as Certificate Holders, and will establish current Certificate of Preference priority.

During initial lease-up of Low Income Units, the Agency may supply the Owner with a "status report" listing names, addresses and certificate numbers of Certificate Holders for all open applications. The Owner will return the same form within five (5) working days, indicating:

- (1) status of each application as of that date, and
- (2) in case of rejection for any cause, the exact reason thereof.

2. If material supplied in any application by a Certificate Holder indicates ineligibility on its face because of the Owner's rules and regulations, such applicant will be notified within one week, with a copy of the Agency. Any fee charged for processing such application will be refunded in full, notwithstanding, however, that such applicant shall be listed on status report showing application is closed and fee has been returned. If ineligibility can be determined only after a follow-up investigation, the applicant will be notified within one week after such

1 determination is made, with a copy to the Agency. Any fee charged for processing  
2 such applications may be retained by the Owner. These applications will also  
3 appear on the status report.  
4

5 3. Within ten (10) working days after execution of a lease, the Owner will supply the  
6 Agency with a signed copy of the following for all Certificate Holder tenants:  
7

- 8 (1) signed copy of lease;  
9 (2) copy of complete application; and  
10 (3) copies of all verification forms used to ascertain income eligibility.  
11

12 D. In order to expedite occupancy of housing units nearing completion, the Owner further  
13 agrees:  
14

- 15 1. To select as prospective tenants eligible Certificate Holders who meet the  
16 occupancy requirements of the Owner. Selection will be based on the following  
17 descending order of priorities:  
18
- 19 a. Families or individuals who reside on Agency property in redevelopment  
20 areas.
  - 21 b. Families or individuals who were relocated from Agency property and still  
22 have a valid Certificate of Preference.
  - 23 c. Families or individuals displaced by the Department of Health, Public  
24 Works, etc. and referred by the Agency.
- 25
- 26 2. Applicants who are Certificate Holders who have been accepted and notified by  
27 the Owner will have five (5) working days thereafter to accept or reject a unit. If  
28 the Certificate Holder fails to affirmatively respond, the application may be closed.  
29 Rejection of the unit by a Certificate holder must be shown on current status  
30 report.  
31
- 32 3. All Certificate Holders found acceptable by the Owner shall have the opportunity  
33 to inspect a model or other available completed unit, and be assigned an  
34 appropriate unit for future occupancy. Units may be offered to non-Certificate  
35 Holders at any time as long as the current status report shows that there are  
36 sufficient units available to satisfy applications from Certificate Holders for units  
37 of appropriate size in any stage of processing. ALL OBLIGATIONS TO SHOW  
38 MODELS OR OTHER AVAILABLE COMPLETED UNITS SHALL REMAIN  
39 IN EFFECT DURING INITIAL OCCUPANCY PERIOD. Initial Occupancy is  
40 defined for all purposes of this Attachment "4" as the earlier of ninety (90)  
41 calendar days following the Agency's receipt of a certified copy of a Certificate (or  
42 Certificates) of Occupancy issued by the City and County of San Francisco for the

1            respective unit (or units) to be so approved for occupancy, or the date when all  
2            units have been rented to the first occupants thereof. Upon Initial Occupancy the  
3            Agency will certify compliance with this Attachment "4" with a written notice  
4            provided ten (10) days after Initial Occupancy. Such certification in no way  
5            negates the Owner's continued obligations to provide housing to persons displaced  
6            or to be displaced by the Agency's redevelopment activities as vacancies occur  
7            amount the units designated for Low Income Households.  
8

9            E.     Prior to Initial Occupancy, the Owner will deliver at least monthly, or more frequently if  
10            available to the Owner from its leasing agent, a rent-up report for all Development units  
11            listing the following:  
12

- 13            1.     Unit number rented;
- 14            2.     Tenant name;
- 15            3.     Date of move-in; and
- 16            4.     Rent rate.
- 17

18            F.     The Owner agrees that any contract entered into for the management of the residential  
19            portions of the Development, both before and after Initial Occupancy, shall be furnished to  
20            the Agency, shall incorporate the provisions of this Attachment "T", and shall bind the  
21            management agent to comply with its requirements.  
22

23            G.     After Initial Occupancy (without regard to whether the Agency has certified compliance  
24            with the obligation of the Owner respecting the period prior to Initial Occupancy), the  
25            Owner agrees to notify the Agency as far as practicable in advance of vacancies, which  
26            may occur in Low Income Housing units. The Agency and the Owner agree to follow the  
27            steps set forth in paragraph (D) above with respect to such units. In the event no  
28            appropriate Certificate Holder can be found within five (5) working days after receipt of  
29            notification by the Owner to the Agency of availability of a unit, the Agency agrees that  
30            the Owner may lease the unit to Low Income Households, as appropriate, which do not  
31            hold a Certificate of Preference.  
32

33            H.     The Agency reserves the right to waive any of the foregoing conditions, provided however  
34            that any such waiver shall not be deemed to have waived any other conditions, nor the  
35            same condition subsequently.  
36

ATTACHMENT 5  
BVHP ECP

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2  
3

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Redevelopment Agency of the  
City and County of San Francisco

**BAYVIEW HUNTERS POINT  
EMPLOYMENT AND CONTRACTING POLICY**

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Adopted December 4, 2007  
Resolution No. 127-2007

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## I. PURPOSE

### A. Purpose

1. Pursuant to California Community Redevelopment Law (“CRL”) and consistent with long standing practice, the San Francisco Redevelopment Agency (“Agency”) hereby adopts this Employment and Contracting Policy to ensure training and employment opportunities for lower-income residents in the Bayview Hunters Point (“BVHP”) Redevelopment Project Area, including residents in the 94124 zip code, subject to the criteria set forth below.

2. In adopting the BVHP Redevelopment Plan, the Agency and the City and County of San Francisco (“City”) have made a commitment to vigorous equal opportunity and diversity in employment. Thus, the Agency has proposed programs to encourage local hiring and contracting by the private sector engaged in development in the Project Area.

3. This BVHP Employment and Contracting Policy is designed to ensure that Agency Action Projects and private Significant Projects (which do not receive Agency assistance), provide employment opportunities for lower-income BVHP Residents and San Francisco Residents in the areas of construction, professional services, and permanent jobs. This Policy will supplement and not supplant the existing Agency employment and contracting policies found in the Agency’s Equal Opportunity Program and the Agency Purchasing Policy, which are briefly summarized in Section X. The Employment and Contracting Policy seeks to provide economic benefits to existing BVHP Residents and San Francisco Residents from redevelopment activities within the Project Area. BVHP Residents have disproportionately lower income levels. As part of this policy, residents will be referred by the CBOs (defined below) that serve San Francisco lower-income residents. Therefore, the BVHP residential preference fulfills the purpose of providing economic opportunity to lower-income residents.

4. This Employment and Contracting Policy meets or exceeds the requirements of the City of San Francisco’s Administrative Code Chapter 83 (First Source policy) and CityBuild Program. Thus, entering into and complying with the terms of an Employment and Contracting Policy Agreement will satisfy the requirements of the City’s First Source Policy. It is also intended to satisfy the requirements of Health and Safety Code Section 33422.3 which states that for any contract over \$100,000, the Agency may set specific percentages by craft or trade for the employment of available project area residents.

5. The Agency is committed to facilitating Project Sponsor, Contractor and Employer access to and the hiring of qualified BVHP and San Francisco Residents. To further this goal, the Agency will continue to contract with CBOs to provide education and referral programs and services which will allow BVHP and San Francisco Residents to be considered for employment.

6. The Agency and the Planning Department of the City and County of San Francisco (“Planning”) entered into a delegation agreement as of September 19, 2006 (the “Delegation Agreement”). Per the Delegation Agreement, Planning shall not approve a Significant Project in the Project Area unless the Project Sponsor has entered into an Employment and Contracting Agreement(s) with the Agency. Ongoing compliance with such Agreements(s) shall become a condition of the permit.

7. This Employment and Contracting Policy shall be effective on or after December 4, 2007 (“Effective Date”).

8. The Agency and the PAC shall review the effectiveness of the new Employment and Contracting Policy after one (1) year of implementation.

## II. HIRING GOALS

### A. Construction Workforce Hiring Goal

1. The Employment and Contracting Policy has a goal that **fifty percent (50%)** of construction workforce hires for each trade be qualified BVHP Residents and then San Francisco Residents with First Consideration to BVHP Residents. This goal is expressed as a percentage of each Contractor's total hours of employment and training by trade on the project. The procedure for meeting the construction workforce goal is set forth in Section VII.

### B. Permanent / Temporary Workforce Goal

1. The Employment and Contracting Policy has a goal that **fifty percent (50%)** of permanent / temporary workforce hires be qualified BVHP Residents and then San Francisco Residents with First Consideration given to BVHP Residents. The procedure for meeting the permanent / temporary workforce goal is set forth in Section IX.

### C. Trainee Goals

1. The Employment and Contracting Policy requires that all design professionals (architects, engineers, planners, and environmental consultants) on contracts over \$100,000, hire qualified BVHP Residents and then San Francisco Residents with First Consideration given to BVHP Residents as trainees. The trainee hiring goal for architects, engineers and other design professionals is based upon the total amount of the design professional's contract as follows:

<u>Trainees</u>	<u>Design Professional Fees</u>
0	\$ 0 - \$ 99,000
1	\$100,000 - \$ 249,999
2	\$250,000 - \$ 499,999
3	\$500,000 - \$ 999,999
4	\$1,000,000 - \$1,499,999
5	\$1,500,000 - \$1,999,999
6	\$2,000,000 - \$4,999,999
7	\$5,000,000 - \$7,999,999
8	\$8,000,000 - or more

2. The procedure for meeting the trainee hiring goal is set forth in Section VIII.

## III. DEFINITIONS

1. Agency-Action Project means, as applicable, the Agency's funding (including conduit bond financing), acquisition, disposition, or development of property through a Development and Disposition Agreement ("DDA"), Owner Participation Agreement ("OPA"), loan agreement, grant agreement or other transactional and/or funding documents between a Project Sponsor and the Agency, provided however, that the Agency's Model Block Program is excluded from this definition, as it will contain its own local hiring and contracting requirements.

2. **Agency Compliance Officer** means the Agency's Contract Compliance Specialist assigned to oversee the Project Sponsor's compliance with the requirements of the Employment and Contracting Policy Agreement.
3. **Agreement** means an Employment and Contracting Agreement entered into between the Agency and the Project Sponsor pursuant to this Employment and Contracting Policy.
4. **Arbitration Parties** means the Agency, Project Sponsor, Contractors, Employers and all persons who attend the arbitration hearing pursuant to Section XII, as well as those persons and Project Sponsors who are subject to a default award provided that all of the requirements in Section XII (11) have been met.
5. **BVHP Resident** means, for the purposes of this Employment and Contracting Policy only, any person who resides in the BVHP Project Area or within the 94124 zip code as it is defined on the Effective Date.
6. **CBO** means any community based organization that provides training, education and referral services to BVHP Residents, including but not limited to:  
Young Community Developers, Inc., 1715 Yosemite Avenue, San Francisco, CA 94124, (415) 822-3491;  
Mission Hiring Hall, 3042 – 16<sup>th</sup> Street, San Francisco, CA 94103, (415) 626-1919 (Construction jobs only);  
South of Market Employment Center, 288 – 7<sup>th</sup> Street, San Francisco, CA 94103, (415) 865-2105 (Permanent Jobs only) and  
Ella Hill Hutch Community Center, 1050 McAllister Street, San Francisco, CA 94115, (415) 921-6276
7. **City** means the City and County of San Francisco.
8. **Commercial Project** means (for purposes of this Employment and Contracting Policy only): (1) any building permit application for a commercial activity over 25,000 square feet in floor area and involving new construction, an addition, or alteration which results in over \$2,000,000 in improvements as stated on the City's building permit application (including any tenant improvements covered by said building permit); or (2) any application which requires discretionary action by the City's Planning Commission relating to a commercial activity over 25,000 square feet including, but not limited to conditional use project authorization under San Francisco Planning Code section 309, and office development under San Francisco Planning Code Sections 320, et seq.
9. **Contractor** means any person(s), firm, partnership, corporation (whether for profit or nonprofit), or combination thereof, who is a general contractor, subcontractor (regardless of tier) or consultant working on: (i) an Agency Action Project, (ii) a Significant Project in the Project Area, or (iii) a development project when the Project Sponsor has voluntarily subscribed to this Employment and Contracting Policy.
10. **Delegation Agreement** means the delegation agreement between the Agency and Planning dated September 19, 2006 as such agreement may be amended from time to time.
11. **Employer** means any person(s), firm, partnership, corporation (whether for profit or nonprofit), or combination thereof, who owns or operates a retail or commercial business which is part of: (i) an Agency Action Project, (ii) a Significant Project in the Project Area, or (iii) a

development project when the Project Sponsor has voluntarily subscribed to this Employment and Contracting Policy.

12. **Employment and Contracting Agreement or ("Agreement")** means the written agreement entered into between the Project Sponsor and the Agency which details the particular requirements the Project Sponsor must meet in order to be in compliance with this Employment and Contracting Policy.

13. **First Consideration** means that a Project Sponsor, Contractor and/or Employer shall give first consideration to qualified BVHP Residents in accordance with Section VII.A. (6) - (8) of this Employment and Contracting Policy and then to San Francisco residents for hiring opportunities in the areas of construction workforce, permanent / temporary workforce and trainee hires prior to offering the hiring opportunity to other applicants.

14. **Housing Project** means (for purposes of this Employment and Contracting Policy only) new construction, an addition, a conversion, or substantial rehabilitation that results in the creation or addition of ten or more residential units.

15. **PAC** means the Bayview Hunters Point Project Area Committee.

16. **Planning** means the Planning Department and/or the Planning Commission of the City and County of San Francisco.

17. **Position** means a permanent / temporary position not related to construction or construction trades.

18. **Project Area** means the Bayview Hunters Point Project Areas as delineated in the Bayview Hunters Point Redevelopment Plan, adopted June 1, 2006 and recorded June 23, 2006, (Document Number 2006I199495) as it may be amended from time to time.

19. **Project Sponsor** means the developer of commercial space or new housing units defined herein as a Significant Project in the Project Area.

20. **San Francisco Resident** means any person who resides in the City and County of San Francisco.

21. **Significant Project** means, for purposes of this Employment and Contracting Policy only, a Commercial Project or Housing Project as defined in this Employment and Contracting Policy.

#### IV. APPLICATION OF POLICY BY PROJECT TYPE <sup>1</sup>

##### A. **Agency Action Projects**

1. The Employment and Contracting Policy is mandatory for Agency Action Projects. Agency Action Projects will require the Project Sponsor to execute an Employment and Contracting Agreement with the Agency as a condition of approval. The construction workforce goal, permanent / temporary workforce goal and the trainee hiring goal for professional services contracts all apply to this type of project.

<sup>1</sup> Page 24 contains a BVHP Employment and Contracting Policy Matrix which also gives an overview of the application of the policy by project type.

2. Additionally, the Agency's Small Business Enterprise ("SBE") Program, as amended from time to time, will apply when Project Sponsors on Agency Action Projects contracts for professional / personal services related to the project, such as planning studies, building and/or landscape design, economic or feasibility studies, community outreach services, printing or graphic production. The SBE participation goal is a good faith effort that 50% of the subcontracting opportunities go to Agency certified SBEs with First Consideration given to SBEs within the Project Area.

3. In addition to the local hiring and small business contracting programs listed above, Project Sponsors will be required to comply with the Agency's Equal Opportunity Program which include:

- o Nondiscrimination in Contracts and Equal Benefits Policy
- o Minimum Compensation Policy
- o Health Care Accountability Policy
- o Agency Prevailing Wage Policy (Labor Standards)

4. The Agency's Equal Opportunity Program is described briefly in Section X.

5. The requirements of the Employment and Contracting Policy and the Agency's Equal Opportunity Policies will be incorporated into an Agreement. The Agency's Executive Director will review and approve the Agreement on behalf of the Agency. Adherence to the Agreement shall be monitored by the Agency's Contract Compliance Division. Agency staff shall periodically report to the BVHP PAC and the Agency Commission on the compliance status of Agency Action Projects.

**B. Private Significant Projects**

1. The Employment and Contracting Policy is mandatory for private Significant Projects (not requiring Agency assistance) in the Project Area that exceed the following thresholds:

- **Housing Projects:** new construction, an addition, a conversion, or substantial rehabilitation that results in the creation or addition of ten or more residential units ; or
- **Commercial Projects:** (1) any building permit application for a commercial activity over 25,000 square feet in floor area and involving new construction, an addition, or alteration which results in over \$2,000,000 in improvements as stated on the City's building permit application (including any tenant improvements covered by said building permit); or (2) any application which requires discretionary action by the City's Planning Commission relating to a commercial activity over 25,000 square feet including, but not limited to conditional use project authorization under San Francisco Planning Code section 309, and office development under San Francisco Planning Code Sections 320, et seq.

2. Private Significant Projects shall be entitled by Planning as set forth in the Delegation Agreement and will require the Project Sponsor to execute an Employment and Contracting Agreement with the Agency as a condition of approval. The construction workforce

goal, permanent / temporary workforce goal and the trainee hiring goal for professional services contracts all apply to this type of project.

3. In addition to the hiring program, Project Sponsors will be encouraged to subscribe **voluntarily** to the Agency's Equal Opportunity Program which include:

- o Small Business Enterprise Program
- o Nondiscrimination in Contracts and Equal Benefits Policy
- o Minimum Compensation Policy
- o Health Care Accountability Policy
- o Prevailing Wage Provisions (Labor Standards)

4. The Agency's Equal Opportunity Program is described briefly in Section X.

5. The mandatory programs and the programs which the Project Sponsor has voluntarily subscribed to, if any, will be incorporated into an Agreement and at that point become mandatory. The Agency's Executive Director will review and approve the Agreement on behalf of the Agency. Adherence to the Agreement shall be monitored by the Agency's Contract Compliance Division. Agency staff shall periodically report to the BVHP PAC and the Agency Commission on the compliance status of private Significant Projects.

### **C. CityBuild and Public Improvements**

1. While not part of the Employment and Contracting Policy, the CityBuild workforce initiative applies to all public infrastructure and other public improvements projects that the City funds in the Project Area. CityBuild is an initiative of the Mayor's Office of Economic and Workforce Development, in partnership with other City departments, that utilizes City-sponsored construction as a vehicle to deliver training and employment opportunities to San Francisco residents. When the Agency is providing additional funding for a City funded public project, Agency staff shall work with CityBuild and the lead City department to consider implementation of elements of the Agency Employment and Contracting Policy as well as the Equal Opportunity Program.

2. The purpose of CityBuild is to ensure equal employment opportunities for San Francisco residents of all backgrounds and genders in construction workforce activities provided under City-sponsored construction projects. CityBuild establishes a goal of 50% participation for San Francisco residents in each trade for total hours worked on a project. CityBuild creates a single, responsible and accountable entity, Mayor's Office of Economic and Workforce Development, to direct construction employment and training efforts across projects and departments and develops trained, committed men and women to become the construction workforce of the future.

3. The Agency's Equal Opportunity Program is described briefly in Section X.

### **D. Small Private Projects**

1. The Employment and Contracting Policy does not mandate local hiring or contracting for purely private projects that fall below the threshold of Significant Projects.

However, Project Sponsors will be encouraged to subscribe voluntarily to the following Agency's Equal Opportunity Programs and other policies which include:

- o BVHP Employment and Contracting Policy
  - o Small Business Enterprise Policy
  - o Nondiscrimination in Contracts and Equal Benefits Policy
  - o Minimum Compensation Policy
  - o Health Care Accountability Policy
  - o Agency Prevailing Wage Policy (Labor Standards)
2. The Agency's Equal Opportunity Program is described briefly in Section X.

## V. TERM

1. The term for meeting the obligations under the Employment and Contracting Policy ("Term") shall be as follows:

For Construction Workforce – From the date of the Employment and Contracting Agreement until two (2) years thereafter or the expiration of the building permit for the project, whichever is later.

For Trainee Hiring – From the date of the Employment and Contracting Agreement until two (2) years thereafter or the expiration of the building permit for the project, whichever is later.

For Permanent / Temporary Workforce – Up to ten (10) years from the date of the temporary certificate of occupancy per building, as determined through good faith negotiations between the Project Sponsor and the Agency based upon the anticipated number of permanent and/or temporary positions created by the Project.

## VI. APPLICABLE COMMUNITY REDEVELOPMENT LAWS

1. The Employment and Contracting Policy is designed to further the objectives of the Community Redevelopment Law that redevelopment project areas support local businesses and lower-income BVHP Residents in the revitalization efforts of the Agency. Specifically, the Community Redevelopment law (which is codified in the California Health and Safety Code) states:

***33422.1. Preference in Awarding Contracts to Local Businesses.***

To the greatest extent feasible, contracts for work to be performed in connection with any redevelopment project shall be awarded to business concerns which are located in, or owned in the substantial part by persons residing in, the project area.

***33422.3. Agency Specification of Workmen to be Lower-Income Project Area Residents for Certain Contracts.***

To insure training and employment opportunities for lower-income project area residents, the agency may specify in the call for bids for any contract over one hundred thousand dollars (\$100,000) for work to be performed in connection with any redevelopment project that project area



residents, if available, shall be employed for a specified percentage of each craft or type of workmen needed to execute the contract or work.

***33423. Prevailing Wage Rates Required.***

Before awarding any contract for such work to be done in a project, the agency shall ascertain the general prevailing rate of per diem wages in the locality in which the work is to be performed, for each craft or type of workman needed to execute the contract or work, and shall specify in the call for bids for the contract and in the contract such rate and the general prevailing rate for regular holiday and overtime work in the locality, for each craft or type of workman needed to execute the contract.

***33424. Payment of Prevailing Wages.***

The contractor to whom the contract is awarded and any subcontractor under him shall pay not less than the specified prevailing rate of wages to all workmen employed in the execution of the contract.

***33425. Penalty for Noncompliance with Prevailing Wages.***

As a penalty to the agency which awarded the contract, the contractor shall forfeit ten dollars (\$10) for each calendar day or portion thereof for each workman paid less than the stipulated prevailing rates for any public work done under the contract by him or by any subcontractor under him. A stipulation to this effect shall be included in the contract.

***33426. Record of Wages.***

Each contractor and subcontractor shall keep an accurate record showing the name, occupation, and actual per diem wages paid to each workman employed by him in connection with the work. The record shall be kept open at all reasonable hours to the inspection of the agency.

## **VII. CONSTRUCTION WORKFORCE HIRES<sup>2</sup>**

**A. Procedures For Construction Workforce Hires**

**1. Compliance with the Policy**

The Project Sponsor agrees and will require each Contractor and all subcontractors to use its good faith efforts to employ 50% of its construction workforce hires by trade and by hours from qualified BVHP Residents and then San Francisco Residents with First Consideration to BVHP Residents. Project Sponsors and Contractors will be deemed in compliance with this Employment and Contracting Policy by meeting or exceeding the goal or by taking the following steps in good faith towards compliance.

**2. Execute Employment and Contracting Agreement**

The Project Sponsor shall execute an Agreement which details the requirements of the Employment and Contracting Policy, as well as the Agency's Equal Opportunity Program, if

<sup>2</sup> The same procedure for construction workforce hires applies to all Project Sponsors regardless of whether the project is an Agency Action, private Significant Project, or small Private Project when the Project Sponsor has voluntarily subscribed to the Employment and Contracting Policy.

applicable. The Project Sponsor shall incorporate by reference or attach the Agreement to its contract with the general contractor. The general contractor shall do the same in its contracts with its subcontractors. Thus, each Contractor will be obligated to comply with the terms of the Agreement. The Project Sponsor and/or Contractors shall retain the executed Agreements and make them available to the Agency Compliance Officer upon request.

3. **Submission of Labor Force Projections and Other Data**

The general contractor shall submit, to the extent available, labor force projections to the Compliance Officer within two (2) weeks of award.

4. **Submit Subcontractor Information Form**

The general contractor shall submit to the Compliance Officer the Subcontractor Information Forms, twenty-four (24) hours prior to the preconstruction meeting. The Subcontractor Information Forms are available from the Compliance Officer upon request.

5. **Preconstruction Meeting**

The general contractor shall hold a preconstruction meeting which shall be attended by the Compliance Officer, the CBO assigned to the proposed project, all prime contractor(s) and all subcontractor(s). The preconstruction meeting shall be scheduled between two (2) days and thirty (30) days prior to the start of construction at a time and place convenient to all attendees. The purpose of the meeting is to discuss: the hiring goals, workforce composition, role of the CBOs, worker referral process, certified payroll reporting, procedure for termination and replacement of workers covered by this policy and to explore any anticipated problems in complying with the Employment and Contracting Policy. All questions regarding how this Employment and Contracting Policy applies to the Project Sponsor, general contractor, subcontractors and consultants should be answered at this meeting. Failure to hold or attend at least one (1) preconstruction meeting will be a breach of this Employment and Contracting Policy that may result in the Agency ordering a suspension of work until the breach has been cured. Suspension under this provision is not subject to arbitration.

6. **Submit Construction Worker Request Form**

For the Term of the Agreement, each time the Project Sponsor or Contractor seeks to hire workers for the construction or rehabilitation of improvements, they must first submit, by fax, email or hand delivery, an executed construction worker request form to the CBO. Preferably this request will be submitted at least two (2) business days before the workers are needed. However, requests with less than two (2) business days notice will be accepted. The construction worker request form will indicate generally: the number of workers needed, duration needed, required skills or trade and date/time to report. The construction worker request form is available from the CBO or Compliance Officer upon request.

7. **Response from CBO**

The CBO shall respond, in writing, via fax, email or hand delivery to each request for construction workers. The response shall state that the CBO was able to satisfy the request in full, in part or was unable to satisfy the request. The CBOs shall look to their own referral lists, as well as confer with other CBOs and CityBuild in an attempt to find qualified BVHP Residents and San

Francisco Residents. If the CBO is able to satisfy the request in full or in part, it shall direct the qualified BVHP Resident(s) or San Francisco Resident(s) to report to the Contractor on the date and time indicated in the request. If the CBO is unable to satisfy the request, then the CBO shall send a fax or email stating that no qualified BVHP Residents or San Francisco Residents are currently available.

8. **Action by Contractor When Referrals Available**

The Project Sponsor or Contractor whose request has been satisfied in full or in part shall make the final determination of whether the BVHP Residents or San Francisco Residents are qualified for the positions and the ultimate hiring decision. The Agency strongly encourages the Contractor to hire the qualified BVHP Residents or San Francisco Residents referred by the CBO. However, if the Contractor finds the BVHP Residents or San Francisco Residents are not qualified, then the Contractor shall send the BVHP Residents or San Francisco Residents back to the CBO. Before the close of business on the same day, the Contractor shall fax or email a statement addressed to the CBO stating in detail the reason(s) the BVHP Residents or San Francisco Residents were not qualified or the reason(s) for not hiring the BVHP Residents or San Francisco Residents. The CBO shall, within one (1) business day of receipt of the fax or email, send new qualified BVHP Residents or San Francisco Residents that meet the legitimate qualifications set by the Contractor or alternatively, send a fax or email stating that no qualified BVHP Residents or San Francisco Residents are currently available.

9. **Action by Contractor When Referrals Unavailable**

If a Contractor receives a response from the CBO stating that no qualified BVHP Residents or San Francisco Residents are currently available, then the Contractor may hire the number of construction workers requested from the CBO, using its own recruiting methods, giving first consideration to BVHP Residents and then San Francisco Residents. Any additional new construction workforce hires (including the replacement of any terminated workers) must comply with this Employment and Contracting Policy, unless the Contractor has already met or exceeded the goal. The Contractor must keep a copy of the response it receives from the CBO as proof of compliance and submit a copy of each response received to the Agency Compliance Officer upon request.

10. **Action by Contractor When No Response From CBO**

If a Contractor has not received a response to its construction worker request from the CBO within two (2) business days, then the Contractor should immediately advise the Agency Compliance Officer by phone, fax or email. The Agency Compliance Officer or his/her designee shall cause a response to be sent to the Contractor within two (2) business days of being notified. If the Contractor does not receive a response from the CBO within four (4) business days (the original two (2) business days plus the additional two (2) business days), then the Contractor may hire the number of construction workers requested from the CBO, using its own recruiting methods, giving first consideration to BVHP Residents and then San Francisco Residents. Any construction workforce hires (including the replacement of any terminated workers) must comply with this Employment and Contracting Policy, unless the Contractor has already met or exceeded the goal. The Contractor must keep a copy of the response it receives from the CBO as proof of compliance and submit a copy of each response received to the Agency Compliance Officer upon request. This Employment and Contracting Policy is intended to provide qualified BVHP and San Francisco

Residents with employment opportunities without causing undue delay in hiring needed construction workers.

11. **Action by Contractor When No Response From Union**

The Contractor should immediately advise the Agency Compliance Officer by phone, fax or email when the Contractor has sent a qualified BVHP Resident or San Francisco Resident to a union hall for referral in accordance with a collective bargaining agreement and the union did not refer the qualified BVHP or San Francisco Resident back for employment or when the union referral process impedes the Contractor's ability to meet its obligations under this policy. Conflicts between this Employment and Contracting Policy and any collective bargaining agreements will be resolved pursuant to Section XI (4).

12. **Hiring Apprentices**

A Contractor may meet part of the Construction Workforce Goal by hiring apprentices. However, hiring an apprentice does not satisfy or waive the trainee hiring obligation, if any, for design professionals. Unless otherwise permitted by law, apprentices must be trained pursuant to training programs approved by the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training or the California Department of Industrial Relations, Division of Apprenticeship Standards. Credit towards compliance will only be given for paid apprentices actually working on the project. No credit is available for apprentices while receiving class room training. Under no circumstances shall the ratio of apprentices to journeymen in a particular trade or craft exceed 1:5.

13. **Termination and Replacement of Referrals**

If at any time it becomes necessary to terminate for cause a construction worker who was hired under this Employment and Contracting Policy, the Contractor shall notify the CBO in writing via fax or email and submit a report of termination pursuant to Section VII (B)(4). If the Contractor intends to fill the vacant position, then the Contractor shall follow the process set forth in this Employment and Contracting Policy beginning at Section VII (A)(6).

**B. Reporting Requirements For Construction Workforce**

1. **Submission of Certified Payroll Reports**

Each Contractor subject to this Employment and Contracting Policy shall submit to the Agency a certified payroll report for the preceding work week on each of its employees. The Project Sponsor is ultimately responsible for the submission of these reports by the Contractors. The certified payroll report is due to the Agency by noon each Wednesday. To facilitate compliance, the Agency uses the online LCP Tracker system ([www.lcptracker.com](http://www.lcptracker.com)) for submission of certified payroll reports. This system is available at no cost to the Contractor and LCP Tracker is compatible with all major computer payroll systems. Training and educational materials for LCP Tracker are available at no cost online and through the Compliance Officer. Contractors are required to report certified payroll using the LCP Tracker system at [www.lcptracker.com](http://www.lcptracker.com). However, a waiver shall be granted pursuant to Section XI (10) to any Contractors who do not have a computer, online access or who use a computer payroll system that is incompatible with LCP Tracker.

2. **Contents of Certified Payroll Reports**

If certified payroll records are submitted via the LCP Tracker system, the required data points are already listed. If certified payroll records are submitted in paper form, the records shall be organized in an easily understandable format and contain **all** the following information: the name, address, telephone number, residency (Bayview Hunters Point, another redevelopment project area, San Francisco or other), last four (4) digits of the worker's Social Security number<sup>3</sup>, gender, ethnicity (see codes in Section VII (B)(8)), construction trade (see codes in Section VII (B)(8)), classification (e.g., mechanic, apprentice, trainee, helper or laborer), union affiliation (if any), dates of changes in status, daily and weekly number of hours worked, hourly wage rates (including rates of contributions for costs anticipated for fringe benefits or cash equivalents thereof), deductions made and actual wages paid. The foregoing notwithstanding, the reporting of hourly wage rates, deductions and actual wages paid are not required for Significant Projects unless the Project Sponsor has voluntarily subscribed to the Agency's Prevailing Wage Policy or the payment of prevailing wages is otherwise required by law. To the degree that existing certified payroll records satisfy these requirements, the Contractor shall not be required to maintain separate records.

3. **Additional Information**

In order to prevent unlawful discrimination in the selection, hiring and termination of employees on the basis of race, ethnicity, gender or any other basis prohibited by law and to identify and correct such unlawful practices, the Agency will monitor and collect information on the ethnicity and gender of each construction worker and apprentice. If an identifiable pattern of apparent discrimination is revealed by this additional information, it will be treated as a breach of this Employment and Contracting Policy and may be addressed as set forth in Section XII, Arbitration of Disputes.

4. **Report on Terminations**

In the event a BVHP Resident or San Francisco Resident hired pursuant to this Employment and Contracting Policy is terminated for cause, the responsible Contractor shall within two (2) days fax or email a termination report to the CBO with a copy to the Agency Compliance Officer stating in detail: (1) the name of the worker(s) terminated; (2) his/her job title and duties; (3) the reasons and circumstances leading to the termination(s); (4) whether the Contractor replaced the construction worker(s); and (5) whether the replacement worker(s) were BVHP Resident(s) or San Francisco Resident(s).

5. **Inspection of Records**

The Project Sponsor and each Contractor shall make the records required under this Employment and Contracting Policy available for inspection or copying by authorized representatives of the Agency, and shall permit such representatives to interview construction workers and apprentices during working hours on the job.

6. **Failure to Submit Reports**

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<sup>3</sup> Note: The Project Sponsor is required to provide complete Social Security numbers upon the request of the Agency.

If a Contractor fails or refuses to provide the reports as required it will be treated as a breach of this Employment and Contracting Policy and may be addressed as set forth in Section XII, Arbitration of Disputes.

**7. Submission of Good Faith Effort Documentation**

If the Project Sponsor's or Contractor's good faith efforts are at issue, the Contractor shall provide the Agency with the documentation of its efforts to comply with this Employment and Contracting Policy and the Agreement. The Project Sponsor or Contractor must maintain for the duration of the Term, a current file of the names, addresses and telephone numbers of each BVHP Resident or San Francisco Resident applicant referral whether self referral, union referral or CBO referral and what action was taken with respect to each such individual.

**8. Coding Certified Payrolls**

Each Contractor shall include, on the weekly payroll submissions, the code designating each construction worker's and apprentice's craft, skill level, protected class status and domicile in accordance with the following tables:

CRAFT CODE	DESCRIPTION	CRAFT CODE	DESCRIPTION
1	Electrician	22	Carpet, Linoleum and Vinyl Tile Layer
2	Iron Worker	23	Elevator Constructor
3	Sheet Metal Worker	24	Cement Mason
4	Asbestos Worker/ Heat & Frost Insulator	25	Laborer or Allied Worker
5	Plumber, Pipe or Steamfitter	26	Glazier & Glassmaker
6	Refrigeration	27	Painter, Paperhanger, Taper
7	Boilermaker	28	Sign Installer
8	Sprinkler Fitter	29	Scrapper
9	Brick, Caulk, Marble, Point, Terrazzo		
10	Hod Carrier		
11	Terrazzo Finisher	32	Low Voltage Electrician
12	Plasterer	33	Towboat Operator-Marine Engineer
13	Lather	34	Towboat Deckhand-Inland Boat worker
14	Carpenter or Drywall Hanger	35	Owner/Operator - Truck
15	Mill Worker or Cabinetmaker	36	Owner/Operator - Heavy Equipment
16	Millwright	37	Upholsterer
17	Roofer	38	Teamster, Construction
18	Pile Driver	39	Janitor
19	Surveyor/Operating Engineer	40	Environmental Control System Installer
20	Tile (Ceramic)/Marble Finisher	41	Window Cleaner
21	Tile (Ceramic)Setter	89	Security Guard

ETHNICITY CODE	DESCRIPTION
B	African American
L	Latino
I	American Indian
C	Caucasian/White
A	Asian
PI	Pacific Islander
F	Female (all females regardless of ethnicity)

PROJECT AREA CODE	DESCRIPTION
BIT	Bayview Industrial Triangle
BVHP	Bayview Hunters Point
HPSY	Hunters Point Shipyard
IB	India Basin Industrial Park
GG	Golden Gateway
MBN	Mission Bay (North)
MBS	Mission Bay (South)
MM	Mid-Market
RPSB	Rincon Point/South Beach
SF	San Francisco (not in any redevelopment project areas)
SOM	South of Market
TB	Transbay
VV	Visitacion Valley
WA	Western Addition Area A-2
YBC	Yerba Buena Center

## VIII. TRAINEE HIRES<sup>4</sup>

### A. Procedures For Trainee Hires

#### 1. Compliance with the Policy

For architects, engineers and other design professionals only, there is a trainee hiring goal as set forth in Section II (C) above. These design professionals will be deemed in compliance with this Employment and Contracting Policy by meeting or exceeding the trainee hiring goal or by take the following steps in good faith towards compliance:

#### 2. Execute Employment and Contracting Agreement

The Project Sponsor shall execute an Agreement which details the requirements of the Employment and Contracting Policy, as well as the Agency's Equal Opportunity Program, if applicable. The Project Sponsor shall incorporate by reference or attach the Agreement to its contract with the architects, engineers and other design professionals. Thus, each design professional will be obligated to comply with the terms of the Agreement. The Project Sponsor

<sup>4</sup> The same procedure for trainee hires applies to all design professionals regardless of whether the project is an Agency Action, private Significant Project, or small Private Project when the Project Sponsor has voluntarily subscribed to the Employment and Contracting Policy.

and/or the design professionals shall retain the executed Agreements and make them available to the Agency Compliance Officer upon request.

3. **Contact Educational Institutions**

The Agency works with the City, as well as educational institutional within the City, to provide a pool of student referrals to assist design professionals in meeting the trainee hiring goal. Within thirty (30) days of execution of the Agreement, the Agency Compliance Officer shall contact each design professionals and provide it with the name, address and telephone number of a point of contact at the City, **City College or other educational institutions in the Bay Area** who have a current list of students who are BVHP Residents or San Francisco Residents and are available for hire as trainees. Each design professional shall call the City or educational institution(s) and request referrals for the required trainee positions. The request will indicate generally: (1) the number of trainees sought; (2) the required skills set (keeping in mind that these are trainee positions); (3) a brief description of job duties; (4) the duration of the trainee period; and (5) any other information that would be helpful or necessary for the educational institution to make the referral. The minimum duration of assignment is part-time for one semester. However, design professionals are strongly encouraged to offer longer trainee employment periods to allow a more meaningful learning experience. (For example, a half-time or full-time assignment over the summer.) Although the initial contact shall be made by phone, the educational institution(s) may require the design professionals to send a confirming letter or fill out a form which the educational institution will provide. Each design professional is required to timely provide all of the information requested by the City or educational institution(s) in order to get the referrals.

4. **Response from Educational Institutions**

Each educational institution may have a different way of referring applicants, such as: sending resumes directly to the design professional; having the applicant contact the design professional by phone; require design professionals to conduct on-campus interviews; or some other method. The timing and method of the response will normally have be discussed with the design professional during the initial phone request. The design professional is required to follow the process set by the educational institution(s) in order to get the referrals.

5. **Action by Design Professionals When Referrals Available**

The design professional shall give First Consideration to BVHP Residents and then to San Francisco Residents referred by the educational institution(s). The design professional shall interview each applicant prior to making the decision to hire or not to hire. The design professional shall make the final determination whether the applicant is qualified for the trainee position and the ultimate hiring decision. The Agency strongly encourages the design professional to hire a qualified BVHP Resident or San Francisco Resident referred by the educational institution(s). The design professional shall notify each BVHP Resident and San Francisco Resident interviewed and the CBO in writing of the hiring decision.

6. **Action by Design Professionals When Referrals Unavailable**

If after contacting all of the educational institutions provided by the Agency Compliance Officer, the design professional is informed that no qualified BVHP residents or San Francisco Residents are currently available, then the design professional should wait thirty (30) days and contact the educational institutions a second time to inquire whether qualified San Francisco



Residents are currently available for hire as trainees. If no qualified San Francisco Residents are currently available after the second request, then the design professional has fulfilled its obligation under this Section VIII, provided that the design professional has acted in good faith. The design professional must retain its file on all of the steps it took to comply with this policy and submit a copy of its file to the Agency Compliance Officer upon request.

7. **Action by Design Professional When No Response From Educational Institutions**

If a design professional has not received a response to its request for referrals from any of the educational institutions within five (5) business days after the design professional has fully complied with the procedures, if any, set by the educational institution(s) for obtaining referrals; then the design professional should immediately advise the Agency Compliance Officer by phone, fax or email. The Agency Compliance Officer or his/her designee shall cause the educational institution(s) to respond to the design professional within five (5) business days of the Agency Compliance Officer being notified. If the design professional still has not received a response from the educational institution(s) after this additional five (5) business day period has run, then the design professional has fulfilled its obligation under this Section VIII, provided that the design professional has acted in good faith. Each design professional must retain its file on all of the steps it took to comply with this policy and submit a copy of its file to the Agency Compliance Officer upon request.

8. **Termination of Trainee for Cause**

If at any time during the Term, it becomes necessary to terminate for cause a trainee who was hired under this Employment and Contracting Policy and the design professional has not met the minimum duration requirements under this policy, then the design professional shall hire a new trainee by following the process set forth in Section VIII(A)(3) above.

B. **Reporting Requirements For Trainee Hires**

1. **Annual Reporting**

Annually, during the Term of the Agreement or the term of the design professional's contract with the Project Sponsor, whichever is less, the Employer shall fax or email a report to the Agency Compliance Officer stating in detail: (1) the names of the BVHP Resident(s) or San Francisco Resident(s) interviewed in the past year for trainee positions; (2) the date(s) of each interview; (3) the reasons for not hiring the BVHP Residents or San Francisco Residents interviewed; (4) the name, address, gender and racial/ethnic background of the successful candidate for the trainee position; (5) whether the successful candidate is a BVHP or San Francisco Resident; (6) the maximum number of trainees the Employer has had within the last calendar year; and (7) the number of BVHP Residents and San Francisco Residents hired within the last calendar year.

2. **Report on Terminations**

In the event a BVHP Resident or San Francisco Resident hired pursuant to this Employment and Contracting Policy is terminated for cause, the responsible design professional shall within five (5) days fax or email a termination report to the Agency Compliance Officer stating in detail: (1) the name of the trainee(s) terminated; (2) his/her job title and duties; (3) the reasons and

circumstances leading to the termination(s); (4) whether the design professional replaced the trainee(s); and (5) whether the new trainee(s) are BVHP Resident(s) or San Francisco Resident(s).

## **IX. PERMANENT / TEMPORARY WORKFORCE POLICY<sup>5</sup>**

### **A. Permanent / Temporary Workforce Hires**

#### **1. Policy Statement**

Due to the wide variety of development, both public and private, that occurs in the City and is anticipated to occur in the Project Area as redevelopment commences, it is difficult to develop a single hiring requirement or procedure that is appropriate in all situations. The Agency seeks to ensure that BVHP Residents have the opportunity to share in the permanent and temporary jobs that come from redevelopment in the Project Area. At the same time, the Agency seeks to assist Employers in meeting workforce demands for Significant Projects within the Project Area. The Agency has adopted a flexible approach to achieve these goals. The Employment and Contracting Policy sets an overall goal of 50% for permanent / temporary workforce hires but allows flexibility to tailor the remaining key terms of the Agreement to fit the specific project.

#### **2. Compliance with the Policy**

The Project Sponsor agrees and will require each Employer to use its good faith efforts to employ 50% of its permanent / temporary workforce from qualified BVHP Residents and then San Francisco Residents with First Consideration to BVHP Residents. Project Sponsors and Employers will be deemed in compliance with this Employment and Contracting Policy by meeting or exceeding the goal or by documenting the good faith efforts as set forth in the Agreement.

#### **3. Negotiate and Execute Employment and Contracting Agreement**

The Project Sponsor shall negotiate in good faith with the Agency's Contract Compliance staff to reach agreement on: (a) the Term of the Agreement; (b) the job titles or type of positions subject to this hiring obligation; (c) procedures for fulfilling the hiring obligation or meeting the good faith efforts; and (d) reporting requirements. These negotiations will be based upon the anticipated number of permanent and/or temporary positions created by the project. The executed Agreement will set forth the mutually agreed upon details, as well as the requirements of the Agency's Equal Opportunity Program, if applicable. The Project Sponsor shall incorporate by reference or attach the Agreement to its contract with the Employer. The Project Sponsor and/or Employer shall retain the executed Agreement and make it available to the Agency Compliance Officer upon request.

#### **4. Review of Permanent / Temporary Workforce Policy**

Working with the PAC, the CBOs and the City's workforce development systems, the Agency will review the Permanent / Temporary Workforce Policy and will revise the procedures

<sup>5</sup> The same procedure for permanent / temporary workforce hires applies to all Project Sponsors regardless of whether the project is an Agency Action, private Significant Project, or small Private Project when the Project Sponsor has voluntarily subscribed to the Employment and Contracting Policy.

and goals as necessary to ensure that BVHP and San Francisco Residents are given First Consideration for these job opportunities.

## **X. AGENCY EQUAL OPPORTUNITY PROGRAM**

### **A. Compliance with Agency's Equal Opportunity Program**

Compliance with some or all of the Agency's Equal Opportunity Program may be mandatory or voluntary depending on whether the development is an Agency Action Project, private Significant Project, CityBuild / public improvement project or a small Private Project. The components of the Agency's Equal Opportunity Program are described briefly below for reference. The full policies and procedures associated with these programs are available from the Agency's Contract Compliance Division.

#### **1. Small Business Enterprise Program**

The Agency's Small Business Enterprise ("SBE") Program was adopted by Agency Resolution No. 133-2004 on November 16, 2004, as part of the Agency's Interim Purchasing Policy and Procedures, and may be amended from time to time. The SBE Program provides for first consideration in awarding subcontracts and sub-consulting opportunities to Agency certified local small business enterprises. The SBE Program is designed to help ensure that SBEs have a fair opportunity to compete for and participate in contracts related to Agency- Action Projects and other projects that are subject to the SBE Program. SBEs are divided into three groups: (1) Project Area SBEs, (2) Local SBEs (outside an Agency project or survey area, but within San Francisco), and (3) all other SBEs (outside of San Francisco). If subject to the SBE Program, the Project Sponsor and its Contractors and Employers must make good faith efforts to achieve the goal of 50% SBE participation for professional / personal services, and construction contracts. The SBE Program sets a contracting goal and thus is different from the Employment and Contracting Policy which sets hiring goals. The Project Sponsor's obligations under the SBE Program will be incorporated into a SBE Agreement ("SBE Agreement"). The Agency Executive Director will review and approve the SBE Agreement on behalf of the Agency. The Agency's Compliance Officer will ensure compliance with the requirements and will report periodically to the BVHP PAC and the Agency Commission on compliance matters.

#### **2. Nondiscrimination in Contracts and Equal Benefits Policy**

The Agency's Nondiscrimination in Contracts and Equal Benefits Policy was adopted by Agency Resolution No. 175-97 on September 9, 1997 and may be amended from time to time. The Nondiscrimination in Contracts and Equal Benefits Policy prohibits discrimination in contracting and which includes a prohibition on discrimination in providing benefits between employees with spouses and employees with domestic partners. This policy requires the Project Sponsor to agree not to discriminate against or segregate any person, or group of persons, on account of race, color, religion, creed, national origin or ancestry, sex, gender identity, age, marital or domestic partner status, sexual orientation or disability (including HIV or AIDS status). This policy also requires that employee benefits be equally available to domestic partners as they are to spouses.

#### **3. Minimum Compensation Policy and Health Care Accountability Policies**

The Agency's Minimum Compensation Policy ("MCP") and Health Care Accountability Policy ("HCAP") were adopted by Agency Resolution 168-2001 on September 25, 2001 and may be amended from time to time. MCP requires that all "Covered Employees," as defined therein, receive a minimum level of compensation. HCAP requires offering health plan benefits to Covered Employees or to make payments to the City and County of San Francisco's Department of Public Health, or to participate in a health benefits program developed by the City and County of San Francisco's Director of Health.

4. **Agency's Prevailing Wage Policy**

The Agency's Prevailing Wage Policy (Labor Standards) was adopted by Agency Resolution No. 327-85 on November 12, 1985 and may be amended from time to time. The Agency's Prevailing Wage Policy applies to projects: (i) covered under Labor Code Section 1720 *et seq.*, (ii) that are Agency-Action Projects) or (iii) for which the Project Sponsor has voluntarily subscribed to this requirement. The Agency's Prevailing Wage Policy references the State's Labor Standards and the prevailing wage, benefits, eligibility, etc. are all calculated using the State's standards. In many instances, both the California Labor Code and the Agency's Prevailing Wage Policy will apply.

**XI. EMPLOYMENT AND CONTRACTING POLICY - ADDITIONAL PROVISIONS**

Project Sponsors, Contractors and Employers that are subject to this Employment and Contracting Policy (including those who have voluntarily subscribed to this policy) are subject to the following additional provisions.

1. **Designate a Point of Contact**

Each Project Sponsor, Contractor and Employer shall designate a responsible representative, manager or agent to monitor all employment-related activity under this Employment and Contracting Policy and to be the primary point of contact for issues arising under this policy.

2. **No Retaliation**

No person hired pursuant to this policy shall be discharged or in any other manner discriminated against by the Project Sponsor, Contractor or Employer because such person has filed any complaint or instituted or caused to be instituted any proceeding under or relating to enforcement of this Employment and Contracting Policy.

3. **No Discrimination**

There shall be no discrimination against or segregation of any person, or group of persons, on account of race, color, religion, creed, national origin or ancestry, sex, gender identity, age, marital or domestic partner status, sexual orientation or disability (including HIV or AIDS status). The Project Sponsor, Contractors and Employers will ensure that applicants are employed, and that persons are treated during employment, without regard to their race, color, religion, creed, national origin or ancestry, sex, gender identity, age, marital or domestic partner status, sexual orientation or disability (including HIV or AIDS status) or other protected class status. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or

recruitment advertising; layoff or termination; rates of pay or other forms of compensation; selection for training, including apprenticeship; and provision of any services or accommodations.

4. **Collective Bargaining Exclusion**

Notwithstanding anything to the contrary in this Employment and Contracting Policy, if an Agreement conflicts with an existing labor agreement or collective bargaining agreement to which a Project Sponsor, Contractor or Employer is a party, the labor agreement or collective bargaining agreement shall prevail. Nothing in this Employment and Contracting Policy shall be interpreted to interfere with or prohibit existing labor agreements or collective bargaining agreements. However, the Project Sponsor, Contractor or Employer will still be obligated to provide workforce needs information to the CBO prior to hiring and the Employer will be obligated to make good faith efforts to comply with the requirements of its Employment and Contracting Policy Agreement that do not conflict with the collective bargaining agreement.

5. **No Conflict with State or Federal Law**

This Employment and Contracting Policy is to be implemented in a manner that does not conflict with applicable federal or state laws.

6. **Existing Workforce**

Nothing in this Employment and Contracting Policy shall be interpreted in a manner that would require termination of the Project Sponsor's, Contractor's or Employer's existing workers and employees.

7. **Use of Debarred Entities Prohibited**

Neither the Project Sponsor, Contractor nor Employer shall enter into any subcontract with any person or firm that the Project Sponsor, Contractor or Employer knows or should have known is debarred from federal, state or local government contracts.

8. **Incorporation**

Whenever the Project Sponsor, Contractor or Employer subcontracts a portion of the work, it shall set forth verbatim and make binding on each subcontractor the provisions of this Employment and Contracting Policy. That subcontract shall then be deemed a Contractor or Employer for the purposes of this Employment and Contracting Policy and shall be subject to all of the requirements hereto.

9. **Severability**

If any part or provision of this Employment and Contracting Policy or the application thereof to any person or circumstance is held to be invalid, then the remainder of this Employment and Contracting Policy, including the application of such part or provision to other persons or circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, the provisions of this Employment and Contracting Policy are severable.

10. **Waiver**

Any of the Employment and Contracting Policy requirements may be waived by the Agency's Executive Director, if he/she determines for good cause shown that a specific requirement

is not relevant to the particular situation, would cause undue hardship, or that an alternative approach would better meet the goals of the Employment and Contracting Policy.

## **XII. ARBITRATION OF DISPUTES**

### **1. Arbitration by AAA**

Any dispute involving the alleged breach or enforcement of an Employment and Contracting Policy Agreement, including but not limited to disputes over qualification of referrals; whether termination was for good cause; and whether the Project Sponsor, Contractor or Employer has complied with this Employment and Contracting Policy Agreement in good faith shall be submitted to arbitration. The arbitration shall be submitted to the American Arbitration Association, San Francisco, California office ("AAA") which will use the Commercial Rules of the AAA then applicable, but subject to the further revisions thereof. If there is a conflict between the Commercial Rules of the AAA and the arbitration provisions in this Employment and Contracting Policy, this Employment and Contracting Policy shall govern. The arbitration shall take place in the City and County of San Francisco.

### **2. Demand for Arbitration**

The party seeking arbitration shall make a written demand for arbitration ("Demand for Arbitration"). The Demand for Arbitration shall contain at a minimum: (1) a cover letter demanding arbitration under this provision and identifying the entities believed to be involved in the dispute; (2) a copy of the notice of default, if any, sent from one party to the other; and (3) any written response to the notice of default.

### **3. Parties' Participation**

The Agency, Project Sponsor, Contractor, Employer and all persons or entities affected by the dispute shall be made Arbitration Parties. Any such person or entity not made an Arbitration Party in the Demand for Arbitration may intervene as an Arbitration Party and in turn may name any other such affected person or entity as an Arbitration Party.

### **4. Agency Request to AAA**

Within seven (7) business days after service or receipt of a Demand for Arbitration, the Agency shall transmit to AAA a copy of the Demand for Arbitration and any written response thereto from the Project Sponsor, Contractor and/or Employer. Such material shall be made part of the arbitration record.

### **5. Selection of Arbitrator**

One arbitrator shall arbitrate the dispute. The arbitrator shall be selected from the panel of arbitrators from AAA by the Arbitration Parties in accordance with the AAA rules. The parties shall act diligently in this regard. If the Arbitration Parties fail to agree on an arbitrator within seven (7) business days from the receipt of the panel, AAA shall appoint the arbitrator. A condition to the selection of any arbitrator shall be the arbitrator's agreement to: (i) submit to all Arbitration Parties the disclosure statement required under California Code of Civil Procedure Section 1281.9; and (ii) render a decision within thirty (30) days from the date of the conclusion of the arbitration hearing.

6. **Setting of Arbitration Hearing**

A hearing shall be held within ninety (90) days of the date of the filing of the Demand for Arbitration with AAA, unless otherwise agreed by the parties. The arbitrator shall set the date, time and place for the arbitration hearing(s) within the prescribed time periods by giving notice by hand delivery or first class mail to each Arbitration Party.

7. **Discovery**

In arbitration proceedings hereunder, discovery shall be permitted in accordance with Code of Civil Procedure §1283.05 as it may be amended from time to time.

8. **California Law Applies**

California law, including the California Arbitration Act, Code of Civil Procedure §§ 1280 through 1294.2, shall govern all arbitration proceedings in any Employment and Contracting Agreement.

9. **Arbitration Remedies and Sanctions**

The arbitrator may impose only the remedies and sanctions set forth below:

a. Order specific, reasonable actions and procedures, in the form of a temporary restraining order, preliminary injunction or permanent injunction, to mitigate the effects of the non-compliance and/or to bring any non-compliant Arbitration Party into compliance with the Employment and Contracting Policy Agreement.

b. Require any Arbitration Party to refrain from entering into new contracts related to work covered by the Employment and Contracting Policy Agreement, or from granting extensions or other modifications to existing contracts related to services covered by the Employment and Contracting Policy Agreement, other than those minor modifications or extensions necessary to enable compliance with the Employment and Contracting Policy Agreement.

c. Direct any Arbitration Party to cancel, terminate, suspend or cause to be cancelled; terminated or suspended, any contract or portion(s) thereof for failure of any Arbitration Party to comply with any of the requirements in the Employment and Contracting Policy Agreement. Contracts may be continued upon the condition that a program for future compliance is approved by the Agency.

d. If any Arbitration Party is found to be in willful breach of its obligations hereunder, the arbitrator may impose a monetary sanction not to exceed Fifty Thousand Dollars (\$50,000.00) or ten percent (10%) of the base amount of the breaching party's contract, whichever is less, for each such willful breach; provided that, in determining the amount of any monetary sanction to be assessed, the arbitrator shall consider the financial capacity of the breaching party. No monetary sanction shall be imposed pursuant to this paragraph for the first willful breach of the Employment and Contracting Policy Agreement unless the breaching party has failed to cure after being provided written notice and a reasonable opportunity to cure. Monetary sanctions may be imposed for subsequent willful breaches by any Arbitration Party

whether or not the breach is subsequently cured. For purposes of this paragraph, "willful breach" means a knowing and intentional breach.

e. Direct any Arbitration Party to produce and provide to the Agency any records, data or reports which are necessary to determine if a violation has occurred and/or to monitor the performance of any Arbitration Party.

10. **Arbitrator's Decision**

The arbitrator will normally make his or her award within twenty (20) days after the date that the hearing is completed but in no event past thirty (30) days from the conclusion of the arbitration hearing; provided that where a temporary restraining order is sought, the arbitrator shall make his or her award not later than twenty-four (24) hours after the hearing on the motion. The arbitrator shall send the decision by certified or registered mail to each Arbitration Party.

11. **Default Award; No Requirement to Seek an Order Compelling Arbitration**

The arbitrator may enter a default award against any person or entity who fails to appear at the hearing; provided that: (1) the person or entity received actual notice of the hearing; and (2) the complaining party has a proof of service for the absent person or entity. In order to obtain a default award, the complaining party need not first seek or obtain an order to arbitrate the controversy pursuant to Code of Civil Procedure §1281.2.

12. **Arbitrator Lacks Power to Modify**

Except as expressly provided above in this Section XII, the arbitrator shall have no power to add to, subtract from, disregard, modify or otherwise alter the terms of the Employment and Contracting Policy Agreement or to negotiate new agreements or provisions between the parties.

13. **Jurisdiction/Entry of Judgment**

The inquiry of the arbitrator shall be restricted to the particular controversy which gave rise to the Demand for Arbitration. A decision of the arbitrator issued hereunder shall be final and binding upon all Arbitration Parties. The prevailing Arbitration Party (ies) shall be entitled to reimbursement for the arbitrator's fees and related costs of arbitration. Each Arbitration Party shall pay its own attorneys' fees, provided, however, that attorneys' fees may be awarded to the prevailing party if the arbitrator finds that the arbitration action was instituted, litigated, or defended in bad faith. Judgment upon the arbitrator's decision may be entered in any court of competent jurisdiction.



**BVHP EMPLOYMENT AND CONTRACTING POLICY MATRIX**

	Agency-Action Projects	Private Significant Projects	City/BUILD & Public Improvements	Small Private Projects
BVHP Employment and Contracting Policy	Mandatory <sup>6</sup>	Mandatory	Voluntary but Encouraged	Voluntary but Encouraged
Small Business Enterprise Policy	Mandatory	Voluntary but Encouraged <sup>7</sup>	Voluntary but Encouraged	Voluntary but Encouraged
Nondiscrimination and Equal Benefits Policy	Mandatory	Voluntary but Encouraged	Voluntary but Encouraged	Voluntary but Encouraged
Minimum Compensation Policy	Mandatory	Voluntary but Encouraged	Voluntary but Encouraged	Voluntary but Encouraged
Healthcare Accountability Policy	Mandatory	Voluntary but Encouraged	Voluntary but Encouraged	Voluntary but Encouraged
Agency's Prevailing Wage Policy	Mandatory	Voluntary but Encouraged	Voluntary but Encouraged <sup>8</sup>	Voluntary but Encouraged

<sup>6</sup> Mandatory means that the Project Sponsor is required to comply with the Agency's policy. However, each Agency policy has its own threshold and compliance requirements. For example, the Agency's Minimum Compensation Policy ("MCP") will apply to all Agency-Action projects but MCP has no compliance requirements for Project Sponsors with less than 25 employees.

<sup>7</sup> Voluntary but Encouraged means that the Project Sponsor is not required to comply with the Agency's policy as a condition to developing the project. However, the Agency's Contract Compliance Department will encourage the Project Sponsor to subscribe voluntarily to these Agency policies. If the Project Sponsor voluntarily agrees to comply with one or more Agency's policies, then those policies will be added as a condition to the building permit and at that point will become mandatory.

<sup>8</sup> Public Improvements and public/private project receiving City funds are subject to the State of California's prevailing wage requirements per California Labor Code Section 1720 *et seq.*

1  
2  
3  
4

**ATTACHMENT 6  
INCOME COMPUTATION AND CERTIFICATION**

# TENANT INCOME CERTIFICATION

Initial Certification    Recertification    Other \_\_\_\_\_

Effective Date: \_\_\_\_\_  
 Move-in Date: \_\_\_\_\_  
 (MM/DD/YYYY)

## PART I - DEVELOPMENT DATA

Property Name: \_\_\_\_\_ County: \_\_\_\_\_ BIN #: \_\_\_\_\_  
 Address: \_\_\_\_\_ Unit Number: \_\_\_\_\_ # Bedrooms: \_\_\_\_\_

## PART II. HOUSEHOLD COMPOSITION

HH Mbr #	Last Name	First Name & Middle Initial	Relationship to Head of Household	Date of Birth (MM/DD/YYYY)	F/T Student (Y or N)	Social Security or Alien Reg. No.
1			HEAD			
2						
3						
4						
5						
6						
7						

## PART III. GROSS ANNUAL INCOME (USE ANNUAL AMOUNTS)

HH Mbr #	(A) Employment or Wages	(B) Soc. Security/Pensions	(C) Public Assistance	(D) Other Income
<b>TOTALS</b>	\$ _____	\$ _____	\$ _____	\$ _____
Add totals from (A) through (D), above			<b>TOTAL INCOME (E):</b>	\$ _____

## PART IV. INCOME FROM ASSETS

Hshld Mbr #	(F) Type of Asset	(G) C/I	(H) Cash Value of Asset	(I) Annual Income from Asset
<b>TOTALS:</b>			\$ _____	\$ _____
Enter Column (H) Total If over \$5000		\$ _____ X	Passbook Rate 2.00%	= (J) Imputed Income \$ _____
Enter the greater of the total of column I, or J; imputed income			<b>TOTAL INCOME FROM ASSETS (K)</b>	\$ _____
<b>(L) Total Annual Household Income from all Sources [Add (E) + (K)]</b>				\$ _____

## HOUSEHOLD CERTIFICATION & SIGNATURES

The information on this form will be used to determine maximum income eligibility. I/we have provided for each person(s) set forth in Part II acceptable verification of current anticipated annual income. I/we agree to notify the landlord immediately upon any member of the household moving out of the unit or any new member moving in. I/we agree to notify the landlord immediately upon any member becoming a full time student.

Under penalties of perjury, I/we certify that the information presented in this Certification is true and accurate to the best of my/our knowledge and belief. The undersigned further understands that providing false representations herein constitutes an act of fraud. False, misleading or incomplete information may result in the termination of the lease agreement.

Signature	(Date)	Signature	(Date)
Signature	(Date)	Signature	(Date)

**PART V. DETERMINATION OF INCOME ELIGIBILITY**

**RECERTIFICATION ONLY:**

TOTAL ANNUAL HOUSEHOLD INCOME FROM ALL SOURCES: From item (L) on page 1

\$

Household Meets Income Restriction at:

- 60%    50%  
 40%    30%  
 \_\_\_\_\_%

Current Income Limit x 140%:

\$ \_\_\_\_\_  
 Household income exceeds 140% at recertification:  
 Yes    No

Current Income Limit per Family Size: \$ \_\_\_\_\_

Household Income at Move-in: \$ \_\_\_\_\_

Household Size at Move-in: \_\_\_\_\_

**PART VI. RENT**

Tenant Paid Rent \$ \_\_\_\_\_  
 Utility Allowance \$ \_\_\_\_\_

Rent Assistance: \$ \_\_\_\_\_  
 Other non-optional charges: \$ \_\_\_\_\_

GROSS RENT FOR UNIT: (Tenant paid rent plus Utility Allowance & other non-optional charges)

\$

Unit Meets Rent Restriction at:

- 60%    50%    40%    30%    \_\_\_\_\_%

Maximum Rent Limit for this unit: \$ \_\_\_\_\_

**PART VII. STUDENT STATUS**

ARE ALL OCCUPANTS FULL TIME STUDENTS?

- yes    no

If yes, Enter student explanation\* (also attach documentation)

\*Student Explanation:

- 1 TANF assistance
- 2 Job Training Program
- 3 Single parent/dependent child
- 4 Married/joint return

Enter 1-4

**PART VIII. PROGRAM TYPE**

Mark the program(s) listed below (a. through e.) for which this household's unit will be counted toward the property's occupancy requirements. Under each program marked, indicate the household's income status as established by this certification/recertification.

a. Tax Credit

See Part V above.

b. HOME

Income Status

- ≤ 50% AMGI  
 ≤ 60% AMGI  
 ≤ 80% AMGI  
 OI\*\*

c. Tax Exempt

Income Status

- 50% AMGI  
 60% AMGI  
 80% AMGI  
 OI\*\*

d. AHDP

Income Status

- 50% AMGI  
 80% AMGI  
 OI\*\*

e. \_\_\_\_\_   
 (Name of Program)

Income Status

- \_\_\_\_\_  
 \_\_\_\_\_  
 OI\*\*

\*\* Upon recertification, household was determined over-income (OI) according to eligibility requirements of the program(s) marked above.

**SIGNATURE OF OWNER/REPRESENTATIVE**

Based on the representations herein and upon the proofs and documentation required to be submitted, the individual(s) named in Part II of this Tenant Income Certification is/are eligible under the provisions of Section 42 of the Internal Revenue Code, as amended, and the Land Use Restriction Agreement (if applicable), to live in a unit in this Project.

\_\_\_\_\_  
 SIGNATURE OF OWNER/REPRESENTATIVE

\_\_\_\_\_  
 DATE

# INSTRUCTIONS FOR COMPLETING TENANT INCOME CERTIFICATION

*This form is to be completed by the owner or an authorized representative.*

## Part I - Development Data

Check the appropriate box for Initial Certification (move-in), Recertification (annual recertification), or Other. If Other, designate the purpose of the recertification (i.e., a unit transfer, a change in household composition, or other state-required recertification).

- Move-in Date                      Enter the date the tenant has or will take occupancy of the unit.
- Effective Date                    Enter the effective date of the certification. For move-in, this should be the move-in date. For annual recertification, this effective date should be no later than one year from the effective date of the previous (re)certification.
- Property Name                    Enter the name of the development.
- County                              Enter the county (or equivalent) in which the building is located.
- BIN #                                Enter the Building Identification Number (BIN) assigned to the building (from IRS Form 8609).
- Address                             Enter the address of the building.
- Unit Number                        Enter the unit number.
- # Bedrooms                         Enter the number of bedrooms in the unit.

## Part II - Household Composition

List all occupants of the unit. State each household member's relationship to the head of household by using one of the following coded definitions:

- |   |   |                   |   |   |                            |
|---|---|-------------------|---|---|----------------------------|
| H | - | Head of Household | S | - | Spouse                     |
| A | - | Adult co-tenant   | O | - | Other family member        |
| C | - | Child             | F | - | Foster child(ren)/adult(s) |
| L | - | Live-in caretaker | N | - | None of the above          |

Enter the date of birth, student status, and social security number or alien registration number for each occupant.

*If there are more than 7 occupants, use an additional sheet of paper to list the remaining household members and attach it to the certification.*

## Part III - Annual Income

See HUD Handbook 4350.3 for complete instructions on verifying and calculating income, including acceptable forms of verification.

From the third party verification forms obtained from each income source, enter the gross amount anticipated to be received for the twelve months from the effective date of the (re)certification. Complete a separate line for each income-earning member. List the respective household member number from Part II.

- Column (A)                      Enter the annual amount of wages, salaries, tips, commissions, bonuses, and other income from employment; distributed profits and/or net income from a business.
- Column (B)                      Enter the annual amount of Social Security, Supplemental Security Income, pensions, military retirement, etc.
- Column (C)                      Enter the annual amount of income received from public assistance (i.e., TANF, general assistance, disability, etc.).

Column (D) Enter the annual amount of alimony, child support, unemployment benefits, or any other income regularly received by the household.

Row (E) Add the totals from columns (A) through (D), above. Enter this amount.

#### Part IV - Income from Assets

See HUD Handbook 4350.3 for complete instructions on verifying and calculating income from assets, including acceptable forms of verification.

From the third party verification forms obtained from each asset source, list the gross amount anticipated to be received during the twelve months from the effective date of the certification. List the respective household member number from Part II and complete a separate line for each member.

Column (F) List the type of asset (i.e., checking account, savings account, etc.)

Column (G) Enter C (for current, if the family currently owns or holds the asset), or I (for imputed, if the family has disposed of the asset for less than fair market value within two years of the effective date of (re)certification).

Column (H) Enter the cash value of the respective asset.

Column (I) Enter the anticipated annual income from the asset (i.e., savings account balance multiplied by the annual interest rate).

TOTALS Add the total of Column (H) and Column (I), respectively.

If the total in Column (H) is greater than \$5,000, you must do an imputed calculation of asset income. Enter the Total Cash Value, multiply by 2% and enter the amount in (J), Imputed Income.

Row (K) Enter the greater of the total in Column (I) or (J)

Row (L) Total Annual Household Income From all Sources Add (E) and (K) and enter the total

#### HOUSEHOLD CERTIFICATION AND SIGNATURES

After all verifications of income and/or assets have been received and calculated, each household member age 18 or older must sign and date the Tenant Income Certification. For move-in, it is recommended that the Tenant Income Certification be signed no earlier than 5 days prior to the effective date of the certification.

#### Part V - Determination of Income Eligibility

Total Annual Household Income from all Sources Enter the number from item (L).

Current Income Limit per Family Size Enter the Current Move-in Income Limit for the household size.

Household income at move-in Household size at move-in For recertifications, only. Enter the household income from the move-in certification. On the adjacent line, enter the number of household members from the move-in certification.

Household Meets Income Restriction Check the appropriate box for the income restriction that the household meets according to what is required by the set-aside(s) for the project.

Current Income Limit x 140% For recertifications only. Multiply the Current Maximum Move-in Income Limit by 140% and enter the total. Below, indicate whether the household income exceeds that total. If the Gross Annual Income at recertification is greater than 140% of the current income limit, then the available unit rule must be followed.

**Part VI - Rent**

- Tenant Paid Rent Enter the amount the tenant pays toward rent (not including rent assistance payments such as Section 8).
- Rent Assistance Enter the amount of rent assistance, if any.
- Utility Allowance Enter the utility allowance. If the owner pays all utilities, enter zero.
- Other non-optional charges Enter the amount of non-optional charges, such as mandatory garage rent, storage lockers, charges for services provided by the development, etc.
- Gross Rent for Unit Enter the total of Tenant Paid Rent plus Utility Allowance and other non-optional charges.
- Maximum Rent Limit for this unit Enter the maximum allowable gross rent for the unit.
- Unit Meets Rent Restriction at Check the appropriate rent restriction that the unit meets according to what is required by the set-aside(s) for the project.

**Part VII - Student Status**

If all household members are full time\* students, check "yes". If at least one household member is not a full time student, check "no".

If "yes" is checked, the appropriate exemption must be listed in the box to the right. If none of the exemptions apply, the household is ineligible to rent the unit.

*\*Full time is determined by the school the student attends.*

**Part VIII - Program Type**

Mark the program(s) for which this household's unit will be counted toward the property's occupancy requirements. Under each program marked, indicate the household's income status as established by this certification/recertification. If the property does not participate in the HOME, Tax-Exempt Bond, Affordable Housing Disposition, or other housing program, leave those sections blank.

- Tax Credit See Part V above.
- HOME If the property participates in the HOME program and the unit this household will occupy will count towards the HOME program set-asides, mark the appropriate box indicating the household's designation.
- Tax Exempt If the property participates in the Tax Exempt Bond program, mark the appropriate box indicating the household's designation.
- AHDP If the property participates in the Affordable Housing Disposition Program (AHDP), and this household's unit will count towards the set-aside requirements, mark the appropriate box indicating the household's designation.
- Other If the property participates in any other affordable housing program, complete the information as appropriate.

**SIGNATURE OF OWNER/REPRESENTATIVE**

It is the responsibility of the owner or the owner's representative to sign and date this document immediately following execution by the resident(s).

The responsibility of documenting and determining eligibility (including completing and signing the Tenant Income Certification form) and ensuring such documentation is kept in the tenant file is extremely important and should be conducted by someone well trained in tax credit compliance.

*These instructions should not be considered a complete guide on tax credit compliance. The responsibility for compliance with federal program regulations lies with the owner of the building(s) for which the credit is allowable.*

**FORM SFEC-126:**  
**NOTIFICATION OF CONTRACT APPROVAL**  
 (S.F. Campaign and Governmental Conduct Code § 1.126)

<b>City Elective Officer Information</b> <i>(Please print clearly.)</i>	
Name of City elective officer(s): Members, Board of Supervisors	City elective office(s) held: Members, Board of Supervisors

<b>Contractor Information</b> <i>(Please print clearly.)</i>	
Name of contractor: Bayview Supportive Housing, LLC, a California limited liability company	
<i>Please list the names of (1) members of the contractor's board of directors; (2) the contractor's chief executive officer, chief financial officer and chief operating officer; (3) any person who has an ownership of 20 percent or more in the contractor; (4) any subcontractor listed in the bid or contract; and (5) any political committee sponsored or controlled by the contractor. Use additional pages as necessary.</i>	
Bayview Supportive Housing, LLC, a California limited liability company comprised of the Bayview Hunters Point Multipurpose Senior Services Inc, a California nonprofit benefit corporation (50%) and MBA Development Corp, a Missouri corporation (50%).	
Contractor address: 720 Olive Street, Suite 2500, St Louis; MO 63101	
Date that contract was approved: <i>(By the SF Board of Supervisors)</i>	Amount of contract: 55 years lease plus 44 year option. \$15,000 annually
Describe the nature of the contract that was approved: Approved and authorized the execution of a ground lease agreement between the Redevelopment Agency and Bayview Supportive Housing LLC, a California limited liability company, for land located at 5800 Third Street, Lot 3 (northwest corner of larger 5800 Third Street lot), Assessor's Block 5431A, Lot 042, for a term of 55 years for the development of very low-income senior housing.	
Comments:	

This contract was approved by (check applicable):

the City elective officer(s) identified on this form

a board on which the City elective officer(s) serves: San Francisco Board of Supervisors  
Print Name of Board

the board of a state agency (Health Authority, Housing Authority Commission, Industrial Development Authority Board, Parking Authority, Redevelopment Agency Commission, Relocation Appeals Board, Treasure Island Development Authority) on which an appointee of the City elective officer(s) identified on this form sits

Print Name of Board

<b>Filer Information</b> <i>(Please print clearly.)</i>	
Name of filer: Angela Calvillo, Clerk of the Board	Contact telephone number: (415) 554-5184
Address: City Hall, Room 244, 1 Dr. Carlton B. Goodlett Pl., San Francisco, CA 94102	E-mail: Board.of.Supervisors@sfgov.org

\_\_\_\_\_  
 Signature of City Elective Officer (if submitted by City elective officer)

\_\_\_\_\_  
 Date Signed

\_\_\_\_\_  
 Signature of Board Secretary or Clerk (if submitted by Board Secretary or Clerk)

\_\_\_\_\_  
 Date Signed