

**From:** [Marco Isakov](#)  
**To:** [Jalipa, Brent \(BOS\)](#)  
**Subject:** Baker Places Comments  
**Date:** Wednesday, November 9, 2022 1:50:59 PM  
**Attachments:** [BakerPlaces\\_WhistleBlowerCase\\_2020\\_Highlighted.pdf](#)

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#### ITEM 14. 221113 - Hearing DPH Secondary Policies and Banker Places, Inc.

San Francisco Department of Public Health has been on notice, since at least 2018, that Baker Places/PRC has mishandled funds and has not met the basic guidelines for the programs they run. How is it that they have continued to operate, receiving millions of dollars each year, with so little scrutiny and accountability? We would like to present a whistleblower retaliation lawsuit that was filed in SF Superior Court in Jan 2020 regarding a former Baker Places' employee who should have been protected by San Francisco's Whistleblower Protection Ordinance.

Mr. Erland Torrico was hired in early 2018 to "improve and raise units of service utilization" as well as "to improve department finances, increase staff morale, increase staff support, increase client participation in services offered." "Mr. Torrico conducted a comprehensive review of Baker's treatment plans, client lengths of stay, service delivery, and what the department was getting paid for under Baker's contract with San Francisco County. Within only a month of being hired . . .Torrico had concluded that Baker was not in compliance with the provision of assisted transitional living services to its clients."

"Baker Places contracts with the County of SF to provide transitional housing and services for clients with mental and physical health treatment designed to move clients to other programs to progressively greater independence. Having clients transition out of Baker . . .is critical so that other acute individuals could benefit from Baker's programs and services. Instead . . .Baker frequently merely "warehoused" clients in some cases for up to fifteen years with no recurring diagnosis while collecting substantial sums from the SF County of Public Health, Medi-Cal funds and their Client's Social Security checks . . ."

After Torrico reported to the Baker Defendants, and subsequently to San Francisco County officials what amounted to years of violations of Baker's contract with the County of San Francisco for the provision of treatment and related services to individuals with substance abuse and mental health disabilities . . .When San Francisco audited Baker and found numerous deficiencies, false claims and other irregularities, it demanded repayment to San Francisco of approximately \$342k in County and Medi-Cal funds; within a day of the announcement of the audit results, (John) Fostel called Torrico into his office, told Torrico the audit was his fault, that a clawback of \$342k was not survivable and terminated him."

I hope you will take the time to read the attached demand. San Francisco has been on notice since 2018 when Mr. Torrico reported his findings, that Baker Places has not been operating appropriately. I also hope you consider requesting Mr. Torrico take on a position within SFDPH to evaluate other DPH programs. He should have been rewarded for this work and not fired.



**SUMMONS  
(CITACION JUDICIAL)**

FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)

**NOTICE TO DEFENDANT:  
(AVISO AL DEMANDADO):**

BAKER PLACE, JOHN FOSTEL, SCOTT ARAI and DOES 1-25

**YOU ARE BEING SUED BY PLAINTIFF:  
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

ERLAND TORRICO

**NOTICE!** You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California, ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:  
(El nombre y dirección de la corte es):

San Francisco Superior Court  
400 McAllister St. San Francisco, CA 94102-4515

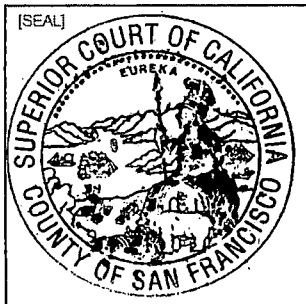
NUMBER  
**06-20-582011**

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):  
Frederick J. Geonetta 114824 510 254-3777  
825 Washington Street, Suite 220 Oakland California 94607

DATE: **JAN 06 2020** Clerk of the Court Clerk, by Deputy  
(Fecha) (Secretario) *[Signature]* (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)  
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)). **ANGELICA SUNGA**



**NOTICE TO THE PERSON SERVED:** You are served

1.  as an individual defendant.
2.  as the person sued under the fictitious name of (specify):
3.  on behalf of (specify):  
under:  CCP 416.10 (corporation)  CCP 416.60 (minor)  
 CCP 416.20 (defunct corporation)  CCP 416.70 (conservatee)  
 CCP 416.40 (association or partnership)  CCP 416.90 (authorized person)  
 other (specify):
4.  by personal delivery on (date):

BY FAX

1 FREDERICK J. GEONETTA, State Bar No. 114824  
2 KENNETH FRUCHT, State Bar No. 178881  
3 **GEONETTA & FRUCHT, LLP**  
4 825 Washington Street, Suite 220  
5 Oakland, CA 94607  
6 Telephone: (510) 254-3777

7 Attorneys for Plaintiff Erland Torrico

**FILED**  
SUPERIOR COURT  
COUNTY OF SAN FRANCISCO

JAN 06 2020

CLERK OF THE COURT

BY:   
Deputy Clerk

ANGELICA SUNGA

8 **SUPERIOR COURT OF CALIFORNIA**  
9 **FOR THE CITY AND COUNTY OF SAN FRANCISCO**

10 **[UNLIMITED JURISDICTION]**

11  
12 **ERLAND TORRICO,**

13 Plaintiff,

14 v.

15 **BAKER PLACE, JOHN FOSTEL,**  
16 **SCOTT ARAI and DOES 1-25,**  
17 inclusive,

18 Defendants.

CASE NO.: **CGC-20-582011**

**COMPLAINT FOR DAMAGES**

1. Retaliation in Violation of Labor Code § 1102.5 Whistleblower
2. Wrongful Termination In Violation of Public Policy
3. Intentional Infliction of Emotional Distress

**DEMAND FOR JURY TRIAL**

19 **Plaintiff, DEMANDING TRIAL BY JURY, ALLEGES AS FOLLOWS:**

20  
21 **INTRODUCTION**

22 This action arises out of the open hostility, retaliation and wrongful termination of  
23 Plaintiff Erland Torrico ("Torrico"), by Defendants Baker Place ("Baker"), John Fostel  
24 ("Fostel") and Scott Arai ("Arai") (collectively the "Baker Defendants"), after Torrico reported  
25 to the Baker Defendants, and subsequently to San Francisco County officials, what amounted  
26 to years of violations of Baker's contract with the County of San Francisco for the provision of  
27 treatment and related services to individuals with substance abuse and mental health

28 **COMPLAINT FOR DAMAGES**  
**ERLAND TORRICO v. BAKER PLACE, et al. COURT CASE NO.**

**BY FAX**

1 disabilities in the City and County of San Francisco. When San Francisco audited Baker and  
2 found numerous deficiencies, false claims and other irregularities, it demanded repayment to  
3 San Francisco of approximately \$342,000.00 in County and Medi-Cal funds; within a day Of  
4 announcement of the audit results, Defendant Fostel called Torrico into his office, told Torrico  
5 the audit was his fault, that a claw back of \$342,000.00 was “not survivable,” and terminated  
6 him.

7 This lawsuit seeks to remedy and compensate Torrico for the harm that has been done  
8 him, and to address the problem of Defendants’ failure to follow the law in managing Baker’s  
9 programs, and for filing irresponsible and fraudulent claims for public funds.

10 **PARTIES**

11 1. Plaintiff Erland Torrico (“Torrico” or “PLAINTIFF”) is an individual and  
12 was at all times relevant herein a California resident, living and working in the City and  
13 County of San Francisco. Torrico has earned both an MBA and a master’s degree in Social  
14 Work. Torrico worked for Defendant Baker at its office at 120 Page Street in San Francisco  
15 for approximately ten months before Defendants unlawfully terminated him on December  
16 27, 2018.

17 2. Defendant Baker Place (“Baker”) is, and was at all times herein mentioned, a  
18 not for profit non-government entity duly organized and existing under the law of the State  
19 of California. Baker conducts its operation in the City and County of San Francisco and  
20 operates several business units. These include a division that contracts with the City and  
21 County of San Francisco to provide mental health and other health and welfare related  
22 services to acute persons with severe mental and physical health disorders, including those  
23 with HIV/AIDS who, without Baker’s programs, have a high probability of homelessness  
24 and of living on the streets. Baker operates many residential programs which ostensibly  
25 provide a structured, supportive therapeutic community where residents can work through  
26 emotional difficulties and learn or re-learn practical living and social skills in order to live  
27

1 more independent and self-directed lives. Baker is supposed to offer transitional programs to  
2 move clients into less acute care as they progress toward independent living. Baker accepts  
3 adults with psychiatric history, dually diagnosed clients (psychiatric and drug/alcohol  
4 addiction), and people with HIV/AIDS. Baker employs 24-hour staffing and its Clients  
5 supposedly can only stay at its facilities for 3-5 months. Baker also runs a 21-day  
6 detoxification program called Joe Healey detox on 2<sup>nd</sup> floor of 120 Page St. From there the  
7 Clients move on to residential treatment facilities that are for 90 days. These residential  
8 facilities differ in specialty and population served as set forth in Paragraph 13, *infra*. Once  
9 Clients complete these programs they can move on to the assisted independent living  
10 program (18 month stay per county contract) or Baker supported living program (6 months)  
11 receiving mental health and other services while preparing to transition to other programs  
12 and eventually to independent living. Baker receives substantial public sums from its  
13 clients' Social Security benefits and from Medi-Cal payments.

14 3. Defendant John Fostel ("Fostel") was at times relevant herein a Baker  
15 employee at its San Francisco office, serving as its Chief Clinical Officer and Torrico's  
16 supervisor.

17 4. Defendant SCOTT ARAI ("Arai") was at times relevant herein a Baker  
18 employee at its San Francisco office. Arai blamed Torrico for the audit described *infra*, and  
19 told him to leave Baker if he did not want to participate in Baker policies and practices that  
20 Torrico believed violated its contract with the City and County of San Francisco as more  
21 fully described *infra*.

22 5. At all times relevant herein, Baker qualified as an "employer" as defined  
23 within California Fair Employment and Housing Act (California Government Code 12940,  
24 *et. seq.*, or "FEHA"), in that it regularly employed five or more employees.

25 6. At all times relevant herein, Baker employed Torrico under an employment  
26 agreement that was partly written, partly oral, and partly implied.

1. 7. The true names and capacities of Defendants sued in this Complaint under  
2 the fictitious name of DOES 1 through 25, inclusive, are presently unknown to Torrico who  
3 therefore sues defendants by such fictitious names.

4 8. Whenever reference is made in this complaint to any act of any defendant,  
5 such allegation shall mean that each defendant acted individually and jointly with the other  
6 defendants named in that cause of action.

7 9. Whenever reference is made in this complaint to any act of any defendant,  
8 such allegation shall mean that individuals or business entity did the acts alleged in the  
9 complaint by the individuals and through the business's other officers, directors, employees,  
10 agents and/or representatives while they were acting within the actual or ostensible scope of  
11 their employment and authority.

12 10. At all times relevant herein, each of the Defendants has acted as an agent,  
13 representative, or employee of each of the other Defendants and acted within the course and  
14 scope of said agency or representation or employment with respect to the causes of action in  
15 this complaint. At all relevant times each individual Defendant conspired with the others to  
16 engage in the acts alleged in this complaint, and each acted in furtherance of the conspiracy.  
17 Alternatively, each Defendant ratified and/or aided and abetted the acts of the others in  
18 engaging in the events alleged in this complaint.

19 **JURISDICTION & VENUE**

20 11. State policy favors jurisdiction and venue in San Francisco, California,  
21 because the State of California has a policy of protecting California residents and employees  
22 where they reside or work, including Torrico, and thus ensuring the applicability of  
23 California laws protecting employees and clients of San Francisco based Baker, and the  
24 lawful use of San Francisco's public funds. Venue is proper in this Court because Torrico's  
25 employment with Baker was in San Francisco, California.





1 embodied in the Baker Employee Handbook operative at the relevant time period as  
2 follows:

3       Non-Retaliation

4       If you have filed a complaint in good faith, you may not be disciplined or  
5       otherwise retaliated against, even if Baker Places, Inc. does not agree with  
6       your complaint.

7       17.     On February 19, 2018, Baker hired Torrico as project director of the Baker  
8       Adult Independent Living and Baker Supported Living programs, with a salary in six figures  
9       plus benefits. Torrico reported directly to Baker's Chief Clinical Officer, Defendant Fostel, and  
10       reported indirectly to Baker Chief Executive Officer Brett Andrews.

11       18.     Baker hired Torrico to improve and raise units of service utilization to over  
12       90%. Baker CEO Brett Andrews implied that Torrico would have 1 year to do so when he  
13       stated that one year is ample time to see change in a program and in a program's direction.  
14       Baker additionally tasked Torrico with reducing significant levels of unpaid fees and charges  
15       by clients/patients. Baker also hired Torrico to improve department finances, increase staff  
16       morale, increase staff support, increase client participation in services Baker offered as well as  
17       client confidence and buy-in into the program.

18       19.     Immediately following his hiring, and subject to Fostel's supervision and  
19       approval, Torrico engaged in meetings with Baker staff, and engaged in a comprehensive  
20       review of Baker's treatment plans, client lengths of stay or treatment, service delivery, and  
21       what the department was getting paid for under Baker's contract with San Francisco County.  
22       

23       20.     Torrico quickly learned of numerous irregularities in Baker policies and  
24       practices regarding assessment, treatment, the length of time clients participated in its  
25       programs, and in its claims for payment from Medi-Cal for these services. In short, Baker  
26       contracted with the County of San Francisco to provide transitional housing and services for  
27

1 clients, with mental and physical health treatment designed to move clients to other programs  
2 and to progressively greater independence. Having clients transition out of Baker as their  
3 situation improved is critical so that other acute individuals could benefit from Baker's  
4 programs and services. Instead of following its contractual obligations, Baker frequently  
5 merely "warehoused" clients in some cases for up to fifteen years with no recurring diagnosis,  
6 all the while collecting substantial sums from San Francisco County Department of Public  
7 Health ("SF DPH"), Medi-Cal funds and their Client's Social Security checks, without  
8 reassessing their mental and physical health status or their continued need for participation in  
9 Baker's or other programs. Within only a month of being hired, by March 2019, Torrico had  
10 concluded that Baker was not in compliance with the provision of assisted transitional living  
11 services to its clients. Torrico repeatedly warned Baker staff, usually Fostel, that Baker was not  
12 in compliance, that it was warehousing Clients and was not providing the appropriate level of  
13 care and services for each client and not billing appropriately for those services. Fostel in turn  
14 relayed Torrico's warnings to Arai who from time to time told Torrico not to create  
15 homelessness. Arai told Torrico that if he did not like it, Torrico should leave for other  
16 employment. "Warehousing" clients and collecting their social security payments (for monthly  
17 fees) for 7-15 years was denying other acute individuals access to Baker's services. Further, it  
18 failed to give the case managers anything to work on, as the clients previously had no  
19 professional assessment and diagnosis, which in turn resulted in low production or units of  
20 service not being utilized. Baker was under contract to provide transitional assisted living  
21 programs and services through Medi-Cal it did not provide. For up to 15 years Baker billed,  
22 and received funds from, Medi-Cal for such transitional services that it did not deliver.  
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25  
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1 of which is which is lawful and ethical practice, and intended to bring Baker into compliance  
2 with it contractual obligations with the County of San Francisco.

3 24. In late July 2018, Torrico received a call at work from Lucy Arellano  
4 (“Arellano”), a grievance officer at San Francisco Department of Public Health. A Baker client  
5 had grieved to San Francisco County falsely claiming that the Baker program was “kicking  
6 him out of his home”. Torrico answered Arellano’s questions honestly and completely. After  
7 her conversation with Torrico, Arellano determined that the grievance had no merit for many  
8 reasons.  
9

10 25. Around early August 2018, Thomas Mesa (“Mesa”), a Compliance Officer from  
11 Business Office Contract Compliance (BOCC) for the City and County of San Francisco  
12 Department of Public Health called Torrico to inquire about the client’s June letter and about  
13 Baker’s program. Mesa told Torrico his call was prompted by Torrico’s earlier conversation  
14 with Arellano. Mesa called Torrico at his Baker office. Like Arellano, Mesa also had Torrico’s  
15 June 2018 letter in hand. Mesa also asked questions about the June 2018 letter and about  
16 Baker’s program. Mesa stated that while Torrico had a good reputation for doing good work,  
17 Baker did not have a good reputation based on its past problems with compliance. At the  
18 conclusion of his call, Mesa gave Torrico some constructive feedback and applauded Torrico’s  
19 efforts to work on and reform Baker’s client treatment plans and programs.  
20

21 26. In mid-August 2018, approximately two weeks after Mesa’s call to Torrico, the  
22 San Francisco County Department of Public Health (“SF DPH”) initiated a telephone  
23 conference with Baker management to advise Baker that the SF DPH would be auditing the  
24 treatment plans of the thirty Baker clients who received Torrico’s June 2018 letter. Torrico  
25 participated in the conference call, as well as Thomas Frame LMFT, AILP, who is Baker’s  
26

1 clinical supervisor, Defendant Fostel, Baker's chief clinical officer, Defendant Arai, Baker's  
2 director of programs, and three auditors. During this conference call, the SF DPH auditors  
3 advised Baker management that the audit was prompted by information given to Mesa by a  
4 certain Baker employee, without mentioning Torrico's name, but implying that it was Torrico  
5 when they stated the employee had given the information in response to a Client's grievance,  
6 which could only have been Torrico. The SF DPH auditors warned Baker that retaliating  
7 against the employee who had provided the information to the SF DPH is against California  
8 law. Defendant Fostel, responded on Baker's behalf to the SF DPH's retaliation warning with  
9 an admission that, "yes we know all that, we have that policy in place as well."  
10

11 27. The San Francisco County auditors at first estimated that they would require  
12 about three days to complete their audit. However, the audit ended abruptly when Baker failed  
13 to produce the required annual assessment for the subject Baker clients. The annual  
14 assessment is required for County contracts and for Medi-Cal payments. Baker failed to  
15 produce the annual assessments because it had failed to perform the annual assessments in  
16 some instances for up to fifteen years. The auditors quickly concluded in only a couple of  
17 hours that the contract requirement's first element of medical necessity was not present, that  
18 many or most of these thirty clients had not been diagnosed in years and that the clients needed  
19 to have yearly diagnoses both to justify their stay in the Baker program and for Baker to have  
20 the lawful authority to bill and receive Medi-Cal dollars for them.  
21

22 28. The auditors were able to audit the Baker program through the AVATAR  
23 system – which is an electronic system that eliminates any need to see the physical chart. At  
24 the same time the auditors voiced their conclusions based upon their review through  
25 AVATAR, Mesa arrived at the Baker office to look at the physical charts. Mesa stated on the  
26

1 spot that based on the auditors' findings the county needed to rethink how the Baker program  
2 was billing, because the Baker clients subject to the audit were not acute. Further, as the Baker  
3 clients were not acute, Medi-Cal might not be the appropriate payor—even though Baker had  
4 been billing, and Medi-Cal had been paying, for “acute” patient services for years for many of  
5 the subject clients. Mesa told Torrico in front of Defendant Arai that Torrico had done nothing  
6 wrong, that Torrico may have sent an “earthquake” through San Francisco County and that  
7 changes had to happen. Mesa offered Torrico a reference to work in Marin county in case he  
8 was unable work in San Francisco --- hinting that Torrico might face retaliation by blowing the  
9 whistle on Baker’s improper billing and patient care practices.  
10

11 29. Around the same time, consistent with his effort to bring Baker into compliance  
12 with it contractual obligations to the County of San Francisco, Torrico made the professional  
13 assessment that because of a particular Baker client’s failure to respond to Baker’s  
14 interventions and refusal to detox and engage in residential treatment, the client would be  
15 discharged in ninety days if the client continued to refuse Baker’s intervention. Instead of  
16 agreeing to treatment, the client contacted an advocate, Jeremy Watson, (“Watson”) at the  
17 AIDS legal referral panel. Watson called Torrico’s supervisor, Defendant Fostel, to discuss the  
18 situation. Defendant Fostel became very angry with Torrico and promptly retaliated against  
19 him and arbitrarily extended his probationary period for an additional three months until  
20 November 19, 2018. Fostel did not confirm the retaliation in any writing. Fostel became angry  
21 because he did not want attorneys at the AIDS legal referral panel to get involved.  
22

23  
24 30. Defendants continued to retaliate and harass Torrico, ignoring the SF DPH  
25 auditor’s warning against retaliation. A client’s neighbor wrote a letter to Baker’s Chief  
26 Executive Officer Brett Andrews (“Andrews”) stating, in apparent reference to Torrico’s June  
27



1 2018 letter, that he did not want to see a client “kicked out” by December 18, 2019. Andrews’  
2 response to this letter prompted Defendant Fostel to retaliate again against Torrico by writing  
3 an email to Torrico stating that the dark cloud that Torrico was bringing to Baker and the  
4 department overshadowed all the good work Torrico had accomplished in the department since  
5 his hire. Defendants Fostel and Arai harassed Torrico with direct references to the June 2018  
6 letter, complaining about how Torrico had “caused problems” for Defendant Baker. This  
7 happened on several occasions leading up to the SF DPH audit, and after the audit commenced.  
8 Defendants blamed Torrico for the audit, including Defendant Arai stating “your (June 2018)  
9 letter triggered this audit.” After the audit started, Defendant Fostel referred to the June 2018  
10 letter and rolled his eyes as if Torrico were a nuisance and an inconvenience for him and for  
11 Defendant Baker.  
12

13 31. Torrico had no performance problems at Defendant Baker, other than the  
14 actions for which he was retaliated against by Defendants. For example, on September 13,  
15 2018, Torrico and Defendant Fostel exchanged texts discussing how Defendant Baker was  
16 doing over billing and how well it was doing on units of service delivery (revenue) based upon  
17 quarterly reports Torrico received from Patricia Gomez. Defendant Fostel responded:  
18 “wonderful.”  
19

20 32. In November 2018, Defendant Fostel met with Torrico’s department and  
21 announced that San Francisco County had changed their approach or description of Baker’s  
22 program and made it a no time limit, permanent housing program. Fostel never presented any  
23 writing from the County of San Francisco indicating this change. Fostel further stated, that  
24 notwithstanding the alleged change, the Baker department still needed to bill the County for  
25 transitional treatment of acute clients through Medi-Cal the same way it had been before the  
26



1 alleged changes. Torrico is informed and believes that despite Fostel's directive, Medi Cal  
2 does not pay Baker for permanent housing of Baker clients in its programs. Also around this  
3 time Fostel instructed Luisa Francisco ("Francisco"), housing and entitlement manager for  
4 Torrico's department, to remove the revised admission agreement from the new charts that  
5 would be used to admit new clients into the program, because he did not want to have "2  
6 years" or "6 months" for Baker Supportive Living Program to be on there. Fostel told  
7 Francisco to use the old admission agreement and claimed that he never approved the new one.

8  
9 Fostel directed Francisco to take this action without discussing it with Torrico. In or about  
10 September 2018, Fostel wrote Torrico a text referring to an earlier meeting during which Fostel  
11 advised that Baker was a "housing" operation, rather than one providing medical services to  
12 Clients on a short term basis while transitioning them to independent living. In response to a  
13 question from Torrico about the contract with the County not being one for provision of  
14 housing, Fostel admitted that Baker Chief Executive Officer Brett Andrews unilaterally  
15 decided not to adhere to the language of Baker's contract with the County, and that instead "it  
16 is all considered housing and it has no ending".  
17

18 33. On December 27, 2018, SF DPH audit decision came in. The SF DPH audit  
19 uncovered that for many years, the clients were not diagnosed on a yearly basis as required by  
20 Baker's contract with the County of San Francisco. One of them had not been diagnosed in 15  
21 (fifteen) years since his admission in 2002. During Torrico's employment with Baker, the  
22 person responsible for performing the diagnoses was the AILP clinical supervisor Thomas  
23 Frame MFT ("Frame") who was hired in 2015. Frame, however, was never directed to perform  
24 annual assessments or diagnosis by the chief clinical officer, Defendant Fostel. Previous  
25 clinical supervisors had also failed to diagnose clients, as demonstrated by the audit finding  
26  
27

1 that clients had not been diagnosed for many years. The SF DPH auditors concluded that  
2 because of persistent and long standing fraudulent and improper billing of Medi-Cal, Baker  
3 needed to repay \$342,000 in Medi-Cal payments for fiscal years 2017-18. Torrico, having been  
4 hired in February 2018, was not an employee of Baker for much of the time the audit called for  
5 reimbursement of inappropriately and fraudulently billed Medi-Cal funds.

6 34. On December 27, 2018, the same day the SF DPH audit came in, Defendant  
7 Fostel called Torrico into Fostel's office. Fostel complained about the audit results, blaming  
8 Torrico, and told Torrico that \$342,000.00 was "not survivable", and that Torrico was  
9 terminated. Defendant Fostel provided Torrico with a termination letter that stated that Torrico  
10 was being terminated because he had sent out the June 2018 letter, that the letter had caused  
11 distress among Baker clients, and without directly mentioning the audit results, accused  
12 Torrico of damaging Baker's relationship with its funding sources.

14 35. As a result of the termination, Torrico has suffered financial damages, including  
15 lost wage income and benefits, including health insurance. Additionally, Torrico has suffered  
16 emotional distress, including but not limited to humiliation, embarrassment, stress, depression  
17 and anger.

19 **FIRST CAUSE OF ACTION**  
20 **RETALIATION IN VIOLATION OF LABOR CODE § 1102.5**  
21 **(Against All Defendants and Does 1-25)**

22 36. Torrico re-alleges and incorporates herein by reference each of the foregoing  
23 paragraphs as though fully set forth herein.

24 37. At all times material to this complaint, Torrico was employed by Defendant Baker,  
25 and was subject to the authority and supervision of Defendant Fostel.

26 38. California has a fundamental, substantial, and well-established public policy, as  
27 expressed California Labor Code § 1102.5 that an employee may not be retaliated against or

1 terminated for providing information to a public entity for which he had a reasonable cause to  
2 believe that the information discloses a violation of state or federal statute, or a violation of or  
3 noncompliance with a local, state, or federal rule or regulations. Defendants violated these  
4 important public policies by terminating Torrico, in whole or in part and because of his disclosure  
5 to San Francisco Department of Public Health.

6 39. In response to lawful inquiries by authorized government officials, Torrico  
7 provided truthful information to a public entity, the SF DPH, for which he had a reasonable  
8 cause to believe that the information disclosed a violation of state or federal statutes, or a  
9 violation of or noncompliance with a local, state, or federal rule or regulation.

10 40. Torrico refused to participate in Baker's unlawful act of "warehousing clients"  
11 without creating transition plans or receiving a diagnosis from a medical professional.

12 41. The information Torrico disclosed prompted an SF DPH audit that led to a claw  
13 back of over \$342,000 from Defendant Baker. Baker and the individual Defendants thereafter  
14 retaliated against Torrico for disclosing the information, or because of their belief that Torrico  
15 had disclosed the information, to the County of San Francisco, which had the authority to  
16 investigate, discover, and correct the violation or noncompliance disclosed by Torrico.

17 42. Defendants harassed Torrico after learning of his information disclosure, and  
18 continued to harass him during the audit. Defendants ultimately wrongfully terminated Torrico  
19 once the audit result was revealed, and Defendant Baker was forced to return \$342,000 in  
20 fraudulent or otherwise improper billings and receipt of Medi-Cal funds.

21 43. Torrico's disclosure of information was a substantial or contributing factor in  
22 Defendant Baker's harassment and ultimate decision to fire Torrico.

23 44. As a direct and proximate result of the unlawful conduct of Defendants, Torrico  
24 has suffered damages including but not limited to past and future loss of income, benefits, and  
25 other damages to be proven at time of trial. Further, Torrico has suffered and will continue to  
26 suffer mental and emotional distress, including but not limited to frustration, depression,  
27

1 nervousness, anxiety and loss of self-worth, and damage to his reputation.

2 45. As a result of the conduct of Defendants, Torrico was forced to retain an attorney.  
3 Accordingly, Torrico seeks reasonable attorneys' fees and costs incurred in this litigation in an  
4 amount according to proof at trial.

5 46. The unlawful conduct alleged above was engaged in by the officers, directors,  
6 supervisors and/or managing agents of Defendant Baker, and each of them, who were acting at  
7 all times relevant to this Complaint within the scope and course of their employment. Defendant  
8 Baker is therefore liable for the conduct of said agents and employees under the doctrine of strict  
9 liability.

10 47. Defendants committed the acts herein alleged maliciously, fraudulently, and  
11 oppressively with the wrongful intention of injuring PLAINTIFF, and acted with an improper and  
12 evil motive amounting to malice and/or oppression, and in conscious disregard for PLAINTIFF's  
13 rights, and such acts were committed by, authorized by, and/or ratified by officers, directors,  
14 and/or managing agents of Defendants. Torrico is therefore entitled to recover and herein prays  
15 for punitive damages in an amount sufficient to punish and deter Defendants and others for such  
16 conduct.

17 WHEREFORE, Torrico prays for judgment as set forth below.

18 **SECOND CAUSE OF ACTION**  
19 **(Wrongful Termination in Violation of Public Policy)**  
20 **(Against All Named Defendants and Does 1-25)**

21 48. Torrico realleges and hereby incorporates by reference each of the foregoing  
22 paragraphs, as though fully set forth herein.

23 49. California has a fundamental, substantial, and well-established public policy, as  
24 expressed California Labor Code § 1102.5 that an employee may not be retaliated against or  
25 terminated for providing information to a public entity for which he had a reasonable cause  
26 to believe that the information discloses a violation of state or federal statute, or a violation  
27 of or noncompliance with a local, state, or federal rule or regulations. Defendants violated

1 these important public policies by terminating Torricò, in whole or in part and because of his  
2 disclosure to San Francisco Department of Public Health.

3 50. Defendant terminated its employment relationship with Torricò because of the  
4 information he provided to the City of San Francisco.

5 51. As a direct and proximate result of Defendants' actions, as alleged  
6 above, Torricò has suffered and will continue to suffer mental and emotional distress, including  
7 but not limited to frustration, humiliation, embarrassment, stress, depression, nervousness,  
8 anxiety and loss of self-worth, and damage to his reputation.

9 52. The unlawful conduct alleged above was engaged in by the officers, directors,  
10 supervisors and/or managing agents of Defendants, and each of them, who were acting at all times  
11 relevant to this Complaint within the scope and course of their employment.

12 53. Defendants committed the acts herein alleged maliciously, fraudulently, and  
13 oppressively with the wrongful intention of injuring Torricò, and acted with an improper and evil  
14 motive amounting to malice and/or oppression, and in conscious disregard for Torricò's rights,  
15 and such acts were committed by, authorized by, and/or ratified by officers, directors, and/or  
16 managing agents of Defendants. Torricò is therefore entitled to recover and herein prays for  
17 punitive damages in an amount sufficient to punish and deter Defendants and others for such  
18 conduct.

19 54. As a result of the conduct of Defendants, Torricò was forced to retain an attorney  
20 in order to protect his rights. Accordingly, Torricò seeks the reasonable attorneys' fees and costs  
21 incurred in this litigation in an amount according to proof at trial pursuant to Cal. Labor Code  
22 2699 et. seq.

23 WHEREFORE, Torricò prays for judgment as set forth below.

24 **THIRD CAUSE OF ACTION**  
25 **Intentional Infliction of Emotional Distress**  
26 **(Against All Defendants and Does 1-25)**

27 55. Torricò realleges and hereby incorporates by reference each of the foregoing

1 paragraphs, as though fully set forth herein.

2 56. Defendants engaged in outrageous and unprivileged conduct that Torrico is  
3 informed and believes was intended to cause them harm. Alternatively, Defendants acted with  
4 reckless disregard of the probability that Torrico would suffer severe emotional distress as a result  
5 of their outrageous conduct as described *supra*.

6 57. As a direct and proximate result of Defendants', and each of their, outrageous,  
7 unprivileged, and extreme conduct alleged above, Torrico suffered severe, substantial and  
8 enduring emotional distress, including humiliation, embarrassment, anxiety and indignity, in an  
9 amount which will be proven at trial.

10 58. Defendants' conduct was intentional and malicious, and done for the purpose of  
11 causing Torrico to suffer severe, substantial and enduring humiliation, mental anguish, and  
12 emotional and physical distress. Alternatively, Defendants, and each of them, acted with reckless  
13 disregard of the probability that their harassing and discriminating conduct, alleged *supra*, would  
14 in fact cause Torrico to suffer humiliation, mental anguish, and emotional and physical distress.  
15 Further, Defendants' conduct in confirming and ratifying the original  
16 discriminatory/harassing conduct, without redress of any kind, was done with the knowledge that  
17 Torrico's emotional and physical distress would thereby increase and was done with a wanton  
18 and reckless disregard of the consequences to Torrico. Thus, an award of exemplary and punitive  
19 damages is justified in an amount to be proven at trial.

20 WHEREFORE, Torrico prays for judgment, including punitive damages, as more fully  
21 set forth below.

22 **PRAYER FOR RELIEF**

23 WHEREFORE, Torrico makes the following demand:

- 24 1. That process be issued and served as provided by law, requiring Defendants, and  
25 each of them, to appear and answer or face judgment;
- 26 2. For general, special, and compensatory damages against Defendants in an  
27

1 amount to be determined at trial;

2 3. For punitive damages against the individual Defendants in an amount to be  
3 determined at trial sufficient to punish, penalize and/or deter Defendants and others from  
4 engaging in the conduct described herein;

5 4. For back and front pay and other benefits Torrico would have been afforded but  
6 for Defendants' unlawful conduct;

7 5. For costs and expenses of this litigation;

8 6. For reasonable attorneys' fees and costs pursuant to law and statute;

9 7. For pre and post-judgment interest on all damages and other relief awarded  
10 herein from all entities against whom such relief may be properly awarded; and,  
11

12 8. For all such other and further relief as the nature of the case may require and the  
13 court deems appropriate and just.  
14

15 Dated: January 3, 2020  
16

17  
18 By: 

19 Frederick J. Geonetta  
20 GEONETTA & FRUCHT LLP  
21 Attorneys for Plaintiff Torrico  
22  
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24  
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26  
27

JURY DEMAND

1  
2 Plaintiff Torrico hereby demands trial by jury on all issues to which he is entitled to a  
3 trial by jury.  
4

5 Dated: January 3, 2020

6 By:



7 Frederick J. Geonetta  
8 GEONETTA & FRUCHT LLP  
9 Attorneys for Plaintiff Torrico  
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ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address):  
Frederick J. Geonetta 114824  
Geonetta & Frucht LLP  
825 Washington Street, Suite 220 Oakland California 94607  
TELEPHONE NO: 510.254-3777 FAX NO:  
ATTORNEY FOR (Name): Erland Torrico

FOR COURT USE ONLY  
**FILED**  
SUPERIOR COURT  
COUNTY OF SAN FRANCISCO  
JAN 06 2020  
CLERK OF THE COURT  
BY: *Angelica Sunga* Deputy Clerk  
ANGELICA SUNGA

SUPERIOR COURT OF CALIFORNIA, COUNTY OF  
STREET ADDRESS: 400 McAllister St.  
MAILING ADDRESS: 400 McAllister St., San Francisco, CA 94102-4515.  
CITY AND ZIP CODE: San Francisco, CA 94102-4515  
BRANCH NAME: Civic Center Courthouse

CASE NAME:  
**TORRICO VS BAKER PLACE, JOHN Foster scott ARI**

CIVIL CASE COVER SHEET  
 Unlimited (Amount demanded exceeds \$25,000)  Limited (Amount demanded is \$25,000 or less)  
Complex Case Designation  
 Counter  Joinder  
Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

CASE NUMBER:  
**CGC-20-582011**  
JUDGE:  
DEPT:

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:  
Auto Tort  
 Auto (22)  
 Uninsured motorist (46)  
Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort  
 Asbestos (04)  
 Product liability (24)  
 Medical malpractice (45)  
 Other PI/PD/WD (23)  
Non-PI/PD/WD (Other) Tort  
 Business tort/unfair business practice (07)  
 Civil rights (08)  
 Defamation (13)  
 Fraud (16)  
 Intellectual property (19)  
 Professional negligence (25)  
 Other non-PI/PD/WD tort (35)  
Employment  
 Wrongful termination (36)  
 Other employment (15)  
Contract  
 Breach of contract/warranty (06)  
 Rule 3.740 collections (09)  
 Other collections (09)  
 Insurance coverage (18)  
 Other contract (37)  
Real Property  
 Eminent domain/inverse condemnation (14)  
 Wrongful eviction (33)  
 Other real property (26)  
Unlawful Detainer  
 Commercial (31)  
 Residential (32)  
 Drugs (38)  
Judicial Review  
 Asset forfeiture (05)  
 Petition re: arbitration award (11)  
 Writ of mandate (02)  
 Other judicial review (39)  
Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403)  
 Antitrust/Trade regulation (03)  
 Construction defect (10)  
 Mass tort (40)  
 Securities litigation (28)  
 Environmental/Toxic tort (30)  
 Insurance coverage claims arising from the above listed provisionally complex case types (41)  
Enforcement of Judgment  
 Enforcement of judgment (20)  
Miscellaneous Civil Complaint  
 RICO (27)  
 Other complaint (not specified above) (42)  
Miscellaneous Civil Petition  
 Partnership and corporate governance (21)  
 Other petition (not specified above) (43)

2. This case  is  is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:  
a.  Large number of separately represented parties d.  Large number of witnesses  
b.  Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve e.  Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court  
c.  Substantial amount of documentary evidence f.  Substantial postjudgment judicial supervision  
3. Remedies sought (check all that apply): a.  monetary b.  nonmonetary declaratory or injunctive relief c.  punitive  
4. Number of causes of action (specify): 3  
5. This case  is  is not a class action suit.  
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: 1-3-20  
Frederick J. Geonetta  
(TYPE OR PRINT NAME)

*Frederick J. Geonetta*  
(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

BY FAX

NOTICE  
• Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.  
• File this cover sheet in addition to any cover sheet required by local court rule.  
• If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.  
• Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

## INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

**To Plaintiffs and Others Filing First Papers.** If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check **one** box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

**To Parties in Rule 3.740 Collections Cases.** A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

**To Parties in Complex Cases.** In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

## CASE TYPES AND EXAMPLES

<b>Auto Tort</b>	<b>Contract</b>	<b>Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)</b>
Auto (22)–Personal Injury/Property Damage/Wrongful Death	Breach of Contract/Warranty (06)	Antitrust/Trade Regulation (03)
Uninsured Motorist (46) ( <i>if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto</i> )	Breach of Rental/Lease Contract ( <i>not unlawful detainer or wrongful eviction</i> )	Construction Defect (10)
<b>Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort</b>	Contract/Warranty Breach–Seller Plaintiff ( <i>not fraud or negligence</i> )	Claims Involving Mass Tort (40)
Asbestos (04)	Negligent Breach of Contract/Warranty	Securities Litigation (28)
Asbestos Property Damage	Other Breach of Contract/Warranty	Environmental/Toxic Tort (30)
Asbestos Personal Injury/Wrongful Death	Collections (e.g., money owed, open book accounts) (09)	Insurance Coverage Claims ( <i>arising from provisionally complex case type listed above</i> ) (41)
Product Liability ( <i>not asbestos or toxic/environmental</i> ) (24)	Collection Case–Seller Plaintiff	<b>Enforcement of Judgment</b>
Medical Malpractice (45)	Other Promissory Note/Collections Case	Enforcement of Judgment (20)
Medical Malpractice–Physicians & Surgeons	Insurance Coverage ( <i>not provisionally complex</i> ) (18)	Abstract of Judgment (Out of County)
Other Professional Health Care Malpractice	Auto Subrogation	Confession of Judgment ( <i>non-domestic relations</i> )
Other PI/PD/WD (23)	Other Coverage	Sister State Judgment
Premises Liability (e.g., slip and fall)	Other Contract (37)	Administrative Agency Award ( <i>not unpaid taxes</i> )
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)	Contractual Fraud	Petition/Certification of Entry of Judgment on Unpaid Taxes
Intentional Infliction of Emotional Distress	Other Contract Dispute	Other Enforcement of Judgment Case
Negligent Infliction of Emotional Distress	<b>Real Property</b>	<b>Miscellaneous Civil Complaint</b>
Other PI/PD/WD	Eminent Domain/Inverse Condemnation (14)	RICO (27)
<b>Non-PI/PD/WD (Other) Tort</b>	Wrongful Eviction (33)	Other Complaint ( <i>not specified above</i> ) (42)
Business Tort/Unfair Business Practice (07)	Other Real Property (e.g., quiet title) (26)	Declaratory Relief Only
Civil Rights (e.g., discrimination, false arrest) ( <i>not civil harassment</i> ) (08)	Writ of Possession of Real Property	Injunctive Relief Only ( <i>non-harassment</i> )
Defamation (e.g., slander, libel) (13)	Mortgage Foreclosure	Mechanics Lien
Fraud (16)	Quiet Title	Other Commercial Complaint Case ( <i>non-tort/non-complex</i> )
Intellectual Property (19)	Other Real Property ( <i>not eminent domain, landlord/tenant, or foreclosure</i> )	Other Civil Complaint ( <i>non-tort/non-complex</i> )
Professional Negligence (25)	<b>Unlawful Detainer</b>	<b>Miscellaneous Civil Petition</b>
Legal Malpractice	Commercial (31)	Partnership and Corporate Governance (21)
Other Professional Malpractice ( <i>not medical or legal</i> )	Residential (32)	Other Petition ( <i>not specified above</i> ) (43)
Other Non-PI/PD/WD Tort (35)	Drugs (38) ( <i>if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential</i> )	Civil Harassment
<b>Employment</b>	<b>Judicial Review</b>	Workplace Violence
Wrongful Termination (36)	Asset Forfeiture (05)	Elder/Dependent Adult Abuse
Other Employment (15)	Petition Re: Arbitration Award (11)	Election Contest
	Writ of Mandate (02)	Petition for Name Change
	Writ–Administrative Mandamus	Petition for Relief From Late Claim
	Writ–Mandamus on Limited Court Case Matter	Other Civil Petition
	Writ–Other Limited Court Case Review	
	Other Judicial Review (39)	
	Review of Health Officer Order	
	Notice of Appeal–Labor Commissioner Appeals	

**From:** [Masha LePort](#)  
**To:** [Jalipa Brent \(BOS\)](#); [Grove Neighbors](#)  
**Subject:** Baker Places Comments - ITEM 14  
**Date:** Wednesday, November 9, 2022 2:29:11 PM

---

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

## **ITEM 14. 221113 [Hearing - DPH Secondary Policies and Baker Places, Inc.]**

Dear Hillary Ronen, Ahsha Safai, and Connie Chan,

My name is Masha LePort, I am the owner and preschool director of NOPA Montessori, located at 2104 Hayes St. We have 3 classrooms and are licensed to care for 60 children between the ages of 18 months and 5 years old. We do not have our own outdoor space and take all the children out twice a day for walks in the neighborhood and visits to Golden Gate park.

I would like to register my opinion that the continued operations of Baker Places/PRC, and Grove House in particular, is a misuse of taxpayer funds and poses a danger to the children in our care due to the nature of how Grove House operates.

Grove House (GH), which is operated by Baker Places/Positive Resource Center (PRC) has been a constant source of stress for Grove House neighbors. Providing a "home-like" environment for individuals in crisis, as Baker Places/PRC claims they are doing, shouldn't be done at the cost of the safety and well-being of neighbors, program participants, and staff.

Our neighborhood has three other similar programs: Progress Foundation's Shrader House is less than a block away from Grove House. Asian American Recovery Services on Hayes is two blocks away. And there is also an emergency crisis facility for women and children that is nearby. Neighbors have not had the same issues with Shrader House and AARS that we have with Grove House. That is because Progress Foundation and AARS have both worked diligently with neighbors to address issues and have accepted responsibility for their role in our neighborhood. Baker Places/PRC has not.

Grove House Management has also refused to answer basic questions regarding:

1. Program outcome metrics
- 2.

Utilization of emergency services (police, fire, and medical)

3.

Participant demographics, including whether sexual offenders or individuals with violent backgrounds are admitted

GH is located less than 500 feet from both New Traditions Elementary and NOPA Montessori Preschool, which should require them to adhere to Megan's Law. GH Management has not answered the Q of whether they accept sex offenders or individuals who may pose a risk to neighboring families and children.

Grove House has been closed for 19 months. It should remain closed and should be sold in order to recoup funds that Baker Places/PRC has misused.

Thank you for hearing us out.

Warm regards,  
Masha LePort  
Founder and Director  
[NOPA Montessori](#)  
2104 Hayes St.  
(415) 690-3483

**From:** [Marjorie Sturm](#)  
**To:** [Jalipa, Brent \(BOS\)](#)  
**Subject:** ITEM 14. 221113 [Hearing - DPH Secondary Policies and Baker Places, Inc.  
**Date:** Wednesday, November 9, 2022 11:04:33 AM  
**Attachments:** [2 2021 Jul BakerPlacesWageClaim 2021 Amended1.pdf](#)  
[1 2020 JAN Baker Complaint Dismissal and fraud Whistleblower.pdf](#)

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This message is from outside the City email system. Do not open links or attachments from untrusted sources.

To Whom It May Concern,

I would like to register my opinion that the continued operations of Baker Places/PRC is unethical and a waste of taxpayer funds.

I worked as an employee at Baker Places, and the lack of compassion and the authoritative tone was completely shocking and inappropriate in what was supposed to be a healing environment. The pay was completely dismal for those working directly with clients. Taking lunch breaks was not encouraged. There was an expectation to work unpaid overtime. On-call employees with little education were administering heavy medications to clients.

Generally, there was just a lack of care all around and I didn't understand then how this program was even existing, how it was getting funding. I didn't know then what I have been learning now, and I am thrilled that there is finally a chance of some accountability to this clearly corrupt agency. There are programs that serve this population with integrity, and as a City we can clearly do better. For instance, I worked many years at Conard House as a case manager with a similar population. It is a compassionate and well run non-profit. In my over ten years of employment there, I did not witness the level of anything odd or nefarious that I saw just within weeks at Baker Places. We must support with our taxpayer dollars organizations that deserve our support and actually are doing their mission to heal and help.

Please see the attached documents of lawsuits that speak directly to my complaints here. There are actually many class action lawsuits that have been settled including a recent one and a whistleblower's case.

Thank you so much for your consideration of my opinion.

Sincerely,  
Marjorie Sturm  
Filmmaker/Mother/Professor

1 Kane Moon (SBN 249834)  
E-mail: kane.moon@moonyanglaw.com  
2 Allen Feghali (SBN 301080)  
E-mail: allen.feghali@moonyanglaw.com  
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1055 W. Seventh St., Suite 1880  
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Telephone: (213) 232-3128  
6 Facsimile: (213) 232-3125

7 Attorneys for Plaintiff Jakeesha Acree

**ELECTRONICALLY  
FILED**

*Superior Court of California,  
County of San Francisco*

**07/13/2021  
Clerk of the Court**

BY: JUDITH NUNEZ  
Deputy Clerk

8  
9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
10 **FOR THE COUNTY OF SAN FRANCISCO**

11 JAKEESHA ACREE, individually, and on behalf  
12 of all others similarly situated,

13 Plaintiff,

14 vs.

15  
16 BAKER PLACES, INC., a California  
corporation; and DOES 1 through 10, inclusive,

17 Defendants

Case No.: CGC-21-591366

**FIRST AMENDED CLASS AND  
REPRESENTATIVE ACTION  
COMPLAINT:**

1. Failure to Pay Minimum and Regular Rate Wages [Cal. Lab. Code §§ 204, 1194, 1194.2, and 1197];
2. Failure to Pay Overtime Compensation [Cal. Lab. Code §§ 1194 and 1198];
3. Failure to Provide Meal Periods [Cal. Lab. Code §§ 226.7, 512];
4. Failure to Authorize and Permit Rest Breaks [Cal. Lab. Code §§ 226.7];
5. Failure to Timely Pay Final Wages at Termination [Cal. Lab. Code §§ 201-203];
6. Failure to Provide Accurate Itemized Wage Statements [Cal. Lab. Code § 226]; and
7. Unfair Business Practices [Cal. Bus. & Prof. Code §§ 17200, et seq.].
8. Civil Penalties Under PAGA [Cal. Lab. Code § 2699, et seq.].

**DEMAND FOR JURY TRIAL**

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1 Plaintiff Jakeesha Acree (“Plaintiff”), based upon facts that either have evidentiary  
2 support or are likely to have evidentiary support after a reasonable opportunity for further  
3 investigation and discovery, alleges as follows:

4 **INTRODUCTION & PRELIMINARY STATEMENT**

5 1. Plaintiff brings this action against Defendants Baker Places, Inc. and Does 1  
6 through 10 (collectively referred to as “Defendants”) for California Labor Code violations and  
7 unfair business practices stemming from Defendants’ failure to pay minimum and regular rate  
8 wages, failure to pay overtime wages, failure to provide meal periods, failure to authorize and  
9 permit rest periods, failure to maintain accurate records of hours worked and meal periods,  
10 failure to timely pay all wages to terminated employees, and failure to furnish accurate wage  
11 statements.

12 2. Plaintiff brings the First through Seventh Causes of Action individually and as a class  
13 action on behalf of herself and certain current and former employees of Defendants (hereinafter  
14 collectively referred to as the “Class” or “Class Members” and defined more fully below).The  
15 Class consists of Plaintiff and all other persons who have been employed by any Defendant in  
16 California and classified as a non-exempt employee during the statute of limitations period  
17 applicable to the claims pleaded here.

18 3. Plaintiff brings the Eighth Cause of Action as a representative action under the  
19 California Private Attorney General Act (“PAGA”) to recover civil penalties that are owed to  
20 Plaintiff, the State of California, and past and present non-exempt, hourly-paid employees of  
21 Defendants who worked in California during the applicable statute of limitations period  
22 (hereinafter referred to as the “Aggrieved Employees”).

23 4. Defendants own/owned and operate/operated an industry, business, and establishment  
24 within the State of California, including San Francisco County. As such, and based upon all the  
25 facts and circumstances incident to Defendants’ business in California, Defendants are subject to  
26 the California Labor Code, Wage Orders issued by the Industrial Welfare Commission (“IWC”),  
27 and the California Business & Professions Code.



1           5. Despite these requirements, throughout the statutory period Defendants maintained a  
2 systematic, company-wide policy and practice of:

- 3           (a) Failing to pay employees for all hours worked, including all minimum  
4 wages, overtime wages, in compliance with the California Labor Code and  
5 IWC Wage Orders;
- 6           (b) Failing to maintain accurate records of the hours employees worked;
- 7           (c) Failing to provide employees with timely and duty-free meal periods in  
8 compliance with the California Labor Code and IWC Wage Orders, failing  
9 to maintain accurate records of all meal periods taken or missed, and  
10 failing to pay an additional hour's pay for each workday a meal period  
11 violation occurred;
- 12           (d) Failing to authorize and permit employees to take timely and duty-free rest  
13 periods in compliance with the California Labor Code and IWC Wage  
14 Orders, and failing to pay an additional hour's pay for each workday a rest  
15 period violation occurred;
- 16           (e) Willfully failing to pay employees all minimum wages, overtime wages,  
17 meal period premium wages, and rest period premium wages due within  
18 the time period specified by California law when employment terminates;  
19 and
- 20           (f) Failing to provide employees with accurate, itemized wage statements  
21 containing all the information required by the California Labor Code and  
22 IWC Wage Orders.

23           6. On information and belief, Defendants, and each of them were on actual and  
24 constructive notice of the improprieties alleged herein and intentionally refused to rectify their  
25 unlawful policies. Defendants' violations, as alleged above, during all relevant times herein were  
26 willful and deliberate.

27           7. At all relevant times, Defendants were and are legally responsible for all of the  
28 unlawful conduct, policies, practices, acts and omissions as described in each and all of the

1 foregoing paragraphs as the employer of Plaintiff, the Class, and the Aggrieved Employees.  
2 Further, Defendants are responsible for each of the unlawful acts or omissions complained of  
3 herein under the doctrine of “respondeat superior”.

4 **THE PARTIES**

5 **A. Plaintiff**

6 8. Plaintiff is a California resident who worked for Defendants in San Francisco County,  
7 California as a counselor from approximately August 2017 to September 2020.

8 9. Plaintiff reserves the right to seek leave to amend this complaint to add new plaintiffs,  
9 if necessary, in order to establish suitable representative(s) pursuant to *La Sala v. American*  
10 *Savings and Loan Association* (1971) 5 Cal.3d 864, 872, and other applicable law.

11 **B. Defendants**

12 10. Plaintiff is informed and believes, and based upon that information and belief  
13 alleges, that Defendant Infineon Baker Places, Inc. is:

- 14 (a) A California corporation with its principal place of business in San  
15 Francisco, California;
- 16 (b) A business entity conducting businesses in numerous counties throughout  
17 the State of California, including in San Francisco County; and
- 18 (c) The former employer of Plaintiff, and the current and/or former employers  
19 of the putative Class. Baker Places, Inc. suffered and permitted Plaintiff,  
20 the Class, and the Aggrieved Employees to work, and/or controlled their  
21 wages, hours, or working conditions.

22 11. Plaintiff does not know the true names or capacities of the persons or entities sued  
23 herein as Does 1-10, inclusive, and therefore sues said Defendants by such fictitious names.  
24 Each of the Doe Defendants was in some manner legally responsible for the damages suffered by  
25 Plaintiff, the Class, and the Aggrieved Employees as alleged herein. Plaintiff will amend this  
26 complaint to set forth the true names and capacities of these Defendants when they have been  
27 ascertained, together with appropriate charging allegations, as may be necessary.  
28

1           12.     At all times mentioned herein, the Defendants named as Does 1-10, inclusive, and  
2 each of them, were residents of, doing business in, availed themselves of the jurisdiction of,  
3 and/or injured a significant number of the Plaintiff, the Class, and the Aggrieved Employees in  
4 the State of California.

5           13.     Plaintiff is informed and believes and thereon alleges that at all relevant times  
6 each Defendant, directly or indirectly, or through agents or other persons, employed Plaintiff and  
7 the other employees described in the class definitions below, and exercised control over their  
8 wages, hours, and working conditions. Plaintiff is informed and believes and thereon alleges  
9 that, at all relevant times, each Defendant was the principal, agent, partner, joint venturer, officer,  
10 director, controlling shareholder, subsidiary, affiliate, parent corporation, successor in interest  
11 and/or predecessor in interest of some or all of the other Defendants, and was engaged with some  
12 or all of the other Defendants in a joint enterprise for profit, and bore such other relationships to  
13 some or all of the other Defendants so as to be liable for their conduct with respect to the matters  
14 alleged below. Plaintiff is informed and believes and thereon alleges that each Defendant acted  
15 pursuant to and within the scope of the relationships alleged above, that each Defendant knew or  
16 should have known about, and authorized, ratified, adopted, approved, controlled, aided and  
17 abetted the conduct of all other Defendants.

18                           **ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

19           14.     Plaintiff Jakeesha Acree worked for Defendants in San Francisco County,  
20 California as a counselor from approximately August 2017 to September 2020. At all times  
21 Defendants classified Plaintiff as non-exempt from California’s overtime requirements. During  
22 the statutory time period, Plaintiff was typically scheduled to work at least 5 days in a workweek,  
23 and occasionally in excess of 8 hours in a single workday.

24           15.     Throughout the statutory period, Defendants failed to pay Plaintiff for all hours  
25 worked (including minimum wages and overtime compensation), failed to provide Plaintiff with  
26 uninterrupted meal periods, failed to authorize and permit Plaintiff to take uninterrupted rest  
27 periods, failed to maintain accurate records of the hours Plaintiff worked, failed to timely pay all  
28 final wages to Plaintiff when Defendants terminated Plaintiff’s employment, and failed to furnish

1 accurate wage statements to Plaintiff. As discussed below, Plaintiff's experience working for  
2 Defendants was typical and illustrative.

3         16. Throughout the statutory period, Defendants maintained a policy and practice of  
4 not paying Plaintiff, the Class, and the Aggrieved Employees for all hours worked, including all  
5 overtime wages. Plaintiff, the Class, and the Aggrieved Employees regularly worked off the  
6 clock, without compensation. Further, Defendants regularly use a system of time rounding in a  
7 manner that resulted, over a period of time, in failing to compensate Plaintiff, the Class, and the  
8 Aggrieved Employees properly for all the time they have actually worked, even though the  
9 realities of Defendants' operations are such that it is possible, practical, and feasible to count and  
10 pay for work time to the minute. As a result, Defendants frequently paid Plaintiff, the Class, and  
11 the Aggrieved Employees less than all their work time, some of which should have been paid at  
12 the overtime rate. Also throughout a portion of the statutory period, and prior to the timekeeping  
13 system being installed, Plaintiff, the Class, and the Aggrieved Employees were required to turn in  
14 timesheets that only included their scheduled time, as opposed to the actual time Plaintiff, the  
15 Class, and the Aggrieved Employees worked. As a result, Plaintiff, the Class, and the Aggrieved  
16 Employees were required to work "off the clock", and were only paid for their scheduled time.  
17 Also, Plaintiff, the Class, and the Aggrieved Employees were occasionally required to work "off  
18 the clock" in that they were asked to clock out and continue to work. This occurred specifically  
19 when the business was understaffed, such as when an employee quit, requiring Plaintiff, the  
20 Class, and the Aggrieved Employees to work additional hours off the clock, without  
21 compensation. Also throughout the statutory period, Plaintiff, the Class, and the Aggrieved  
22 Employees received non-discretionary bonuses, which included without limitation "hero pay"  
23 bonus. However, Defendants failed to incorporate these bonuses into their calculation of the  
24 regular rate of pay when determining the correct rate of overtime pay. As a result, Plaintiff, the  
25 Class, and the Aggrieved Employees were not paid all overtime owed to them. In maintaining a  
26 practice of not paying all wages owed, Defendants failed to maintain accurate records of the  
27 hours Plaintiff, the Class, and the Aggrieved Employees worked.

1           17. Throughout the statutory period, Defendants have wrongfully failed to provide  
2 Plaintiff, the Class, and the Aggrieved Employees with legally compliant meal periods.  
3 Defendants regularly, but not always, required Plaintiff, the Class, and the Aggrieved Employees  
4 to work in excess of five consecutive hours a day without providing a 30-minute, continuous and  
5 uninterrupted, duty-free meal period for every five hours of work, or without compensating  
6 Plaintiff, the Class, and the Aggrieved Employees for meal periods that were not provided by the  
7 end of the fifth hour of work or tenth hour of work. Defendants did not adequately inform  
8 Plaintiff, the Class, and the Aggrieved Employees of their right to take a meal period by the end  
9 of the fifth hour of work, or, for shifts greater than 10 hours, by the end of the tenth hour of  
10 work. Defendants also did not have adequate policies or practices to document and verify  
11 whether Plaintiff, the Class, and the Aggrieved Employees were taking their required meal  
12 periods. Further, Plaintiff, the Class, and the Aggrieved Employees were required to stay on the  
13 premises during their meal and rest periods in those instances where other employees were  
14 unable to cover Plaintiff, the Class, and the Aggrieved Employees during these breaks.  
15 Accordingly, Defendants' policy and practice was to not provide meal periods to Plaintiff, the  
16 Class, and the Aggrieved Employees in compliance with California law.

17           18. Throughout the statutory period, Defendants have wrongfully failed to authorize  
18 and permit Plaintiff, the Class, and the Aggrieved Employees to take timely and duty-free rest  
19 periods. Defendants regularly, but not always, required Plaintiff, the Class, and the Aggrieved  
20 Employees to work in excess of four consecutive hours a day without Defendants authorizing and  
21 permitting them to take a 10-minute, continuous and uninterrupted, rest period for every four  
22 hours of work (or major fraction of four hours), or without compensating Plaintiff, the Class, and  
23 the Aggrieved Employees for rest periods that were not authorized or permitted. Further,  
24 Plaintiff, the Class, and the Aggrieved Employees were required to stay on the premises during  
25 their meal and rest periods in those instances where other employees were unable to cover  
26 Plaintiff, the Class, and the Aggrieved Employees during these breaks. Accordingly,  
27 Defendants' policy and practice was to not authorize and permit Plaintiff, the Class, and the  
28 Aggrieved Employees to take rest periods in compliance with California law.

1           19.     Throughout the statutory period, Defendants willfully failed and refused to timely  
2 pay Plaintiff, the Class, and the Aggrieved Employees at the conclusion of their employment all  
3 wages, including overtime wages, meal period premium wages, and rest period premium wages.  
4 This included the final paycheck, which was not paid within the statutory time to make said  
5 payment.

6           20.     Throughout the statutory period, Defendants failed to furnish Plaintiff, the Class,  
7 and the Aggrieved Employees with accurate, itemized wage statements showing all applicable  
8 hourly rates, and all gross and net wages earned (including correct hours worked, correct wages  
9 earned for hours worked, correct overtime hours worked, correct wages for meal periods that  
10 were not provided in accordance with California law, and correct wages for rest periods that were  
11 not authorized and permitted to take in accordance with California law). As a result of these  
12 violations of California Labor Code § 226(a), Plaintiff, the Class, and the Aggrieved Employees  
13 suffered injury because, among other things:

- 14           (a)     the violations led them to believe that they were not entitled to be paid  
15                    minimum wages, overtime wages, meal period premium wages, and rest  
16                    period premium wages to which they were entitled, even though they were  
17                    entitled;
- 18           (b)     the violations led them to believe that they had been paid the minimum,  
19                    overtime, meal period premium, and rest period premium wages to which  
20                    they were entitled, even though they had not been;
- 21           (c)     the violations led them to believe they were not entitled to be paid  
22                    minimum, overtime, meal period premium, and rest period premium wages  
23                    at the correct California rate even though they were;
- 24           (d)     the violations led them to believe they had been paid minimum, overtime,  
25                    meal period premium, and rest period premium wages at the correct  
26                    California rate even though they had not been;
- 27           (e)     the violations hindered them from determining the amounts of minimum,  
28                    overtime, meal period premium, and rest period premium owed to them;

- 1 (f) in connection with their employment before and during this action, and in  
2 connection with prosecuting this action, the violations caused them to have  
3 to perform mathematical computations to determine the amounts of wages  
4 owed to them, computations they would not have to make if the wage  
5 statements contained the required accurate information;
- 6 (g) by understating the wages truly due them, the violations caused them to  
7 lose entitlement and/or accrual of the full amount of Social Security,  
8 disability, unemployment, and other governmental benefits;
- 9 (h) the wage statements inaccurately understated the wages, hours, and wage  
10 rates to which Plaintiff, the Class, and the Aggrieved Employees were  
11 entitled, and Plaintiff, the Class, and the Aggrieved Employees were paid  
12 less than the wages and wage rates to which they were entitled.

13 Thus, Plaintiff, the Class, and the Aggrieved Employees are owed the amounts provided for in  
14 California Labor Code § 226(e).

15 **CLASS ACTION ALLEGATIONS**

16 21. Plaintiff brings certain claims individually, as well as on behalf of each and all  
17 other persons similarly situated, and thus, seeks class certification under California Code of Civil  
18 Procedure § 382.

19 22. All claims alleged herein arise under California law for which Plaintiff seeks relief  
20 authorized by California law.

21 23. The proposed Class consists of and is defined as:

22 All persons who worked for any Defendants in California as an hourly-paid,  
23 non-exempt employee at any time during the period beginning four years before  
24 the filing of the initial complaint in this action and ending when notice to the  
Class is sent.

25 24. At all material times, Plaintiff was a member of the Class.

26 25. Plaintiff undertakes this concerted activity to improve the wages and working  
27 conditions of all Class Members.

28 26. There is a well-defined community of interest in the litigation and the Class is readily

ascertainable:

- (a) Numerosity: The members of the Class (and each subclass, if any) are so numerous that joinder of all members would be unfeasible and impractical. The membership of the entire Class is unknown to Plaintiff at this time, however, the Class is estimated to be greater than 100 individuals and the identity of such membership is readily ascertainable by inspection of Defendants' records.
- (b) Typicality: Plaintiff is qualified to, and will, fairly and adequately protect the interests of each Class Member with whom there is a shared, well-defined community of interest, and Plaintiff's claims (or defenses, if any) are typical of all Class Members' claims as demonstrated herein.
- (c) Adequacy: Plaintiff is qualified to, and will, fairly and adequately protect the interests of each Class Member with whom there is a shared, well-defined community of interest and typicality of claims, as demonstrated herein. Plaintiff has no conflicts with or interests antagonistic to any Class Member. Plaintiff's attorneys, the proposed class counsel, are versed in the rules governing class action discovery, certification, and settlement. Plaintiff has incurred, and throughout the duration of this action, will continue to incur costs and attorneys' fees that have been, are, and will be necessarily expended for the prosecution of this action for the substantial benefit of each class member.
- (d) Superiority: A Class Action is superior to other available methods for the fair and efficient adjudication of the controversy, including consideration of:
  - 1) The interests of the members of the Class in individually controlling the prosecution or defense of separate actions;
  - 2) The extent and nature of any litigation concerning the controversy already commenced by or against members of the Class;



1                   3)     The desirability or undesirability of concentrating the litigation of  
2                             the claims in the particular forum; and

3                   4)     The difficulties likely to be encountered in the management of a  
4                             class action.

5                   (e)    Public Policy Considerations: The public policy of the State of California  
6                             is to resolve the California Labor Code claims of many employees through  
7                             a class action. Indeed, current employees are often afraid to assert their  
8                             rights out of fear of direct or indirect retaliation. Former employees are  
9                             also fearful of bringing actions because they believe their former  
10                            employers might damage their future endeavors through negative  
11                            references and/or other means. Class actions provide the class members  
12                            who are not named in the complaint with a type of anonymity that allows  
13                            for the vindication of their rights at the same time as their privacy is  
14                            protected.

15                   27. There are common questions of law and fact as to the Class (and each subclass, if any)  
16                   that predominate over questions affecting only individual members, including without limitation,  
17                   whether, as alleged herein, Defendants have:

18                   (a)    Failed to pay Class Members for all hours worked, including minimum  
19                             wages, and overtime wages;

20                   (b)    Failed to provide meal periods and pay meal period premium wages to  
21                             Class Members;

22                   (c)    Failed to authorize and permit rest periods and pay rest period premium  
23                             wages to Class Members;

24                   (d)    Failed to promptly pay all wages due to Class Members upon their  
25                             discharge or resignation;

26                   (e)    Failed to provide Class Members with accurate wages statements;

27                   (f)    Failed to maintain accurate records of all hours Class Members worked,  
28                             and all meal periods Class Members took or missed; and

1 (g) Violated California Business & Professions Code §§ 17200 *et. seq.* as a  
2 result of their illegal conduct as described above.

3 28. This Court should permit this action to be maintained as a class action pursuant to  
4 California Code of Civil Procedure § 382 because:

- 5 (a) The questions of law and fact common to the Class predominate over any  
6 question affecting only individual members;
- 7 (b) A class action is superior to any other available method for the fair and  
8 efficient adjudication of the claims of the members of the Class;
- 9 (c) The members of the Class are so numerous that it is impractical to bring all  
10 members of the class before the Court;
- 11 (d) Plaintiff, and the other members of the Class, will not be able to obtain  
12 effective and economic legal redress unless the action is maintained as a  
13 class action;
- 14 (e) There is a community of interest in obtaining appropriate legal and  
15 equitable relief for the statutory violations, and in obtaining adequate  
16 compensation for the damages and injuries for which Defendants are  
17 responsible in an amount sufficient to adequately compensate the members  
18 of the Class for the injuries sustained;
- 19 (f) Without class certification, the prosecution of separate actions by  
20 individual members of the class would create a risk of:
- 21 1) Inconsistent or varying adjudications with respect to individual  
22 members of the Class which would establish incompatible standards  
23 of conduct for Defendants; and/or
- 24 2) Adjudications with respect to the individual members which would,  
25 as a practical matter, be dispositive of the interests of other  
26 members not parties to the adjudications, or would substantially  
27 impair or impede their ability to protect their interests, including but  
28 not limited to the potential for exhausting the funds available from

1 those parties who are, or may be, responsible Defendants; and,

2 (g) Defendants have acted or refused to act on grounds generally applicable to  
3 the Class, thereby making final injunctive relief appropriate with respect to  
4 the class as a whole.

5 29. Plaintiff contemplates the eventual issuance of notice to the proposed members of the  
6 Class that would set forth the subject and nature of the instant action. The Defendants' own  
7 business records may be utilized for assistance in the preparation and issuance of the  
8 contemplated notices. To the extent that any further notices may be required, Plaintiff would  
9 contemplate the use of additional techniques and forms commonly used in class actions, such as  
10 published notice, e-mail notice, website notice, first-class mail, or combinations thereof, or by  
11 other methods suitable to the Class and deemed necessary and/or appropriate by the Court.

12 **FIRST CAUSE OF ACTION**

13 **(Against all Defendants for Failure to Pay Minimum Wages for All Hours Worked)**

14 30. Plaintiff incorporates by reference and re-alleges as if fully stated herein  
15 paragraphs 1 through 20 in this Complaint.

16 31. "Hours worked" is the time during which an employee is subject to the control of  
17 an employer, and includes all the time the employee is suffered or permitted to work, whether or  
18 not required to do so.

19 32. At all relevant times herein mentioned, Defendants knowingly failed to pay to  
20 Plaintiff and the Class compensation for all hours they worked. By their failure to pay  
21 compensation for each hour worked as alleged above, Defendants willfully violated the  
22 provisions of Section 1194 of the California Labor Code, and any additional applicable Wage  
23 Orders, which require such compensation to non-exempt employees.

24 33. Accordingly, Plaintiff and the Class are entitled to recover minimum wages for all  
25 non-overtime hours worked for Defendants.

26 34. By and through the conduct described above, Plaintiff and the Class have been  
27 deprived of their rights to be paid wages earned by virtue of their employment with Defendants.  
28



1           42.     California Labor Code §§ 1194 and 1198 provide that employees in California  
2 shall not be employed more than eight hours in any workday unless they receive additional  
3 compensation beyond their regular wages in amounts specified by law.  Additionally, California  
4 Labor Code § 1198 states that the employment of an employee for longer hours than those fixed  
5 by the Industrial Welfare Commission is unlawful.

6           43.     At all times relevant hereto, Plaintiff and the Class have worked more than eight  
7 hours in a workday, as employees of Defendants.

8           44.     At all times relevant hereto, Defendants failed to pay Plaintiff and the Class  
9 overtime compensation for the hours they have worked in excess of the maximum hours  
10 permissible by law as required by California Labor Code § 510 and 1198.  Plaintiff and the Class  
11 are regularly required to work overtime hours.

12           45.     By virtue of Defendants’ unlawful failure to pay additional premium rate  
13 compensation to the Plaintiff and the Class for their overtime hours worked, Plaintiff and the  
14 Class have suffered, and will continue to suffer, damages in amounts which are presently  
15 unknown to them but which exceed the jurisdictional minimum of this Court and which will be  
16 ascertained according to proof at trial.

17           46.     By failing to keep adequate time records required by Labor Code § 1174(d),  
18 Defendants have made it difficult to calculate the full extent of overtime compensation due to  
19 Plaintiff and the Class.

20           47.     Plaintiff and the Class also request recovery of overtime compensation according  
21 to proof, interest, attorneys’ fees and costs pursuant to California Labor Code § 1194(a), as well  
22 as the assessment of any statutory penalties against Defendants, in a sum as provided by the  
23 California Labor Code and/or other statutes.

24           48.     California Labor Code § 204 requires employers to provide employees with all  
25 wages due and payable twice a month.  The Wage Orders also provide that every employer shall  
26 pay to each employee, on the established payday for the period involved, overtime wages for all  
27 overtime hours worked in the payroll period.  Defendants failed to provide Plaintiff and the Class  
28 with all compensation due, in violation of California Labor Code § 204.

1 **THIRD CAUSE OF ACTION**

2 **(Against All Defendants for Failure to Provide Meal Periods)**

3 49. Plaintiff incorporates by reference and re-alleges as if fully stated herein  
4 paragraphs 1 through 20 in this Complaint.

5 50. Under California law, Defendants have an affirmative obligation to relieve the  
6 Plaintiff and the Class of all duty in order to take their first daily meal periods no later than the  
7 start of Plaintiff and the Class' sixth hour of work in a workday, and to take their second meal  
8 periods no later than the start of the eleventh hour of work in the workday. Section 512 of the  
9 California Labor Code, and Section 11 of the applicable Wage Orders require that an employer  
10 provide unpaid meal periods of at least 30 minutes for each five-hour period worked. It is a  
11 violation of Section 226.7 of the California Labor Code for an employer to require any employee  
12 to work during any meal period mandated under any Wage Order.

13 51. Despite these legal requirements, Defendants regularly failed to provide Plaintiff  
14 and the Class with both meal periods as required by California law. By their failure to permit  
15 and authorize Plaintiff and the Class to take all meal periods as alleged above (or due to the fact  
16 that Defendants made it impossible or impracticable to take these uninterrupted meal periods),  
17 Defendants willfully violated the provisions of Section 226.7 of the California Labor Code and  
18 the applicable Wage Orders.

19 52. Under California law, Plaintiff and the Class are entitled to be paid one hour of  
20 additional wages for each workday he or she was not provided with all required meal period(s),  
21 plus interest thereon.

22 **FOURTH CAUSE OF ACTION**

23 **(Against All Defendants for Failure to Authorize and Permit Rest Periods)**

24 53. Plaintiff incorporates by reference and re-alleges as if fully stated herein  
25 paragraphs 1 through 20 in this Complaint.

26 54. Defendants are required by California law to authorize and permit breaks of 10  
27 uninterrupted minutes for each four hours of work or major fraction of four hours (i.e. more than  
28 two hours). Section 512 of the California Labor Code, the applicable Wage Orders require that

1 the employer permit and authorize all employees to take paid rest periods of 10 minutes each for  
2 each 4-hour period worked. Thus, for example, if an employee's work time is 6 hours and ten  
3 minutes, the employee is entitled to two rest breaks. Each failure to authorize rest breaks as so  
4 required is itself a violation of California's rest break laws. It is a violation of Section 226.7 of  
5 the California Labor Code for an employer to require any employee to work during any rest  
6 period mandated under any Wage Order.

7 55. Despite these legal requirements, Defendants failed to authorize Plaintiff and the  
8 Class to take rest breaks, regardless of whether employees worked more than 4 hours in a  
9 workday. By their failure to permit and authorize Plaintiff and the Class to take rest periods as  
10 alleged above (or due to the fact that Defendants made it impossible or impracticable to take  
11 these uninterrupted rest periods), Defendants willfully violated the provisions of Section 226.7 of  
12 the California Labor Code and the applicable Wage Orders.

13 56. Under California law, Plaintiff and the Class are entitled to be paid one hour of  
14 premium wages rate for each workday he or she was not provided with all required rest break(s),  
15 plus interest thereon.

### 16 **FIFTH CAUSE OF ACTION**

#### 17 **(Against all Defendants for Failure to Pay Wages of Discharged Employees – Waiting Time** 18 **Penalties)**

19 57. Plaintiff incorporates by reference and re-alleges as if fully stated herein  
20 paragraphs 1 through 20 in this Complaint.

21 58. At all times herein set forth, California Labor Code §§ 201 and 202 provide that if  
22 an employer discharges an employee, the wages earned and unpaid at the time of discharge are  
23 due and payable immediately, and that if an employee voluntarily leaves his or her employment,  
24 his or her wages shall become due and payable not later than seventy-two (72) hours thereafter,  
25 unless the employee has given seventy-two (72) hours previous notice of his or her intention to  
26 quit, in which case the employee is entitled to his or her wages at the time of quitting.

27 59. Within the applicable statute of limitations, the employment of Plaintiff and many  
28 other members of the Class ended, i.e. was terminated by quitting or discharge, and the

1 employment of others will be. However, during the relevant time period, Defendants failed, and  
2 continue to fail to pay terminated Class Members, without abatement, all wages required to be  
3 paid by California Labor Code sections 201 and 202 either at the time of discharge, or within  
4 seventy-two (72) hours of their leaving Defendants' employ.

5 60. Defendants' failure to pay Plaintiff and those Class members who are no longer  
6 employed by Defendants their wages earned and unpaid at the time of discharge, or within  
7 seventy-two (72) hours of their leaving Defendants' employ, is in violation of California Labor  
8 Code §§ 201 and 202.

9 61. California Labor Code § 203 provides that if an employer willfully fails to pay  
10 wages owed, in accordance with sections 201 and 202, then the wages of the employee shall  
11 continue as a penalty wage from the due date, and at the same rate until paid or until an action is  
12 commenced; but the wages shall not continue for more than thirty (30) days.

13 62. Plaintiff and the Class are entitled to recover from Defendants their additionally  
14 accruing wages for each day they were not paid, at their regular hourly rate of pay, up to 30 days  
15 maximum pursuant to California Labor Code § 203.

16 63. Pursuant to California Labor Code §§ 218.5, 218.6 and 1194, Plaintiff and the  
17 Class are also entitled to an award of reasonable attorneys' fees, interest, expenses, and costs  
18 incurred in this action.

19 **SIXTH CAUSE OF ACTION**

20 **(Against all Defendants for Failure to Provide and Maintain Accurate and**  
21 **Compliant Wage Records)**

22 64. Plaintiff incorporates by reference and re-alleges as if fully stated herein  
23 paragraphs 1 through 20 in this Complaint.

24 65. At all material times set forth herein, California Labor Code § 226(a) provides that  
25 every employer shall furnish each of his or her employees an accurate itemized wage statement  
26 in writing showing nine pieces of information, including: (1) gross wages earned, (2) total hours  
27 worked by the employee, (3) the number of piece-rate units earned and any applicable piece rate  
28 if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made



1 on written orders of the employee may be aggregated and shown as one item, (5) net wages  
2 earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the  
3 employee and the last four digits of his or her social security number or an employee  
4 identification number other than a social security number, (8) the name and address of the legal  
5 entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and  
6 the corresponding number of hours worked at each hourly rate by the employee.

7 66. Defendants have intentionally and willfully failed to provide employees with  
8 complete and accurate wage statements. The deficiencies include, among other things, the  
9 failure to correctly identify the gross wages earned by Plaintiff and the Class, the failure to list  
10 the true “total hours worked by the employee,” and the failure to list the true net wages earned.

11 67. As a result of Defendants’ violation of California Labor Code § 226(a), Plaintiff  
12 and the Class have suffered injury and damage to their statutorily-protected rights.

13 68. Specifically, Plaintiff and the members of the Class have been injured by  
14 Defendants’ intentional violation of California Labor Code § 226(a) because they were denied  
15 both their legal right to receive, and their protected interest in receiving, accurate, itemized wage  
16 statements under California Labor Code § 226(a).

17 69. Calculation of the true wage entitlement for Plaintiff and the Class is difficult and  
18 time consuming. As a result of this unlawful burden, Plaintiff and the Class were also injured as  
19 a result of having to bring this action to attempt to obtain correct wage information following  
20 Defendants’ refusal to comply with many of the mandates of California’s Labor Code and related  
21 laws and regulations.

22 70. Plaintiff and the Class are entitled to recover from Defendants the greater of their  
23 actual damages caused by Defendants’ failure to comply with California Labor Code § 226(a), or  
24 an aggregate penalty not exceeding four thousand dollars per employee.

25 71. Plaintiff and the Class are also entitled to injunctive relief, as well as an award of  
26 attorney’s fees and costs to ensure compliance with this section, pursuant to California Labor  
27 Code § 226(h).

28

1 **SEVENTH CAUSE OF ACTION**

2 **(Against all Defendants for Violation of California Business & Professions Code §§ 17200,**  
3 **et seq.)**

4 72. Plaintiff incorporates by reference and re-alleges as if fully stated herein  
5 paragraphs 1 through 20 in this Complaint.

6 73. Defendants, and each of them, are “persons” as defined under California Business  
7 & Professions Code § 17201.

8 74. Defendants’ conduct, as alleged herein, has been, and continues to be, unfair,  
9 unlawful, and harmful to Plaintiff, other Class members, and to the general public. Plaintiff seek  
10 to enforce important rights affecting the public interest within the meaning of Code of Civil  
11 Procedure § 1021.5.

12 75. Defendants’ activities, as alleged herein, are violations of California law, and  
13 constitute unlawful business acts and practices in violation of California Business & Professions  
14 Code §§ 17200, *et seq.*

15 76. A violation of California Business & Professions Code §§ 17200, *et seq.* may be  
16 predicated on the violation of any state or federal law. All of the acts described herein as  
17 violations of, among other things, the California Labor Code, are unlawful and in violation of  
18 public policy; and in addition are immoral, unethical, oppressive, fraudulent and unscrupulous,  
19 and thereby constitute unfair, unlawful and/or fraudulent business practices in violation of  
20 California Business & Professions Code §§ 17200, *et seq.*

21 **Failure to Pay Minimum Wages**

22 77. Defendants’ failure to pay minimum wages, and other benefits in violation of the  
23 California Labor Code constitutes unlawful and/or unfair activity prohibited by California  
24 Business & Professions Code §§ 17200, *et seq.*

25 **Failure to Pay Overtime Wages**

26 78. Defendants’ failure to pay overtime compensation and other benefits in violation of  
27 California Labor Code §§ 510, 1194, and 1198 constitutes unlawful and/or unfair activity  
28 prohibited by California Business & Professions Code §§ 17200, *et seq.*

1                                   **Failure to Maintain Accurate Records of All Hours Worked**

2           79. Defendants’ failure to maintain accurate records of all hours worked in accordance  
3 with California Labor Code § 1174.5 and the IWC Wage Orders constitutes unlawful and/or  
4 unfair activity prohibited by California Business & Professions Code §§ 17200, *et seq.*

5                                   **Failure to Provide Meal Periods**

6           80. Defendants’ failure to provide meal periods in accordance with California Labor Code  
7 §§ 226.7 and 512, and the IWC Wage Orders, as alleged above, constitutes unlawful and/or  
8 unfair activity prohibited by California Business & Professions Code §§ 17200, *et seq.*

9                                   **Failure to Maintain Accurate Records of Meal Periods**

10          81. Defendants’ failure to maintain accurate records of employee meal periods in  
11 accordance with California Labor Code § 226.7 and the IWC Wage Orders, as alleged above,  
12 constitutes unlawful and/or unfair activity prohibited by California Business & Professions Code  
13 §§ 17200, *et seq.*

14                                   **Failure to Authorize and Permit Rest Periods**

15          82. Defendants’ failure to authorize and permit rest periods in accordance with California  
16 Labor Code § 226.7 and the IWC Wage Orders, as alleged above, constitutes unlawful and/or  
17 unfair activity prohibited by Business and Professions Code §§ 17200, *et seq.*

18                                   **Failure to Provide Accurate Itemized Wage Statements**

19          83. Defendants’ failure to provide accurate itemized wage statements in accordance  
20 with California Labor Code § 226, as alleged above, constitutes unlawful and/or unfair activity  
21 prohibited by California Business & Professions Code §§ 17200, *et seq.*

22          84. By and through their unfair, unlawful and/or fraudulent business practices  
23 described herein, the Defendants, have obtained valuable property, money and services from  
24 Plaintiff, and all persons similarly situated, and have deprived Plaintiff, and all persons similarly  
25 situated, of valuable rights and benefits guaranteed by law, all to their detriment.

26          85. Plaintiff and the Class Members suffered monetary injury as a direct result of  
27 Defendants’ wrongful conduct.

28

1           86. Plaintiff, individually, and on behalf of members of the putative Class, are entitled  
2 to, and do, seek such relief as may be necessary to disgorge money and/or property which the  
3 Defendants have wrongfully acquired, or of which Plaintiff and the Class have been deprived, by  
4 means of the above-described unfair, unlawful and/or fraudulent business practices. Plaintiff and  
5 the Class are not obligated to establish individual knowledge of the wrongful practices of  
6 Defendants in order to recover restitution.

7           87. Plaintiff, individually, and on behalf of members of the putative class, are further  
8 entitled to and do seek a declaration that the above described business practices are unfair,  
9 unlawful and/or fraudulent, and injunctive relief restraining the Defendants, and each of them,  
10 from engaging in any of the above-described unfair, unlawful and/or fraudulent business  
11 practices in the future.

12           88. Plaintiff, individually, and on behalf of members of the putative class, have no  
13 plain, speedy, and/or adequate remedy at law to redress the injuries which the Class Members  
14 suffered as a consequence of the Defendants' unfair, unlawful and/or fraudulent business  
15 practices. As a result of the unfair, unlawful and/or fraudulent business practices described  
16 above, Plaintiff, individually, and on behalf of members of the putative Class, suffered and will  
17 continue to suffer irreparable harm unless the Defendants, and each of them, are restrained from  
18 continuing to engage in said unfair, unlawful and/or fraudulent business practices.

19           89. Plaintiff also alleges that if Defendants are not enjoined from the conduct set forth  
20 herein above, they will continue to avoid paying the appropriate taxes, insurance and other  
21 withholdings.

22           90. Pursuant to California Business & Professions Code §§ 17200, *et seq.*, Plaintiff  
23 and putative Class Members are entitled to restitution of the wages withheld and retained by  
24 Defendants during a period that commences four years prior to the filing of this complaint; a  
25 permanent injunction requiring Defendants to pay all outstanding wages due to Plaintiff and  
26 Class Members; an award of attorneys' fees pursuant to California Code of Civil Procedure §  
27 1021.5 and other applicable laws; and an award of costs.

1 **EIGHTH CAUSE OF ACTION**

2 **(Against all Defendants for Civil Penalties Under the Private Attorneys General Act**  
3 **of 2004, Cal. Lab. Code § 2698 et seq.)**

4 91. Plaintiff incorporates by reference and re-alleges as if fully stated herein  
5 paragraphs 1 through 20 in this Complaint.

6 92. At all times herein mentioned, Defendants were subject to the Labor Code of the  
7 State of California and the applicable Industrial Welfare Commission Orders.

8 93. California Labor Code § 2699(a) specifically provides for a private right of action  
9 to recover penalties for violations of the Labor Code: “Notwithstanding any other provision of  
10 law, any provision of this code that provides for a civil penalty to be assessed and collected by  
11 the Labor and Workforce Development Agency or any of its departments, divisions,  
12 commissions, boards, agencies, or employees, for a violation of this code, may, as an alternative,  
13 be recovered through a civil action brought by an aggrieved employee on behalf of himself or  
14 herself and other current or former employees pursuant to the procedures specified in Section  
15 2699.3.”

16 94. Plaintiff has exhausted her administrative remedies pursuant to California Labor  
17 Code § 2699.3. On May 4 2021, she gave written notice by online filing to the Labor and  
18 Workforce Development Agency and by certified mail to Defendants of the specific provisions  
19 of the Labor Code that Defendants have violated against Plaintiff and certain current and former  
20 aggrieved employees, including the facts and theories to support the violations. Plaintiff also  
21 paid the filing fee. Plaintiff’s PAGA case number is LWDA-CM- 831184-21.

22 95. More than 65 days has elapsed since Plaintiff provided notice, but the Labor and  
23 Workforce Development Agency has not indicated that it intends to investigate Defendants’  
24 Labor Code violations discussed in the notice. Accordingly, Plaintiff may commence a civil  
25 action to recover penalties under Labor Code § 2699 pursuant to § 2699.3 for the violations of  
26 the Labor Code described in this Complaint. These penalties include, but are not limited to,  
27 penalties under California Labor Code §§ 210, 226.3, 558, and 2699(f)(2).  
28

1           96.     In addition, Plaintiff seeks penalties for Defendants' violation of California Labor  
2 Code § 1174(d). Pursuant to California Labor Code § 1174.5, any person, including any entity,  
3 employing labor who willfully fails to maintain accurate and complete records required by  
4 California Labor Code § 1174 is subject to a penalty under § 1174.5. Pursuant to the applicable  
5 IWC Order § 7(A)(3), every employer shall keep time records showing when the employee  
6 begins and ends each work period. Meal periods, and total hours worked daily shall also be  
7 recorded. Additionally, pursuant to the applicable IWC Order § 7(A)(5), every employer shall  
8 keep total hours worked in the payroll period and applicable rates of pay.

9           97.     During the time period of employment for Plaintiff and the Aggrieved Employees,  
10 Defendants failed to maintain records pursuant to the Labor Code and IWC Orders by failing to  
11 maintain accurate records showing meal periods. Defendants' failure to provide and maintain  
12 records required by the Labor Code IWC Wage Orders deprived Plaintiff and the Aggrieved  
13 Employees the ability to know, understand and question the accuracy and frequency of meal  
14 periods. Therefore, Plaintiff and the Aggrieved Employees had no way to dispute the resulting  
15 failure to pay wages, all of which resulted in an unjustified economic enrichment to Defendants.  
16 As a direct result, Plaintiff and the Aggrieved Employees have suffered and continue to suffer,  
17 substantial losses related to the use and enjoyment of such wages, lost interest on such wages and  
18 expenses and attorney's fees in seeking to compel Defendants to fully perform its obligation  
19 under state law, all to their respective damage in amounts according to proof at trial. Because of  
20 Defendants' knowing failure to comply with the Labor Code and applicable IWC Wage Orders,  
21 Plaintiff and the Aggrieved Employees have also suffered an injury in that they were prevented  
22 from knowing, understanding, and disputing the wage payments paid to them.

23           98.     Based on the conduct described in this Complaint, Plaintiff is entitled to an award  
24 of civil penalties on behalf of herself, the State of California, and similarly Aggrieved Employees  
25 of Defendants. The exact amount of the applicable penalties, in all, is in an amount to be shown  
26 according to proof at trial. These penalties are in addition to all other remedies permitted by law.  
27  
28









1 38. For reasonable attorneys' fees and costs of suit incurred herein pursuant to California  
2 Code of Civil Procedure § 1021.5;

3 39. For injunctive relief to ensure compliance with this section, pursuant to California  
4 Business & Professions Code §§ 17200, *et seq.*; and,

5 40. For such other and further relief as the Court may deem equitable and appropriate.

6 As to the Eighth Cause of Action

7 41. That the Court declare, adjudge and decree that Defendants violated the California  
8 Labor Code by failing to pay all wages owed, including overtime, failure to provide meal  
9 periods, failing to maintain accurate records of meal periods, failing to authorize and permit rest  
10 periods, failing to pay final wages at termination, and failing to furnish accurate wage statements;

11 42. For all actual, consequential and incidental losses and damages, according to proof;

12 43. For all civil penalties pursuant to California Labor Code § 2699, *et seq.*, and all other  
13 applicable Labor Code provisions;

14 44. For reasonable attorneys' fees and costs of suit incurred herein pursuant to California  
15 Labor Code § 2699; and,

16 45. For such other and further relief as the Court may deem equitable and appropriate.

17 As to all Causes of Action

18 46. For any additional relief that the Court deems just and proper.

19  
20 Dated: July 13, 2021

Respectfully submitted,

21 MOON & YANG, APC

22  
23 By: 

24 Kane Moon  
25 Allen Feghali  
26 Edwin Kamarzarian  
27 Attorneys for Plaintiff  
28

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**DEMAND FOR JURY TRIAL**

Plaintiff demands a trial by jury as to all causes of action triable by jury.

Dated: July 13, 2021

MOON & YANG, APC

By:  \_\_\_\_\_

Kane Moon  
Allen Feghali  
Edwin Kamarzarian  
Attorneys for Plaintiff

1 **PROOF OF SERVICE**

2 **STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

3 I am employed in the State of California, County of Los Angeles. I am over the age of 18  
4 and not a party to the within suit; my business address is 1055 W. 7<sup>th</sup> Street, Suite 1880, Los  
5 Angeles, CA 90017.

6 On the date indicated below, I served the document described as: **FIRST AMENDED**  
7 **CLASS AND REPRESENTATIVE ACTION COMPLAINT** on the interested parties in this  
8 action by sending [ ] the original [or] [] a true copy thereof [] to interested parties as follows  
9 [or] [ ] as stated on the attached service list:

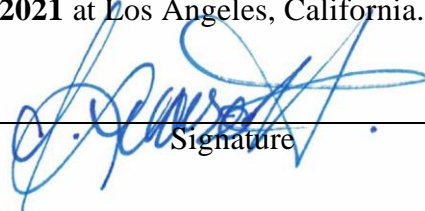
10 Andrew J. Kozlow, Esq.  
11 Leila Mohseni  
12 **ERICKSEN ARBUTHNOT**  
13 2300 Clayton Road, Suite 350  
14 Concord, California 94520  
15 Tel.:510-832-7770  
16 Fax: 510-832-0102  
17 akozlow@ericksenarbuthnot.com  
18 lmohseni@ericksenarbuthnot.com

19 *Attorneys for Defendant Baker Places, Inc.,*

20 [] **BY Via Court Approved Efiling & Eservice Vendor: FILE & SERVE**  
21 **EXPRESS:** by transmitting via electric service the document(s) listed above to the  
22 parties and or email address(es) set forth below.

23 I declare under penalty of perjury under the laws of the State of California that the  
24 foregoing is true and correct. Executed this **July 13, 2021** at Los Angeles, California.

25 Ivette Hernandez  
26 Type or Print Name

27   
28 Signature



**SUMMONS  
(CITACION JUDICIAL)**

FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)

**NOTICE TO DEFENDANT:  
(AVISO AL DEMANDADO):**

BAKER PLACE, JOHN FOSTEL, SCOTT ARAI and DOES 1-25

**YOU ARE BEING SUED BY PLAINTIFF:  
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

ERLAND TORRICO

**NOTICE!** You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California, ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:  
(El nombre y dirección de la corte es):

San Francisco Superior Court  
400 McAllister St. San Francisco, CA 94102-4515

NUMBER  
**06-20-582011**

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):  
Frederick J. Geonetta 114824 510 254-3777  
825 Washington Street, Suite 220 Oakland California 94607

DATE:  
(Fecha) **JAN 06 2020**

**Clerk of the Court**

Clerk, by  
(Secretario)

Deputy  
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)  
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

**ANGELICA SUNGA**



**NOTICE TO THE PERSON SERVED:** You are served

- as an individual defendant.
- as the person sued under the fictitious name of (specify):
- on behalf of (specify):  
under:  CCP 416.10 (corporation)  CCP 416.60 (minor)  
 CCP 416.20 (defunct corporation)  CCP 416.70 (conservatee)  
 CCP 416.40 (association or partnership)  CCP 416.90 (authorized person)  
 other (specify):
- by personal delivery on (date):

BY FAX

1 FREDERICK J. GEONETTA, State Bar No. 114824  
2 KENNETH FRUCHT, State Bar No. 178881  
3 **GEONETTA & FRUCHT, LLP**  
825 Washington Street, Suite 220  
Oakland, CA 94607  
Telephone: (510) 254-3777

4 Attorneys for Plaintiff Erland Torrico

**FILED**  
SUPERIOR COURT  
COUNTY OF SAN FRANCISCO

JAN 06 2020

CLERK OF THE COURT

BY:   
Deputy Clerk

ANGELICA SUNGA

8 SUPERIOR COURT OF CALIFORNIA  
9 FOR THE CITY AND COUNTY OF SAN FRANCISCO

10 [UNLIMITED JURISDICTION]

12 ERLAND TORRICO,

13 Plaintiff,

14 v.

15 BAKER PLACE, JOHN FOSTEL,  
16 SCOTT ARAI and DOES 1-25,  
17 inclusive,

18 Defendants.

CASE NO.: **CGC-20-582011**

COMPLAINT FOR DAMAGES

1. Retaliation in Violation of Labor Code § 1102.5 Whistleblower
2. Wrongful Termination In Violation of Public Policy
3. Intentional Infliction of Emotional Distress

DEMAND FOR JURY TRIAL

19 Plaintiff, DEMANDING TRIAL BY JURY, ALLEGES AS FOLLOWS:

21 INTRODUCTION

22 This action arises out of the open hostility, retaliation and wrongful termination of  
23 Plaintiff Erland Torrico ("Torrico"), by Defendants Baker Place ("Baker"), John Fostel  
24 ("Fostel") and Scott Arai ("Arai") (collectively the "Baker Defendants"), after Torrico reported  
25 to the Baker Defendants, and subsequently to San Francisco County officials, what amounted  
26 to years of violations of Baker's contract with the County of San Francisco for the provision of  
27 treatment and related services to individuals with substance abuse and mental health

COMPLAINT FOR DAMAGES

ERLAND TORRICO v. BAKER PLACE, et al. COURT CASE NO.

BY FAX

1 disabilities in the City and County of San Francisco. When San Francisco audited Baker and  
2 found numerous deficiencies, false claims and other irregularities, it demanded repayment to  
3 San Francisco of approximately \$342,000.00 in County and Medi-Cal funds; within a day Of  
4 announcement of the audit results, Defendant Fostel called Torrico into his office, told Torrico  
5 the audit was his fault, that a claw back of \$342,000.00 was “not survivable,” and terminated  
6 him.

7 This lawsuit seeks to remedy and compensate Torrico for the harm that has been done  
8 him, and to address the problem of Defendants’ failure to follow the law in managing Baker’s  
9 programs, and for filing irresponsible and fraudulent claims for public funds.

10 **PARTIES**

11 1. Plaintiff Erland Torrico (“Torrico” or “PLAINTIFF”) is an individual and  
12 was at all times relevant herein a California resident, living and working in the City and  
13 County of San Francisco. Torrico has earned both an MBA and a master’s degree in Social  
14 Work. Torrico worked for Defendant Baker at its office at 120 Page Street in San Francisco  
15 for approximately ten months before Defendants unlawfully terminated him on December  
16 27, 2018.

17 2. Defendant Baker Place (“Baker”) is, and was at all times herein mentioned, a  
18 not for profit non-government entity duly organized and existing under the law of the State  
19 of California. Baker conducts its operation in the City and County of San Francisco and  
20 operates several business units. These include a division that contracts with the City and  
21 County of San Francisco to provide mental health and other health and welfare related  
22 services to acute persons with severe mental and physical health disorders, including those  
23 with HIV/AIDS who, without Baker’s programs, have a high probability of homelessness  
24 and of living on the streets. Baker operates many residential programs which ostensibly  
25 provide a structured, supportive therapeutic community where residents can work through  
26 emotional difficulties and learn or re-learn practical living and social skills in order to live  
27



1 more independent and self-directed lives. Baker is supposed to offer transitional programs to  
2 move clients into less acute care as they progress toward independent living. Baker accepts  
3 adults with psychiatric history, dually diagnosed clients (psychiatric and drug/alcohol  
4 addiction), and people with HIV/AIDS. Baker employs 24-hour staffing and its Clients  
5 supposedly can only stay at its facilities for 3-5 months. Baker also runs a 21-day  
6 detoxification program called Joe Healey detox on 2<sup>nd</sup> floor of 120 Page St. From there the  
7 Clients move on to residential treatment facilities that are for 90 days. These residential  
8 facilities differ in specialty and population served as set forth in Paragraph 13, *infra*. Once  
9 Clients complete these programs they can move on to the assisted independent living  
10 program (18 month stay per county contract) or Baker supported living program (6 months)  
11 receiving mental health and other services while preparing to transition to other programs  
12 and eventually to independent living. Baker receives substantial public sums from its  
13 clients' Social Security benefits and from Medi-Cal payments.

14 3. Defendant John Fostel ("Fostel") was at times relevant herein a Baker  
15 employee at its San Francisco office, serving as its Chief Clinical Officer and Torrico's  
16 supervisor.

17 4. Defendant SCOTT ARAI ("Arai") was at times relevant herein a Baker  
18 employee at its San Francisco office. Arai blamed Torrico for the audit described *infra*, and  
19 told him to leave Baker if he did not want to participate in Baker policies and practices that  
20 Torrico believed violated its contract with the City and County of San Francisco as more  
21 fully described *infra*.

22 5. At all times relevant herein, Baker qualified as an "employer" as defined  
23 within California Fair Employment and Housing Act (California Government Code 12940,  
24 *et. seq.*, or "FEHA"), in that it regularly employed five or more employees.

25 6. At all times relevant herein, Baker employed Torrico under an employment  
26 agreement that was partly written, partly oral, and partly implied.

1. 7. The true names and capacities of Defendants sued in this Complaint under  
2 the fictitious name of DOES 1 through 25, inclusive, are presently unknown to Torrico who  
3 therefore sues defendants by such fictitious names.

4 8. Whenever reference is made in this complaint to any act of any defendant,  
5 such allegation shall mean that each defendant acted individually and jointly with the other  
6 defendants named in that cause of action.

7 9. Whenever reference is made in this complaint to any act of any defendant,  
8 such allegation shall mean that individuals or business entity did the acts alleged in the  
9 complaint by the individuals and through the business's other officers, directors, employees,  
10 agents and/or representatives while they were acting within the actual or ostensible scope of  
11 their employment and authority.

12 10. At all times relevant herein, each of the Defendants has acted as an agent,  
13 representative, or employee of each of the other Defendants and acted within the course and  
14 scope of said agency or representation or employment with respect to the causes of action in  
15 this complaint. At all relevant times each individual Defendant conspired with the others to  
16 engage in the acts alleged in this complaint, and each acted in furtherance of the conspiracy.  
17 Alternatively, each Defendant ratified and/or aided and abetted the acts of the others in  
18 engaging in the events alleged in this complaint.

19 **JURISDICTION & VENUE**

20 11. State policy favors jurisdiction and venue in San Francisco, California,  
21 because the State of California has a policy of protecting California residents and employees  
22 where they reside or work, including Torrico, and thus ensuring the applicability of  
23 California laws protecting employees and clients of San Francisco based Baker, and the  
24 lawful use of San Francisco's public funds. Venue is proper in this Court because Torrico's  
25 employment with Baker was in San Francisco, California.



1 embodied in the Baker Employee Handbook operative at the relevant time period as  
2 follows:

3           Non-Retaliation

4           If you have filed a complaint in good faith, you may not be disciplined or  
5           otherwise retaliated against, even if Baker Places, Inc. does not agree with  
6           your complaint.

7           17.    On February 19, 2018, Baker hired Torrico as project director of the Baker  
8           Adult Independent Living and Baker Supported Living programs, with a salary in six figures  
9           plus benefits. Torrico reported directly to Baker's Chief Clinical Officer, Defendant Fostel, and  
10          reported indirectly to Baker Chief Executive Officer Brett Andrews.

11          18.    Baker hired Torrico to improve and raise units of service utilization to over  
12          90%. Baker CEO Brett Andrews implied that Torrico would have 1 year to do so when he  
13          stated that one year is ample time to see change in a program and in a program's direction.  
14          Baker additionally tasked Torrico with reducing significant levels of unpaid fees and charges  
15          by clients/patients. Baker also hired Torrico to improve department finances, increase staff  
16          morale, increase staff support, increase client participation in services Baker offered as well as  
17          client confidence and buy-in into the program.

18          19.    Immediately following his hiring, and subject to Fostel's supervision and  
19          approval, Torrico engaged in meetings with Baker staff, and engaged in a comprehensive  
20          review of Baker's treatment plans, client lengths of stay or treatment, service delivery, and  
21          what the department was getting paid for under Baker's contract with San Francisco County.  
22          20.    Torrico quickly learned of numerous irregularities in Baker policies and

23          practices regarding assessment, treatment, the length of time clients participated in its  
24          programs, and in its claims for payment from Medi-Cal for these services. In short, Baker  
25          contracted with the County of San Francisco to provide transitional housing and services for  
26          27          28

1 clients, with mental and physical health treatment designed to move clients to other programs  
2 and to progressively greater independence. Having clients transition out of Baker as their  
3 situation improved is critical so that other acute individuals could benefit from Baker's  
4 programs and services. Instead of following its contractual obligations, Baker frequently  
5 merely "warehoused" clients in some cases for up to fifteen years with no recurring diagnosis,  
6 all the while collecting substantial sums from San Francisco County Department of Public  
7 Health ("SF DPH"), Medi-Cal funds and their Client's Social Security checks, without  
8 reassessing their mental and physical health status or their continued need for participation in  
9 Baker's or other programs. Within only a month of being hired, by March 2019, Torrico had  
10 concluded that Baker was not in compliance with the provision of assisted transitional living  
11 services to its clients. Torrico repeatedly warned Baker staff, usually Fostel, that Baker was not  
12 in compliance, that it was warehousing Clients and was not providing the appropriate level of  
13 care and services for each client and not billing appropriately for those services. Fostel in turn  
14 relayed Torrico's warnings to Arai who from time to time told Torrico not to create  
15 homelessness. Arai told Torrico that if he did not like it, Torrico should leave for other  
16 employment. "Warehousing" clients and collecting their social security payments (for monthly  
17 fees) for 7-15 years was denying other acute individuals access to Baker's services. Further, it  
18 failed to give the case managers anything to work on, as the clients previously had no  
19 professional assessment and diagnosis, which in turn resulted in low production or units of  
20 service not being utilized. Baker was under contract to provide transitional assisted living  
21 programs and services through Medi-Cal it did not provide. For up to 15 years Baker billed,  
22 and received funds from, Medi-Cal for such transitional services that it did not deliver.  
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1           21. Baker management, including Defendants Fostel and Arai, told Torrico that  
2 Baker did not want to displace clients and ignored Baker's contractual responsibility to do  
3 otherwise. Torrico edited the Baker admissions agreement to state that for new clients, the  
4 program was a two-year program, in an attempt to bring Baker into compliance with its  
5 contract. Torrico sent the edited admission agreement to Fostel for review. Fostel never  
6 responded that the edited agreement was not approved. Additionally, Torrico's June letter  
7 provided that Clients over 3 years of stay in the program had to start to transition out of the  
8 program (assisted independent living program or "AILP") which Clients either signed or  
9 refused to sign, and which was noted and placed in their charts. Torrico's rationale was that the  
10 goal and mission of the program was to provide assistance for clients to secure independent  
11 living situations, and that therefore, "assistance" is temporary. This reasoning depended on  
12 clients' diagnosis, etc., which in turn dictates the appropriate level of care at that point. With  
13 the autonomy of his position, and no rejection from Fostel, Torrico had the admission  
14 agreement changed for new clients in March 2018. Torrico did not intend nor was it possible  
15 for the department to displace clients or to make them "homeless" if the December 18, 2019  
16 "deadline" came and went without the client completing their treatment goal. Instead, the goal  
17 was for the clients to complete treatment plan goals, abide by the program mission statement,  
18 abide by the San Francisco County contract and have the clients "graduate" to independent  
19 living or if applicable transfer to higher levels of care or whatever they clinically needed based  
20 on their then presentation, especially their substance abuse issues, all of which is lawful and  
21 ethical practice, and intended to bring Baker into compliance with its contractual obligations  
22 with the County of San Francisco and Medi-Cal requirements.  
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1           22.     During April and May 2018, Torrico met with all the clients in the programs he  
2 was responsible for. During those meetings, Torrico discussed Baker's new direction with each  
3 client. Torrico kept Fostel advised of the meetings and the substance of what he told the  
4 clients. Fostel responded "I'll be rooting for you".

5           23.     During a staff meeting on June 18, 2018, it was agreed that a letter would be  
6 drafted and delivered to Baker clients restating what Torrico had discussed with them during  
7 his meetings with them, and that the letter would be placed in each clients file. Torrico drafted  
8 the letter and sent it to thirty Baker clients who had been in the program for three years or  
9 longer. Torrico received an email from Fostel stating that units of service were over 90% and  
10 that Baker's board of directors and management were happy with the direction Torrico was  
11 leading the department. When Fostel and Baker management questioned Torrico in July 2018  
12 about the letter and stated Baker would not displace clients no matter what the contract  
13 dictated, Torrico responded that he was simply working on the clients' treatment plan goals of  
14 transitioning to an independent living situation. Treatment plan goals should be worked on and  
15 that date of completion on this goal for the thirty clients was December 18, 2019, eighteen  
16 months from the date of the letter. Torrico again explained to Fostel that he did not intend nor  
17 was it possible for the department to displace clients or make them "homeless" if the  
18 December 18, 2019 "deadline" came and went without the client completing their treatment  
19 goal. Instead, the goal was for the clients to complete treatment plan goals, abide by the  
20 program mission statement, abide by the San Francisco County contract and have the clients  
21 "graduate" to independent living or if applicable transfer to higher levels of care or whatever  
22 they clinically need based on their then presentation, especially their substance abuse issues, all  
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1 of which is which is lawful and ethical practice, and intended to bring Baker into compliance  
2 with it contractual obligations with the County of San Francisco.

3 24. In late July 2018, Torrico received a call at work from Lucy Arellano  
4 (“Arellano”), a grievance officer at San Francisco Department of Public Health. A Baker client  
5 had grieved to San Francisco County falsely claiming that the Baker program was “kicking  
6 him out of his home”. Torrico answered Arellano’s questions honestly and completely. After  
7 her conversation with Torrico, Arellano determined that the grievance had no merit for many  
8 reasons.  
9

10 25. Around early August 2018, Thomas Mesa (“Mesa”), a Compliance Officer from  
11 Business Office Contract Compliance (BOCC) for the City and County of San Francisco  
12 Department of Public Health called Torrico to inquire about the client’s June letter and about  
13 Baker’s program. Mesa told Torrico his call was prompted by Torrico’s earlier conversation  
14 with Arellano. Mesa called Torrico at his Baker office. Like Arellano, Mesa also had Torrico’s  
15 June 2018 letter in hand. Mesa also asked questions about the June 2018 letter and about  
16 Baker’s program. Mesa stated that while Torrico had a good reputation for doing good work,  
17 Baker did not have a good reputation based on its past problems with compliance. At the  
18 conclusion of his call, Mesa gave Torrico some constructive feedback and applauded Torrico’s  
19 efforts to work on and reform Baker’s client treatment plans and programs.  
20

21 26. In mid-August 2018, approximately two weeks after Mesa’s call to Torrico, the  
22 San Francisco County Department of Public Health (“SF DPH”) initiated a telephone  
23 conference with Baker management to advise Baker that the SF DPH would be auditing the  
24 treatment plans of the thirty Baker clients who received Torrico’s June 2018 letter. Torrico  
25 participated in the conference call, as well as Thomas Frame LMFT, AILP, who is Baker’s  
26  
27



1 clinical supervisor, Defendant Fostel, Baker's chief clinical officer, Defendant Arai, Baker's  
2 director of programs, and three auditors. During this conference call, the SF DPH auditors  
3 advised Baker management that the audit was prompted by information given to Mesa by a  
4 certain Baker employee, without mentioning Torrico's name, but implying that it was Torrico  
5 when they stated the employee had given the information in response to a Client's grievance,  
6 which could only have been Torrico. The SF DPH auditors warned Baker that retaliating  
7 against the employee who had provided the information to the SF DPH is against California  
8 law. Defendant Fostel, responded on Baker's behalf to the SF DPH's retaliation warning with  
9 an admission that, "yes we know all that, we have that policy in place as well."  
10

11 27. The San Francisco County auditors at first estimated that they would require  
12 about three days to complete their audit. However, the audit ended abruptly when Baker failed  
13 to produce the required annual assessment for the subject Baker clients. The annual  
14 assessment is required for County contracts and for Medi-Cal payments. Baker failed to  
15 produce the annual assessments because it had failed to perform the annual assessments in  
16 some instances for up to fifteen years. The auditors quickly concluded in only a couple of  
17 hours that the contract requirement's first element of medical necessity was not present, that  
18 many or most of these thirty clients had not been diagnosed in years and that the clients needed  
19 to have yearly diagnoses both to justify their stay in the Baker program and for Baker to have  
20 the lawful authority to bill and receive Medi-Cal dollars for them.  
21

22 28. The auditors were able to audit the Baker program through the AVATAR  
23 system – which is an electronic system that eliminates any need to see the physical chart. At  
24 the same time the auditors voiced their conclusions based upon their review through  
25 AVATAR, Mesa arrived at the Baker office to look at the physical charts. Mesa stated on the  
26

1 spot that based on the auditors' findings the county needed to rethink how the Baker program  
2 was billing, because the Baker clients subject to the audit were not acute. Further, as the Baker  
3 clients were not acute, Medi-Cal might not be the appropriate payor—even though Baker had  
4 been billing, and Medi-Cal had been paying, for “acute” patient services for years for many of  
5 the subject clients. Mesa told Torrico in front of Defendant Arai that Torrico had done nothing  
6 wrong, that Torrico may have sent an “earthquake” through San Francisco County and that  
7 changes had to happen. Mesa offered Torrico a reference to work in Marin county in case he  
8 was unable work in San Francisco --- hinting that Torrico might face retaliation by blowing the  
9 whistle on Baker’s improper billing and patient care practices.  
10

11 29. Around the same time, consistent with his effort to bring Baker into compliance  
12 with it contractual obligations to the County of San Francisco, Torrico made the professional  
13 assessment that because of a particular Baker client’s failure to respond to Baker’s  
14 interventions and refusal to detox and engage in residential treatment, the client would be  
15 discharged in ninety days if the client continued to refuse Baker’s intervention. Instead of  
16 agreeing to treatment, the client contacted an advocate, Jeremy Watson, (“Watson”) at the  
17 AIDS legal referral panel. Watson called Torrico’s supervisor, Defendant Fostel, to discuss the  
18 situation. Defendant Fostel became very angry with Torrico and promptly retaliated against  
19 him and arbitrarily extended his probationary period for an additional three months until  
20 November 19, 2018. Fostel did not confirm the retaliation in any writing. Fostel became angry  
21 because he did not want attorneys at the AIDS legal referral panel to get involved.  
22

23  
24 30. Defendants continued to retaliate and harass Torrico, ignoring the SF DPH  
25 auditor’s warning against retaliation. A client’s neighbor wrote a letter to Baker’s Chief  
26 Executive Officer Brett Andrews (“Andrews”) stating, in apparent reference to Torrico’s June  
27

1 2018 letter, that he did not want to see a client “kicked out” by December 18, 2019. Andrews’  
2 response to this letter prompted Defendant Fostel to retaliate again against Torrico by writing  
3 an email to Torrico stating that the dark cloud that Torrico was bringing to Baker and the  
4 department overshadowed all the good work Torrico had accomplished in the department since  
5 his hire. Defendants Fostel and Arai harassed Torrico with direct references to the June 2018  
6 letter, complaining about how Torrico had “caused problems” for Defendant Baker. This  
7 happened on several occasions leading up to the SF DPH audit, and after the audit commenced.  
8 Defendants blamed Torrico for the audit, including Defendant Arai stating “your (June 2018)  
9 letter triggered this audit.” After the audit started, Defendant Fostel referred to the June 2018  
10 letter and rolled his eyes as if Torrico were a nuisance and an inconvenience for him and for  
11 Defendant Baker.  
12

13 31. Torrico had no performance problems at Defendant Baker, other than the  
14 actions for which he was retaliated against by Defendants. For example, on September 13,  
15 2018, Torrico and Defendant Fostel exchanged texts discussing how Defendant Baker was  
16 doing over billing and how well it was doing on units of service delivery (revenue) based upon  
17 quarterly reports Torrico received from Patricia Gomez. Defendant Fostel responded:  
18 “wonderful.”  
19

20 32. In November 2018, Defendant Fostel met with Torrico’s department and  
21 announced that San Francisco County had changed their approach or description of Baker’s  
22 program and made it a no time limit, permanent housing program. Fostel never presented any  
23 writing from the County of San Francisco indicating this change. Fostel further stated, that  
24 notwithstanding the alleged change, the Baker department still needed to bill the County for  
25 transitional treatment of acute clients through Medi-Cal the same way it had been before the  
26

1 alleged changes. Torrico is informed and believes that despite Fostel's directive, Medi Cal  
2 does not pay Baker for permanent housing of Baker clients in its programs. Also around this  
3 time Fostel instructed Luisa Francisco ("Francisco"), housing and entitlement manager for  
4 Torrico's department, to remove the revised admission agreement from the new charts that  
5 would be used to admit new clients into the program, because he did not want to have "2  
6 years" or "6 months" for Baker Supportive Living Program to be on there. Fostel told  
7 Francisco to use the old admission agreement and claimed that he never approved the new one.  
8 Fostel directed Francisco to take this action without discussing it with Torrico. In or about  
9 September 2018, Fostel wrote Torrico a text referring to an earlier meeting during which Fostel  
10 advised that Baker was a "housing" operation, rather than one providing medical services to  
11 Clients on a short term basis while transitioning them to independent living. In response to a  
12 question from Torrico about the contract with the County not being one for provision of  
13 housing, Fostel admitted that Baker Chief Executive Officer Brett Andrews unilaterally  
14 decided not to adhere to the language of Baker's contract with the County, and that instead "it  
15 is all considered housing and it has no ending".  
16  
17

18 33. On December 27, 2018, SF DPH audit decision came in. The SF DPH audit  
19 uncovered that for many years, the clients were not diagnosed on a yearly basis as required by  
20 Baker's contract with the County of San Francisco. One of them had not been diagnosed in 15  
21 (fifteen) years since his admission in 2002. During Torrico's employment with Baker, the  
22 person responsible for performing the diagnoses was the AILP clinical supervisor Thomas  
23 Frame MFT ("Frame") who was hired in 2015. Frame, however, was never directed to perform  
24 annual assessments or diagnosis by the chief clinical officer, Defendant Fostel. Previous  
25 clinical supervisors had also failed to diagnose clients, as demonstrated by the audit finding  
26  
27

1 that clients had not been diagnosed for many years. The SF DPH auditors concluded that  
2 because of persistent and long standing fraudulent and improper billing of Medi-Cal, Baker  
3 needed to repay \$342,000 in Medi-Cal payments for fiscal years 2017-18. Torrico, having been  
4 hired in February 2018, was not an employee of Baker for much of the time the audit called for  
5 reimbursement of inappropriately and fraudulently billed Medi-Cal funds.

6 34. On December 27, 2018, the same day the SF DPH audit came in, Defendant  
7 Fostel called Torrico into Fostel's office. Fostel complained about the audit results, blaming  
8 Torrico, and told Torrico that \$342,000.00 was "not survivable", and that Torrico was  
9 terminated. Defendant Fostel provided Torrico with a termination letter that stated that Torrico  
10 was being terminated because he had sent out the June 2018 letter, that the letter had caused  
11 distress among Baker clients, and without directly mentioning the audit results, accused  
12 Torrico of damaging Baker's relationship with its funding sources.

13  
14 35. As a result of the termination, Torrico has suffered financial damages, including  
15 lost wage income and benefits, including health insurance. Additionally, Torrico has suffered  
16 emotional distress, including but not limited to humiliation, embarrassment, stress, depression  
17 and anger.

18  
19 **FIRST CAUSE OF ACTION**  
20 **RETALIATION IN VIOLATION OF LABOR CODE § 1102.5**  
21 **(Against All Defendants and Does 1-25)**

22 36. Torrico re-alleges and incorporates herein by reference each of the foregoing  
23 paragraphs as though fully set forth herein.

24 37. At all times material to this complaint, Torrico was employed by Defendant Baker,  
25 and was subject to the authority and supervision of Defendant Fostel.

26 38. California has a fundamental, substantial, and well-established public policy, as  
27 expressed California Labor Code § 1102.5 that an employee may not be retaliated against or

1 terminated for providing information to a public entity for which he had a reasonable cause to  
2 believe that the information discloses a violation of state or federal statute, or a violation of or  
3 noncompliance with a local, state, or federal rule or regulations. Defendants violated these  
4 important public policies by terminating Torrico, in whole or in part and because of his disclosure  
5 to San Francisco Department of Public Health.

6 39. In response to lawful inquiries by authorized government officials, Torrico  
7 provided truthful information to a public entity, the SF DPH, for which he had a reasonable  
8 cause to believe that the information disclosed a violation of state or federal statutes, or a  
9 violation of or noncompliance with a local, state, or federal rule or regulation.

10 40. Torrico refused to participate in Baker's unlawful act of "warehousing clients"  
11 without creating transition plans or receiving a diagnosis from a medical professional.

12 41. The information Torrico disclosed prompted an SF DPH audit that led to a claw  
13 back of over \$342,000 from Defendant Baker. Baker and the individual Defendants thereafter  
14 retaliated against Torrico for disclosing the information, or because of their belief that Torrico  
15 had disclosed the information, to the County of San Francisco, which had the authority to  
16 investigate, discover, and correct the violation or noncompliance disclosed by Torrico.

17 42. Defendants harassed Torrico after learning of his information disclosure, and  
18 continued to harass him during the audit. Defendants ultimately wrongfully terminated Torrico  
19 once the audit result was revealed, and Defendant Baker was forced to return \$342,000 in  
20 fraudulent or otherwise improper billings and receipt of Medi-Cal funds.

21 43. Torrico's disclosure of information was a substantial or contributing factor in  
22 Defendant Baker's harassment and ultimate decision to fire Torrico.

23 44. As a direct and proximate result of the unlawful conduct of Defendants, Torrico  
24 has suffered damages including but not limited to past and future loss of income, benefits, and  
25 other damages to be proven at time of trial. Further, Torrico has suffered and will continue to  
26 suffer mental and emotional distress, including but not limited to frustration, depression,  
27

1 nervousness, anxiety and loss of self-worth, and damage to his reputation.

2 45. As a result of the conduct of Defendants, Torrico was forced to retain an attorney.  
3 Accordingly, Torrico seeks reasonable attorneys' fees and costs incurred in this litigation in an  
4 amount according to proof at trial.

5 46. The unlawful conduct alleged above was engaged in by the officers, directors,  
6 supervisors and/or managing agents of Defendant Baker, and each of them, who were acting at  
7 all times relevant to this Complaint within the scope and course of their employment. Defendant  
8 Baker is therefore liable for the conduct of said agents and employees under the doctrine of strict  
9 liability.

10 47. Defendants committed the acts herein alleged maliciously, fraudulently, and  
11 oppressively with the wrongful intention of injuring PLAINTIFF, and acted with an improper and  
12 evil motive amounting to malice and/or oppression, and in conscious disregard for PLAINTIFF's  
13 rights, and such acts were committed by, authorized by, and/or ratified by officers, directors,  
14 and/or managing agents of Defendants. Torrico is therefore entitled to recover and herein prays  
15 for punitive damages in an amount sufficient to punish and deter Defendants and others for such  
16 conduct.

17 WHEREFORE, Torrico prays for judgment as set forth below.

18 **SECOND CAUSE OF ACTION**  
19 **(Wrongful Termination in Violation of Public Policy)**  
20 **(Against All Named Defendants and Does 1-25)**

21 48. Torrico realleges and hereby incorporates by reference each of the foregoing  
22 paragraphs, as though fully set forth herein.

23 49. California has a fundamental, substantial, and well-established public policy, as  
24 expressed California Labor Code § 1102.5 that an employee may not be retaliated against or  
25 terminated for providing information to a public entity for which he had a reasonable cause  
26 to believe that the information discloses a violation of state or federal statute, or a violation  
27 of or noncompliance with a local, state, or federal rule or regulations. Defendants violated

1 these important public policies by terminating Torricò, in whole or in part and because of his  
2 disclosure to San Francisco Department of Public Health.

3 50. Defendant terminated its employment relationship with Torricò because of the  
4 information he provided to the City of San Francisco.

5 51. As a direct and proximate result of Defendants' actions, as alleged  
6 above, Torricò has suffered and will continue to suffer mental and emotional distress, including  
7 but not limited to frustration, humiliation, embarrassment, stress, depression, nervousness,  
8 anxiety and loss of self-worth, and damage to his reputation.

9 52. The unlawful conduct alleged above was engaged in by the officers, directors,  
10 supervisors and/or managing agents of Defendants, and each of them, who were acting at all times  
11 relevant to this Complaint within the scope and course of their employment.

12 53. Defendants committed the acts herein alleged maliciously, fraudulently, and  
13 oppressively with the wrongful intention of injuring Torricò, and acted with an improper and evil  
14 motive amounting to malice and/or oppression, and in conscious disregard for Torricò's rights,  
15 and such acts were committed by, authorized by, and/or ratified by officers, directors, and/or  
16 managing agents of Defendants. Torricò is therefore entitled to recover and herein prays for  
17 punitive damages in an amount sufficient to punish and deter Defendants and others for such  
18 conduct.

19 54. As a result of the conduct of Defendants, Torricò was forced to retain an attorney  
20 in order to protect his rights. Accordingly, Torricò seeks the reasonable attorneys' fees and costs  
21 incurred in this litigation in an amount according to proof at trial pursuant to Cal. Labor Code  
22 2699 et. seq.

23 WHEREFORE, Torricò prays for judgment as set forth below.

24 **THIRD CAUSE OF ACTION**  
25 **Intentional Infliction of Emotional Distress**  
26 **(Against All Defendants and Does 1-25)**

27 55. Torricò realleges and hereby incorporates by reference each of the foregoing



1 paragraphs, as though fully set forth herein.

2 56. Defendants engaged in outrageous and unprivileged conduct that Torrico is  
3 informed and believes was intended to cause them harm. Alternatively, Defendants acted with  
4 reckless disregard of the probability that Torrico would suffer severe emotional distress as a result  
5 of their outrageous conduct as described *supra*.

6 57. As a direct and proximate result of Defendants', and each of their, outrageous,  
7 unprivileged, and extreme conduct alleged above, Torrico suffered severe, substantial and  
8 enduring emotional distress, including humiliation, embarrassment, anxiety and indignity, in an  
9 amount which will be proven at trial.

10 58. Defendants' conduct was intentional and malicious, and done for the purpose of  
11 causing Torrico to suffer severe, substantial and enduring humiliation, mental anguish, and  
12 emotional and physical distress. Alternatively, Defendants, and each of them, acted with reckless  
13 disregard of the probability that their harassing and discriminating conduct, alleged *supra*, would  
14 in fact cause Torrico to suffer humiliation, mental anguish, and emotional and physical distress.  
15 Further, Defendants' conduct in confirming and ratifying the original  
16 discriminatory/harassing conduct, without redress of any kind, was done with the knowledge that  
17 Torrico's emotional and physical distress would thereby increase and was done with a wanton  
18 and reckless disregard of the consequences to Torrico. Thus, an award of exemplary and punitive  
19 damages is justified in an amount to be proven at trial.

20 WHEREFORE, Torrico prays for judgment, including punitive damages, as more fully  
21 set forth below.

22 **PRAYER FOR RELIEF**

23 WHEREFORE, Torrico makes the following demand:

- 24 1. That process be issued and served as provided by law, requiring Defendants, and  
25 each of them, to appear and answer or face judgment;
- 26 2. For general, special, and compensatory damages against Defendants in an  
27

1 amount to be determined at trial;

2 3. For punitive damages against the individual Defendants in an amount to be  
3 determined at trial sufficient to punish, penalize and/or deter Defendants and others from  
4 engaging in the conduct described herein;

5 4. For back and front pay and other benefits Torrico would have been afforded but  
6 for Defendants' unlawful conduct;

7 5. For costs and expenses of this litigation;

8 6. For reasonable attorneys' fees and costs pursuant to law and statute;

9 7. For pre and post-judgment interest on all damages and other relief awarded  
10 herein from all entities against whom such relief may be properly awarded; and,  
11

12 8. For all such other and further relief as the nature of the case may require and the  
13 court deems appropriate and just.  
14

15 Dated: January 3, 2020  
16

17  
18 By: 

19 Frederick J. Geonetta  
20 GEONETTA & FRUCHT LLP  
21 Attorneys for Plaintiff Torrico  
22  
23  
24  
25  
26  
27

JURY DEMAND

1  
2 Plaintiff Torrico hereby demands trial by jury on all issues to which he is entitled to a  
3 trial by jury.  
4

5 Dated: January 3, 2020

6 By:



7 Frederick J. Geonetta  
8 GEONETTA & FRUCHT LLP  
9 Attorneys for Plaintiff Torrico  
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ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address):  
Frederick J. Geonetta 114824  
Geonetta & Frucht LLP  
825 Washington Street, Suite 220 Oakland California 94607  
TELEPHONE NO: 510 254-3777 FAX NO:  
ATTORNEY FOR (Name): Erland Torrico

FOR COURT USE ONLY  
**FILED**  
SUPERIOR COURT  
COUNTY OF SAN FRANCISCO  
JAN 06 2020  
CLERK OF THE COURT  
BY: *Angelica Sunga* Deputy Clerk  
ANGELICA SUNGA

SUPERIOR COURT OF CALIFORNIA, COUNTY OF  
STREET ADDRESS: 400 McAllister St.  
MAILING ADDRESS: 400 McAllister St., San Francisco, CA 94102-4515.  
CITY AND ZIP CODE: San Francisco, CA 94102-4515  
BRANCH NAME: Civic Center Courthouse

CASE NAME:  
**TORRICO VS BAKER PLACE, JOHN Foster scott ARI**

CIVIL CASE COVER SHEET  
 Unlimited (Amount demanded exceeds \$25,000)  Limited (Amount demanded is \$25,000 or less)  
Complex Case Designation  
 Counter  Joinder  
Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

CASE NUMBER:  
**CGC-20-582011**  
JUDGE:  
DEPT:

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:  
Auto Tort  
 Auto (22)  
 Uninsured motorist (46)  
Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort  
 Asbestos (04)  
 Product liability (24)  
 Medical malpractice (45)  
 Other PI/PD/WD (23)  
Non-PI/PD/WD (Other) Tort  
 Business tort/unfair business practice (07)  
 Civil rights (08)  
 Defamation (13)  
 Fraud (16)  
 Intellectual property (19)  
 Professional negligence (25)  
 Other non-PI/PD/WD tort (35)  
Employment  
 Wrongful termination (36)  
 Other employment (15)  
Contract  
 Breach of contract/warranty (06)  
 Rule 3.740 collections (09)  
 Other collections (09)  
 Insurance coverage (18)  
 Other contract (37)  
Real Property  
 Eminent domain/inverse condemnation (14)  
 Wrongful eviction (33)  
 Other real property (26)  
Unlawful Detainer  
 Commercial (31)  
 Residential (32)  
 Drugs (38)  
Judicial Review  
 Asset forfeiture (05)  
 Petition re: arbitration award (11)  
 Writ of mandate (02)  
 Other judicial review (39)  
Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403)  
 Antitrust/Trade regulation (03)  
 Construction defect (10)  
 Mass tort (40)  
 Securities litigation (28)  
 Environmental/Toxic tort (30)  
 Insurance coverage claims arising from the above listed provisionally complex case types (41)  
Enforcement of Judgment  
 Enforcement of judgment (20)  
Miscellaneous Civil Complaint  
 RICO (27)  
 Other complaint (not specified above) (42)  
Miscellaneous Civil Petition  
 Partnership and corporate governance (21)  
 Other petition (not specified above) (43)

2. This case  is  is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:  
a.  Large number of separately represented parties  
b.  Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve  
c.  Substantial amount of documentary evidence  
d.  Large number of witnesses  
e.  Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court  
f.  Substantial postjudgment judicial supervision  
3. Remedies sought (check all that apply): a.  monetary b.  nonmonetary declaratory or injunctive relief c.  punitive  
4. Number of causes of action (specify): 3  
5. This case  is  is not a class action suit.  
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: 1-3-20  
Frederick J. Geonetta  
(TYPE OR PRINT NAME)

*Frederick J. Geonetta*  
(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

BY FAX

NOTICE  
• Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.  
• File this cover sheet in addition to any cover sheet required by local court rule.  
• If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.  
• Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

**INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET**

**To Plaintiffs and Others Filing First Papers.** If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check **one** box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

**To Parties in Rule 3.740 Collections Cases.** A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

**To Parties in Complex Cases.** In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

**CASE TYPES AND EXAMPLES**

<p><b>Auto Tort</b>                  Auto (22)–Personal Injury/Property Damage/Wrongful Death                  Uninsured Motorist (46) (<i>if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto</i>)</p> <p><b>Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort</b>                  Asbestos (04)                  Asbestos Property Damage                  Asbestos Personal Injury/Wrongful Death                  Product Liability (<i>not asbestos or toxic/environmental</i>) (24)                  Medical Malpractice (45)                  Medical Malpractice–Physicians &amp; Surgeons                  Other Professional Health Care Malpractice                  Other PI/PD/WD (23)                  Premises Liability (e.g., slip and fall)                  Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)                  Intentional Infliction of Emotional Distress                  Negligent Infliction of Emotional Distress                  Other PI/PD/WD</p> <p><b>Non-PI/PD/WD (Other) Tort</b>                  Business Tort/Unfair Business Practice (07)                  Civil Rights (e.g., discrimination, false arrest) (<i>not civil harassment</i>) (08)                  Defamation (e.g., slander, libel) (13)                  Fraud (16)                  Intellectual Property (19)                  Professional Negligence (25)                  Legal Malpractice                  Other Professional Malpractice (<i>not medical or legal</i>)                  Other Non-PI/PD/WD Tort (35)</p> <p><b>Employment</b>                  Wrongful Termination (36)                  Other Employment (15)</p>	<p><b>Contract</b>                  Breach of Contract/Warranty (06)                  Breach of Rental/Lease Contract (<i>not unlawful detainer or wrongful eviction</i>)                  Contract/Warranty Breach–Seller Plaintiff (<i>not fraud or negligence</i>)                  Negligent Breach of Contract/Warranty                  Other Breach of Contract/Warranty                  Collections (e.g., money owed, open book accounts) (09)                  Collection Case–Seller Plaintiff                  Other Promissory Note/Collections Case                  Insurance Coverage (<i>not provisionally complex</i>) (18)                  Auto Subrogation                  Other Coverage                  Other Contract (37)                  Contractual Fraud                  Other Contract Dispute</p> <p><b>Real Property</b>                  Eminent Domain/Inverse Condemnation (14)                  Wrongful Eviction (33)                  Other Real Property (e.g., quiet title) (26)                  Writ of Possession of Real Property                  Mortgage Foreclosure                  Quiet Title                  Other Real Property (<i>not eminent domain, landlord/tenant, or foreclosure</i>)</p> <p><b>Unlawful Detainer</b>                  Commercial (31)                  Residential (32)                  Drugs (38) (<i>if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential</i>)</p> <p><b>Judicial Review</b>                  Asset Forfeiture (05)                  Petition Re: Arbitration Award (11)                  Writ of Mandate (02)                  Writ–Administrative Mandamus                  Writ–Mandamus on Limited Court Case Matter                  Writ–Other Limited Court Case Review                  Other Judicial Review (39)                  Review of Health Officer Order                  Notice of Appeal–Labor Commissioner Appeals</p>	<p><b>Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)</b>                  Antitrust/Trade Regulation (03)                  Construction Defect (10)                  Claims Involving Mass Tort (40)                  Securities Litigation (28)                  Environmental/Toxic Tort (30)                  Insurance Coverage Claims (<i>arising from provisionally complex case type listed above</i>) (41)</p> <p><b>Enforcement of Judgment</b>                  Enforcement of Judgment (20)                  Abstract of Judgment (Out of County)                  Confession of Judgment (<i>non-domestic relations</i>)                  Sister State Judgment                  Administrative Agency Award (<i>not unpaid taxes</i>)                  Petition/Certification of Entry of Judgment on Unpaid Taxes                  Other Enforcement of Judgment Case</p> <p><b>Miscellaneous Civil Complaint</b>                  RICO (27)                  Other Complaint (<i>not specified above</i>) (42)                  Declaratory Relief Only                  Injunctive Relief Only (<i>non-harassment</i>)                  Mechanics Lien                  Other Commercial Complaint Case (<i>non-tort/non-complex</i>)                  Other Civil Complaint (<i>non-tort/non-complex</i>)</p> <p><b>Miscellaneous Civil Petition</b>                  Partnership and Corporate Governance (21)                  Other Petition (<i>not specified above</i>) (43)                  Civil Harassment                  Workplace Violence                  Elder/Dependent Adult Abuse                  Election Contest                  Petition for Name Change                  Petition for Relief From Late Claim                  Other Civil Petition</p>
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**From:** [Olga Tikhonova](#)  
**To:** [Jalipa Brent \(BOS\)](#); [Briana Breen](#)  
**Subject:** RE: Baker Places, comment committee meeting 11/9/2022  
**Date:** Wednesday, November 9, 2022 11:09:16 AM  
**Attachments:** [2020 Jan14 FINAL Grove Street Evaluation-01-14-2020\\_w\\_highlights.pdf](#)  
[2 2020 Jan 2157 Grove Title Transfer p3 75years lowincomehousing unsigned undated.pdf](#)

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**TEM 14. 221113 [Hearing - DPH Secondary Policies and Baker Places, Inc.]  
Sponsor: Safai Hearing to consider the Department of Public Health's (DPH) secondary employment policies and the overall condition of Baker Places, Inc.; and requesting DPH and Department of Human Resources to report.**

I would like to register my opinion that the purchase and continued operations of Baker Places/PRC's Grove House has been unethical, inappropriate, and a waste of taxpayer funds. As evidence, I would like to submit the Small Sites Program Loan Approval Recommendation from Jan 14, 2020. This report on its own explains why this funding never should have been approved. Grove House met zero of the requirements for the program it was funded through. In addition, the loan document also attached, shows that this funding ties up a small (and now very expensive), three bedroom, single family home (illegally converted to single family by Baker Places) as below market housing for 75 years. How can a \$4M single family home be used for below market housing? How is this a reasonable use of taxpayer funds?

In addition as next door neighbor I'd like to comment on a very poor management of the Grove House. I had several incidents in the past that put my family's life in danger:

- 1) Suicide of one the tenants. The managers were under the impression that the tenant ran away, so they rang the bell at my house when only my 2 teenage kids were present and demanded to be shown to the balcony in the back to check the backyard. What was discovered was the body of the dead woman tenant on their deck. My kids were seriously traumatized.
- 2) Tenant starting a fire from the left cigarette butt and causing damage to my house.
- 3) Discovering needles and cigarette butts in our back yard thrown over the fence
- 4) Multiple tenants engaging in smoking and drinking and playing loud music both in front of the house as well as the backyard on the continuous basis.

Respectfully,  
Olga Tikhonova  
2151 Grove Street  
San Francisco, CA 94117  
415-990-9064



## SSP ACQUISITION AND REHABILITATION FUNDS LOAN APPROVAL RECOMMENDATION

<b>Date:</b>	January 14, 2020
<b>From:</b>	Caroline McCormack, Project Manager
<b>Evaluation of Request for:</b>	Acquisition and Rehabilitation Funding
<b>NOFA/Program:</b>	2019 Acquisition and Rehabilitation Financing for Small Sites Program Properties NOFA
<b>Applicant:</b>	Baker Places Grove Street LLC
<b>Co-Applicant:</b>	Positive Resource Center (PRC)
<b>Project Address (with cross street):</b>	2153-2157 Grove Street (at Shrader)
<b>Number of Units with Unit Mix:</b>	2 units; 9 beds
<b>Supervisor and District</b>	Dean Preston (D5)
<b>Amount of SSP Funds Requested:</b>	\$3,940,000 (\$1,970,000 per unit and \$437,778 per bed)
<b>Amount of SSP Funds Recommended:</b>	\$3,940,000
<b>Source of Funds Recommended:</b>	\$3,940,000 in ERAF Affordable Housing Production and Preservation Fund
<b>Type of Financing:</b>	Acquisition and Rehabilitation

### 1. SUMMARY/BRIEF PROJECT UPDATE

Baker Places Grove Street LLC requests \$3,940,000 in funding from the Small Sites Program (“SSP”) for the acquisition and rehabilitation of 2157 Grove Street, a 2-unit building located in the Haight Ashbury neighborhood of San Francisco (the “Project”). The Project is known as Grove Street House, a state-licensed 9-bed, 60-day residential mental health treatment facility that serves clients with acute mental health and substance abuse dual diagnoses. The Project is currently operated by Baker Places, Inc., with funding in the form of a contract with the San Francisco Department of Public Health (SFDPH). The Project is currently owned by the Daniel Worthington Trust, a private market owner that now wishes

to sell the property.

In 2016, Baker Places Inc. merged with Positive Resource Center (PRC), a nonprofit that provides services to San Franciscan affected by HIV/AIDS, substance abuse, and mental health issues. Although the Project will remain under the Baker Places ownership structure,

PRC staff currently provides overall management of Baker Places, Inc. and Grove Street House, and PRC will also perform the project management functions for the acquisition and rehabilitation of the Project. See **Section 6.4** for more information on the proposed ownership structure.

The Project was constructed in 1914 and consists of one three story building (3,750 sq ft) with two residential units over a garage, totaling five bedrooms, a living room, a dining room, three offices, a small kitchen, and two split bathrooms. **Although the Project is comprised of two separate units, it functionally operates as one house.**

All nine beds at the Project are currently occupied. Baker Places Inc. retains limited information on the incomes of the individuals who reside at the Project during the 60-day period—however, most residents receive social security and/or disability assistance, and it is assumed that the majority of clients are living on low or no income. The current underwriting does not assume any contribution in tenant rent and instead models the DPH contract amount that Baker Places, Inc. receives (see **Attachment C**, First Year Operating Budget).

**The total development cost (“TDC”) for the Project is \$3,940,000 (\$1,970,000 per unit and \$437,778 per bed), with MOHCD as the sole funder of the project. However, the Mayor’s Office of Housing and Community Development (MOHCD) anticipates that SFDPH will reimburse MOHCD for the all the costs associated with the acquisition and rehabilitation of the Project.**

**The Project is in average condition. \*(Not accurate)** The current building owner has made minimal capital investments in the building; however, Baker Places, Inc. has operated its program in the building since 1977 and performed various improvements over the years. Baker Places/PRC intends to focus its immediate scope of work on the MOHCD occupied rehabilitation priorities, which are health and safety, accessibility, building envelope (waterproofing) and systems. The Project requires approximately \$675,000 for immediate capital repairs and an additional capitalized reserve of \$274,800 to meet the long-term capital needs. The building is not listed on the SF Department of Building Inspection Soft Story Retrofit list, however a seismic inspection was conducted, and it is expected that Baker Places/PRC will be required to improve the seismic safety of the building. Other capital need improvements include upgrades to the electrical, plumbing, and ventilation systems, replacement of asbestos containing exterior siding, among other necessary improvements. The MOHCD Construction Representative recommends further refinement of the scope and bidding to ensure that MOHCD rehabilitation priorities are met. See **Section 6.5** for more information on the rehabilitation scope.

## 2. PRINCIPAL DEVELOPMENT ISSUES



- **City subsidy contribution:** The standard SSP per-unit subsidy limit on a project of this size is \$375,000 per unit. For the Project, the per-unit subsidy is \$1,970,000 (per-bed subsidy amount is \$437,778). Typically, this would deem the Project ineligible for the Small Sites Program. This subsidy amount is justified for two reasons. First, Grove Street House is a critical resource for San Franciscans in need of residential mental health and substance abuse-related services. Second, SFDPH will be reimbursing MOHCD for all predevelopment, acquisition, and rehabilitation funding provided to the Borrower. See **Section 6.9 and 8.1** for more information.
- **Alignment with the Small Sites Program model:** The Project does not fit the typical structure of a Small Sites Program project, which preserves 5-25 unit buildings and restricts them at 80% AMI for low-to-moderate income permanent households. However, the building was at risk of converting to market rate, which would have led to the loss of one of the City's few residential mental health treatment facilities—preserving the project became a high priority for both MOHCD and DPH. If the City acquires more residential treatment facilities in the future, MOHCD/DPH may consider developing a set of underwriting criteria that aligns better with the Project type.
- **Project does not appraise:** The Project Team commissioned two appraisals during the course of the due diligence period, both of which valued the Project under the purchase price. In the best-case scenario, MOHCD is funding the Project Sponsor to purchase the building at a price that is \$225,000 over its market valuation—this is inconsistent with the Small Sites Program Underwriting Guidelines site eligibility requirements (section (I)(A)(4)). MOHCD requests that Loan Committee waive this program requirement because of the essential housing and treatment services that Baker Places Inc. /PRC provides to its at-risk clients. See **Section 6.2** for more information.
- **Legalization of the project:** The current approved use of the Project is RH-2 (Residential House: Two Family), and the development team may need to apply for a Conditional Use Authorization (CUA) to convert the property to a residential treatment facility. According to the Planning Department, if required, the approval process can take between 4-6 months. The development team will confirm with the Planning Department whether they will need to pursue a CUA, and if necessary, will factor this timing into their overall rehabilitation schedule. See **Section 5.1** for more information.
- **Sponsor capacity:** The Borrower has limited traditional affordable housing real estate development experience, and further, is proposing a somewhat decentralized project management structure—this is a key project concern. However, Baker Places, Inc. has operated Grove Street House since 1977, and its in-house facilities team has deep experience operating residential treatment facilities, including performing light to moderate level of repairs of its buildings. See **Section 3** for more information.

### 3. BORROWER/GRANTEE PROFILE

Baker Places, Inc. (BPI) has a 54-year history of providing long-term behavioral health services to adults and older adults with mental health and/or substance use disorders. BPI has 12 residential behavioral health programs across San Francisco reaching homeless, no income, and low-income individuals in San Francisco with mental health and substance use

disorders.

BPI's residential substance use treatment facilities offer crisis-level services in the form of a short-term, medically-managed detoxification program. BPI also offers two 90-day residential substance-use treatment facilities with competencies in servicing LGBTQ individuals as well as people living with HIV/AIDS. In addition, four 90-day residential mental health treatment facilities rehabilitate clients and transition them to stable housing and outpatient treatment. For long-term support, BPI has two supportive living programs and a permanent housing facility with onsite outpatient treatment. Finally, Hummingbird Place is an enhanced shelter psychiatric respite facility with the goal of transitioning chronically homeless clients to treatment. It reaches individuals that are the hardest to engage in treatment and the most frequent users of crisis and inpatient services.

BPI serves over 1,200 clients per year through outpatient and residential mental health and substance use disorder treatment programs.

BPI operates within the San Francisco public health system of care and MOUs are routinely developed and renewed with a large and diverse array of local providers in order to ensure clients are able to access appropriate services to support their mental health and recovery. Residential counselors work with clients during the initial assessment to identify linkage needs in order to ensure clients are able to access other Behavioral Health Services (BHS) intensive case management, outpatient, and community-based programs for ongoing and follow-up behavioral health care upon discharge.

The Board officers for Baker Places/PRC includes:

- **President:** Brian Schneider, Managing Director of Prime Finance Partners •
- Vice President:** Kent Roger, Partner at Morgan Lewis
- **Secretary:** Scott Justus, Individual giving manager at Freight & Salvage. •
- Treasurer:** Bill Matheson, esq., real estate attorney and the former president of Catellus Management Corporation, a real estate management company.

The Project will be held by Baker Places Grove Street LLC, an affiliate of Baker Places, Inc.

#### Key Program Staff

The supervisory structure of Baker Places was merged with PRC and includes an executive team comprised of a Chief Executive Office, Chief Program Officer, Chief Financial Officer,

Chief Operations Officer, Chief Clinical Officer, Chief Technology Officer, and a Chief Development Officer.

The Key program staff managing the Project include:

**Brett Andrews** is PRC's Chief Executive Officer who will be providing general oversight of the Project. Brett has held executive director positions with Los Angeles Team Mentoring, Inc. and Kids n' U, Inc. Brett holds a master's degree in Industrial/Organizational Psychology from George Washington University and a bachelor's degree in Psychology from Penn State University. Brett is a member of the San Francisco HIV/AIDS Provider Network, the San Francisco Human Services Network, the Mayor's CBO Taskforce, and the Mayor's

Methamphetamine Task Force. He serves on the Board of the National Working Positive Coalition as well as on the Board of the California Association of Alcohol and Drug Program Executives. Additionally, Brett is a former San Francisco Ethics Commissioner and a former Rockwood Leadership Institute Fellow.

**Joe Tuohy** is PRC's Chief Operating Officer assigned to the Project at .30 FTE. Joe will be responsible for oversight of contract management and executive management related to the Project. Joe has over 20 years of nonprofit experience. He held director-level positions at Architecture for Humanity, Palo Alto Art Center Foundation, Second Stage Theatre, School of Visual Arts, and Bay Area Dance Series. He holds a bachelor's degree in English Literature and Interdisciplinary Studies from UC Berkeley, and undertook graduate studies in Art Criticism and Writing at School of Visual Arts.

**Jeremiah Gregory** is Baker Places' Director of Property Management, assigned to the project at .50 FTE. Jeremiah will be responsible for project management, procurement and contractor oversight related to the Project. Jeremiah has over eight years of commercial and residential property management experience. Previously, Jeremiah was the General Manager of Metreon in San Francisco with Starwood Retail Partners, and prior to that was managing Serramonte Center and Potrero Center for Equity One, Inc. Prior to his commercial property management experience, Jeremiah worked with John Stewart Company to manage various very low-income and formerly homeless SRO buildings in the Tenderloin of San Francisco. Jeremiah holds a Bachelor's degree in Business Administration from California Polytechnic State University, San Luis Obispo.

**Facilities Manager (Open Position)**, PRC is currently hiring for a Facilities Manager, a position that was vacated in early January 2020. The person who will hold this position will be responsible for day-to-day facilities management and assistance with property management related to the Project.

**Robert Pascual** is PRC's Chief Financial Officer and is assigned to the Project at .10 FTE. Rob will be responsible for financial management related to the Project. Robert has been working in the nonprofit sector as a finance professional for over 25 years in senior leadership and consultant roles. The organizations and government agencies with which he has worked span the fields of health services, housing, employment and training, environmental sustainability, technology, media arts, education, advocacy, organizing, and philanthropy and range in size from \$100,000 to over \$200 million operating budgets. Most recently, he served as the Director of Finance at Brilliant Corners. He has a BBA in Finance from the George Washington University, and an MBA from the Haas School of Business at the University of California, Berkeley

### **3.1 Asset Management Performance & Capacity.**

Jeremiah Gregory, Director of Property Management, monitors the financial and physical health of the BPI portfolio. The scope of his responsibilities includes producing financial projections for each building to monitor the long-term viability of the property, commissioning capital needs analyses for each of the buildings, and managing planned capital improvements. Jeremiah is familiar with state and local residential treatment facility and Department of Public Health reporting processes, and will continue to be the main

point of contact between Grove Street House, SFDPH, and MOHCD regarding the long-term physical and financial health of the Project. Jeremiah currently manages the entire BPI portfolio of 30 buildings, which are a mix of multi-family and single family properties, with 264 beds. Jeremiah oversees the Facilities Manager and two Facilities Coordinators.

The Borrower has limited traditional affordable housing real estate asset management experience, which is a key project concern. However, existing staff have experience in facilities management/property management and operating state licensed residential treatment facilities.

### **3.2 Development Experience.**

BPI owns five of its residential treatment facilities and two co-op supported buildings. In addition, BPI has been the long-term renter in 23 buildings with where the organization has also performed remodeling and upgrading of the units. The types of upgrades performed includes addressing deferred maintenance, licensing compliance related improvements, and ADA upgrades. Buildings under BPI ownership include the following:

	<b>Name/Location</b>	<b>Status / Year Completed</b>	<b>Total Beds</b>
1	<b>San Jose Place 673 San Jose Ave. S.F</b>	1990	11
2	<b>Ferguson Place 1249 Scott St S.F.</b>	1993	12
3	<b>Odyssey House 484 Oak St S.F.</b>	1993	10
4	<b>Jo Ruffin Place 333-7<sup>th</sup> St S.F.</b>	2000	16
5	<b>Robertson House</b>	1977	12
6	<b>Supported Living 214 Dolores St. S.F.</b>	2001	8

7	<b>Supported Living 1765 Page Street S.F.</b>	1994	14
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### **3.3 How Selected.**

A Notice of Funding Availability (“NOFA”) was published on September 15, 2019 to provide acquisition and rehabilitation financing for multi-family rental buildings of 5 to 25 units. The NOFA established a fund to help stabilize buildings that are occupied by low- to moderate income tenants throughout San Francisco that are particularly susceptible to market pressure resulting in property sales, evictions, and rising tenant rents. Applications for the NOFA are being accepted on a rolling basis until funds are exhausted.

In Spring 2019, SFDPH contacted MOHCD regarding the project; SFDPH requested

MOHCD assistance in providing both the upfront capital and staff expertise needed to acquire and rehabilitate the Project.

### **3.4 Licensing**

Grove Street House is supported through funding by SFDPH through a combination of federal/state/county sources, and the program receives annual monitoring visits from the San Francisco Department of Public Health Business Office of Contractual Compliance (SF DPH BOCC) and other state regulatory agencies. Program and client outcomes are consistently rated as “commendable/exceeds standards” on monitoring reports. Client satisfaction surveys demonstrate a high level of client satisfaction with services across programs. BPI’s experience is evidenced by the agency’s consistent licensing and certifications by the State of California Department of Health Care Services, State of California Department of Social Services, and BOCC, for all sites where this is required. These agencies inspect and monitor all sites periodically to ensure compliance with state and local guidelines.

All services, actions, reviews and proposals are measured for compliance with standards developed by SFDPH, DHCS, HRSA, HUD, Community Care Licensing, California Department of Mental Health, Medi-Cal recertification at mental health programs, and/or any other regulating or funding body whose mandates govern the quality of care delivered by this agency.

## **4. SITE**

### **4.1 Brief Site Description.**

The subject property is a three-story, two-level, two-unit building over a garage/basement/slab located in Haight Ashbury and consists of 3,750 square feet. Adjacent and surrounding properties consist of residential properties. The ground floor of the building consists of a 2-car garage, access corridor, boiler room, community room for client programming, and access to the backyard. In 1991, Baker Street Places, Inc. constructed the community/services room, and added a small storage room and bathroom to accommodate programming for its clients. The second floor consists of a common room, dining room, kitchen, laundry room, two bedrooms, a restroom, and a shower room. The third floor consists of office spaces for Baker Street House staff, three bedrooms, a restroom, and a shower room. Clients of Grove Street House share bedrooms.

If approved, the Project will be the first residential treatment facility acquired through the Small Sites Program.

### **4.2 Site Characteristics.**

1. Address: 2153-2157 Grove Street  
San Francisco, CA 94117
2. Lot/Block: 030/1193
4. Gross Building area: 3,750 sq ft
4. Year Built: 1914
5. Number buildings: 1
6. Number floors: 2

7. Building typology: Wood masonry
8. Garage space: 2 car tandem
9. Recently completed rehab work: roof replaced in 2016

#### **4.3 Environmental Issues/Site Suitability.**

- Phase I Site Assessment Status and Results. A Phase I Environmental Site Assessment dated August 21, 2019, was completed by Essel Environmental Engineering and Consulting. Essel did not identify evidence of Recognized Environmental Conditions, Controlled Recognized Environmental Conditions, or historical Recognized Environmental Conditions (“Hazards”) at the property during the course of its assessment.
- Potential/Known Hazards. Essel Environmental Engineering and Consulting conducted an *Asbestos Building Material and Lead-based Paint Survey Report* of the exterior and interior surfaces on October 17, 2019 and found the following conditions:
  - Asbestos in concentrations greater than 1% were observed in beige mud applied to the white plaster walls and ceilings, but appears to be in good condition.
  - Asbestos in concentrations greater than 1% was also found on the wall shingles on the south exterior siding.
  - Lead-based paint was detected throughout the building, but all detected areas appeared to be intact.

Notification of site conditions will be given to all contractors at the work prior to the state of activities; all contractors will be required to maintain current licenses for the removal, transport, and disposal of hazards. Baker Places, Inc. has a budget of \$141,000 to replace the asbestos containing siding on the exterior south wall, and adequate contingency is included in the budget to address any additional remediation, if required.

## **5. ENTITLEMENTS**

### **5.1 Zoning.**

The subject property is zoned RH-2 (Residential House: Two Family). On January 6, 1977, the Project received a Conditional Use Permit (CUP) from the Planning Commission allowing the Project to be operated as a residential care facility. As a condition of approving this loan, within 45 days of loan closing, the Project Team will be required to confirm that the historical CUP meets current Planning standards and is still valid. If for some reason the existing CUP is non-conforming, the Project Team may be required to pursue another conditional use.

### **5.2 Local/Federal Environmental Review.**

Staff expects the Project to fall within the Categorical Exemption 1 – Existing Facilities under CEQA. Baker Places Inc./PRC will be required to obtain a formal Planning Department determination if and when the project requires Planning Department approval of building

permits.

### **5.3 Article 34 Authority.**

An Article 34 application was submitted to the Asset Management team and a MOHCD approval letter was issued on January 14, 2020.

### **5.4 Resident/Community Support.**

Clients in treatment near the time of the renovation start date will be informed of the upcoming project and provided with a firm discharge date 5 days prior to renovation start date. This advance notice and discharge date builds in a buffer if there is a discharge challenge for any clients. The length of the renovation will determine the overall impact on Grove Street House clients and will also impact several of other system of care and community partners serving the building including: Progress Foundation, Citywide Forensic/UCSF, and St Francis Psychiatric Ward. Baker Places Inc. will keep community and service partners apprised of the rehabilitation timeline so that the various organizations can assess impact on service delivery.

## **6. DEVELOPMENT PLAN**

### **6.1 Site Control.**

1. Purchase Price: \$2,425,000, plus \$12,125 broker fee
2. Status of Purchase & Sale Contract: Ratified
3. P&S Contingencies: None
4. Hard Closing Date: 1/30/2020

### **6.2 Appraisal.**

The Project Team commissioned two appraisals during the course of the due diligence period, both of which valued the Project under the purchase price. The appraisals determined the following valuations:

- **Watts, Cohn and Partners, Inc.:** Conducted on July 26, 2019, Watt's Cohn and Partners Inc. estimated the Project's market value at \$1,850,000, and with restrictions set at 80% AMI, a value of \$1,780,000. Watts, Cohn and Partners considered the purchase price at above market.
- **Ward Levy Appraisal Group, Inc.:** Conducted on November 30, 2019, Ward Levy Appraisal Group, Inc. estimated the Project market value at \$2,200,000, and the "as MOHCD restricted" value at \$1,580,000. Ward Levy Appraisal Group, Inc. considered the purchase price above market.

In the best-case scenario, MOHCD is funding the Project Sponsor to purchase the building at a purchase price at \$225,000 over market valuation—this is inconsistent with the Small Sites Program Underwriting Guidelines site eligibility requirements (section (I)(A)(4)). MOHCD requests that Loan Committee waive this program requirement because of the essential housing and treatment services that Baker Places Inc./PRC provides to its at risk clients. Another potential justification for making an exception to this program rule is the valuation method itself: neither valuation method takes into consideration a "Tenancy in Commons" (TIC) condo conversion scenario. The Project's small size and desirable neighborhood makes

it a candidate for this type of real estate product. In the future, MOHCD staff may request that Project Sponsors' appraisers valuation methods consider this market scenario.

### **6.3 Title Issues.**

**Notice of Special Restrictions:** On September 24, 1991, a NSR under the City Planning Code was recorded against 2153-2157 Grove Street. The NSR gave notice of proposed plans to build the ground floor community/service space, storage room, and bathroom and stated that the new space "...shall not be used as a separate dwelling unit, and no boarder shall reside therein..." and "for the purposes of this restriction and the City Planning Code, installation of any appliances for cooking, such as a stove or hot plate shall be deemed a creation of a kitchen and therefore creation of an additional separate dwelling unit...". To

date, Baker Places Inc. has operated the space in accordance with this NSR, and plans to continue using the space as such. MOHCD's Declaration of Restrictions will be recorded over the NSR on the fee interest.

### **6.4 Proposed Property Ownership Structure.**

Baker Places Grove Street LLC will own fee title to the land and the improvements of the subject property. The sole member of Baker Places Grove Street LLC will continue to be Baker Places, Inc. PRC staff will perform the project management functions for the acquisition and rehabilitation of the Project.

### **6.5 Proposed Rehab Scope.**

The rehab scope was prepared based on a CNA completed by Association Reserves on August 22, 2019 that evaluates the building's existing conditions. The scope focuses on MOHCD's occupied rehabilitation priorities, including health and safety, building envelope and systems.

The proposed rehabilitation scope is as follows (all proposed work is immediate unless otherwise indicated):

- **Exterior and common area improvements:**
  - Repair tile entry
  - Replace intercom
  - Repaint exterior of building *\*(Scaffolding up for months on front. No painting done.)*
  - Replace windows *\*(Only south windows and 2 windows on west and 1 window on east side replaced)*
  - Replace linoleum floor
  - Replace asbestos containing siding *\*(3 stories of asbestos siding remain on south-west wall)*
  - Repair exterior dry rot
  - Add kitchen ventilation system
  - Refurbish kitchen
  - Repaint interior surfaces
- **Residential units/bathrooms:**
  - Refurbish bathrooms
  - Replace stained and worn carpet



Baker Places, Inc. has also included the following allowances for expected additional upgrades, which have been evaluated by the MOHCD construction representative team and determined to be acceptable:

- Structural work: \$100,000
- Electrical upgrades: \$100,000
- Plumbing: \$60,000
- Installation of Kitchen Ventilation: \$57,500

All replacement appliances will be Energy Star-certified, and new light fixtures will be Title 24 compliant.

#### **6.6. Population to Be Served.**

Grove Street House's crisis residential program serves adult residents (18 to 59 years of age) in acute distress resulting from psychiatric and addiction issues. While the stay is brief, the treatment model is informed by a social rehabilitation approach, emphasizing individualized treatment planning and group participation in a milieu setting. Client admission follows criteria for care specified by San Francisco Behavioral Health Services (BHS) and referred through the mechanism of the SFDPH BHS System of Care, who have a demonstrated need for crisis residential treatment due to a chronic and profound mental health problem including those with co-factors of substance use disorders. Clients who are residing in Zukerberg San Francisco General Hospital, IMD facilities, or other institutional systems of care are prioritized for admission and treatment.

The individual client household length of stay is based on the client admission date up to 60 days with treatment stay utilization review conducted by BHS on admission for the initial 30 days of treatment and then again by day 30 for treatment days 31-60. No client remains in treatment at Grove Street House beyond 60 days unless granted a length of stay extension by the BHS System of Care representative.

Based on FY 18-19 disposition at discharge information 22% of discharged clients were housed at the time of discharge, 16% were discharged to shelter sites, 19% were homeless at discharge declining linkage for shelter/housing, 1% were discharged to higher levels of care/hospital and 42% were discharged to continued treatment residential services. Data supports no 'over-housed households'.

#### **6.7 Proposed Unit Mix and Affordability**

All nine beds at the Project are currently occupied. While Baker Places Inc. retains limited information on the incomes of the individuals who reside at the Project during the 60-day period, most residents receive social security and/or disability assistance, and it is assumed that the majority of clients are low-income and living on fixed incomes. The current underwriting does not assume any contribution in tenant rent, and instead models the DPH contract amount that Baker Places, Inc. receives (see First Year Operating Budget). In the case of the Project, clients who are not paying monthly rental income toward the project to support the debt. Rather, the Project Sponsor relies on an ongoing contract from SFDPH to fund the building's operations and services, and clients pay a small fee.

### **6.8. Marketing & Occupancy Preferences.**

The Project is currently subject to SFDPH’s referral process—see **Section 6.8** above for more information. In the event that the project ceases to operate as a residential treatment facility, the Project will revert back to the SSP program requirements regarding marketing and lease up.

### **6.9 Relocation.**

Temporary relocation of the nine clients at the site will be necessary due to the proposed rehab scope. The first step in achieving this goal is to stop taking new referrals for the program about a month in advance of the commencement of rehab activities. Baker Places, Inc/PRC will then assess internally assess other Baker Places program sites (Jo Ruffin Place, Robertson House, San Jose Place etc.) for vacancies and suitability for temporary placement of Grove Street House clients.

In extreme situations, The Project Team may work with SFDPH to identify other service providers for possible client transfers. In this case, Baker Places, Inc/PRC would also be required to inform Community Care Licensing (CCL) and other licensing agencies of any potential temporary changes to the housing of these clients.

### **6.10 Accessibility.**

The rehab scope will incorporate accessibility upgrades where possible, although the building currently has no path of travel for accessibility. The project team will work with Planning/DBI to incorporate accessibility improvements where feasible.

### **6.11 Performance Schedule.**

The schedule below incorporates the Project’s long-term development plan.

<b>No</b>	<b>Performance Milestone</b>	<b>Estimated or Actual Date</b>
1	SSP Financing Commitment	10/15/19
2.	Site Acquisition	1/30/20
3.	Development Team Selection	
a.	Construction Manager Selection	1/30/20
b.	Architect Selection	02/15/20
c.	General Contractor Selection	05/01/20
4.	Design	
a.	Submit Bid Package for MOHCD Approval	02/15/20
5.	Permits	

a.	CUA approval	
b.	Building Permit Application Submitted	03/15/20
6.	Construction	
a.	Notice to Proceed	07/01/20
b.	Complete Construction	07/01/21
7.	Submit Marketing & Lease-up Plan	N/A
a.	Lease Vacant Unit	
8.	Close Out MOHCD Loan(s)	08/01/21

## 7. DEVELOPMENT TEAM

### 7.1 Project Manager.

Name: Jeremiah Gregory (.50 FTE) with assistance from John Santoro facilities manager (.25 FTE).

Experience: Experience is listed in **Section 3.**

### 7.2 Architect.

No architect selected at this time. If architectural services are necessary, Baker Places/PRC will select its design team in compliance with the City's contracting requirements.

### 7.3 Contractor.

Firm: The contractor will be selected once an RFP has been posted on the OCA (Office of Contract Administration) website for 14 days.

Procurement Requirements: Baker Places/PRC will contact the SF Contract Management Division ("CMD") to seek approval of its bid package and process. CMD has indicated its interest in ensuring that LBE entities have access to Small Sites projects. The general contractor will be selected through a competitive process per MOHCD guidelines in the rehabilitation phase of the project.

### 7.4 Other Consultants.

N/A at this time.

### 7.5 Property Manager.

Baker Places/PRC's in-house Director of Property Management and Facilities Management team will manage the property management functions of the Project. Baker Places, Inc. provides property management services to all of its buildings. Baker Places/PRC's property management services include assisting with move-in for new clients, coordination with government agencies, and repairs and maintenance.

## **8. FINANCING PLAN**

### **8.1 Sources and Uses (attached)**

SSP Funds Requested: \$3,940,000

Leveraged Financing Amount and Terms: Not applicable—MOHCD will provide 100% of the upfront financing for the project, with reimbursement to be provided by SFDPH.

SFDPH reimbursement for all Project costs: MOHCD is providing project financing to the Borrower on the condition that SFDPH will reimburse the Department for all costs related to the acquisition, predevelopment, and rehabilitation of the building. MOHCD staff is assisting with the acquisition and rehabilitation because SFDPH does not have the in-house affordable housing real estate development expertise.

### **8.2 Development Budget (attached)**

#### Development Budget Analysis/Comments:

1. Reserves:
  - a. Capitalized Operating Reserve: \$24,230, based on SSP Underwriting Guidelines of 25% of 1<sup>st</sup> year operating expenses, adjusted for operating costs associated with the real estate asset.
  - b. Replacement Reserves: \$274,800, based on the amount specified in an approved CNA.
2. Developer Fee: The total developer fee is \$100,000 and is consistent with SSP Underwriting Guidelines. The Guidelines allow for an \$80,000 fee payable at acquisition and \$10,000 per unit payable at construction completion up to a maximum of 5% of TDC. The portion payable at construction completion will be at-risk for project cost overruns..
3. Construction Management Fee: Baker Places/PRC has requested the full Small Sites Program construction management fee of \$25,500, which is reasonable given the capacity the sponsor, and the amount of time necessary to complete the design, bidding, and permitting process through the City.
4. Other Issues: N/A.

### **8.3 Disbursement**

This request includes both the acquisition and rehab portions of the Project. Acquisition and predevelopment funds will be released at escrow; all other funds will be released on a reimbursement basis through MOHCD's standard draw process. Baker Places, Inc. /PRC has been incurring costs for the Project since it entered into contract on July 29, 2019. Thus, with this approval, Baker Places, Inc./PRC may submit draws for reimbursement of invoices dated on or after July 29, 2019.

## **9. PROJECT OPERATIONS**

The annual operating budget presented in **Attachment B** reflects Baker Places, Inc.'s existing operating contract with SFDPH.

**9.1 Annual Operating Budget (attached).** The annual operating budget is sized according to the budget approved and funded by the Project's contract with SFDPH, plus additional operating costs incurred because of the real estate asset (i.e. replacement reserve deposits, management fees, additional audit cost, etc.).

**9.2 Annual Operating Budget Analysis/Comments.**

1. PUPY Operating Expense (w/o reserves): \$634,828 per unit, \$70,536 per bed
2. Annual Reserve Deposits: \$400 per bed for a total of \$3,600 per year.
3. Property Taxes: \$825, assuming welfare tax exemption for entire building (first year of property taxes is capitalized).

**9.3 20-year Cash Flow (attached)**

1. Does Cash Flow Remain Positive for 20 years?: Yes
2. Income Assumptions: 2.5% escalation per year
3. Expense Assumptions: 3.5% escalation per year
4. Replacement Reserve Analysis: Starting balance is \$274,800 based on the amount specified in an approved CNA, with annual deposits of \$3,600.
5. DSCR: Project is not supporting any debt.
6. Refinancing Plan: No refinancing assumed in current underwriting.
- 7.

**10. STAFF RECOMMENDATIONS**

**10.1 Proposed Acquisition/Rehabilitation Loan Terms.**

1. Amount: \$3,940,000

Applicant: Baker Places Grove Street LLC

Project Name and Address: 2153-2157 Grove Street

2. Term: 30 years
3. Rate: 3.0% simple interest, deferred until maturity of the loan
4. Repayment: Repayment of principal and interest due at loan maturity
5. Priority: 3<sup>rd</sup> position, subordinate to the City's Declaration of Restrictions and existing NSR

**10.2 Recommended Loan Conditions.**

1. Baker Places, Inc. /PRC staff will hold monthly construction update meetings with MOHCD staff regarding the progress of the rehabilitation.
2. Within 45 days of closing, Baker Places, Inc. /PRC staff will confirm the validity of the existing Condition Use Permit with the SF Planning Department.

3. All reserve accounts must be established in separate interest-bearing accounts.
4. Baker Places, Inc./PRC must return to MOHCD for approval of any and all transfers to title and/or management of the Project, including any lease of the improvements to a third party.

**10.3 Recommended Closing Conditions**

N/A

**LOAN APPROVAL RECOMMENDATION**

APPROVE.  DISAPPROVE.

\_\_\_\_\_ Date: \_\_\_\_\_ Daniel Adams,  
Acting Director  
Mayor's Office of Housing and Community Development

APPROVE.  DISAPPROVE.

\_\_\_\_\_ Date: \_\_\_\_\_ Jonah Lee,  
Director of Portfolio Management & Preservation  
Mayor's Office of Housing and Community Development

**STAFF LOAN APPROVAL RECOMMENDATION**

\_\_\_\_\_ Date: \_\_\_\_\_ Caroline  
McCormack, Project Manager  
Mayor's Office of Housing and Community Development

\_\_\_\_\_ Date: \_\_\_\_\_ Christie  
Harbinski, Construction Representative  
Mayor's Office of Housing and Community Development

Attachments: A. Total Development Budget

B. Annual Operating Budget

C. 20-year Cash Flow

Applicant: Baker Places Grove Street LLC

Project Name and Address: 2153-2157 Grove Street

RECORDING REQUESTED BY

And When Recorded Mail to

Name: J. SANTORO

Address: 2144 HAYES

City: S.F.

State: California 94117

SAN FRANCISCO, CA RECORDER'S OFFICE

Bruce Jackson, Recorder

DOC# E989101

Tuesday, September 24, 1991 10:40:16am

Reg 4.00 --- Fe 2.00

Chg 1.00 --- Nic 1.00

Ant 20.00 --- Oth 12.00

TOTAL -> 38.00

REEL F467 IMAGE 0325

Space Above This Line For Recorder's Use

NOTICE OF SPECIAL RESTRICTIONS UNDER THE CITY PLANNING CODE

I (We) WILLIAM F. WORTHINGTON, JR., the owner(s) of that certain real property situated in the City and County of San Francisco, State of California, more particularly described as follows (or see attached sheet marked Exhibit A on which property is more fully described):

BEGINNING at a point on the westerly line of 2nd Avenue, distant thereon 175 feet northerly from the northerly line of Clement Street; running thence northerly along said line of 2nd Avenue 25 feet; thence at a right angle westerly 120 feet; thence at a right angle southerly 25 feet; thence at a right angle easterly 120 feet to the point of beginning.

BEING a portion of Outside Land Block No. 180.

BEING Assessor's Block 1193, Lot 30, hereby give notice that there are special restrictions on the use of said property under Part II, Chapter II of the San Francisco Municipal Code (City Planning Code).

Said restrictions consist of conditions attached to the approval of Building Permit Application No. 9112350 by the Department of City Planning and are conditions that had to be so attached in order that said application could be approved under the City Planning Code. (Building Form 3.)

The plans filed with the present application indicate on the garage level of the two-family dwelling at 2157 Grove Street: a multi-purpose room, storage room and a lavatory, said rooms having independent access to the street through the garage and is connected by an interior stair connection in the rear of the dwelling to the floors above.

The restrictions and conditions of which notice is hereby given are:

1. That said garage floor area shall be used only as accessory to the residential care above, as under the RH-2 zoning of the subject property, and Section 209.3 of the City Planning Code which provides that a residential care facility that meets the requirements of the State of California; and



E989101

NOTICE OF SPECIAL RESTRICTIONS UNDER THE CITY PLANNING CODE

- 2. That this garage level area shall not be used as a separate dwelling unit or rooming unit, and no boarder shall reside therein; that utility, other services, mailbox and doorbells shall be provided for this dwelling solely on a two-family basis; and
- 3. That for the purposes of this restriction and the City Planning Code, installation of any appliances for cooking, such as a stove or hot plate, in this garage level area shall be deemed creation of a kitchen and therefore creation of an additional separate dwelling unit as defined in Section 102.6 of the City Planning Code.

The use of said property contrary to these special restrictions shall constitute a violation of the City Planning Code, and no release, modification or elimination of these restrictions shall be valid unless notice thereof is recorded on the Land Records by the Zoning Administrator of the City and County of San Francisco; except that in the event that the zoning standards above are modified so as to be less restrictive and the uses herein restricted are thereby permitted and in conformity with the provisions of the City Planning Code, this document would no longer be in effect and would be null and void.

Dated: SEP 18 1991 at San Francisco, California

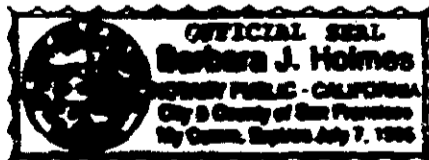
X William F. Worthington, Jr.  
(signature of owner)

STATE OF CALIFORNIA )  
CITY AND COUNTY OF SAN FRANCISCO ) ss.

On SEP 19 1991, before me, Barbara J. Holmes, the undersigned, a Notary Public, in and for said City and County and State, personally appeared William F. Worthington, Jr. personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is (are) subscribed to the within instrument, and acknowledged to me that he or she (they) executed the same.

WITNESS my hand and official seal.

Signature [Signature] (This area for official notarial seal)



Free Recording Requested Pursuant to  
Government Code Section 27383

Recording requested by and  
when recorded mail to:  
City and County of San Francisco  
Mayor's Office of Housing and Community Development  
1 South Van Ness Avenue, 5th Floor  
San Francisco, California 94103  
Attn: Agnes Defiesta

-----Space Above This Line for Recorder's Use-----

2153-2157 Grove Street  
San Francisco, CA 94117  
Assessor's Lot 030, Block 1193

**DECLARATION OF RESTRICTIONS**  
(Property Address: 2153-2157 Grove Street)

**THIS DECLARATION OF RESTRICTIONS** ("Declaration") is made as of January \_\_\_\_, 2020, by **BAKER PLACES GROVE STREET LLC**, a California limited liability company ("Borrower"), in favor of the **CITY AND COUNTY OF SAN FRANCISCO**, represented by the Mayor, acting through the Mayor's Office of Housing and Community Development (the "City").

**RECITALS**

A. The City is making a loan (the "Loan") to Borrower of Education Revenue Augmentation Fund revenues to finance costs associated with the acquisition and rehabilitation of the real property described in **Exhibit A** attached hereto and incorporated herein by reference (the "Property") as low- to moderate-income housing (the "Project"). The Loan is evidenced by, among other documents, a Loan Agreement between the City and Borrower dated as of the date of this Declaration, as it may be amended from time to time (the "Agreement"). The Agreement is incorporated by reference in this Declaration as though fully set forth in this Declaration and is available through the Mayor's Office of Housing and Community Development at the address first specified in the recording request set forth above. Definitions and rules of interpretation set forth in the Agreement apply to this Declaration.

B. Pursuant to the Agreement, Borrower has agreed to comply with certain affordability and other use and occupancy restrictions (collectively, the "**Regulatory Obligations**"), commencing on the Agreement Date, and continuing for as long as the Project or any modification of the Project remains in existence, but in any event no event less than seventy five (75) years from the date the Deed of Trust is recorded in the Official Records of San Francisco County (the "**Compliance Term**"), even if the Loan is repaid or otherwise satisfied or

the Deed of Trust is reconveyed. Borrower's covenants and agreements described in this Declaration are a material part of the consideration for the City in making the Loan, and without Borrower's agreement to subject the Property to the Regulatory Obligations even after the Loan is satisfied, the City would be unwilling to make the Loan to Borrower.

C. A Notice of Special Restrictions was recorded against the Site in the Official Records of San Francisco County on September 24, 1991 as Document No. E989101 (the "NSR"). Among other restrictions specified in the NSR, the NSR restricts the garage level of the 2-unit dwelling located at 2153-2157 Grove Street to be used only as accessory to the residential care above, and prohibits it from being used as a separate dwelling unit or rooming unit. The NSR and its restrictions will continue to encumber the Site, in addition to the Regulatory Obligations, and Borrower will preserve the Project as a 9-bed, 60-day residential treatment facility for low-income individuals or as 2 units of housing affordable to low-to moderate income households in accordance with the Regulatory Obligations.

### **AGREEMENT**

Now, therefore, in consideration of the City's providing the Loan in accordance with the City Documents, Borrower agrees as follows:

1. **Definitions.** Any capitalized terms in this Declaration that are not defined herein shall have the meaning set forth in the Agreement. In the event of any conflict between the terms of this Declaration and the terms of the Agreement, the terms of the Agreement (including the following defined terms) shall control unless otherwise expressly stated. As used in this Declaration, the following words and phrases have the following meanings:

(a) "**Median Income**" means median income as published annually by MOHCD, derived from the Income Limits determined by HUD for the San Francisco area, adjusted solely for household size, but not high housing cost area, also referred to as "Unadjusted Median Income".

(b) "**Qualified Tenant**" means a household occupying of the Project that has certified and been approved as earning no more than the maximum permissible annual income level allowed by the Agreement and that has entered into a lease with Borrower in a form approved by City.

(c) "**Rent**" means the monthly sum charged to Qualified Tenants for rent in accordance with this Declaration.

(d) "**Severely Rent Burdened**" means a Qualified Tenant household paying monthly Rent that is fifty percent (50%) or more of its gross monthly income (as shown on the Qualified Tenant's income certification required by Section 5 and confirmed by MOHCD).

(e) "**Unit**" means any residential rental unit within the Project.

(f) "**Residential Treatment Facility**" means a residential treatment facility licensed and certified by the State of California Department of Health Care Services, State of California Department of Social Services, and the San Francisco Department of Public Health

Business Office of Contractual Compliance, which facility is operated by Borrower and in good standing under the San Francisco Department of Public Health crisis residential treatment/acute diversion program, serving low income clients.

2. Regulatory Obligations. Borrower must comply with the Regulatory Obligations through the expiration of the Compliance Term, regardless of any reconveyance of the Deed of Trust, including without limitation those described in this Declaration.

3. Affordability and Leasing Restrictions. Borrower provides a Residential Treatment Facility, and so long as the Project is operated as a Residential Treatment Facility, the affordability and leasing restrictions set forth in this Section 3 shall not apply to the Property but the terms and conditions of the City's crisis residential treatment/acute diversion program shall apply. In the event the Project ceases to be used as a Residential Treatment Facility, then the Units must be occupied by households or marketed to households in the case of vacant Units, whose combined average income does not exceed 80% of Median Income. For every Unit after the date the Project ceases to be used as a Residential Treatment Facility, or all patients residing at the Residential Treatment Facility are not of low and moderate income, the Project may be occupied only by Qualified Tenants and their households. As provided in Section 7.2(b) of the Agreement, a Qualified Tenant may not be required to vacate the Unit due to subsequent rises in household income. In no event shall any Qualified Tenant be required to pay Rent in excess of 30% of 120% Median.

4. Rent Adjustments and Restrictions. If the Project is not used as a Residential Treatment Facility, Rent for all Units shall be increased annually on the anniversary of the Agreement Date by the greater of: (x) the percentage change in annual operating expenses, up to a maximum of 3.5%; or (y) 2%, except as follows:

(a) Reserved.

(b) Severely Rent Burdened Qualified Tenants. If the Rent increase described in this Section 4 results in any Qualified Tenant household becoming Severely Rent Burdened, Borrower is not required to increase the Rent of the Severely Rent Burdened Qualified Tenant until such time as the Qualified Tenant is no longer Severely Rent Burdened, provided that: (i) Borrower first demonstrates to the satisfaction of MOHCD, in MOHCD's sole discretion, that the Project maintains short- and long-term financial sustainability in the form of positive cash flow, adequately funded reserves, and other indicators as MOHCD may reasonably request; (ii) at each annual income recertification, the ability of all households to pay required rent increases will be reassessed, as will the Borrower cash flow, to ensure short- and long-term financial sustainability if Borrower elects not to impose the required annual Rent increase for any Severely Rent Burdened Qualified Tenant; and (iii) all Regulatory Obligations continue to be met. Similarly, if the circumstances described in this subsection are met, a Unit becomes vacant and a Qualified Tenant demonstrates to Borrower that it is Severely Rent Burdened, Borrower may reduce such Qualified Tenant's Rent to a level no lower than 40% of that Qualified Tenant's gross monthly income, thus resulting in a higher Rent that will be required for the vacant Unit. If

more than one Qualified Tenant is eligible for such a Rent reduction, the reduction shall be equally distributed among such eligible Qualified Tenants.

(c) Recovery of Project Expenses. With the City's prior written approval, Rent increases for Units exceeding the amounts permitted under the first sentence of Section 4 may be permitted once annually in order to recover increases in approved Project Expenses, provided that: (i) in no event may single or aggregate Rent increases exceed ten percent (10%) per year unless such an increase is contemplated in a City-approved temporary relocation plan or is necessary due to the expiration of Section 8 or other rental subsidies; and (ii) Rents for each Unit may in no event exceed 30% of 120% Median Income. The City's approval for such Rent increases under this subsection shall not be unreasonably withheld.

(d) Rent Subsidy Programs. For those households that hold rent subsidy vouchers, such as Section 8 and VASH, on an annual basis Borrower shall request and use best efforts to receive an increase in contract rent equivalent to the percentage change in Fair Market Rent or equivalent payment standard, whichever is greater. For any Qualified Tenant participating in a rent or operating subsidy program where the rent charged is calculated as a percentage of household income, adjustments to Rent charged may be made according to the rules of the relevant subsidy program, provided that the Qualified Tenant paid portion of Rent does not exceed 30% of 120% Median Income. For any Qualified Tenant that becomes ineligible to continue participating in a rent or operating subsidy program, there is no limit on the increase in Rent charged as long as it does not exceed 30% of 120% Median Income.

(e) Recovery of Property Tax Increases. In addition to the Rent increases contemplated in this Section 4 and with the City's prior written approval, if a Qualified Tenant's household income exceeds eighty percent (80%) of California Median Income (as published by the California Department of Housing and Community Development) during occupancy of a Unit, Borrower may adjust the charges for Rent for such Qualified Tenant to absorb the amount of property taxes attributable to the Qualified Tenant's Unit as a result of the loss of the State of California's welfare exemption for low-income housing properties. The City may, in its sole discretion, require that Rent increases allowed under this subsection be implemented over a period of time in order to reduce the burden on an existing Qualified Tenant. Rents charged under this subsection may not exceed 30% of 120% Median Income. The City's approval for such Rent increases shall not be unreasonably withheld. If such Qualified Tenant's household income subsequently decreases and the Unit becomes eligible for the California welfare property tax exemption, Borrower may reduce such Qualified Tenant's Rent by the amount of property tax savings attributable to the Qualified Tenant's Unit, as provided in Section 4(b).

(f) Excess Rent. If Borrower increases Rents or offers a vacant Unit for rent at a rate that exceeds the rules described in this Declaration, the resulting excess cash flow will be paid by Borrower to the Qualified Tenants who were overcharged, and Borrower's actions will constitute an Event of Default pursuant to Section 19 of the Agreement.

5. Certification.

(a) As a condition to initial occupancy, each person who desires to be a Qualified Tenant in the Project must sign and deliver to Borrower a certification in the form attached to the Loan Agreement as Exhibit C, in which the prospective Qualified Tenant certifies that he/she or his/her household qualifies as a Qualified Tenant, which certification is reviewed and approved by Borrower and the City. In addition, each person must provide any other information, documents or certifications deemed necessary by the City to substantiate the prospective tenant's income. Certifications provided to and accepted by the San Francisco Housing Authority will satisfy this requirement.

(b) Each Qualified Tenant in the Project must recertify its household income to Borrower annually.

(c) Income certifications with respect to each Qualified Tenant who resides in a Unit or resided therein during the immediately preceding calendar year must be maintained on file at Borrower's principal office, and Borrower must file copies thereof with the City promptly upon request by the City.

6. Nondiscrimination. Borrower agrees not to discriminate against or permit discrimination against any person or group of persons because of race, color, creed, national origin, ancestry, age, sex, sexual orientation, disability, gender identity, height, weight, source of income or acquired immune deficiency syndrome (AIDS) or AIDS related condition (ARC) in the operation and use of the Project except to the extent permitted by law or required by any other funding source for the Project. Borrower agrees not to discriminate against or permit discrimination against Qualified Tenants using Section 8 certificates or vouchers or assistance through other rental subsidy programs.

7. Remedies. During the Compliance Term the City may rely on the Deed of Trust and/or this Declaration, in the City's discretion, to enforce any of the City's rights under the City Documents.

8. Covenants Run with the Land. This Declaration and the Regulatory Obligations constitute covenants running with the land and bind successors and assigns of Borrower and any non-borrower owner of the Property. In the event that Borrower fails to comply with the Regulatory Obligations to the City's satisfaction, in its sole discretion, within thirty (30) days of Borrower's receipt of notice from the City to so comply, the City at its option may exercise any rights available at equity or in law, including, without limitation, institute an action for specific performance. Borrower shall pay the City's costs in connection with the City's enforcement of the terms of this Declaration, including, without limitation, the City's attorneys' fees and costs.

Borrower has executed this Declaration as of the date first written above.

**BORROWER**

**BAKER PLACES GROVE STREET LLC,**

a California limited liability company

By: PRC,  
a California nonprofit public benefit corporation

Its: Sole Member

By: \_\_\_\_\_

Name: Brett Andrews

Title: Chief Executive Officer

## **EXHIBIT A**

### Legal Description of the Property

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

Beginning at a point on the Southerly line of Grove Street, distant thereon 160 feet Easterly from the Easterly line of Schrader Street; running thence Easterly along the Southerly line of Grove Street 25 feet; thence at a right angle Southerly 137 feet; thence at a right angle Westerly 25 feet; thence at a right angle Northerly 137 feet 6 inches to the said Southerly line of Grove Street and the point of beginning.



Being a portion of Western Addition Block No. 688.

APN: Lot 030, Block 1193

Street Address:  
2153-2157 Grove Street  
San Francisco, CA 94117

Free Recording Requested Pursuant to  
Government Code Section 27383

When recorded, mail to:  
Mayor's Office of Housing and Community Development  
City and County of San Francisco  
1 South Van Ness Avenue, 5<sup>th</sup> Floor  
San Francisco, California 94103  
Attn: Agnes Defiesta

-----Space Above This Line for Recorder's Use-----

2153-2157 Grove Street  
San Francisco, CA 94117  
Assessor's Lot 030, Block 1193

**DEED OF TRUST, ASSIGNMENT OF RENTS,  
SECURITY AGREEMENT AND FIXTURE FILING**  
(Property Address: 2153-2157 Grove Street)  
(Small Sites Program)

**THIS DEED OF TRUST, ASSIGNMENT OF RENTS, SECURITY AGREEMENT AND FIXTURE FILING** ("Deed of Trust") is made as of \_\_\_\_\_, 2020, by **Baker Places Grove Street LLC**, a California limited liability company ("Trustor"), whose address is 170 9<sup>th</sup> Street, San Francisco, California 94103, to **OLD REPUBLIC TITLE COMPANY** ("Trustee"), whose address is 601 California Street, Suite 900, San Francisco, CA 94108, for the benefit of the **CITY AND COUNTY OF SAN FRANCISCO**, a municipal corporation, represented by the Mayor, acting through the Mayor's Office of Housing and Community Development ("Beneficiary"). This Deed of Trust is executed pursuant to a Loan Agreement by and between Trustor and Beneficiary dated as of the date of this Deed of Trust, as it may be amended from time to time (the "Agreement"), the provisions of which are incorporated herein by reference. Definitions and rules of interpretation set forth in the Agreement apply to this Deed of Trust. This Deed of Trust is unconditionally and shall at all times remain a lien or charge on the Property subject and subordinate to that certain Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing executed by Trustor and recorded against the Property to secure Trustor's performance under the Agreement, the Market Rate Note, the Below Market Rate Note, and the Deferred Note.

1. Grant in Trust. For valuable consideration, Trustor hereby grants, transfers and assigns to Trustee, in trust, with power of sale, for the benefit of Beneficiary, all right, title and interest Trustor now has or may have in the future in the following (all or any part of the following, or any interest in all or any part of it, as the context requires, the "Property"):

(a) that real property situated in the City and County of San Francisco, State of California, described in **Exhibit A** attached hereto and incorporated herein by reference (the "Land"), on which Trustor intends to acquire and rehabilitate a residential property including 2 units of multifamily rental housing which is currently used as a 9-bed residential treatment facility affordable to low-income -income households under the City's crisis residential treatment/acute diversion program and its Small Sites Program which will be known as 2153-2157 Grove Street (the "Project"); and

(b) all buildings, structures and other improvements now or in the future located or to be constructed on the Land (the "Improvements"); and

(c) all existing and future leases, subleases, tenancies, subtenancies, licenses, occupancy agreements and concessions ("Leases") relating to the use and enjoyment of all or any part of the Land and Improvements, and any and all guaranties and other agreements relating to or made in connection with any of the Leases; and

(d) except for personal property and removable fixtures installed by tenants or subtenants, all goods, materials, supplies, chattels, furniture, fixtures, equipment and machinery now or later to be attached to, placed in or on, or used in connection with the use, enjoyment, occupancy or operation of all or any part of the Land and Improvements, whether stored on the Land or elsewhere, including all pumping plants, engines, pipes, ditches and flumes, and also all gas, electric, cooking, heating, cooling, air conditioning, lighting, refrigeration and plumbing fixtures and equipment, all of which will be considered to the fullest extent of the law to be real property for purposes of this Deed of Trust; and

(e) all building materials, equipment, work in process or other personal property of any kind, whether stored on the Land or elsewhere, that have been or later will be acquired for the purpose of being delivered to, incorporated into or installed in or about the Land or Improvements; and

(f) all SSP Loan funds, whether disbursed or not, and all funds now or in the future on deposit in the Replacement Reserve Account, the Operating Reserve Account and any other account required or authorized for the Project; and

(g) all proceeds, including proceeds of all present and future fire, hazard or casualty insurance policies and all condemnation awards or payments now or later to be made by any public body or decree by any court of competent jurisdiction for any taking or in connection with any condemnation or eminent domain proceeding, and all causes of action and their proceeds for any damage or injury to the Land, Improvements or the other property described above or any part of them, or breach of warranty in connection with the construction of the Improvements; and

(h) all books and records pertaining to any and all of the property described above, including records relating to tenants under any Leases, the qualifications of any tenants and any certificates, vouchers and other documents in any way related thereto and records relating to the application and allocation of any federal, state or local tax credits or benefits; and

(i) all rents, revenues, issues, royalties, proceeds and profits, including prepaid rent and security deposits ("Rents"), from the Land and the Improvements, subject to: (i) Trustor's right to collect and retain the same as they become due and payable; and (ii) Beneficiary's rights under **Section 3(d)**; and

(j) all intangible personal property and rights relating to the Property or its operation or used in connection with it, including, without limitation, permits, licenses, plans, specifications, construction contracts, subcontracts, bids, soils reports, engineering reports, land planning maps, drawings, construction contracts, notes, drafts, documents, engineering and architectural drawings, deposits for utility services, installations, refunds due Trustor, trade names, trademarks, and service marks; and

(k) all proceeds of, interest accrued on, additions and accretions to, substitutions and replacements for, and changes in any of the property described above.

This Deed of Trust constitutes a security agreement under, and a fixture filing in accordance with, the California Uniform Commercial Code, as it may be amended from time to time. The filing of a financing statement pertaining to personal property may not be construed in any way as derogating from or impairing the lien of, or the rights or obligations of the parties under, this Deed of Trust.

2. Obligations Secured. This Deed of Trust is given for the purpose of securing the following (collectively, the "Secured Obligations"):

(a) performance of all present and future obligations of Trustor set forth in the Agreement related to the SSP Loan, specifically compliance with certain restrictions on the use of the Property recited in that certain Declaration of Restrictions executed by Trustor, dated as of the date of and being recorded concurrently with this Deed of Trust, as it may be amended from time to time, and the promissory note dated the date of this Deed of Trust made by Trustor to the order of Beneficiary (as it may be amended from time to time, the "SSP Note") and performance of each agreement incorporated by reference, contained therein, or entered into in connection with the Agreement;

(b) payment of the indebtedness evidenced by the Agreement and the SSP Note in the original principal amount of Three Million Nine Hundred Forty Thousand and No/100 Dollars (\$3,940,000.00).

(c) payment of any additional sums Trustor may borrow or receive from Beneficiary, when evidenced by another note (or any other instrument) reciting that payment is secured by this Deed of Trust

3. Assignment of Rents.

(a) Assignment as Additional Security. Trustor hereby irrevocably grants, transfers, and assigns to Beneficiary all of its right, title, and interest in and to the Rents as additional security for the Secured Obligations. Subject to the provisions of subsection 3(d) below, Beneficiary hereby confers upon Trustor a license ("License") to collect and retain the Rents as they become due and payable, so long as no Event of Default exists and is continuing. If an Event of Default has occurred and is continuing, Beneficiary shall have the right, which it may choose to exercise in its sole discretion, to terminate this License without notice to or demand upon Trustor, and without regard to the adequacy of Beneficiary's security under this Deed of Trust.

(b) Collection and Application of Rents. Subject to the License granted to Trustor under subsection 3(a) above, Beneficiary has the right, power, and authority to collect any and all Rents. Subject to the License granted to Trustor under subsection 3(a) above, Trustor hereby appoints Beneficiary its attorney-in-fact to perform any and all of the following acts, if and at the times when Beneficiary in its sole discretion may so choose:

1. Demand, receive, and enforce payment of any and all Rents; or
2. Give receipts, releases, and satisfactions for any and all Rents; or
3. Sue either in the name of Trustor or in the name of Beneficiary for any and all Rents.

Beneficiary's right to the Rents does not depend on whether or not Beneficiary takes possession of the Property. In Beneficiary's sole discretion, it may choose to collect Rents either with or without taking possession of the Property. Beneficiary shall apply all Rents collected by it in the manner provided under this Deed of Trust. If an Event of Default occurs while Beneficiary is in possession of all or part of the Property and is collecting and applying Rents as permitted under this Deed of Trust, Beneficiary, Trustee and any receiver shall nevertheless be entitled to exercise and invoke every right and remedy afforded any of them under this Deed of Trust and at law or in equity, including the right to exercise the power of sale granted hereunder.

(c) Beneficiary Not Responsible. Under no circumstances shall Beneficiary have any duty to produce Rents from the Property. Regardless of whether or not Beneficiary, in person or by agent, takes actual possession of the Real Property and Improvements, Beneficiary is not and shall not be deemed to be:

1. A "mortgagee in possession" for any purpose; or
2. Responsible for performing any of the obligations of the lessor under any lease; or

3. Responsible for any waste committed by lessees or any other parties, any dangerous or defective condition of the Property, or any negligence in the management, upkeep, repair, or control of the Property; or
4. Liable in any manner for the Property or the use, occupancy, enjoyment or operation of all or any part of it.

(d) Election by Beneficiary. Upon the occurrence and during the continuance of an Event of Default, Beneficiary, at its option, may exercise its rights under this Section or otherwise provided under applicable law (including, but not limited to, under Section 2938 of the California Civil Code).

4. Trustor's Covenants. To protect the security of this Deed of Trust, Trustor agrees as follows:

(a) to perform the Secured Obligations in accordance with their respective terms;

(b) to keep the Land and the Improvements in good condition and repair, normal wear and tear and acts of God excepted; not to remove or demolish any Improvements without Beneficiary's prior written consent; to complete or restore promptly and in good and workmanlike manner any Improvement constructed, damaged or destroyed on the Land; to pay when due all claims for labor performed and materials furnished therefor, subject to Trustor's right to contest any claim in good faith; to comply with all laws affecting the Project, subject to Trustor's right to contest any claim in good faith; not to commit or permit waste with respect to the Land or the Improvements; not to commit, suffer or permit any act upon the Land or the Improvements in violation of law, including Environmental Laws; and to do all other acts made reasonably necessary by the character or use of the Land and the Improvements;

(c) to provide, maintain and deliver to Beneficiary property and liability insurance as required under the Agreement and apply any insurance proceeds as provided below;

(d) to appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; and to pay all costs and expenses, including cost of evidence of title and reasonable attorneys' fees and costs incurred in any such action or proceeding in which Beneficiary or Trustee may appear and in any suit brought by Beneficiary to foreclose this Deed of Trust following an Event of Default;

(e) to pay in accordance with the Agreement, but in each case prior to delinquency: (i) all taxes and assessments affecting the Property, including assessments

on appurtenant water stock; and (ii) all encumbrances, charges and liens, with interest, on the Property or any part thereof that appear to be prior or superior hereto;

(f) should Trustor fail to make any payment or to do any act as herein provided, then, without: (i) obligation to do so; (ii) notice to or demand upon Trustor; or (iii) releasing Trustor from any obligation hereof, Beneficiary or Trustee may: (A) make or do the same in any manner and to the extent as it deems necessary to protect the security hereof; (B) appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; (C) pay, purchase, contest or compromise any encumbrance, charge or lien that in its judgment appears to be prior or superior hereto; and (D) in exercising these powers, pay necessary expenses, employ counsel and pay reasonable attorneys' fees and costs, and Trustor consents to Beneficiary's and/or Trustee's entry upon the Land and Improvements for any purpose set forth in this Subsection, including Beneficiary's exercise of its rights under California Code of Civil Procedure Section 564(c); and

(g) to reimburse within five (5) days of demand all sums expended by Beneficiary or Trustee pursuant to this Deed of Trust, with interest at an annual rate of interest equal to the lesser of: (i) ten percent (10%); or (ii) the maximum lawful rate from date of expenditure to the date of payment.

#### 5. Insurance and Condemnation Proceeds.

(a) Trustor hereby assigns to Beneficiary any award of damages arising from the condemnation of all or any part of the Property for public use and any insurance proceeds arising from injury to all or any part of the Property or the Project.

(b) Any condemnation award or insurance proceeds must be paid to Beneficiary or, if Beneficiary has consented to subordinate the lien of this Deed of Trust to the lien of another lender for the Project, according to the provisions in the senior lender's loan documents.

(c) If a condemnation award or insurance proceeds are paid to Beneficiary, Beneficiary will release or authorize the release of funds to Trustor, provided that the funds will be used for the reconstruction of the Project in accordance with: (i) projections demonstrating that reconstruction is economically feasible; and (ii) Trustor's construction budget, each of which must be satisfactory to Beneficiary in its reasonable discretion. In all other cases, Beneficiary may choose in its discretion to apply funds to Trustor's obligations under the SSP Note and the Agreement or to any senior obligations, in accordance with the respective priorities of the approved lienholders as their interests may appear of record, with the remaining funds, if any, released to Trustor.

(d) Trustor agrees that Beneficiary's application or release of funds pursuant to this Section will not cure or waive any default or Notice of Default (as defined

below) or invalidate any act by Beneficiary performed following a default pursuant to any City Document unless the default has been cured by the application or release of funds.

6. Further Agreements. Trustor further acknowledges and agrees as follows:

(a) Beneficiary does not waive its right either to require prompt payment when due of all other sums secured by this Deed of Trust or to declare Trustor in default for failure to pay timely by accepting payment of any sum secured hereby after its due date.

(b) Trustee may reconvey any part of the Property at any time or from time to time, without liability therefor and without notice, upon written request of Beneficiary and presentation of this Deed of Trust and the SSP Note for endorsement without affecting the liability of any entity or person for payment of the indebtedness secured hereby.

(c) Upon: (i) written request of Beneficiary stating that all obligations secured hereby have been paid or performed; (ii) Beneficiary's surrender of this Deed of Trust and the SSP Note to Trustee for cancellation and retention or other disposition as Trustee in its sole discretion may choose; and (iii) payment of its fees, if any, Trustee shall reconvey the Property then held hereunder without covenant or warranty.

(d) As additional security, Trustor hereby irrevocably, absolutely and unconditionally assigns to Beneficiary all Rents, whether now due, past due or to become due, subject to Beneficiary's grant to Trustor of a license to collect and retain Rents as they become due and payable so long as Trustor has not defaulted in performance of the Secured Obligations.

(e) Any voluntary or involuntary conveyance, sale, encumbrance, pledge or other transfer of all or any interest in the Property or in Trustor, including a security interest, in violation of the Agreement will constitute an Event of Default (as defined below) giving Beneficiary the right to exercise its remedies at law or in equity.

(f) For the purposes of this Deed of Trust, Beneficiary from time to time may substitute a successor or successors to Trustee named herein or acting hereunder by instrument in writing executed by Beneficiary and duly acknowledged and recorded in the office of the recorder of San Francisco County, which instrument shall be conclusive proof of proper substitution of a successor trustee or trustees. Without conveyance from Trustee, any successor or substitute trustee will succeed to all title, estate, rights, powers and duties of Trustee. The instrument must contain the name of the original Trustor, Trustee and Beneficiary hereunder, the recording information for this Deed of Trust and the name and address of the new Trustee.



(g) This Deed of Trust applies to, inures to the benefit of, and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns, provided that this subsection does not constitute Beneficiary's consent to any transfer in violation of this Deed of Trust. The term Beneficiary shall mean the holder of the SSP Note, whether or not named as Beneficiary herein. In this Deed of Trust, whenever the context so requires, the masculine gender includes the feminine and/or the neuter, and the singular number includes the plural.

(h) Trustee accepts this Trust when this duly executed and acknowledged Deed of Trust is made a public record as provided by law. Trustee is not obligated to notify any party hereto of pending sale under any other deed of trust or of any action or proceeding in which Trustor, Beneficiary or Trustee shall be a party unless brought by Trustee.

7. Beneficiary's Rights Following Default. Upon any default by Trustor in performance of the Secured Obligations following expiration of any applicable notice and cure periods ("Event of Default"):

(a) Trustor's license to collect and retain Rents will terminate automatically.

(b) Trustor consents to Beneficiary's entry upon and taking possession of the Property or any part thereof, at any time after the occurrence of an Event of Default without notice, either in person, by agent or by a receiver to be appointed by a court without regard to the adequacy of any security for the indebtedness hereby secured to sue for or otherwise collect and apply Rents, less costs and expenses of operation and collection, including those of the Property, in its own name or in the name of Trustor. Beneficiary's collection and application of Rents shall not cure or waive any Event of Default or Notice of Default or invalidate any act done pursuant to any notice.

(c) Beneficiary may declare all sums secured hereby immediately due and payable by delivery to Trustee of written declaration of default and demand for sale and of written notice of default and of election to cause to be sold the Property ("Notice of Default"), and:

i. Trustee shall cause the Notice of Default to be filed for record. Beneficiary also shall deposit with Trustee this Deed of Trust, the SSP Note and all documents evidencing expenditures secured hereby.

ii. After the lapse of time then required by law following the recordation of a Notice of Default, and notice of sale ("Notice of Sale") having been given as then required by law, Trustee without demand on Trustor may sell the Property at the time and place fixed in the Notice of Sale either as a whole or in separate parcels in any order at public auction to the highest bidder for cash in lawful money of the United

States payable at time of sale. Trustee may postpone sale of all or any portion of the Property by public announcement at the time and place of sale and from time to time thereafter may postpone the sale by public announcement at the time fixed by the preceding postponement. Trustee shall deliver to any purchaser a trustee's deed conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in the trustee's deed of any matters of facts shall be conclusive proof of the truthfulness thereof. Any person, including Trustor, Trustee or Beneficiary, may purchase at the sale.

iii. After deducting all costs, fees and expenses of Trustee and of this Trust, including cost of evidence of title in connection with sale, Trustee shall apply the proceeds of sale to payment of: (A) all sums expended under the terms of this Deed of Trust not then repaid, with accrued interest at the highest rate allowed by law in effect at the date hereof; (B) all other sums then secured hereby; and (C) the remainder, if any, to the person or persons legally entitled thereto.

8. Notice of Default to Trustor. The undersigned Trustor requests that a copy of any Notice of Default and of any Notice of Sale hereunder be mailed to it at its address set forth above or any succeeding address given by notice in accordance with the Agreement.

**TRUSTOR:**

**BAKER PLACES GROVE STREET LLC,  
a California limited liability company**

By: PRC,  
a California nonprofit public benefit corporation  
Its: Sole Member

By: \_\_\_\_\_  
Name: Brett Andrews  
Title: Chief Executive Officer

ALL SIGNATURES MUST BE NOTARIZED

**EXHIBIT A**

Legal Description of the Property

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

Beginning at a point on the Southerly line of Grove Street, distant thereon 160 feet Easterly from the Easterly line of Schrader Street; running thence Easterly along the Southerly line of Grove Street 25 feet; thence at a right angle Southerly 137 feet; thence at a right angle Westerly 25 feet; thence at a right angle Northerly 137 feet 6 inches to the said Southerly line of Grove Street and the point of beginning. [

Being a portion of Western Addition Block No. 688.

APN: Lot 030, Block 1193

Street Address:

2153-2157 Grove Street  
San Francisco, CA 94117

**SECURED PROMISSORY NOTE**  
(Property Address: 2153-2157 Grove Street)

Principal Amount: \$3,940,000

San Francisco, CA

Date: \_\_\_\_\_, 2020

FOR VALUE RECEIVED, the undersigned, **CCDC SMALL SITES LLC** a California limited liability company ("Maker"), hereby promises to pay to the order of the **CITY AND COUNTY OF SAN FRANCISCO**, a municipal corporation, or holder (as the case may be, "Holder"), the principal sum of Three Million Nine Hundred Forty Thousand and No/100 Dollars (\$3,940,000.00) (the "Funding Amount"), or so much of the Funding Amount as may be disbursed from time to time pursuant to the Agreement described in **Section 1** below, together with interest thereon, as provided in this Note.

1. Agreement. This Secured Promissory Note ("Note") is given under the terms of a Loan Agreement by and between Maker and Holder (the "Agreement") dated as of the date set forth above, which Agreement is incorporated herein by reference. Maker's obligations under this Note and the Agreement are secured by that certain Deed Of Trust, Assignment Of Rents, Security Agreement And Fixture Filing dated as of the date of this Note, made by Maker for the benefit of Holder. Definitions and rules of interpretation set forth in the Agreement apply to this Note. In the event of any inconsistency between the Agreement and this Note, this Note will control.

2. Interest. Interest will accrue on the principal balance outstanding under this Note from time to time at the rate of three percent (3%) per annum, simple interest, from the date of disbursement of funds by Holder through the date of full payment of all amounts owing under the City Documents. Interest will be calculated on the basis of actual days elapsed and a 360-day year, which will result in higher interest charges than if a 365-day year were used.

3. Default Interest Rate. Upon the occurrence of an Event of Default under any City Document, interest will be deemed to have accrued on the outstanding principal balance of the Loan at a compounded annual rate equal to the lesser of: (a) ten percent (10%); or (b) the maximum lawful rate of interest, commencing on the date the Funding Amount is disbursed through the earlier of: (x) the date on which the Event of Default is cured; or (y) the date on which all amounts due under the City Documents are paid to Holder. Maker acknowledges and agrees that the default interest that must be paid in the event of an Event of Default pursuant to this Section represents a reasonable sum considering all the circumstances existing on the date of this Note and represents a fair and reasonable estimate of the costs that will be sustained by Holder if Maker defaults. Maker further agrees that proof of actual damages would be costly and inconvenient and that default interest will be paid without prejudice to Holder's right to collect any other amounts to be paid or to exercise any of its other rights or remedies under any City Document.

4. Repayment of Funding Amount. All Payments will be applied first to any costs and fees incurred and unpaid, then to reduce the principal balance of the Loan. The unpaid principal balance of the Loan, together with all accrued and unpaid interest and unpaid fees and costs incurred, will be due and payable on the date that is the thirtieth (30<sup>th</sup>) anniversary of the date the Deed of Trust is recorded in the Recorder's Office of San Francisco County.

5. Security. Maker's obligations under this Note are secured by the Deed of Trust.

6. Terms of Payment.

6.1 All Payments must be made in currency of the United States of America then lawful for payment of public and private debts.

6.2 All Payments must be made payable to Holder and mailed or delivered in person to Holder's office at One South Van Ness Avenue, 5<sup>th</sup> Floor, San Francisco, CA 94103, or to any other place Holder from time to time designates.

6.3 In no event will Maker be obligated under the terms of this Note to pay interest exceeding the lawful rate. Accordingly, if the payment of any sum by Maker pursuant to the terms of this Note would result in the payment of interest exceeding the amount that Holder may charge legally under applicable state and/or federal law, the amount by which the payment exceeds the amount payable at the lawful interest rate will be deducted automatically from the principal balance owing under this Note.

6.4 Maker waives the right to designate how Payments will be applied pursuant to California Civil Code Sections 1479 and 2822. Holder will have the right in its sole discretion to determine the order and method of application of Payments to obligations under this Note.

6.5 Subject to this Section, Holder will not seek or obtain judgment against Maker for the payment of any amounts due under this Note following a judicial or nonjudicial foreclosure of the Deed of Trust, and Holder's sole recourse against Maker for any default under this Note will be limited to the collateral for the Loan, *provided, however*, that this Section will be deemed void and of no effect if Maker challenges Holder's right to foreclose following an Event of Default in any legal proceeding on the grounds that the City Documents are not valid and enforceable under California law. This provision does not limit in any way Holder's right to recover sums arising under any obligation of Maker to indemnify Holder of sums incurred by Holder as a result of Maker's fraud, willful misrepresentation, misapplication of funds (including Loan Funds and Rents (as defined in the Deed of Trust)), waste or negligent or intentional damage to the collateral for the Loan.

6.6 Except as otherwise set forth herein or in the Agreement, no prepayment of this Note shall be permitted without Holder's prior written consent.

7. Default.

7.1 Any of the following will constitute an Event of Default under this Note:

(a) Maker fails to make any Payment required under this Note within ten (10) days of the date it is due; or

(b) the occurrence of any other Event of Default under the Agreement or other instrument securing the obligations of Maker under this Note or under any other agreement between Maker and Holder with respect to the Project.

7.2 Upon the occurrence of any Event of Default, without notice to or demand upon Maker, which are expressly waived by Maker (except for notices or demands otherwise required by applicable laws to the extent not effectively waived by Maker and any notices or demands specified in the City Documents), Holder may exercise all rights and remedies available under this Note, the Agreement or otherwise available to Holder at law or in equity. Maker acknowledges and agrees that Holder's remedies include the right to accelerate the Maturity Date by declaring the outstanding principal balance of the Loan, together with all accrued and unpaid interest and unpaid fees and costs incurred, due and payable immediately, in which case, the Maturity Date will be superseded and replaced by the date established by Holder.

## 8. Waivers.

8.1 Maker expressly agrees that the term of this Note or the date of any payment due hereunder may be extended from time to time with Holder's consent, and that Holder may accept further security or release any security for this Note, all without in any way affecting the liability of Maker.

8.2 No extension of time for any Payment made by agreement by Holder with any person now or hereafter liable for the payment of this Note will operate to release, discharge, modify, change or affect the original liability of Maker under this Note, either in whole or in part.

8.3 The obligations of Maker under this Note are absolute, and Maker waives any and all rights to offset, deduct or withhold any Payments or charges due under this Note for any reason whatsoever.

## 9. Miscellaneous Provisions.

9.1 All notices to Holder or Maker must be given in the manner and at the addresses set forth in the Agreement, or to the addresses Holder and/or Maker hereafter designate in accordance with the Agreement.

9.2 In the event of any legal proceedings arising from the enforcement of or a default under this Note or in any bankruptcy proceeding of Maker, the non-prevailing party promises to pay all reasonable costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party in the proceeding, as provided in the Agreement.

9.3 This Note may be amended only by an agreement in writing signed by the party against whom enforcement of any waiver, change, modification or discharge is sought.

9.4 This Note is governed by and must be construed in accordance with the laws of the State of California, without regard to the choice of law rules of the State.

9.5 Time is of the essence in the performance of any obligations hereunder.

**"MAKER"**

**BAKER PLACES GROVE STREET LLC,**  
a California limited liability company

By: PRC,  
a California nonprofit public benefit corporation  
Its: Sole Member

By: \_\_\_\_\_  
Name: Brett Andrews  
Title: Chief Executive Officer



Free Recording Requested under  
Government Code Section 27383

When recorded, mail to:

Mayor's Office of Housing and Community Development  
of the City and County of San Francisco  
1 South Van Ness Avenue, Fifth Floor  
San Francisco, California.94103  
Attn: Director  
Re: 2153-2157 Grove Street

Assessor's Lot 030; Block 1193

### MEMORANDUM OF PURCHASE OPTION

This Memorandum of Purchase Option ("Memorandum") is entered into as of \_\_\_\_\_, 2020, by and among the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation (the "City"), acting by and through the Mayor's Office of Housing and Community Development; Baker Places Grove Street LLC, a California limited liability company, ("Owner"), PRC, a California nonprofit public benefit corporation, ("Manager") with respect to that certain Purchase Option Agreement (the "Agreement") dated \_\_\_\_\_, 2020 (the "Effective Date"), among City, Owner, and Manager.

Under the Agreement, Owner granted to City an option to purchase (the "Option") the real property more particularly described in Exhibit A, attached hereto and incorporated herein by this reference (the "Property"), for a specific term and under certain circumstances. The period during which the Option may be exercised commences on the Effective Date, and expires ninety-nine (99) years after the recording date of that certain First Amended and Restated Declaration of Restrictions dated on or about the Effective Date, executed by Owner.

All of the terms and provisions of the Agreement, by this reference, are incorporated into this Memorandum as though fully set forth herein.

This Memorandum is solely for recording purposes to provide constructive notice of the Agreement, and will not be construed to alter, modify, amend, or supplement the Agreement.

This Memorandum may be signed by the parties in counterparts with the same effect as if the signatures to each counterpart were upon a single instrument. All counterparts will be deemed an original of this Memorandum.

Executed as of \_\_\_\_\_, 2020 in San Francisco, California.

OWNER:

Baker Places Grove Street LLC,  
a California limited liability company

MANAGER

By: PRC ,  
a California nonprofit public benefit corporation  
Its: Sole Member/Manager

By: \_\_\_\_\_  
Name: Brett Andrews  
Title: Chief Executive Officer

[Signatures Continue on Following Page]

CITY:

CITY AND COUNTY OF SAN FRANCISCO,  
a municipal corporation

By: \_\_\_\_\_  
Daniel Adams  
Acting Director, Mayor's Office of Housing  
and Community Development

APPROVED AS TO FORM:

DENNIS J. HERRERA  
City Attorney

By: \_\_\_\_\_  
Elizabeth A. Dietrich  
Deputy City Attorney

Exhibit A

Legal Description

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

Beginning at a point on the Southerly line of Grove Street, distant thereon 160 feet Easterly from the Easterly line of Schrader Street; running thence Easterly along the Southerly line of Grove Street 25 feet; thence at a right angle Southerly 137 feet; thence at a right angle Westerly 25 feet; thence at a right angle Northerly 137 feet 6 inches to the said Southerly line of Grove Street and the point of beginning.

Being a portion of Western Addition Block No. 688.  
APN: Lot 030, Block 1193

Street Address:  
2153-2157 Grove Street  
San Francisco, CA 94117

**EXHIBIT A**

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

Beginning at a point on the Southerly line of Grove Street, distant thereon 160 feet Easterly from the Easterly line of Schrader Street; running thence Easterly along the Southerly line of Grove Street 25 feet; thence at a right angle Southerly 137 feet; thence at a right angle Westerly 25 feet; thence at a right angle Northerly 137 feet 6 inches to the said Southerly line of Grove Street and the point of beginning.

Being a portion of Western Addition Block No. 688.

Assessor's Lot 030; Block 1193



**OLD REPUBLIC**  
TITLE COMPANY

601 California Street, Suite 900  
San Francisco, CA 94108  
(415) 421-9770 Fax: (415) 788-4237

## PRELIMINARY REPORT

### FIRST UPDATED REPORT

IMPACT  
870 MARKET STREET, SUITE 315  
SAN FRANCISCO, CA 94102

Our Order Number 0224048988-KN

Attention: RICHARD HURLBURT

When Replying Please Contact:

Buyer:  
BAKER PLACES INC.

Kathy Nerud  
KNerud@ortc.com  
(415) 421-9770

Property Address:

2153-2157 Grove Street, San Francisco, CA 94117

In response to the above referenced application for a policy of title insurance, OLD REPUBLIC TITLE COMPANY, as issuing Agent of Old Republic National Title Insurance Company, hereby reports that it is prepared to issue, or cause to be issued, as of the date hereof, a Policy or Policies of Title Insurance describing the land and the estate or interest therein hereinafter set forth, insuring against loss which may be sustained by reason of any defect, lien or encumbrance not shown or referred to as an Exception below or not excluded from coverage pursuant to the printed Schedules, Conditions and Stipulations of said policy forms.

The printed Exceptions and Exclusions from the coverage and Limitations on Covered Risks of said Policy or Policies are set forth in Exhibit I attached. The policy to be issued may contain an arbitration clause. When the Amount of Insurance is less than that set forth in the arbitration clause, all arbitrable matters shall be arbitrated at the option of either the Company or the Insured as the exclusive remedy of the parties. Limitations on Covered Risks applicable to the Homeowner's Policy of Title Insurance which establish a Deductible Amount and a Maximum Dollar Limit of Liability for certain coverages are also set forth in Exhibit I. Copies of the Policy forms should be read. They are available from the office which issued this report.

**Please read the exceptions shown or referred to below and the exceptions and exclusions set forth in Exhibit I of this report carefully. The exceptions and exclusions are meant to provide you with notice of matters which are not covered under the terms of the title insurance policy and should be carefully considered.**

**It is important to note that this preliminary report is not a written representation as to the condition of title and may not list all liens, defects, and encumbrances affecting title to the land.**

This report (and any supplements or amendments hereto) is issued solely for the purpose of facilitating the issuance of a policy of title insurance and no liability is assumed hereby. If it is desired that liability be assumed prior to the issuance of a policy of title insurance, a Binder or Commitment should be requested.

Dated as of December 20, 2019, at 7:30 AM

**OLD REPUBLIC TITLE COMPANY**  
For Exceptions Shown or Referred to, See Attached

**OLD REPUBLIC TITLE COMPANY**  
**ORDER NO. 0224048988-KN**  
**FIRST UPDATED REPORT**

The form of policy of title insurance contemplated by this report is:

CLTA Standard Coverage Policy -1990; AND ALTA Loan Policy - 2006. A specific request should be made if another form or additional coverage is desired.

The estate or interest in the land hereinafter described or referred or covered by this Report is:

Fee

Title to said estate or interest at the date hereof is vested in:

Daniel William Worthington, a married man as his sole and separate property, a 1/2 interest and Michael John Garrigan, Trustee of the 2015 Garrigan Revocable Trust dated April 3, 2015, a 1/2 interest

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

Beginning at a point on the Southerly line of Grove Street, distant thereon 160 feet Easterly from the Easterly line of Schrader Street; running thence Easterly along the Southerly line of Grove Street 25 feet; thence at a right angle Southerly 137 feet; thence at a right angle Westerly 25 feet; thence at a right angle Northerly 137 feet 6 inches to the said Southerly line of Grove Street and the point of beginning.

Being a portion of Western Addition Block No. 688.

Assessor's Lot 030; Block 1193

At the date hereof exceptions to coverage in addition to the Exceptions and Exclusions in said policy form would be as follows:

1. Taxes and assessments, general and special, for the fiscal year 2020 - 2021, a lien, but not yet due or payable.

2. Taxes and assessments, general and special, for the fiscal year 2019 - 2020, as follows:

Assessor's Parcel No	:	LOT 030; BLOCK 1193	
Bill No.	:	045512	
Code No.	:	01-000 - CITY OF SAN FRANCISCO	
1st Installment	:	\$1,205.53	Marked Paid
2nd Installment	:	\$1,205.53	NOT Marked Paid
Land Value	:	\$35,442.00	
Imp. Value	:	\$99,002.00	

3. The lien of supplemental taxes, if any, assessed pursuant to the provisions of Section 75, et seq., of the Revenue and Taxation Code of the State of California.

**OLD REPUBLIC TITLE COMPANY**  
**ORDER NO. 0224048988-KN**  
**FIRST UPDATED REPORT**

4. Any special tax which is now a lien and that may be levied within the City of San Francisco Unified School District Community Facilities District No. 90-1, notice(s) for which having been recorded.

NOTE: Among other things, there are provisions in said notice(s) for a special tax to be levied annually, the amounts of which are to be added to and collected with the property taxes.

NOTE: The current annual amount levied against this land is \$38.28.

NOTE: Further information on said assessment or special tax can be obtained by contacting:

Name : San Francisco Unified School District  
Telephone No. : (415) 241-6480

5. The herein described property lying within the proposed boundaries of the City and County of San Francisco Special Tax District No. 2009-1 (San Francisco Sustainable Financing), as follows:

District No. : 2009-1  
For : San Francisco Sustainable Financing  
Disclosed by : Map filed December 7, 2009, in Book 1 of Maps of Assessment and Community Facilities Districts, Page 33.

6. Conditions contained and/or referred to in an instrument,

Entitled : Notice of Special Restrictions Under the City Planning Code  
By : William F. Worthington, Jr.  
Dated : September 18, 1991  
Recorded : [September 24, 1991 in Reel F467 of Official Records, Image 0325 under Recorder's Serial Number E989101](#)

7. Agreement for : Real Estate Construction Contract - Buyer's Right to Modify Seller's Property  
Executed By : William Worthington  
and Between : Sergei Severinov, Olga Tikhonova and Tatiana Severinova

On the terms, covenants and conditions contained therein,

Recorded : [October 16, 2009 in Reel J999 of Official Records, Image 0348 under Recorder's Serial Number 2009-1860399](#)

8. Any lien for Federal Estate Tax payable by reason of the death of William Frank Worthington, Jr. on December 16, 2014.



OLD REPUBLIC TITLE COMPANY  
ORDER NO. 0224048988-KN  
FIRST UPDATED REPORT

9. Any lien for California Estate Tax payable by reason of the death of William Frank Worthington, Jr. on December 16, 2014.
10. Terms and conditions contained in the William F. Worthington Jr. 1993 Revocable Trust dated February 1, 1993 as disclosed by Quitclaim Deed.

Dated : May 29, 1996  
Recorded [May 31, 1996 in Reel G644 of Official Records, Image 0320 under Recorder's Serial Number 96-F981673](#)

The requirement that:

A Certification of Trust be furnished in accordance with Probate Code Section 18100.5; and

If the acting trustee is a successor trustee the additional requirement the Company is provided a complete copy of the trust, with all amendments and any intervening trustee is no longer acting in that capacity by providing copies of resignation letters, etc.

The Company reserves the right to make additional exceptions and/or requirements upon review of the above.

11. Terms and conditions contained in the 2015 Garrigan Revocable Trust dated April 3, 2015, a 1/2 interest as disclosed by Trust Transfer Deed.

Dated : April 17, 2015  
Recorded [February 9, 2016 in Official Records under Recorder's Serial Number 2016-K199460](#)

The requirement that:

A Certification of Trust be furnished in accordance with Probate Code Section 18100.5; and

If the acting trustee is a successor trustee the additional requirement the Company is provided a complete copy of the trust, with all amendments and any intervening trustee is no longer acting in that capacity by providing copies of resignation letters, etc.

The Company reserves the right to make additional exceptions and/or requirements upon review of the above.

**OLD REPUBLIC TITLE COMPANY**  
**ORDER NO. 0224048988-KN**  
**FIRST UPDATED REPORT**

12. The requirement that this company be provided with a suitable Owner's Declaration from the Seller (form ORT 174). The Company reserves the right to make additional exceptions and/or requirements upon review of the Owner's Declaration.

----- **Informational Notes** -----

- A. The applicable rate(s) for the policy(s) being offered by this report or commitment appears to be section(s) 1.1 and 2.1.
- B. The above numbered report (including any supplements or amendments thereto) is hereby modified and/or supplemented to reflect the following additional items relating to the issuance of an American Land Title Association loan form policy:

NONE

NOTE: Our investigation has been completed and there is located on said land a multi-family residence known as 2153-2157 Grove Street, San Francisco, CA 94117.

The ALTA loan policy, when issued, will contain the CLTA 100 Endorsement and 116 series Endorsement.

Unless shown elsewhere in the body of this report, there appear of record no transfers or agreements to transfer the land described herein within the last three years prior to the date hereof, except as follows:

NONE

- C. NOTE: The last recorded transfer or agreement to transfer the land described herein is as follows:

Instrument

Entitled : Trust Transfer Deed  
By/From : Patricia Ann Worthington, Trustee of the William F. Worthington, Jr. 1993 Revocable Trust  
To : 1/2 interest to Daniel William Worthington, a married man as his sole and separate property and 1/2 interest to Michael John Garrigan, Trustee of the 2015 Garrigan Revocable Trust dated April 3, 2015  
Dated : April 17, 2015  
Recorded : [February 9, 2016 in Official Records under Recorder's Serial Number 2016-K199460](#)

**OLD REPUBLIC TITLE COMPANY**  
**ORDER NO. 0224048988-KN**  
**FIRST UPDATED REPORT**

D.

NOTICE: FinCEN COMPLIANCE

Closing the residential purchase and/or issuing title insurance contemplated by this Preliminary Report may be subject to compliance with the recently issued Confidential Geographic Targeting Order (GTO) from the US Treasury's Financial Crimes Enforcement Network (FinCEN). The GTO requires Old Republic National Title Insurance Company to report information about certain transactions involving residential property.

FinCEN has the authority to compel this reporting under the USA PATRIOT Act. FinCEN prohibits Old Republic from disclosing the specific terms of the GTO. You may wish to contact the FinCEN Resource Center directly at (800) 767-2825 for more information.

The failure and/or refusal of a party to provide information for a "covered transaction" will preclude Old Republic from closing the transaction and/or issuing title insurance.

ON  
AT

**CALIFORNIA LAND TITLE ASSOCIATION  
STANDARD COVERAGE POLICY - 1990  
EXCLUSIONS FROM COVERAGE**

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance or governmental regulation (including but not limited to building or zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating (i) the occupancy, use, or enjoyment of the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien, or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.-  
  
(b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.
3. Defects, liens, encumbrances, adverse claims or other matters:
  - (a) whether or not recorded in the public records at Date of Policy, but created, suffered, assumed or agreed to by the insured claimant;
  - (b) not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy;.
  - (c) resulting in no loss or damage to the insured claimant;
  - (d) attaching or created subsequent to Date of Policy; or
  - (e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the insured mortgage or for the estate or interest insured by this policy.
4. Unenforceability of the lien of the insured mortgage because of the inability or failure of the insured at Date of Policy, or the inability or failure of any subsequent owner of the indebtedness, to comply with the applicable doing business laws of the state in which the land is situated.
5. Invalidity or unenforceability of the lien of the insured mortgage, or claim thereof, which arises out of the transaction evidenced by the insured mortgage and is based upon usury or any consumer credit protection or truth in lending law.
6. Any claim, which arises out of the transaction vesting in the insured the estate of interest insured by this policy or the transaction creating the interest of the insured lender, by reason of the operation of federal bankruptcy, state insolvency or similar creditors' rights laws.

**EXCEPTIONS FROM COVERAGE - SCHEDULE B, PART I**

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

1. Taxes or assessments Which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records.  
  
Proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the public records.
2. Any facts, rights, interests, or claims Which are not shown by the public records but which could be ascertained by an inspection of the land which may be asserted by persons in possession thereof,
3. Easements, liens or encumbrances, or claims thereof, which are not shown by the public records.
4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by the public records.
5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b) or (c) are shown by the public records.
6. Any lien or right to a lien for services, labor or material not shown by the public records.

**AMERICAN LAND TITLE ASSOCIATION  
LOAN POLICY OF TITLE INSURANCE - 2006  
EXCLUSIONS FROM COVERAGE**

The following matters are expressly excluded from the coverage of this policy, and the Company will not pay loss or damage, costs, attorneys' fees, or expenses that arise by reason of:

1. (a) Any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
  - (i) the occupancy, use, or enjoyment of the Land;
  - (ii) the character, dimensions, or location of any improvement erected on the Land;
  - (iii) the subdivision of land; or
  - (iv) environmental protection; or the effect of any violation of these laws, ordinances, or governmental regulations.This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5.
- (b) Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 6.
2. Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.
3. Defects, liens, encumbrances, adverse claims, or other matters
  - (a) created, suffered, assumed, or agreed to by the Insured Claimant;
  - (b) not Known to the Company, not recorded in the Public Records at Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
  - (c) resulting in no loss or damage to the Insured Claimant;
  - (d) attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risk 11, 13, or 14); or
  - (e) resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Insured Mortgage.
4. Unenforceability of the lien of the Insured Mortgage because of the inability or failure of an Insured to comply with applicable doing-business laws of the state where the Land is situated.
5. Invalidity or unenforceability in whole or in part of the lien of the Insured Mortgage that arises out of the transaction evidenced by the Insured Mortgage and is based upon usury or any consumer credit protection or truth-in-lending law.
6. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that the transaction creating the lien of the Insured Mortgage, is
  - (a) a fraudulent conveyance or fraudulent transfer, or
  - (b) a preferential transfer for any reason not stated in Covered Risk 13(b) of this policy.
7. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching between Date of Policy and the date of recording of the Insured Mortgage in the Public Records. This Exclusion does not modify or limit the coverage provided under Covered Risk 11(b).

**EXCEPTIONS FROM COVERAGE – SCHEDULE B, PART 1, SECTION ONE**

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) that arise by reason of:

1. (a) Taxes or assessments that are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records; (b) proceedings by a public agency that may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the Public Records.
2. Any facts, rights, interests, or claims that are not shown by the Public Records but that could be ascertained by an inspection of the Land or that may be asserted by persons in possession of the Land.
3. Easements, liens or encumbrances, or claims thereof, not shown by the Public Records.
4. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land and not shown by the Public Records.
5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b), or (c) are shown by the Public Records.

**FACTS**
**WHAT DOES OLD REPUBLIC TITLE DO WITH YOUR PERSONAL INFORMATION?**

<b>Why?</b>	Financial companies choose how they share your personal information. Federal law gives consumers the right to limit some but not all sharing. Federal law also requires us to tell you how we collect, share, and protect your personal information. Please read this notice carefully to understand what we do.
<b>What?</b>	<p>The types of personal information we collect and share depend on the product or service you have with us. This information can include:</p> <ul style="list-style-type: none"> <li>• Social Security number and employment information</li> <li>• Mortgage rates and payments and account balances</li> <li>• Checking account information and wire transfer instructions</li> </ul> <p>When you are no longer our customer, we continue to share your information as described in this notice.</p>
<b>How?</b>	All financial companies need to share customers' personal information to run their everyday business. In the section below, we list the reasons financial companies can share their customers' personal information; the reasons Old Republic Title chooses to share; and whether you can limit this sharing.

Reasons we can share your personal information	Does Old Republic Title share?	Can you limit this sharing?
<b>For our everyday business purposes</b> — such as to process your transactions, maintain your account(s), or respond to court orders and legal investigations, or report to credit bureaus	Yes	No
<b>For our marketing purposes</b> — to offer our products and services to you	No	We don't share
<b>For joint marketing with other financial companies</b>	No	We don't share
<b>For our affiliates' everyday business purposes</b> — information about your transactions and experiences	Yes	No
<b>For our affiliates' everyday business purposes</b> — information about your creditworthiness	No	We don't share
<b>For our affiliates to market to you</b>	No	We don't share
<b>For non-affiliates to market to you</b>	No	We don't share

Questions

 Go to [www.oldrepublictitle.com](http://www.oldrepublictitle.com) (Contact Us)

Who we are	
Who is providing this notice?	Companies with an Old Republic Title name and other affiliates. Please see below for a list of affiliates.

What we do	
How does Old Republic Title protect my personal information?	To protect your personal information from unauthorized access and use, we use security measures that comply with federal law. These measures include computer safeguards and secured files and buildings. For more information, visit <a href="http://www.OldRepublicTitle.com/newnational/Contact/privacy">http://www.OldRepublicTitle.com/newnational/Contact/privacy</a> .
How does Old Republic Title collect my personal information?	<p>We collect your personal information, for example, when you:</p> <ul style="list-style-type: none"> <li>• Give us your contact information or show your driver's license</li> <li>• Show your government-issued ID or provide your mortgage information</li> <li>• Make a wire transfer</li> </ul> <p>We also collect your personal information from others, such as credit bureaus, affiliates, or other companies.</p>
Why can't I limit all sharing?	<p>Federal law gives you the right to limit only:</p> <ul style="list-style-type: none"> <li>• Sharing for affiliates' everyday business purposes - information about your creditworthiness</li> <li>• Affiliates from using your information to market to you</li> <li>• Sharing for non-affiliates to market to you</li> </ul> <p>State laws and individual companies may give you additional rights to limit sharing. See the "Other important information" section below for your rights under state law.</p>

Definitions	
<b>Affiliates</b>	<p>Companies related by common ownership or control. They can be financial and nonfinancial companies.</p> <ul style="list-style-type: none"> <li>• Our affiliates include companies with an Old Republic Title name, and financial companies such as Attorneys' Title Fund Services, LLC, Lex Terrae National Title Services, Inc., Mississippi Valley Title Services Company, and The Title Company of North Carolina.</li> </ul>
<b>Non-affiliates</b>	<p>Companies not related by common ownership or control. They can be financial and non-financial companies.</p> <ul style="list-style-type: none"> <li>• Old Republic Title does not share with non-affiliates so they can market to you</li> </ul>
<b>Joint marketing</b>	<p>A formal agreement between non-affiliated financial companies that together market financial products or services to you.</p> <ul style="list-style-type: none"> <li>• Old Republic Title doesn't jointly market.</li> </ul>

## Other Important Information

Oregon residents only: We are providing you this notice under state law. We may share your personal information (described on page one) obtained from you or others with non-affiliate service providers with whom we contract, such as notaries and delivery services, in order to process your transactions. You may see what personal information we have collected about you in connection with your transaction (other than personal information related to a claim or legal proceeding). To see your information, please click on "Contact Us" at [www.oldrepublictitle.com](http://www.oldrepublictitle.com) and submit your written request to the Legal Department. You may see and copy the information at our office or ask us to mail you a copy for a reasonable fee. If you think any information is wrong, you may submit a written request online to correct or delete it. We will let you know what actions we take. If you do not agree with our actions, you may send us a statement.

## Affiliates Who May be Delivering This Notice

American First Abstract, LLC	American First Title & Trust Company	American Guaranty Title Insurance Company	Attorneys' Title Fund Services, LLC	Compass Abstract, Inc.
eRecording Partners Network, LLC	Genesis Abstract, LLC	Kansas City Management Group, LLC	L.T. Service Corp.	Lenders Inspection Company
Lex Terrae National Title Services, Inc.	Lex Terrae, Ltd.	Mara Escrow Company	Mississippi Valley Title Services Company	National Title Agent's Services Company
Old Republic Branch Information Services, Inc.	Old Republic Diversified Services, Inc.	Old Republic Exchange Company	Old Republic National Title Insurance Company	Old Republic Title and Escrow of Hawaii, Ltd.
Old Republic Title Co.	Old Republic Title Company of Conroe	Old Republic Title Company of Indiana	Old Republic Title Company of Nevada	Old Republic Title Company of Oklahoma
Old Republic Title Company of Oregon	Old Republic Title Company of St. Louis	Old Republic Title Company of Tennessee	Old Republic Title Information Concepts	Old Republic Title Insurance Agency, Inc.
Old Republic Title, Ltd.	Republic Abstract & Settlement, LLC	Sentry Abstract Company	The Title Company of North Carolina	Title Services, LLC
Trident Land Transfer Company, LLC				



Updated: January 1, 2020

## Privacy Notice for California Consumers

This Privacy Notice for California Consumers supplements the information contained in the Master Privacy Notice for Old Republic Title and applies to consumers that reside in the State of California. The terms used in this Privacy Notice have the same meaning as the terms defined in the California Consumer Privacy Act (“CCPA”).

### What Personal Information We Collect

In accordance with the CCPA, personal information is information that identifies, relates to, describes, is capable of being associated with, or could reasonably be linked, directly or indirectly, with a particular consumer or household. Personal information does not include:

Information outside the scope of the CCPA such as:

- Health or medical information covered by the Health Insurance Portability Act of 1996 (HIPAA) and the California Confidentiality of Medical Information Act (CMIA).
- Personal Information covered by the Gramm-Leach-Bliley Act (GLBA), the Fair Credit Reporting Act (FCRA), the California Financial Information Privacy Act (FIPA), and the Driver’s Privacy Protection Act of 1994,
- Publicly available information that is available from federal, state, or local government records, and
- De-identified or aggregated consumer information.

Please see the chart below to learn what categories of personal information we may have collected about California consumers within the preceding twelve months, the sources of and business purposes for that collection and the third parties with whom the information is shared, if any.

Category	Examples	Collected	Sources	Business Purpose for Collection	Categories of Third Parties with Whom Information is Shared
Identifiers	Real name, alias, postal address, unique personal	Yes	Consumers, Lenders, Brokers, Attorneys,	Underwriting or providing other products or services, responding to	Service providers associated with the

	<p>identifier, online identifier, Internet protocol address, email address, account name, social security number, driver's license number, passport number or other similar identifiers</p>		<p>Real Estate Agents, and Title Agents associated with the transaction</p>	<p>policyholder/consumer claims, inquiries or complaints, detecting security incidents, protecting against malicious, deceptive, fraudulent, or illegal activity. Other audit or operational purposes.</p>	<p>transaction for a business purpose</p>
<p>Personal information described in California Customer Records statute (Cal. Civ. Code § 1798.80(e))</p>	<p>Name, signature, social security number, physical characteristics or description, address, telephone number, passport number, driver's license or state identification card number, insurance policy number, education, employment, employment history, bank account number, credit card number, debit card number, or any other financial information, medical</p>	<p>Yes</p>	<p>Consumers, Lenders, Brokers, Attorneys, Real Estate Agents, and Title Agents associated with the transaction</p>	<p>Underwriting or providing other products or services, responding to policyholder/consumer claims, inquiries or complaints, detecting security incidents, protecting against malicious, deceptive, fraudulent, or illegal activity. Other audit or operational purposes.</p>	<p>Service providers associated with the transaction for a business purpose</p>

	information, or health insurance information. "Personal information" does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records.				
Characteristics of protected classifications under California or federal law	Age (40 years or older), race, color, ancestry, national origin, citizenship, religions or creed, marital status, medical condition, physical or mental disability, sex (including gender, gender identity, gender expression, pregnancy or childbirth and related medical conditions), sexual orientation, veteran or military status,	Yes	Consumers, Lenders, Brokers, Attorneys, Real Estate Agents, and Title Agents associated with the transaction	Underwriting or providing other products or services, responding to policyholder/consumer claims, inquiries or complaints. Other audit or operational purposes.	Service providers associated with the transaction for a business purpose

	or genetic information (including familial genetic information).				
Internet or other electronic network activity	Browsing history, search history, information about a consumer's interaction with a website, application, or advertisement.	Yes	Consumers, Lenders, Brokers, Attorneys, Real Estate Agents, and Title Agents associated with the transaction	To provide access to certain online services. To understand the interests of visitors to our online services, to support certain features of our site, for navigation and to display certain features more effectively. Detecting security incidents, protecting against malicious, deceptive, fraudulent, or illegal activity. Other audit or operational purposes.	Not Disclosed
Geolocation data	Geographic tracking data, physical location and movements	Yes	Consumers, Lenders, Brokers, Attorneys, Real Estate Agents, and Title Agents associated with the transaction	To provide access to certain online services. To understand the interests of visitors to our online services, to support certain features of our site, for navigation and to display certain features more effectively. Other audit or operational purposes.	Not Disclosed

## What Personal Information We Share and Why We Share It

The CCPA requires us to tell you what categories of personal information we “sell” or “disclose.” We do not sell and will not sell your personal information as that term is commonly understood. We also do not sell and will not sell your personal information, including the personal information of persons under 16 years of age, as that term is defined by the CCPA. When it is necessary for a business purpose, we share or disclose your personal information with a service provider, and we enter a contract with the service provider that limits how the information may be used and requires the service provider to protect the confidentiality of the information.

In the preceding twelve months, we have disclosed the following categories of personal information for the following business purposes. Where the personal information is shared with third parties, as that term is defined in the CCPA, the category of the third party is indicated.

Category	Examples	Business Purpose for Disclosure	Categories of Third Parties with Whom Information is Shared
Identifiers	Real name, alias, postal address, unique personal identifier, online identifier, internet protocol address, email address, account name, social security number, driver’s license number, passport number or other similar identifiers	Underwriting or providing other products or services, responding to policyholder/consumer claims, inquiries or complaints, detecting security incidents, protecting against malicious, deceptive, fraudulent, or illegal activity. Other audit or operational purposes.	Service providers associated with the transaction for a business purpose
Personal information described in California Customer	Name, signature, social security number, physical characteristics or description, address, telephone number, passport number, driver’s license or state	Underwriting or providing other products or services, responding to policyholder/consumer	Service providers associated with the transaction for a business

<p>Records statute (Cal. Civ. Code § 1798.80(e))</p>	<p>identification card number, insurance policy number, education, employment, employment history, bank account number, credit card number, debit card number, or any other financial information, medical information, or health insurance information.  "Personal information" does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records.</p>	<p>claims, inquiries or complaints, detecting security incidents, protecting against malicious, deceptive, fraudulent, or illegal activity. Other audit or operational purposes.</p>	<p>purpose</p>
<p>Characteristics of protected classifications under California or federal law</p>	<p>Age (40 years or older), race, color, ancestry, national origin, citizenship, religions or creed, marital status, medical condition, physical or mental disability, sex (including gender, gender identity, gender expression, pregnancy or childbirth and related medical conditions), sexual orientation, veteran or military status, or genetic information (including familial genetic information).</p>	<p>Underwriting or providing other products or services, responding to policyholder/consumer claims, inquiries or complaints. Other audit or operational purposes.</p>	<p>Service providers associated with the transaction for a business purpose</p>
<p>Internet or other electronic network activity</p>	<p>Browsing history, search history, information about a consumer's interaction with a website, application, or advertisement.</p>	<p>To provide access to certain online services. To understand the interests of visitors to our online services, to support certain features of our site, for navigation and to display certain features more effectively. Detecting security incidents, protecting against malicious, deceptive, fraudulent, or illegal activity. Other audit or</p>	<p>Not Disclosed</p>

		operational purposes.	
Geolocation data	Geographic tracking data, physical location and movements	To provide access to certain online services. To understand the interests of visitors to our online services, to support certain features of our site, for navigation and to display certain features more effectively. Other audit or operational purposes.	Not Disclosed

We may also transfer to a third party the personal information of a consumer as an asset that is part of a merger, acquisition, bankruptcy, or other transaction in which the third party assumes control of all or part of the business.

## Your Rights and Choices

The CCPA provides California consumers with certain rights regarding their personal information. This chart describes those rights and certain limitations to those rights.

Right	What This Means
Notice	At or before the time your personal information is collected, you will be given written notice of the categories of personal information to be collected and the purposes for which the categories of personal information will be used.
Access	At your verifiable request, but no more than twice in a twelve month period, we shall disclose to you: 1) the categories of personal information we have collected about you, 2) the categories of sources for the personal information we collected about you, 3) our business and commercial purpose for collecting or selling your personal information, 4) the categories of third parties with whom we share your personal information, 5) The specific pieces of information we have collected about you, 6) the categories of personal information disclosed for a business purpose, and 7) If we sold personal information, the categories of personal information sold and the categories of third parties to whom it was sold.

Deletion	<p>You have the right to request that we delete any of your personal information that we collected from you, subject to certain exceptions. Once we receive and verify your request, we will delete (and direct our service providers to delete) your personal information from our records unless an exception applies. We may deny your request if retention of the information is necessary for us or our service providers to:</p> <ul style="list-style-type: none"> <li>• Complete the transaction for which we collected the personal information, provide a good or service that you requested, take actions reasonably anticipated within the context of our ongoing business relationship with you, or otherwise perform our contract with you.</li> <li>• Detect security incidents, protect against malicious, deceptive, fraudulent, or illegal activity, or prosecute those responsible for such activities.</li> <li>• Debug products to identify and repair errors that impair existing intended functionality.</li> <li>• Exercise free speech, ensure the right of another consumer to exercise their free speech rights, or exercise another right provided for by law.</li> <li>• Comply with the California Electronic Communications Privacy Act (Cal. Penal Code §1546 et seq.)</li> <li>• Engage in public or peer reviewed scientific, historical, or statistical research in the public interest that adheres to all other applicable ethics and privacy laws, when the information’s deletion may likely render impossible or seriously impair the research’s achievement, if you previously provided informed consent.</li> <li>• Enable solely internal uses that are reasonably aligned with consumer expectations based on your relationship with us.</li> <li>• Comply with a legal obligation.</li> <li>• Make other internal and lawful uses of that information that are compatible with the context in which you provided it.</li> <li>• Or if it is the type of personal information that falls outside the scope of the CCPA, (HIPAA, CIMA, GLBA, or publicly available information)</li> </ul>
Opt-Out of Sale	<p>With some limitations, you may direct a business that sells personal information to third parties not to sell the personal information to these third parties.</p> <p>A business may not sell the personal information of persons less than sixteen years of age without their affirmative consent, and in the case of those less than thirteen years of age, the consent must come from a parent.</p>
Opt-In to Sale	<p>We will not discriminate against you for exercising your rights under the CCPA. Unless otherwise permitted by the CCPA we will not:</p> <ul style="list-style-type: none"> <li>• Deny you goods or service</li> <li>• Charge you different prices or rates for goods or services, including through granting discounts or other benefits, or imposing penalties</li> <li>• Provide a different level or quality of goods or services</li> <li>• Suggest that you will receive a different price or rate for goods or services or a different level or quality of goods or services</li> </ul>
Non-Discrimination	



## **To Exercise Your Rights**

### **To Opt-out of the Sale of Your Personal Information**

The CCPA gives consumers the right to direct a business that sells personal information about the consumer to third parties not to sell the consumer's personal information. We do not sell and will not sell your personal information as that term is commonly understood. We also do not sell and will not sell your personal information, as that term is defined by the CCPA.

### **To Request Access to or Deletion of Your Personal Information**

To exercise your access or deletion rights described above, please submit a verifiable consumer request to us by either: Calling us at 1-855-557-8437 or contacting us through our website [CCPA Consumer Request](#).

Only you or your representative that you authorize to act on your behalf (Authorized Agent) can make a verifiable consumer request for your personal information. You may also make a request for your minor child. The verifiable request must provide enough information that allows us to reasonably verify you are the person about whom we collected personal information. We cannot respond to your request or provide you with personal information if we cannot verify your identity or authority to make the request and to confirm the personal information relates to you.

We work to respond to a verifiable consumer request within 45 days of its receipt. If we require additional time, we will inform you of the extension period (up to an additional 45 days), and the reason for the extension in writing. If you have an account with us, we will deliver our response to that account. If you do not have an account with us, we will deliver our response by mail or electronically, depending on your preference. The response we provide will also explain any reasons why we cannot comply with a request.

You may only make a consumer request for access twice within a twelve-month period. Any disclosures we provide will apply to the twelve-month period preceding the consumer request's receipt.

## Contact Us

If you have any questions regarding our Privacy Notice or practices, please contact us via phone at 1-855-557-8437 or send your written request to: [CCPA@oldrepublictitle.com](mailto:CCPA@oldrepublictitle.com), or Old Republic Title c/o CCPA Consumer Request Group, 275 Battery Street, Suite1500, San Francisco, CA 94111-3334.





**OLD REPUBLIC**  
TITLE COMPANY

601 California Street, Suite 900  
San Francisco, CA 94108  
(415) 421-9770 Fax: (415) 788-4237

## PRELIMINARY REPORT

Our Order Number 0224048988-KN

When Replying Please Contact:

Kathy Nerud  
KNerud@ortc.com  
(415) 421-9770

Property Address:

2153-2157 Grove Street, San Francisco, CA 94117

In response to the above referenced application for a policy of title insurance, OLD REPUBLIC TITLE COMPANY, as issuing Agent of Old Republic National Title Insurance Company, hereby reports that it is prepared to issue, or cause to be issued, as of the date hereof, a Policy or Policies of Title Insurance describing the land and the estate or interest therein hereinafter set forth, insuring against loss which may be sustained by reason of any defect, lien or encumbrance not shown or referred to as an Exception below or not excluded from coverage pursuant to the printed Schedules, Conditions and Stipulations of said policy forms.

The printed Exceptions and Exclusions from the coverage and Limitations on Covered Risks of said Policy or Policies are set forth in Exhibit I attached. The policy to be issued may contain an arbitration clause. When the Amount of Insurance is less than that set forth in the arbitration clause, all arbitrable matters shall be arbitrated at the option of either the Company or the Insured as the exclusive remedy of the parties. Limitations on Covered Risks applicable to the Homeowner's Policy of Title Insurance which establish a Deductible Amount and a Maximum Dollar Limit of Liability for certain coverages are also set forth in Exhibit I. Copies of the Policy forms should be read. They are available from the office which issued this report.

**Please read the exceptions shown or referred to below and the exceptions and exclusions set forth in Exhibit I of this report carefully. The exceptions and exclusions are meant to provide you with notice of matters which are not covered under the terms of the title insurance policy and should be carefully considered.**

**It is important to note that this preliminary report is not a written representation as to the condition of title and may not list all liens, defects, and encumbrances affecting title to the land.**

This report (and any supplements or amendments hereto) is issued solely for the purpose of facilitating the issuance of a policy of title insurance and no liability is assumed hereby. If it is desired that liability be assumed prior to the issuance of a policy of title insurance, a Binder or Commitment should be requested.

Dated as of August 20, 2019, at 7:30 AM

**OLD REPUBLIC TITLE COMPANY**  
For Exceptions Shown or Referred to, See Attached

Page 1 of 6 Pages

**OLD REPUBLIC TITLE COMPANY**  
**ORDER NO. 0224048988-KN**

The form of policy of title insurance contemplated by this report is:

CLTA Standard Coverage Policy -1990; AND ALTA Loan Policy - 2006. A specific request should be made if another form or additional coverage is desired.

The estate or interest in the land hereinafter described or referred or covered by this Report is:

Fee

Title to said estate or interest at the date hereof is vested in:

Daniel William Worthington, a married man as his sole and separate property, a 1/2 interest and Michael John Garrigan, Trustee of the 2015 Garrigan Revocable Trust dated April 3, 2015, a 1/2 interest

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

Beginning at a point on the Southerly line of Grove Street, distant thereon 160 feet Easterly from the Easterly line of Schrader Street; running thence Easterly along the Southerly line of Grove Street 25 feet; thence at a right angle Southerly 137 feet; thence at a right angle Westerly 25 feet; thence at a right angle Northerly 137 feet 6 inches to the said Southerly line of Grove Street and the point of beginning.

Being a portion of Western Addition Block No. 688.

Assessor's Lot 030; Block 1193

At the date hereof exceptions to coverage in addition to the Exceptions and Exclusions in said policy form would be as follows:

1. Taxes and assessments, general and special, for the fiscal year 2019 - 2020, a lien, but not yet due or payable.

2. Taxes and assessments, general and special, for the fiscal year 2018 - 2019, as follows:

Assessor's Parcel No	:	LOT 030; BLOCK 1193	
Bill No.	:	046564	
Code No.	:	01-000 - CITY OF SAN FRANCISCO	
1st Installment	:	\$1,167.71	Marked Paid
2nd Installment	:	\$1,167.71	Marked Paid
Land Value	:	\$34,748.00	
Imp. Value	:	\$97,062.00	

3. The lien of supplemental taxes, if any, assessed pursuant to the provisions of Section 75, et seq., of the Revenue and Taxation Code of the State of California.

**OLD REPUBLIC TITLE COMPANY**  
**ORDER NO. 0224048988-KN**

4. Any special tax which is now a lien and that may be levied within the City of San Francisco Unified School District Community Facilities District No. 90-1, notice(s) for which having been recorded.

NOTE: Among other things, there are provisions in said notice(s) for a special tax to be levied annually, the amounts of which are to be added to and collected with the property taxes.

NOTE: The current annual amount levied against this land is \$37.52.

NOTE: Further information on said assessment or special tax can be obtained by contacting:

Name : San Francisco Unified School District  
Telephone No. : (415) 241-6480

5. The herein described property lying within the proposed boundaries of the City and County of San Francisco Special Tax District No. 2009-1 (San Francisco Sustainable Financing), as follows:

District No. : 2009-1  
For : San Francisco Sustainable Financing  
Disclosed by : Map filed December 7, 2009, in Book 1 of Maps of Assessment and Community Facilities Districts, Page 33.

6. Conditions contained and/or referred to in an instrument,

Entitled : Notice of Special Restrictions Under the City Planning Code  
By : William F. Worthington, Jr.  
Dated : September 18, 1991  
Recorded : [September 24, 1991 in Reel F467 of Official Records, Image 0325 under Recorder's Serial Number E989101](#)

7. Agreement for : Real Estate Construction Contract - Buyer's Right to Modify Seller's Property  
Executed By : William Worthington  
and Between : Sergei Severinov, Olga Tikhonova and Tatiana Severinova

On the terms, covenants and conditions contained therein,

Recorded : [October 16, 2009 in Reel J999 of Official Records, Image 0348 under Recorder's Serial Number 2009-1860399](#)

8. Any lien for Federal Estate Tax payable by reason of the death of William Frank Worthington, Jr. on December 16, 2014.

**OLD REPUBLIC TITLE COMPANY**  
**ORDER NO. 0224048988-KN**

9. Any lien for California Estate Tax payable by reason of the death of William Frank Worthington, Jr. on December 16, 2014.
10. Terms and conditions contained in the William F. Worthington Jr. 1993 Revocable Trust dated February 1, 1993 as disclosed by Quitclaim Deed.

Dated : May 29, 1996  
Recorded [May 31, 1996 in Reel G644 of Official Records, Image 0320 under Recorder's Serial Number 96-F981673](#)

The requirement that:

A Certification of Trust be furnished in accordance with Probate Code Section 18100.5; and

If the acting trustee is a successor trustee the additional requirement the Company is provided a complete copy of the trust, with all amendments and any intervening trustee is no longer acting in that capacity by providing copies of resignation letters, etc.

The Company reserves the right to make additional exceptions and/or requirements upon review of the above.

11. Terms and conditions contained in the 2015 Garrigan Revocable Trust dated April 3, 2015, a 1/2 interest as disclosed by Trust Transfer Deed.

Dated : April 17, 2015  
Recorded [February 9, 2016 in Official Records under Recorder's Serial Number 2016-K199460](#)

The requirement that:

A Certification of Trust be furnished in accordance with Probate Code Section 18100.5; and

If the acting trustee is a successor trustee the additional requirement the Company is provided a complete copy of the trust, with all amendments and any intervening trustee is no longer acting in that capacity by providing copies of resignation letters, etc.

The Company reserves the right to make additional exceptions and/or requirements upon review of the above.

12. The requirement that this company be provided with a suitable Owner's Declaration from the Seller (form ORT 174). The Company reserves the right to make additional exceptions and/or requirements upon review of the Owner's Declaration.

----- Informational Notes -----

- A. The applicable rate(s) for the policy(s) being offered by this report or commitment appears to be section(s) 1.1 and 2.1.
- B. The above numbered report (including any supplements or amendments thereto) is hereby modified and/or supplemented to reflect the following additional items relating to the issuance of an American Land Title Association loan form policy:

NONE

NOTE: Our investigation has been completed and there is located on said land a multi-family residence known as 2153-2157 Grove Street, San Francisco, CA 94117.

The ALTA loan policy, when issued, will contain the CLTA 100 Endorsement and 116 series Endorsement.

Unless shown elsewhere in the body of this report, there appear of record no transfers or agreements to transfer the land described herein within the last three years prior to the date hereof, except as follows:

NONE

- C. NOTE: The last recorded transfer or agreement to transfer the land described herein is as follows:

Instrument

Entitled : Trust Transfer Deed  
By/From : Patricia Ann Worthington, Trustee of the William F. Worthington, Jr. 1993 Revocable Trust  
To : 1/2 interest to Daniel William Worthington, a married man as his sole and separate property and 1/2 interest to Michael John Garrigan, Trustee of the 2015 Garrigan Revocable Trust dated April 3, 2015  
Dated : April 17, 2015  
Recorded : [February 9, 2016 in Official Records under Recorder's Serial Number 2016-K199460](#)



D.

NOTICE: FinCEN COMPLIANCE

Closing the residential purchase and/or issuing title insurance contemplated by this Preliminary Report may be subject to compliance with the recently issued Confidential Geographic Targeting Order (GTO) from the US Treasury's Financial Crimes Enforcement Network (FinCEN). The GTO requires Old Republic National Title Insurance Company to report information about certain transactions involving residential property.

FinCEN has the authority to compel this reporting under the USA PATRIOT Act. FinCEN prohibits Old Republic from disclosing the specific terms of the GTO. You may wish to contact the FinCEN Resource Center directly at (800) 767-2825 for more information.

The failure and/or refusal of a party to provide information for a "covered transaction" will preclude Old Republic from closing the transaction and/or issuing title insurance.

ON  
AT

**CALIFORNIA LAND TITLE ASSOCIATION  
STANDARD COVERAGE POLICY - 1990  
EXCLUSIONS FROM COVERAGE**

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance or governmental regulation (including but not limited to building or zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating (i) the occupancy, use, or enjoyment of the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien, or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.-  
  
(b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.
3. Defects, liens, encumbrances, adverse claims or other matters:
  - (a) whether or not recorded in the public records at Date of Policy, but created, suffered, assumed or agreed to by the insured claimant;
  - (b) not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy;.
  - (c) resulting in no loss or damage to the insured claimant;
  - (d) attaching or created subsequent to Date of Policy; or
  - (e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the insured mortgage or for the estate or interest insured by this policy.
4. Unenforceability of the lien of the insured mortgage because of the inability or failure of the insured at Date of Policy, or the inability or failure of any subsequent owner of the indebtedness, to comply with the applicable doing business laws of the state in which the land is situated.
5. Invalidity or unenforceability of the lien of the insured mortgage, or claim thereof, which arises out of the transaction evidenced by the insured mortgage and is based upon usury or any consumer credit protection or truth in lending law.
6. Any claim, which arises out of the transaction vesting in the insured the estate of interest insured by this policy or the transaction creating the interest of the insured lender, by reason of the operation of federal bankruptcy, state insolvency or similar creditors' rights laws.

**EXCEPTIONS FROM COVERAGE - SCHEDULE B, PART I**

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

1. Taxes or assessments Which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records.  
  
Proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the public records.
2. Any facts, rights, interests, or claims Which are not shown by the public records but which could be ascertained by an inspection of the land which may be asserted by persons in possession thereof,
3. Easements, liens or encumbrances, or claims thereof, which are not shown by the public records.
4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by the public records.
5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b) or (c) are shown by the public records.
6. Any lien or right to a lien for services, labor or material not shown by the public records.

**AMERICAN LAND TITLE ASSOCIATION  
LOAN POLICY OF TITLE INSURANCE - 2006  
EXCLUSIONS FROM COVERAGE**

The following matters are expressly excluded from the coverage of this policy, and the Company will not pay loss or damage, costs, attorneys' fees, or expenses that arise by reason of:

1. (a) Any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
  - (i) the occupancy, use, or enjoyment of the Land;
  - (ii) the character, dimensions, or location of any improvement erected on the Land;
  - (iii) the subdivision of land; or
  - (iv) environmental protection; or the effect of any violation of these laws, ordinances, or governmental regulations.This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5.
- (b) Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 6.
2. Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.
3. Defects, liens, encumbrances, adverse claims, or other matters
  - (a) created, suffered, assumed, or agreed to by the Insured Claimant;
  - (b) not Known to the Company, not recorded in the Public Records at Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
  - (c) resulting in no loss or damage to the Insured Claimant;
  - (d) attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risk 11, 13, or 14); or
  - (e) resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Insured Mortgage.
4. Unenforceability of the lien of the Insured Mortgage because of the inability or failure of an Insured to comply with applicable doing-business laws of the state where the Land is situated.
5. Invalidity or unenforceability in whole or in part of the lien of the Insured Mortgage that arises out of the transaction evidenced by the Insured Mortgage and is based upon usury or any consumer credit protection or truth-in-lending law.
6. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that the transaction creating the lien of the Insured Mortgage, is
  - (a) a fraudulent conveyance or fraudulent transfer, or
  - (b) a preferential transfer for any reason not stated in Covered Risk 13(b) of this policy.
7. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching between Date of Policy and the date of recording of the Insured Mortgage in the Public Records. This Exclusion does not modify or limit the coverage provided under Covered Risk 11(b).

**EXCEPTIONS FROM COVERAGE – SCHEDULE B, PART 1, SECTION ONE**

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) that arise by reason of:

1. (a) Taxes or assessments that are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records; (b) proceedings by a public agency that may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the Public Records.
2. Any facts, rights, interests, or claims that are not shown by the Public Records but that could be ascertained by an inspection of the Land or that may be asserted by persons in possession of the Land.
3. Easements, liens or encumbrances, or claims thereof, not shown by the Public Records.
4. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land and not shown by the Public Records.
5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b), or (c) are shown by the Public Records.

**FACTS**
**WHAT DOES OLD REPUBLIC TITLE DO WITH YOUR PERSONAL INFORMATION?**

Why?	Financial companies choose how they share your personal information. Federal law gives consumers the right to limit some but not all sharing. Federal law also requires us to tell you how we collect, share, and protect your personal information. Please read this notice carefully to understand what we do.
What?	<p>The types of personal information we collect and share depend on the product or service you have with us. This information can include:</p> <ul style="list-style-type: none"> <li>• Social Security number and employment information</li> <li>• Mortgage rates and payments and account balances</li> <li>• Checking account information and wire transfer instructions</li> </ul> <p>When you are no longer our customer, we continue to share your information as described in this notice.</p>
How?	All financial companies need to share customers' personal information to run their everyday business. In the section below, we list the reasons financial companies can share their customers' personal information; the reasons Old Republic Title chooses to share; and whether you can limit this sharing.

Reasons we can share your personal information	Does Old Republic Title share?	Can you limit this sharing?
<b>For our everyday business purposes</b> — such as to process your transactions, maintain your account(s), or respond to court orders and legal investigations, or report to credit bureaus	Yes	No
<b>For our marketing purposes</b> — to offer our products and services to you	No	We don't share
<b>For joint marketing with other financial companies</b>	No	We don't share
<b>For our affiliates' everyday business purposes</b> — information about your transactions and experiences	Yes	No
<b>For our affiliates' everyday business purposes</b> — information about your creditworthiness	No	We don't share
<b>For our affiliates to market to you</b>	No	We don't share
<b>For non-affiliates to market to you</b>	No	We don't share

Questions

 Go to [www.oldrepublictitle.com](http://www.oldrepublictitle.com) (Contact Us)

Who we are	
Who is providing this notice?	Companies with an Old Republic Title name and other affiliates. Please see below for a list of affiliates.

What we do	
How does Old Republic Title protect my personal information?	To protect your personal information from unauthorized access and use, we use security measures that comply with federal law. These measures include computer safeguards and secured files and buildings. For more information, visit <a href="http://www.OldRepublicTitle.com/newnational/Contact/privacy">http://www.OldRepublicTitle.com/newnational/Contact/privacy</a> .
How does Old Republic Title collect my personal information?	<p>We collect your personal information, for example, when you:</p> <ul style="list-style-type: none"> <li>• Give us your contact information or show your driver's license</li> <li>• Show your government-issued ID or provide your mortgage information</li> <li>• Make a wire transfer</li> </ul> <p>We also collect your personal information from others, such as credit bureaus, affiliates, or other companies.</p>
Why can't I limit all sharing?	<p>Federal law gives you the right to limit only:</p> <ul style="list-style-type: none"> <li>• Sharing for affiliates' everyday business purposes - information about your creditworthiness</li> <li>• Affiliates from using your information to market to you</li> <li>• Sharing for non-affiliates to market to you</li> </ul> <p>State laws and individual companies may give you additional rights to limit sharing. See the "Other important information" section below for your rights under state law.</p>

Definitions	
<b>Affiliates</b>	<p>Companies related by common ownership or control. They can be financial and nonfinancial companies.</p> <ul style="list-style-type: none"> <li>• Our affiliates include companies with an Old Republic Title name, and financial companies such as Attorneys' Title Fund Services, LLC, Lex Terrae National Title Services, Inc., Mississippi Valley Title Services Company, and The Title Company of North Carolina.</li> </ul>
<b>Non-affiliates</b>	<p>Companies not related by common ownership or control. They can be financial and non-financial companies.</p> <ul style="list-style-type: none"> <li>• Old Republic Title does not share with non-affiliates so they can market to you</li> </ul>
<b>Joint marketing</b>	<p>A formal agreement between non-affiliated financial companies that together market financial products or services to you.</p> <ul style="list-style-type: none"> <li>• Old Republic Title doesn't jointly market.</li> </ul>

## Other Important Information

Oregon residents only: We are providing you this notice under state law. We may share your personal information (described on page one) obtained from you or others with non-affiliate service providers with whom we contract, such as notaries and delivery services, in order to process your transactions. You may see what personal information we have collected about you in connection with your transaction (other than personal information related to a claim or legal proceeding). To see your information, please click on "Contact Us" at [www.oldrepublictitle.com](http://www.oldrepublictitle.com) and submit your written request to the Legal Department. You may see and copy the information at our office or ask us to mail you a copy for a reasonable fee. If you think any information is wrong, you may submit a written request online to correct or delete it. We will let you know what actions we take. If you do not agree with our actions, you may send us a statement.

## Affiliates Who May be Delivering This Notice

American First Abstract, LLC	American First Title & Trust Company	American Guaranty Title Insurance Company	Attorneys' Title Fund Services, LLC	Compass Abstract, Inc.
eRecording Partners Network, LLC	Genesis Abstract, LLC	Kansas City Management Group, LLC	L.T. Service Corp.	Lenders Inspection Company
Lex Terrae National Title Services, Inc.	Lex Terrae, Ltd.	Mara Escrow Company	Mississippi Valley Title Services Company	National Title Agent's Services Company
Old Republic Branch Information Services, Inc.	Old Republic Diversified Services, Inc.	Old Republic Exchange Company	Old Republic National Title Insurance Company	Old Republic Title and Escrow of Hawaii, Ltd.
Old Republic Title Co.	Old Republic Title Company of Conroe	Old Republic Title Company of Indiana	Old Republic Title Company of Nevada	Old Republic Title Company of Oklahoma
Old Republic Title Company of Oregon	Old Republic Title Company of St. Louis	Old Republic Title Company of Tennessee	Old Republic Title Information Concepts	Old Republic Title Insurance Agency, Inc.
Old Republic Title, Ltd.	Republic Abstract & Settlement, LLC	Sentry Abstract Company	The Title Company of North Carolina	Title Services, LLC
Trident Land Transfer Company, LLC				

