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BOARD OF SUPERVISORS  
SAN FRANCISCO

RECORDING REQUESTED BY  
CLERK OF THE BOARD OF SUPERVISORS  
OF THE CITY AND COUNTY OF SAN FRANCISCO

AUG 12 2013 PM 3:04

*ll*

(Exempt from Recording Fees  
Pursuant to Government code  
Section 27383)

AND WHEN RECORDED MAIL TO:

Angela Calvillo  
Clerk of the Board of Supervisors  
City Hall, Room 244  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102

LOT 008 BLOCK 0612

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ESTOPPEL CERTIFICATE  
FOR 2400 CLAY STREET

- A. SUTTER WEST BAY HOSPITALS d/b/a CALIFORNIA PACIFIC MEDICAL CENTER ("CPMC" OR "Assignor") and the City and County of San Francisco, a political subdivision and municipal corporation of the State of California (the "City"), entered into that certain Development Agreement Relating to the Construction and Reconstruction of Healthcare Facilities in Furtherance of the California Pacific Medical Center Long Range Development Plan (the "**Development Agreement**") with respect to certain real property owned by Assignor, as such property is more particularly described in the Development Agreement (the "**Project Sites**"). The Development Agreement was recorded in the Official Records of the City and County of San Francisco on August 12, 2013 as Document No. 2013J728647.
- B. CPMC conveyed certain real property commonly known as 2400 Clay Street, San Francisco, as more particularly described in Exhibit A (the "**Transferred Property**"), to ConCad Holdings LLC, a California limited liability company ("**Assignee**"). The Transferred Property is identified as part of the Pacific Campus Project Site under the Development Agreement.
- C. CPMC desires to assign and Assignee desires to assume certain of CPMC's rights and obligations under the Development Agreement with respect to the Transferred Property, subject to the completion of certain due diligence, including receipt of this Estoppel.
- D. Section 5.10 of the Development Agreement allows CPMC from time to time to request an estoppel certificate for the benefit of a potential Transferee.

E. The defined terms used herein, where not otherwise defined herein, shall have the meanings stated in the Development Agreement.

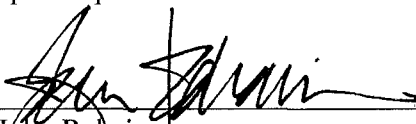
Now, therefore, the undersigned, the City's Planning Director, does hereby state and declare for the benefit of Assignee that to the best of his knowledge:

1. The Development Agreement is in full force and effect and is a binding obligation of the parties thereto.
2. The Development Agreement has not been amended or modified since its recordation.
3. As of the date of this Estoppel Certificate, CPMC is not in default under the Development Agreement.
4. While still in the review process, the City issued the Certificate of Compliance attached as Exhibit B as part of the most recent annual review performed by the City under Section 8 of the Development Agreement.
5. The City understands and acknowledges that Assignee is relying upon the above statements with regard to its purchase of the Transferred Property.

IN WITNESS WHEREOF, the undersigned has executed this Estoppel Certificate as of May 29, 2015.

CITY AND COUNTY OF SAN FRANCISCO,  
a municipal corporation

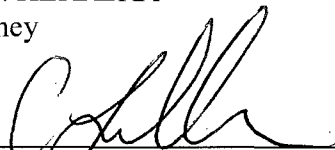
By:

  
\_\_\_\_\_  
John Rahaim  
Director of Planning

APPROVED AS TO FORM:

DENNIS J. HERRERA  
City Attorney

By:

  
\_\_\_\_\_  
Charles Sullivan  
Deputy City Attorney

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.


State of California )  
County of San Francisco )

On June 12, 2015, before me, Lenore M. Elkarou, a Notary Public, personally appeared John Rahaim, who 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/she/they~~ executed the same in ~~his/her/their~~ authorized capacity(ies), and that by ~~his/her/their~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature 

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )  
County of San Francisco )

On \_\_\_\_\_, before me, \_\_\_\_\_, a Notary Public, personally appeared \_\_\_\_\_, who 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/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_

EXHIBIT A

Transferred Property

Real property in the City of San Francisco, County of San Francisco, State of California,  
described as follows:

COMMENCING AT THE POINT FORMED BY THE INTERSECTION OF THE  
NORTHERLY LINE OF CLAY STREET WITH THE WESTERLY LINE OF WEBSTER  
STREET; AND RUNNING THENCE WESTERLY ALONG SAID LINE OF CLAY STREET  
90 FEET; THENCE AT A RIGHT ANGLE NORTHERLY 33 FEET; THENCE AT A RIGHT  
ANGLE EASTERLY 90 FEET TO THE WESTERLY LINE OF WEBSTER STREET; AND  
THENCE AT A RIGHT ANGLE SOUTHERLY ALONG SAID LINE OF WEBSTER STREET  
33 FEET TO THE POINT OF COMMENCEMENT.

BEING PART OF WESTERN ADDITION BLOCK NO. 316.

ASSESSOR'S LOT 008; BLOCK 0612.

EXHIBIT B

City Annual Review

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LOUIS J. GIRAUDO  
35 SAN BUENAVENTURA WAY  
SAN FRANCISCO, CALIFORNIA 94127

May 1, 2015

San Francisco Board of Supervisors  
1 Dr. Carleton B. Goodlett Pl.  
San Francisco, CA 94102

Re: Annual compliance findings for CPMC Development Agreement

Dear President Breed and Members of the Board of Supervisors:

Section 8.2.2 of the CPMC Development Agreement (DA) with the City and County of San Francisco identifies me as a "third party monitor," charged with reviewing the City's annual compliance findings and presenting to the Board of Supervisors my agreement or disagreement with the City's findings. I have received and reviewed the Certificate of Compliance, dated February 9, 2015, from Planning Director John Rahaim and Health Director Barbara Garcia. The following are my comments on that document:

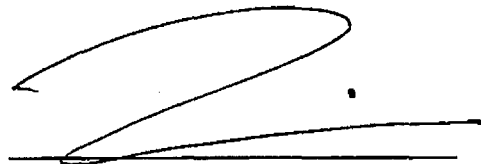
I agree with Directors Garcia and Rahaim that CPMC has met the burden of compliance with the requirements of the DA, but also share many of the significant concerns expressed in their letter and believe that CPMC must not only meet the minimum requirements in the agreement, but must also fully live up to its obligations as a care provider in San Francisco. I would suggest that members of the Board of Supervisors and responsible City agencies pay close attention in the coming years to CPMC's performance in the following areas:

- 1) **Baseline Charity Care:** There is no question that CPMC met its requirements under the DA for calendar year 2013 in this category. However the Department of Public Health is aware that CPMC may not meet this requirement for calendar year 2014. I have been advised that the Department is working with CPMC to find ways to make sure CPMC has access to enough charity care and Medi-Cal patients to meet this requirement every year.

- 2) **Medi – Cal Managed Care Beneficiaries in the Tenderloin:** Under the DA, CPMC is required to partner with a newly established management services organization (MSO) in the Tenderloin to provide hospital care for at least 1,500 Medi-Cal managed care beneficiaries . I have been made aware that after analysis the community based clinics have determined that establishing a new Tenderloin MSO would not be feasible. I am also aware that DPH is exploring other options to make a Tenderloin provider available to partner with CPMC in Medi-Cal managed care. I agree with the City that this is a critical provision of the DA and that all parties must work together to arrive at a solution.
  
- 3) **Culturally and Linguistically Appropriate Services at St. Luke's:** CPMC has demonstrated that it has met minimum "CLAS" standards by adopting a formal hospital policy adopting basic standards. But I do not believe this is enough and am disturbed by reports that CPMC has eliminated bilingual Spanish-speaking providers at its St. Luke's diabetes clinic, which serves a largely mono-lingual Spanish speaking population. I do not believe that patients are as well served by interpreters, no matter how skillful, as they are by providers who speak their own language. It should not be difficult for CPMC to continue to employ Spanish-speaking providers at St. Luke's and I believe strongly they should do so.
  
- 4) **Operations Activities Hiring Goals:** CPMC easily met its obligations under the DA for construction related hiring. However the DA also mandates a 40% hiring rate from the San Francisco Workforce System for entry-level operations jobs and CPMC only made 13% of its hires in calendar year 2013 from the system. Because the unmet obligation rolls over to the following year and because this is a good faith obligation, I am prepared to agree with the City's conclusion that CPMC was in compliance in this first reporting period, despite the early missteps documented in the City's compliance certificate.

It is my understanding that as of February 2015, CPMC hiring rate from the Workforce System has risen to 31%, showing considerable improvement. I would fully expect to see the 40% goal met starting with calendar 2015 and each year thereafter.

Sincerely,

A handwritten signature in black ink, appearing to be 'L. Giraudo', written over a horizontal line.

Louis J. Giraudo



# Certificate of Compliance

February 9, 2015

CITY AND  
COUNTY OF  
SAN FRANCISCO

Edwin M. Lee  
*Mayor*

Dr. Warren S. Browner, MD, MPH, CEO  
California Pacific Medical Center  
2351 Clay Street  
San Francisco, CA 94115

**Re: Annual Compliance Findings for the CPMC Development Agreement  
(Planning Case No. 2012.0403W; Ordinance No. 138-13)**

San Francisco  
Planning

**San Francisco  
Planning  
Department**

**John Rahaim**  
*Director of Planning*

1650 MISSION ST  
SUITE 400  
SAN FRANCISCO  
CA 94103

Dear Dr. Browner:

The San Francisco Planning Director and Director of Health find California Pacific Medical Center ("CPMC") in compliance with the obligations described in the Development Agreement for calendar year 2013 (Case No. 2012.0403; Ordinance No. 138-13). However, please note that while CPMC is found to be in compliance with the Development Agreement for the 2013 reporting period, several issues of concern remain with respect to CPMC's performance on several obligations. The directors' compliance findings, along with a discussion of areas that need improvement, are detailed below.

## **BACKGROUND**

CPMC's Development Agreement became effective on August 10, 2013. Their first Compliance Statement covers the period of time from the effective date through the end of 2013 – approximately 3.5 months.

**San Francisco  
Department  
of Public Health**

**Barbara A. Garcia,**  
**MPA**  
*Director of Health*

101 GROVE ST  
ROOM 308  
SAN FRANCISCO  
CA 94102

Consistent with the schedule outlined in Section 8.2.1 of the Development Agreement, CPMC submitted their first of ten annual Compliance Statements to the Planning Department on May 28, 2014 (reporting on 2013 obligations), in accordance with Section 8.2.1 of the Development Agreement. Public comments on CPMC's 2013 Compliance Statement were accepted from June 2, 2014 through July 2, 2014. After reviewing CPMC's Compliance Statement, the Planning Director published a report (the "City Report") regarding CPMC's compliance with the Development Agreement on August 15, 2014. On December 4th, 2014, the Planning Commission and Health Commission held a joint public hearing on CPMC's 2013 Compliance Statement.

Concurrent with the mailing of this Certificate of Compliance to CPMC, the Planning Director will forward the City Report and his Compliance Findings to an independent third party monitor. The Third Party Monitor will review the Findings, and send a letter to the Board of Supervisors within thirty (30) days, stating whether he or she concurs with the findings.



## **Compliance Findings on Healthcare Obligations**

The Director of Health finds CPMC to be in material compliance with the 2013 Healthcare Obligations of the Development Agreement, as detailed in the City Report. CPMC has met, and in some cases exceeded, its Healthcare Obligations. However, though CPMC is in compliance with the terms of the agreement, significant concerns remain regarding the quality of CPMC's current and future performance on several obligations. These issues bear highlighting to ensure CPMC's continued compliance in future years. These issues are discussed below, along with the specific actions that the Director of Health and CPMC have initiated to alleviate these concerns.

### **POSSIBLE 2014 BASELINE CHARITY CARE SHORTFALL**

CPMC has advised the Director of Health that it anticipates a shortfall in the Baseline Charity Care Obligation to serve 30,445 unduplicated charity care or Medi-Cal patients. As of this writing, CPMC anticipates a shortfall of between 1,000 and 1,500 patients. This shortfall is of particular concern since it was a key underpinning of the Healthcare Obligations contained in the Development Agreement.

The Development Agreement allows CPMC to adjust for any shortfall by allowing for a two-year rolling average. Specifically, an overage in a previous or subsequent year may be applied to a year of shortfall if the average of those two years meets or exceeds the annual 30,445 unduplicated patient obligation. CPMC exceeded its obligation in 2013 by 1,266 patients. Pursuant to the terms of the Development Agreement, a maximum of 442 patients (10 percent of the pro-rated obligation to serve 4,421 patients in 2013) may be applied to 2014. However, if CPMC's shortfall for 2014 exceeds 442, then it must make up for the shortfall entirely in 2015.

CPMC and the Department of Public Health (DPH) are exploring the possibility of CPMC providing certain services to DPH's Medi-Cal and uninsured patients in 2015. The services identified would be those that have extended wait times at DPH and may be appropriately provided by an out-of-network provider without compromising continuity of care, the patient-provider relationship, or patient experience. This arrangement would have the dual benefit of both ensuring that CPMC meets its Baseline Charity Care Unduplicated Patient Obligation and reducing extended wait times for DPH's low income patients.

### **1,500 MEDI-CAL MANAGED CARE BENEFICIARIES IN THE TENDERLOIN**

Among its Healthcare Obligations, CPMC is required to provide care to 1,500 Medi-Cal beneficiaries coming from a new partnership with a Tenderloin-based management services organization (MSO) or independent physician association (IPA) that has the ability to contract with Medi-Cal managed care. In the absence of a new Tenderloin-based MSO or IPA, the obligation requires partnership with a new Tenderloin-serving MSO or IPA to meet the 1,500 beneficiary obligation. Currently, however, no such new Tenderloin-based or Tenderloin-serving MSO or IPA exists.

The Innovation Fund funded eight non-profit community clinics to explore the feasibility of joining together to become a MSO or IPA that could partner with CPMC to meet this obligation. After significant actuarial, structural, and policy analysis, the clinics came to the

conclusion that this model would not be financially feasible or sustainable for them. This decision was the clinics alone and not within CPMC's control.

Nonetheless, it is essential that CPMC and DPH continue to work together with the clinic community to find a path to enable CPMC to meet its obligation to Tenderloin Medi-Cal beneficiaries. So long as a new MSO or IPA becomes available before December 31, 2015, this obligation remains in effect, even if CPMC has already surpassed the 5,400 New Medi-Cal Beneficiary Obligation. DPH has already been exploring various options and is committed to ensuring a partner is available so that CPMC can fulfill its commitment to this provision.

#### **CULTURALLY AND LINGUISTICALLY APPROPRIATE SERVICES (CLAS) STANDARDS**

The CLAS standards are intended to advance health equity, improve quality, and help eliminate health care disparities by providing a blueprint for health care organizations to implement culturally and linguistically appropriate services. To demonstrate its compliance with the CLAS standards, CPMC provided a copy of hospital policy adopting the standards and also provided a list of the metrics by which it measures its compliance and performance against these standards. While these documents show that CLAS standards have been adopted by CPMC as hospital policy, service changes reported by CPMC and related concerns expressed by the community raise questions as to the cultural and linguistic appropriateness of some of CPMC's services.

On May 15, 2014, in response to a DPII inquiry made as a result of community concern, CPMC advised DPH that it intended to integrate diabetes services across CPMC campuses. CPMC advised that no reduction in service would result from this integration, though there would be a reduction in staffing including the elimination of three diabetes clinic staff from the St. Luke's campus. DPH's understanding is that the St. Luke's diabetes clinic serves a largely monolingual Spanish-speaking population and the staffing reductions included the elimination of bilingual Spanish-speaking providers. CPMC has advised DPH that one nurse who is bilingual in Spanish remains at the St. Luke's Diabetes Center and that medical interpreters are available as needed.

While the availability of medical interpreters is essential and in compliance with CLAS standards, the elimination of bilingual staff at the St. Luke's Diabetes Center represents a diminution of linguistic access to health care services. The Director of Health has requested that a peer review of CPMC's adherence to CLAS standards be conducted. The peer review would comprise two parts: 1) a hospital-wide review that will focus on the extent to which CPMC has institutionalized the CLAS standards into hospital operations; and 2) a review specific to the St. Luke's Diabetes Center that will focus on the extent to which the St. Luke's Hospital Diabetes Clinic is operating in accordance with the CLAS Standards.

#### **SKILLED NURSING FACILITY BEDS**

On May 1, 2014, CPMC notified DPH of its intention to realign its skilled nursing facility (SNF) services across its San Francisco campuses by eliminating 95 licensed SNF beds in the coming months. After the rebuild of its two new hospitals, CPMC expects to operate 38 licensed SNF beds to be located at its Davies Campus, for a total reduction of 174 licensed SNF beds. On June 17, 2014, in accordance with the Community Healthcare Planning

Ordinance (San Francisco Proposition Q), the Health Commission held a hearing on the proposed service reduction and subsequently passed a resolution that this reduction would have a detrimental impact on healthcare services in the community.

CPMC is under no obligation under the Development Agreement to provide SNF beds. CPMC originally agreed to provide SNF beds and other healthcare services through an agreement with the Health Commission memorialized in Health Commission Resolution Numbers 10-09 and 02-10. As these resolutions served as the foundation for the Healthcare Obligations of the Development Agreement, early drafts of the agreement included an obligation for CPMC to retain 100 SNF beds. The final negotiated Development Agreement, however, did not include a SNF bed obligation.

In light of San Francisco's aging population and the changing healthcare landscape post-Affordable Care Act, the Health Commission has encouraged CPMC to work with DPH and other community and health care stakeholders to address the citywide need for SNF services in San Francisco.

### **Compliance Findings on Non-Healthcare Obligations**

The Planning Director finds CPMC to be in compliance with the 2013 Non-Healthcare Obligations of the Development Agreement, as detailed in the City Report. CPMC has met, and in some cases exceeded, its Non-Healthcare Obligations. However, some concerns remain regarding the quality of CPMC's initial performance on certain Workforce Hiring Obligations. These issues bear highlighting to ensure CPMC's continued compliance in future years. These issues are discussed below.

The Workforce Agreement between the City and CPMC establishes hiring goals for CPMC in both construction and operations. It also outlines "good faith efforts" that CPMC must make to meet these hiring goals.

#### **HIRING GOALS**

In the first hiring year, CPMC met its obligation for its construction activities. CPMC did not, however, meet its hiring obligations for its operations activities, as it filled only six out of 47 entry-level positions (13%) with referrals from the San Francisco workforce system, short of its 40% hiring obligation. As a result, CPMC ended the hiring year with a hiring deficiency of 13 entry-level positions; this deficiency will roll over and be added to this current year's annual hiring target.

#### **GOOD FAITH EFFORTS**

The Workforce Agreement requires CPMC to make good faith efforts to meet its construction and operations hiring obligations. For operations hiring, these obligations include, but are not limited to:

1. Prompt delivery to OEWD of job notifications for all entry-level positions as soon as they become available;
2. Exclusive consideration of system referral candidates during the ten business day period following delivery of the job notification;

3. Written notice to OEWD of any "urgent need" hires, as defined in Section 4(a)(iii) of the Workforce Agreement, that preclude CPMC from following the two obligations listed above;
4. Completion and submittal of a Non-Construction First Source Employer's Projection of Entry Level Positions, attached to the Workforce Agreement, as soon as reasonably practical after the Agreement's effective date of August 10, 2013.

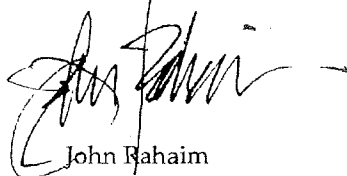
The City has determined that CPMC was in compliance for the initial hiring year; however, there were initial issues with its operations activities. CPMC did not submit entry-level job notices until December, 2013, and did not submit entry-level hiring projections until April, 2014. The City does recognize CPMC's subsequent improvements, including daily submittals of entry-level job notices, monthly reporting, weekly meetings/conference calls with OEWD staff, CPMC hiring manager trainings, and participation in hiring events and applications workshops in priority neighborhoods.

The City will continue to closely monitor CPMC's adherence to the good faith requirements outlined in the Development Agreement. Now that the ramp-up period for this project is finished, and more streamlined systems have been established, there is a clear expectation that CPMC will improve upon its operations hiring outcomes.

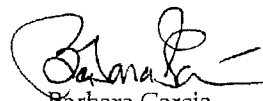
### **Conclusion and Summary**

Although CPMC is in material compliance with their 2013 Obligations, significant concerns remain with the quality of CPMC's current and future performance on several obligations, as detailed in this letter. The goal behind many of these obligations was to ensure that CPMC's world-class healthcare facilities remain available and accessible to all San Franciscans. This requires a strong connection with community. Both the Planning and Health Commissions identified the need for CPMC to foster community relationships and trust, not only as part of CPMC's rebuild process but also to build long-term relationships. To that end, the Planning Director and Director of Health encourage CPMC to establish opportunities for regular dialogue with the communities surrounding their new hospitals especially during this critical phase of development. The Planning Director and the Director of Health look forward to working with CPMC to address the issues outlined in this letter and to ensure CPMC's continued compliance with its obligations under the Development Agreement. The CPMC project represents significant health care and job opportunities for San Francisco residents, and the City is committed to continuing to ensure that this project prioritizes the long-term success and well-being of its residents.

Sincerely,



John Rahaim  
Planning Director



Barbara Garcia  
Director of Health

cc: Lou Giraudo  
Supervisor Farrell  
Supervisor Campos  
Melissa White, CPMC  
Emily Webb, CPMC  
Michael Duncheon, CPMC  
Vahram Massehian, CPMC  
Maynard Jenkins, CPMC  
Ken Rich, OEWD  
Todd Rufo, OEWD  
Colleen Chawla, DPH  
Sonali Bose, SFMTA

