

## RESOLUTION NO. 88-2006

*Adopted June 20, 2006*

### **AUTHORIZING A FIFTH AMENDMENT TO THE DISPOSITION AND DEVELOPMENT AGREEMENT WITH SAN FRANCISCO CARE CENTER, L.P., A CALIFORNIA LIMITED PARTNERSHIP, TO MODIFY CERTAIN PROVISIONS RELATED TO THE AFFORDABLE UNITS AND THE PERFORMANCE DEPOSIT AND TO REVISE THE DECLARATION OF AFFORDABILITY RESTRICTIONS FOR THE PROJECT LOCATED AT 1015-1019 VAN NESS AVENUE (ASSESSOR'S BLOCK 714, LOT 28); WESTERN ADDITION REDEVELOPMENT PROJECT AREA A-2**

#### **BASIS FOR RESOLUTION**

1. On September 12, 2000, the Agency Commission approved a Disposition and Development Agreement ("DDA") with Van Ness Care Center, Inc. ("VNCC") to purchase and develop Agency Parcel 714-A(2) (the "Site") with 112 assisted-living units, a 20-bed dementia/respite-care (now convalescent) facility, a small ground-level retail space, and required parking at 1015-1019 Van Ness Avenue (the "Project") in the Western Addition Redevelopment Project Area A-2. The DDA has been amended four times, and VNCC has assigned the DDA to San Francisco Care Center, L.P. (the "Developer").
2. Under the DDA, the Developer agreed to provide 25 affordable assisted-living units (about 22%) to elderly households with annual incomes of no more than 60% of Area Median Income ("AMI") for a single-person household as determined by the United States Department of Housing and Urban Development ("HUD"). The DDA anticipated that elderly residents would pay a single fee for "shelter rent" and a basic level of "personal services" (Level I). This single fee is set not to exceed 1/12 of 54% of 60% of AMI.
3. The Developer has requested a Fifth Amendment to the DDA for three reasons. First, the DDA did not anticipate higher levels of personal services beyond Level I. Because the Developer is offering three additional, more intensive, levels of care (Levels II, III and IV), the fees for these additional levels had to be negotiated to ensure that at least some of the affordable units were still affordable to seniors earning 60% of AMI. Second, operating expenses at the Project are higher than anticipated, and the Developer is requesting an increase in the monthly fees charged to residents in all 25 of the affordable units to cover the increased operating expenses. Third, the Developer is requesting a change in the DDA's terms for releasing the performance deposit.
4. Under the Fifth Amendment, 10% of the affordable units, or 11 units, would remain affordable to seniors at 60% of AMI and the remaining 14 affordable units

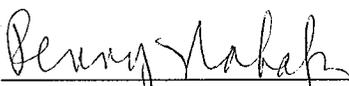
would be affordable to seniors at 80% of AMI. Based on this two-tiered fee schedule, seniors in 11 affordable units would be charged monthly fees in 2006 of \$2,075 for Level I care, \$2,298 for Level II care, \$2,553 for Level III care, and \$2,713 for Level IV care, and seniors in the remaining 14 affordable units would be charged monthly fees in 2006 of \$2,750 for Level I care, \$3,046 for Level II care, \$3,384 for Level III care, and \$3,596 for Level IV care. These fees will be adjusted annually based on changes in the AMI.

5. The Declaration of Affordability Restrictions recorded against the Project in 2002 to preserve the 25 affordable units will also be revised and recorded to incorporate these revised fees.
6. The DDA currently requires the Developer to fulfill all of its obligations under the DDA before the performance deposit can be released. Although the Developer has completed construction of the Project, it has not fulfilled all of its obligations under the DDA. Under the Fifth Amendment, (a) the Developer's \$101,250 performance deposit will be refunded when the Commission has approved the proposed Fifth Amendment and it is fully executed and (b) the Developer will deposit \$50,000 of the refunded performance deposit into a segregated account for the marketing of the affordable units. The Developer will be required to provide documentation of the use of funds. Upon the lease-up of the affordable units, any remaining funds in the segregated account may be used by the Developer for other purposes.
7. The Agency and the Developer therefore wish to enter into the Fifth Amendment to incorporate into the DDA the revised fees for the affordable units and the terms of the release of the performance deposit.

## RESOLUTION

**ACCORDINGLY, IT IS RESOLVED** by the Redevelopment Agency of the City and County of San Francisco that the Executive Director is authorized to enter into a Fifth Amendment to the Disposition and Development Agreement with San Francisco Care Center, L.P., a California limited partnership, to modify certain provisions related to the affordable units and the performance deposit and to revise the Declaration of Affordability Restrictions for the project located at 1015-1019 Van Ness Avenue (Assessor's Block 714, Lot 28); Western Addition Redevelopment Project Area A-2, substantially in the form lodged with the Agency General Counsel.

### APPROVED AS TO FORM:

*for*   
James B. Morales  
Agency General Counsel