OPTION TO LEASE AGREEMENT

This Option to Lease Agreement (the "Agreement") is entered into as of this 3rd day of September 2013, by and between SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO, hereafter referred to as the Office of Community Investment and Infrastructure, a public body, organized and existing under the laws of the State of California ("OCII", including all successors and assigns) and Bayview Supportive Housing, LLC, a California limited liability company and its permitted assignees hereunder (the “Optionee”), with reference to the following facts:

RECITALS

A. The Optionee (an entity consisting of Bayview Hunters Point Multipurpose Senior Services, Inc. (“BHPMSS”) and McCormack Baron Salazar, Inc., a Missouri Corporation (“MBS”)) desires to develop a one hundred twenty-one (121) unit multi-family senior housing development, including a senior center and certain ancillary uses (the "Improvements") on a portion of that certain real property located at 1751 Carroll Avenue, in the City and County of San Francisco, California (the "Property").

B. The Property was previously purchased and owned by the San Francisco Redevelopment Agency of the City and County of San Francisco (the “Agency”).

C. Under California State Assembly Bill No. 1X26 (Chapter 5, Statutes of 2011-12, first Extraordinary Session) ("AB 26"), as amended by California State Assembly Bill No. 1484 ("AB 1484") (together the “Dissolution Laws”) the Agency dissolved as a matter of law on February 1, 2012. On October 2, 2012 the San Francisco Board of Supervisors, acting as legislative body of OCII as the successor to the Former Agency, passed Ordinance 215-12, which outlined the rights and responsibilities of OCII as the Agency’s successor agency, including but not limited to certain retained existing enforceable obligations for the development of affordable housing. Accordingly, under Ordinance 215-12 and Dissolution Law, OCII has the obligation and authority to enter into this Agreement to allow for the development of the Project Property as defined in Recital D below.

D. The Property is described in Exhibit A attached hereto and incorporated herein, and Optionee desires to enter into a ground lease with OCII in which OCII will lease to Optionee approximately 64,369 square feet of the Property located on the northwest portion of the Property (the "Project Property"), as shown on the site plan attached hereto as Exhibit B, subject to certain conditions as provided herein. The Improvements and the Project Property shall be referred to, collectively, as the "Project".

E. Optionee intends to develop the Project with 4% Low Income Housing Tax Credits and bonds, local funds, and other sources, if necessary.

F. Optionee desires to obtain from OCII, and OCII desires to grant to Optionee, upon the specific terms and conditions set forth in this Agreement, the exclusive right and option to lease the Project Property on the terms set forth in this Agreement.
NOW, THEREFORE, IN CONSIDERATION OF RECITALS HEREOF AND THE MUTUAL PROMISES CONTAINED IN THIS AGREEMENT, THE PARTIES AGREE AS FOLLOWS:

AGREEMENT

Section 1. Grant of Option. OCII grants to Optionee the option to lease the Project Property for the consideration and under the terms and conditions set forth in this Agreement (the "Option").

Section 2. Term of Option: Exercise.

a. Term and Extension of Term. The term of the Option (the "Term") shall be for a period commencing on the date of this Agreement and ending December 31, 2013, (the "Initial Term") unless extended. Optionee may request an extension of the Term for an additional six (6) months (the "Extended Term") by giving written notice, accompanied by payment of One Dollar ($1.00) (the “Extension Payment”), to OCII, at any time prior to the expiration of the Initial Term. The Extended Term shall commence on 12:01 A.M. on the day immediately following the expiration of the Initial Term and shall end on June 30, 2014.

b. Exercise of Option. At any time prior to the expiration of the Initial Term or the Extended Term (if applicable), Optionee may exercise the Option by giving written notice to OCII (the “Option Notice”). The form of Ground Lease, as drafted by staff, will be subject to various applicable approvals, including approvals by the OCII Commission, the Ca. State Department of Finance and the City’s Board of Supervisors pursuant to Section 33433 of the Ca. Community Redevelopment Law.

c. Expiration. The Option shall expire at midnight on the last day of the Initial Term or Extended Term (if applicable). If the expiration date of the Initial Term or Extended Term (if applicable) falls on a Saturday, Sunday or legal holiday in the State of California, then the Option may be exercised on the next following business day. Upon termination of the Option and a written request by OCII, Optionee shall sign and deliver a quitclaim deed or such other document as may be reasonably required by OCII to evidence the termination of the Option.

Section 3. Option Consideration. The Option is granted in consideration of Optionee’s payment to OCII of a deposit of One Dollar ($1.00) within five (5) working days after execution of this Agreement. The Option consideration is related to the Option only and in no way relates to Ground Lease payments that will be owed to OCII or Mayor’s Office of Housing and Community Development (MOHCD).

Section 4. Ground Lease of the Project Property

a. Ground Lease of the Project Property. Following delivery of the Option Notice, OCII shall prepare a Ground Lease for the Project Property (the "Ground Lease"). The Option Notice shall specify a date for commencement of the Ground Lease, which is at least sixty (60) days after the date of the Option Notice, or such additional time as may be mutually agreed to by the parties. The Ground Lease shall be substantially in accordance with the following:
i. **Term of Ground Lease.** Fifty-five (55) years from the date of execution, with an option to renew for a minimum of an additional forty-four (44) years.

ii. **Taxes and Assessments to be Paid by Optionee.** Optionee shall be responsible for the payment of any and all property taxes and assessments levied against the leasehold estate and the Project Property during the entire term of the Ground Lease.

iii. **Project Use.** Except to the extent authorized by OCII in writing, the Project Property shall be used during the term of the Ground Lease only for residential purposes and ancillary uses.

iv. **Construction and Operation of the Project.** Optionee shall be responsible for construction, operation, and maintenance of the Project during the Ground Lease term.

v. **Subordination.** OCII’s fee interest shall be subject to, and OCII shall consent to, any necessary subordination agreements required to secure, construction and permanent financing for the Project.

vi. **Transfer of OCII’s fee interest and Project Management.** For purposes of implementation and to ensure consistency with the City’s overall affordable housing goals and priorities, MOHCD staff are providing project management, loan underwriting, construction monitoring and design review, including approving and processing loan disbursements in coordination with OCII. Upon completion of the project, OCII intends to transfer the affordable housing loan obligation, asset, and ground lease to MOHCD.

vii. **Disposition of Improvements at End of Lease.** At the end of the Ground Lease term, MOHCD shall have the option to purchase the improvements, which constitute the Project at a price determined pursuant to the Ground Lease.
   A. The Ground Lease shall provide that OCII will own fee title to the land comprising the Project Property, and the Optionee will own fee title to all improvements constructed or otherwise located on the Project Property.
   B. The Ground Lease shall include mortgagee protection provisions required by the Optionee’s lenders.
   C. Pursuant to the terms of the Ground Lease, OCII, as landlord, will agree to provide notice of any defaults by the Optionee under the Ground Lease to the Optionee’s limited partners and lenders (if required), and allow any such parties the right to cure a default by the Optionee under the Ground Lease.
Pursuant to the terms of the Ground Lease, OCII shall not be entitled to terminate the Ground Lease following any uncured default by the Optionee during the fifteen (15) year tax credit compliance period for the Project, or such longer period of time as may be required by the Optionee’s lender(s) and/or limited partner.

D. The Ground Lease will permit the Optionee to encumber its leasehold interest in the Property to secure any loans deemed necessary or desirable by the Optionee, as approved by the OCII Executive Director.

b. Due Diligence. OCII hereby agrees to allow Optionee to enter the Project Property at any time prior to the Option Deadline, or the Extended Term if applicable (or, if the Optionee provides the Option Notice, at any time prior to execution and delivery of the Ground Lease) for the purposes of investigating the Project Property and its feasibility and suitability for development and construction of the Project.

Section 5. Closing.

a. Expenses. All expenses, fees or costs (except attorneys' fees and costs) incurred in connection with the leasing of the Project Property, including but not limited to city and county documentary transfer tax, conveyance taxes, recording charges (if any), and costs of title insurance shall be borne by the Optionee. Each party shall bear its own attorneys' fees and costs incurred in connection with negotiation and execution of this Agreement and the Ground Lease.

b. Proration of Taxes. Real property taxes on the Property shall be prorated as of the date of Closing.

c. Title Insurance. Should Optionee exercise the Option, no later than the time specified by this Agreement for execution of a lease for the Project Property, OCII shall cause a title company of Optionee’s choice to issue an ALTA leasehold policy of title insurance (the "Title Policy") insuring leasehold title to the Property to be vested in Optionee, subject only to exceptions authorized by the Optionee.

Section 6. Notices. All notices or other communications made pursuant to this Agreement shall be in writing and shall be deemed properly delivered, given or served to the parties at the following addresses when (i) mailed by certified mail, postage prepaid, return receipt requested; (ii) sent by express delivery service, charges prepaid with a delivery receipt; or (iii) personally delivered when a delivery receipt is obtained:

OCII
Office of Community Investment and Infrastructure
1 South Van Ness Avenue, 5th Floor
San Francisco, CA 94103
Attn: Executive Director
Optionee: Bayview Supportive Housing LLC  
c/o McCormack Baron Salazar, Inc.  
720 Olive Street, Suite 2500  
St. Louis, MO 63101  
Attn: Hillary B. Zimmerman, Esq.

All notices so delivered, mailed or sent shall be deemed received as of the date shown on the delivery receipt as the date of delivery, the date delivery was refused or the date the notice was returned as undeliverable. Either party may change its address for the purposes of this paragraph by giving prior written notice of the change to the other party in the manner provided in this Section 9.

Section 7. Assignment of Option. Without the prior written consent of OCII, Optionee may assign its rights and obligations under this Option to any entity affiliated with Optionee, including without limitation a nonprofit corporate affiliate of Optionee, or a limited partnership in which Optionee or its nonprofit corporate affiliate is the managing general partner. All other transfers by Optionee shall require the prior written consent of OCII.

Section 8. Binding Effect. This Agreement and its terms and conditions shall bind upon and inure to the benefit of the parties to this Agreement and their respective successors and permitted assigns.

Section 9. Time. Time is of the essence of this Agreement.

Section 10. Further Documents. Upon the reasonable request of the other party, each party will execute, acknowledge and deliver or cause to be executed, acknowledged and delivered, such further instruments and documents as may be reasonably necessary in order to carry out the intent and purpose of this Agreement, including escrow instructions.

Section 11. Commission. Each party to this Agreement represents to the other party that it has not engaged or used the services of any person, firm or corporation that may claim a broker's commission or finder's fee upon execution of Agreement or exercise of the Option, and each party to this agrees to hold the other party harmless from any loss, damage, expense or liability, including attorney's fees, resulting from any claim by any person, firm or corporation based upon its having acted as broker or finder on behalf of said indemnifying party.

Section 12. Captions. The captions of the paragraphs of this Agreement are for convenience and reference only, and the words contained in the captions shall in no way be held to explain, modify, amplify or aid in the interpretations, constructions or meaning of the provisions of this Agreement.
Section 13.  **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same Agreement.

Section 14.  **Entire Agreement; Signatures.** This Agreement contains the entire agreement between the parties respecting the matters set forth, and supersedes all prior agreements between the parties respecting the matters set forth.

Section 15.  **Attorneys' Fees.** In any action between Optionee and OCII to enforce or interpret any of the terms of this Agreement, the prevailing party shall be entitled to recover costs of suit and expenses including, without limitation, reasonable attorneys' fees.

(signatures begin on following page)
IN WITNESS WHEREOF, Optionee and OCII have executed this Agreement as of the date first written above.

OCII:
Office of Community Investment
And Infrastructure, Successor Agency
to the Redevelopment Agency of the City and County of San Francisco,
a public body, organized and existing under the laws of the State of California

By: __________________________
    Tiffany Bohee
    Executive Director

OPTIONEE:
Bayview Supportive Housing, LLC, a California Limited Liability Company

By: __________________________

Its: __________________________

APPROVED AS TO FORM:

DENNIS J. HERRERA
City Attorney

By: __________________________
    Heidi J. Gewertz
    Deputy City Attorney
EXHIBIT A

Property Description

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

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

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

Street Address: 1751 Carroll Avenue