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**By Hand Delivery and Electronic Submission to planning@rodneymfong.com,
jonas.ionin@sfgov.org, and Commissions.Secretary@sfgov.org**

Mr. Rodney Fong, President
Mr. Jonas P. Ionin, Secretary
San Francisco Planning Commission
1660 Mission Street, Suite 400
San Francisco, CA 94103-2479

**Re: December 3, 2015, Joint Hearing of Planning and Health Commissions:
Response of San Franciscans for Healthcare, Housing, Jobs & Justice
to City Report on Sutter-CPMC's 2014 Compliance Statement**

Dear President Fong and Commission Secretary Ionin:

On behalf of San Franciscans for Healthcare, Housing, Jobs & Justice ("SFHHJJ" or "the Coalition"), I submit these comments on the City Report on Sutter-CPMC's 2014 Compliance Statement regarding the Development Agreement ("DA"). **The Coalition requests that this response (along with its attached comments on CPMC's 2014 Compliance Statement) be included in the hearing packet** to be distributed to the Planning and Health Commissioners and entered into the record for the December 3, 2015, joint hearing of the Planning and Health Commissioners on Sutter-CPMC's 2014 compliance.

San Franciscans for Healthcare, Housing, Jobs & Justice is a community-labor coalition that has worked to ensure that Sutter-CPMC's reconfiguration of its San Francisco campuses serves the interests of patients, workers, neighboring communities, and the City as a whole. Although not a party to the DA signed by the City and Sutter-CPMC, the Coalition played a key role in shaping its outline and garnering support on the Board of Supervisors for the community benefits package incorporated in it. The Coalition has closely monitored the City's and Sutter-CPMC's implementation of the DA, submitting written comments and public testimony at each opportunity in the compliance review process.¹

¹ See Comments of SFHHJJ on CPMC 2013 Compliance Statement, July 2, 2014; Response of SFHHJJ to City Report on CPMC 2013 Compliance, Nov. 24, 2014; SFHHJJ Letter to Board of Supervisors' Public Safety & Neighborhood Services Committee, May 15, 2015; Comments of SFHHJJ on CPMC 2014 Compliance Statement, July 23, 2015.

As it will elaborate, if granted time to make a public presentation to the Planning and Health Commissioners at the joint hearing on December 3rd,² the Coalition has strong substantive and procedural concerns with the City Report.

Procedurally, the Coalition is deeply troubled by

- the **extensive delay in its preparation** – the DA provides that the City Report should have been completed 45 days after the close of public comments (which would have meant by September 10th), but it was instead completed and posted 99 days after the close of comments, *i.e.*, 54 days late, on November 3rd;
- the **short response time it has left** (providing 30 days to digest and respond, rather than the 60 days required by Section 8.2.2 of the DA); and
- its **stark failure to adequately address the issues the Coalition identified four months ago** in its comments on CPMC's 2014 Compliance Statement.³

This year's City Report is a significant step back from last year's, which was completed on time, responded to issues identified by the Coalition (not simply in the table format, but also in an extended narrative), and did so a full 60 days before the joint hearing before the Planning and Health Commissions. Despite the Coalition's track record in identifying the issues subsequently addressed in the Planning and Health Directors' finding letter and in third party monitor Lou Giraudo's letter to the Board of Supervisors, this year's City Report chose not to engage in the dialogue the Coalition has sought to foster.

Substantively, **the City Report does not adequately address five key healthcare and transportation issues that the Coalition identified in its comments** on CPMC's 2014 Compliance Statement. The following summary should be read in conjunction with the Coalition's attached comments made in July on CPMC's 2014 Compliance Statement.

1. Inadequate exploration of the causes of and remedies for **Sutter-CPMC's failure to meet its fundamental baseline commitment to serve its fair share of Medi-Cal and charity care patients**. The Coalition shared in its July comments that it expected:

a far more detailed explanation of why Sutter-CPMC failed to serve its established fair share of low-income San Franciscans and what specific

² The Coalition requested, on November 15th and again on November 20th, a 20-minute block of time to present its position at the joint public hearing. As of the time of filing this Response, the Planning Commission has yet to respond to the request.

³ Section 8.2.2 of the DA provides that notices of all public hearings before the Planning Commission regarding the DA "shall be sent not less than sixty (60) days before the date of the public hearing." It also provides that the Planning Director and the Director of DPH shall "promptly schedule a duly-noticed public hearing in front of their respective Commissions to review the Compliance Statement *and City Report*." (Emphasis added) The extended delay in publishing the City Report means that rather than having at least 60 days to review the Report, the Coalition has had 30 days.

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steps Sutter-CPMC is taking to ensure that it serves at least 32, 294 unduplicated patients in 2015 (i.e. 1,849 more than the baseline). Given that Sutter-CPMC chose not to provide that explanation and plan in its Compliance Statement, ***the Coalition expects the upcoming City Report to both include and comment on Sutter-CPMC's detailed explanation and remediation plan.***

The City Report, however, failed to include that detailed explanation, failed to push Sutter-CPMC for a better answer, and failed to discuss a remediation plan in any detail. Instead, its entire coverage of the issue is limited to two short paragraphs on page 22, one simply recounting the shortfall in service and the second conclusorily stating, without any details, that "SFDPH and CPMC are exploring further partnerships to provide meaningful health care services for San Francisco's low income residents."

2. Failure to adequately address the issue of **culturally and linguistically appropriate services at St. Luke's Diabetes Center**. In its comments, the Coalition urged the City Report to:

provide far more information on the scope of Sutter-CPMC's self-study [of its compliance CLAS standards], the Department's independent assessment of any such study, and its assessment (or plan to assess) the actual provision of services at the St. Luke's Diabetes Center. The Coalition urges the Public Health Department to engage in an on-site peer review that seeks and receives sufficient information to assess whether the Diabetes Center complies not simply with federal CLAS standards but with best practices and to document the impact of CPMC's 2014 changes on the patient population.

The City Report, however, contained **no discussion of Sutter-CPMC's self-assessment** of its CLAS compliance, conducted by a purportedly independent, third-party consultant. **That Assessment was performed by a consultant who appears to have helped develop the CLAS programs being assessed.**⁴

⁴ The CLAS Standards Assessment was conducted for Sutter-CPMC by Inclusive Performance Strategies. The executive summary of the Assessment states that the "organization was chosen because of their experience, history of the 2004 Cultural and Linguistic Appropriate Services (CLAS) Assessment at CPMC and their on-going work with the Sutter Health System in the implementation of programs and practices to support the System Strategic Plan for CLAS and Diversity and Inclusion." The firm's principal, Paul T. Doyle, identifies himself, on his LinkedIn profile (<https://www.linkedin.com/in/paul-doyle-807987b>), as having served as a consultant to Sutter Health from January 2008 through the present, for which he "Supports the Development and Facilitation of Sutter Health's Organizational Cultural Competence Strategic Framework." His profile also lists him as having worked as a consultant to Sutter Health from 2003-2009. His organization's website (<http://inclusiveperformance.com/approach/>) states: "quite frankly, we've never seen a 'weakness' in any of our clients. Instead, we see opportunities for growth."

Moreover, the City Report said nothing about the St. Luke's Diabetes Center – and thus nothing about investigating the potential diminution of services or failure to follow best practices. Stuningly, **the City Report's discussion** (at page 36) is **only four lines long and ends abruptly before the completion of a sentence** mentioning the Health and Planning Commissions' questions about culturally and linguistically appropriate sentences.

3. Failure to address the absence of **public dialogue on the service mix at Sutter-CPMC hospitals**. In its comments, the Coalition noted:

Rather than a one-time unveiling of Sutter-CPMC's already-set plans for services, *the Coalition urges the City to encourage and insist that Sutter-CPMC engage in an ongoing process of public dialogue and consultation – with community groups, DPH staff, healthcare workers, nurses, and doctors – to establish a service mix at both new hospitals that meets the city's full range of health needs, including the needs of the hospitals' neighboring communities and historic patient bases.*

The City Report, however, is silent on the issue.

4. Failure to fully discuss the mechanism for **ensuring that 1,500 Medi-Cal Managed Care beneficiaries in the Tenderloin are served by Sutter-CPMC**. The Coalition is pleased that North East Medical Services (NEMS) and the St. Anthony's Clinic have now entered into an agreement to form a management services organization (MSO) that will be able to refer Medi-Cal Managed Care beneficiaries who live in the Tenderloin to access specialty and hospital care from Sutter-CPMC hospitals. Once such an MSO exists with a primary care provider base in the Tenderloin, the DA requires Sutter-CPMC to accept up to an additional 1,500 such patients. The Coalition urges the City to **address how the number of users of this network will rapidly be brought up to 1,500 from its current numbers in the low double digits**, as the DA creates no required timetable or obligation on Sutter-CPMC to do outreach to ensure that a full complement of 1,500 Tenderloin residents enroll in the MSO.

In its July comments, the Coalition had urged DPH: *"to initiate public outreach to Tenderloin residents to inform them of the outcome and their options for receiving hospital and specialty care at Sutter-CPMC or San Francisco General Hospital."* The Coalition appreciates that the DA-created Community Health Innovation Fund will support NEMS' and St. Anthony's' outreach efforts. But DPH has an affirmative duty, in its role of overseeing the health care needs of the City, to ensure that as many people as possible are aware of their options to receive specialty and hospital care with shorter wait-times than those at SF General

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Hospital. A broad DPH outreach to the Tenderloin, not simply by a single provider network, should be launched to ensure that residents understand their full variety of options.

5. Continuing failure to institute the public transit subsidy program for Sutter-CPMC employees required by the DA

As the Coalition has repeatedly explained, Section 8 of Exhibit K of the DA requires Sutter-CPMC to “share the cost equally” of a Clipper Card with all its employees to subsidize their public transit use (up to half the value of an adult monthly Muni Fast Pass).⁵ Despite the clear language of the DA requiring Sutter-CPMC to encourage employees at all its campuses to use public transit by paying half the cost of their Muni Fast Pass – and no indication of a different start date for that obligation – City officials continue to acquiesce to Sutter-CPMC’s stated intent to wait *five years*, which is half the duration of the DA, to implement the program. In its July comments, the Coalition urged the City Report to “**include a written legal analysis by the City Attorney directly responding to the Coalition’s reading of Section 8 of Exhibit K of the DA.**”

Once again, the City Report simply ignores the issue. The City Report (at page 72) continues to refer to the Clipper Card subsidy program as arising from Section 5 of

⁵ The full text of Section 8 of Exhibit K of the DA, which outlines the transit subsidy obligation in subsection 8.c., provides:

Clipper Cards.

- a. CPMC shall set up a master account for all employees with the Clipper Card Program or similar/successor electronic debit and transfer mechanism.
- b. CPMC shall encourage all employees (new and existing) to enroll and purchase a Clipper Card as a part of its Transportation Demand Management (TDM) plan. As part of its normal TDM activities, CPMC shall promote the use of the subsidy described in Section 8.c below by (1) including this subsidy information in new hire packets and orientation, in transportation services newsletters, on a TDM communication board in each Campus cafeteria, and on the TDM page on CPMC’s intranet, (2) promoting the subsidy at the annual transportation fairs held at each Campus, and (3) undertaking additional outreach as necessary to drive up adoption and achieve the SOV reduction goals.
- c. ***CPMC shall share the cost equally between employer and employee of a monthly Fast Pass or Clipper Card (or any successor transit card issued or approved by SFMTA) that an employee buys through CPMC’s automatic payroll deduction program, up to the value of an adult Fast Pass (currently \$64), as such amount changes from time to time.*** CPMC shall have no responsibility to contribute to or to share the costs of a Clipper Card (or other successor transit card) to the extent such costs exceed the value of a Fast Pass.
- d. CPMC shall make good faith efforts to include an “opt-out” provision for Clipper Cards in future labor contracts.

(Emphasis added.)

Exhibit K and from the Transportation Demand Management Plan, ignoring the language of Section 8 of Exhibit K. This section of the City Report was drafted by Carli Payne, an MTA staff person listed as TDM Manager. There is no indication that a City Attorney has considered the import of Section 8 of Exhibit K of the DA.

Conclusion

The Coalition has been informed that City staff "intend to address [the Coalition's] specific comments at the hearing on December 3."⁶ The City will thus have had more than four months to consider and formulate responses to the Coalition's comments. The Coalition, if it is permitted to speak, will be given at most a few minutes to learn and reply to the City's responses. This is hardly the informed discussion of important compliance issues that the DA provides for and the Planning and Health Commissioners and the public deserve.

As detailed above, Sutter-CPMC and the City have failed to fully explore key compliance failures or questions that go to the heart of Sutter-CPMC's commitment under the DA to provide high-quality healthcare to the City's neediest populations (as well as to minimize the traffic impacts of its operations). The Planning and Health Commissioners and Directors raised many of these healthcare concerns last year, in their reviews of Sutter-CPMC's performance, as did the third party monitor, Lou Giraudo. As the Health Commission President noted last year in his closing comments, at its heart, Sutter-CPMC's reconfiguration of its campuses is not primarily a building project or a jobs program, it is a healthcare venture in which Sutter has committed to provide first-class care, modeling best practices, not only to the affluent and to City workers, but also to its fair share of San Francisco's neediest communities. The Coalition is deeply disappointed that Sutter-CPMC and the City Report have not chosen to fully and frankly explore these areas in the depth they deserve. The Coalition hopes the Commissioners will push for such an exploration at the joint hearing.

Respectfully submitted on behalf of the Coalition,



Ascanio Piomelli

UC Hastings Community Economic Development Clinic
Attorney for San Franciscans for Healthcare, Housing, Jobs & Justice

⁶ Email to Ascanio Piomelli from Elizabeth Purl, Planning Department Development Performance Coordinator, Nov. 17, 2015, at 7:56 a.m.



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July 23, 2015

By Electronic Submission to Elizabeth.Watty@sfgov.org

Elizabeth Watty, Assistant Director of Current Planning
1650 Mission Street, Suite 400
San Francisco, CA 94103

Re: **Comments of San Franciscans for Healthcare, Housing, Jobs & Justice
on Sutter-CPMC's 2014 Compliance Statement**

Dear Ms. Watty:

On behalf of San Franciscans for Healthcare, Housing, Jobs & Justice ("SFHHJJ" or "the Coalition"), I submit these comments on Sutter-CPMC's 2014 Compliance Statement Development Agreement ("DA").

San Franciscans for Healthcare, Housing, Jobs & Justice¹ is a community-labor coalition that has worked to ensure that Sutter-CPMC's reconfiguration of its San Francisco campuses serves the interests of patients, workers, neighboring communities, and the City as a whole. Although not a party to the DA signed by the City and Sutter-CPMC, the Coalition played a key role in shaping its outline and garnering support on the Board of Supervisors for the community benefits package incorporated in it. The Coalition has closely monitored the City's and Sutter-CPMC's implementation of the DA, submitting written comments and public testimony at each opportunity in the compliance review process.²

SFHHJJ is specifically listed in the DA (in Section 8.2.2) as an organization interested in Sutter-CPMC's performance under the Agreement. As such, the Planning Department is

¹ SFHHJJ is a coalition of coalitions. It is comprised of the Coalition for Health Planning-San Francisco, the Good Neighbors Coalition, and Jobs with Justice (itself a community-labor coalition). These coalitions have more than fifty unduplicated organizational members. Active members of SFHHJJ's coordinating committee and DA implementation monitoring committees include: Alliance of Californians for Community Empowerment, Bernal Heights Neighborhood Center, California Nurses Association/National Nurses United, Cathedral Hill Neighbors Association, Chinese for Affirmative Action, Communities United for Health and Justice, Community Housing Partnership, Council of Community Housing Organizations, Jobs with Justice, National Union of Healthcare Workers, South of Market Community Action Network, and Tenderloin Neighborhood Development Corporation.

² See Comments of SFHHJJ on CPMC 2013 Compliance Statement, July 2, 2014; Response of SFHHJJ to City Report on CPMC 2013 Compliance, Nov. 24, 2014; SFHHJJ Letter to Board of Supervisors' Public Safety & Neighborhood Services Committee, May 15, 2015.

required to directly notify SFHHJJ of the posting of compliance statements and of any public hearings before the Planning Commission pertaining to the Agreement. In July 2014, the Coalition informed the Planning Department that such notices should be emailed to the Coalition (at cpmc@jwjsf.org) and to me (at piomelli@uchastings.edu).³ Despite this request and mandate in the DA, the Planning Department failed to send notice of Sutter-CPMC's 2014 Compliance Statement to the Coalition's email address or to me until after I inquired on June 24, 2015, as to when public comments would be due.

With regards to the substance of the Compliance Statement, the Coalition notes Sutter-CPMC's continuing failure in 2014 to meet important healthcare, employment, and transportation targets and obligations. Striking is Sutter-CPMC's failure to fully address and explain its behavior in areas specifically identified as areas of concern, not only the Coalition, but by the Health and Planning Commissioners, the Public Health and Planning Directors,⁴ and Third Party Monitor Louis Giraudo.⁵

A. Healthcare

1. Failure to Meet Baseline Unduplicated Patient Commitment.

One of the most fundamental provisions of the DA is the requirement that Sutter-CPMC serve its fair share of Medi-Cal and Charity Care patients. The "baseline" below which Sutter-CPMC is not to fall is the average number of such patients it served from 2009-11 or from 2010-12. The commitment is that Sutter-CPMC, which has been far from a leader in providing charity care in San Francisco, will not offer even less such care that it had in the years before the DA.

The Compliance Report confirms that, as had been publicly intimated, Sutter-CPMC did in fact provide care to substantially fewer Medi-Cal and Charity Care patients in 2014 than it had previously averaged. Sutter-CPMC fell 1,849 patients short of its baseline obligation to serve 30,445 unduplicated patients. (In February 2015, the Public Health and Planning Directors indicated that Sutter-CPMC anticipated a shortfall of 1,000 to 1,500 patients for calendar year 2014.⁶)

Sutter-CPMC's failure to explain in any detail its significant underperformance on this critical healthcare commitment is telling. The Compliance Statement devotes only a single paragraph to the unduplicated patient commitment. Sutter-CPMC's entire explanation for its substantial shortfall in meeting this obligation is contained in the following 36 words:

³ Comments of SFHHJJ on CPMC 2013 Compliance Statement, July 2, 2014, p. 2, fn. 2.

⁴ See Directors of Planning and Public Health, 2013 Certificate of Compliance, Feb. 9, 2015 [hereafter 2013 Certificate of Compliance].

⁵ See Letter of Louis Giraudo to Board of Supervisors re Annual Compliance Findings for CPMC Development Agreement, May 1, 2015.

⁶ 2013 Certificate of Compliance, p. 2.

a variety of factors (The Affordable Care Act and others) had a significant impact on the Uninsured and Medi-Cal populations' access to care in San Francisco during 2014 and contributed to CPMC's deficit of unduplicated lives."⁷

Sutter-CPMC's characterizing the Affordable Care Act (ACA) as an unanticipated factor strains credulity, given that the Act was passed three years before the signing of the DA. Sutter-CPMC says nothing about what factors other than the ACA contributed to the situation. Nor does Sutter discuss any outreach or other steps it took to respond to and counter those factors. Nor does it mention any efforts to include the Department of Public Health in a response. Framing the issue in the passive voice, Sutter-CPMC unpersuasively attempts to mask its responsibility as a central actor with a legal and ethical commitment to provide care to Medi-Cal, under-insured, and uninsured San Franciscans.

Sutter-CPMC simply notes, correctly, that the DA allows for the baseline commitment to be satisfied on a two-year rolling average basis, so that 2014's shortfall can be erased by serving an "excess" number of unduplicated patients in 2015. (Sutter-CPMC does not note that the allowable "excess" in 2013 of 442 patients served was not sufficient to overcome 2014's shortfall of 1,849.) Sutter-CPMC concludes by assuring that it "will work to satisfy the Unduplicated Patient Commitment through the 2 year rolling average during years 2014 and 2015." Even though the DA allows compliance to be assessed based on a two-year rolling average, any annual shortfall is cause for concern – especially of this magnitude.

The public – especially low-income, uninsured and underinsured San Franciscans – is entitled to more than a facile statement that Sutter-CPMC will try to do better. ***The Coalition expects a far more detailed explanation of why Sutter-CPMC failed to serve its established fair share of low-income San Franciscans and what specific steps Sutter-CPMC is taking to ensure that it serves at least 32, 294 unduplicated patients in 2015 (i.e. 1,849 more than the baseline).*** Given that Sutter-CPMC chose not to provide that explanation and plan in its Compliance Statement, ***the Coalition expects the upcoming City Report to both include and comment on Sutter-CPMC's detailed explanation and remediation plan.***

2. Failure to Address Culturally and Linguistically Appropriate Services at St. Luke's Diabetes Center

Another striking omission from Sutter-CPMC's Compliance Statement is any discussion of the St. Luke's Diabetes Center in the section on its obligation to provide culturally and linguistically accessible services. The Coalition, the 2013 City Report, Health Commissioners at the December 2014 joint hearing with the Planning Commissioners, the Director of Health in the Certificate of Compliance, and Third Party Monitor Giraud in his May 2015 letter all expressed serious concern at Sutter-CPMC's elimination in 2014 of

⁷ Sutter-CPMC, 2014 Compliance Statement, June 1, 2015, Attachment 1 (Healthcare Compliance Report), page 1.

Spanish-speaking bilingual/bicultural staff at the St. Luke's Diabetes Center, which has historically served a large, monolingual, Spanish-speaking population.

Sutter-CPMC's entire discussion of Culturally and Linguistically Appropriate Services (CLAS) is couched at the hospital-wide level and focuses on its having established *policies* proclaiming a commitment to meet CLAS standards. Sutter-CPMC completely ignores the question of whether its actions at the Diabetes Center constitute, as the Director of Health aptly put it in the 2013 Certificate of Compliance, a "diminution of access."⁸

The Coalition strongly supports the Health Director's plan to initiate a peer review to assess CLAS compliance both at a hospital-wide level and specifically focusing on the services being delivered at the St. Luke's Hospital Diabetes Center. Written policies and statements of aspirations cannot substitute for the actual and continued provision of culturally and linguistically accessible services – and significant diminutions in appropriate service cannot be deemed compliance. The underlying aim running throughout the healthcare provisions of the DA is to ensure that Sutter-CPMC at least maintain the level and quality of healthcare it has historically provided to the most vulnerable and ethnically diverse San Franciscans. A thorough examination of the Diabetes Center is therefore necessary to assess whether the changes there have impacted the services received by patients or the number or mix of patients continuing to seek service there. It is a strong indicator of CPMC's credibility in its professed commitment to providing culturally and linguistically appropriate services throughout its hospital network.

At the hearing in May 2015 before the Public Safety and Neighborhood Services Committee of the Board of Supervisors, Dr. Browner announced that instead of cooperating with a peer review to be conducted by the Department of Public Health, Sutter-CPMC would engage a consultant of its own choosing to review its CLAS efforts and compliance. Naively, the Coalition had anticipated that in this Compliance Statement, Sutter-CPMC would more expansively describe the self-review in which it intends to engage.

Again, the Coalition expects the upcoming City Report on CPMC compliance to provide far more information on the scope of Sutter-CPMC's self-study, the Department's independent assessment of any such study, and its assessment (or plan to assess) the actual provision of services at the St. Luke's Diabetes Center. The Coalition urges the Public Health Department to engage in an on-site peer review that seeks and receives sufficient information to assess whether the Diabetes Center complies not simply with federal CLAS standards but with best practices and to document the impact of CPMC's 2014 changes on the patient population.

3. Failure to Engage in Public Dialogue on the Service Mix at Sutter-CPMC Hospitals

The issues at the St. Luke's diabetes clinic are one manifestation of a broader issue: ***the appropriateness of services at Sutter-CPMC facilities and its responsiveness to community health needs.*** A central aim of the DA was to ensure that Sutter-CPMC

⁸ 2013 Certificate of Compliance, p. 2.

serves not only the needs of the affluent and well-insured, but that it meets the health care needs of all San Franciscans.

The Coalition knows that Sutter-CPMC gathered a committee of individuals it selected – which included two members of the Coalition – to plan for “an update meeting with a group of invited community stakeholders.” It appears that at this meeting to occur in the next months, Sutter-CPMC intends to reveal to attendees, perhaps now including uninvited participants too, its plans for services at the new St. Luke’s hospital.

Rather than a one-time unveiling of Sutter-CPMC’s already-set plans for services, ***the Coalition urges the City to encourage and insist that Sutter-CPMC engage in an ongoing process of public dialogue and consultation – with community groups, DPH staff, healthcare workers, nurses, and doctors – to establish a service mix at both new hospitals that meets the city’s full range of health needs, including the needs of the hospitals’ neighboring communities and historic patient bases.***

Sutter-CPMC’s Compliance Statement continues to put off any discussion of the service mix at St. Luke’s, characterizing its obligations as only commencing on the opening of the new hospital. Rather than waiting for the year after the opening of the new hospital to read Sutter-CPMC’s self-assessment of whether it provided an appropriate service mix, DPH and City officials must push Sutter-CPMC to engage in a public dialogue that leads to an appropriate service mix that meets the needs of City as a whole, as well as of the neighborhoods that have long relied on St. Luke’s for care.

4. Failure to Discuss Mechanism for Serving Medi-Cal Managed Care Beneficiaries in the Tenderloin

As the Coalition has long reminded, a critical provision of the DA requires Sutter-CPMC to provide hospital care and associated specialty care to 1,500 Tenderloin residents in the Medi-Cal Managed Care program.⁹ The prerequisite for Sutter-CPMC’s obligation, however, is that ***a management services organization (MSO)*** – essentially a mechanism that enables primary care physicians located in the Tenderloin or serving Tenderloin residents to refer patients to Sutter-CPMC-based specialists and/or admit them to Sutter-CPMC hospitals – ***must be created or identified by the Department of Public Health (DPH) before the end of this calendar year, i.e., by December 31, 2015.***

If such a referral network or MSO is created or identified by DPH by the end of 2015, Sutter-CPMC is obligated to contract with it to serve up to 1,500 Tenderloin residents – on top of the 5,400 citywide Medi-Cal beneficiaries that other provisions of the DA require Sutter-CPMC to serve.¹⁰ If DPH fails, however, to identify a Tenderloin-serving MSO by December 31, 2015, Sutter-CPMC is relieved of any obligation to serve 1,500 Tenderloin Medi-Cal beneficiaries.

⁹ Development Agreement Relating to the Construction and Reconstruction of Healthcare Facilities in Furtherance of the CPMC Long Range Development Plan [hereafter DA], Exhibit F, section 2(f).

¹⁰ DA, Exhibit F, section 2(b).

At the May 22, 2015, hearing before the Public Safety and Neighborhood Services Committee of the Board of Supervisors, Dr. Browner announced that St. Anthony's Medical Clinic, located in the Tenderloin, and North East Medical Services ("NEMS"), an MSO that currently has a contract with CPMC, had reached an agreement that would enable Sutter-CPMC to provide hospital and specialty care for up to 1,500 Tenderloin residents. In a subsequent conversation with DPH staff, the Coalition learned that, in fact, St. Anthony's and NEMS had not yet finalized their contractual agreement. It is also troubling that DPH staff did not learn until the day of the hearing that St. Anthony's and NEMS had reached a tentative agreement, which is starkly at odds with the role the DA calls for DPH to play.

Sutter-CPMC's Compliance Statement's only discussion of this issue simply states that it "is in discussions around how to serve [1,500] Tenderloin patients given the lack of an additional MSO with a primary care base in the Tenderloin."

The Coalition expects the City Report to contain a far more complete discussion of this issue. The Coalition continues to urge DPH not simply to monitor the issue, but to see it through to prompt resolution – and to initiate public outreach to Tenderloin residents to inform them of the outcome and their options for receiving hospital and specialty care at Sutter-CPMC or San Francisco General Hospital.

B. Employment: Entry-Level Operations Hiring

Sutter-CPMC's performance over the first year and half of the DA in hiring economically disadvantaged workers referred by the City's first Source Hiring program was atrocious. Entry-level operations hiring too was an area identified repeatedly by the Coalition, the City Report, the Planning Director, and Third Party Monitor Giraud as requiring concerted attention and improvement.

The 2014 compliance report goes to some length to avoid straightforwardly stating that in calendar year 2014 it filled only 22% of its entry-level hires (only 18 hires for 81 positions) with system-referred candidates, woefully short of the DA's 40% hiring target. Nor does it remind readers that in calendar year 2013, Sutter-CPMC filled 0% – not a single one – of its openings with system-referred candidates.

The Coalition is heartened that after a horrible first year and half and much public prodding, Sutter-CPMC appears in 2015 to finally have begun to fill its entry-level operations positions with a significant number and proportion of system-referred candidates. As detailed in the following two tables¹¹ on the next page, strong hiring months in February, March, and May of this year have finally brought entry-level

¹¹ Sutter-CPMC's presentation of the data on its entry-level operations hiring obligation in its 2014 compliance statement reports on a calendar year basis, even though the DA measures by hiring years that run from August through July. Sutter-CPMC's numbers do not appear to match exactly the monthly reports that OEWD verifies and compiles. The following presentation is based, therefore, on OEWD reports of hiring through May 30, 2015.

operations hiring for the second hiring year (August 2014 through July 2015) to 38% – close to the 40% target contained in the DA. Even with this recent improvement, a substantial hiring deficit (of 15 required additional hires) still remains.

Entry-Level Operations Hires by Hiring Year (through May 2015)			
Year	System Hires	Total Hires	Cumulative Hiring Deficit*
Hiring Year 1 [Aug '13 – Jul '14]	6 13%	47	13
Hiring Year 2 YTD [Aug '14 – May '15]	53 38%	138	15

Sources:

- City Report on CPMC 2013 Compliance with Development Agreement
- May 2015 CPMC Monthly Compliance Report to OEWD

* Cumulative hiring deficit is sum of annual hiring shortfalls from 40% hiring target.

Entry-Level Operations Hires by Month(s) of Second Hiring Year to Date (through May 2015)				
Month(s)	System Hires	Total Hires	System Hire % for month(s)	Cumulative System Hire % over full DA
First 6 months [August '14 – January '15]	15	71	21%	18%
February 2015	11	14	79%	24%
March 2015	6	8	75%	27%
April 2015	7	19	37%	28%
May 2015	14	26	54%	32%

Sources:

- January 2015, February 2015, March 2015, April 2015, and May 2015 CPMC Monthly Compliance Reports to OEWD

As documented in the tables on the following page, even as entry-level operations hiring has improved, several target neighborhoods – particularly the Tenderloin, SoMa, and Chinatown – have not been included in the upswing. ***The Coalition expects the City and Sutter-CPMC to devote attention to seeing to it that applicants from all of the DA's target neighborhoods are being served and entering the workforce.***

Entry-Level Operations First Source Hires by Neighborhood		
Neighborhood	Hiring Year 1	Hiring Year 2 YTD
Outer Mission/Excelsior	2	10
Bayview	1	10
Western Addition	1	5
Mission	0	4
Tenderloin	0	3
Visitacion Valley	0	3
Chinatown	0	2
SoMa	1	1
Richmond	0	
San Francisco	0	
Portrero Hill	0	
West Portal	0	
Outer Sunset	0	
North Hill	0	
Mission Bay	0	
Embarcadero	0	
Hires from Target Neighborhoods	5	38
Total First Source Hires	6	53
Sources:		
<ul style="list-style-type: none"> • City Report on CPMC 2013 Compliance with Development Agreement • May 2015 CPMC Monthly Compliance Report to OEWD 		
Grey cell denotes a neighborhood that is not a targeted neighborhood identified in DA.		

Entry-Level Operations Referrals by Neighborhood for Second Hiring Year (Aug 2014 - May 2015 YTD)		
Neighborhood	First Source Hires	First Source Referrals
Bayview [94124]	10	73
Outer Mission/Excelsior [94112]	10	66
Visitacion Valley [94134]	3	48
Western Addition [94115, 94117]	5	39
Mission [94110]	4	33
SoMa [94103]	1	21
Chinatown [94108, 94133]	2	23
Tenderloin [94102]	3	24
Targeted Neighborhoods	38	327
Overall*	53	506
Source: May 2015 CPMC Monthly Compliance Report to OEWD.		
Note: OEWD revised its referral data in April 2015 to remove duplicate applicants.		
*Overall numbers include hires and referrals from non-targeted neighborhoods		

The Coalition is also pleased to see in the Compliance Statement that Sutter-CPMC is tracking the retention rate of its First Source hires. Retention information is critical to assessing the program's lasting impact. ***The Coalition encourages Sutter-CPMC and the City to include retention data in all future monthly reports compiled on entry-level hiring.***

C. Transportation – Continuing Failure to Institute the Public Transit Subsidy Program for Sutter-CPMC Employees Required by the DA

Sutter-CPMC continues to ignore the DA's express requirement in subsection 8.c. of Exhibit K of the DA that it "***shall*** share the cost equally" of a Clipper Card with all its employees to subsidize their public transit use (up to half the value of an adult monthly Muni Fast Pass).¹² Despite the clear language of the DA requiring Sutter-CPMC to encourage employees at all its campuses to use public transit by paying half the cost of their Muni Fast Pass, City officials to date have acquiesced to Sutter-CPMC's stated intent to wait *five years* – half the duration of the DA – to implement the program.¹³

¹² The full text of Section 8 of Exhibit K of the DA, which outlines the transit subsidy obligation in subsection 8.c., provides:

Clipper Cards.

- a. CPMC shall set up a master account for all employees with the Clipper Card Program or similar/successor electronic debit and transfer mechanism.
- b. CPMC shall encourage all employees (new and existing) to enroll and purchase a Clipper Card as a part of its Transportation Demand Management (TDM) plan. As part of its normal TDM activities, CPMC shall promote the use of the subsidy described in Section 8.c below by (1) including this subsidy information in new hire packets and orientation, in transportation services newsletters, on a TDM communication board in each Campus cafeteria, and on the TDM page on CPMC's intranet, (2) promoting the subsidy at the annual transportation fairs held at each Campus, and (3) undertaking additional outreach as necessary to drive up adoption and achieve the SOV reduction goals.
- c. ***CPMC shall share the cost equally between employer and employee of a monthly Fast Pass or Clipper Card (or any successor transit card issued or approved by SFMTA) that an employee buys through CPMC's automatic payroll deduction program, up to the value of an adult Fast Pass (currently \$64), as such amount changes from time to time.*** CPMC shall have no responsibility to contribute to or to share the costs of a Clipper Card (or other successor transit card) to the extent such costs exceed the value of a Fast Pass.
- d. CPMC shall make good faith efforts to include an "opt-out" provision for Clipper Cards in future labor contracts.

(Emphasis added.)

¹³ See Annual City Report on CPMC Long Range Development Plan Development Agreement, August 10, 2013 Effective Date – June 30, 2014 ("2013 City Report"), pp. 61, 69-70.

The Coalition requests that the upcoming City Report include a written legal analysis by the City Attorney directly responding to the Coalition's reading of Section 8 of Exhibit K of the DA. Despite the Coalition's submission of extensive written legal analysis of that section in its July 2014 public comments¹⁴ and its response to the 2013 City Report's interpretation of it,¹⁵ *no representative of the City Attorney has responded in writing nor appeared at any of the public hearings on the DA before the Planning and Public Health Commissioners or the Board of Supervisors.* Nor was a Deputy City Attorney identified as an author of the 2013 City Report's analysis of the transportation provisions, which identified Transportation Planner Carli Payne of the SFMTA as the responsible staff person.

SFMTA's proffered interpretation – that Sutter-CPMC's Transportation Demand Management Plan ("TDM Plan"), completed three months before the DA was signed and containing a similar transit subsidy program to be implemented in two to five years, should somehow trump the explicit language of the DA (in Exhibit K, subsection 8.c.) – lacks legal merit. As section 8.2.2 of the DA articulates, the TDM plan and the Clipper Card transit subsidy program are two separate community commitments, each of which are to be addressed in each City Report. Because the DA at several instances explicitly states alternate start dates for obligations, but Section 8 of Exhibit K does not, the Clipper Card transit subsidy requirement should have begun on the effective date of the DA in August 2013.

This letter will not rehash the Coalition's entire exposition of its reasoning, which is detailed at pages 9-12 of its November 24, 2014, written response to the City Report and at pages 8-10 of the Coalition's recent letter of May 14, 2015, to the Board of Supervisors' Public Safety and Neighborhood Services Committee. The Coalition attaches those letters to and incorporates those discussions into this public comment.

The Coalition continues to insist that Sutter-CPMC must implement the Clipper Card public transit subsidy program forthwith and compensate for the time (now 23 months) the subsidy has been withheld. The Coalition suggests the delay be remedied by providing a 100% subsidy for an equivalent number of months and then returning the subsidy to 50% once those unpaid months of subsidy have been made up.

¹⁴ See Comments of SFHHJJ on CPMC 2013 Compliance Statement, July 2, 2014, pp. 6-9.

¹⁵ See SFHHJJ Response to City Report on Sutter-CPMC's 2013 Compliance, Nov. 24, 2014, pp. 9-12.

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Conclusion

Throughout calendar year 2014, Sutter-CPMC continued to fail to meet important healthcare, employment, and transportation targets or requirements of the DA. Sutter-CPMC's compliance report ignores or gives short shrift to most of these issues. The Coalition hopes and expects that the upcoming City Report will fully address the issues the Coalition has identified above.

Respectfully submitted on behalf of the Coalition,

A handwritten signature in black ink, appearing to read 'Ascanio Piomelli', written over a horizontal line.

Ascanio Piomelli

Attorney for San Franciscans for Healthcare, Housing, Jobs & Justice
Director, UC Hastings Community Economic Development Clinic

