

# #4 – Ratification

## Brilliant Corners

## MEMORANDUM

Date: December 20, 2023

To: FDLRC Board of Directors Executive Committee

From: Pablo Ibañez

Re: CPP Contract Ratification – Brilliant Corners

Previously on June 22, 2022, the Board approved a contract with HOPE, in the amount of \$800,000 (up to \$350,000 for acquisition and up to \$450,000 for renovations) from FY21/22 to develop a 4 bed Enhanced Behavioral Supports Home. Earlier this year on February 7, 2023, HOPE informed us of their decision to withdraw from this project and dissolve the contract due to workload considerations and perceived challenges with securing this type of home in our catchment area.

Subsequently, the Department of Developmental Services (DDS) encouraged us to partner with another regional center that had Housing Development Organization (HDO) funding for the same FY21/22 to retain this project. Alternatively, we would need to return this money to DDS and lose this project. DDS advised that Harbor Regional Center (HRC) had an existing award and contract with HDO Brilliant Corners for the fiscal year in question. Coincidentally, Brilliant Corners had submitted a proposal in response to our RFP and was our second choice for this project. We discussed the opportunity to enter a joint project with HRC and Brilliant Corners to develop this EBSH home, and HRC agreed to this project under the condition that one of the 4 beds be designated for HRC and that HRC be given the right of first refusal. We agreed with this condition given that this joint venture will allow us to still develop this home in our area.

We have enclosed a joint contract we developed with HRC and Brilliant Corners and ask that the Board pass a motion to ratify this subsequent contract. This contract was reviewed by our real estate counsel, HRC and Brilliant Corners.

Thank you for your consideration of this request.

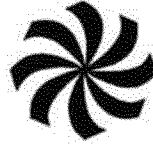
\_\_\_\_\_ Approved      \_\_\_\_\_ Denied

\_\_\_\_\_  
Melinda Sullivan, Executive Director

\_\_\_\_\_  
Date



FRANK D. LANTERMAN



REGIONAL CENTER

**COMMUNITY PLACEMENT PLAN (CPP)  
HOUSING AGREEMENT (FY 2021-22)  
(Project ID: FDLRC-2122-4)**

This CPP Housing Agreement, (this “**Agreement**”), dated June 30, 2023 (the “**Effective Date**”), is entered into by and between Harbor Developmental Disabilities Foundation dba Harbor Regional Center (“**HRC**”); Los Angeles County Developmental Services Foundation dba Frank D. Lanterman Regional Center (“**FDLRC**”); and **Brilliant Corners**. HRC, FDLRC, and Brilliant Corners may be referred to jointly as the “**Parties**”.

**RECITALS**

A. Harbor Regional Center and Frank D. Lanterman Regional Center: HRC and FDLRC are California nonprofit public benefit corporations, required by statute (Welfare & Institutions Code Section 4500, and following) to provide case management services for individuals with developmental disabilities in their respective service catchment areas. HRC and FDLRC receive funds under contracts with the State Department of Developmental Services (“**DDS**”) as two of the twenty-one (21) regional centers in California. HRC and FDLRC will jointly be referred to herein as the “**REGIONAL CENTERS**.”

B. The Clients: The REGIONAL CENTERS provide services to individuals with developmental disabilities in Los Angeles County, California (which individuals, together with their designated caregivers and assistants, shall collectively be referred to as the REGIONAL CENTERS’ “**Clients**”).

C. Joint Community Placement Program Project: The California Department of Developmental Services has allocated Community Placement Program (“**CPP**”) funds to assist the REGIONAL CENTERS in this joint project to develop an Enhanced Behavioral Supports Home (“**EBSH**”) in FDLRC’s service catchment area and assist with the housing needs of the REGIONAL CENTERS’ Clients. The REGIONAL CENTERS entered into a Memorandum of Understanding for this joint project on May 30, 2023 (Exhibit “A”).

D. Brilliant Corners: Brilliant Corners, a California nonprofit corporation (“**NPO**”), is a Housing Development Organization (“**HDO**”) under the CPP. Brilliant Corners represents and warrants that it has the experience and expertise to develop and manage affordable homes for individuals with special needs, including individuals with developmental disabilities, and that its primary mission is to assist such individuals with their housing needs. Brilliant Corners has agreed to acquire, renovate, lease, and maintain this EBSH that will house the REGIONAL CENTERS’ Clients on the terms and conditions set forth in this Agreement and as further described and set forth in Exhibits “B”, “C”, “D”, and “E” attached hereto and incorporated herein by this reference (the “**Exhibits to Housing Agreement**”).

E. Joint Housing Agreement: The Parties desire to enter into an agreement whereby Brilliant Corners shall perform, and the HRC shall compensate Brilliant Corners for, such services as set forth herein. FDLRC will be responsible for working directly with Brilliant Corners while coordinating with HRC on milestone payments due to Brilliant Corners as they relate to the acquisition and renovation of the EBSH.

F. The Property, the Residence: Brilliant Corners intends to purchase and renovate one (1) single-family residence (“**Property**”) for the development of an EBSH (or “**Residence**”) for four (4) adult Clients aged 18 and over. The Property will be leased to a third-party service provider (“**Service Provider**”) and used in perpetuity as an EBSH. For the purpose of this agreement, “in perpetuity” shall mean 99-year term. The Property will be licensed to provide EBSH services to the four (4) Clients.

G. CPP Guidelines, Funding, Approval: The California Department of Development Services (“**DDS**”) published Fiscal Year 2017-18 Guidelines for Purchasing and Developing Permanent Housing through the Regional Center Community Placement Plan (CPP), Requests and Modifications (the “**CPP Guidelines**”) govern FY 2021-22 housing developments until updated. Brilliant Corners acknowledges that it has reviewed and understands the CPP Guidelines, including all of the Appendices thereto. All references in the CPP Guidelines to the “HDO” and the “NPO” means Brilliant Corners.

H. Housing Proposal, Funding Approval, CPP Funds: In accordance with the CPP Guidelines, FDLRC (with Brilliant Corners’ assistance) shall submit a housing proposal to HRC and DDS requesting funds for the acquisition and renovation of the Property for the benefit of those Clients described in the CPP Guidelines. DDS’s Letter of Conditional Approval (as defined in the CPP Guidelines), by which DDS conditionally agrees to fund the housing proposal, is hereinafter referred to as a “**Funding Approval**”, and the funds that DDS will provide to Brilliant Corners pursuant to the Funding Approval are hereinafter referred to as “**CPP Funds**”; *provided, however*, notwithstanding anything in this Agreement to the contrary, neither of the REGIONAL CENTERS shall have any financial or other obligation of any nature with respect to the Property until (i) Brilliant Corners is in escrow to purchase such Property, (ii) FDLRC approves such purchase in writing (with HRC’s input) and (iii) DDS gives its final acquisition approval to such purchase under Section X.B of the CPP Guidelines.

I. The Lease: Once Brilliant Corners acquires and renovates the Property with CPP Funds, Brilliant Corners intends to lease the Property to a service provider who is a vendorized with FDLRC (a “**Service Provider**”) under a written lease (the “**Lease**”). The Service Provider will provide services to the REGIONAL CENTERS’ Clients who will occupy the Residence that Brilliant Corners leases to the Service Provider.

J. Purpose of Agreement. The purpose of this Agreement is to describe the REGIONAL CENTERS’ and Brilliant Corners’ rights and obligations to each other with respect to the acquisition, development, lease, and maintenance of the Residence, conditioned on FDLRC’s receipt of Funding Approval and final property acquisition approval from DDS.

**NOW THEREFORE**, in consideration of the following mutual covenants, the REGIONAL CENTERS and Brilliant Corners agree as follows:

1. The CPP Funds, Aggregate, and Individual Amounts: The maximum amount of FY 2021-22 CPP Funds available for Brilliant Corners' acquisition and renovation of the Property is shown on Exhibit "B" attached hereto. Brilliant Corners must spend all of the CPP Funds by **March 31, 2024**; any unspent funds will revert to the State. The CPP Funds are broken down as follows:

1.1 Property Acquisition: HRC shall reimburse to Brilliant Corners the maximum amounts as shown on Exhibit "B" to cover a portion of Brilliant Corners' cost to acquire the Property. HRC shall disburse such acquisition funds in accordance with Section 6.1 below and the other terms of this Agreement, and at the following times for the Property: (i) up to 25%, once HRC instructs Brilliant Corners to commence its search to acquire the Property, to be offset against future Brilliant Corners invoices until recovered in total; and (ii) up to 75% on the date escrow closes and Brilliant Corners acquires fee ownership in the Property.

1.2 Property Renovation: HRC shall reimburse to Brilliant Corners the maximum amounts as shown on Exhibit "B" (the "**Maximum Renovation Amount**") to cover a portion of Brilliant Corners' cost to renovate and make improvements to the Residence thereon so that the REGIONAL CENTERS' Clients may occupy the Property. HRC shall disburse such renovation funds in accordance with the milestones in Section 20 of this Agreement.

1.3 Brilliant Corners Budget, Payment Approvals: Brilliant Corners has prepared and submitted to the REGIONAL CENTERS an itemized budget proposal detailing the proposed use of funds for the Property. Brilliant Corners shall update the budget monthly, and more often as requested by either of the REGIONAL CENTERS or as required by the CPP Guidelines. Within 15 days after the applicable municipality approves the final plans and specifications for the renovation work for the Property, Brilliant Corners shall deliver a final budget to the REGIONAL CENTERS (the "**Final Budget**") for their approval. However, once the REGIONAL CENTERS approve the Final Budget, no line item within the Budget shall increase or decrease by more than 10% cumulatively without the REGIONAL CENTERS' written consent. Funds are intended to offset only a portion of Brilliant Corners' total costs to purchase and renovate the Property. Approval of payment(s) by FDLRC and provisions for payment are subject to the terms and conditions, which are set forth in the State Administrative Manual (SAM) requirements for subvention aid contracts, and are limited to those expenses that are designated as acceptable items.

2. Applicability of CPP Guidelines: Brilliant Corners shall at all times comply with the requirements in the CPP Guidelines. If DDS imposes new obligations in revised or amended CPP guidelines that did not appear in the current CPP Guidelines, or that contradict earlier CPP guidelines, or if any inconsistency exists between the terms of this Agreement and the CPP Guidelines, the terms of the most recent CPP Guidelines shall prevail with respect to the Property.

3. Term: Subject to the provisions in Section 1 above, the term of this Agreement shall commence on the Effective Date and end on the earlier of (1) the date Brilliant Corners is no longer a fee owner of the Property or (2) **December 31, 2054**, subject to any earlier termination as provided in this Agreement. However, the termination or expiration of this Agreement shall not affect the continued enforceability of the documents intended to survive its termination (as provided in Section 12 below).

4. Property Acceptance Agreement, Implementation Plan, Commitment Letter: Once DDS issues Funding Approval to FDLRC, Brilliant Corners will work collaboratively with the REGIONAL CENTERS in locating housing opportunities for Clients, based on those needs articulated by the REGIONAL CENTERS, and in accordance with the following provisions:

4.1 Implementation Plan: Prior to acquiring the Property, Brilliant Corners shall prepare and submit to the REGIONAL CENTERS, for their review and approval, an implementation plan for the Property (the “**Implementation Plan**”). The Implementation Plan will contain all information required by the CPP Guidelines. Thus, for example, the Implementation Plan shall (1) specify a process that ensures compliance with all state and local building requirements, including without limitation FDLRC’s receipt of verification that any project has received all applicable required permits prior to the start of any demolition, construction, or renovation and (2) contain a detailed financing plan, along with a construction and operations budget containing the information required by the CPP Guidelines. Brilliant Corners shall update and revise the Implementation Plan at the REGIONAL CENTERS’ request. HRC may condition its execution of the Property Acceptance Agreement (defined in Section 4.2 below) on the REGIONAL CENTERS’ approval of the Implementation Plan.

4.2 Property Acceptance Agreement: Prior to Brilliant Corners’ purchase of the Property, Brilliant Corners and FDLRC will attempt to reach an agreement on the Agreed Rent (defined in Section 16.5.1 below) for the Property, if feasible. If (1) the parties reach agreement on the Agreed Rent and (2) the REGIONAL CENTERS approve the location, condition and other aspects of the Property (including the terms of the Lease, as provided in Paragraph 5 below, and the type of housing to be developed for Clients), then the Parties will sign the Property Acceptance Agreement attached as Exhibit “C” attached hereto (the “**Property Acceptance Agreement**”), confirming that the Property is subject to the terms and conditions of this Agreement. Only a Property identified in a fully executed Property Acceptance Agreement that references this Agreement is subject to the terms and conditions of this Agreement.

4.3 Commitment Letter: After the Parties sign the Property Acceptance Agreement, and upon Brilliant Corners’ request, the REGIONAL CENTERS will provide a letter to Brilliant Corners in the form attached as Exhibit “D” hereto.

4.4 Appraisal: Brilliant Corners shall not purchase the Property in excess of its appraised value, based on an appraisal which date is not earlier than 120 days before the closing. Brilliant Corners may use an appraisal provided to the senior Lender in establishing the Property’s appraised value. Brilliant Corners shall provide the appraisal to the REGIONAL CENTERS as soon as practicable, for approval. FDLRC shall ensure the purchase price of the Property is supported by such appraisal before signing the Property Acceptance Agreement. The parties acknowledge that DDS will not approve any purchase of the Property for a price higher than its appraised value.

4.5 Financial Analysis of Brilliant Corners, Corrective Action Plan: Either of the REGIONAL CENTERS may at any time perform a financial analysis of Brilliant Corners and its subsidiaries’ financial statements, and Brilliant Corners shall fully cooperate in such process. Such analysis may include, but not be limited to, a calculation of Brilliant Corners’ debt coverage ratios (including debt to earnings ratio, debt to equity ratio, and EBITDA ratios), cash reserves, working capital and operating margin. If either REGIONAL CENTER is reasonably concerned

about Brilliant Corners' financial condition after completing such analysis, based on either current year status or multi-year trends, Brilliant Corners will cooperate with such REGIONAL CENTER in implementing a corrective action plan to improve Brilliant Corners financial condition to such REGIONAL CENTER's reasonable satisfaction. If Brilliant Corners is either unwilling or unable to timely implement such plan to such REGIONAL CENTER's reasonable satisfaction, the REGIONAL CENTERS may terminate this Agreement prior to the close of escrow for Brilliant Corners' acquisition of the Property.

5. Lease to Service Provider: After the parties sign the Property Acceptance Agreement for the Property, (1) FDLRC shall use its good faith efforts to identify a Service Provider to lease the Property from Brilliant Corners, as well as Clients who can occupy the Property and (2) Brilliant Corners and FDLRC will use their good faith efforts to have Brilliant Corners lease the Property to the Service Provider. Notwithstanding the date the Lease commences, the Service Provider's obligation to pay rent shall not commence until after Brilliant Corners completes its renovations to the REGIONAL CENTERS' joint satisfaction and delivers the Property to the Service Provider, ready for occupancy by Clients, as of the date noted in a fully executed Certificate of Acceptance (the form of which is attached as an exhibit to the Lease).

5.1 HRC's Payment of Holding/Transition Costs to Brilliant Corners: To the extent permitted by the Funding Approval, HRC will disburse CPP Funds equal to all transition costs allowable within the CPP Guidelines for up to six months after Brilliant Corner acquires the Property (or for a longer period, if approved by both the REGIONAL CENTERS and DDS in their sole and absolute discretion) and before Brilliant Corners begins receiving rent under the Lease for the Property, as part of the renovation costs and subject to the maximum disbursement allowed under Section 1.2 above.

6. Brilliant Corners' Acquisition of Housing, Disbursement of CPP Funds, Notice to the REGIONAL CENTERS: Brilliant Corners will notify the REGIONAL CENTERS in writing (1) when Brilliant Corners opens an escrow to purchase the Property, (2) promptly after Brilliant Corners closes the escrow, (3) whether the Property requires renovations to house the REGIONAL CENTERS' Clients, (4) if renovations are required, the expected date that such renovations will be completed, (5) on the date a Notice of Completion is recorded for renovation work, (6) on the date Brilliant Corners obtains a certificate of occupancy or final building sign off by the applicable governmental agency having jurisdiction over the renovations and (7) on the date the construction financing, if any, converts to permanent financing. Brilliant Corners shall also provide to the REGIONAL CENTERS an annual operating budget and quarterly statements of the loan balance and the replacement reserve for the Property, if so requested by the REGIONAL CENTERS to fulfill their reporting obligations to DDS. Brilliant Corners acknowledges that the REGIONAL CENTERS require this information in order to comply with its quarterly and annual reporting duties to DDS under the CPP Guidelines. Notwithstanding anything herein to the contrary, Brilliant Corners shall not close escrow on the Property until DDS has given its final approval for Brilliant Corners to be the HDO for this project and has also approved Brilliant Corners' acquisition of the Property under Section X.B of the CPP Guidelines.

6.1 Disbursement of CPP Funds at Acquisition: The CPP Funds HRC has earmarked for Brilliant Corners' acquisition of the Property shall be disbursed by HRC directly to the escrow agent handling the sale of such Property, along with escrow instructions for the escrow agent's proper use of such funds. HRC shall disburse its funds by wire transfer. HRC's escrow

instructions shall provide that escrow agent shall not disburse any CPP Funds to Brilliant Corners or for its benefit until the escrow agent (i) records the Restrictive Covenant and DDS Deed of Trust described in Sections 8 and 10 below and (ii) records the Profit Participation Agreement or delivers the DDS Note described in Section 9 below.

6.2 Brilliant Corners' Delivery of Vesting Deed: Upon close of escrow, Brilliant Corners shall deliver a conformed copy of the vesting deed to the REGIONAL CENTERS and DDS to confirm Brilliant Corners' fee ownership of the Property.

6.3 Occupancy by Clients: Brilliant Corners shall only select a property to purchase that will meet the needs of the Clients expected to reside there, as specified in their Individual Program Plans (IPP) and as approved by DDS under the Funding Approval. Promptly after this Agreement is executed and before Brilliant Corners begins searching properties, the parties shall meet and review (i) the REGIONAL CENTERS' site selection criteria and (ii) the specific needs for Clients who are expected to reside at the Property. All Clients ultimately occupying the Residence must be identified within the REGIONAL CENTERS' Community Placement Plan (CPP). No Clients shall occupy the Residence until after Brilliant Corners makes all appropriate renovations so that such Residence is available for use by the REGIONAL CENTERS' Clients, and HRC reasonably approves such renovations in writing.

6.4 Notice to Licensing Agency: As required by CPP Guidelines, FDLRC and Brilliant Corners shall implement a courtesy noticing procedure to the applicable licensing agency to keep such agency informed of Brilliant Corners' plans for acquiring, developing and/or renovating the Residence.

## 7. Lender's Agreement to Provide Notice and Cure Rights:

7.1 Definitions: A "**Lender**" means an institutional lender that makes a Loan to Brilliant Corners, the proceeds of which are applied to pay the costs of acquisition of the Property and any construction, renovation, rehabilitation or remodeling of the Residence on such Property, and such lender's successors or assigns, and any lender that makes a Loan to refinance any such Loan. A "**Loan**" means a loan from a Lender to Brilliant Corners secured by the lien of a deed of trust encumbering the Property (the "**Deed of Trust**").

7.2 Financing Responsibility: It is Brilliant Corners' sole responsibility to apply for and obtain, and Brilliant Corners assumes all risks associated with, all Lender financing for the Property (including acquisition and construction financing [if any], and permanent financing). Notwithstanding the foregoing, the REGIONAL CENTERS reserve the right to approve each Lender and the terms of each loan; such approval shall not be unreasonably withheld or delayed. Brilliant Corners is solely responsible for administering all construction loan funds from a Lender, including, but not limited to, preparing and submitting applications for funding, executing funding agreements, preparing requests to draw down funds, and preparing all required reports.

7.3 Notice and Cure Agreement: Prior to Brilliant Corners' acquisition of the Property, Brilliant Corners shall cause each Lender to sign, and deliver to the REGIONAL CENTERS, an Agreement to Provide Notice and Cure Rights (the "**Notice and Cure Agreement**"). The form of the Notice and Cure Agreement shall be the same as the form attached as an exhibit to the CPP Guidelines. The purpose of such a document is to ensure that the Lender will give the REGIONAL CENTERS and DDS adequate notice and the opportunity to cure any



default by Brilliant Corners under the Loan. The parties agree to modify the form of the Notice and Cure Agreement if so requested by DDS. Except for HRC's advance of certain acquisition funds for the Property, as noted in Paragraph 1.1 above, HRC shall not disburse any CPP Funds to Brilliant Corners or for its benefit until the REGIONAL CENTERS are in receipt of the executed Notice and Cure Agreement from the Lender. Either HRC or FDLRC shall submit a signed copy of the Notice and Cure Agreement to DDS within 15 days after the date Brilliant Corners acquires ownership of the Property.

7.4 No Use of CPP Funds and Lender Funds for Same Purpose: Brilliant Corners shall not use the Lender's funds and CPP Funds for the same costs or expenses.

8. Restrictive Covenant. At the time Brilliant Corners becomes the fee owner of the Property, Brilliant Corners and FDLRC will sign and notarize a Restrictive Covenant (the "**Restrictive Covenant**") and cause it to be recorded against such Property. The form of the Restrictive Covenant shall be the same as the form attached as an exhibit to the CPP Guidelines. The purpose of the Restrictive Covenant is to ensure the Property shall be used and occupied only by Clients in accordance with the provisions and limitations in the CPP Guidelines. The parties agree to execute amendments and modifications to the Restrictive Covenant as reasonably requested by DDS. At all times during Brilliant Corners' ownership of the Property, Brilliant Corners shall comply with all of the provisions in the Restrictive Covenant applicable to such Property.

9. DDS Note; Profit Participation Agreement. At the time, Brilliant Corners becomes the fee owner of the Property, Brilliant Corners shall either (i) execute a Promissory Note in favor of DDS (the "**DDS Note**") or (ii) execute and notarize a Profit Participation Agreement in favor of DDS (the "**PPA**") and cause the PPA to be recorded against such Property. The form of the DDS Note or PPA shall be the same as the forms attached as exhibits to the CPP Guidelines. The purpose of such documents is to further secure Brilliant Corners' obligations to DDS. Brilliant Corners agrees to execute amendments and modifications to the DDS Note or PPA, as applicable, as reasonably requested by DDS. At all times during Brilliant Corners' ownership of the Property, Brilliant Corners shall comply with all of the provisions in the DDS Note or the PPA applicable to such Property.

10. DDS Deed of Trust. At the time, Brilliant Corners becomes the fee owner of the Property, Brilliant Corners shall execute and notarize a Deed of Trust in favor of DDS (the "**DDS Deed of Trust**") and cause it to be recorded against such Property. The form of the DDS Deed of Trust shall be the same as the form attached as an exhibit to the CPP Guidelines. The purpose of such a document is to secure Brilliant Corners' obligations to DDS, including Brilliant Corners' obligations under the Restrictive Covenant. Brilliant Corners agrees to execute amendments and modifications to the DDS Deed of Trust as reasonably requested by DDS. At all times during Brilliant Corners' ownership of the Property, Brilliant Corners shall comply with all of the provisions in the DDS Deed of Trust applicable to such Property.

11. Title Insurance. Brilliant Corners shall obtain an owner's policy of title insurance at the time it purchases the Property. Brilliant Corners shall also obtain a lender's policy in favor of DDS with respect to the Restrictive Covenant, the DDS Deed of Trust, and the PPA, in an amount equal to the principal noted in the DDS Note or PPA. The cost of the lender's policy shall be paid from CPP Funds.

12. Consequence of Breach; Termination of Agreement; Instruments Remain in Effect. Brilliant Corners' breach of the Restrictive Covenant, DDS Note, DDS Deed of Trust, or the PPA shall also constitute Brilliant Corners' breach of this Agreement. The Restrictive Covenant, DDS Note, DDS Deed of Trust, and the PPA shall survive the termination of this Agreement, and shall only be terminated in accordance with their terms.

13. Future Loan Refinancing; Subordination of Restrictive Covenant, DDS Deed of Trust and PPA. Upon the request of a Lender whose Loan is being repaid with a portion of the Agreed Rent, and subject to DDS's consent, then upon the request of the new Lender, Brilliant Corners and HRC may execute an agreement (the "**Subordination Agreement**") to subordinate the Restrictive Covenant, the DDS Deed of Trust and the PPA of the Property to the lien of the Lender's Loan, as long as such Subordination Agreement or a separate agreement signed by the Lender (such as the Notice and Cure Agreement) provides that the Lender will give both the REGIONAL CENTERS and DDS adequate notice and cure rights if Brilliant Corners defaults under its Loan. FDLRC will request DDS to sign the Subordination Agreement, but the REGIONAL CENTERS shall not have any liability if DDS fails to sign the Subordination Agreement.

14. Brilliant Corners' Delivery of Each Lender's Deed of Trust; Recordation of Request for Notice. Promptly after each Lender records its Deed of Trust to secure its Loan for the Property, Brilliant Corners shall deliver a conformed copy of the Deed of Trust to the REGIONAL CENTERS. The REGIONAL CENTERS require a copy of each Deed of Trust in part so that HRC can record Requests for Notice under Civil Code section 2924b in its favor and in favor of DDS. Forms of the Requests for Notice are attached as exhibits to the CPP Guidelines.

15. Developer Fee. Brilliant Corners' fee to provide the services in this Agreement (the "**Developer Fee**") is \$85,000.00 for the Property. The methodology for establishing the Developer Fee from all sources, and the basis for calculating such fee, is based on DDS's approval of such fee through the Housing Acquisition Request (HAR) process under the CPP Guidelines.

16. The Lease. The parties agree as follows with respect to leasing the Property:

16.1 Selection of the Tenant. Brilliant Corners acknowledges that, despite its position as landlord under the Lease, Brilliant Corners has no right to select the master tenant. Rather, FDLRC shall have the sole right to select the initial tenant and all replacement tenants for the Property; provided, however, each master tenant must be a Service Provider vendored by FDLRC. Similarly, FDLRC shall have the sole right to cause one master tenant to assign its interest under the Lease to a new master tenant.

16.2 The Lease Form; the Lease Addendum. Brilliant Corners may use any form of lease it chooses, provided that either FDLRC or HRC approve such form in writing in advance. HRC hereby preapproves the form of Lease attached hereto as Exhibit "E". Whether Brilliant Corners uses its own form or the template attached hereto as Exhibit "E", the Lease shall include a Lease Addendum that is identical to the Lease Addendum template attached hereto as part of Exhibit "E-1". All references in this Agreement to the "Lease" includes the Lease Addendum. FDLRC may require changes to the form of Lease if so requested or required by DDS.

16.3 Specific Lease Restrictions. Brilliant Corners shall not do any of the following without first obtaining FDLRC's express written consent, which shall not be

unreasonably withheld: (1) lease, sublease or license rights in any Property to any party other than the applicable Service Provider under the applicable Lease; (2) materially modify or amend any Lease (including but not limited to the amount of the rent) or terminate any Lease; or (3) unreasonably hinder a Service Provider in providing services to the Clients residing in the Property.

16.4 Notification of Service Provider Delinquencies. As soon as Brilliant Corners becomes aware of any delinquent rent payments under a Lease, or any other monetary or non-monetary default by a Service Provider under a Lease, Brilliant Corners shall promptly notify FDLRC of such fact in writing.

16.5 FDLRC's Reimbursement to Service Provider. Subject to (1) Brilliant Corners' compliance with the terms of this Agreement and (2) the Service Provider's compliance with the terms of its service provider agreement with FDLRC for the Property (the "**Service Provider Agreement**"), FDLRC will pay the Service Provider the amounts to which the Service Provider is entitled to receive under its Service Provider Agreement, including amounts sufficient to satisfy the Debt Service (defined below).

16.5.1 Amount of Debt Service; Determination of Agreed Rent. The term "**Debt Service**" means Brilliant Corners' total monthly repayment obligation for the Loan encumbering the Property. With respect to the Property that Brilliant Corners intends to purchase, the parties shall comply with the following procedure: (1) as soon as practicable before Brilliant Corners purchases the Property, Brilliant Corners shall inform the REGIONAL CENTERS of the expected Debt Service for such Property as of the expected commencement date of the Lease for the Property, as well as other continuing costs of Property ownership (including but not limited to property insurance, property management fees, property taxes [if applicable], and the cost of maintenance and repairs); (2) FDLRC shall then have the right, in its sole and absolute discretion [with HRC's input], to decide whether to approve the Debt Service and such other expected costs of Property ownership (including the Reserve [defined in Section 16.9.1 below]), or any lesser sum; the amount so approved by FDLRC is the "**Agreed Rent**"; (3) Brilliant Corners shall have the right to approve FDLRC's determination of the Agreed Rent; and (4) if Brilliant Corners informs the REGIONAL CENTERS' in writing that Brilliant Corners does not agree with the amount of the Agreed Rent within 10 days after FDLRC notifies Brilliant Corners of the determination of the Agreed Rent, then the Property shall not be subject to this Agreement or entitled to any CPP Funds.

16.5.2 Payment of Agreed Rent. After the parties' execution of a Property Acceptance Agreement, the Agreed Rent for the Property (1) shall become the monthly rent for such Property and (2) shall be recognized by FDLRC as a valid expense of the Service Provider as part of FDLRC's calculation of the sums which the Service Provider shall be entitled to receive from FDLRC under the Service Provider Agreement relating to such Property. Once the Residence is fully occupied, the Agreed Rent shall not be abated or adjusted based on a subsequent change in the occupancy level of the Residence at any time.

No Obligation of REGIONAL CENTERS and DDS. Nothing in this Agreement shall be construed as obligating the REGIONAL CENTERS or DDS to pay any of the Agreed Rent to Brilliant Corners.

(a) Reduction of Agreed Rent Upon Reduction or Repayment of a Loan. Notwithstanding the provisions in Section 16.5.2, at such time(s) as the monthly installment payments for each Loan from each Lender to Brilliant Corners is reduced, or at any such time a Loan is repaid in full, the Agreed Rent for the Property shall be automatically reduced by an amount equal to the Debt Service reduction (and, in such event, FDLRC's payment to the Service Provider leasing the Property shall be automatically reduced by the same amount).

(b) Reduction of Agreed Rent Tied to Reduction in Real Property Taxes for Tax Exempt Service Provider. Notwithstanding the provisions in Section 16.5.2, if the Service Provider or any successor Service Provider is a nonprofit entity under Internal Revenue Code section 501(c)(3), then once Brilliant Corners receives the tax exemption described in Paragraph 18.2 below, the Agreed Rent under the Lease shall be reduced by an amount equal to the difference between (i) the amount of real property taxes in effect on the date Brilliant Corners acquired fee title to the Property and (ii) the amount of the reduction in real property taxes as a result of obtaining the tax exemption (and, in such event, FDLRC's payment to the Service Provider leasing the Property shall be automatically reduced by the same amount). Further, if the tax exemption is retroactive, Brilliant Corners shall promptly remit to FDLRC an amount equal to any tax refund payment Brilliant Corners receives from the taxing authority. If the tax exemption is revoked, the Agreed Rent under the Lease shall be increased by a like amount (and, in such event, FDLRC's payment to the Service Provider leasing the Property shall be automatically increased by the same amount).

(c) Change of Agreed Rent Due to Changes in Operating Maintenance and/or Repair Costs. Notwithstanding the provisions in Section 16.5.2, at Brilliant Corners' request the parties shall meet (but not more often than every 12 months) to discuss whether to increase the Agreed Rent to the extent Brilliant Corners' net operating, maintenance and/or repair costs have increased during such previous 12-month period (after taking into account any additional funds Brilliant Corners has received from FDLRC, the Service Provider or any third party during such time period to compensate Brilliant Corners for any changes in such costs). As a result of such meeting, the parties may mutually agree to increase the Agreed Rent to a new fixed monthly amount to reasonably account for such net cost increases (and, in such event, FDLRC's payment to the Service Provider leasing the Property shall be automatically increased by the same amount); *provided, however*, (i) FDLRC's may consent or withhold its consent to any increase in Agreed Rent at FDLRC's sole and absolute discretion and (ii) FDLRC may condition its agreement to increase the Agreed Rent on DDS's approval of such rent increase. If the rent increase causes FDLRC's overall monthly payment to the Service Provider to exceed the median rate for the home type, or the statewide median rate, if no median rate exists for the home type, DDS's position is that it will not approve the rent increase.

16.5.3 Refinancing. The parties acknowledge that DDS must consent to the refinancing of the Property and that DDS will not approve variable rate loans or loans with balloon payments. If Brilliant Corners refinances a Loan with DDS's consent, the Agreed Rent for the Property shall increase or decrease to reflect the changed amount of the Debt Service for the refinanced Loan as compared to the Debt Service for the original Loan (and, in such event, FDLRC's payment to the Service Provider leasing the Property shall be automatically increased or reduced, as applicable, by the same amount).

16.6 Brilliant Corners' Lease Obligations. At minimum, Brilliant Corners shall be responsible for the all of the following obligations under the Lease (at no additional cost to the Service Provider or FDLRC): (1) all expenses, costs and amounts of every kind and nature necessary or appropriate to manage the Property; (2) maintaining and repairing the Residence (including but not limited to the roof, foundation, floor slab, structural components, landscaping and its mechanical, electrical and plumbing components) in good condition, order and repair; (3) the cost of any insurance which Brilliant Corners determines to carry; (4) fees, charges and other costs, including consulting fees, legal fees and accounting fees, of all contractors engaged by Brilliant Corners or otherwise reasonably incurred by Brilliant Corners in connection with the management, renovation, improvement, maintenance and repair of the Residence; (5) wages, salaries and other compensation and benefits of all persons engaged in the management, maintenance or security of the Property, and employer's Social Security taxes, unemployment taxes or insurance, and any other taxes which may be levied on such wages, salaries, compensation and benefits; (6) real property taxes [if any] and assessments; and (7) to the extent applicable, the cost of annually filing the welfare tax abatement described in Paragraph 18.2 below so that it does not lapse. Notwithstanding the foregoing, the cost of any repairs or replacements to the Residence resulting from the negligence or intentional misconduct of a Service Provider or any Client shall be the responsibility of the Service Provider.

16.7 Compliance with FDLRC's Instructions. Brilliant Corners agrees to promptly perform all acts and sign all documents relating to the Lease as FDLRC may from time to time instruct. Thus, for example, if FDLRC decides that a Lease should be amended in a manner that will not materially increase Brilliant Corners' obligations or materially reduce its rights thereunder, or that a Lease amendment or sublease should be consented to, or that the existing Service Provider tenant should assign its rights to a new Service Provider tenant, then Brilliant Corners shall promptly take the necessary action to accomplish the same in accordance with FDLRC's instructions.

16.8 Use by Service Provider. Once the initial Service Provider has leased the Property, FDLRC shall be solely responsible for replacing the Service Provider during the Lease term.

#### 16.9 The Reserve Account.

16.9.1 From each payment of Agreed Rent with respect to the Property, Brilliant Corners shall deposit a specified sum per month (the "**Reserve**") into a segregated account in Brilliant Corners' name (the "**Reserve Account**"). FDLRC shall determine the amount of the Reserve for the Property prior to the close of escrow for Brilliant Corners' purchase of the Property, and after consulting with Brilliant Corners. Once FDLRC determines the Reserve, and it is approved by DDS, the Reserve shall be set forth on the Property Acceptance Agreement attached hereto as Exhibit "C". The purpose of the Reserve is to create a fund for repairs and replacements to the capital improvements at the Property, including but not limited to following: plumbing, supply and drain lines; electrical panels and wiring; fire alarms and fire sprinklers systems, including related electrical panels; exterior siding; paint; windows (but not repair of broken windows except at the end of their useful life); doors; roof; foundation and floor slabs; structural components (including structural components of the exterior and interior and load bearing walls); concrete; fencing; interior paint; flooring; built-in appliances; major appliances

such as stove, refrigerator, and oven/range; water heater; kitchen cabinets; countertops; bath cabinets; doors; HVAC; patio covers; and landscaping (but not landscape maintenance).

16.9.2 The funds in the Reserve Account shall be segregated from Brilliant Corners' operating account and other accounts. However, Brilliant Corners may hold reserves for other homes in the Reserve Account, as long as (i) Brilliant Corners maintains its Reserve Account separate from its operating account and other accounts, (ii) Brilliant Corners' books and records at all times reflect the amount of the funds in the Reserve Account applicable to the Property, (iii) DDS does not object, (iv) such homes are also occupied by the REGIONAL CENTERS' Clients, and (v) such homes are located in FDLRC's service catchment area. However, Brilliant Corners shall not use funds in the Reserve Account designated for the Property to cover any costs of another property.

16.9.3 Brilliant Corners shall first exhaust all other sources of funding (e.g., insurance and product warranties) before using any of the Reserve. Further, Brilliant Corners' release and application of funds from the Reserve Account shall be subject to monitoring by FDLRC. In particular, Brilliant Corners shall notify FDLRC in writing each time Brilliant Corners intends to withdraw funds from the Reserve Account, and Brilliant Corners shall not expend any of the Reserve without first obtaining FDLRC's written approval, which shall not be unreasonably withheld. Notwithstanding the foregoing, in cases of emergencies, Brilliant Corners is not required to obtain FDLRC's prior written approval, provided that Brilliant Corners obtain FDLRC's written approval within five working days after withdrawing funds from the Reserve Account, and replenishes such account if FDLRC fails to provide its approval (which shall not be unreasonably withheld).

16.9.4 Subject to the last sentence of this paragraph, at any time during the term of the Lease, at FDLRC's request and for reasonable cause, Brilliant Corners shall increase or decrease the monthly amount of the Reserve, subject to (i) both parties' review of the Property's operating income and expenses to determine if such change is justified and (ii) any lender reserve-for-replacement requirements. Notwithstanding anything herein to the contrary, once DDS has approved the amount of the Reserve, the Reserve shall not change until FDLRC submits a replacement reserve analysis to DDS and obtain DDS's approval for such change.

16.9.5 At least once per year, and more often if requested by FDLRC, Brilliant Corners shall provide a Reserve Report to FDLRC, as well as any other information requested by FDLRC, so that (i) FDLRC can timely certify to DDS that, to FDLRC's best knowledge, the interior, exterior, and any detached structures of the Property are in good working condition and properly maintained, and that there is no threat to the health, welfare, and safety of Clients living at the Property, or staff or visitors, and (ii) FDLRC can file its annual CPP Housing Report with DDS as required by the CPP Guidelines. The Reserve Report shall (i) estimate the remaining useful life of capital improvements at the Property, both individually and collectively, (ii) estimate the amount of funds reasonably needed to timely replace such capital improvements, (iii) state the total amount in the Reserve Account applicable to the Property and (iv) list all expenditures from the Reserve Account during the prior 12 month period applicable to the Property. At FDLRC's option, an independent third party shall complete each Reserve Report. FDLRC shall ensure an updated replacement reserve analysis is completed and submitted to DDS not less than every five (5) years.

17. Property Management. At all times during Brilliant Corners' ownership of the Property, Brilliant Corners shall perform normal and customary property management duties, including but not limited to the following: (1) monitoring the Service Provider tenant under the Lease to insure the Service Provider properly complies with all of its monetary and non-monetary obligations under such Lease, and promptly report any noncompliance to FDLRC; (2) if a Service Provider vacates the Property, handling the transition between the Service Provider and the next one, including (i) assigning Brilliant Corners personnel or engaging a Brilliant Corners to clean the Residence and prepare it for use by the next Service Provider and (ii) signing a new Lease, or consenting to a Lease assignment, for the new tenant (subject to FDLRC approval in either event); (3) insuring all insurance required by Brilliant Corners under the Lease is always in effect and in compliance with the terms of the Lease; (4) promptly notifying FDLRC in writing if any insurance required to be maintained by the Service Provider under the Lease is about to lapse; (5) periodically inspecting the Property and all improvements thereon to insure that they are always in good working order and condition; (6) engaging qualified contractors or qualified Brilliant Corners personnel to perform those repair and maintenance duties that are Brilliant Corners' responsibility; (7) promptly notifying FDLRC of any physical defects, environmental hazards or violations of law discovered at the Property; and (8) generally taking all actions appropriate to preserve the improvements on the Property and to protect its value.

17.1 At FDLRC's request, Brilliant Corners will enter into a separate Property Management Agreement with FDLRC or the Service Provider to perform such services; provided, however, if DDS requires a third party to provide property management services for the Property, Brilliant Corners shall comply with DDS's requirements.

17.2 If FDLRC determines, in its reasonable judgment, that Brilliant Corner has repeatedly failed to comply with any of the material requirements and standards of this Section, then FDLRC shall deliver notice to Brilliant Corners of its intention to cause replacement of Brilliant Corners as the property manager for the Residence, including the reasons therefor. Within fifteen (15) days after receipt by Brilliant Corners of such written notice, FDLRC staff and Brilliant Corners shall meet in good faith to consider methods for improving Brilliant Corners' compliance with the requirements of this Section. If, after a reasonable period as determined by FDLRC (but which shall not be less than sixty (60) days following the date of the initial notice described above), FDLRC determines that Brilliant Corners is not operating and managing the Residence in accordance with the material requirements and standards of this Section, then FDLRC may require replacement of Brilliant Corners as the property manager of the Residence. If, after the above procedure, FDLRC requires, in writing, the replacement of Brilliant Corners as the property manager, then, Brilliant Corners shall enter into a separate Property Management Agreement with any of the following: (1) FDLRC, (2) the Service Provider, or (3) a third-party property management company, to perform such services; provided, however such replacement property manager shall be mutually selected by Brilliant Corners and FDLRC in a commercially reasonable manner, and such replacement shall only be implemented to the extent FDLRC and Brilliant Corners mutually determine that such replacement shall not have a material adverse financial impact on the financial feasibility of the operation of the Residence by Brilliant Corners, including, but not limited to, Brilliant Corners' ability to pay all other operational costs and expenses, including, but not limited to, all indebtedness secured by the Deed of Trust. In no event shall FDLRC pursue its rights under Section or the termination section of this Agreement solely in connection with Brilliant Corners' failure to comply with this Section, unless and until FDLRC has complied with the process set forth above.

18. Real Property Taxes. If a Service Provider is a 501(c)(3) organization, Brilliant Corners shall take all actions necessary to insure the Property it leases is exempt from real property taxes (with the understanding that such exemption will not normally apply to assessments, which shall continue to appear on the tax bill).

18.1 Payment of Real Property Taxes. If the Property is not exempt from real property taxes, Brilliant Corners shall insure all property taxes and assessments are timely paid.

18.2 Property Tax Exemption. This Paragraph applies only if FDLRC selects a Service Provider which is a 501(c)(3) entity. If the Property is exempt (or intended to be exempt) from real property taxes, Brilliant Corners shall (a) insure all assessments are timely paid and (b) take all necessary actions within its control to insure the Property's tax exempt status is not lost, including but not limited to (1) timely filing for an Organizational Clearance Certificate (Form BOE-277) with the State Board of Equalization within 90 days after this Agreement is executed (or providing proof to FDLRC that Brilliant Corners has already received its Organizational Clearance Certificate from the SBE); (2) timely renewing such Certificate so that it never lapses during Brilliant Corners' ownership of the Property; (3) filing with the applicable County Tax Assessor a request for property tax exemption via form BOE-267 (and Form BOE 267-H, if applicable) and annually renewing such exemption once it has been obtained; and (4) insuring the non-profit Service Provider similarly timely files such forms with the State Board of Equalization and the applicable County Tax Assessor as early as possible after Brilliant Corners purchases the Property and has signed a Lease with a Service Provider (as long as the REGIONAL CENTERS first provide the names and annual income of the Clients who will be residing at such Residence). In no event shall Brilliant Corners file the initial form BOE-267/267-H later than the first day the first Client occupies the Property. (Form BOE-277 is available at the following website: [www.boe.ca.gov/proptaxes](http://www.boe.ca.gov/proptaxes); Forms BOE-267 and 267-H are available at each County Assessor's office.) Brilliant Corners shall file the initial form BOE-267/267-H with the tax assessor prior to the completion of the renovations to the Residence, as long as the REGIONAL CENTERS first provide the names and annual income of the Clients who will be residing at the Residence.

## 19. Renovation Work.

19.1 Development/Improvements. Brilliant Corners may not make any improvements, alterations, additions, or changes (collectively, the "**Improvements**") to the Property without first procuring the prior written consent of the REGIONAL CENTERS', which consent shall be requested by Brilliant Corners prior to the commencement of the work, and which consent shall not be unreasonably withheld by the REGIONAL CENTERS; provided, however, it shall be deemed reasonable for the REGIONAL CENTERS to withhold their consent to any Improvements which adversely affect (i) the structural portions or the systems or equipment of the Property, (ii) the exterior appearance of the Property or (iii) the ability of the REGIONAL CENTERS' Clients to use the Property. Notwithstanding the foregoing, Brilliant Corners shall be permitted to make Improvements without the REGIONAL CENTERS' prior consent, to the extent that such Improvements are (a) decorative only, or relate to the normal repair and maintenance of the Property (e.g., the installation of carpeting, the painting of the walls of the Property, or the basic plumbing, mechanical, HVAC and electrical work) or (b) reasonably related to the existence of an emergency to the extent necessary to maintain the value of the Property and/or the ability to safely permit the continued occupancy thereof by the REGIONAL CENTERS' Clients. Except to



the extent permitted by the Funding Approval, the REGIONAL CENTERS shall have no obligation to pay for the cost of any of the Improvements performed at the Property.

19.2 Deliverables. HRC's obligation to disburse CPP Funds relating to renovation work at the Property shall be conditioned on Brilliant Corners' delivery to FDLRC, and FDLRC's approval of, all of the following: (i) overall construction and rehabilitation budget for the Property (including a budget for the Improvements and a budget for the automatic fire sprinklers, backup power supply, appliances and fixtures Brilliant Corners intends to purchase for the Property); (ii) construction drawings and specifications for the proposed Improvements; (iii) architect's contract, if applicable; (iv) structural engineer's contract, if applicable; and (v) construction contract between Brilliant Corners and its general Contractor, including Contractor's fixed price or time & materials bid to perform the renovation work on the Property. When the renovation work is complete, Brilliant Corners shall provide evidence that the applicable jurisdiction has issued a final Certificate of Occupancy or its equivalent for the Property.

19.3 Manner of Construction; Terms of Construction Contract. FDLRC may impose, as a condition of its consent to any and all Improvements or repairs of the Property or about the Property, such requirements as FDLRC, in its reasonable discretion, may deem desirable, including, but not limited to, the requirement that Brilliant Corners utilize for such purposes only contractors, sub-contractors, materials, mechanics and materialmen mutually approved by the Parties. FDLRC shall have the right to review and approve the terms and conditions of the construction contract between Brilliant Corners and its general contractor for all Improvements. Further, each construction contract must contain the following provisions: (i) the contractor shall only be entitled to payments based upon performance; (ii) the contractor must provide appropriate conditional and unconditional mechanics lien releases, in accordance with standard construction industry practice, as a condition to its receipt of each installment payment and final payment and (iii) Brilliant Corners will withhold a 10 percent retention, which it shall only disburse to the contractor after the renovation work is completed, a Certificate of Occupancy (or its equivalent) is provided by the local agency (e.g., building inspector), the REGIONAL CENTERS have completed their final walk through, and Service Provider has signed the Certificate of Acceptance attached as an exhibit to the Lease. Brilliant Corners shall also include the following statement in each construction contract between Brilliant Corners and the general Contractor: "*Harbor Regional Center and Frank D. Lanterman Regional Center are third party beneficiaries of all of Brilliant Corners' rights under this Contract.*"

19.4 Construction Insurance. Prior to the commencement of Improvements at the Property, Brilliant Corners shall provide FDLRC with evidence that adequate liability insurance from the contractor and adequate casualty insurance (such as "Builder's All Risk" insurance or another form of casualty insurance reasonably acceptable to FDLRC) is obtained/maintained in an amount approved by the REGIONAL CENTERS (which shall in no event be less than the amount actually carried by Brilliant Corners) covering the construction of such Improvements, it being understood and agreed that all of such Improvements shall be adequately insured by Brilliant Corners immediately upon completion thereof.

19.5 Compliance with Laws. Brilliant Corners shall cause all Improvements and repairs to be performed in a good and workmanlike manner, in conformance with any and all applicable federal, state, county or municipal laws, rules and regulations and pursuant to a valid building permit, issued by the city or county in which the Property is located, all in conformance

with any commercially reasonable construction rules and regulations FDLRC may promulgate from time to time.

19.6 Payment and Performance Bond; Alternative Performance Assurances. HRC's disbursement of CPP Funds for the Improvements shall be conditioned on Brilliant Corners' delivery to FDLRC of a Payment and Performance Bond from Brilliant Corners contractor in favor of Brilliant Corners, in an amount equal to 100% of the expected costs of construction; provided, however, if prior to the commencement of any work, Brilliant Corners agrees to comply with all four of the "alternative performance assurances" described in Section IV(L) of the CPP Guidelines (including Brilliant Corners' engagement of a professional construction manager, reasonably approved by FDLRC, to oversee the renovation work) and (ii) FDLRC so consents, then FDLRC shall request DDS to waive the Payment and Performance Bond requirement. Nothing herein shall be construed to obligate DDS to waive the bond requirement.

19.7 Timely Development. Brilliant Corners is responsible and accountable for timely developing the Property so that it can be occupied by Clients pursuant to the terms of, and by the deadlines contained within the CPP Guidelines. FDLRC shall be responsible for timely identifying and selecting the Service Provider. The REGIONAL CENTERS shall be responsible for selecting the Clients and future Residents for the Property, as provided in Exhibit "A", so that by the time the renovation work is completed, the Service Provider is prepared to occupy the Property and provide residential care services to Residents.

19.8 Disbursements; Procedures. HRC shall disburse CPP Funds for renovation work to Brilliant Corners for the Property in accordance with the procedures in Section 20 below.

19.9 Monitoring of Plans and Work. FDLRC shall regularly monitor the project, including but not limited to Brilliant Corners' preparation of the plans and the contractor's performance of the renovation work, to ensure satisfactory progress under Section X of the CPP Guidelines. Brilliant Corners shall promptly respond to all inquiries, and cooperate, coordinate, and otherwise comply with FDLRC's requests.

19.10 Monthly and Quarterly Updates. On a monthly basis during the installation of the Improvements, and at all times upon the REGIONAL CENTERS' request, Brilliant Corners shall provide the REGIONAL CENTERS' with an update as to the progress of its work. FDLRC shall report progress of each project to DDS on a quarterly basis.

19.11 Brilliant Corners' Delivery of Proof of Expenditures; Brilliant Corners' Return of Unused Funds: Upon Brilliant Corners' completion of the Improvements at the Property, Brilliant Corners shall provide to FDLRC invoices and other evidences of Brilliant Corners' costs for such work, including evidence of payment to third parties, and Brilliant Corners hereby authorizes FDLRC to audit Brilliant Corners' books and records for such purpose. To the extent Brilliant Corners receives funds before it incurs renovation costs, it is possible that funds disbursed by HRC may exceed the total amount of funds necessary to complete the renovation work. If that occurs, Brilliant Corners shall promptly return the excess funds to HRC.

19.12 HRC's Option to Deliver CPP Funds to Third Parties: If a third party has recorded a lien or threatened to record a lien against the Property as a result of non-payment for their services, equipment or materials, or if HRC otherwise reasonably believes that Brilliant Corners may be in breach of contract with any third party, then HRC may elect to disburse certain

CPP Funds directly to such third parties for Brilliant Corners' benefit, rather than to Brilliant Corners directly.

19.13 Purchased Furniture, Fixtures and Equipment: Any item of furniture, trade fixture, equipment or other personalty costing over \$2,000 that Brilliant Corners purchases with funds supplied under this Agreement, and which has a useful life in excess of two years, shall be the property of the State of California. Upon termination of this Agreement for any reason, such items are subject to reclamation by the State.

19.14 Special Provisions Applicable to Enhanced Behavioral Supports Homes. Brilliant Corners shall ensure (i) the Residence has an operable automatic fire sprinkler system, approved by the State Fire Marshal or local fire department, that complies with the provisions in 17 CCR 59051(c) and (d) (Enhanced Behavioral Support Homes – General Requirements); and (ii) a private bedroom is provided for each Client.

19.15 Additional Requirements and Agreements: The REGIONAL CENTERS reserve the right to require Brilliant Corners to enter into further agreements with HRC & FDLRC to address the costs and procedures relating to Brilliant Corners' renovation of the Residence.

20. Disbursements of Renovation Funds, Milestones: HRC shall disburse renovation funds to Brilliant Corners for the Property in installments, as milestones are satisfied, as provided below, but never more than the Maximum Renovation Amount per Property. HRC shall remit each payment to Brilliant Corners within 10 business days after FDLRC receives a properly documented invoice from Brilliant Corners, along with all applicable backup documentation as described in Sections 20.1 to 20.5 below, that has been approved by FDLRC's Chief Financial Officer. Any funds disbursed by HRC in advance shall be subject to true up once Brilliant Corners has incurred such expenses.

20.1 First Milestone: Brilliant Corners' submission of documentation reasonably acceptable to FDLRC that Brilliant Corners has closed escrow on the Property and is the owner of fee title to the Property.

20.1.1 Amount of Funds Payable to Brilliant Corners upon its Completion of First Milestone: Twenty-Five Percent (25%) of the Maximum Renovation Amount.

20.2 Second Milestone: Brilliant Corners' submittal to FDLRC, and FDLRC's approval, of all of the following for the Property: (i) overall construction and rehabilitation budget (including a budget for the Improvements and a budget for the appliances and fixtures Brilliant Corners intends to purchase for the Property); (ii) construction drawings and specifications for the proposed Improvements; (iii) architect's contract, if applicable; (iv) structural engineer's contract, if applicable; and (v) construction contract between Brilliant Corners and its general contractor, including contractor's fixed price or time & materials bid to perform its work and install the Improvements.

20.2.1 Amount of Funds Payable to Brilliant Corners upon its Completion of Second Milestone: Twenty-Five Percent (25%) of the Maximum Renovation Amount.

20.3 Third Milestone: Brilliant Corners' written certification to FDLRC that the city or county inspector has approved the rough framing, electrical and plumbing work at the

Property, along with Brilliant Corners' delivery to FDLRC of evidence of such approval (such as a signed inspection card from the inspector) (collectively, the "**Inspector's Approval**"), or FDLRC's receipt and approval of any alternate written certification from Brilliant Corners that HRC concludes is functionally equivalent to the Inspector's Approval.

**20.3.1 Amount of Funds Payable to Brilliant Corners upon its Completion of Third Milestone:** Thirty Percent (30 %) of the Maximum Renovation Amount.

**20.4 Fourth Milestone:** FDLRC's satisfaction that all of the Improvements have been properly completed and that the Property is physically ready for occupancy by Clients, after the REGIONAL CENTERS' completion of a walk-through of the Property. Further, as provided in Section 19.3, the Brilliant Corners must provide appropriate conditional and unconditional mechanics lien releases, in accordance with standard construction industry practice, as a condition to FDLRC's completion of this milestone. The REGIONAL CENTERS' execution of the Certificate of Acceptance attached as Exhibit "C" to the Lease shall constitute Brilliant Corners' satisfaction of this milestone.

**20.4.1 Amount of Funds Payable to Brilliant Corners upon its Completion of Fourth Milestone:** Twenty Percent (20%) of the Maximum Renovation Amount.

**20.5 Deadlines to Expend Funds.** Notwithstanding anything in this Agreement to the contrary, the deadline for FDLRC to reimburse HRC for its disbursement of renovation funds to Brilliant Corners is **March 31, 2024**, and Brilliant Corners must therefore complete all renovations prior to such date. All of HRC's disbursements are conditioned upon Brilliant Corners' compliance with the project milestones for the Property by such deadline; provided, however, the deadline for Brilliant Corners to satisfy the Second Milestone for the Property shall be the earlier of the above deadline date or the 90th day after Brilliant Corners purchases the Property.

**21. Management and Maintenance.** Brilliant Corners shall, at Brilliant Corners' sole cost and expense (except as otherwise provided below), keep the Property (including, without limitation, the exterior walls, foundation, roof structure and membrane, and all improvements, fixtures, equipment, appliances, water lines, plumbing, plumbing fixtures, electrical, heating and air conditioning systems and furnishings therein), in good order, repair and condition at all times during the term of this Agreement. Brilliant Corners shall maintain the Property in an aesthetically pleasing manner, and in a manner consistent with that which could be considered normal and customary for private residences (i.e., at a minimum, in material conformance with the standards of landscaping and appearance observed in the surrounding neighborhood). All such above-referenced items shall function at the Property for their intended purpose. In addition, Brilliant Corners shall, at Brilliant Corners' sole cost and expense, promptly and adequately repair all damage to the Property and replace or repair all damaged, broken, or worn fixtures and appurtenances, including any damage caused by ordinary wear and tear; provided however, that, at FDLRC's option, or if Brilliant Corners fails to make such repairs, FDLRC may, but need not, make such repairs and replacements, and Brilliant Corners shall pay FDLRC the cost thereof. The Property shall be subject to periodic inspections by FDLRC. Notwithstanding the foregoing, to the extent Brilliant Corners and FDLRC agree that some or all of Brilliant Corners' obligations hereunder are to be performed by a third-party entity or individual (such as pursuant to a management agreement), Brilliant Corners shall be responsible for ensuring that any such third-party contractor shall comply with the requirements imposed on Brilliant Corners pursuant to the

terms of this Agreement, and in any event Brilliant Corners shall continue to remain ultimately responsible to FDLRC for the performance of all of the obligations set forth in this Agreement.

22. Covenant Against Mechanic's Liens. Brilliant Corners shall keep the Property free from any liens or encumbrances arising out of the work performed, materials furnished or obligations incurred by or on behalf of Brilliant Corners, and shall protect, defend, indemnify and hold the REGIONAL CENTERS harmless from and against any claims, liabilities, judgments or costs (including, without limitation, reasonable attorneys' fees and costs) arising out of same or in connection therewith. Brilliant Corners shall remove any such lien or encumbrance by bond or otherwise within ten business days after notice by FDLRC, and if Brilliant Corners shall fail to do so, FDLRC may pay the amount necessary to remove such lien or encumbrance, without being responsible for investigating the validity thereof, and Brilliant Corners shall promptly reimburse FDLRC for any such payments made on behalf of Brilliant Corners.

23. Payments to Brilliant Corners Generally.

23.1 Sole Compensation. Unless REGIONAL CENTERS otherwise agree in writing, Brilliant Corners agrees that their sole compensation for the services it will provide under this Agreement will be the CPP Funds resulting from DDS's Funding Approval; Brilliant Corners shall not receive any additional compensation for the services provided hereunder and the obligations it has agreed to accept under this Agreement. Further, the REGIONAL CENTERS make no representation or warranty, express or implied, whether DDS will issue a Funding Approval for FDLRC's housing proposal.

23.2 E-Billing. Brilliant Corners shall use electronic billing under DDS's Regional Center e-Billing System Web application for all of Brilliant Corners' invoices to HRC under this Agreement.

23.3 General Funding Requirements and Limitations. Brilliant Corners shall not bill Clients or any other funding source for services funded under the terms of this Agreement. Brilliant Corners understands and agrees that upon completion or termination of this Agreement, The REGIONAL CENTERS funding for a subsequent agreement or period, if any, is not guaranteed, and that the decision for such funding is within the discretion of the REGIONAL CENTERS.

24. Assignment. Brilliant Corners shall not assign, transfer or subcontract any of its rights, burdens, duties or obligations under this Agreement without prior written permission of the REGIONAL CENTERS, which may be withheld in its sole and arbitrary discretion. If the REGIONAL CENTERS consent to an assignment, the assignee shall execute an instrument prepared by the REGIONAL CENTERS in which the assignee assumes and agrees to be bound by all of the terms and conditions under this Agreement for the express benefit of the REGIONAL CENTERS. The transfer of control of the ownership of Brilliant Corners to any third party shall constitute an assignment, which requires the REGIONAL CENTERS' consent hereunder.

25. Independent Contractor. Brilliant Corners and its agents and employees, in the performance of this Agreement, shall act at all times in an independent capacity. Brilliant Corners and its agents and employees are not officers, employees or agents of the REGIONAL CENTERS. Brilliant Corners acknowledges that it will not accrue any employee benefits from REGIONAL CENTERS nor will REGIONAL CENTERS be responsible for withholding or paying any amount

of workers' compensation, disability insurance or any tax of any kind for Brilliant Corners. Brilliant Corners is free to act as an independent contractor for others. Brilliant Corners is not an agent for the REGIONAL CENTERS, and Brilliant Corners shall not have the authority to execute any agreement on behalf of the REGIONAL CENTERS to incur any liability or indebtedness of any kind or nature in the name of or on behalf of the REGIONAL CENTERS, or to otherwise contractually bind the REGIONAL CENTERS in any manner.

26. Insurance. Brilliant Corners agrees to purchase and maintain, throughout the term of this Agreement, (i) worker's compensation insurance in the amount required by California law, (ii) automobile liability insurance, (iii) property & casualty insurance for the Property upon acquisition thereof, equal to the replacement value of the improvements on the Property, with DDS named as loss payee, and (iv) and such other coverage that shall be reasonably requested from time to time by FDLRC. In addition, Brilliant Corners agrees to purchase and maintain commercial and general liability insurance in the amount of not less than \$1,000,000 per occurrence and \$3,000,000 in the aggregate per Property, during the period of this Agreement; provided, however, FDLRC reserves the right to increase the liability limit under such insurance policy on not more than once during any three year period during the term of this Agreement, based on advice by its insurance broker(s). The commercial general liability insurance shall include endorsements for premises and operations liability and for broad form contractual liability. Insurers who are admitted to do business in the State of California and rated A- and X or higher in the most recent edition of Best Insurance Guide shall issue all insurance policies. All insurance policies (other than the workers' compensation policy) shall be endorsed to name "*Harbor Regional Center*", "*Frank D. Lanterman Regional Center*", and "*State of California Department of Developmental Services*" as additional insureds during the term of this Agreement, and Brilliant Corners shall provide to the REGIONAL CENTERS a true and correct copy of the Named Additional Insured Endorsements on the Effective Date, listing the specific name of the project and the Property address. Each policy of insurance providing coverage required hereunder shall provide that it may not be cancelled or materially modified unless the REGIONAL CENTERS are provided at least 30 days' prior written notice thereof. Brilliant Corners shall also provide to the REGIONAL CENTERS a Certificate of Insurance annually, which certifies the existence of the insurance required under this Agreement. To the extent, these provisions are not the same as the provisions in the Lease (or Restrictive Covenant, if applicable) regarding insurance, Brilliant Corners shall comply with those provisions that most broadly protect the REGIONAL CENTERS.

27. Brilliant Corners' Indemnification of HRC and FDLRC. Brilliant Corners shall indemnify, defend, and hold harmless the REGIONAL CENTERS and their representatives, officers, directors, agents, consultants and employees and their respective successors and assigns, including but not limited to the State of California and its agents and employees (collectively referred to as the "**Indemnified Parties**"), from any and all losses, costs, expenses, (including but not limited to reasonable attorney's fees), liabilities, claims, court costs, demands, debts, causes of action, fines, judgments and penalties which arise from or relate to (a) death or injury to people or damage to property in connection with the negligent or willful acts, errors or omissions of Brilliant Corners or its employees, agents, consultants or anyone employed by Brilliant Corners to act on its behalf, (b) claims under workers' compensation laws or other employee benefit laws by Brilliant Corners' agents or employees, (c) Brilliant Corners' failure to fulfill its obligations under this Agreement (including the documents incorporated by reference herein) in strict accordance with its terms, including Brilliant Corners' breach of any representations or covenants given in this Agreement or (d) violation of any local, state, or federal law, regulation or code by Brilliant

Corners or by any of Brilliant Corners' employees, agents, consultants or subcontractors in connection with the conduct of their activities performed in connection with this Agreement.

27.1 Assumption of Defense. Brilliant Corners will assume the defense, at its sole expense, and with legal counsel acceptable to the REGIONAL CENTERS, of any claims or litigation as to which it has an indemnification obligation hereunder; the REGIONAL CENTERS shall cooperate with Brilliant Corners and their counsel in the defense of any such claims, provided, however, that any costs or expenses associated with such cooperation shall be reimbursed by Brilliant Corners. If Brilliant Corners fails to assume the defense of any claim or litigation as to which it has or is determined to have had the obligation to indemnify, the Indemnified Parties will have the right to assume their own defense, and Brilliant Corners will be obligated to reimburse the Indemnified Parties for any and all reasonable expenses (including, but not limited to attorney's fees) incurred in defense of such claims or litigation, in addition to Brilliant Corners' other indemnity obligations thereunder. Brilliant Corners shall control the defense and settlement of any claim; provided, however, if Brilliant Corners fails to promptly assume the defense of any claim or litigation as to which it has or is determined to have had the obligation to indemnify, the REGIONAL CENTERS shall have such control.

27.2 Survival of Provisions. The indemnity set forth in this Section shall apply during the term of this Agreement and shall also survive the expiration or termination of this Agreement, until such time as action against all of the Indemnified Parties on account of any matter covered by such indemnity is barred by the applicable statute of limitations.

## 28. Breach; Remedies.

28.1 If a party (the "**Complainant**") asserts that a violation of the provisions of this Agreement has occurred, it shall so inform the other party (the "**Breaching Party**") in writing, stating the nature of such violation in detail (the "**Notice of Default**") and giving the Breaching Party 30 days from receipt of such notice to cure such breach or failure. If the Breaching Party does not then cure the default within such 30-day period (or, if the default is not susceptible of cure within such 30-day period, the Breaching Party fails to commence the cure within such period and thereafter to prosecute the cure diligently to completion), then the Complainant shall be entitled to terminate this Agreement (as provided below) as well as pursue any other rights afforded it in law or in equity (subject to the provisions below).

28.2 If the Complainants are the REGIONAL CENTERS, then either of the REGIONAL CENTERS may (1) withhold all or part of the unremitted CPP Funds they may owe to Brilliant Corners under this Agreement or under any other agreement between the REGIONAL CENTERS and Brilliant Corners, until satisfactory corrective measures are taken by Brilliant Corners; (2) perform the task itself and at Brilliant Corners' expense and/or (3) terminate this Agreement without further notice if Brilliant Corners fails to timely cure the violation described in the Notice of Default.

28.3 If the Complainant is Brilliant Corners, then Brilliant Corners may terminate this Agreement if the REGIONAL CENTERS fail to timely cure the violation described in the Notice of Default, and obtain recovery of its actual damages as its sole and exclusive remedy, subject to the limitations in Section 32 below.

28.4 If (i) Brilliant Corners fails to perform its obligations to timely renovate the Property, or (ii) after the Property is renovated Brilliant Corners ceases to use the Property for occupancy by Clients (other than as the result of a temporary cessation of use of the housing by Clients due to casualty, or condemnation or lack of Client referrals from the REGIONAL CENTERS), then in addition to all of the other remedies available to the REGIONAL CENTERS hereunder or otherwise available at law or in equity, the REGIONAL CENTERS shall have the right to require immediate repayment of all CPP Funds which HRC had previously disbursed to Brilliant Corners relating to such Property. In such event, Brilliant Corners shall repay all such funds to HRC within 30 days following its receipt of a demand therefor from HRC.

28.5 Notwithstanding any provisions in this Section 29 to the contrary, if the REGIONAL CENTERS have clear and convincing evidence of misconduct by Brilliant Corners or its agents or employees that result in imminent danger to the health or safety of any Clients, either of the REGIONAL CENTERS shall have the right and option to declare that Brilliant Corners has committed a non-curable default. Circumstances which may constitute imminent danger to Client health and safety include, but are not limited to: physical, emotional, or mental abuse, sexual misconduct, Client abandonment or neglect, theft of a Client's money or property, violation of a Client's rights under the law, placing Clients in physical danger, or any other circumstance that may bring potential physical or emotional harm to the Client. If any of the foregoing occur, either of the REGIONAL CENTERS may terminate this Agreement with 5 days written notice to Brilliant Corners.

28.6 A default by Brilliant Corners under this Agreement shall, at either of the REGIONAL CENTERS' option, constitute a default by Brilliant Corners under any other agreement between Brilliant Corners and such REGIONAL CENTER, and a default by Brilliant Corners under any other agreement between Brilliant Corners and either REGIONAL CENTER shall, at the option of such REGIONAL CENTER, constitute a default by Brilliant Corners under this Agreement.

29. Consequences of Termination. Upon the termination of this Agreement as a result of Brilliant Corners' breach, Brilliant Corners shall, immediately on request of FDLRC, do all of the following: (1) execute and notarize grant deeds to convey its fee ownership in the Property to one or more nonprofit organizations selected by FDLRC (collectively, the "New Owner"); (2) execute Lease Assignment Agreements (on a form provided by FDLRC) to convey all of its rights and obligations as landlord under the Lease to the New Owner; (3) execute all documents required by each Lender to allow for assumption of each Loan by each New Owner, if possible; and (4) execute all other documents and perform all other acts reasonably requested by either of the REGIONAL CENTERS to insure a smooth transition of all of Brilliant Corners' rights and responsibilities under this Agreement, the Lease and each Loan to each New Owner.

30. Specific Performance. The parties acknowledge that a breach of this Agreement by Brilliant Corners will result in significant damages to the REGIONAL CENTERS, which are impossible or extremely difficult to determine, and that monetary damages would be an inadequate remedy for such breach. Further, Brilliant Corners' failure to comply with these provisions could jeopardize the health and safety of the REGIONAL CENTERS' Clients. As such, the parties agree that each of the REGIONAL CENTERS has the right to specifically enforce Brilliant Corners' obligations under this Agreement. Thus, each of the REGIONAL CENTERS may obtain a temporary restraining order, preliminary injunctive relief, and permanent injunctive relief to



require Brilliant Corners to perform its obligations to such REGIONAL CENTER, including but not limited to its obligation to execute all documents and perform all acts reasonably requested by FDLRC to convey fee ownership of the Property to the New Owner(s).

31. Limitation on the REGIONAL CENTERS' Liability. Notwithstanding any provision to the contrary contained in this Agreement, the REGIONAL CENTERS' combined liability hereunder shall be limited to an amount equal to the lesser of \$250,000 or the aggregate dollar value of all CPP Funds then previously received by Brilliant Corners under the terms of this Agreement. In addition, and again notwithstanding any provision to the contrary contained in this Agreement, in no event shall the REGIONAL CENTERS or any of their partners, sub partners or any of their respective officers, agents, servants, employees, and independent contractors be liable under any circumstances for injury or damage to, or interference with, Brilliant Corners' business, including but not limited to, consequential damages, loss of profits, loss of rents or other revenues, loss of business opportunity, loss of goodwill or loss of use, in each case, however occurring.

32. Brilliant Corners' Books, Records and Other Information; Audits.

32.1 Brilliant Corners' Delivery of Documents and Information. Upon either REGIONAL CENTER's request, Brilliant Corner shall promptly deliver to the REGIONAL CENTERS all information and documents relating to Brilliant Corners and/or the Property that the REGIONAL CENTERS so request, including but not limited to Brilliant Corners' organizational documents, IRS approval of Brilliant Corners' 501(c)(3) status, a current Certificate of Good Standing from the California Secretary of State, a list of current officers and board members, applicable corporate resolutions authorizing the signatory(ies) of this Agreement to sign this Agreement and other contracts relating to the Property, employee resumes and background experience, certifications, budgets, financial statements, construction cost audit, and other information relating to the Property that Brilliant Corners is considering acquiring or has acquired. Although the REGIONAL CENTERS must obtain such information and documents to comply with the CPP Guidelines, Brilliant Corners shall provide such information and documents to the REGIONAL CENTERS for the Property on request.

32.2 Maintenance of Books and Records. Brilliant Corners agrees to maintain and preserve, until three years after the service has been performed, any pertinent books, documents, papers, and records relative to this Agreement. Brilliant Corners agrees to maintain audited financial records in accordance with generally accepted accounting principles, consistently applied.

32.3 Record Inspection and Audit. Either of the REGIONAL CENTERS shall have the right to review and inspect all of Brilliant Corners' records regarding services provided under this Agreement, in accordance with the provisions in California Code of Regulations (Title 17, Part II, Chapter 1, subchapter 6 and subchapter 18). An audit of Brilliant Corners' records pertaining to this Agreement may be made by the REGIONAL CENTERS or any other third party authorized to conduct such an audit, for a period of three years after the termination of this Agreement. All audits will be conducted according to Title 17 regulations. Brilliant Corners will be informed of the audit in writing and will be given a written report on the results of the audit once it is completed. Brilliant Corners has the right to appeal any findings resulting from an audit. The specific appeal procedure will be communicated to Brilliant Corners at the time the audit is announced.

32.4 Brilliant Corners' Reviews and Audits. This Section 33.4 shall only apply if all payments Brilliant Corners cumulatively receives from the REGIONAL CENTERS during Brilliant Corners' fiscal year (as determined on the commencement date of this Agreement) equals or exceeds the threshold amount noted in Welfare and Institutions Code Section 4652.5.

32.4.1 Brilliant Corners shall, at either REGIONAL CENTER's request and at Brilliant Corners' cost, cause an independent Certified Public Accountant to annually provide (1) an independent audit of Brilliant Corners' financial statements (or, if Brilliant Corners qualifies based on the terms in the statute, an independent review report in lieu of an audit); and (2) a copy of either the annual audit results (the "**Audit Report**") or the review results (the "**Review Report**") to the REGIONAL CENTERS.

32.4.2 If Brilliant Corners engages an independent Certified Public Accountant to review (but not audit) Brilliant Corners' financial statements, (i) the review shall, at minimum, comply with the provisions set forth in Welfare and Institutions Code Section 4652.5(e) and (ii) the Review Report shall, at minimum, comply with the provisions set forth in Welfare and Institutions Code Section 4652.5(f).

32.4.3 Brilliant Corners shall commence the independent audit or review within 120 days after the end of Brilliant Corners' fiscal year. Brilliant Corner shall complete the audit or review within nine months after the end of Brilliant Corners' fiscal year.

32.4.4 In accordance with Welfare and Institutions Code Section 4652.5(b), Brilliant Corners shall provide copies of the independent Audit Report or Review Report to the REGIONAL CENTERS within 30 days after completion of the audit or review.

32.4.5 If the REGIONAL CENTERS believe that any issues identified in the Audit Report or Review Report have an impact on the services Brilliant Corners provides to the REGIONAL CENTERS' Clients, either REGIONAL CENTER will so notify Brilliant Corners and provide Brilliant Corners with 30 days to resolve such issues. Brilliant Corners' failure to resolve such issues to such REGIONAL CENTER's reasonable satisfaction within such 30-day period shall constitute a material breach of this Agreement. As a result of such uncured breach, the REGIONAL CENTERS may, among their other remedies, terminate this Agreement.

33. The Funding Contingency. Notwithstanding anything in this Agreement to the contrary, FDLRC's obligation to reimburse HRC for funds to be remitted to Brilliant Corners under this Agreement or to any Service Provider under any Service Provider Agreement, is conditioned on FDLRC's receipt of adequate funds from DDS to pay for such costs (the "**Funding Contingency**"). The Funding Contingency is a part of this Agreement because FDLRC's annual funding agreement with DDS provides that such funding agreement is subject to the appropriation of funds by the Legislature, and that if such funds are not appropriated for any fiscal year into which such funding agreement extends, the funding agreement is of no force and effect. FDLRC shall therefore have the right and option to terminate this Agreement on 60 days' notice to Brilliant Corners, without liability, and such termination shall be deemed a failure of the Funding Contingency, if (1) DDS for any reason fails to deliver funds to FDLRC necessary to retain Brilliant Corners' services hereunder or a Service Provider's services at the Property or (2) FDLRC receives funds from DDS for Brilliant Corners under this Agreement or a Service Provider's services at the Property but FDLRC determines that such funds are inadequate to pay for all of the

vendor services and other expenses which FDLRC expects to incur in such fiscal year relating to such Property. If there is a failure of the Funding Contingency, then (1) FDLRC shall have no liability to fund for this project, and HRC shall have no liability to pay Brilliant Corners under this Agreement or any Service Provider under any Service Provider Agreement (other than funds for services previously validly performed by Brilliant Corners under this Agreement or to the Service Provider and for which FDLRC has received DDS funding) or to furnish any other consideration under this Agreement and (2) neither party shall be obligated to further perform any provisions of this Agreement (other than those obligations intended to survive termination of this Agreement). In the event FDLRC exercises the Funding Contingency, FDLRC and DDS agree to use their best efforts to negotiate a workout for the Property.

34. No Discrimination. During the performance of this Agreement, Brilliant Corners shall not deny the Agreement's benefits to any person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, nor shall Brilliant Corners discriminate unlawfully against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. Brilliant Corners shall ensure that the evaluation and treatment of employees and applicants for employment are free of such discrimination. Brilliant Corners shall at all times comply with the provisions of the Fair Employment and Housing Act (Gov. Code, § 12900 et seq.), the regulations promulgated thereunder (Cal. Code Regs., tit. 2, § 11000 et seq.), the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code (Gov. Code, §§ 11135-11139.5), and the regulations or standards adopted by the awarding state agency to implement such article. Brilliant Corners shall permit access by representatives of the Department of Fair Employment and Housing and the awarding state agency upon reasonable notice at any time during normal business hours, but in no case less than 24 hours' notice, to such of its books, records, accounts, and all other sources of information and its facilities as such Department or Agency shall require to ascertain compliance with this Section. Brilliant Corners shall give written notice of its obligations under this Section to labor organizations with which it has a collective bargaining or other agreement. Brilliant Corners shall include the nondiscrimination and compliance provisions of this Section in all subcontracts to perform work under this Agreement.

35. HIPAA Compliance. Under this Agreement, "HIPAA" means the federal Health Insurance Portability and Accountability Act (Pub. L. No. 104-191), the HIPAA regulations as set forth in 45 C.F.R. Parts 160 and 164 (aka the HIPAA Privacy Rule), and regulations on Standards for Privacy of Individually Identifiable Health Information. All parties shall at all times remain in compliance with the mandatory provisions of HIPAA, including but not limited to the HIPAA Privacy Rule. If, in performing its duties under this Agreement, Brilliant Corners has access to "protected health information," including but not limited to "individually identifiable health information," Brilliant Corners shall be considered a "Business Associate" as those terms are defined in HIPAA. If either REGIONAL CENTER determines that Brilliant Corners is a Business Associate, then immediately on request, Brilliant Corners shall execute such REGIONAL CENTER's form of Business Associate Agreement.

36. Copyrights And Patents. To the extent any of Brilliant Corners' activities result in the invention or development of copyrightable materials, the State of California has the right to freely manufacture, reproduce, publish, use, and/or distribute all inventions and copyrightable materials which were developed by or for Brilliant Corners using funds provided by the State of California. To the extent applicable, Section 14 of Article I of the Regional Center Master Contract between each of the REGIONAL CENTERS and the State of California is incorporated herein by this reference.

37. Cooperation: Adequate Staffing. Brilliant Corners shall meet as often as the REGIONAL CENTERS determines necessary and shall work collaboratively with the REGIONAL CENTERS staff regarding the acquisition, renovation, and maintenance of the Property. Brilliant Corners agrees to supply staff sufficient in numbers to satisfactorily carry out the terms of this Agreement.

38. Compliance with Law. Brilliant Corners shall at all times comply with all local, California and Federal statutes, laws, and regulations applicable to Brilliant Corners, and shall render services in accordance with the applicable provisions of all laws (including but not limited to Welfare and Institutions Code, Division 4.5, Services for the Developmentally Disabled [Lanterman Developmental Disabilities Services Act], and Calif. Code of Regs. Title 17, Division 2, Health and Welfare Agency [Department of Developmental Services]). Any provisions of this Agreement that conflict with any law is hereby amended to conform to the provisions of those statutes and regulations. Such amendments to the Agreement shall be effective on the effective date of the statute or regulations necessitating it, and shall be binding on the parties even though such amendment may not have been reduced to writing or expressly agreed to by the parties. No provision of this Agreement shall not be construed to excuse compliance with all applicable laws.

39. Permits and Licenses. Brilliant Corners and its employees and agents shall secure and maintain throughout the term of this Agreement, any and all valid permits and licenses as required by law for the execution of the services described in this Agreement.

40. Zero Tolerance Policy For Client Abuse And Neglect. Brilliant Corners shall ensure all of its employees are fully informed upon hire, and annually thereafter, about each REGIONAL CENTER's Policy Regarding Client Abuse, pursuant to the Elder Abuse and Dependent Adult Civil Protection Act (California WIC section 15600-15675), and Child Abuse and Neglect Reporting Act (California Penal Code sections 11164-11174.3). HRC's policy is posted on its website at: Special Incident Reporting - Harbor Regional Center (harborrc.org). FDLRC's policy is posted on its website at: [https://lanterman.org/uploads/transparency/Documents%20Channel/Policies/Policy\\_Regarding\\_Client\\_Abuse\\_\(Zero\\_Tolerance\\_Policy\)\\_Board\\_Approved\\_9\\_25\\_13.pdf](https://lanterman.org/uploads/transparency/Documents%20Channel/Policies/Policy_Regarding_Client_Abuse_(Zero_Tolerance_Policy)_Board_Approved_9_25_13.pdf). Any Brilliant Corners employee or agent who fails to report Client abuse or neglect may be subject to penalties defined in law (WIC, section 15630(h)). In addition, upon becoming aware of a reportable incident or allegation of abuse or neglect of a Client, Brilliant Corners shall take immediate action to protect the health and safety of the involved Client and all other Clients. Brilliant Corners shall ensure its staff has knowledge of the signs of Clients abuse and neglect, the process for reporting suspected abuse or neglect, and the consequences of failing to follow the law or adhere to either REGIONAL CENTER's Zero Tolerance Policy. Brilliant Corners' failure to comply with the policy and the abuse/neglect reporting laws is considered a material breach of this Agreement.

41. Drug-Free Workplace. During the term of this Agreement, Brilliant Corners shall maintain and enforce a drug-free workplace policy. Neither Brilliant Corners nor its employees shall unlawfully manufacture, distribute, dispense, possess or use "controlled substances" (as defined in 21 U.S.C. Section 812), at any of Brilliant Corners' facilities or work sites. Violation of this provision shall constitute a material breach of this Agreement.

42. Attorney's Fees. If any action or proceeding at law is commenced to enforce any provisions or rights under this Agreement, the unsuccessful party to such action or proceeding as determined by the court in a final judgment or decree, shall pay the attorneys' fees and costs of the prevailing party (including, without limitation, such costs, expenses and fees on any appeal), and if such prevailing party shall recover judgment if any such action or proceeding, such costs, expenses and attorney's fees shall be included as part of such judgment.

43. Severability. If any provision of the Agreement is held to be inoperative, unenforceable or otherwise invalid, the remaining provisions hereof shall remain in full force and effect.

44. Integration. This Agreement constitutes the entire agreement among the parties pertaining to the subject matter contained herein, and it supersedes all prior agreements, contracts, representations and understandings of the parties, either oral or written, relating to the subject matter of this Agreement, including any other housing agreements to the extent they concern housing intended to be paid for in full or part with DDS community placement plan funds. In addition to the foregoing, the parties may enter into start-up contracts and other agreements in the future relating to matters covered by this Agreement; in such event, (1) such contracts and agreements shall remain subject to the terms of this Agreement and (2) if any inconsistency exists between such contracts and agreements and this Agreement, the terms of this Agreement shall govern.

45. Amendment. No supplement, modification, understanding, verbal agreement, or amendment of this Agreement shall be binding unless executed in writing by the REGIONAL CENTERS and Brilliant Corners.

46. No Waiver. No waiver by either REGIONAL CENTER of Brilliant Corners' breach of any provision of this Agreement shall constitute a waiver by the REGIONAL CENTERS in the future of the same or any other subsequent breach by Brilliant Corners. The REGIONAL CENTERS' failure to enforce at any time, or from time to time, any provision of this Agreement shall not be construed as a waiver thereof. No custom or practice that may develop among the parties in the course of administering this Agreement shall be construed to waive any party's right to insist upon the strict performance by the other party of any obligation in the Agreement. The remedies herein reserved shall be cumulative and in addition to any other remedies in law or equity.

47. Address for Notices. Any notices required or permitted under this Agreement shall be in writing and shall be sufficiently given if either delivered in person or mailed by a nationally recognized overnight mail carrier or certified or registered mail, postage prepaid, to the parties at such address as each of them, by notice to the other, may designate from time-to-time, as well as delivered by email. Any written document will be deemed delivered either (a) on the day of the delivery in person, (b) the next business day if delivered by overnight carrier or (c) two business

days after the mailing of such document by certified or registered mail. All notices shall be addressed as follows:

To HRC:

**Harbor Regional Center**  
Attn: Patrick Ruppe  
Executive Director  
21231 Hawthorne Boulevard  
Torrance, CA 90503  
[Patrick.ruppe@harborrc.org](mailto:Patrick.ruppe@harborrc.org)

To FDLRC:

**Frank D. Lanterman Regional Center**  
Attn: Kaye Quintero  
Associate Director, Administrative Services  
3303 Wilshire Boulevard, Suite 700  
Los Angeles, CA 90010-1710  
[KQuintero@lanterman.org](mailto:KQuintero@lanterman.org)

To Brilliant Corners:

**Brilliant Corners**  
Attn. Serena E. Fields  
Director of Housing Development and Management  
527 W. 7<sup>th</sup> St. Floor 11  
Los Angeles, CA 90014

AND

[sfields@brilliantcorners.org](mailto:sfields@brilliantcorners.org)

or to such other address as either party may designate to each other in accordance with the provisions of this section.

48. Further Assurances. The parties acknowledge that this Agreement reflects a new housing model for Clients in California, and it is therefore not possible to precisely identify all matters that should be addressed by this Agreement. As such, Brilliant Corners agrees to enter into amendments to this Agreement which do not materially increase Brilliant Corners' obligations hereunder at the request of either REGIONAL CENTER from time to time, to further reflect and refine the parties' rights and obligations. Brilliant Corners shall also take all actions and execute all documents necessary or appropriate to perform its obligations hereunder. Similarly, the REGIONAL CENTERS agree to support the continued viability of Brilliant Corners' operation of the Property, including discussing with DDS the feasibility of modifying Brilliant Corners' obligations if the strict application of the CPP Guidelines prevents Brilliant Corners from fully satisfying its duties under this Agreement. However, Brilliant Corners understands that the REGIONAL CENTERS do not have the authority to unilaterally modify the CPP Guidelines, the Restrictive Covenant, the DDS Note or the DDS Deed of Trust.

49. No Liability by State of California. Any and all funding from the State of California (the "State") used by FDLRC in the performance of its obligations under this Agreement is subject to appropriation in the annual California State Budget Act by the State Legislature. Thus, (1) this Agreement, as well as all contracts between FDLRC and its Service Provider, are subject to termination without further liability if funding is not appropriated for these purposes by the State Legislature; (2) FDLRC does not act as an agent of the State; (3) FDLRC does have the authority to commit State funding under this Agreement unless funds are appropriated to it by the State

Legislature, either in the State Budget Act or otherwise; and (4) the State is not a party to this Agreement and provides no assurances or commitments as to the availability of State funding during any portion of the term of this Agreement or any Lease.

50. Contingency; DDS Approval. The validity of this Agreement is conditioned on DDS's approval of Brilliant Corners as an entity qualified to acquire and renovate an EBSH within FDLRC's service catchment area under the CPP Guidelines. As part of such approval, DDS may require Brilliant Corners to establish that it is financially capable to own and maintain a property suitable for those Clients that the REGIONAL CENTERS intend to refer for occupancy.

51. Time of the Essence. Time is of the essence with respect to the obligations under this Agreement.

52. California Law; Venue. This Agreement will be construed and enforced in accordance with the laws of the State of California. The venue for any action filed to enforce or interpret this Agreement shall be in Los Angeles, California.


-NO FURTHER TEXT ON THIS PAGE-


53. Counterparts; Delivery. This Agreement may be executed in counterparts, each which shall be deemed an original and all of which shall constitute a single instrument. Signed copies of this Agreement delivered by facsimile or electronically in PDF (or similar format) shall be deemed the same as originals.

Executed in Los Angeles, California as of the date first written above.

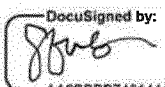
**Harbor Development Disabilities Foundation**, a California nonprofit corporation dba Harbor Regional Center

**Los Angeles County Developmental Services Foundation**, a California nonprofit corporation dba Frank D. Lanterman Regional Center

By:   
Name: Patrick Ruppe  
Title: Executive Director

By:   
Name: Melinda Sullivan  
Title: Executive Director

**Brilliant Corners**,  
a California nonprofit corporation

By:   
Name: Serena E. Fields  
Title: Director of Housing Development and Management

**Exhibits to Housing Agreement**

Exhibit "A" – Memorandum of Understanding  
Exhibit "B" – Available CPP Acquisition and Renovation Funds  
Exhibit "C" – Property Acceptance Agreement  
Exhibit "D" – HRC and FDLRC Commitment Letter  
Exhibit "E" – HDO Lease  
Exhibit "E-1" – HDO Lease Addendum