

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



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

San Francisco Assessor-Recorder  
Carmen Chu, Assessor-Recorder  
**DOC- 2015-K076609-00**

AND WHEN RECORDED MAIL TO:

Acct 28-SFCC Board of Supervisors  
Tuesday, JUN 16, 2015 15:28:11  
Ttl Pd \$0.00 Rcpt # 0005168238  
okc/KC/1-11

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

**ASSIGNMENT AND ASSUMPTION AGREEMENT  
AS TO 2018 WEBSTER STREET, SAN FRANCISCO  
DEVELOPMENT AGREEMENT  
RELATING TO THE CONSTRUCTION AND RECONSTRUCTION  
OF HEALTHCARE FACILITIES IN FURTHERANCE OF THE CALIFORNIA  
PACIFIC MEDICAL CENTER LONG RANGE DEVELOPMENT PLAN**

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (hereinafter, this "**Assignment**") is entered on this 19<sup>th</sup> day of May, 2015, by and between SUTTER WEST BAY HOSPITALS, a California nonprofit public benefit corporation doing business as California Pacific Medical Center ("**CPMC**" or "**Assignor**"), and Luna Lane LLC, a California limited liability company ("**Assignee**").

**RECITALS**

A. Effective as of August 10, 2013, Assignor and the City and County of San Francisco, a political subdivision and municipal corporation of the State of California (the "**City**"), entered into that certain Development Agreement Relating to the Construction and Reconstruction of Healthcare Facilities in Furtherance of the California Pacific Medical Center Long Range Development Plan (the "**Development Agreement**") with respect to certain real property owned by Assignor, as such property is more particularly described in the Development Agreement (the "**Project Sites**"). The Development Agreement was recorded in the Official Records of the City and County of San Francisco on August 12, 2013 as Document No. 2013J728647.

B. Assignor conveyed that certain real property as more particularly identified and described on Exhibit A attached hereto (hereafter the "**Transferred Property**") to Pacific Bay Ventures, LLC on March 10, 2014, who in turn conveyed the Transferred Property to Assignee on July 9, 2014 (the "**Transfer Date**"). The Transferred Property is identified as part of the Pacific Campus Project Site under the Development Agreement and therefore is subject to certain portions of the Development Agreement.

C. The Transferred Property, while identified as a Project Site in Exhibit A-4 of the Development Agreement, does not include or require the completion of any Public Benefits or Public Improvements. There are no Near-Term or Long-Term Projects tied to the Transferred Property.

D. Assignor desires to assign and Assignee desires to assume certain of Assignor's rights and obligations under the Development Agreement with respect to the Transferred Property, as more particularly described below.

### **ASSIGNMENT AND ASSUMPTION**

NOW, THEREFORE, Assignor and Assignee hereby agree as follows:

1. Defined Terms. Initially capitalized terms used herein and not otherwise defined shall have the meaning ascribed to them in the Development Agreement.

2. Assignment of Development Agreement. Except for the Excluded Obligations (as defined below), Assignor hereby assigns to Assignee, effective as of the Transfer Date, the following rights and obligations of Assignor under the Development Agreement with respect to the Transferred Property:

(a) The payment of any and all fees and charges (including, but not limited to, Impact Fees and Exactions as to any future development at the Transferred Property) as set forth in Section 4.7 of the Development Agreement, to the extent any such fees and charges (including, but not limited to, Impact Fees and Exactions) are imposed and payable after the Transfer Date on a development project, application, permit or approval under the Development Agreement or in accordance with applicable law;

(b) Participation in the community visioning process for the Pacific Campus, as described in Exhibit I-2 of the Development Agreement, and the community meetings held by the Pac CAG, by assigning a person to attend and remain involved in the community meetings;

(c) The nondiscrimination requirements as set forth in Section 4.6 of the Development Agreement and the indemnification provisions of Section 4.9 of the Development Agreement, as they relate to the Transferred Property; and

(d) To the extent applicable, the CEQA requirements in Section 4.5 of the Development Agreement and the requirement to cooperate in the event of a Third-Party Challenge as it relates to the Transferred Property or this Assignment as set forth in Section 7.4 of the Development Agreement.

Assignor shall retain, and does not assign to Assignee, all of the obligations relating to the Transferred Property under the Development Agreement that have not been assigned to Assignee, including: (1) all of Assignor's obligations under the community visioning plan for the Pacific Campus described in Exhibit I-2, including establishing the Pac CAG, holding regular public meetings, and facilitating and providing logistical support for all meetings, and scheduling and providing meeting space if needed, the obligations under Section 3 of Exhibit I-2, and the creation of a Pacific Campus Community Visioning Plan under Section 4 of Exhibit I-2; (2) all of Assignor's rights and obligations relating to the Long-Term Projects on the Pacific Campus,

including the construction of any and all Public Improvements and Assignor's obligation to pay the CCHAP Improvement Funds relating to the Pacific Campus, which remain due and payable by Assignor in full as set forth in Exhibit N; (3) Assignor's obligations relating to the Annual Review process as it relates to the Pacific Campus; (4) Assignor's obligations to complete the Public Benefits; and (5) Assignor's obligations to pay the City Costs (as defined in Sections 1.23 and 4.7 of the Development Agreement), including, but not limited to, City Costs relating to the preparation and execution of this Assignment and the City's consent hereto, but not including City Costs incurred after the Transfer Date as a result of the acts or omissions of Assignee with respect to the Transferred Property (collectively, the "**Excluded Obligations**").

Nothing in the Development Agreement, or in this Assignment, gives or restricts the Assignee as to the right to develop the Transferred Property or to change any uses of the Transferred Property. Any development or change in use of the Transferred Property will be in accordance with applicable law, including applicable zoning restrictions. Because there are no Public Benefits or Public Improvements being transferred to Assignee, the City agrees that Assignee shall not be required to submit an annual Compliance Statement and the City will not perform an Annual Review for Assignee. No extension of the Development Agreement as it relates to Assignor or any other Transferee shall extend the Development Agreement for Assignee. The Development Agreement as it relates to the Transferred Property will expire on August 9, 2023 unless sooner terminated in accordance with the terms of the Development Agreement.

Assignee shall have the right, as set forth in Section 7.1 of the Development Agreement, to obtain from the City written confirmation of the completion of performance, revocation or termination of the Development Agreement as it relates to the Transferred Property.

3. Assumption of Obligations Under the Development Agreement. Assignee hereby assumes, from and after the Transfer Date, all of Assignor's rights and obligations under the Development Agreement with respect to the Transferred Property that have been assigned to Assignee as set forth in Paragraph 2 above. The parties intend that, from and after the Transfer Date, Assignee shall become substituted for Assignor as "CPMC" under the Development Agreement with respect to the Transferred Property. Assignee agrees to the provisions of the Development Agreement as needed to provide and enforce the rights and obligations of Assignee under this Assignment, as set forth in Article 9 of the Development Agreement.

4. Future Transfers of Transferred Property. For purposes of future transfers of the Transferred Property in accordance with Section 11 of the Development Agreement, each Assignment and Assumption Agreement shall be in substantially the form hereof.

5. Reaffirmation of Indemnifications; Survival of Public Benefits. Assignee hereby consents to and expressly reaffirms any and all indemnifications of the City set forth in the Development Agreement, including, without limitation, Section 4.9 of the Development Agreement, as it relates to the Transferred Property. Assignor acknowledges and reaffirms that the Public Benefits shall survive the expiration or termination of the Development Agreement and remain in effect in accordance with Section 10.4 of the Development Agreement. Assignor further agrees to indemnify, defend, reimburse and hold the City and its officers, agents and employees harmless from, and, if requested, shall defend them against any and all Losses resulting, directly or indirectly, from any dispute between Assignor and Assignee arising from this Assignment or the Development Agreement as it relates to the Transferred Property.

6. Assignee's Covenants. With respect to the Transferred Property, Assignee hereby covenants and agrees that:

(a) Assignee shall not challenge the enforceability of any provision or requirement of the Development Agreement, including, but not limited to, the liquidated damages provision as set forth in Section 9.4.4 of the Development Agreement; and

(b) Assignee shall not sue the City in connection with (i) any and all disputes between Assignor and Assignee arising from this Assignment or the Development Agreement; (ii) any failure by a party to the Development Agreement to complete all or any part of the Project; or (iii) the City's exercise of rights and remedies permitted under the Development Agreement, notwithstanding any separation of ownership of affected properties.

7. Binding on Successors. All of the covenants, terms and conditions set forth herein shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, successors and assigns.

8. Notices. The notice address for Assignee under Section 13.11 of the Development Agreement shall be:

To: Luna Lane LLC  
Attn: Jonathan Clark  
548 Market St. #40123  
San Francisco, CA 94104-5401

With a copy to: Reuben, Junius & Rose, LLP  
Attn: Tuija Catalano  
One Bush Street, Suite 600  
San Francisco, CA 94104

9. Counterparts. This Assignment may be executed in as many counterparts as may be deemed necessary and convenient, and by the different parties hereto on separate counterparts, each of which, when so executed, shall be deemed an original, but all such counterparts shall constitute one and the same instrument.


10. Governing Law. This Assignment and the legal relations of the parties hereto shall be governed by and construed and enforced in accordance with the laws of the State of California, without regard to its principles of conflicts of law.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK; SIGNATURE PAGE  
FOLLOWS]

IN WITNESS HEREOF, the parties hereto have executed this Assignment as of the day and year first above written.

**ASSIGNOR:**

SUTTER WEST BAY HOSPITALS,  
a California nonprofit public benefit corporation  
doing business as California Pacific Medical  
Center

By:   
Its: President

**ASSIGNEE:**

LUNA LANE LLC,  
a California limited liability company

By: \_\_\_\_\_  
Its: \_\_\_\_\_

**CONSENTED TO AND AGREED TO:**

CITY AND COUNTY OF SAN FRANCISCO,  
a municipal corporation

By: \_\_\_\_\_  
John Rahaim  
Its: Director of Planning

**APPROVED AS TO FORM:**

DENNIS J. HERRERA,  
City Attorney

By: \_\_\_\_\_  
Charles Sullivan  
Its: Deputy City Director

[All Signatures must be Acknowledged]

IN WITNESS HEREOF, the parties hereto have executed this Assignment as of the day and year first above written.

**ASSIGNOR:**

SUTTER WEST BAY HOSPITALS,  
a California nonprofit public benefit corporation  
doing business as California Pacific Medical  
Center

By: \_\_\_\_\_  
Its: \_\_\_\_\_

**ASSIGNEE:**

LUNA LANE LLC,  
a California limited liability company

By: Jonatha Clark  
Its: Managing Member

**CONSENTED TO AND AGREED TO:**

CITY AND COUNTY OF SAN FRANCISCO,  
a municipal corporation

By: \_\_\_\_\_  
John Rahaim  
Its: Director of Planning

**APPROVED AS TO FORM:**

DENNIS J. HERRERA,  
City Attorney

By: \_\_\_\_\_  
Charles Sullivan  
Its: Deputy City Director

[All Signatures must be Acknowledged]



**ACKNOWLEDGMENT**

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

State of California  
County of Sacramento

On May 19, 2015 before me, Wanda D. Terrell, Notary Public  
(insert name and title of the officer)

personally appeared Michael John Cahill  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/hér/théir authorized capacity(ies), and that by his/hér/théir signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature Wanda D. Terrell (Seal)





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

State of California )  
County of ~~San Francisco~~ Sonoma PNB )

On May 19, 2015, before me, Patricia Karen Bettinelli a Notary Public, personally appeared Jonathon Clark, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.



Signature Patricia Karen Bettinelli

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

State of California )  
County of San Francisco )

On \_\_\_\_\_, before me, \_\_\_\_\_, a Notary Public, personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature \_\_\_\_\_

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

State of California )  
County of ~~San Francisco~~ Sonoma PKB )

On May 19, 2015, before me, Patricia Karen Bettinelli a Notary Public, personally appeared Jonathan Clark, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.



Signature Patricia Karen Bettinelli

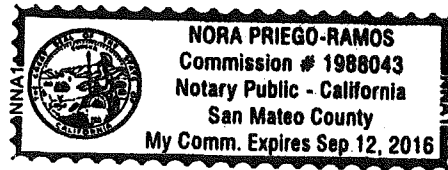
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )  
County of San Francisco )

On May 23, 2015, before me, Nora Priego Ramos, a Notary Public, personally appeared John Pothaim, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.



Signature Nora Priego Ramos

## EXHIBIT A

### Legal Description of the Property

The land referred to is situated in the County of San Francisco, City of San Francisco, State of California, and is described as follows:

Beginning at a point on the Easterly line of Webster Street, distant thereon 132 feet and 6 inches Northerly from the Northerly line of California Street; running thence Northerly along said line of Webster Street 31 feet and 4-1/8 inches; thence at a right angle Easterly 100 feet; thence at a right angle Southerly 31 feet and 4-1/8 inches; thence at a right angle Westerly 100 feet to the point of the beginning.

Being part of Western Addition Block No. 271.

Lot 014 Block 0637