

1 [Assignment and Assumption Agreement - California Housing Finance Agency - Department
2 of Public Health and Rosa Parks II, L.P. - 1239 Turk Street ("Willie B. Kennedy Senior
3 Housing Development") - \$300,000 - FY2017-2018]

4 **Resolution accepting the Mental Health Services Act (MHSA) Assignment and**
5 **Assumption Agreement Loan and related loan documents between the California**
6 **Housing Finance Agency, a public instrumentality and political subdivision of the State**
7 **of California (Assignor), and the San Francisco Department of Public Health (Assignee)**
8 **for the benefit of the Willie B. Kennedy senior housing development, located at 1239**
9 **Turk Street (Project), with Rosa Parks II, L.P., a California limited partnership as owner;**
10 **and authorizing the Mayor on behalf of the City and County of San Francisco, to accept**
11 **the Assignment and Assumption Agreement from Assignor so that Assignee may**
12 **monitor all ongoing oversight and service obligations for the Project under the MHSA**
13 **Permanent Loan Documents and the MHSA Housing Program in accordance with the**
14 **San Francisco Mental Health Services Act Integrated Plan in the loan amount of**
15 **\$300,000 for FY2017-2018.**

16 WHEREAS, The Mental Health Services Act (MHSA), enacted through a California
17 ballot initiative (Proposition 63) in 2004, provides funding to support new and expanded
18 county mental health programs; and

19 WHEREAS, The California Housing Finance Agency (Assignor) has authority to
20 provide the capital financing for special needs housing and originated a permanent loan
21 (MHSA Permanent Loan) pursuant to the MHSA Housing Program to Rosa Parks II, L.P.,
22 (Borrower) in the amount of \$300,000 to support the construction of the Willie B. Kennedy
23 Apartments located at 1239 Turk Street, which has three units dedicated to serve the MHSA
24 senior population, as described in the MHSA Permanent Loan, MHSA Regulatory Agreement,
25

1 Promissory Note and MHSAs Deed of Trust dated July 1, 2017, collectively referred to as the
2 "MHSAs Permanent Loan Documents;" and

3 WHEREAS, Assignor and the San Francisco Department of Public Health (Assignee)
4 determined that under the particular circumstances of the Project, an assignment to the
5 Assignee of all rights and obligations pursuant to the MHSAs Permanent Loan Documents and
6 related obligations is appropriate in that Assignee is already monitoring the MHSAs housing
7 units at the Project as the county implementing agency of the San Francisco MHSAs Housing
8 Program; and

9 WHEREAS, The Borrower shall indemnify Assignor and Assignee and hold their
10 employees, officers, agents and board members harmless against all claims, losses, liabilities,
11 judgments, and costs which arise out of or in connection with the Assignment and the MHSAs
12 Permanent Loan Documents, and

13 WHEREAS, The administrative and direct costs of monitoring the MHSAs Program are
14 included in the San Francisco MHSAs Housing Program; now, therefore, be it

15 RESOLVED, That the Mayor of the City and County of San Francisco is hereby
16 authorized to accept the Assignment and Assumption Agreement of the MHSAs Permanent
17 Loan Documents (the "Assignment and Assumption Agreement") for the benefit of the Project;
18 and, be it

19 FURTHER RESOLVED, That the Board of Supervisors does hereby approve the
20 acceptance of the Assignment and Assumption Agreement of the MHSAs Permanent Loan
21 Documents for the benefit of the Project; and, be it

22 FURTHER RESOLVED, That the San Francisco Department of Public Health is hereby
23 authorized to enter into and execute the Assignment and Assumption Agreement; and, be it
24
25

1 FURTHER RESOLVED, That all actions heretofore taken by the officers of the City
2 with respect to the acceptance of the Assignment and Assumption Agreement as consistent
3 with the documents herein and this Resolution, are hereby approved, confirmed and ratified;
4 and, be it

5 FURTHER RESOLVED, That within thirty (30) days of the contract being fully executed
6 by all parties, the San Francisco Department of Public Health shall provide the final contract to
7 the Clerk of the Board for inclusion into the official file.

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RECORDING REQUESTED BY)
 AND WHEN RECORDED MAIL TO:)
 California Housing Finance Agency)
 Office of General Counsel)
 P.O. Box 4034)
 Sacramento, CA 95814)
)
 No fee for recording pursuant to)
 Government Code Section 27383)

MHSA ASSIGNMENT AND ASSUMPTION AGREEMENT
(MHSA Loan and Related Loan Documents)

CalHFA Development No. 15-009-M

This Assignment and Assumption Agreement (the "*Agreement*") is entered into as of September 1, 2017, by and between the **California Housing Finance Agency**, a public instrumentality and political subdivision of the State of California (the "*Agency*" or "*Assignor*") and the **San Francisco Department of Public Health** ("*Assignee*"), and **Rosa Parks II, L.P.**, a California limited partnership (the "*Borrower*").

R E C I T A L S

A. WHEREAS, pursuant to Chapter 6.3 of Part 3 of Division 31 of the California Health & Safety Code, the Agency has authority to provide for the financing of special needs housing, and the Agency participation in the MHSA Housing Program constitutes authorized financing for special needs housing. The Agency has agreed to originate and service loans from the Mental Health Services Fund (California Welfare & Institution Code Section 5890), created in accordance with the Mental Health Services Act of 2004, Proposition 63 and Executive Order S-07-06 ("*MHSA*"), as a contract administrator on behalf of the California Department of Health Care Services ("*DHCS*"), formerly the California Department of Mental Health, pursuant to the Interagency Agreement dated May 30, 2008.

B. WHEREAS, the Agency made, a permanent loan (the "*MHSA Permanent Loan*") pursuant to the MHSA Housing Program to Borrower. The MHSA Permanent Loan is evidenced by a promissory note from the Borrower to the Agency in the face amount of Three Hundred Thousand and No/100s Dollars (\$300,000.00), titled "California Housing Finance Agency, MHSA Promissory Note, CalHFA Development No. 15-009-M, (Permanent Financing/Residual Receipts)" (the "*MHSA Promissory Note*") and secured by a deed of trust. The deed of trust is being executed by Borrower, as trustor, to Old Republic Title Company, as trustee, in favor of the Agency, as beneficiary, and is titled "California Housing Finance Agency, MHSA Deed of Trust With Assignment of Rents, Security Agreement and Fixture Filing, CalHFA Development No. 15-009-M" dated July 1, 2017 (the "*MHSA Deed of Trust*") recorded on July 20, 2017 in the Official Records as Instrument No. 2017-K478988. The Development (defined below) shall also be regulated and encumbered by a regulatory agreement executed by Borrower and the Agency titled "California Housing Finance Agency, MHSA Regulatory Agreement (Mental Health Services Act Housing Program), CalHFA Development No. 15-009-M" dated as of July 1, 2017 (the "*MHSA Regulatory Agreement*") recorded on July 20, 2017, in the Official Records as Instrument No. 2017-K478987. Unless otherwise noted, references to

instruments recorded in "*Official Records*" refer to instruments recorded in the Office of the County Recorder of the County of San Francisco.

The MHSA Permanent Loan, MHSA Regulatory Agreement, MHSA Promissory Note, MHSA Deed of Trust and related unrecorded documents shall hereafter be collectively referred to herein as the "*MHSA Permanent Loan Documents*".

C. WHEREAS, Borrower has obtained a commitment from the United States Department of Housing and Urban Development ("*HUD*") pursuant to the HUD Section 202 Supportive Housing for the Elderly Program ("*HUD 202 Program*") to finance a multifamily residential rental housing project on real property located in the City of San Francisco, County of San Francisco, California and more particularly described on Exhibit A attached hereto and incorporated herein by this reference (the "*Development*").

D. WHEREAS, the Agency has, with the written approval of DHCS, determined that under the particular circumstances of this Development, an assignment to the Assignee of all rights and obligations pursuant to the MHSA Permanent Loan Documents and related obligations pursuant to the MHSA Housing Program with respect to the Development is appropriate.

E. WHEREAS, this assignment and assumption shall include all of the Agency's obligations related to the construction period activities, all MHSA post-closing requirements and all ongoing monitoring and servicing obligations for the Development under the MHSA Permanent Loan Documents and the MHSA Housing Program with respect to the Development.

F. WHEREAS, the Assignor and Assignee are entering into this Agreement in order to effectuate the assignment by Assignor and the acceptance and assumption by the Assignee, of all of Assignor's rights and obligations under the MHSA Permanent Loan Documents and the MHSA Housing Program with respect to the Development.

NOW THEREFORE, in consideration of the foregoing, of the mutual promises of the parties hereto and for other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, Assignor and Assignee agree as follows:

1. Assignment. Assignor hereby assigns to Assignee all of Assignor's right, title, and interest in and obligations under the MHSA Permanent Loan Documents and the MHSA Housing Program with respect to the Development.

2. Acceptance of Assignment. Assignee accepts the above assignment of Assignor's right, title and interest in, and assumes all obligations under, the MHSA Permanent Loan Documents and MHSA Housing Program with respect to the Development, and agrees to perform all of Assignor's obligations and covenants under the MHSA Permanent Loan Documents and MHSA Housing Program with respect to the Development as if Assignee were the original signatory thereto. Assignee acknowledges and agrees that upon execution of this Agreement, Agency shall have no further obligations under the MHSA Permanent Loan Documents and MHSA Housing Program with respect to the Development.

3. Representations.

(a) Assignee represents and warrants to Assignor that the execution and delivery by Assignee of this Agreement, the consummation of the transaction contemplated by this Agreement, and the performance and compliance by Assignee with the terms of this Agreement, the MHSA Permanent Loan Documents have been duly authorized by all necessary action on the part of Assignee. This Agreement has been duly executed and delivered by Assignee and constitutes a legal, valid and binding obligation of Assignee enforceable against Assignee in accordance with its terms.

(b) Assignor represents and warrants that it has not previously assigned, pledged, hypothecated or otherwise transferred any of its rights or obligations under the MHSA Permanent Loan Documents.

4. Reporting and Other MHSA Housing Program Requirements. Assignee hereby covenants and agrees to comply with all reporting and other requirements of the MHSA Housing Program as required by DHCS.

5. Indemnity.

(a) Indemnification of Assignor and Assignee by Borrower. The Borrower shall indemnify, defend (with counsel reasonably chosen by the Assignor and/or Assignee (together, the "Indemnitees"), at the Indemnitees' option), and hold the Indemnitees, and their employees, officers, agents, and board members harmless against all claims, losses, liabilities, judgments, and costs, including without limitation, reasonable legal fees, which arise out of or in connection with this Agreement, the MHSA Permanent Loan, including without limitation the underwriting, due diligence, lien priority, title insurance, inspections, closing and post-closing activities related to the MHSA Permanent Loan, the MHSA Permanent Loan Documents, the ownership or occupancy of or construction on or in connection with the Development (including, without limitation, rehabilitation) by the Borrower or the Borrower's contractors, subcontractors, agents, employees, or tenants, including claims resulting from the Borrower's failure to comply with Article XXXIV of the California Constitution, federal, state and local Fair Housing laws regarding discrimination in rental housing, handicapped accessibility, prevailing wage (California Labor Code Section 1720 et seq.) and/or Davis Bacon (40 U.S.C. 276(a) et seq.) (as applicable), and the relocation of persons displaced by the Development.

Notwithstanding the foregoing indemnification by Borrower to the Indemnitees, in the event of any conflicts or inconsistencies in the indemnity of the Indemnitees as provided in this Paragraph 5(a) and the limitations and restrictions with respect to indemnifications provided by the Borrower as set forth in Paragraph 6, Indemnification, of the HUD-Required Provisions Rider attached to and made a part of the MHSA Permanent Loan Documents (the "HUD-Required Provisions Rider"), the provisions as set forth in said Paragraph 6 of the HUD-Required Provisions Rider shall govern and prevail.

(b) Indemnification of Agency by Assignee. The Assignee shall indemnify, defend (with counsel reasonably chosen by the Agency, at the Agency's option), and hold the Agency, and its employees, officers, agents, and board members harmless against all claims, losses, liabilities, judgments, and costs, including without limitation, reasonable legal fees, which arise out of or in connection with this Agreement, the MHSA Permanent Loan, including without

limitation the underwriting, due diligence, lien priority, title insurance, inspections, closing and post-closing activities related to the MHSA Permanent Loan, the MHSA Permanent Loan Documents, the ownership or occupancy of or construction on or in connection with the Development (including, without limitation, rehabilitation) by the Borrower or the Borrower's contractors, subcontractors, agents, employees, or tenants, including claims resulting from the Borrower's failure to comply with Article XXXIV of the California Constitution, federal, state and local Fair Housing laws regarding discrimination in rental housing, handicapped accessibility, prevailing wage (California Labor Code Section 1720 et seq.) and/or Davis Bacon (40 U.S.C. 276(a) et seq.) (as applicable), and the relocation of persons displaced by the Development. The Assignee agrees that the Assignee, and not the Agency, is responsible for ensuring compliance with all such laws.

6. Remedies. In the event that the Assignee breaches any representation or warranty or fails to perform any of its obligations under this Agreement, the Assignor shall have all rights and remedies at law or in equity, including the right to seek specific performance, injunctive relief, or such other equitable relief as it may deem appropriate; provided, however, any actions by the Assignor hereunder is consistent with federal and State laws and regulations. Nothing herein shall be deemed to limit the Assignor's remedies at equity or in law, it being understood and agreed that the remedies available to the Assignor in the event that the Assignee breaches any representation or warranty or fails to perform any of its obligations are cumulative and not exclusive of any other remedies.

7. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

8. Waiver by Agency. No waiver by the Agency of any breach of or default under this Agreement shall be deemed to be a waiver of any other or subsequent breach thereof or default hereunder.

9. Amendments; Consents and Waivers; Entire Agreement. No modification, amendment or waiver of any provision of this Agreement shall be effective unless it shall be in writing and signed by each of the parties hereto. Any waiver or consent shall be effective only in the specific instance and for the purpose for which given. This Agreement embodies the entire agreement of Assignor and Assignee with respect to the assignment and assumption of the MHSA Permanent Loan and the MHSA Permanent Loan Documents and supersedes all prior agreements and understandings between the parties relating to the subject hereof.

10. Attorney Fees. In any action to enforce or defend any provision of this Agreement, the prevailing party or parties shall be entitled to costs and reasonable attorney fees.

11. California Law. This Agreement shall be governed by and interpreted in accordance with the laws of the State of California.

12. Invalidity. Any provision of the Agreement which is determined by a court to be invalid or unenforceable shall be deemed severed herefrom, and the remaining provisions shall remain in full force and effect as if the invalid or unenforceable provision had not been a part hereof.

13. No Inference. The parties hereto acknowledge and agree that this Agreement is the product of negotiation between Assignor and Assignee and that the language and terms of this

Agreement shall not be interpreted or construed in favor of or against any one party by reason thereof.

14. Counterparts. This Agreement may be signed in counterparts, each of which shall constitute one and the same instrument.

15. All Prior Versions of the Agreement As Void. This Agreement is the final agreement among the Assignor, Assignee and Borrower with respect to the assignment of the MHSA Permanent Loan and MHSA Permanent Loan Documents from Assignor to Assignee; and all prior agreements with respect to this subject matter, whether partially or fully executed, shall be construed as superseded in its entirety by this Agreement, and, thus, construed as null and void.

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IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

ASSIGNOR:

CALIFORNIA HOUSING FINANCE AGENCY, a public instrumentality and political subdivision of the State of California

By: _____
Name: _____
Title: _____

ASSIGNEE:

SAN FRANCISCO DEPARTMENT OF PUBLIC HEALTH

By: _____
Name: _____
Title: _____

Approved as to Form:

Dennis J. Herrera
City Attorney

By: _____
Heidi Gewertz, Deputy City Attorney

BORROWER:

ROSA PARKS II, L.P.
a California limited partnership

By: **Rosa Parks II GP LLC**, a California limited liability company
Its: **General Partner**

By: **Turk Street, Inc.**, a California nonprofit public benefit corporation
Its: **Sole Member/Manager**

By: _____
Name: _____
Title: _____

EXHIBIT A

Legal Description

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

Leasehold estate as created by that certain lease dated March 10, 2009, made by and between The Housing Authority of the City and County of San Francisco, a public body corporate and politic, as lessor, and Rosa Parks II, L.P., a California limited partnership, as lessee, for the term and upon the terms and conditions contained in said lease and subject to provisions contained in the lease which limit the right of possession, Memorandum of Ground Lease thereof recorded March 13, 2009 in Reel J847 of Official Records, Image 0093 under Recorder's Serial Number 2009-I732538-00.

An Amendment to the terms of said Lease was recorded on October 2, 2014 under Recorder's Serial Number 2014-J957486-00.

PARCEL ONE:

Lot 27, Parcel A, as shown on Parcel Map 5436, filed in the Office of the Recorder of the City and County of San Francisco, State of California on January 30, 2009 in Book 47 of Parcel Map, Pages 179 and 180, inclusive.

APN: Lot 027 (formerly Lot 025); Block 0757

PARCEL TWO:

A non-exclusive easement for ingress and egress, as defined in Section 2(c) (i) (ii) and (iii) of the Reciprocal Easement, Joint Use and License Agreement recorded June 20, 2014 in Official Records under Recorder's Serial Number 2014-J897103-00, over that portion of Parcel B as shown on Parcel Map 5436, filed in the office of the recorder of the City and County of San Francisco, State of California in Book 47 of Parcel Maps at page 179, described as follows:

Beginning at the northwesterly corner of Parcel B as shown on Parcel Map 5436, filed in the office of the recorder of the City and County of San Francisco, State of California in Book 47 of Parcel Maps at page 179; thence easterly along the northerly line of said Parcel B 49.67 feet to an angle point in the northerly line; thence northerly along the northerly line of said Parcel B 5.00 feet to an angle point in the northerly line of said Parcel B; thence easterly along the northerly line of said Parcel B 123.00 feet; thence at a right angle southerly 7.30 feet; thence at a right angle westerly 25.70 feet; thence at a right angle southerly 12.72 feet; thence at a right angle westerly 92.32 feet; thence at a right angle southerly 5.61 feet; thence at a right angle westerly 20.51 feet; thence at a right angle southerly 0.79 feet; thence at a right angle westerly 23.43 feet; thence deflecting 45°00'00" to the right 10.50 feet; thence deflecting 45°00'00" to the left 3.28 feet to the westerly line of Parcel B; thence northerly along the westerly line of said Parcel B a distance of 14.00 feet to the point of beginning.

ACKNOWLEDGEMENT

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 _____

On _____ before me, _____ (*insert the name and title of the officer*), personally appeared _____ (*insert name of signer*), 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 is true and correct.

WITNESS my hand and official seal.

(Signature) _____ (Seal)

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 _____

On _____ before me, _____ (*insert the name and title of the officer*), personally appeared _____ (*insert name of signer*), 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 is true and correct.

WITNESS my hand and official seal.

(Signature) _____ (Seal)

ACKNOWLEDGMENT

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STATE OF CALIFORNIA

COUNTY OF _____

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

WITNESS my hand and official seal.

_____ (*Seal*)
(*Signature*)

**1239 Turk Street – Willie B Kennedy Apartments (formerly called “Rosa Parks II”)
Fact Sheet**

The Tenderloin Neighborhood Development Corporation (TNDC) developed Willie B. Kennedy Apartments, a new 98-unit, five-story affordable senior housing development located at the corner of Turk and Webster streets in the Western Addition. The building received one of HUD’s last construction funding grants for senior housing (known as HUD Section 202), and has HUD operating subsidies on all of the rental units, so that tenants pay only 30% of their income in rent. The building completed construction in July and fully leased up by the end of 2016.

The building was constructed on the former parking lot of Rosa Parks Apartments, an eleven-story, 198-unit public housing building constructed, owned and operated by the San Francisco Housing Authority since 1959. TNDC acquired Rosa Parks Apartments through the HUD Rental Assistance Demonstration (RAD) program in 2016. The original parking spaces for Rosa Parks Apartments, which made way for Willie B. Kennedy Apartments, were replaced in the ground floor garage and behind the Rosa Parks building. The two buildings create a senior campus with services and programming across both sites.

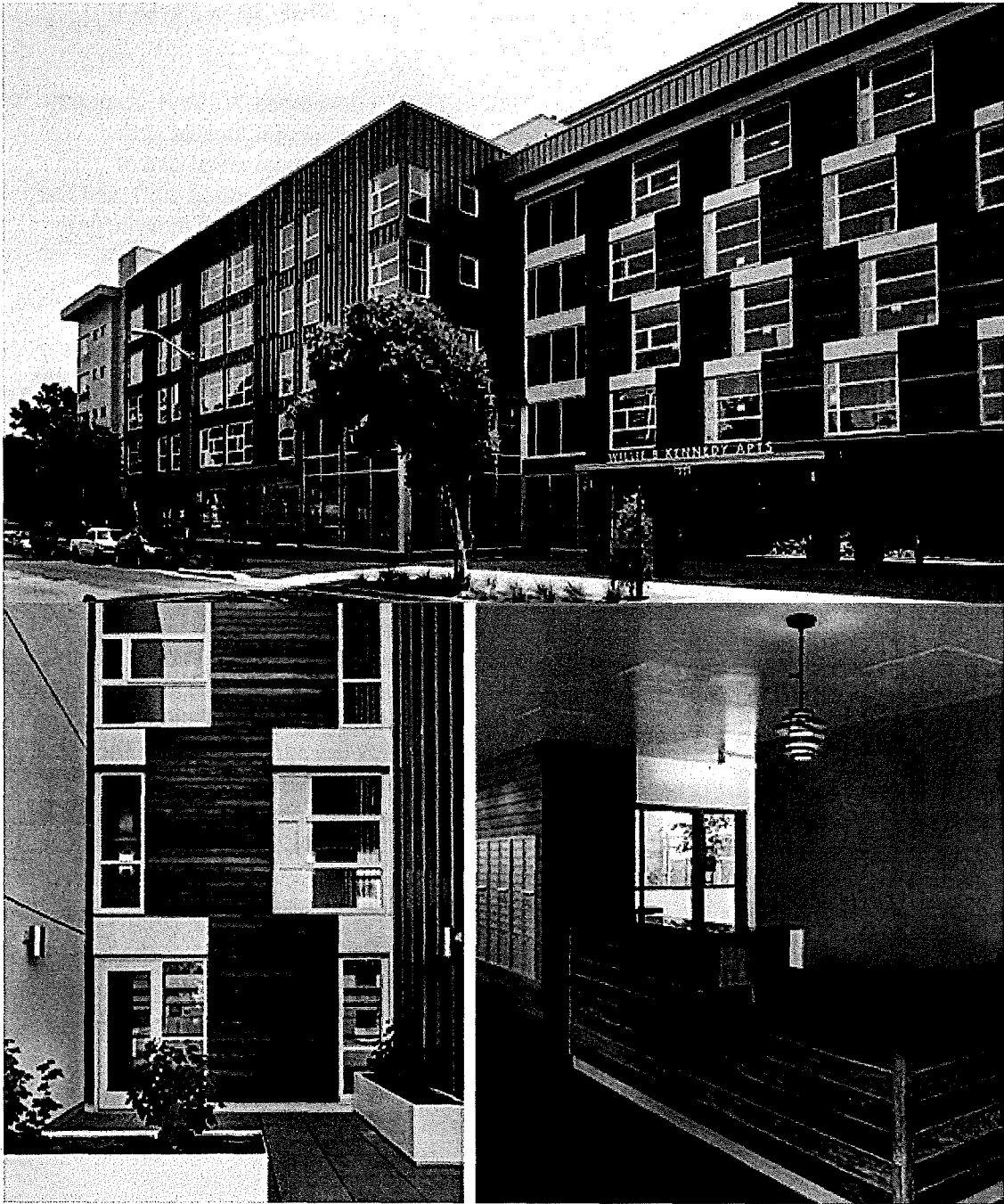
Willie B. Kennedy contains 98 units (32 studios and 65 one-bedroom) for very low-income seniors, including 20 units targeted to formerly homeless seniors plus one resident manager’s unit. The 20 units targeted to formerly homeless seniors are referred by the Department of Homelessness and Supportive Housing, **including three units for clients of the State’s Mental Health Service Act (MHSA) program for people with serious mental illness.** This targeting for the MHSA senior population was made possible by an award by CalHFA of \$300,000 MHSA capital dollars to support the construction of the housing. CalHFA has agreed to assign the MHSA permanent loan to SF DPH which administers San Francisco’s MHSA programs and funding. An MHSA Assignment and Assumption Agreement has been negotiated between DPH, CalHFA and the borrower, Rosa Parks II, L.P., with an affiliate of TNDC as the General Partner.

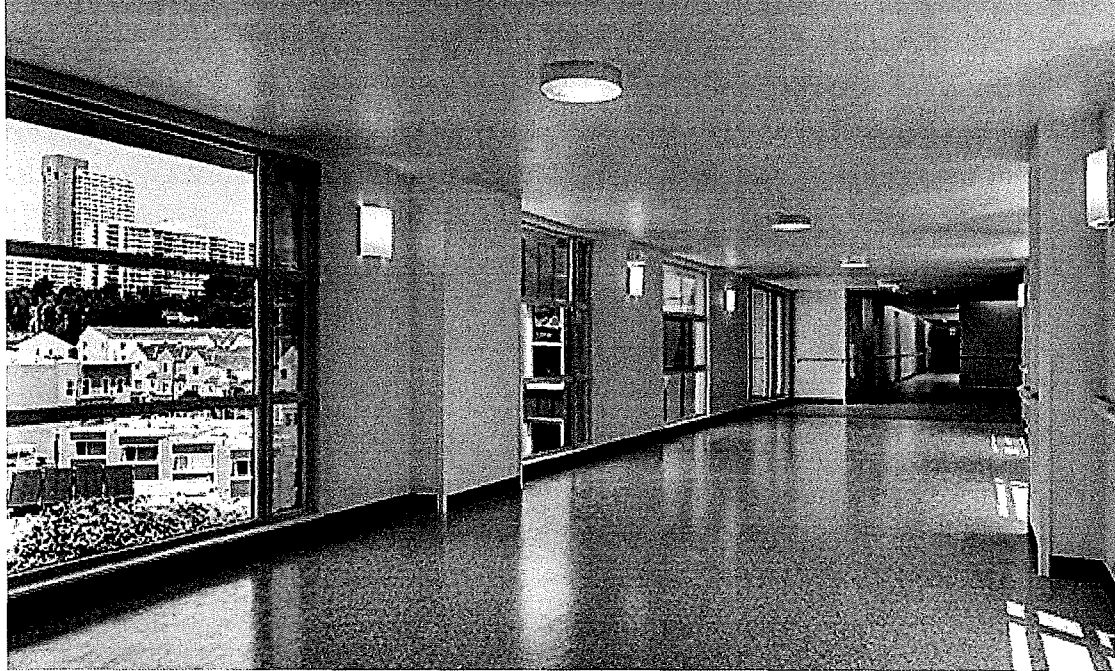
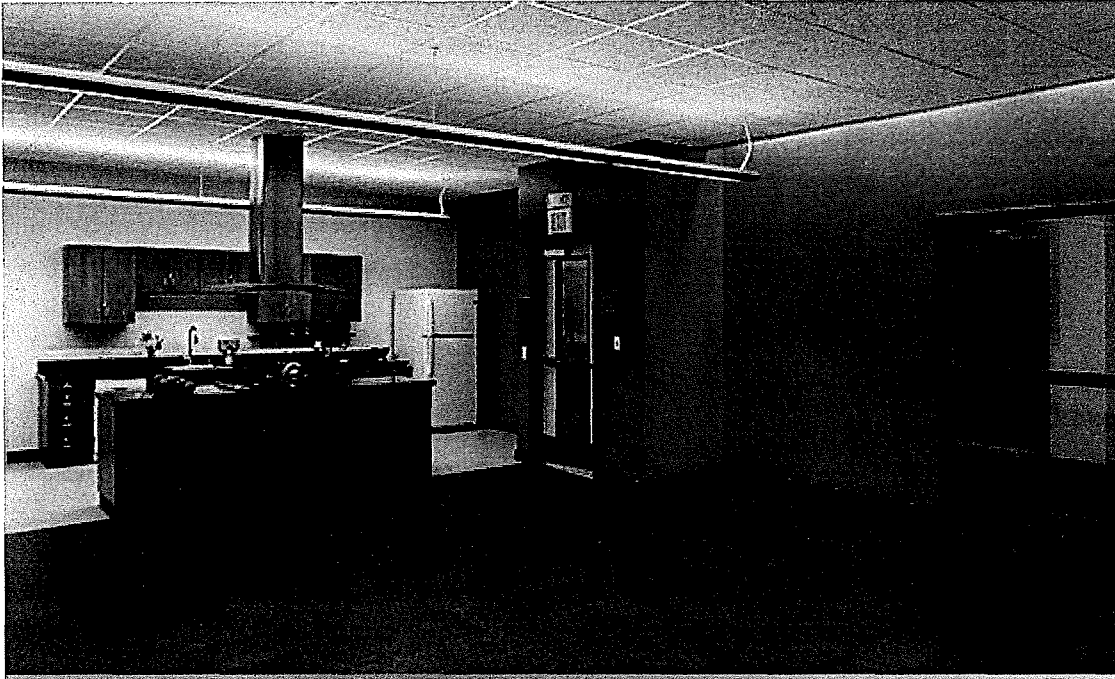
Almost 6,000 people applied for the 77 non-homeless set-aside units.

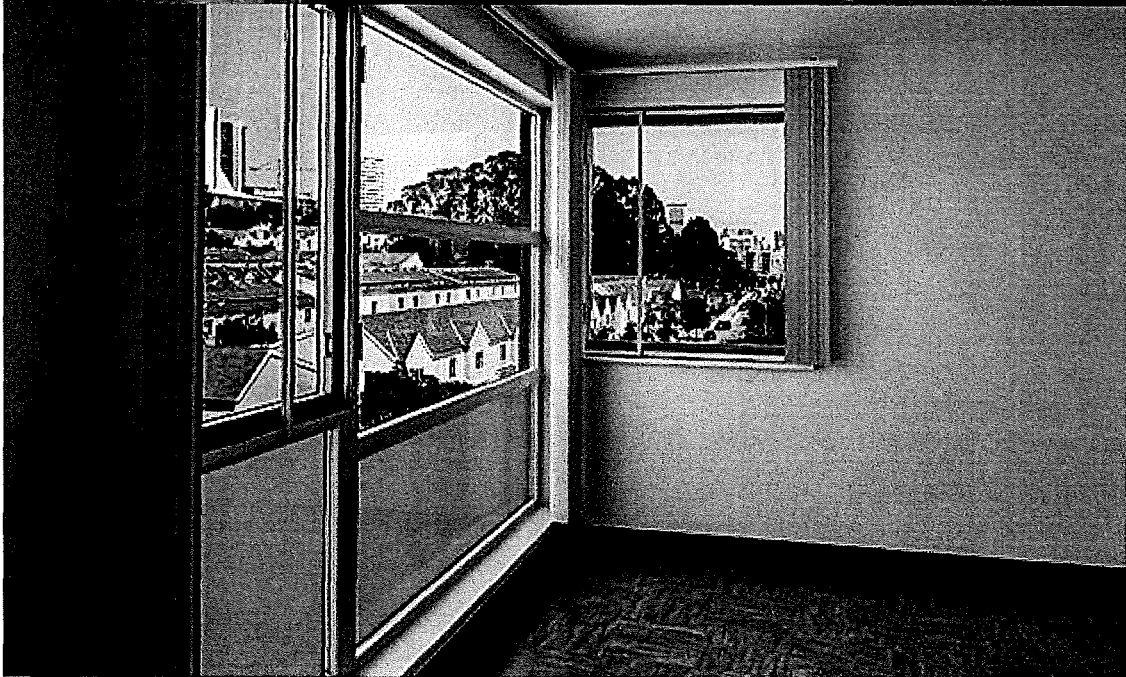
Total Development Cost: \$49.7 million	
HUD 202	\$15.3 Million
Tax Credit Equity	\$17.6 million
MOHCD	\$14.1 Million
AHP	\$970,000
GP Contribution	\$500,000
CalHFA MHSA	\$300,000

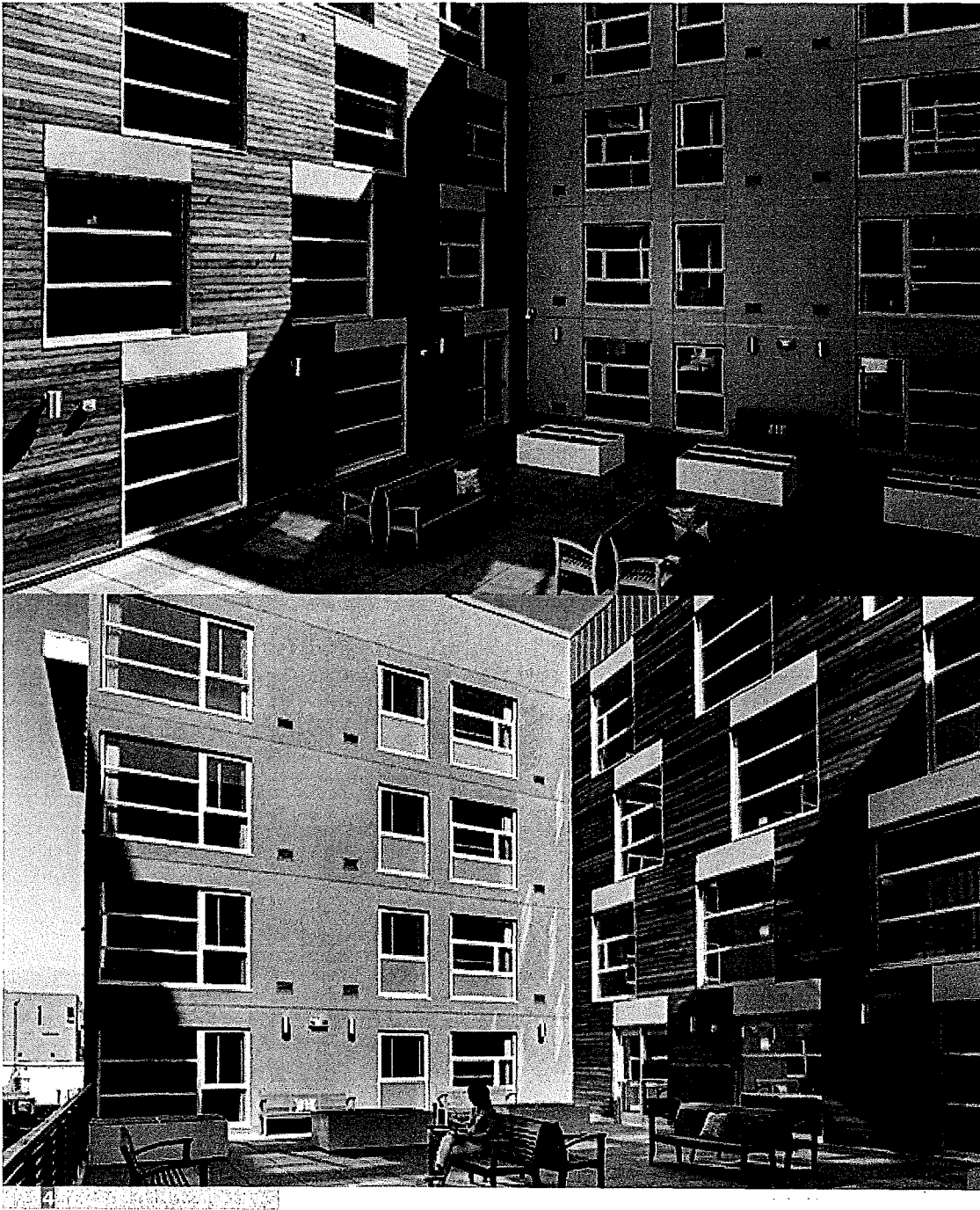
Developer: TNDC Architect: MWA Architects Contractor: Cahill Contractors

All units restricted at 50% unadjusted AMI. 97 units have PRAC subsidy plus 1 manager’s unit.











Willie B. Kennedy Apartments - Senior Housing

Photos by MWA Architects

OFFICE OF THE MAYOR
SAN FRANCISCO



EDWIN M. LEE

TO: Angela Calvillo, Clerk of the Board of Supervisors
FROM:  Mayor Edwin M. Lee 
RE: DPH Community Behavioral Health Services - Assignment and Assumption Agreement – MHSA Loan Program - \$300,000 – FY 2017-18
DATE: October 31, 2017

Attached for introduction to the Board of Supervisors is a resolution accepting the Mental Health Services Act (MHSA) Assignment and Assumption Agreement Loan and Related Loan Documents between the California Housing Finance Agency, a public instrumentality and political subdivision of the State of California (Assignor), and the San Francisco Department of Public Health (Assignee) for the benefit of the Willie B. Kennedy senior housing development, located at 1239 Turk Street (Project), with Rosa Parks II, L.P., a California limited partnership as owner (Borrower); and authorizing the Mayor on behalf of the City and County of San Francisco, to accept the Assignment and Assumption Agreement from Assignor so that Assignee may monitor all ongoing oversight and service obligations for the Project under the MHSA Permanent Loan Documents and the MHSA Housing Program in accordance with the San Francisco Mental Health Services Act Integrated Plan.

Should you have any questions, please contact Mawuli Tugbenyoh (415) 554-5168.

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