

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 )

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**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.

*REMAINDER OF PAGE INTENTIONALLY LEFT BLANK*  
*Document continues on next page*

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 [2009-1732538-00](#).

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.

\_\_\_\_\_ (*Seal*)  
(*Signature*)

**ACKNOWLEDGMENT**

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STATE OF CALIFORNIA

COUNTY OF \_\_\_\_\_

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\_\_\_\_\_ (*Seal*)  
(*Signature*)

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\_\_\_\_\_  
(*Signature*) \_\_\_\_\_ (*Seal*)