

Recording Requested by:

City of Mountain View  
P.O. Box 7540  
Mountain View, CA 94039-7540

*This Instrument Benefits City Only.  
No Fee Required. Gov. C. 6103*

SPACE ABOVE THIS LINE FOR RECORDER'S USE

APN: 274-41-075

Property Address: 101 North Bascom Avenue, San Jose, CA 95128

**ASSIGNMENT AND ASSUMPTION AGREEMENT**

BY AND BETWEEN VISTA CENTER FOR THE BLIND AND VISUALLY IMPAIRED, A CALIFORNIA NONPROFIT CORPORATION ("**ASSIGNEE**"), SANTA CLARA VALLEY BLIND CENTER, INC., A CALIFORNIA NONPROFIT CORPORATION FORMERLY KNOWN AS SANTA CLARA COUNTY RECREATION FOR THE BLIND, INC. ("**ASSIGNOR**") AND CONSENT THERETO BY THE CITY OF MOUNTAIN VIEW ("**CITY**") FOR THE AGREEMENT BY AND BETWEEN THE CITY OF MOUNTAIN VIEW AND THE SANTA CLARA VALLEY BLIND CENTER, INC., FOR THE PROVISION OF COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS DATED JANUARY 1, 2008 (the "**CDBG AGREEMENT**")

This Assignment and Assumption Agreement (the "**Agreement**"), dated as of \_\_\_\_\_, 2018 (the "**Effective Date**"), is made and entered into by and between ASSIGNOR and ASSIGNEE with respect to the property located at 101 North Bascom Avenue, San Jose, California, 95128, and pursuant to the above-described CDBG AGREEMENT, including:

1. Agreement between the City of Mountain View and Santa Clara Valley Blind Center, Inc., for the Provision of Community Development Block Grant Funds (in the amount of Sixty-Five Thousand Dollars (\$65,000)) dated January 1, 2008, and recorded April 24, 2008 as Instrument No. 19825931; and as subsequently amended on December 1, 2008, and recorded on January 5, 2009 as Instrument No. 20083856;

2. Deed of Trust with Assignment of Rents Community Development Block Grant Program dated January 1, 2008 and recorded April 9, 2008 as Instrument No. 19808110; and

3. Promissory Note to be executed by ASSIGNOR. A copy of the original Promissory Note referenced in the CDBG AGREEMENT cannot be located after a duly

diligent search by the parties. The parties, therefore, agree it is appropriate under these circumstances for ASSIGNOR to reexecute a Promissory Note to effectuate the assignment.

All of the above agreements, cumulatively and individually, shall hereinafter be referred to as the “**Loan Documents.**”

WHEREAS, pursuant to that certain Agreement of Merger to be dated effective \_\_\_\_\_, 2018 (the “**Merger Effective Date**”), ASSIGNOR will be deemed to have assigned to ASSIGNEE and ASSIGNEE will be deemed to have assumed from ASSIGNOR as of the Merger Effective Date all of the assets, liabilities, and obligations of ASSIGNOR, including, among other things: (i) all rights, title and interest of ASSIGNOR in and to the real property located at 101 North Bascom Avenue, San Jose, California (the “**Property**”) including, but not limited to, any leases, subleases, or licenses of the Property by third parties, all furniture, fixtures, and equipment of ASSIGNOR located on the Property (“**FF&E**”); and (ii) all rights and obligations of ASSIGNOR in, to, and under all Loan Documents, (the “**Assignment**”);

WHEREAS, as of the Merger Effective Date, ASSIGNOR will be merged into ASSIGNEE with ASSIGNEE remaining as the sole surviving entity (the “**Merger**”);

WHEREAS, as part of the Merger, ASSIGNOR will be executing and recording a Quitclaim Deed transferring title of the Property to ASSIGNEE;

WHEREAS, ASSIGNOR and ASSIGNEE have agreed to enter into this Agreement at the request of CITY in order to document the Assignment and Assumption of the Loan Documents and the transfer of title to the Property in conjunction with the CITY’s granting of its advance written consent to: (i) the Merger; (ii) the Assignment; and (iii) the transfer of the Property to ASSIGNEE; and

WHEREAS, CITY agrees to acknowledge and consent to: (i) the Merger; (ii) the Assignment; and (iii) the transfer of the Property to ASSIGNEE for all purposes under the Loan Documents;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is agreed as follows:

Section 1. Assignment and Assumption. As of the Merger Effective Date, ASSIGNOR hereby assigns, conveys, transfers, and delegates to ASSIGNEE and its successors and assigns all of ASSIGNOR’s rights, title, and interest in the Property (including all third-party leases and all FF&E located on the Property) and all rights and obligations under the Loan Documents. As of the Merger Effective Date, ASSIGNEE hereby accepts and assumes all of ASSIGNOR’s rights, title, and interest in the Property and assumes all obligations of ASSIGNOR under the Loan Documents (including the

obligation to perform services for the blind and visually impaired for the duration of the CDBG Agreement (fifteen (15) years through December 31, 2022).

Section 2. Acknowledgement and Consent of CITY. CITY hereby: (i) acknowledges and consents to the Assignment pursuant to Section 1, above, for all purposes under the Loan Documents and to the terms and conditions set forth in this Agreement; and (ii) agrees that, notwithstanding anything to the contrary in the Loan Documents, ASSIGNEE, and not ASSIGNOR, will be solely obligated to fulfill all of the obligations of ASSIGNOR under the Loan Documents. CITY agrees to waive any Section(s) of the Loan Documents which would otherwise eliminate any right of ASSIGNEE, upon consummation of the Merger, to terminate the Loan Documents early pursuant to any early termination option, or otherwise cancel any right or benefit of ASSIGNEE and CITY agrees specifically that ASSIGNEE may exercise all such options, benefits, and rights as if it were the original named party under the Loan Documents.

Section 3. Representations and Warranties.

1. *ASSIGNOR Representations.* ASSIGNOR hereby represents and warrants to CITY and to ASSIGNEE the following:

a. ASSIGNOR is a nonprofit corporation duly organized, validly existing and in good standing under the laws of the State of California.

b. ASSIGNOR has full corporate power and authority to execute and deliver this Agreement, and to perform its obligations hereunder. The execution and delivery by ASSIGNOR of this Agreement and the performance of its obligations hereunder has been duly and validly authorized and no additional corporate or shareholder authorization or consent is required in connection with the execution and delivery by ASSIGNOR of this Agreement and the performance of its obligations hereunder.

c. This Agreement, when executed and delivered by the other parties hereto, constitutes a valid and legally binding obligation of ASSIGNOR, enforceable against ASSIGNOR in accordance with its terms.

d. The execution and delivery by ASSIGNOR of this Agreement and the performance of its obligations hereunder, and the consummation of the transactions contemplated hereby, do not and will not violate any provision of the articles of incorporation, bylaws, or other organizational documents of ASSIGNOR.

2. *ASSIGNEE Representations.* ASSIGNEE hereby represents and warrants to CITY and to ASSIGNOR the following:

a. ASSIGNEE is a nonprofit corporation duly organized, validly existing, and in good standing under the laws of California.

b. ASSIGNEE has full corporate power and authority to execute and deliver this Agreement, and to perform its obligations hereunder. The execution and delivery by ASSIGNEE of this Agreement and the performance of its obligations hereunder has been duly and validly authorized and no additional corporate or shareholder authorization or consent is required in connection with the execution and delivery by ASSIGNEE of this Agreement and the performance of its obligations hereunder.

c. This Agreement, when executed and delivered by the other parties hereto, constitutes a valid and legally binding obligation of ASSIGNEE, enforceable against ASSIGNEE in accordance with its terms.

d. The execution and delivery by ASSIGNEE of this Agreement and the performance of its obligations hereunder, and the consummation of the transactions contemplated hereby, do not and will not violate any provision of the articles of incorporation, bylaws, or other organizational documents of ASSIGNEE.

e. To the best of ASSIGNEE's knowledge, there are no defaults existing and no event has occurred which, with the passage of time and giving of notice or both, could result in a default under the Loan Documents on the part of either ASSIGNEE or CITY.

3. *CITY Representations.* CITY hereby represents and warrants to ASSIGNOR and ASSIGNEE the following:

a. CITY is a municipal corporation duly organized, validly existing, and in good standing under the laws of the State of California.

b. CITY's consent to the terms of this Agreement does not and will not violate any provision of the CITY Charter, articles of incorporation, bylaws, or other organizational documents of CITY.

c. To the best of CITY's knowledge, there are no defaults existing and no event has occurred which, with the passage of time and giving of notice or both, could result in a default under the Loan Documents on the part of either ASSIGNEE or CITY.

d. To the best of CITY's knowledge, all improvements and alterations made by ASSIGNEE to the Property have been completed to the satisfaction of CITY and in accordance with the Loan Documents.

Section 6. Modifications. This Agreement may not be amended or modified except by a written agreement signed by the parties hereto.

Section 7. Obligations of ASSIGNOR. ASSIGNOR agrees to provide keys and/or access cards to the Premises and the Building on the Merger Effective Date.

Section 8. Counterparts. This Agreement may be executed in one (1) or more counterparts, each of which shall be deemed an original, and all of which shall constitute one and the same Agreement.

Section 9. Further Assurances. Each party hereto shall promptly execute, acknowledge, and deliver any other assurances or documents or instruments of transfer reasonably requested by any other party hereto and necessary for the requesting party to satisfy its obligations hereunder or to obtain the benefits of the transactions contemplated hereby.

Section 10. Governing Law. This Agreement shall be governed by, interpreted under and construed and enforced in accordance with the laws of the State of California.

Section 11. Notices.

a. All notices, requests, instructions, or other communications or documents to be given or made hereunder by any Party to the other Party shall be in writing and: (1) served by personal delivery upon the Party for whom it is intended; (2) sent by an internationally recognized overnight courier service to the Party for whom it is intended; or (3) sent by U.S. Postal Service, Certified Mail, Return Receipt Requested, postage prepaid:

to ASSIGNOR:

Santa Clara Valley Blind Center, Inc.  
101 North Bascom Avenue  
San Jose, CA 95128  
Attention: Judith Arvidson, Interim Executive Director  
Telephone: 408-295-4016  
E-mail: jarvidson@visionbeyondsight.org

to ASSIGNEE:

Vista Center for the Blind and Visually Impaired  
2500 El Camino Real, Suite 100  
Palo Alto, CA 94306  
Attention: Pam Brandin, Executive Director  
Telephone: 650-858-0202 x 119  
E-mail: pbrandin@vistacenter.org

to CITY:

City of Mountain View  
Community Development Department  
Attention: Housing and Neighborhood Services Manager  
500 Castro Street  
P.O. Box 7540  
Mountain View, CA 94039-7540

or to such other Person or address as has been designated in writing by the Party to receive such notice provided above. Any notice, request, instruction, or other communications or document given as provided above shall be deemed given to the receiving party: (1) upon actual receipt, if delivered personally; (2) on the second Business Day after deposit with an overnight courier, if sent by an overnight courier; or (3) on the third Business Day after deposit with the USPS sent certified, return receipt requested.

Section 15. Headings. The headings of this Agreement are for purposes of reference only and shall not limit or otherwise affect the meaning or interpretation of this Agreement.

Section 16. Other Defined Terms. Capitalized terms not otherwise defined in this Agreement shall have the meaning assigned to them in the Loan Documents.

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

ASSIGNOR: SANTA CLARA VALLEY BLIND CENTER, INC.

By: \_\_\_\_\_  
Name: Judith Arvidson  
Title: Interim Executive Director

ASSIGNEE: VISTA CENTER FOR THE BLIND AND VISUALLY IMPAIRED

By: \_\_\_\_\_  
Name: Pam Brandin  
Title: Executive Director

NOW, THEREFORE, CITY states and agrees as follows:

CITY hereby consents to the terms of this Agreement. Except as expressly provided in this Agreement, nothing contained herein shall be construed to constitute a waiver or release by CITY of any right, interest, term, or condition of the Loan Documents.

"CITY":  
CITY OF MOUNTAIN VIEW,  
a California charter city and municipal corporation

By: \_\_\_\_\_  
City Manager

APPROVED AS TO CONTENT:

\_\_\_\_\_  
Community Development Director

FINANCIAL APPROVAL:

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Finance and Administrative  
Services Director

APPROVED AS TO FORM:

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City Attorney

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 SANTA CLARA    } S.S.

On \_\_\_\_\_ before me,  
\_\_\_\_\_  
(here insert name and title of the officer), 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 SANTA CLARA    }  S.S.

On \_\_\_\_\_, before me, \_\_\_\_\_,  
\_\_\_\_\_ (here insert name and title of the officer), 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  
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Signature