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**THIS INSTRUMENT WAS PREPARED
BY AND AFTER RECORDING RETURN
TO:**

Ann Kaplan-Perkins
Office of the Corporation Counsel
City of Chicago
121 North LaSalle Street, Room 600
Chicago, Illinois 60602



Doc# 2126757032 Fee \$75.00

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KAREN A. YARBROUGH

COOK COUNTY CLERK

This spa DATE: 09/24/2021 12:27 PM PG: 1 OF 13

ASSIGNMENT AND ASSUMPTION OF REGULATORY AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION OF REGULATORY AGREEMENT (the "Assignment and Assumption") is made and entered into as of the 22nd day of September, 2021 (the "Effective Date"), by and between **COMMUNITY HOUSING PARTNERS V L.P.**, an Illinois limited partnership (the "Assignor") and **2242 ARCHER COURTS, LLC**, a Delaware limited liability company ("Assignee"), and consented to by the **CITY OF CHICAGO**, an Illinois municipal corporation and home rule unit of local government (the "City"), acting by and through its Department of Housing ("DOH").

RECITALS

WHEREAS, DOH is an executive department of the City that supervises and coordinates the formulation and execution of projects and programs creating safe, decent and affordable housing for residents of the City; and

WHEREAS, DOH is the agency of the City which has been designated to allocate low-income housing tax credits pursuant to Section 42 of the Internal Revenue Code of 1986 (the "Tax Credits"); and

WHEREAS, DOH has issued an allocation Tax Credits to the Assignor in connection with the acquisition and/or construction or rehabilitation by Assignor of a low-income housing project commonly known as Archer Courts Apartments erected on real property (the "Property") located within the City and legally described on Exhibit A attached hereto and hereby made a part hereof. The Property and the improvements located on it are collectively referred to in this Assignment and Assumption as the "**Project**"; and

WHEREAS, the City made (i) a loan in the original principal amount of \$2,507,911 (the "**City Loan**") to Assignor, as evidenced by that certain City Note dated as of June 1, 1999 in favor of the City; and

WHEREAS, as a specific condition precedent to the Assignor receiving the City Loan and in connection with the allocation of Tax Credits to the Project, the Assignor and the City executed a Regulatory Agreement (the "**Regulatory Agreement**") dated June 1, 1999 and recorded as

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Document Number 99555210 on June 9, 1999 in the Office of the Recorder of Deeds in Cook County, Illinois, whose functions are now performed by the Cook County Clerk's Recording Division (the "**Recorder's Office**"); and ,

WHEREAS, Assignor completed construction of the Project and placed it in service; and

WHEREAS, in connection with the financing of rehabilitation of the Project, Assignor and Rose Affordable Housing Preservation Fund IV, L.P., a Delaware limited partnership ("**Rose**") entered into that certain Real Estate Purchase Agreement dated as of February 19, 2019, as assigned to Assignee by that certain Assignment and Assumption of Real Estate Purchase and Sale Agreement, dated as of May 24, 2019 by and between Rose and Assignee under its original name, "**RAHF IV Archer Courts LLC**", as amended by that certain Omnibus Amendment and Agreement dated as of June 7, 2019 and that certain Second Omnibus Amendment and Agreement dated as of June 28, 2019, under which Assignor agrees to sell and convey all of its right, title and interest in and to the Project to Assignee, and Assignee agrees to acquire the same from Assignor (as so amended and assigned, the "**Purchase and Sale Agreement**"); and

WHEREAS, prior to the recordation of this Assignment and Assumption, Assignor and Assignee are consummating the transaction contemplated by the Purchase and Sale Agreement (the "**Purchase and Sale**") by causing those certain Special Warranty Deeds dated on or before the date of this Assignment (the "**Conveyance Deed**") to be recorded in the Recorder's Office, pursuant to which Assignee is acquiring all of Assignor's right, title and interest in and to the Project; and

WHEREAS, the Assignee is funding the Purchase and Sale and the rehabilitation of the Project with (i) owner equity, and (ii) a loan from Prudential Huntoon Paige Associates, LLC, a Delaware limited liability company;

WHEREAS, the City Loan and all other indebtedness outstanding to the City with respect to the Project is being repaid and satisfied in its entirety by Assignor in connection with the Purchase and Sale, but the Tax Credit Termination Date (as defined in the Regulatory Agreement) will not have yet occurred, and therefore the Regulatory Agreement must remain in effect against the Property as of the Purchase and Sale; and

WHEREAS, the Assignee desires to (i) consummate the Purchase and Sale and (ii) assume the Regulatory Agreement; and

WHEREAS, it is a condition of the City's consent to the Purchase and Sale that the Assignor assigns, and that the Assignee assumes, the Assignor's obligations under the Regulatory Agreement; and

NOW, THEREFORE, for and in consideration of the foregoing recitals and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the parties agree as follows:

1. **Recitals.** The recitals set forth above are incorporated into this Assignment and Assumption by this reference.

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2. **Assignment of Regulatory Agreement.** The Assignor assigns and transfers to the Assignee, its successors and assigns, all of its rights, duties, obligations and interest under the Regulatory Agreement.
3. **Acceptance of Assignment.** The Assignee, for itself, its successors and assigns, agrees to be bound by all of the terms, conditions, obligations and restrictions set forth in the Regulatory Agreement, to the same extent and on the same terms as the Assignor; however, the Assignee shall not be so obligated with respect to matters that occurred or arose prior to the date of this Assignment and Assumption. It is the intent of the parties that, as of the date of this Assignment and Assumption, the Assignee now be treated as the owner of the Project under the terms of the Regulatory Agreement.
4. **No Release.** Nothing in this Assignment and Assumption shall act as a release or waiver of any claim that may arise in connection with the Assignor's failure to have faithfully discharged all of its duties and responsibilities under the Regulatory Agreement prior to the date of this Assignment and Assumption. However, the Assignor shall have no obligation for the performance of any rights, duties and obligations that accrue under the Regulatory Agreement, as amended by this Assignment and Assumption, subsequent to the date of this Assignment and Assumption.
5. **Amendment of Assignment and Assumption.** This Assignment and Assumption shall not be altered or amended without the prior written approval of all of the parties to it.
6. **HUD Required Provisions.** Provisions required by the Department of Housing and Urban Development ("HUD") are attached hereto as Exhibit B and incorporated and made a part of the Regulatory Agreement.
7. **Partial Invalidity.** If a court of competent jurisdiction determines that any term, covenant, condition or provision of this Assignment and Assumption, or its application to any circumstance, at any time or to any extent, is invalid or unenforceable, the remainder of this Assignment and Assumption, or the application of it to circumstances other than those as to which it is held invalid or unenforceable, shall not be affected by such determination and each term, covenant, condition and provision of this Assignment and Assumption shall be valid and enforceable to the fullest extent permitted by law.
8. **Successors.** This Assignment and Assumption shall bind, and the benefits shall inure to, the parties to this Assignment and Assumption, their legal representatives, successors in office or interest and assigns; however, the Assignee may not further assign this Assignment and Assumption, or any of its obligations under this Assignment and Assumption, without the prior written approval of the City.
9. **Captions.** The captions used in this Assignment and Assumption are used only as a matter of convenience and for reference and in no way define, limit or describe its scope or intent.
10. **Notices.** Any notice, demand, request or other communication that any party may desire or may be required to give to any other party under this Assignment and Assumption shall be given in writing, at the addresses set forth below, by any of the following means: (a) personal

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service; (b) overnight courier; or (c) registered or certified United States mail, postage prepaid, return receipt requested.

- a. If to the Assignor: Community Housing Partners V L.P.
36 S. Wabash Avenue, Suite 1310
Chicago, Illinois 60603
Attn: Anthony J. Fusco, Jr.
- With a copy to Sugar Felsenthal Grais & Helsinger LLP
30 N. LaSalle Street, Suite 3000
Chicago, Illinois 60602
Attn: Douglas J. Antonio, Esq.
- b. If to the Assignee: 2242 Archer Courts, LLC
c/o Jonathan Rose Companies
551 Fifth Avenue, 23rd Floor
New York, New York 10177
Attn: Nathan D. Taft
- With a copy to Goulston & Storrs PC
400 Atlantic Avenue
Boston, Massachusetts 02110
Attn: Deborah S. Horwitz, Esq.
- c. If to City: City of Chicago, Illinois
c/o Department of Housing
121 N. LaSalle Street, 10th Floor
Chicago, Illinois 60602
Attn: Commissioner
- With a copy to Office of the Corporation Counsel
City Hall, Room 600
121 North LaSalle Street
Chicago, Illinois 60602
Attn: Finance and Economic Development Division

Such addresses may be changed by notice to the other party given in the same manner as provided in this Assignment and Assumption. Any notice, demand, request or other communication sent pursuant to subsection (a) shall be served and effective upon such personal service. Any notice, demand, request or other communication sent pursuant to subsection (b) shall be served and effective one (1) business day after deposit with the overnight courier with charges pre-paid. Any notice, demand, request or other communication sent pursuant to subsection (c) shall be served and effective three (3) business days after proper deposit with the United States Postal Service.

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11. **Counterparts.** This Assignment and Assumption may be executed in counterparts, and each counterpart shall, for all purposes for which an original of this Assignment and Assumption must be produced or exhibited, be the Assignment and Assumption, but all such counterparts shall constitute one and the same instrument.

[Signature Pages Follow]

Property of Cook County Clerk's Office

COOK COUNTY
CLERK
RECORDING DIVISION

COOK COUNTY
CLERK
RECORDING DIVISION

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EXHIBIT A

LEGAL DESCRIPTION

All that real property situated in the City of Chicago, County of Cook, State of Illinois and more particularly described as follows:

Parcel 1:

The leasehold estate created by the instrument hereinafter referred to as the Land Lease, executed by the Chicago Housing Authority, an Illinois municipal corporation, as Landlord and Community Housing Partners V L.P., an Illinois limited partnership, as Tenant, dated June 1, 1999, as amended and assigned to date described (except the buildings and improvements thereon) to wit:

A tract of land located in the West $\frac{1}{2}$ of the Northeast $\frac{1}{4}$ of Section 28, Township 39 North, Range 14, East of the Third Principal Meridian, described as follows:

Commencing at a point on the West line of South Princeton Avenue, being its intersection with the South line of West Cermak Road, as widened; thence South 00 degrees 16 minutes 19 seconds West along said West line of South Princeton Avenue, 432.65 feet to a point 156 feet North of the intersection of the West line of South Princeton Avenue and the North line of West 23rd Street; thence North 89 degrees 45 minutes 00 seconds West, 97.20 feet; thence South 58 degrees 10 minutes 39 seconds West, 296.82 feet to a point on the North line of said West 23rd Street, 348.66 feet West of the intersection of the West line of South Princeton and the North line of West 23rd Street; thence South 89 degrees 59 minutes 09 seconds West, along said North line 37.67 feet; thence North 00 degrees 01 minutes 43 seconds West, 97.98 feet; thence North 58 degrees 04 minutes 19 seconds East, 81.33 feet; thence North 00 degrees 01 minutes 17 seconds East, 269.69 feet to the South line of South Archer Avenue; thence North 58 degrees 07 minutes 27 seconds East, along said South line, 337.73 feet to the South line of West Cermak Road as widened; thence South 89 degrees 57 minutes 00 seconds East, along said South line, 32.25 feet to the point of beginning, except the buildings and improvements located thereon, in Cook County, Illinois.

Parcel 2:

All buildings and improvements located on the following described property:

A tract of land located in the West $\frac{1}{2}$ of the Northeast $\frac{1}{4}$ of Section 28, Township 39 North, Range 14, East of the Third Principal Meridian, described as follows:

Commencing at a point on the West line of South Princeton Avenue, being its intersection with the South line of West Cermak Road, as widened; thence South 00 degrees 16 minutes 19 seconds West along said West line of South Princeton Avenue, 432.65 feet to a point 156 feet North of the intersection of the West line of South Princeton Avenue and the North line of West 23rd Street; thence North 89 degrees 45 minutes 00 seconds West, 97.20 feet; thence South 58 degrees 10 minutes 39 seconds West, 296.82 feet to a point on the North line of said West 23rd Street, 348.66 feet West of the intersection of the West line of South Princeton and the North line of West 23rd

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Street; thence South 89 degrees 59 minutes 09 seconds West, along said North line 37.67 feet; thence North 00 degrees 01 minutes 43 seconds West, 97.98 feet; thence North 58 degrees 04 minutes 19 seconds East, 81.33 feet; thence North 00 degrees 01 minutes 17 seconds East, 269.69 feet to the South line of South Archer Avenue; thence North 58 degrees 07 minutes 27 seconds East, along said South line, 337.73 feet to the South line of West Cermak Road as widened; thence South 89 degrees 57 minutes 00 seconds East, along said South line, 33.25 feet to the point of beginning.

Parcel 3:

Together with the benefits of that perpetual non-exclusive utility easement more fully described in that certain Grant of Easement made by Chicago Housing Authority to Community Housing Partners V L.P. Dated June 1, 1999 and recorded June 9, 1999 under Document No. 99555209, Cook County Recorder of Deeds.

Addresses of Property. 2220 S. Princeton Avenue and 2242 S. Princeton, Chicago, Illinois

Permanent Index Numbers: 17-28-201-013-0000; 17-28-201-014-0000; 17-28-201-015-0000; 17-28-208-022-0000; 17-28-210-033-0000 and 17-28-210-034-0000

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EXHIBIT B

HUD RIDER TO RESTRICTIVE COVENANTS

This RIDER is made as of the Effective Date by **2242 Archer Courts, LLC**, a Delaware limited liability company ("Borrower") and the **City of Chicago** ("Agency").

WHEREAS, Borrower has obtained financing from Prudential Huntoon Paige Associates, LLC, a Delaware limited liability company ("Lender") for the benefit of the project known as Archer Courts Apartments ("Project"), which loan is secured by a Multifamily Mortgage, Assignment of Leases and Rents, and Security Agreement ("Security Instrument") dated as of September 1, 2021, and recorded in the Cook County Clerk's Recording Division of Cook County, Illinois ("Records") on _____ as Document Number _____, and is insured by the United States Department of Housing and Urban Development ("HUD");

WHEREAS, Borrower has received a Community Development Block Grant loan and an allocation of Low-Income Housing Tax Credits from the Agency, which Agency has required certain restrictions be recorded against the Project; and

WHEREAS, Borrower entered into that certain Regulatory Agreement ("Restrictive Covenants") with respect to the Project, as more particularly described in Exhibit A attached hereto, dated as of June 1, 1999 and recorded in the Records as Document Number 99555210;

WHEREAS, HUD requires as a condition of its insuring Lender's financing to the Project, that the lien and covenants of the Restrictive Covenants be subordinated to the lien, covenants, and enforcement of the Security Instrument; and

WHEREAS, the Agency has agreed to subordinate the Restrictive Covenants to the lien of the Mortgage Loan in accordance with the terms of this Rider.

NOW, THEREFORE, in consideration of the foregoing and for other consideration the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

(a) In the event of any conflict between any provision contained elsewhere in the Restrictive Covenants and any provision contained in this Rider, the provision contained in this Rider shall govern and be controlling in all respects as set forth more fully herein.

(b) The following terms shall have the following definitions:

"Code" means the Internal Revenue Code of 1986, as amended.

"HUD" means the United States Department of Housing and Urban Development.

"HUD Regulatory Agreement" means the Regulatory Agreement between Borrower and HUD with respect to the Project, as the same may be supplemented, amended or modified from time to time.

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“Lender” means Prudential Huntoon Paige Associates, LLC, a Delaware limited liability company, its successors and assigns.

“Mortgage Loan” means the mortgage loan made by Lender to the Borrower pursuant to the Mortgage Loan Documents with respect to the Project.

“Mortgage Loan Documents” means the Security Instrument, the HUD Regulatory Agreement and all other documents required by HUD or Lender in connection with the Mortgage Loan.

“National Housing Act” means the National Housing Act, 12 USC § 1701 *et seq.*, as amended.

“Program Obligations” has the meaning set forth in the Security Instrument.

“Residual Receipts” has the meaning specified in the HUD Regulatory Agreement.

“Security Instrument” means the mortgage or deed of trust from Borrower in favor of Lender, as the same may be supplemented, amended or modified.

“Surplus Cash” has the meaning specified in the HUD Regulatory Agreement.

(c) Notwithstanding anything in the Restrictive Covenants to the contrary, the provisions hereof are expressly subordinate to (i) the Mortgage Loan Documents, including without limitation, the Security Instrument, and (ii) Program Obligations (the Mortgage Loan Documents and Program Obligations are collectively referred to herein as the “HUD Requirements”). Borrower covenants that it will not take or permit any action that would result in a violation of the Code, HUD Requirements or Restrictive Covenants. In the event of any conflict between the provisions of the Restrictive Covenants and the provisions of the HUD Requirements, HUD shall be and remains entitled to enforce the HUD Requirements. Notwithstanding the foregoing, nothing herein limits the Agency’s ability to enforce the terms of the Restrictive Covenants, provided such terms do not conflict with statutory provisions of the National Housing Act or the regulations related thereto. The Borrower represents and warrants that to the best of Borrower’s knowledge the Restrictive Covenants impose no terms or requirements that conflict with the National Housing Act and related regulations.

(d) In the event of foreclosure (or deed in lieu of foreclosure), the Restrictive Covenants (including without limitation, any and all land use covenants and/or restrictions contained herein) shall automatically terminate,

(e) Borrower and the Agency acknowledge that Borrower’s failure to comply with the covenants provided in the Restrictive Covenants will does not and will not serve as a basis for default under the HUD Requirements, unless a separate default also arises under the HUD Requirements.

(f) Except for the Agency’s reporting requirement in enforcing the Restrictive Covenants the Agency will not file any claim against the Project, the Mortgage Loan proceeds, any reserve or deposit required by HUD in connection with the Security Instrument or HUD Regulatory Agreement, or the rents or other income from the property other than a claim against:

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- i. Available surplus cash, if the Borrower is a for-profit entity;
- ii. Available distributions of surplus cash and residual receipts authorized for release by HUD, if the Borrower is a limited distribution entity; or
- iii. Available residual receipts authorized for release by HUD, if the Borrower is a non-profit entity; or
- iv. A HUD-approved collateral assignment of any HAP contract.

(g) For so long as the Mortgage Loan is outstanding, Borrower and Agency shall not further amend the Restrictive Covenants, with the exception of clerical errors or administrative correction of nonsubstantive matters, without HUD's prior written consent.

(h) Subject to the HUD Regulatory Agreement, the Agency may require the Borrower to indemnify and hold the Agency harmless from all loss, cost, damage and expense arising from any claim or proceeding instituted against Agency relating to the subordination and covenants set forth in the Restrictive Covenants, provided, however, that Borrower's obligation to indemnify and hold the Agency harmless shall be limited to available surplus cash and/or residual receipts of the Borrower.

The statements and representations contained in this rider and all supporting documentation thereto are true, accurate, and complete. This certification has been made, presented, and delivered for the purpose of influencing an official action of HUD in insuring a multifamily loan, and may be relied upon by HUD as a true statement of the facts contained therein.

Warning: Federal law provides that anyone who knowingly or willfully submits (or causes to submit) a document containing any false, fictitious, misleading, or fraudulent statement/certification or entry may be criminally prosecuted and may incur civil administrative liability. Penalties upon conviction can include a fine and imprisonment, as provided pursuant to applicable law, which includes, but is not limited to, 18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802, 24 C.F.R. Parts 25, 28 and 30, and 2 C.F.R. Parts 180 and 2424.