3:00 pm #2-C
12/18/07

RECORDED AT THE REQUEST OF
AND WHEN RECORDED RETURN TO:

Redevelopment Agency of the City of Fresno
2344 Tulare St., Suite 200
Fresno, Ca. 93721
Attention: Executive Director

(SPACE ABOVE THIS LINE FOR RECORDER'S USE)

This Agreement is recorded at the request and for the benefit of the Redevelopment Agency of the City of Fresno and is exempt from the payment of a recording fee pursuant to Government Code Section 6103.

REDEVELOPMENT AGENCY OF THE
CITY OF FRESNO

By: Marlene Murphey
Marlene Murphey, Executive Director

Dated: 3/14/08

REIMBURSEMENT AGREEMENT

by and between

Redevelopment Agency of the City of Fresno,
a public body, corporate and politic

and

Riverfront Ventures, LLC, a Delaware limited liability company
Tract 5358
Single Family Residential Project
Fresno, CA _____

ATTACHMENTS

1. Exhibit A: Legal Description of Property
2. Exhibit B: Schedule of Performance/Payment Schedule
3. Exhibit C: Certificate of Completion
4. Exhibit D: Affordability Restrictions Running with Land

REIMBURSEMENT AGREEMENT

THIS REIMBURSEMENT AGREEMENT ("Agreement") is entered as of the Effective Date (defined in this Agreement), between the REDEVELOPMENT AGENCY OF THE CITY OF FRESNO, a public body, corporate and politic, ("Agency") and RIVERFRONT VENTURES, LLC, a Delaware limited liability company ("Owner").

RECITALS

The parties enter this Agreement based on the following facts, understandings, and intentions:

A. By authority granted under California Redevelopment Law (the "Law"), the Agency has prepared and is responsible for carrying out the redevelopment plan for the Freeway 99-Golden State Boulevard Corridor Redevelopment Project Area (the "Plan").

B. To the extent provided in or allowed by the Law including Cal. H.&S.C. Sections 33334.2 and 33449, as provided by joint resolutions of the Fresno City Council (the "Council") and the Agency, findings and determinations pursuant to Health and Safety Code Section 33334.2.(g), the Plan and limited to the terms and conditions therein, the Agency may make improvements upon and/or construct and improve structures in order to provide housing for persons and families of low or moderate income, including related on-site and off-site improvements, by variously (1) allowing the use of Housing Set Aside Funds outside the Airport Area Revitalization, Central Business District, Central City Commercial Revitalization, Chinatown Expanded, Convention Center, Freeway 99-Golden State Boulevard Corridor, Fruit/Church, Mariposa, Roeding Business Park, South Fresno Industrial Revitalization, South Van Ness Industrial, Southeast Fresno Revitalization, West Fresno I, West Fresno II, West Fresno III, redevelopment plans and (2) restricting the use of the Housing Set Aside Funds to certain of the Community Development Block Grant eligible areas of the City.

C. Agency administers the Low and Moderate Income Housing Fund established pursuant to Cal. H.&S. C. Sections 33334.2 et seq.

D. The Agency shall permit owner participation in the redevelopment of property in the Plan area in conformity with the Plan and all owner participation rules and criteria, to the extent provided by Cal. H.&S.C. Sections 33339, 33339.5, 33380 and 33381.

E. Owner holds all rights, title and interest in fee to the certain real property described in Exhibit "A" attached hereto and incorporated herein, including improvements thereon located north of Josephine Avenue, between North Country Club Drive and Bryan Avenues, in the City of Fresno (the "City"), State of California (the "State") (the "Property"). The Property is located within the territorial jurisdiction of the Agency.

F. Owner proposes to construct a single family residential project on the Property consisting of 230 residential units. A minimum of five (5) of the residential units (the "Affordable Units") are to be preserved as Affordable Housing.

G. Owner has undertaken improvements in accordance with the combined Performance and Payment Schedule described in Exhibit B attached hereto and incorporated herein (the "Performance and Payment Schedule").

H. To the extent Housing Set Aside Funds will exceed 50 percent of the cost of producing the Affordable Units, the Agency has determined based on substantial evidence, that the use of the Funds is necessary because the Agency or Owner of the Affordable Units has made a good faith attempt but been unable to obtain commercial or private means of financing the units at the same level of affordability and quantity. The Project is not feasible and cannot be completed and restricted to the affordable housing purposes and uses provided under the Law and this Agreement absent the financial support of the Agency.

I. The Property and associated on site and off site improvements are collectively referred to in this Agreement as the "Improvements" or the "Project," all of which will directly benefit the Property and the Plan area, cannot otherwise be reasonably paid for or financed, and are necessary to eliminate blight.

J. Agency is willing to assist Owner's construction of the Project by making available to Owner as a grant certain Housing Set Aside (Tax Increment) Funds in the amount of $250,000 (the "Grant") upon the terms and conditions specified this Agreement.

K. The Grant shall be paid in accordance with the schedule set out in Exhibit B to the Agreement. The Grant and performance of the affordability and other covenants and restrictions set forth in this Agreement shall be evidenced by this Agreement which shall be recorded against and run with the Property.

L. The Housing and Community Development Commission reviewed the Project and this Agreement on December 17, 2007, and recommended that Council approve it.

M. No new environmental document is required pursuant to the California Environmental Quality Act as Improvements contemplated under this Agreement were assessed in EA No. R-05-91/T-5595/C-06-272.

N. Agency has further determined this Project is in the best interests of, and will materially contribute to, Plan implementation. Further, Agency has found the Project: (i) will have a positive influence in the Plan area, and surrounding environs, (ii) is in the vital and best interests of Agency and the health, safety, and welfare of City residents, (iii) complies with applicable federal, state, and local laws and requirements, (iv) will help eliminate blight, (v) will improve and preserve the community's supply of low and moderate income housing available, as defined by Cal. H.&S.C. Sections 50052.5, to persons and families of low or moderate income, as defined in Cal. H.&S.C. Section 50093; (vi) will be available to meet the replacement housing provisions in Cal. H.&S.C. Section 33413; (vii) will apply funds solely within the respective Plan areas except to the extent otherwise provided herein and allowed by Law; (viii) all planning and administrative expenses incurred in pursuit hereof are necessary for the production, improvement, or preservation of low and moderate income housing; (ix) will comply with all owner participation rules and criteria of Agency and the Plan; and (x) will comply with any and all applicable review and other requirements of the City's Historical Preservation Commission.

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AGREEMENT

1. DEFINITIONS. Besides definitions contained elsewhere in this Agreement, the definitions in this Section will govern the construction, meaning, application and interpretation of the various terms used in this Agreement.

1.1 "ADA" means the Americans with Disabilities Act of 1990.

1.2 "Affordability Period" means a period of forty-five (45) years commencing from the date Agency records the Certificate of Completion in the Official Records.

1.3 "Affordable Housing" or "Affordable Units" means the Units available at affordable cost, as defined by Cal. H.&S.C. Section 50052.5, to persons and families of low and moderate income, as defined in Cal. H.&S.C. Section 50093 of Code, consistent with Recital F above which requirements shall be enforceable by covenants running with the land.

1.4 "Agency" means the Redevelopment Agency of the City of Fresno, a public body, corporate and politic, organized and existing under the Law, and any assignee of or successor to its rights, powers and responsibilities.

1.5 "Agreement" means this Reimbursement Agreement.

1.6 "Certificate of Completion" means that Certificate issued in the form attached as Exhibit "C" to Owner by Agency evidencing completion of the Project for purposes of this Agreement.

1.7 "Conditions Precedent of Agency" means the conditions precedent to the effectiveness of this Agreement against the Agency.

1.8 "Day" whether or not capitalized, means a calendar day, unless stated otherwise.

1.9 "Restrictions" means the affordability restrictions contained in this Agreement and Exhibit "D" thereto, containing all conditions, covenants, and restrictions required by the Law, any other applicable laws and regulations, the Plan, and this Agreement, running with the Property and the Affordable Units thereon and burdening such for the Affordability Period.

1.10 "Default" means a party's failure to timely perform any action or covenant required by this Agreement following notice and opportunity to cure.

1.11 "Director" means the Executive Director of Agency.

1.12 "Effective Date" means the date of complete execution of the Agreement following the Council approval thereof.

1.13 "Environmental Laws" means any federal, state, or local law, statute, ordinance or regulation pertaining to environmental regulation, contamination or cleanup of any

Hazardous Materials or waste including, without limitation, any state or federal lien or "super lien" law, any environmental cleanup statute or regulation, or any governmentally required permit, approval, authorization, license, variance or permission.

1.14 "Funding Source" means the Grant and other funding sources secured by Owner to construct the Improvements.

1.15 "Hazardous Materials" means any substance, material, or waste which is or becomes regulated by any local governmental authority, the State of California, or the United States Government including, without limitation, any material or substance which is: (a) defined as a "hazardous waste," "extremely hazardous waste," or "restricted hazardous waste" under Sections 25115, 25117, or 25122.7, or listed pursuant to Section 25140 of the California Health and Safety Code, (b) defined as a "hazardous substance" under Section 25316 of the California Health and Safety Code, (c) defined as a "hazardous material," "hazardous substance," or "hazardous waste" under Section 25501 of the California Health and Safety Code, (d) defined as a "hazardous substance" under Section 25281 of the California Health and Safety Code, (e) petroleum, (f) friable asbestos, (g) polychlorinated byphenyls, (h) listed under Article 9 or defined as "hazardous" or "extremely hazardous" under Article 11 of Title 22, California Administrative Code, (I) designated as "hazardous substances" pursuant to Section 311 of the Clean Water Act (33 U.S.C. §1317), (j) defined as a "hazardous waste" pursuant to Section 1004 of the Resource Conservation and Recovery Act (42 U.S.C. §6901 *et seq.*, or (k) defined as "hazardous substances" pursuant to Section of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. §9601, *et seq.)*; provided, however, hazardous materials shall not include: (1) construction materials, gardening materials, household products, office supply products or janitorial supply products customarily used in the construction, maintenance, rehabilitation, or management of residential housing or associated buildings and grounds, or typically used in household activities, in a manner typical of other residential housing developments which are comparable to the Improvements; and (2) certain substances which may contain chemicals listed by the State of California pursuant to Health and Safety Code Sections 25249.8 et seq., which substances are commonly used by a significant portion of the population living within the region of the Property, including, but not limited to, alcoholic beverages, aspirin, tobacco products, NutraSweet and saccharine.

1.16 "Household" means one or more persons occupying an Affordable Unit.

1.17 "Housing Set-Aside Funds" means those California Health and Safety Code Section 33334.2 monies held and administered by Agency a portion of which shall be made available as the Grant to Owner for eligible costs and expenses incurred by Owner in constructing the Improvements in such amounts, and upon such terms and conditions specified in this Agreement.

1.18 "Improvements" mean the construction of the Affordable Units and other units that Owner will complete on the Property, including associated on-site and off-site improvements.

1.19 "Law" means the Community Redevelopment Law of the State (California Health and Safety Code Sections 33000 *et seq.*).

1.20 "Grant" means the principal sum of $250,000 provided by Agency to Owner upon the terms and conditions set forth in this Agreement.

1.21 "Grant Documents" are collectively this Agreement and all exhibits and attachments thereto as they may be amended, modified or restated from time to time.

1.22 "Material Change" means a change, modification, revision or alteration to the Grant Documents that significantly deviates from those previously approved by the Agency, provided that fully funded change(s) which do not result in a change in the number or type (i.e. residential, affordable) of Units and/or an increase in the total Grant funding provided in this Agreement shall not constitute Material Change(s).

1.23 "Owner" means Riverfront Ventures, LLC, a Delaware limited liability company.

1.24 "Plan" means the Redevelopment Plan for the Freeway 99-Golden State Boulevard Corridor Redevelopment Project Area.

1.25 "Project" means the construction of the Affordable Units and other units that Owner will complete on the Property, and related on-site and off-site improvements.

1.26 "Project Area" means the Property.

1.27 "Project Completion Date" means the date that Agency shall have determined the Project has reached completion in accordance with the plans and specifications in the Performance and Payment Schedule, as evidenced by Agency's issuance of a Certificate of Completion.

1.28 "Property" means the real property described in Exhibit "A".

1.29 "Release of Restrictions" means a release of those covenants, conditions and restrictions contained in this Agreement.

1.30 "Performance and Payment Schedule" means the schedule attached as Exhibit "B," setting forth the dates and times by which the parties must accomplish certain obligations under this Agreement. The parties may revise the Performance and Payment Schedule from time to time on mutual written agreement of Owner and Agency, but any delay or extension of the Completion Date **set forth in Exhibit "B"** is subject to the requirements in this Agreement.

1.31 "Security Financing Interest" means a security interest which Owner grants in the Property and the Improvements thereon before the Agency issues and records a Release of Restrictions.

1.32 "Unit" means a residential unit constituting the Project.

2. CONDITIONS PRECEDENT TO AGENCY'S OBLIGATION TO PERFORM UNDER THIS AGREEMENT. The following are conditions precedent to Agency's obligation to perform under this Agreement. Until each and all of the conditions are satisfied, Agency is not obligated to take any action, or provide any funding under this Agreement. Agency, in writing by its authorized representative, may waive any condition or agree to extend the time for satisfaction of any condition set forth in this Section 2. Agency may terminate this Agreement as provided herein for the failure of a condition.

2.1 Owner shall pay for and provide a title report, recorded deed or other evidence acceptable to Agency that Owner owns the Property.

2.2 Owner, at Owner's expense, shall have investigated and determined all environmental, soil, seismic, and other surface and subsurface conditions of the Property and the suitability of such conditions for the Project. Owner's responsibility and due diligence includes, but is not limited to, determining the presence of Hazardous Materials. Both Owner and Agency will promptly give the other copies of all reports and test results. Owner will indemnify, defend, and hold Agency harmless from any damages or claims arising out of Owner's inspections and tests.

2.3 Should Owner's property assessment/inspection reveal any Hazardous Materials requiring remediation, Owner will promptly notify Agency. Not later than ten (10) days from and after such notice, Owner shall, at its sole cost and expense, commence to make required submittals, develop required remedial action plans, and thereafter pursue remediation activities as to such Hazardous Materials and to diligently prosecute such to completion as required by applicable federal, state and local law and in a manner and according a reasonable time frame agreeable to Agency. Without limiting the foregoing, any remediation will be performed pursuant to a remedial action plan, if needed, approved by the governmental agencies having jurisdiction and will be performed according to applicable environmental laws and governmental requirements.

2.4 Owner shall not be in default of this Agreement and all representations and warranties of Owner contained herein shall be true and correct in all material respects.

2.4.1 Owner will have signed and delivered all documents required hereunder.

2.4.2 Owner will have received all land use and development approvals, variances, permits and the like required by this Agreement.

2.5 Owner will have provided proof of insurance as required by this Agreement.

2.6 Owner agrees to notify Agency immediately upon approval of the final map at which time Agency shall cause this Agreement to be recorded with the Fresno County Recorder's Office.

3. OWNER OBLIGATIONS AFTER SATISFACTION OF CONDITIONS PRECEDENT. The following obligations of Owner will run with the land and survive this Agreement:

3.1 Owner will take all reasonable precautions to prevent the release of any Hazardous Materials in, on or under the Property in violation of applicable laws or regulations. Owner will comply with all governmental requirements with respect to Hazardous Materials. In addition, Owner shall install and use equipment and implement and follow procedures that are consistent with applicable law for the disclosure, storage, use, removal and disposal of Hazardous Materials.

3.2 Owner will notify the Agency and give Agency a copy of all environmental permits, disclosures, applications, entitlements or inquiries relating to the Property including, without limitation, notices of violation, notices to comply, citations, inquiries, cleanup or abatement orders, cease and desist orders, reports filed pursuant to self-reporting requirements and reports filed or applications made pursuant to any governmental regulation relating to Hazardous Materials. Within 3 days after each incident, Owner will report to Agency any unusual or potentially important incidents with regard to Hazardous Materials in, on or under the Property.

If a release of any Hazardous Materials in, on or under the Property occurs, Owner will, as soon as possible after such release, furnish Agency with a copy of any reports relating thereto and copies of all correspondence with governmental agencies relating to such release. Upon request, Owner will furnish Agency with a copy of any other environmental entitlements or inquiries relating to or affecting the Property including, without limitation, all permit applications, permits and reports, even reports and other matters.

3.3 From the Effective Date except to the extent of the active negligence or willful misconduct of Agency, Owner will indemnify, defend, and hold Agency harmless from any claim, action, suit, proceeding, loss, cost, damage, liability, deficiency, fine, penalty, punitive damage, or expense (including, without limitation, reasonable attorneys' fees), arising out of (i) the presence, release, use, generation, discharge, storage or disposal of any Hazardous Materials in, on or under the Property, or the transportation of any Hazardous Materials to or from the Property, or (ii) the violation, or alleged violation, of any statute, ordinance, order, rule, regulation, permit, judgment or license relating to any use, generation, release, discharge, storage, disposal or transportation of Hazardous Materials in, on, under, to or from, the Property. This indemnity will include, without limitation, any damage, liability, fine, penalty, parallel indemnity after closing, cost or expense arising from or out of any claim, action, suit or proceeding for personal injury (including sickness, disease or death), tangible or intangible property damage, compensation for lost wages, business income, profits or other economic loss, damage to the natural resource or the environment, nuisance, contamination leak, spill, release or other adverse effect on the environment, occurring as a result of subsections *(i)* or *(ii)* above.

3.4 The status and qualifications of Owner are of particular concern to Agency. From the Effective Date of this Agreement until the Release of Restrictions, no voluntary or involuntary successor-in-interest of Owner will acquire any rights or powers under this Agreement, provided that the parties acknowledge the Owner shall hold the Affordable Units for sale as Affordable Housing as provided in this Agreement. Notwithstanding

anything to the contrary herein, Owner shall have the right to transfer ownership of the Property to another person or entity having experience in the ownership and operation of Affordable Housing, as reasonably approved by Agency, which approval shall not be unreasonably withheld, delayed or conditioned.

4. DEVELOPMENT OF THE PROPERTY.

4.1 Except as set forth in this Agreement, before Owner begins constructing the Improvements or undertakes any other work of improvement on the Property, Owner, at its own cost and expense, will secure all land use and other entitlements, permits, and approvals that Agency or any other governmental agency with jurisdiction over the Project requires for construction of the Project. Without waiver or limitation, Owner will secure and pay all costs, charges and fees associated with, the following:

4.1.1 All permits and fees that the City, County of Fresno, and other governmental agencies with jurisdiction over the Project, the Improvements or the Property may require.

4.1.2 Compliance of the Project with all applicable federal, state and local accessibility requirements. For purposes of this Agreement the number of accessible Units shall be zero (0) unless a greater number of Units shall be required by law, whereupon such greater number of Units shall apply.

4.2 Audit. Owner shall be accountable to Agency for all Grant funds disbursed to Owner pursuant to this Agreement. Owner will cooperate fully with Agency and the State in connection with any interim or final audit relating to the Affordable Units that may be performed. Owner will maintain accurate and current books and records for the Affordable Units using generally accepted accounting principles. Owner agrees to maintain books and records that accurately and fully show the date, amount, purpose and payee of all expenditures financed with Grant funds and to keep all invoices, receipts and other documents related to expenditures financed with Grant funds for not less than four (4) years after the fiscal year in which such expenditures are incurred. For purposes of this section, "books, records and documents" include, without limitation, plans, drawings, specifications, ledgers, journals, statements, contracts/agreements, funding information, purchase orders, invoices, loan documents, computer printouts, correspondence, memoranda and electronically stored versions of the foregoing, but specifically excluding the Excluded Items. For purposes of this Agreement, the term "Excluded Items" shall mean all proprietary, privileged or confidential information of Owner relating to the Property, the Project and/or the Improvements including, but not limited to, internal financial analysis, marketing studies and reports, credit analysis, materials relating to the cost to acquire the Property and any documents or communications subject to the attorney/client privilege. This section shall survive for a period of four years after the expiration or termination of this Agreement.

4.3 Owner shall use commercially reasonable efforts to obtain all necessary discretionary governmental permits, approvals and entitlements, close any implicated funding or other escrow and begin/complete construction of the Improvements according to the Performance and Payment Schedule.

4.3.1 Project Completion. Agency, acting through and in the discretion of its Director, may extend the completion date of the Project for that period of time that Agency, in its reasonable discretion, determines necessary to overcome any delay if and to the extent such delay is due to a cause which is beyond Owner's reasonable control, and if Owner could not, with reasonable diligence, have foreseen and avoided such cause for delay. Such causes include, without limitation, acts of God, unusually severe weather or flood, war, terrorism, riot or act of the public enemy, labor disputes, unavoidable inability to secure labor, materials, supplies, tools or transportation, or acts or omissions of any governmental authority having jurisdiction. Agency will not extend the completion date for acts or omissions occurring through the fault of Owner, or for acts of Agency permitted or contemplated by this Agreement. An extension of time as provided in this subsection will be Owner's sole remedy for any delays of the Project Completion Date as set forth in the Performance and Payment Schedule.

As a condition precedent to any such extension requested by Owner, Owner will give the Agency notice within ten (10) days after any cause for a delay described above occurs, stating the cause and the additional time Owner anticipates needed to complete the Project. Any extension by Agency must be in writing and signed by the Director or the Director's designee, which approval shall not be unreasonably withheld, delayed or conditioned.

4.4 Subject to the terms of this Agreement, the Grant shall be disbursed to Owner according to the Performance and Payment Schedule. All Grant funds shall be used solely for costs of the Project and Improvements.

4.5 Certificate of Completion. Owner will notify Agency when Owner deems the Project complete. Within ten (10) business days after such notice, Agency will inspect the Improvements. When Agency reasonably determines Owner has completed the Improvements as required in this Agreement, the Plan, and the Law, Agency will furnish Owner with the Certificate of Completion, which the Agency has caused to be recorded in the Official Records of the County of Fresno (the "Official Records"). Agency will not unreasonably delay, condition or refuse to issue the Certificate of Completion. The recorded Certificate of Completion will be a conclusive determination that Owner has satisfactorily completed the Improvements required under this Agreement. Any parties then owning or subsequently purchasing, leasing or otherwise acquiring any interest in the Property will not (because of that ownership, purchase, lease or acquisition) after the recording, incur any obligation or liability under this Agreement for constructing the Improvements, but will take such interest in the Property subject to the continuing covenants set forth in this Agreement.

4.5.1 If Agency determines not to furnish the Certificate of Completion, in accordance with Section 4.5 above, Agency will give Owner a written notice stating why Agency has decided not to issue the Certificate of Completion, or why it is delaying the issuance, and the reasonable actions that, in Agency's opinion, Owner must take before Agency can issue the Certificate of Completion. Agency's failure to give the notice within ten (10) days, however,

will not cause the Owner to be entitled to the Certificate of Completion. The Certificate of Completion is not a notice of completion as referred to in Section 3093 of the California Civil Code.

4.5.2 The following are conditions precedent to Agency issuing the Certificate of Completion, and each submission will be in form and substance satisfactory to the Director: Evidence that the time to file all mechanics' liens or material men's liens has expired and any such liens recorded against the Property or Improvements have been released or, if not released, sufficiently bonded (i.e. 150%) against as required by law.

4.6 To the extent economically feasible, consistent with the requirements of any Permitted Encumbrance, or as otherwise approved by Agency or provided in the Agreement, if any building or improvement on the Property is materially damaged or destroyed by an insurable cause, Owner shall, at its cost and expense, diligently undertake to repair or restore said buildings and improvements consistent with the basic design for the Project. Such work or repair shall commence within ninety (90) days after the insurance proceeds are made available to Owner and shall be complete within one (1) year thereafter. Owner may request an extension of time in a writing to Agency. All insurance proceeds collected for such damage or destruction shall be applied to the cost of such repairs or restoration and, if such insurance proceeds shall be insufficient for such purpose, Owner shall make up the deficiency. For purposes of this Section 4.5, damage to the Project is deemed to involve a material portion thereof if the reasonable estimated cost of restoration or repair of such damage exceeds ten percent (10%) of the estimated value of the Project, which estimates shall be made in the sole and reasonable judgment of Owner.

4.7 Inspections. Owner shall permit, facilitate and require its contractors to permit and facilitate observation and inspection of the Project by Agency during reasonable business hours and upon reasonable notice for the purpose of determining compliance with this Agreement. Agency and its representatives, agents, employees, contractors and consultants shall comply with all safety rules while on the Property. Agency hereby agrees to indemnify, protect and hold Owner and the Project harmless from any and all liabilities, costs, loss, damages or expenses of any kind or nature arising out of or resulting from any entry and/or activities upon the Project by Agency and/or Agency's representatives, agents, employees, contractors and consultants. Agency's indemnification obligations under this Section 4.7 shall survive the recordation of the Certificate of Completion or any termination of this Agreement.

4.8 If and to the extent that development of the Project results in the permanent or temporary displacement of residential tenants, homeowners or businesses, Owner shall comply with all applicable local, state and federal statutes and regulations with respect to relocation planning, advisory assistance and payment of monetary benefits. Owner shall be solely responsible for payment of any relocation benefits to any displaced persons and any other obligations associated with complying with said relocation laws. For purposes of this Section 4.8 the parties acknowledge that as of the Effective Date the Property is vacant and unoccupied.

4.9 Owner shall retain title to the Affordable Units until title thereto are sold or transferred to moderate-income and low-income families or as otherwise provided in this Agreement. Said title shall be in a condition sufficient for a title company to issue a standard form ALTA or CLTA lender's title insurance policy on the Property. Said title shall be kept free from encumbrances and liens except for Permitted Encumbrances and to the extent provided for elsewhere in this Agreement. For the purposes of this Agreement, the term "Permitted Encumbrances" shall mean (i) non-delinquent real property taxes and assessments and (ii) the standard exceptions set forth on a CLTA standard coverage owner's policy of title insurance.

4.10 With respect to the Project, Owner shall comply with the following:

4.10.1 Except to any extent otherwise provided in this Agreement, Owner is specifically responsible for all management functions with respect to the Affordable Units including, without limitation, the selection of buyers and the certification of Household size and income. Agency shall have no responsibility for management of the Affordable Units of the Project.

4.11 Owner covenants and agrees that the Affordable Units shall comply with all laws and regulations applicable to Affordable Housing during the entire Affordability Period. If Owner fails to comply with the requirement to sell the Affordable Units only to qualified Households during the Affordability Period, Agency shall be entitled to enjoin Owner from selling the Affordable Units in the Project, as Owner acknowledges that damages are not an adequate remedy at law for such breach.

5. INDEMNITY; INSURANCE

5.1 Owner shall indemnify, hold harmless and defend Agency and each of its officers, officials, employees, agents from any and all loss, liability, fines, penalties, forfeitures, costs and damages (whether in contract, tort or strict liability, including but not limited to personal injury, death at any time and property damage) incurred by Agency, Owner or any other person, and from any and all claims, demands and actions in law or equity (including reasonable attorney's fees and litigation expenses), arising or alleged to have arisen directly or indirectly out of Owner's performance of this Agreement. Owner's obligations under the preceding sentence shall not apply to any loss, liability, fines, penalties, forfeitures, costs or damages to the extent caused by the gross negligence or by the willful misconduct of Agency or any of its respective officers, officials, employees, or agents.

This Section 5.1 shall survive termination or expiration of this Agreement.

5.2 Until the Certificate of Completion is recorded in the Official Records, Owner shall pay for and maintain or cause to be paid and maintained in full force and effect all policies of insurance and all applicable endorsements required under this Section 5.2 with an insurance company or companies admitted by the California Insurance Commissioner to do business in the State of California. The following policies of insurance are required:

5.2.1 Commercial General Liability Insurance, which shall include contractual, products and completed operations coverages, bodily injury and property damage liability insurance with combined single limits of not less than $1,000,000 per occurrence.

5.2.2 Workers' Compensation Insurance, as required under the California Labor Code.

5,2.3 Builder's Risk Insurance, in an amount to provide coverage to one hundred percent (100%) of the replacement value of the Improvements, including terms of labor and materials in place or to be used as part of the permanent construction, including surplus miscellaneous materials and supplies incidental to the construction of the Improvements and such scaffolding, staging, towers, forms and equipment as are not owned or rented by the Owner, the cost of which is not included in the cost of the construction of the Improvements.

5.2.4 Professional Liability Insurance (errors and omissions), with a limit of not less than $1,000,000 per occurrence.

Each of the above described policies of insurance shall be endorsed to provide an unrestricted 30-day written notice in favor of the Agency of policy cancellation, change or reduction of coverage, except for the Workers' Compensation policy which shall provide a 10-day written notice of such cancellation, change or reduction of coverage. If any policy is due to expire during the term of this Agreement, Owner shall provide a new certificate evidencing renewal of such policy not less than 15 days before the expiration date of the expiring policy. Upon issuance by the insurer, broker, or agent of a notice of cancellation, change or reduction in coverage, Owner shall file with Agency a certified copy of the new or renewal policy and certificates for such policy.

The General Liability insurance policy shall be written on an occurrence form and shall name the Agency, its officers, officials, agents, and employees as an additional insured. Such policy shall be endorsed so that Owner's insurance is primary and no contribution is required of Agency. Owner shall furnish Agency with copies of the actual policy upon the request of Agency.

If at any time Owner fails to maintain the insurance required under this Section 5.2 in full force and effect, Owner shall immediately discontinue all work under this Agreement until Agency receives notice that such required insurance has been restored to full force and effect and that the premiums therefore have been paid for a period satisfactory to the Agency. Owner's failure to maintain any required insurance pursuant to this Section 5.2 shall be sufficient cause for Agency to terminate this Agreement.

If Owner uses a general contractor for all or any portion of the work under this Agreement, Owner shall require the general contractor to provide insurance protection in favor of Owner and Agency, its officers, officials, employees, and agents according to the terms of each of the preceding paragraphs of this Section 5.2, except that the

general contractor's certificates and endorsements shall be on file with Owner and Agency before any work begins on the Improvements.

For the Owner's design work for the Improvements or if Owner contracts the design work for any portion of the Improvements, the Owner shall maintain, or shall require the architect and structural engineer to maintain, the following insurance coverage:

If claims made forms are used for any Professional Liability Insurance, either (i) the policy shall be endorsed to provide not less than a five-year discovery period, or (ii) the coverage shall be maintained for a minimum of five years following the termination of this Agreement, and the requirements of this Section 5.2 relating to such Professional Liability Insurance shall survive termination or expiration of this Agreement.

5.3 Owner will obtain and deliver payment and performance bonds issued by an insurance company admitted in California in good standing as a surety and meeting the criteria for Owner's other insurance under Section 5.2 of this Agreement. Each bond shall be in an amount at least equal to 100% of Owner's estimated construction costs for the Improvements, provided that the Agency hereby waives any requirement for said bonds at all times during which Owner is in full compliance with this Agreement and the Project remains fully funded.

5.4 Owner will design and construct the Improvements, and after that, but prior to any allowable transfer or sale thereof, Owner will maintain the Property according to all applicable laws including, without limitation, all applicable state labor standards, Agency zoning and development standards, building, plumbing, mechanical and electrical codes, all provisions of the Fresno Municipal Code and all applicable access requirements. Agency makes no representation about which, if any, of such laws, ordinances, regulations or standards apply to development of the Project.

Owner acknowledges that Owner, not Agency, is responsible for determining applicability of and compliance with all local, state, and federal laws including, but not limited to, any applicable provisions of the California Labor Code, Public Contract Code, and Government Code. Agency makes no express or implied representation as to the applicability or inapplicability of any such laws to this Agreement or to the parties' respective rights or obligations hereunder including, but not limited to, payment of prevailing wages, competitive bidding, subcontractor listing, or similar or different matters. Owner further acknowledges that Agency shall not be liable or responsible at law or in equity for any failure by Owner to comply with any such laws, regardless of whether Agency knew or should have known of the need for such compliance, or whether Agency failed to notify Owner of the need for such compliance.

5.5 Owner will take reasonable efforts to not permit any lien or stop notice to be filed against the Property; provided, however, that Owner may determine, in its reasonable discretion, to contest any such lien or stop notice. If a claim of lien or stop notice is recorded against the Property or Improvements, Owner, within 30 days after recordation of such claim of lien or stop notice or within 5 days after Agency's demand, whichever first occurs, will do the following:

5.5.1 Pay and discharge the same; or

5.5.2 Effect the release of such lien by recording and delivering to Agency a surety bond in sufficient form and amount (i.e. 150%), or otherwise; or

5.5.3 Give Agency other assurance which Agency, in its sole discretion, deems satisfactory to protect the Agency from the effect of the lien or bonded stop notice.

6. SECURITY FINANCING AND RIGHTS OF HOLDERS.

6.1 Notwithstanding any other provision of this Agreement, Owner may not grant a security interest in the Property before the Agency issues and records a Certificate of Completion, without the written consent of Agency, provided that Agency hereby acknowledges and agrees that Owner is in the process of obtaining a construction loan for the Project, and hereby consents to such construction loan and any security interest in the Property granted in connection therewith.

7. CONTINUING OWNER OBLIGATIONS

7.1 In its performance of this Agreement, Owner covenants by and for itself and its successors and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of any person, including contractors, subcontractors, bidders and vendors, on account of race, color, religion, ancestry, national origin, sex, sexual preference, age, pregnancy, childbirth or related medical condition, medical condition (e.g., cancer related) or physical or mental disability, and in compliance with all applicable federal, state and local laws, regulations and rules including without limitation Title VII of the Civil Rights Act of 1964, 42 U.S.C. Section 2000, *et seq.,* the Federal Equal Pay Act of 1963, 29 U.S.C. Section 206(d), the Age Discrimination in Employment Act of 1967, 29 U.S.C. Section 621, *et seq.,* the Immigration Reform and Control Act of 1986, 8 U.S.C. Section 1324b, *et seq.,* 42 U.S.C. Section 1981, the California Fair Employment and Housing Act, Cal. Government Code Section 12900, *et seq.*, the California Equal Pay Law, Cal. Labor Code Section 1197.5, Cal. Government Code Section 11135, the Americans with Disabilities Act, 42 U.S.C. Section 12101, *et seq.,* and all other applicable anti-discrimination laws and regulations of the United States and the State of California as they now exist or may hereafter be amended.

7.2 Owner will pay before delinquency all ad valorem real estate taxes and assessments on the Property, subject to Owner's right to contest in good faith any such taxes. Owner will remove any levy or attachment on all or any portion of the Property, or assure the satisfaction of such levy or attachment within a reasonable time. Owner will notify Agency prior to applying for or receiving any exemption from the payment of property taxes or assessments on any interest in or to the Property or the Improvements. Owner further agrees that the prior consent of Agency shall be required if the basis for such exemption is other than for qualified property held by a nonprofit entity that has been determined to be exempt from federal and state income taxation, which consent shall not be unreasonably withheld.

7. **COVENANTS AND RESTRICTIONS RUNNING WITH THE LAND**. The following covenants shall run with the land and shall bind Owner, and Owner's successors in interest to the Property for the periods stated, and shall be fully binding for the benefit of the Plan community and Agency without regard to technical classification or designation, legal or otherwise.

8.

8.1 Owner covenants for itself, its successors, assigns, and every successor in interest to the Property or any part of it that, after closing of any applicable escrow, during construction, and after completing the Improvements, Owner shall devote the Affordable Units on the Property to the uses specified in this Agreement for the Affordability Period. All uses of the Affordable Units including, without limitation, all activities Owner undertakes pursuant to this Agreement, shall conform with this Agreement and the Law. Without waiver or limitation, each of the Affordable Units to be constructed, sold or transferred pursuant to this Agreement shall be offered for sale at prices affordable to, or with the approval of the Agency, transferred in lieu of sale to, persons of moderate and low-income for owner occupancy as primary residence.

8.2 During the Affordability Period Owner covenants to use and operate the Affordable Units on the Property as decent, safe, sanitary housing affordable to moderate and low-income single family residences as defined annually for the Fresno Metropolitan Statistical Area by and published by the U.S. HUD.

8.3 Owner covenants for itself and any successors in interest and all persons claiming by, through or under them, in perpetuity, that there shall be no discrimination against or segregation of any person or group of persons because of race, color, creed, religion, sex, sexual preference, marital status, national origin or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Affordable Units, nor shall Owner itself or any person claiming under or through Owner establish or permit any such practice or practices of discrimination or segregation concerning the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees/transferees of the Affordable Units. The foregoing covenants shall run with the land.

8.4 All deeds, leases, or contracts concerning the Affordable Units shall contain or be subject to substantially the following nondiscrimination or nonsegregation clauses:

> "The grantee herein covenants by and for himself or herself, his or her heirs, executors, administrators and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons because of race, color, creed, religion, sex, sexual preference, marital status, national origin or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the land herein conveyed, nor shall the grantee or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation concerning the selection, location, number, use or occupancy of

tenants, lessees, subtenants, sublessees or vendees in the land herein, conveyed. The foregoing covenants shall run with the land."

8.5 Agency is the beneficiary of the covenants running with the land, for itself and for protecting the interests of the community and other parties, public or private, in whose favor and for whose benefit the covenants are provided, without regard to whether Agency has been, remains, or is an owner of any land or interest in the Affordable Units on the Property. Agency may exercise all rights and remedies, and maintain any actions or suits at law or in equity or other proceedings to enforce the covenants for itself or any other beneficiaries.

8.6 Owner shall notify Agency immediately upon approval of the final map for the Project and the designation of the five (5) Affordable Units. Agency shall then cause the covenants and restrictions in Exhibit "D" to be recorded against the parcels for each of the Affordable Units.

9. DEFAULTS AND REMEDIES

9.1 Subject to the extensions of time permitted under this Agreement, either party's failure to perform any material action or material covenant as required by this Agreement, following notice and failure to cure within the timeframes provided in this Section 9.1, is a "Default" under this Agreement. A party claiming a Default (the "Non-Defaulting Party") shall give written notice of Default to the other party (the "Defaulting Party") specifying the Default complained of, and the cure demanded. Except as otherwise expressly provided in this Agreement, the Non-Defaulting Party party shall not begin any proceeding against the Defaulting Party until the Defaulting Party is given an opportunity to cure the Default. The Defaulting Party will have 30 calendar days after receiving the notice to cure the Default, or, if the Defaulting Party cannot reasonably cure the Default within such 30 days, the Defaulting Party must begin to cure within the 30 days and diligently pursue the cure to completion, whereupon there shall be no event of Default. Without waiver or limitation upon rights and remedies otherwise available, upon any termination by Agency prior to release of construction covenants, Owner shall deliver to the Agency any and all drawings, maps, plans, data and other documents concerning the Project and the Improvements other than the Excluded Items and the Agency or any person or entity designated by the Agency shall have the right to use such drawings, plans, data and documents, but shall have no right to the Excluded Items. Owner hereby grants a limited royalty free copyright license to Agency for purposes of this section 9.

9.2 Subject to first giving the notice and opportunity to cure, as provided in Section 9.1 above, the Non-Defaulting Party may begin an action at law to enforce, or in equity to seek specific performance of, the terms of this Agreement, or to cure, correct, or remedy any Default, to recover damages for any Default, or to obtain any other remedy consistent with the purpose of this Agreement. The Non-Defaulting Party must bring any legal action in the Superior Court of the County of Fresno, State of California, in an appropriate municipal court in Fresno County, or in the District of the United States District Court serving Fresno County.

9.3 If Owner begins any legal action against Agency, it shall serve process on the Agency by personal service on the Director, or in any other manner the law permits. If Agency begins any legal action against the Owner, it will serve process on the Owner by personal service on Owner, Owner's Agent or in any other manner the law permits.

9.4 Except as otherwise expressly stated in this Agreement, the rights and remedies of the parties are cumulative, and a party's exercise of one or more rights or remedies will not preclude the party's exercise, at the same or different times, of any other rights or remedies for the same or any other Default of the other party.

9.5 A party's failure or delay in asserting any right or remedy will not be a waiver of any Default or of any right or remedy, and will not deprive the party of its right to begin and maintain any action or proceeding to protect, assert or enforce any right or remedy.

9.6 The laws of the State of California shall govern the interpretation and enforcement of this Agreement.

10. GENERAL PROVISIONS

10.1 Any notice, demand, or other communication permitted or required under this Agreement will be in writing and given by personal delivery, or by first-class U.S. mail, postage prepaid, to a party at its respective address below:

To Agency:

RDA Executive Director
2344 Tulare Street, Suite 200
Fresno, CA 93721

To Owner:

Riverfront Ventures, LLC
c/o Josh Roberts
DS VENTURES, LLC
8383 Wilshire Blvd., Suite 1000
Beverly Hills, CA 90211
Tel. 323.658.1511 ext. 210
Fax. 323.658.1520

A party may change its address for notices, demands and communications by giving notice of the new address as provided in this section. Any written notice, demand or communication shall be deemed received immediately if delivered personally, shall be deemed received on the third day after it is postmarked if delivered by regular, registered or certified mail, or on the date of receipt, if return receipt is requested and available to confirm the date, and shall be deemed received on the next business day if delivered via an overnight delivery service.

10.2 All of the terms, covenants and conditions of this Agreement shall be binding upon the Owner, jointly and severally, and its permitted successors and assigns. Whenever the term "Owner" is used in this Agreement, such term shall include Owner's successors and assigns as permitted under this Agreement.

10.3 The Agency may assign or transfer any of its interests, rights, or obligations hereunder at any time without the consent of the Owner.

10.4 No member, official or employee of the Agency shall be personally liable to the Owner, or any successor in interest to Owner, for any Default or breach by the Agency.

10.5 The relationship between the Agency and the Owner is that of redevelopment agency and redeveloper respectively, as permitted by law, and not that of a partnership or joint venture. Agency and Owner shall not be deemed or construed for any purpose to be the agent of the other.

10.6 Whenever this Agreement references an action or approval required or permitted by the Agency, the Director or his or her designee is authorized to act for the Agency as agent of the Agency unless this Agreement, the Law, and/or any other applicable law provide otherwise, or the context otherwise requires.

10.7 This Agreement may be signed in multiple counterparts which, when signed by all parties, will be one binding agreement. The parties will sign three copies of this Agreement, each of which is deemed to be original.

10.8 This Agreement includes the exhibits and attachments referenced and incorporated herein. This Agreement contains the entire agreement between the parties relating to the transaction contemplated by this Agreement and supersedes all prior or contemporaneous agreements, understanding, representation and statements, whether oral or written.

10.9 If either party begins a lawsuit or arbitration proceeding, in law or equity, to enforce or interpret any provision of this Agreement, the prevailing party will be entitled to recover from the other party reasonable attorneys' fees, court costs, and legal expenses as determined by the court or tribunal having jurisdiction.

10.10 Any waiver, alteration, change or modification of or to this Agreement, to be effective, must be in writing, and signed by each party.

10.11 If any term, provision, condition or covenant of this Agreement or its application to any party or circumstances is held invalid or unenforceable, the remainder of this Agreement and its application to persons or circumstances, other than those about whom or which it is held invalid or unenforceable, shall not be affected, and shall remain valid and enforceable to the fullest extent permitted by law.

10.12 Each party represents and warrants to the other that (a) each has read this Agreement, and (b) is signing this Agreement with full knowledge of any rights and obligations each may have, and (c) each has received independent legal advice from their respective legal counsel as to the matters set forth in this Agreement, or has knowingly

chosen not to consult legal counsel, and (d) has signed this Agreement without relying on any agreement, promise, statement or representation by or for the other party, or their respective agents, employees, or attorneys, except as specifically set forth in this Agreement, and without duress or coercion, whether economic or otherwise.

10.13 No member, official or employee of Agency has or shall have any personal interest, direct or indirect, in this Agreement, nor shall any such member, official or employee participate in any decision relating to the Agreement which affects his personal interests or the interests of any corporation, partnership or association in which he is directly or indirectly interested. Owner represents and warrants that it has not paid or given, and will not pay or give, to any third party any money or other consideration for obtaining this Agreement, other than normal costs of conducting business and costs of professional services such as architects, consultants, engineers and attorneys.

10.14 The parties will execute such other and further documents, and will take any other steps, necessary, helpful, or appropriate to carry out the provisions of this Agreement.

10.15 No contractor, subcontractor, mechanic, material man, laborer, vendor, or other person hired or retained by with Owner shall be, nor shall any of them be deemed to be, third-party beneficiaries of this Agreement, rather Owner shall use commercially reasonable efforts to cause each such person to agree (a) that they shall look to Owner as their sole source of recovery if not paid, and (b) except as otherwise agreed to by Agency and any such person in writing, they may not enter any claim or bring any such action against Agency under any circumstances. Except as provided by law, or as otherwise agreed to in writing between Agency and such person, Owner shall use commercially reasonable efforts to cause each such person to agree to waive in writing all right to seek redress from Agency under any circumstances whatsoever.

10.16 Owner hereby covenants and warrants that it is a duly authorized and existing Delaware limited liability company, in good standing and authorized to do business in California; that it shall remain in good standing; that it has the full right, power and authority to enter into this Agreement and to carry out all actions on its part contemplated by this Agreement; that the execution and delivery of this Agreement were duly authorized by proper action of the Owner and no consent, authorization or approval of any person is necessary in connection with such execution and delivery or to carry out all actions of the Owner's part contemplated by this Agreement, except as have been obtained and are in full force and effect; and that this Agreement constitutes the valid, binding and enforceable obligation of the Owner.

10.17 In the event of any conflict between the body of this Agreement and any exhibit or attachment to it, the terms and conditions of the body of this Agreement will control.

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IN WITNESS WHEREOF, Agency and Owner have signed this Agreement, and the Agency has approved this Agreement, on the dates and in the year set forth below.

Redevelopment Agency of the City of Fresno

By _____
Marlene Murphey
Executive Director

Riverfront Ventures, LLC, a
Delaware limited liability company

By: Troxler Residential Ventures XXII, LLC,
a Delaware limited liability company,
its Managing Member

By: Troxler Ventures Partners II, Inc.,
A California corporation
Its Operating Member

By: _____
Stewart J. Myers
Authorized Signatory

ATTEST:
REBECCA KLISCH
Clerk, Redevelopment Agency of Fresno

By Cindy Bruer 3/19/08
Deputy

APPROVED AS TO FORM:
JAMES SANCHEZ
Attorney, Redevelopment Agency of Fresno

By: _____
Deputy

Attachments:

Exhibit A: Legal Description of Property
Exhibit B: Performance and Payment Schedule
Exhibit C: Certificate of Completion
Exhibit D: Affordability Restrictions Running with Land

Notary page attached to:
Reimbursement Agreement

ACKNOWLEDGMENT

STATE OF CALIFORNIA)
) SS
COUNTY OF LOS ANGELES)

On March 5, 2008, before me, Lisa Anne Cotta, Notary Public, personally appeared Stewart J .Myers, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument, the person, or the entity upon behalf of which the person 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.

Notary Public

LISA ANNE COTTA
Commission # 1649552
Notary Public - California
Los Angeles County
My Comm. Expires Mar 5, 2010

(SEAL)

EXHIBIT "A"

LEGAL DESCRIPTION OF PROPERTY

[*insert/attach*]

EXHIBIT "B"
Performance and Payment Schedule

SCHEDULE OF PERFORMANCE

Construction of the Affordable Units shall be completed within 24 months of the Effective Date of this Agreement ("Completion Date"), provided, however, that Owner may extend the deadline for completion one time by an additional 12 months by a writing delivered to Agency at least sixty (60) days prior to the expiration of the original 24-month period.

SCHEDULE OF PAYMENTS

Disbursements are to be made in one lump sum payment of $250,000 within ten (10) business days of the later of (i) receipt of invoices from Owner, and (ii) written confirmation from Public Works that the off-site improvements have been completed and are unencumbered.

EXHIBIT "C"
Certificate of Completion

CERTIFICATE OF COMPLETION

RECORDED AT THE REQUEST OF
AND WHEN RECORDED RETURN TO:

Redevelopment Agency of City of Fresno
2344 Tulare St., Suite 200
Fresno, Ca. 93721
Attention: Executive Director

(SPACE ABOVE THIS LINE FOR RECORDER'S USE)

This Certificate of Completion is recorded at the request and for the benefit of the Redevelopment Agency of the City of Fresno and is exempt from the payment of a recording fee pursuant to Government Code Section 6103.

Redevelopment Agency

By:_____
Marlene Murphey
Its: Executive Director
Dated:_____

Certificate of Completion

Recitals:

A. By a Reimbursement Agreement (the "Agreement") dated [_____], 2008 between Riverfront Ventures, LLC, a Delaware limited liability company (collectively, "Owner") and the Redevelopment Agency of the City of Fresno, a public body corporate and politic ("Agency"), Owner agreed to construct certain residential units on the premises legally described in Attachment "A" hereto (the "Property") and preserve the Affordable Units, as defined in the Agreement as affordable housing for Low and Moderate-Income Families with the assistance of Agency housing set aside funds while meeting the Affordable Housing, income targeting and other requirements of the Community Redevelopment Law set forth at California Health and Safety Code Sections 33000 et seq. for a forty-five (45) year Affordability Period according to the terms and conditions of the Agreement.

B. The Agreement was recorded on [_____], 2007 in the Official Records of Fresno County, California as Instrument No. _____.

C. Under the terms of the Agreement, after Owner completes the construction on the Property, Owner may ask Agency to record a Certificate of Completion.

D. Owner has asked Agency to furnish Owner with a recordable Certificate of Completion.

E. Agency's issuance of this Certificate of Completion is conclusive evidence that Owner has completed the construction on the Property as set forth in the Agreement.

NOW THEREFORE:

1. Agency certifies that Owner commenced the construction work on the Project on [_____], 2007, and completed the construction work on the Project on _____, 200_, and has done so in full compliance with the Agreement.

2. This Certificate of Completion is not evidence of Owner's compliance with, or satisfaction of, any obligation to any mortgage or security interest holder, or any mortgage or security interest insurer, securing money lent to finance work on the Property or Project, or any part of the Property or Project.

3. This Certificate of Completion is not a notice of completion as referred to in California Civil Code section 3093.

4. Nothing contained herein modifies any provision of the Agreement.

IN WITNESS WHEREOF, the Agency has executed this Certificate of Completion as of this ___ day of _____, 200_.

Redevelopment Agency of the City of Fresno

By:_____
Marlene Murphey
Executive Director

Owner hereby consents to recording this Certificate of Completion against the Property described herein.

Dated: _____, 200_

Riverfront Ventures, LLC,
a Delaware limited liability company

By:
Name: _____
Title: _____

THE ABOVE PARTIES ARE TO SIGN THIS INSTRUMENT BEFORE A NOTARY PUBLIC.

ATTEST:
CITY CLERK

By:_____
Deputy

Dated: _____

APPROVED AS TO FORM:
CITY ATTORNEY

By:_____
Deputy

Dated:_____

EXHIBIT "D"

AFFORDABILITY RESTRICTIONS RUNNING WITH LAND

In addition to the covenants and conditions contained in the Agreement, the following California Community Redevelopment Law (California Health & Safety Code Section 33000 et seq.) affordability requirements shall be imposed upon the 5 Affordable Units on the Property funded under the Agreement and shall bind the Owner and all purchasers of the Property and their successors for a forty-five (45) year period.

The Affordable Units on the Property are held and will be held, transferred, encumbered, used, sold, conveyed and occupied subject to the covenants, restrictions, and limitations set forth in this Exhibit , all of which are in furtherance of the Project, the RDA's Community Redevelopment Law and Plan Area obligations including RDA's obligations set forth at California Health & Safety Code sections 33334.2 et seq and 33413 (a) with respect to Housing Set Aside Funds and replacement dwelling units at affordable rent within the jurisdiction of the RDA. All of the restrictions, covenants and limitations will run with the land and will be binding on all parties having or acquiring any right, title or interest in the Affordable Units upon the Property or any part thereof, will inure to the benefit of the RDA, and will be enforceable by it. Any purchaser under a contract of sale or other transferee of an interest covering any right, title or interest in any part of the Affordable Units upon the Property, by accepting a deed or a contract of sale or agreement of purchase, accepts the document subject to, and agrees to be bound by, any and all restrictions, covenant, and limitations set forth in this Exhibit for the period of forty-five (45) years running from and after recordation of RDA's Certificate of Completion constituting the Affordability Period.

1. Restrictions. The following covenants and restrictions ("Restrictions") on the use and enjoyment of the Affordable Units upon the Property shall be in addition to any other covenants and restrictions affecting the Property, and all such covenants and restrictions are for the benefit and protection of the RDA and shall run with the Affordable Units upon the Property and be binding on any future owner's of the Property and inure to the benefit of and be enforceable by RDA. These covenants and restrictions are as follows:

a. From the date of recordation of RDA's Certificate of Completion until the expiration of the Affordability Period the 5 Affordable Units funded under the Agreement are to be used as Affordable Housing and affordable replacement dwellings as provided for in the Agreement. Owner agrees to file a recordable document setting forth the project Completion Date and the Affordability Period as and when determined by the RDA. Unless otherwise provided in the Agreement, the term affordable housing shall include without limitation compliance with the following requirements:

Nondiscrimination. There shall be no discrimination against nor segregation of any person or group of persons on account of race, color, creed, religion, sex, marital status, national origin, ancestry, or handicap in the sale, transfer, use, occupancy, tenure, or enjoyment of any of the Property, nor shall Owner or any person claiming under the Owner, establish or permit any practice of discrimination or segregation with reference to the selection, location, number, use or occupancy of owners or vendees of the Property.

Principal Residence. Each of the Affordable Units upon the Property shall be sold/transferred only to natural persons, who shall occupy such as a principal residence.

Income Requirements. Each of the 5 Units constituting Affordable Housing upon the Property may be conveyed only to (a) natural person(s) whose annual household income at the time of initial occupancy is not greater than 120 % of the most recent annual median income calculated and published by HUD for the Fresno Metropolitan Statistical Area applicable to such household's size, and at an affordable price consistent with the applicable California Redevelopment Law.

Injunctive Relief and Recapture. Should any of the 5 Affordable Units constituting Affordable Housing upon the Property not continue to be, at the time of initial occupancy, the principal residence of a Household that qualifies as a low-income or moderate-income Household, during the period of Affordability, such Unit(s) shall be made available for subsequent purchase only to Households that qualify as a low-income or very low-income for use as the Household's principal residence.

2. Enforcement of Restrictions. Without waiver or limitation, the RDA shall be entitled to injunctive or other equitable relief against any violation or attempted violation of the Restrictions, and shall, in addition, be entitled to damages for any injuries or losses resulting from any violations thereof.

3. Acceptance and Ratification. All present and future owners of the Property and other persons claiming by, through, or under them shall be subject to and shall comply with the above Restrictions. The acceptance of a deed of conveyance to the Property shall constitute an agreement that the Restrictions, as such may be amended or supplemented from time to time, is accepted and ratified by such future owners, tenant or occupant, and such Restrictions shall be a covenant running with the land and shall bind any person having at any time any interest or estate in the Property, all as though

such Restrictions were recited and stipulated at length in each and every deed, conveyance, mortgage or lease thereof.

4. Benefit. This Exhibit and the Restrictions therein shall run with and bind the Property for a term commencing on the date the Agreement to which this Exhibit is attached is recorded in the Office of the Recorder of the county Fresno, state of California, and expiring upon the expiration of the Affordability Period. The failure or delay at any time of RDA and/or any other person entitled to enforce these Restrictions shall in no event be deemed a waiver of the same, or of the right to enforce the same at any time or from time to time thereafter, or an estoppel against the enforcement thereof.

5. Costs and Attorney's Fees. In any proceeding arising because of failure of Owner or any future owner of the Property to comply with the Restrictions required by this Exhibit, as may be amended from time to time, RDA shall be entitled to recover its respective costs and reasonable attorney's fees incurred in connection with such default or failure.

6. Waiver. Neither Owner nor any future owner of the Property may exempt itself from liability for failure to comply with the Restrictions required in this Exhibit.

7. Severability. The invalidity of the Restrictions or any other covenant, restriction, condition, limitation, or other provision of this Exhibit shall not impair or affect in any manner the validity, enforceability, or effect of the rest of this Exhibit and each shall be enforceable to the greatest extent permitted by law.

8. Pronouns. Any reference in this Exhibit and the Restrictions therein to the masculine, feminine, or neuter gender herein shall, unless the context clearly requires the contrary, be deemed to refer to and include all genders. Words in the singular shall include and refer to the plural, and vice versa, as appropriate.

9. Interpretation. The captions and titles of the various articles, sections, subsections, paragraphs, and subparagraphs of this Exhibit are inserted herein for ease and convenience of reference only and shall not be used as an aid in interpreting or construing this Exhibit or any provision hereof.

10. Capitalized Terms. All capitalized terms used in this Exhibit, unless otherwise defined herein, shall have the meanings assigned to such terms in the Agreement.