

RECORDED AT THE REQUEST OF
AND WHEN RECORDED RETURN TO:

City of Fresno
City Clerk
2600 Fresno Street, Room 2133
Fresno, CA 93721-3603

(SPACE ABOVE THIS LINE FOR RECORDER'S USE)

CITY OF FRESNO

By: _____

Name: Wilma Quan

Its: City Manager

Date: _____

**ASSIGNMENT AND ASSUMPTION OF
AMENDED AND RESTATED DISPOSITION AND DEVELOPMENT AGREEMENT**

between

UPSIDE ENTERPRISES, LLC, a Nevada Limited Liability Company

and

UPTOWN, L.P., a California Limited Partnership

Regarding

Stanislaus and L Street
Mixed Use Residential Rental Project
Fresno, CA 93721

ASSIGNMENT AND ASSUMPTION OF AMENDED AND RESTATED DISPOSITION AND DEVELOPMENT AGREEMENT

This Assignment and Assumption Agreement (Agreement) of the Amended and Restated Disposition and Development Agreement (DDA) is entered into this _____ day of _____, 2019, (the Effective Date), by and between the City of Fresno, a municipal corporation (City), UPSIDE ENTERPRISES, LLC, a Nevada Limited Liability Company (Assignor) and UPTOWN, L.P., a California Limited Partnership (Assignee).

The City, Assignor and Assignee entered into this Agreement for the assignment of Assignor's existing DDA, dated _____, and recorded on _____, 201____, in Official Records under Recorder's Serial Number _____ to be assigned to and assumed by the Assignee for the purpose of acquiring the property located at Stanislaus and L Street (APNs 466-142-15T and 466-142-14T) for a mixed use residential rental project.

The Assignor has requested an assignment of the DDA and the Assignee has requested the assumption of the DDA.

The parties therefore agree as follows:

Assignor shall grant by deed to Assignee all of its right, title and interest in the property located at Stanislaus and L Street (APNs 466-142-15T and 466-142-14T) as more particularly described in Exhibit "A" attached hereto and incorporated herein. Said deed must be recorded with this fully executed Agreement.

1. The Assignor hereby assigns and transfers to Assignee and Assignee accepts all right, title, interest and obligations of and to the DDA. Assignor and Assignee, without waiver or limitation, agree to take any and all actions required to bind Assignee to the Agreement, as requested by City and such is a condition precedent to this Agreement and an obligation, which survives the release of ASSIGNOR's liability contained herein until the termination of the Agreement.

2. Assignee shall have no greater rights than Assignor under the Agreement.

3. Assignee, from and after the effective date of this Agreement, assumes and agrees to perform and fulfill all the terms, covenants, conditions, and obligations required to be performed and fulfilled by Assignee under the DDA.

4. Assignee has requested, and the City hereby agrees, that the terms and conditions of the DDA shall remain unchanged by this Assignment and Assumption Agreement.

a. City agrees to subordinate the DDA as may be required by senior financing.

5. Representations. Assignor hereby represents and warrants that it has not previously assigned, pledged, hypothecated or otherwise transferred any of its rights under the DDA.

6. Estoppe! Provisions. Notwithstanding anything to the contrary contained in the DDA, the City hereby acknowledges and agrees to the following:

a. The DDA is in full force and effect and, except to the extent amended or modified by this Agreement, has not been otherwise amended or modified.

b. Except as has been disclosed to Assignee in writing prior to the Effective Date, the City has not given any notice of default pursuant to any of the DDA that has not been cured and, to the best of the City's knowledge, no event or circumstance exists which, with the giving of notice or the passage of time, or both, would constitute a default under any of the DDA.

7. Notice. All correspondence and notices given or required to be given to the Assignor under the DDA, from and after the Effective Date, shall be provided to the Assignee and shall be addressed as follows:

Assignee: UPTOWN L.P., a California Limited Partnership
Attn: Sal Gonzales
265 East River Park Circle, Suite 150
Fresno, California 93720
Telephone: (559) 438-4800

8. Successors and Assigns. This Agreement applies to, inures to the benefit of, and binds all parties hereto and their respective successors and assigns.

9. Counterparts. This Agreement may be executed in multiple counterparts, all of which, when taken together, shall be deemed an original upon execution.

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

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the authorized agents of the parties hereto have executed this Assignment and Assumption Agreement at Fresno, California, the day and year first above written.

CITY OF FRESNO,
a California municipal corporation

By: _____
Name: Wilma Quan
Title: City Manager
(Attach notary certificate of acknowledgment)

Date: _____

APPROVED AS TO FORM:
Douglas T. Sloan
City Attorney

By: 
Tracy Parvanian
Senior Deputy City Attorney
Date: 9.25.19

ATTEST:
YVONNE SPENCE, MMC CRM
City Clerk

By: _____
Deputy

ASSIGNEE:
Uptown, L.P.

By: River Park Properties II
Its: General Partner
By: Lance Kashian & Company
Its: General Partner


By: Salvador Gonzales
Its: President

(Attach Notary certificate of acknowledgment)

Date: _____

By: _____
Name:
Title:

(Attach Notary certificate of acknowledgment)

Date: _____

ASSIGNOR:
UPSIDE ENTERPRISES, LLC., a Nevada
Limited Liability Company

By: 
Name: Mark Astone
Title: President

(Attach Notary certificate of acknowledgment)

Date: _____

By: _____
Name:
Title:

(Attach Notary certificate of acknowledgment)

Date: _____

Attachment –Exhibit A

EXHIBIT A

Parcel 1: (APN 466-142-15T)

Lots 14, 15 and 16 in Block 89 of the Town (Now City) of Fresno, in the City of Fresno, County of Fresno, State of California, according to the map thereof recorded June 8, 1876 in Book 1, Page 2 of Plats, Fresno County Records.

Parcel 2: (APN: 466-142-14T)

Lots 12, 13, and Southerly 15 feet of Lot 11 in Block 89, of the Town (Now City) of Fresno, in the City of Fresno, County of Fresno, State of California, according to the map thereof recorded June 8, 1876 in Book 1, Page 2 of Plats, Fresno County Records.

CALIFORNIA ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of Fresno }

On September 16, 2019 before me, Steven M. Young, Notary Public
Date Here Insert Name and Title of the Officer

personally appeared Salvador Gonzales
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



Place Notary Seal and/or Stamp Above

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

WITNESS my hand and official seal.

Signature Steven M. Young
Signature of Notary Public

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

Corporate Officer – Title(s): _____

Partner – Limited General

Individual Attorney in Fact

Trustee Guardian or Conservator

Other: _____

Signer is Representing: _____

Signer's Name: _____

Corporate Officer – Title(s): _____

Partner – Limited General

Individual Attorney in Fact

Trustee Guardian or Conservator

Other: _____

Signer is Representing: _____

California All-Purpose Certificate of Acknowledgment

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of Fresno

} s.s.

On Sept. 16th, 2019 before me,

Jessie Roseli Abdullah, Notary Public
Name of Notary Public, Title

personally appeared

Mark Astone
Name of Signer (1)

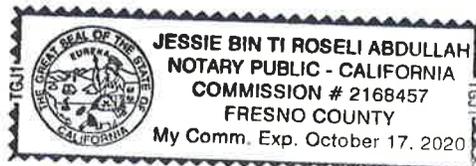
Name of Signer (2)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

J. Abdullah
Signature of Notary Public



Seal

OPTIONAL INFORMATION

Although the information in this section is not required by law, it could prevent fraudulent removal and reattachment of this acknowledgment to an unauthorized document and may prove useful to persons relying on the attached document.

Description of Attached Document

The preceding Certificate of Acknowledgment is attached to a document titled/for the purpose of Assigned and Assumption of Amended & restated DDA, containing 1 pages, and dated 9/16/19.

The signer(s) capacity or authority is/are as:

- Individual(s)
- Attorney-in-fact
- Corporate Officer(s)

Title(s)

- Guardian/Conservator
- Partner - Limited/General
- Trustee(s)

Other: President

representing: _____

Name(s) of Person(s) Entity(ies) Signer is Representing

Additional Information

Method of Signer Identification

Proved to me on the basis of satisfactory evidence:

Form(s) of identification credible witness(es)

Notarial event is detailed in notary journal on:

Page # 21 Entry # 5

Notary contact: (559) 907-0822

Other

Additional Signer Signer(s) Thumbprints(s)
