

ATTACHMENT 22

EXHIBIT B

DECLARATION OF RENTAL USE RESTRICTION

Free Recording Requested Pursuant to
Government Code Section 27383

When recorded, mail to:
San Francisco Redevelopment Agency
770 Golden Gate Avenue
San Francisco, California 94102
Attn: Real Estate Division

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DECLARATION OF RENTAL USE RESTRICTION

THIS DECLARATION OF RENTAL USE RESTRICTION ("Declaration") is made as of _____, 20____, by _____ [name of Vertical Developer] ("Owner"), in favor of the Redevelopment Agency of the City and County of San Francisco, a public body, corporate and politic, of the State of California ("Agency"). Owner is fee owner of record of that certain real property located in the City and County of San Francisco (the "City"), State of California more particularly described in the attached Attachment A (the "Property").

Section 1. Recitals.

A. The Property is in the City within the Hunters Point Shipyard and is subject to the provisions of the Hunters Point Naval Shipyard Redevelopment Plan adopted by Ordinance No. _____, on _____, 200__. Owner intends to construct on the Property _____ (___) For-Rent Affordable Housing Units and _____ (___) For-Rent Market Rate Housing Units (as herein defined).

B. The Agency and Lennar/BVHP, LLC ("Developer") have entered into the Disposition and Development Agreement for Hunters Point, Phase 1, dated _____, 200__, and recorded on in the City's Official Records on _____, 200__, as Document No. _____ (the "Agreement"), including the Affordable Housing Program attached thereto as Attachment 22 (the "Program"), concerning the development of affordable housing units on the Property. The Agreement and Program are on file with the Agency as public records and are incorporated herein by reference. This Declaration is executed and recorded in accordance with the Agreement and the Program, and partially satisfies the requirements therein.

C. The Agency has developed a program to provide home rental opportunities to individuals and families with low incomes by offering homes for rent at rates which are below those otherwise prevailing in the market.

D. The Agency's intent is to preserve the affordability of such homes by restricting the rental.

E. Such homes constitute a valuable community resource. To protect and preserve this resource, it is necessary, proper and in the public interest for the Agency to administer occupancy and rental controls by means of this Declaration.

NOW, THEREFORE, in consideration of the substantial economic benefits inuring to Owner and the public purposes to be achieved under the affordable housing program, Owner and Agency agree as follows:

Section 2. Definitions.

Terms not defined in this Declaration shall have the meanings given to them in the Agreement, including the Affordable Housing Program attached as Attachment 25 thereto.

Affordable Rent means a monthly Rental Rate, including a Utility Allowance in an amount determined by the San Francisco Housing Authority, which does not exceed thirty percent (30%) of fifty percent (50%) of the maximum Area Median Income, based upon Household Size.

Agency has the meaning set forth in the Preamble.

Agreement has the meaning set forth in Section 1.B.

Area Median Income (AMI) has the meaning set forth in the Agreement, as follows: The median income for a household, adjusted solely for Household Size, and not adjusted for other factors, including but not limited to, United States Department of Housing and Urban Development (HUD) high cost adjustments, as determined by HUD for the San Francisco Primary Metropolitan Statistical Area, from time to time.

City has the meaning set forth in the Preamble.

Complete Construction means the point at which Residential Units have been completed in accordance with approved plans and specifications, as reasonably determined by Agency, and a Certificate of Occupancy has been issued for such Residential Units.

Declaration has the meaning set forth in the Preamble.

Developer has the meaning set forth in Section 1.B.

For-Rent Affordable Housing Unit means a Residential Unit that is intended at the time of Complete Construction to be occupied subject to a lease at the Affordable Rent described herein, and not offered for sale.

For-Rent Market Rate Housing Unit means a For-Rent Residential Unit that has no restrictions under this Affordable Housing Program or the Agreement with respect to affordability levels or income restrictions for occupants.

For-Rent Residential Unit means a Residential Unit that is intended at the time of Complete Construction to be occupied subject to a lease, and not offered for sale.

Household Size means the total number of bedrooms in a Residential Unit plus one (1).

Owner has the meaning set forth in the Preamble.

Program has the meaning set forth in Section 1.B.

Property has the meaning set forth in the Preamble.

Rent or Rental Rate means, for each For-Rent Affordable Housing Unit, the total of annual payments for (a) use and occupancy of the Residential Unit and land and facilities associated therewith, (b) any separately charged fees or services assessed by the Owner which are required of all tenants, other than security deposits, (c) a reasonable allowance for utilities which are paid by the tenant, not including telephone service (see definition of Utility Allowance) and (d) any taxes or fees charged for use of the land and facilities other than by the Owner.

Residential Unit means a dwelling unit consisting of a room or suite of two (2) or more rooms that is designed for residential occupancy.

Utility Allowance means, if the cost of utilities (except telephone) and other services for a For-Rent Affordable Housing Unit is the responsibility of the occupying household, an amount equal to the estimate made by the San Francisco Housing Authority or, if not available, the United States Department of Housing and Urban Development, of the monthly costs of a reasonable consumption of such utilities and other services for the Unit by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary and healthful living environment.

Section 3. Rental Use Restriction and Term.

The Residential Project contains _____ () For-Rent Affordable Housing Units and _____ () For-Rent Market Rate Housing Units. All of the For-Rent Affordable Housing Units and For-Rent Market Rate Housing Units on the Property shall be restricted to use and occupancy as For-Rent Residential Units for a continuous period of ninety (90) years after the initial lease of each Residential Unit.

Section 4. Covenants.

The restrictions set forth in this Declaration shall run with the Property and shall be binding on and inure to the benefit of all parties having or acquiring any right, title or interest in the Property and to their successors and assigns.

Section 5. Remedies Cumulative.

Agency’s rights and remedies, whether provided by law, in equity or by this Declaration, shall be cumulative, and the exercise of any one or more of such rights or remedies shall not preclude the exercise of any other or further rights or remedies for the same or any other default or breach. No waiver with respect to the performance of any of Owner’s obligations shall be effective except to the extent the particular obligation is expressly waived, nor shall it be a waiver with respect to any other rights or remedies of any other of Owner’s obligations.

Section 6. Governing Law.

This Declaration shall be governed by and construed in accordance with the internal laws of the State of California.

Section 7. Severability.

Invalidation of any provision of this Declaration, or of its application to any person, by judgment or court order, shall not affect any other provision of this Declaration or its application to any other person or circumstance, and the remaining portions of this Declaration shall continue in full force and effect, unless enforcement of this Declaration as invalidated would be unreasonable or grossly inequitable under all relevant circumstances or would frustrate the fundamental purposes of this Declaration.

IN WITNESS WHEREOF, Owner has executed this instrument the day and year first hereinabove written.

“OWNER”

[name of Vertical Developer]

By: _____

Its: _____

ALL SIGNATURES MUST BE NOTARIZED.

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STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

On _____, 20__ before me, the undersigned, a Notary Public in and for said State personally appeared _____, 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.

WITNESS my hand and official seal.

Signature of Notary

(Seal)

Attachment A

PROPERTY DESCRIPTION

[To be provided prior to recordation of the Declaration.]