

**FIRST AMENDMENT TO COMMUNITY BENEFITS AGREEMENT
(Hunters Point Shipyard Phase 1)**

This FIRST AMENDMENT TO COMMUNITY BENEFITS AGREEMENT (HUNTERS POINT SHIPYARD PHASE 1) (this “**First Amendment**”) dated as of November 3, 2009 (the “**Effective Date**”) is entered into by and between the Redevelopment Agency of the City and County of San Francisco, a public body, corporate and politic, exercising its functions and powers and organized and existing under the Community Redevelopment Law of the State of California (together with any successor public agency designated by or pursuant to law, the “**Agency**”) and HPS Development Co., LP, a Delaware limited partnership (successor-in-interest to Lennar – BVHP, LLC, a California limited liability company, “**Developer**”), with reference to the following facts and circumstances:

RECITALS

A. The Agency and Developer are parties to that certain Disposition and Development Agreement Hunters Point Shipyard Phase 1 dated as of December 2, 2003 and recorded in the Official Records of the City and County of San Francisco (the “**Official Records**”) on April 5, 2005 as Document No. 2005H932190 at Reel I861, Image 564 (the “**Original DDA**”), as amended by that certain First Amendment to Disposition and Development Agreement Hunters Point Shipyard Phase 1 dated as of April 4, 2005 and recorded in the Official Records on April 5, 2005 as Document No. 2005H932191 at Reel I861, Image 565 (the “**First Amendment**”), and as further amended by that certain Second Amendment to Disposition and Development Agreement Hunters Point Shipyard Phase 1 dated as of October 17, 2006 and recorded in the Official Records on October 26, 2006 as Document No. 2006I275571 at Reel J254, Image 429 (the “**Second Amendment**”), and as further amended by that certain Amendment to Attachment 10 (Schedule Of Performance For Infrastructure Development And Open Space “Build Out” Schedule Of Performance) to the Disposition And Development Agreement Hunters Point Shipyard Phase 1 dated as of August 5, 2008 and recorded in the Official Records on March 24, 2009 as Document No. 2009-I738449 at Reel J854, Image 0185 (the “**Third Amendment**”), and as further amended by that certain Fourth Amendment to Disposition and Development Agreement (Hunters Point Shipyard Phase 1) dated as of August 29, 2008 and recorded in the Official Records on March 24, 2009 as Document No. 2009-I738450 at Reel J854, Image 0186 (the “**Fourth Amendment**”), and as further amended by that certain Fifth Amendment to Disposition and Development Agreement (Hunters Point Shipyard Phase 1) dated as of November 3, 2009 and recorded in the Official Records on November 30, 2009 as Document No. 2009I879123 at Reel K28, Image 60 (the “**Fifth Amendment**”, and together with the Original DDA, the First Amendment, the Second Amendment, the Third Amendment, the Fourth Amendment and as amended from time to time, the “**DDA**”). Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the DDA.

B. Pursuant to the DDA, Developer is constructing Infrastructure on the Project Site and intends to sell the Lots to Vertical Developers for the purpose of constructing Vertical Improvements thereon. The DDA requires Developer to make available thirty percent (30%) of the Lots to Community Builders and to enter into an agreement to implement certain Community Benefits contained in Exhibit B to Attachment 24 of the DDA, including those Community

Benefits related to the Community Builder Lots. In furtherance thereof, the Agency and Developer entered into that certain Community Benefits Agreement (Hunters Point Shipyard Phase 1) dated as of April 4, 2005 (the "CBA").

C. The CBA provides a framework pursuant to which the Agency and Developer select entities from the Community Builders Pool (as defined in the CBA) to serve as Community Builders for the Community Builder Lots. Consistent with the terms of the CBA, following the Close of Escrow and the execution and delivery of the CBA, the Agency and Developer formed the Selection Panel and selected the Community Builders Pool, from which Developer selected the Community Builders identified on Exhibit B.

D. The Community Builder Program (as defined in the CBA) affords Community Builders with the opportunity to actively and substantially participate in the day-to-day responsibilities associated with the Vertical Development of the Community Builder Lots. The Community Builder Program is intended to serve as a capacity building experience for the Community Builders such that they will be able to independently secure future development projects by virtue of their participation in the Community Builder Program.

E. The Original DDA and the CBA anticipated that the Community Builder Lots would be sold by Developer to either an Independent Community Builder (as defined in the CBA) or a Joint Venture Community Builder (as defined in the CBA). In either case, the Community Builder would be required to provide substantial capital to (i) purchase the Community Builder Lot for the Fair Market Value and (ii) construct Vertical Improvements thereon in accordance with the Vertical DDA for such Community Builder Lot. Pursuant to the DDA, if a Community Builder is unable to secure sufficient capital to undertake such acquisition and development, the Community Builder Lots shall be offered to the Agency and thereafter to third-parties. In either case, the benefits of the Community Builder Program would be lost.

F. In order to increase the likelihood that Community Builders are able to participate in the development of the Community Builder Lots irrespective of their capital capacity and risk tolerance, the Agency and Developer desire to expand the Community Builder Program consistent with the intent of the DDA and the CBA. Therefore, the Agency and Developer wish to enter into this First Amendment to ensure that the full value of the Community Builder Program can be realized and to memorialize their understanding and commitments concerning the matters set forth below.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Agency and Developer agree as follows:

1. Community Builder Program. Section 4 of the CBA is hereby deleted in its entirety and the provisions contained in Exhibit A hereto are substituted in lieu thereof.
2. Community Builders. The parties acknowledge and agree that as of the Effective Date (i) the Community Builders and their respective assigned Community Builder Lots are those contained in Exhibit B hereto and (ii) the Community Builders Pool currently contains no potential Community Builders.

3. Clarifications.

- a. All references to “Lennar/BVHP” shall be deleted in their entirety and “Developer” shall be substituted in lieu thereof.
- b. The last sentence of the introductory paragraph of the CBA shall be deleted in its entirety and the following shall be substituted in lieu thereof:

“This Agreement is entered into pursuant to that certain Disposition and Development Agreement (Hunters Point Shipyard Phase 1) dated as of December 2, 2003 by and between the Agency and Developer (as amended from time to time, the “DDA”).”

- c. Section 16.2 of the CBA is hereby amended by deleting the addresses set forth therein for a notice or communication to the Agency and the following is hereby substituted therefor:

“San Francisco Redevelopment Agency
One South Van Ness Avenue, 5th Floor
San Francisco, California 94103
Attn: Executive Director
Facsimile: 415.749.2525

And to:

San Francisco Redevelopment Agency
One South Van Ness Avenue, 5th Floor
San Francisco, California 94103
Attn: General Counsel
Facsimile: 415.749.2575”

- d. Section 16.2 of the CBA is hereby amended by deleting the addresses set forth therein for a notice or communication to Developer and the following is hereby substituted therefor:

“HPS Development Co., LP
c/o Lennar Urban
49 Stevenson Street, Suite 600
San Francisco, California 94105
Attn: Kofi Bonner
Facsimile: 415.995.1778

And to:

Paul, Hastings, Janofsky & Walker LLP
55 Second Street, 24th Floor
San Francisco, California 94105
Attn: Charles V. Thornton, Esq.
Facsimile: 415.856.7101”

- e. Section 16.5 of the CBA is hereby deleted in its entirety and the following shall be substituted in lieu thereof:

“Successors and Assigns/No Third-Party Beneficiary. This Agreement shall be binding upon and inure to the benefit of the Agency and the permitted successors and assigns of Developer, including, as applicable, Vertical Developers. Nothing in this Agreement, express or implied, is intended to confer any rights or remedies on any person other than the parties hereto and their respective permitted successors and assigns. Nothing in this Agreement is intended to discharge any obligation of any third person to any party hereto or give any third person any right of action against any party hereto.”

- f. Section 16.11 of the CBA is hereby deleted in its entirety and the following shall be substituted in lieu thereof:

“Entire Agreement. This Agreement, together with the DDA, contains the entire agreement between the parties with respect to the subject matter hereof. Any prior correspondence, memoranda, agreements, warranties or representations relating to such subject matter are superseded by this Agreement. No prior drafts of this Agreement or changes from those drafts to the executed version of this Agreement shall be introduced as evidence in any litigation or other dispute resolution proceeding by either party or any other person and no court or other body shall consider those drafts in interpreting this Agreement.”

- g. Exhibit E of the CBA is hereby deleted in its entirety and the phrase “Location of Community Builder Lots” adjacent to “Exhibit E” in the List of Exhibits shall be deleted in its entirety and “Intentionally Deleted” shall be substituted in lieu thereof.

4. Miscellaneous.

- a. Incorporation. This First Amendment constitutes a part of the CBA and any reference to the CBA shall be deemed to include a reference to such CBA as amended by this First Amendment.
- b. Ratification. To the extent of any inconsistency between this First Amendment and the CBA (including, without limitation, any attachments or exhibits thereto), the provisions contained in this First Amendment shall control. As amended by this First Amendment, all terms, covenants, conditions and provisions of the CBA shall remain in full force and effect.
- c. Successors and Assigns. This First Amendment shall be binding upon and inure to the benefit of the permitted successors and assigns of the Agency and Developer, subject to the limitations set forth in the CBA, as applicable.
- d. Counterparts. This First Amendment may be executed in any number of counterparts (including by facsimile or similar means of electronic transmission), all of which, together, shall constitute the original agreement.

- e. Governing Law; Venue. This First Amendment shall be governed by and construed in accordance with the laws of the State of California. The parties agree that all actions or proceedings arising directly or indirectly under this First Amendment shall be litigated in courts located within the County of San Francisco, State of California.
- f. No Third Party Beneficiaries. Nothing in this First Amendment, express or implied, is intended to confer any rights or remedies on any person other than the parties hereto and their respective permitted successors and assigns. Nothing in this First Amendment is intended to discharge any obligation of any third person to any party hereto or give any third person any right of action against any party hereto.
- g. Integration. This First Amendment contains the entire agreement between the parties with respect to the subject matter of this First Amendment. Any prior correspondence, memoranda, agreements, warranties or representations relating to such subject matter are superseded by this First Amendment. No prior drafts of this First Amendment or changes from those drafts to the executed version of this First Amendment shall be introduced as evidence in any litigation or other dispute resolution proceeding by either party or any other person and no court or other body shall consider those drafts in interpreting this First Amendment.
- h. Further Assurances. The Agency Executive Director and Developer shall execute and deliver all documents, amendments, agreements and instruments reasonably necessary or reasonably required in furtherance of this First Amendment, including as required in connection with the DDA, other documents and agreements attached to the DDA or incorporated therein by reference, and other documents reasonably related to the foregoing.

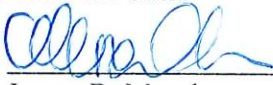
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IN WITNESS WHEREOF, the Agency and Developer have each caused this First Amendment to be duly executed as of the Effective Date.

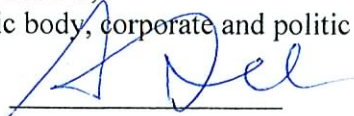
AGENCY:

Authorized by Agency Resolution No.
125-2009 adopted November 3, 2009

Approved as to Form:

for
By: 
Name: James B. Morales
Title: Agency General Counsel

REDEVELOPMENT AGENCY OF THE
CITY AND COUNTY OF SAN
FRANCISCO,
a public body, corporate and politic

By: 
Name: Amy Lee
Title: Deputy Executive Director
Finance & Administration

DEVELOPER:

HPS DEVELOPMENT CO., LP,
a Delaware limited partnership

By: CP/HPS Development Co. GP, LLC,
a Delaware limited liability company,
its General Partner

By: _____
Name: Kofi Bonner
Its: Authorized Representative

EXHIBIT A

SECTION 4. COMMUNITY BUILDER PROGRAM.

4.1 Definitions.

“**BVHP Area Builders**” means:

(a) developers or builders who do business in and have a primary business address in the BVHP Area and have an established, fixed office in a non-portable building in the BVHP Area where regular construction-related work is conducted;

(b) developers or builders who are listed in the Permits and License Tax Paid File with the City and County of San Francisco with a business address in the BVHP Area;

(c) developers or builders who possess a current Business Tax Registration Certificate issued by the City and County of San Francisco that shows a primary business address in the BVHP Area;

(d) developers or builders who have a demonstrated history of working in the BVHP Area;

(e) established, construction-related companies that include an owner, or owners, who live in the BVHP Area and who possess at least fifty one percent (51%) of the ownership interest in such company; and/or

(f) non-profits, including faith-based organization(s), based in the BVHP Area (“**BVHP Non-Profit Group**”) which provide satisfactory evidence to the Selection Panel that such BVHP Non-Profit Group either (i) itself possesses the requisite technical proficiency and experience or (ii) has a contractual relationship with a developer, builder or established, construction-related company (the “**Development Assistant**”) which provides the BVHP Non-Profit Group with the requisite Technical Qualifications (as defined below).

“**Community Builders**” means BVHP Area Builders selected from the Community Builders Pool pursuant to this Agreement.

“**Community Builder Program**” means the program outlined in this Section 4.

4.2 Location of Community Builder Lots. The Community Builder Lots shall be located in areas shown on the Land Use Plan attached to the DDA as Schedule B to Attachment 2; provided, however, that such locations may be revised from time to time in accordance with the terms of the DDA or upon written agreement of the Agency and Developer.

4.3 Selection of Community Builders.

(a) Applicant Outreach Process. As warranted in accordance with Section 4.3(f) hereof, Developer shall identify and inform potential BVHP Area Builders of the opportunity to participate in the Community Builder Program by employing such efforts as Developer believes are reasonably necessary in order to elicit sufficient applicants to ensure that

IN WITNESS WHEREOF, the Agency and Developer have each caused this First Amendment to be duly executed as of the Effective Date.

AGENCY:

Authorized by Agency Resolution No.
_____ adopted November 3, 2009

Approved as to Form:

By: _____
Name: James B. Morales
Title: Agency General Counsel

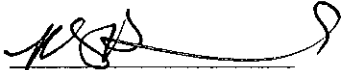
REDEVELOPMENT AGENCY OF THE
CITY AND COUNTY OF SAN
FRANCISCO,
a public body, corporate and politic

By: _____
Name: _____
Title: _____

DEVELOPER:

HPS DEVELOPMENT CO., LP,
a Delaware limited partnership

By: CP/HPS Development Co. GP, LLC,
a Delaware limited liability company,
its General Partner

By: 
Name: Kofi Bonner
Its: Authorized Representative

the goals of the Community Builder Program can be fulfilled (the “**Applicant Outreach Process**”). Such efforts may include, but are not limited to:

(1) Conducting community outreach, which may include, but is not limited to, advertising, direct mail, e-mail and flyers targeted at BVHP Area Builders, including outreach to those organizations identified in Exhibit L hereto (as such exhibit may be updated from time to time by Developer or the Agency by written notice to the other party);

(2) Providing the Community Builder Application (as defined below) to each BVHP Area Builder who requests an application and posting the Community Builder Application on Developer’s and Agency’s website;

(3) Conducting workshops designed to explain the Community Builder Program and the application process therefor; and

(4) Staffing the Project Office to answer questions about the Community Builder Program and to assist in completing the Community Builder Application.

(b) **Community Builder Application.**

(1) **Form.** The “**Community Builder Application**” shall be the application form attached hereto as Exhibit G, as such application form may be revised by Developer from time to time. In order to assist the Selection Panel with the Qualification Finding, the Community Builder Application must provide, to the extent available, the information described below:

(i) **Technical Proficiency.** Documentation of technical qualifications related to the proposed development, including resumes of all members of the applicant and the identification of licenses, certificates and relevant educational training. Documentation of a proven track record as a developer or builder, including demonstrable record as either a developer or builder of a housing or commercial development, including a list of client references.

(ii) **Relevant Experience.** Documentation of direct or related experience, including but not limited to investment, construction, engineering and development experience and a detailed explanation of previous development projects, including location, size, cost, capital and financing sources used, economic performance, project timeline and a description of the role of the applicant or its constituent members in the project. Proven track record of meeting a project timeline as well as the ability to hire and manage sub-contractors, schedule trades and materials and secure permits.

(iii) **Financial History and Financial Capacity.** Documentation of successful bid and job completion. Documentation of the following financial information: four (4) years of annual credit reports, annual reports, audited financial statements or tax returns of the applicant and its constituent members and real estate portfolios, recent history of obtaining financing commitments, a description of all projects currently underway but not completed, including the financial commitment required of the applicant, identification of equity and debt capital and the relationship between the developer and the financing source.

(iv) **Litigation History.** Detailed information regarding any litigation that involved the applicant or any of its direct or indirect constituent members.

(v) **Formation.** Documentation evidencing that the applicant and its constituent members, if any, have been duly formed, made all filings and are in good standing in the State of California and in the state of their respective incorporation. If the applicant is a (x) joint venture or (y) a BVHP Non-Profit Group with a Development Assistant, then the applicant shall provide evidence demonstrating the existence of a duly executed contractual relationship between the applicable parties.

(2) **Process.** Developer shall provide applicants with a reasonable period of time in which to submit a Community Builder Application. Developer shall notify applicants of receipt of the submitted Community Builder Application, keep a list of all persons who submit a Community Builder Application and consult with the Agency to supplement such list with additional names of potential Community Builders (each, a “**Community Builder Applicant**”, and collectively, the “**Community Builder Applicants**”).

(c) **Selection Panel.** A selection panel comprised of two (2) representatives appointed by each of the Agency and Developer (the “**Selection Panel**”) shall by mutual agreement create a pool of potential Community Builders selected from the Community Builder Applicants (the “**Community Builders Pool**”). Representatives appointed to the Selection Panel shall be employees of the party that appointed such representative and shall be experienced in real estate development matters. Representatives may be replaced from time to time by the party that originally appointed such representative by providing written notice thereof to the other appointing party.

(d) **Selection Criteria for Inclusion in the Community Builders Pool.** To be included in the Community Builders Pool, the Selection Panel must find (the “**Qualification Finding**”) that the applicant (1) qualifies as a BVHP Area Builder, (2) has technical proficiency and relevant experience (including at least two (2) years of development or construction experience) to perform duties that are economically significant to the development of a Community Builder Lot (the “**Technical Qualifications**”) and (3) has the capacity to actively and substantially participate in the day-to-day, financial and policy decision-making responsibilities associated with the acquisition and development of a Community Builder Lot.

(e) **Selection of Community Builders.** Developer shall have the sole and absolute discretion to select Community Builders from the Community Builders Pool and to assign such Community Builders to Community Builder Lots. Upon such selection and assignment, Developer shall provide written notice thereof to the Community Builders, those in the Community Builders Pool and the Agency and the selected Community Builder shall no longer be considered part of the Community Builders Pool.

(f) **Community Builders Application Updates.** Due to the phased nature of the Project, the Community Builders Pool may be formed and Community Builders may be selected therefrom significantly in advance of the Completion of Horizontal Improvements for a particular Community Builder Lot. In order to ensure that the qualifications stated by Community Builders in their respective Community Builder Applications remain current, the

Agency or Developer may from time to time issue a written request to a Community Builder (the “**Update Request**”) for an update to the information provided in the Community Builder Application previously submitted. Responses to Update Requests shall be handled as follows:

(1) Failure to respond in writing within forty five (45) days following receipt of an Update Request will result in the disqualification of such Community Builder from participating in the Community Builder Program. In the event of a disqualification, Developer shall have the sole and absolute discretion to (i) select a new Community Builder from the Community Builders Pool and/or (ii) conduct the Applicant Outreach Process to increase the available number of potential Community Builders in the Community Builders Pool and thereafter select a new Community Builder from the Community Builders Pool (the “**Disqualification Procedures**”).

(2) In the event that a Community Builder timely responds to the Update Request, but advises of a change in any of the material information or qualifications included on its application that the Selection Panel believes is materially adverse, then the Selection Panel shall provide to the Community Builder written notice of specific deficiencies in the information provided in response to the Update Request (the “**Cure Notice**”). The Community Builder will have forty five (45) days (the “**Resolution Period**”) to provide information to the Selection Panel sufficient to address the concerns specified in the Cure Notice. If a Cure Notice is sent to a Community Builder that is comprised of a BVHP Non-Profit Group and its Development Assistant, then the BVHP Non-Profit Group shall provide the Selection Panel during the Resolution Period with an updated Community Builder Application, which may propose a replacement Development Assistant (the “**Replacement Development Assistant**”) if necessary to address the deficiencies noted in the Cure Notice. Within fifteen (15) days following the last day of the Resolution Period, the Selection Panel shall by mutual agreement determine whether the information submitted by the Community Builder (or the BVHP Non-Profit Group) adequately cures the deficiencies outlined in the Cure Notice and shall inform such Community Builder (or the BVHP Non-Profit Group) in writing of such determination. If the Selection Panel determines that the information submitted by the Community Builder (or the BVHP Non-Profit Group) does not adequately cure the deficiencies outlined in the Cure Notice, then the Selection Panel may by mutual agreement elect to issue a subsequent Cure Notice or direct Developer to follow the Disqualification Procedures.

4.4 Form of Participation by Community Builder. Community Builders shall be given the opportunity to participate in the Community Builder Program under any of the following three (3) models:

(a) **Independent Community Builder.** An “**Independent Community Builder**” is a Community Builder which possesses the capacity to (1) acquire its assigned Community Builder Lot in accordance with the terms set forth in the DDA, (2) negotiate a Vertical DDA mutually acceptable to such Community Builder and the Agency and (3) complete the Vertical Improvements for such Community Builder Lot in accordance with the terms of such Vertical DDA. Under such model, the Independent Community Builder would be solely responsible for acquiring and developing the applicable Community Builder Lot in accordance with the terms of this Agreement, the DDA and the Vertical DDA.

(b) **Joint Venture Community Builder.** A “**Joint Venture Community Builder**” is a Community Builder which forms a joint venture with Developer (or an Affiliate of Developer) (such joint venture, the “**Developer/Community Builder Venture**”) pursuant to a joint venture agreement mutually agreed upon by Developer (or an Affiliate of Developer) and the Community Builder (the “**Developer/Community Builder Joint Venture Agreement**”). The Developer/Community Builder Joint Venture Agreement shall require the Community Builder to contribute a material portion of the anticipated costs of acquiring its assigned Community Builder Lot in accordance with the terms set forth in the DDA and the anticipated costs of completing the anticipated Vertical Improvements for such Community Builder Lot and the return thereon shall be commensurate with the portion so contributed by the Community Builder.

(c) **Fee Developer Community Builder.** A “**Fee Developer Community Builder**” is a Community Builder which enters into a customary development services agreement (the “**Fee Developer Agreement**”) with the owner of the applicable Community Builder Lot pursuant to which the Fee Developer Community Builder participates in the day-to-day development of the applicable Community Builder Lot. The Fee Developer Agreement will not require the Community Builder to contribute capital to either (i) acquire the applicable Community Builder Lot or (ii) complete the Vertical Improvements for such Community Builder Lot. In consideration of such participation, the Fee Developer Community Builder will receive compensation (the “**Development Fee**”) of up to three percent (3%) of either: (a) the direct costs associated with the vertical construction of the applicable Community Builder Lot (the “**Cost Model**”) or (b) the gross revenues of the applicable Community Builder Lot (the “**Revenue Model**”). Under (x) the Cost Model, the Development Fee will be paid based on the payment date and amount of qualifying costs and (y) the Revenue Model, the Development Fee will be paid monthly based on the anticipated gross revenues, with a portion of such Development Fee to be disbursed after and to the extent the development of the Community Builder Lot has resulted in a commercially reasonable rate of return. The Development Fee, the final amount and method of calculation of which will be included in the Fee Developer Agreement, may be adjusted downward, if at all, based on the level of services to be provided by the Community Builder.

EXHIBIT B

Community Builders

Community Builder Lot

Community Builder

Block 1JV	Tabernacle/Amanco Development, LLC
Block 52JV	Marinship Development Interests, LLC
Block 53JV	MDC/C. Churchwell, LLC
Block 54JV	BAMEC Inc
Block 48A	San Francisco Housing Development Corporation
Block 48F	Shiloh Development Team, LLC
Block 48J	Unassigned
Block 48K	BVHP Multi Purpose Center/Baines Group
Block 48O	Eagle Environmental Construction