

**SETTLEMENT AGREEMENT
BETWEEN
THE BAY AREA AIR QUALITY MANAGEMENT DISTRICT
AND
LENNAR-BVHP, LLC
August 7, 2008**

The Bay Area Air Quality Management District (“DISTRICT”) and Lennar-BVHP, LLC, knowingly and of their own free will enter into this Settlement Agreement. The DISTRICT and Lennar-BVHP, LLC (collectively, the “PARTIES”) are separately represented by counsel of their choosing and have consulted about the terms of this Settlement Agreement with their separate and independent counsel.

WHEREAS, Lennar-BVHP, LLC is the master developer for a redevelopment project at the Hunters Point Shipyard in San Francisco, and part of that project includes development of Parcel A’ (“Facility”).

WHEREAS, redevelopment of the Facility is governed by, among other things, an Asbestos Dust Mitigation Plan (“ADMP”) approved by the DISTRICT;

WHEREAS, the DISTRICT has oversight authority for monitoring compliance with the ADMP, the DISTRICT Regulations and the California Code of Regulations, Title 17 (“Applicable Regulations”);

WHEREAS, Lennar-BVHP, LLC retained contractors to conduct certain activities at the Facility, including the retention of CH2M Hill to conduct required asbestos dust monitoring;

WHEREAS, Lennar-BVHP, LLC retained CH2M Hill to conduct asbestos dust monitoring in Spring and Summer 2006. Throughout that period, CH2M Hill regularly

reported no detection of asbestos dust above the minimum thresholds established by the DISTRICT, and both Lennar-BVHP, LLC and the DISTRICT received those reports; WHEREAS, CH2M Hill disclosed in August 2006 that it could not confirm any of the non-detection results that it had reported before August 3, 2006;

WHEREAS, health officials (including the San Francisco Department of Public Health and the Agency for Toxic Substance Disease Registry) and experts determined that there was no significant risk to human health as a result of any asbestos dust during the redevelopment activities;

WHEREAS, Lennar-BVHP, LLC retained a contractor, Gordon N. Ball - Yerba Buena Engineering & Construction, Inc., to handle certain activities during the first phase of construction at the Facility beginning in Spring 2006, including major grading, retaining wall construction, and implementation of dust control measures required under the Applicable Regulations, including Track-out Prevention and Control ("Track Out") and proper offsite transport of excavated material; and

WHEREAS, the DISTRICT issued Notices of Violation ## A46068 and 46075 to Lennar-BVHP, LLC.

THEREFORE, the PARTIES AGREE AS FOLLOWS:

1. The settlement of the matters addressed in this agreement, which include the allegations in DISTRICT Notices of Violation ("NOVs") # A46068 and A46075, without litigation, is fair, reasonable and in the interests of the DISTRICT, Lennar-BVHP, LLC and the public.
2. Lennar-BVHP, LLC's payment in full of the civil penalty described in paragraph 5 below will settle and conclude all claims that have been or could have been asserted by the

DISTRICT against Lennar-BVHP, LLC based on the NOV's or arising out of or relating to the allegations and conduct that are the basis for the NOV's identified in paragraph 1 above.

3. As consideration for the civil penalty stated below, the DISTRICT hereby releases Lennar-BVHP, LLC, its shareholders, parents, affiliates, subsidiaries, divisions, successors-in-interest, officers, directors, agents, employees, contractors and representatives from any and all liabilities, claims, causes of action, damages, fines, costs, attorney's fees, or civil or criminal penalties that the DISTRICT has claimed in the past, now claims, or may be able to claim in the future arising out of or from the allegations contained in the NOV's identified in paragraph 1 above.
4. This Settlement Agreement precludes the DISTRICT from seeking criminal or civil penalties under California Health & Safety Code sections 42400 *et seq.* or taking administrative action for the same alleged actions and violations that are the basis for the NOV's identified in Paragraph 1 above.
5. Within thirty (30) days of the execution of this Settlement Agreement, Lennar-BVHP, LLC shall pay by corporate check, made payable to the "Bay Area Air Quality Management District," the amount of \$515,000.00 as a civil penalty. The payment shall be mailed or delivered to:

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
OFFICE OF DISTRICT COUNSEL
BRIAN C. BUNGER, DISTRICT COUNSEL
939 ELLIS STREET
SAN FRANCISCO, CALIFORNIA 94109

6. Upon execution, this Settlement Agreement will become final and binding upon the PARTIES.


7. This Settlement Agreement constitutes the entire agreement and understanding between the PARTIES, and fully supersedes and replaces any and all prior negotiations, stated positions, and agreements of any kind or nature, whether written or oral, between the PARTIES, concerning these claims. Lennar-BVHP, LLC's and the DISTRICT's entry into this Settlement Agreement is not and shall not be construed as evidence or an admission of any issue of law or fact, including any liability for conduct or violations of law as alleged in the NOV's identified in Paragraph 1 above.
8. The DISTRICT reserves the right to take future enforcement actions arising out of violations not covered by this Settlement Agreement; in addition, the DISTRICT reserves the right to demand increased penalties in connection with any future alleged violations based on compliance history.
9. The DISTRICT reserves the right to rely upon the alleged violations described in the NOV's identified in Paragraph 1 above and may offer proof thereof in connection with any other administrative or judicial proceeding not related to this proceeding for the purpose of showing a history of alleged violations. Lennar-BVHP, LLC reserves the right to contest the alleged violations described in the NOV's identified in Paragraph 1 above and may offer proof related thereto in connection with any other administrative or judicial proceeding not related to this proceeding for the purpose of contesting or mitigating a history of alleged violations.
10. Lennar-BVHP, LLC's failure to perform any of the terms or conditions of this Settlement Agreement will render LENNAR-BVHP, LLC in violation of the terms and conditions of this Settlement Agreement.

11. No agreement to modify, amend, extend, supersede, terminate, or discharge this Settlement Agreement, or any portion thereof, shall be valid or enforceable unless it is in writing and signed by the PARTIES.
12. This Settlement Agreement shall be interpreted and enforced in accordance with the laws of the State of California, without regard to California's choice of law rules.
13. Each of the undersigned expressly represents that he or she is authorized to execute this Settlement Agreement on behalf of the party for whom he or she signs below.

SO AGREED, STIPULATED AND EXECUTED:

Bay Area Air Quality
Management District
939 Ellis Street
San Francisco, California 94109

By:


JACK P. BROADBENT
Executive Officer/APCO

Date:

8/12/08

Lennar-BVHP-LLC

By:


KOFI BONNER

Date:

8/7/08

Approved as to form:
District Counsel

By:


BRIAN C. BUNGER
District Counsel

Date:

8/12/2008

Paul, Hastings, Janofsky & Walker LLP

By:


GORDON HART

Date:

8/7/08