

This document is exempt from payment
of a recording fee pursuant to California
Government Code Section 27383

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

Sunnydale Phase 3 Infrastructure, LLC
c/o Mercy Housing California
1256 Market Street
San Francisco, California 94102
Attn: Ramie Dare

Space Above This line for Recorder's Use

DECLARATION OF RESTRICTIONS

_____, 2024

DECLARATION OF RESTRICTIONS

THIS DECLARATION of Restrictions (“Declaration”) is made this ___ day of _____, 2024 by the Housing Authority of the City and County of San Francisco (the “Authority”) and Sunnydale Phase 3 Infrastructure, LLC (“Developer”) (collectively, “Declarants”).

RECITALS

A. The Authority is the owner of certain real property located on Sunnydale Avenue between Santos Street and Hahn Street in the City of San Francisco, County of San Francisco, State of California, and more fully described in Exhibit “A” to this Declaration (hereinafter referred to as the “Property” or “Lot B”).

B. The Authority, Sunnydale Development Co., LLC, a California limited liability company (“Master Developer”), and the City and County of San Francisco (“City”) are parties to that certain Master Development Agreement, recorded in the Official Records of the City and County of San Francisco on March 3, 2017 as Document No. 2017-K416598 (the “MDA”) and Master Developer and City are parties to that certain Development Agreement, recorded in the Official Records of the City and County of San Francisco on March 3, 2017 as Document No. 2017-K416604 (the “DA” and together with the MDA, the “DA/MDA”). The DA/MDA governs the development of the approximately 50-acre site, known as the Sunnydale HOPE SF Project (the “Project”).

C. The Authority and Developer entered into that certain Ground Lease Agreement (Sunnydale/Velasco/Santos- Infrastructure Phases 1B and 1C) dated as of [_____] (the “Ground Lease”). The Property is within the leased premises in the Ground Lease.

D. The Department of Public Works (“Public Works”) conditionally approved Tentative Final Map No. 9537 for all phases of the Project on April 19, 2019 by Public Works Order No. 201070 (the “Tentative Map”).

E. The Property consists of one parcel within the Project area, identified as Lot B on Final Map No. 12077 recorded simultaneously herewith in the Official Records of the City (“Final Map”). There is an existing building (“Building”) on portions of Lot B, Lot 9, and Lot K that crosses the lot lines between said parcels, as depicted on Exhibit “B”. Pursuant to the DA/MDA, the Master Developer is obligated to remove the Building.

F. In accordance with the conditions to approval of the Tentative Map and the Final Map, Public Works has required Declarants to provide this Declaration of Restrictions.

G. In connection with the Final Map and DA/MDA, and in order to satisfy the requirements of the San Francisco Building Code (the “Code”) in effect as of the date hereof and obtain City approval of the Final Map, Declarants desire to impose certain restrictions on the Property.

H. The City is intended to be a third party beneficiary of this Declaration, such that the written consent of the Director of the City’s Department of Building Inspection (“DBI

Director”) and the San Francisco Fire Marshal (“Fire Marshal”) shall be required for the modification, revocation, or termination of the restrictions imposed herein.

NOW, THEREFORE, Declarants hereby declare that all the Property is to be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied, and improved subject to the following limitations, restrictions, reservations, rights, easements, conditions, and covenants, all of which are imposed as equitable servitudes upon the Property. All of the limitations, restrictions, reservations, rights, easements, conditions, and covenants in this Declaration shall run with and burden the Property, and shall be binding on and for the benefit of all of the Property, any portion of it and any interest in it, and all persons having or acquiring any rights, title or interest in the Property, any portion of it, and any interest in it, and their successors, heirs, and assigns; and, further

1. Lot Tie. Declarants shall not sell, transfer, or encumber Lot B independently from Lot 9 or Lot K for the duration of the Declaration. Under this Declaration, Lot B, Lot 9, and Lot K will be considered as a single parcel for purposes of compliance with the Code, thereby allowing the continued existence of the Building straddling the lot lines between these adjoining parcels without physical separation and, consequently, without corresponding building setbacks, property line fire protection for walls and openings, and certain otherwise relevant Code requirements unless and until the Building has been removed.

2. Ingress/Egress/Access. Unless and until the Building has been removed, i) Declarants shall not demolish or modify any path of ingress or egress to/from the Building to/from the public right-of-way; ii) Declarants shall not demolish or modify any facilities providing access to/from the Building to/from the public right-of-way; iii) Declarants shall ensure that a street providing Fire Department access continues for at least the entire frontage of the Building; and iv) Declarants shall not demolish or modify any existing fire hydrants serving the Building.

3. Light/Air. For so long as this Declaration continues in effect, no new structure or other improvements shall be constructed or maintained on the Property. This prohibition against construction shall not apply to public street or utility infrastructure or other improvements that do not interfere with the Building’s access to light and air or vehicular and life safety ingress to or egress from the Property, so long as such improvements have been approved by the DBI Director, Fire Marshal, and Public Works Director or their designees, if such approval is required.

4. Subsequent Building Permits. For so long as this Declaration continues in effect, as part of the submission of any building permit applications to the Department of Building Inspection that affect the Property, each applicant shall submit a copy of this Declaration.

5. Duration. The restrictions contained in this Declaration commence upon recording of the Declaration, concurrent with the Final Map, and shall be perpetual, unless and until the earlier of i) it is modified, revoked, or terminated pursuant to section 6 below, ii) the Building is demolished, or iii) the Property, Lot 9, and Lot K are merged.

6. Modification, Revocation, or Termination. This Declaration has been recorded in order to satisfy the requirements of the Code in effect as of the date hereof and to obtain the approval by the City of the Final Map. This Declaration may not be modified, revoked or terminated without the written consent of Declarants or Declarants' respective successor(s)-in-interest of the Property, and any such modification, revocation or termination shall not be effective unless and until the DBI Director and Fire Marshal or their designee(s) consent thereto in writing after receiving written notice thereof from Declarants, and such modification, revocation, or termination, executed by Declarants or Declarants' respective successor(s)-in-interest and the City, is recorded in the Official Records of the City.

7. Third Party Beneficiary. The City is intended to be a third-party beneficiary of this Declaration, with the right to consent to any modification or revocation hereof and the right and authority, at its sole option, to enforce the provisions hereof (including, but not limited to, remedies for violation for a building permit), provided, however, that the City shall have no liability whatsoever hereunder with respect to the condition of the Property.


8. No Public Dedication. Nothing contained herein shall be deemed to be a gift or dedication to the general public or for any public purposes whatsoever, it being the intention that this document be strictly limited to and for the purposes expressed.

9. Indemnity. In addition to the indemnities provided in the DA/MDA by Master Developer, Developer and its successor(s)-in-interest with respect to matters arising during or prior to the period that their respective tenure continues, each on behalf of itself and its successors and assigns ("Indemnitors"), agrees to indemnify the City and the Authority, and each of their officers, agents, and employees from loss, cost, damage, injury, liability, and claims, caused directly or indirectly by an act or omission of Indemnitor in relation to this Declaration, except to the extent caused by the gross negligence or willful misconduct of a City party or the Authority. Indemnitor's indemnification obligation under this Section includes an indemnified City party's and Authority's reasonable attorneys' fees and related costs, including the cost of investigating any claims against the City parties or the Authority, and will survive the expiration or earlier termination of this Declaration.

10. Authority. The person executing this Declaration on behalf of the Authority does hereby covenant and warrant that the Authority has full right and authority to enter into this Declaration, and that the person signing on behalf of the Authority is authorized to do so. The person executing this Declaration on behalf of Developer does hereby covenant and warrant that Developer is a duly formed and existing California limited liability company, that Developer has full right and authority to enter into this Declaration, and that the person signing on behalf of Developer is authorized to do so.

11. Incorporation of Recitals and Exhibits. The Recitals A through H above, and the Exhibits attached hereto, shall be incorporated herein and shall be understood to be a part hereof as though included in the body of this Declaration of Restrictions.

APPROVED AS TO FORM
AND LEGALITY:


Dianne Jackson McLean, Esq.
Goldfarb & Lipman LLLP
Special Counsel to Authority

DECLARANT:

HOUSING AUTHORITY OF THE CITY AND
COUNTY OF SAN FRANCISCO, a public body,
corporate and politic

By:  _____

Germaine Tonia Lediju
Chief Executive Officer

Date: 9/20/24 _____

DEVELOPER:

SUNNYDALE PHASE 3 INFRASTRUCTURE,
LLC, a California limited liability company

By: New Grid 2 LLC, a California
limited liability company

By: Mercy Housing Calwest,
a California nonprofit public benefit
corporation,
its sole member and manager

By: _____
Name: _____
Title: _____

APPROVED
Director of the Department of Building Inspection

By _____

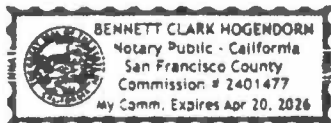
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
)
COUNTY OF San Francisco)

On November 13, 2024, before me, Bennett Hogendorn, Notary Public, personally appeared Germaine Tonia Lediju aka Tonia Lediju, 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.



A handwritten signature in black ink, appearing to read "B Hogendorn". The signature is written in a cursive style with a long horizontal line extending to the right.

Name: Bennett Hogendorn
Notary Public

DECLARANT:

HOUSING AUTHORITY OF THE CITY AND
COUNTY OF SAN FRANCISCO, a public body,
corporate and politic

APPROVED AS TO FORM
AND LEGALITY:

By: _____

Germaine Tonia Lediju
Chief Executive Officer

Date: _____

Dianne Jackson McLean, Esq.
Goldfarb & Lipman LLP
Special Counsel to Authority

DEVELOPER:

SUNNYDALE PHASE 3 INFRASTRUCTURE,
LLC, a California limited liability company

By: New Grid 2 LLC, a California
limited liability company

By: Mercy Housing Calwest,
a California nonprofit public benefit
corporation,
its sole member and manager

By: Elizabeth Kuwada
Name: ELIZABETH KUWADA
Title: VICE PRESIDENT

APPROVED
Director of the Department of Building Inspection

By _____

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.

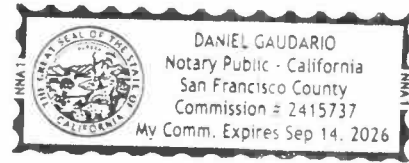
State of California)
) ss
County of San Francisco)

On November 20, 2024, before me, Daniel Gaudario, a notary public in and for said State, personally appeared Elizabeth Kuwada, 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.

Signature Daniel Gaudario (Seal)



DECLARANT:

HOUSING AUTHORITY OF THE CITY AND
COUNTY OF SAN FRANCISCO, a public body,
corporate and politic

APPROVED AS TO FORM
AND LEGALITY:

By: _____

Germaine Tonia Lediju
Chief Executive Officer

Date: _____

Dianne Jackson McLean, Esq.
Goldfarb & Lipman LLLP
Special Counsel to Authority

DEVELOPER:

SUNNYDALE PHASE 3 INFRASTRUCTURE LLC,
a California limited liability company

By: New Grid 2, LLC,
a California limited liability company,

By: Mercy Housing Calwest,
a California nonprofit public benefit corporation,
its sole member and manager

By: _____

Elizabeth Kuwada
Vice President

Date: _____

By: Related/Sunnydale Infrastructure, LLC,
a California limited liability company,
its member

By:  _____

Ann Silverberg
Vice President

Date: 10/2/2024

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)
) ss
County of San Francisco)

On October 2, 2024, before me, Logan Taylor Perlstein, a notary public in and for said State, personally appeared Ann Silverberg, 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.

Signature *L. Perlstein* (Seal)



Fire Marshal

By _____

APPROVED AS TO FORM
David Chiu, City Attorney

By _____
Robb Kapla
Deputy City Attorney

EXHIBIT "A"

LEGAL DESCRIPTION OF THE PROPERTY

All that real property situated in the City and County of San Francisco, State of California, described as follows:

Lot B, as said lot is shown on that certain map entitled, "Final Map 12077", recorded in the Official Records of the City and County of San Francisco.

EXHIBIT "B"

DIAGRAM

