



City of Port Moody

Bylaw No. 3279

A Bylaw to authorize Council to enter into a Housing Agreement pursuant to section 483 of the *Local Government Act*.

The Council of the City of Port Moody enacts as follows:

1. Citation

- 1.1 This Bylaw may be cited as “City of Port Moody Housing Agreement Bylaw, 2021, No. 3279 (Lots 17-20 Henry Street)”.

2. Authorization

- 2.1 Council hereby authorizes the agreement, substantially in the form attached to this Bylaw as Schedule “A”, between the City of Port Moody and 0790857 B.C. LTD. (a company incorporated under the laws of the Province of British Columbia having an office at 900-900 West Hastings Street, Vancouver, BC V6C 1E5), with respect to the following lands:

Lots 17, 18, 19, and 20 District Lot 190, Group 1, New Westminster District Plan 11618;

PID Nos.: 002-083-931; 002-083-957; 002-422-875; and 002-422-891.

3. Execution of Documents

- 3.1 The Mayor and Corporate Officer are authorized to execute any documents required to give effect to the Housing Agreement.

4. Attachments and Schedules

- 4.1 The following schedule is attached to and forms part of this Bylaw:
 - Schedule “A” – Section 219 Covenant – Housing Agreement.

5. Severability

- 5.1 If a portion of this Bylaw is found invalid by a court, it will be severed and the remainder of the Bylaw will remain in effect.

Read a first time this 27th day of April, 2021.

Read a second time this 27th day of April, 2021.

Read a third time this 27th day of April, 2021.

Adopted this ___ day of _____, 20__.

R. Vagramov
Mayor

D. Shermer
Corporate Officer

I hereby certify that the above is a true copy of Bylaw No. 3279 of the City of Port Moody.

D. Shermer
Corporate Officer

Schedule "A" to Bylaw No. 3279

TERMS OF INSTRUMENT – PART 2

Section 219 Covenant – Housing Agreement

THIS AGREEMENT made the ____ day of _____, 2021;

BETWEEN:

0790857 B.C. LTD., a company incorporated under the laws of the Province of British Columbia having an office at 900-900 West Hastings Street, Vancouver, BC V6C 1E5

(the "**Grantor**")

AND:

City of Port Moody
100 Newport Drive
Port Moody, BC V3H 5C3

(the "**City**")

WHEREAS:

- A. The Grantor is the registered owner in fee simple of the lands in the City of Port Moody, legally described in Item 2 of the *Land Title Act* Form C to which this Agreement is attached and which forms part of this Agreement (the "**Lands**");
- B. The Grantor intends to construct a residential development on a portion of the Lands (the "**Development**"). It is anticipated that the Development will include 173 residential strata lots (the "**Strata Lots**", and each of them a "**Strata Lot**") and has made application to rezone the Lands under Bylaw No. 3259 (the "**Rezoning Bylaw**");
- C. The Grantor has agreed to offer up certain Strata Lots (collectively, the "**Rent-to-Own Strata Lots**" and individually, a "**Rent-to-Own Strata Lot**") for sale to purchasers on a rent-to-own basis, as more particularly described herein (the "**Rent-to-Own Program**") in accordance with section 2.1;
- D. The Grantor has agreed to designate certain Strata Lots (collectively, the "**Lock-Off Strata Lots**", and individually, a "**Lock-Off Strata Lot**"), as more particularly described herein (the "**Lock-Off Program**"), in accordance with section 2.1;
- E. The Grantor has agreed to designate one (1) of the Strata Lots (the "**Affordable Rental Strata Lot**"), as more particularly described herein (the "**Affordable Rental Program**"), in accordance with section 2.1;

- F. Section 219 of the *Land Title Act*, R.S.B.C. 1996, c. 250 permits the registration of a covenant of a positive or negative nature in favour of the City in respect of the subdivision of land, the use of land or a building on or to be constructed on the land, or construction on the land;
- G. Section 483 of the *Local Government Act* permits the City to enter into a housing agreement with an owner of land, which agreement may include terms and conditions regarding the occupancy, tenure, and availability of Strata Lots located on the Lands;
- H. The City adopted Housing Agreement Bylaw, No. 3279 (the “**Housing Bylaw**”), authorizing the City to enter into this Agreement on the terms and conditions contained herein;
- I. The City requires the Grantor to secure its commitment to the Community Amenity Contribution Fund, the Rent-to-Own Program, the Lock-Off Program, and the Affordable Rental Program by causing this covenant to be registered on title to the Lands; and
- J. The Grantor desires to grant, and the City agrees to accept this covenant on the terms and conditions contained herein, to have effect as both a covenant under section 219 of the *Land Title Act* and a housing agreement under section 905 of the *Local Government Act*;

THIS AGREEMENT is evidence that in consideration of payment of TEN (\$10.00) DOLLARS by the City to the Grantor and other good and valuation consideration, the receipt and sufficiency of which is acknowledged by the Grantor, and in consideration of the promises exchanged below, the Grantor covenants and agrees with the City pursuant to s.219 of the *Land Title Act* that the Lands will not be used except in accordance with the provisions hereof:

1. DEFINITIONS

1.1 Definitions

In this Agreement:

- (a) “**Affordable Rental Strata Lot**” means one (1) Strata Lot as shown in the table below and generally as illustrated in Schedule “C”, or in such other location as the Grantor and the City may mutually agree;

Beds	Floor Area (approximate)
2-bedroom plus two lock-off units	1,600ft ²

- (b) “**BC Housing**” means the British Columbia Management Commission;
- (c) “**Consumer Price Index**” means the all-items consumer price index published by Statistics Canada, or its successor in function, for Vancouver;
- (d) “**Daily Amount**” shall have the meaning attributed to it as set out in section 8.3;
- (e) “**Director**” means the City’s General Manager of Community Development and his or her designate;
- (f) “**Discharges**” has the meaning given to it in section 6.1 herein;

- (g) **“Eligible Person”** means a person who establishes to the satisfaction of the Society an annual gross income that is no greater than the applicable Housing Income Limit published from time to time by BC Housing, or otherwise meets the financial criteria for an Eligible Person set out herein;
- (h) **“Lock-Off Strata Lot”** shall mean a Strata Lot containing one or more smaller lock-off dwelling suites (a **“Lock-Off Suite”**) having shared internal access with and which can be locked off from the larger principal Strata Lot as illustrated in Schedule “C”, or in such other location as the Grantor and the City may mutually agree;
- (i) **“LTO”** means the Lower Mainland Land Title Office and any successor of that office;
- (j) **“Rent-To-Own Purchase Agreement”** has the meaning given to it in Schedule “A” attached hereto;
- (k) **“Rent-To-Own Strata Lot”** shall mean a Strata Lot offered for sale by the Grantor in accordance with section 4.1(b) herein and as illustrated in Schedule “C”, or in such other location as the Grantor and the City may mutually agree;
- (l) **“Society”** means the Kinsight Community Society (Inc. No. S0004592) or another not-for-profit society approved in writing by the City;
- (m) **“Strata Corporation”** means the strata corporation established pursuant to the *Strata Property Act* (British Columbia) upon registration at the LTO of a strata plan to stratify the Development, once constructed;
- (n) **“Strata Lot”** or **“Strata Lots”** shall have the meaning set out in Recital B. above; and
- (o) **“Subsidized Rental Rate”** means the rental rate established from time to time by BC Housing as affordable housing.

2. OVERVIEW OF HOUSING PROGRAM

- 2.1 The Grantor covenants and agrees with the City that the Development shall include:
- (a) designation of seventeen (17) Rent-to-Own Strata Lots, composed of:
 - (i) one (1) studio unit;
 - (ii) seven (7) 1-bedroom units;
 - (iii) six (6) 1-bedroom plus den units;
 - (iv) one (1) 2-bed unit; and
 - (v) two (2) 2-bedroom plus den units.
 - (b) designation of eight (8) Lock-Off Strata Lots, each of which shall be composed of a 2-bedroom unit plus a Lock-Off Suite;
 - (c) designation of one (1) Affordable Rental Strata Lot;
 - (d) the granting to the Society of a right of first refusal to purchase up to two (2) Strata Lots through the Rent-to-Own Program on the terms set out herein; and

For greater clarity, the Development may include in excess of eight (8) Lock-Off Strata Lots, and such additional Lock-Off Strata Lots may be composed of any combination of studio units, 1-bedroom units, 1-bedroom plus den units and/or 2-bedroom units, as the

Grantor may in its sole discretion determine.

2.2 Despite section 2.1, prior to the issuance of the first building permit for the Development, the composition of the Rent-to-Own Strata Lots and the Lock-Off Strata Lots (i.e., the number of studio units, one-bedroom plus den units, one-bedroom units, and two-bedroom units) may be re-allocated by the Grantor:

- (a) in the case of the Rent-to-Own Strata Lots, if the parties determine that there are an insufficient number of qualified applicants for the Rent-to-Own Program interested in a particular unit type to fully allocate the units in the manner set out in section 2.1(a) as the case may be, the Grantor may vary the number of studio units, one-bedroom plus den units, one-bedroom units, and/or two-bedroom units and correspondingly increase the number of studio units, one-bedroom plus den units, one-bedroom units, and/or two-bedroom units to reflect the expressed interest of qualified applicants of the Rent-to-Own Program.

3. THE AFFORDABLE RENTAL PROGRAM

3.1 Grantor's Covenants

The Grantor covenants and agrees with the City that:

- (a) the Lands will not be developed for residential purposes and no residential building or structure will be constructed on the Lands unless as part of the construction and development of any such building or structure, the Grantor also designs and constructs to completion, in accordance with a building permit and a development permit issued by the City, the Affordable Rental Strata Lot;
- (b) the total number of Strata Lots on the Lands, including the Affordable Rental Strata Lot will not exceed 173;
- (c) the Affordable Rental Strata Lot must be designed and constructed to the same standard, in terms of layout, workmanship, and materials, as the balance of the Strata Lots in the Development on the Lands;
- (d) the Affordable Rental Strata Lot must have the right to access the amenity facilities and spaces in the Development on the Lands without any additional costs or charges other than its proportionate share of strata fees based on unit entitlement;
- (e) two parking stalls will be assigned under the *Strata Property Act* (British Columbia) to the Affordable Rental Strata Lot;
- (f) the Grantor will do everything necessary, at the Grantor's expense, to ensure that this Agreement will be registered against title to the Lands in priority to all financial charges and encumbrances at the earliest possible opportunity after execution and delivery by the City;
- (g) the Grantor will do everything necessary to enter into a Contract of Purchase and Sale (a "CPS") for the Affordable Rental Strata Lot with the Society within sixty (60) days after issuance by the Grantor of a Disclosure Statement pursuant to the *Real Estate Development Marketing Act* (British Columbia) in respect of the Strata

- Lots to be constructed on the Lands; and
- (h) the Grantor will do everything necessary to transfer title to the Affordable Rental Strata Lot to the Society pursuant to the CPS, subject to the section 219 Housing Agreement Covenant and this Agreement.

3.2 Rental Housing

The Affordable Rental Strata Lot may not be used for any purpose whatsoever save and except for the purposes of rental housing for Eligible Persons pursuant to arm's length residential tenancy agreements or for such other purposes as the Society may determine to be necessary or expedient to support its operations or are otherwise consistent with its mission.

3.3 Occupancy Restriction

No Affordable Rental Strata Lot may be occupied except by the following:

- (a) an Eligible Person pursuant to a residential tenancy agreement that complies with section 3.2; and
- (b) up to five other individuals, any of whom is/are not an Eligible Person, who is/are living in a single domestic unit with an Eligible Person referred to in section 3.3(a) above.

3.3.1 The Grantor further covenants and agrees with the City that:

- (a) the Grantor will not apply for an occupancy permit for any Strata Lot;
- (b) the City will not be obligated to issue an occupancy permit for any Strata Lot; and
- (c) no Strata Lot may be used or occupied for any use or purpose;

unless and until the Affordable Rental Strata Lot, as set out in Section 2.1 (c), is completed and ready for occupancy, the Grantor has advised the City and the Society that it is ready, able and willing to transfer title to the Affordable Rental Strata Lot to the Society and application for the first occupancy permit includes the Affordable Rental Strata Lot.

3.3.2 Despite Section 3.3.1, if:

- (a) the Society should notify the Grantor that it will not purchase the Affordable Rental Strata Lot or wishes to delay the completion of its purchase of the Affordable Rental Strata Lot for a period of up to two (2) years after the Grantor has advised the City and the Society that it is ready, able and willing to transfer title to the Affordable Rental Strata Lot to the Society,

then:

- (b) in the event that the Society has advised the Grantor that it will not purchase the Affordable Rental Strata Lot, the Grantor shall make a payment in cash to the City in the amount of \$546,000 and the Grantor shall have no further obligations with respect to the Affordable Rental Strata Lot; or
- (c) in the event that the Society has advised the Grantor that it wishes to delay the purchase the Affordable Rental Strata Lot for up to two years after the Grantor has advised the City and the Society that it is ready, able and willing to transfer title to the Affordable Rental Strata Lot to the Society, the Grantor shall make a payment in cash or deliver a letter of credit in the amount of \$546,000 (the "Affordable Rental Strata Lot Security") to the City, and thereafter:
 - (i) if the Affordable Rental Strata Lot is conveyed to the Society, then the Affordable Rental Strata Lot Security shall be returned to the Grantor; or
 - (ii) if the sale does not proceed within two years as set out above, the City shall be entitled to keep the Affordable Rental Strata Lot Security (including drawing on the letter of credit, as applicable) and the Grantor shall have no further obligations with respect to the Affordable Rental Strata Lot.

3.4 Rental Rate Restriction

In addition to the occupancy restrictions in section 3.3, the Grantor shall not suffer, cause, or permit occupancy of an Affordable Rental Strata Lot except pursuant to a residential tenancy agreement that:

- (a) does not require payment of rent or the provision of any other consideration, with the exception of the payment of utilities, that exceeds the Subsidized Rental Rate; and
- (b) prohibits the tenant from subletting the Affordable Rental Strata Lot or assigning the tenancy agreement for rent greater than the rent payable by the Eligible Person.

3.5 Housing List and Guidelines

The Grantor must, if applicable:

- (a) prepare guidelines, criteria, and procedures, to the written satisfaction of the City, for determining eligibility for occupancy of an Affordable Rental Strata Lot; and
- (b) accept applications for the Affordable Rental Strata Lot from those Eligible Persons who satisfy the guidelines, criteria, and procedures established by the Grantor under section 3.5(a).

3.6 Compliance with Laws

The Grantor will, if applicable, at all times ensure that the Affordable Rental Strata Lot is used and occupied in compliance with all statutes, laws, regulations, and orders of any authority having jurisdiction and without limiting the generality of the foregoing all bylaws of the City and all federal, provincial, municipal, or local laws, statutes, or ordinances relating to environmental matters, including all rules, regulations, policies, guidelines, criteria, or the like promulgated under or pursuant to any such laws.

4. **THE RENT-TO-OWN PROGRAM**

4.1 Grantor's Covenants

The Grantor covenants and agrees with the City that:

- (a) it shall not use the Lands otherwise than in strict accordance with the restrictions on use set out herein and without limiting the generality of the foregoing, shall not occupy or permit the occupancy, or apply for permission for occupancy to the City except in accordance with the restrictions set out in this Agreement;
- (b) the Rent-to-Own Strata Lots will be offered for sale in accordance with the terms and conditions of the Rent-to-Own Program, as set out in Schedule "A" hereto;
- (c) prior to the issuance of any occupancy permit for the Development, the Grantor will provide the City with a fully executed copy of each purchase agreement entered into by the Grantor for a Rent-to-Own Strata Lot, that has not been terminated at such time, and a fully executed copy of a termination agreement for each Rent-to-Own Purchase Agreement in respect of a Rent-to-Own Strata Lot that has been terminated at such time;
- (d) the Grantor shall provide to the City in a form and at intervals as the City may reasonably require reports summarizing the status of the Rent-to-Own Program, including the numbers of Rent-to-Own Strata Lots which have been or are to be developed in accordance with the terms of the Rent-to-Own Program described herein;
- (e) the Grantor will release, save harmless, and indemnify the City, its elected officials, officers, invitees, licensees, employees, servants, and agents from and against all liability, actions, causes of action, expenses, damages, costs (including legal costs on a solicitor/client basis), claims, debts, losses (including injurious affection), or demands whatsoever by the Grantor or any other person, which have arisen or may arise out of or are in any way due directly or indirectly to the granting or existence of this Agreement, including but not limited to any breach of any covenant or agreement on the part of the Grantor contained in this Agreement or any steps taken by the City to enforce this Agreement; and
- (f) the Grantor will do or cause to be done, at the expense of the Grantor, everything necessary to ensure that this Agreement is granted priority over all charges and encumbrances which are registered (or registration of which is pending) against

the title to the Lands save and except those specifically approved in writing by the City or in favour of the City.

4.2 Additional Terms

In the event an original purchaser of a Rent-to-Own Strata Lot does not complete the purchase and sale of the Rent-to-Own Strata Lot in accordance with its Rent-to-Own Purchase Agreement, that Rent-to-Own Strata Lot will be released from the Rent-to-Own Program and the Grantor will be at liberty to resell that Rent-to-Own Strata Lot as a regular Strata Lot outside of the Rent-to-Own Program and the total number of Rent-to-Own Strata Lots included in the Rent-to-Own Program will be reduced accordingly.

5. **THE LOCK-OFF PROGRAM**

5.1 Grantor's Covenants

The Grantor covenants and agrees with the City that:

- (a) the Grantor shall not suffer, cause, or permit the subdivision of any Lock-Off Suite as a separate strata lot, such that upon registration of a strata plan for the Development, the number of strata lots is consistent with the number of approved principal Strata Lots (i.e., the Lock-Off Suite cannot be a separate strata lot).

6. **STRATA CORPORATION BYLAWS**

6.1 This Agreement will be binding upon all strata corporations created upon the strata title subdivision of the Lands or any subdivided parcel of the Lands.

6.2 The Grantor further covenants and agrees with the City that this Agreement shall be binding upon all strata corporations created upon the strata title subdivision of the Lands or any building on the Lands pursuant to the *Strata Property Act* (British Columbia) and that upon the Lands, or any portion thereof, being subdivided by way of a strata plan pursuant to the *Strata Property Act* (British Columbia), then:

- (a) this Agreement will charge each Strata Lot and shall be noted on the common property record of the strata corporation; and
- (b) the strata corporation so created will be, at its cost, responsible for the performance and observance of the Grantor's covenants and obligations in this Agreement, and the Grantor will cause such strata corporation to execute an assumption agreement to give effect to the foregoing, and, upon delivery of such assumption agreement to the City, the Grantor will be released from its obligations and liabilities hereunder, except to the extent and for such time that it remains an owner of any one or more of the Strata Lots.

Affordable Rental Strata Lot

- 6.3 Any strata corporation bylaw which purports to prevent, restrict, or abridge the right to use the Affordable Rental Strata Lot will have no force or effect.
- 6.4 No strata corporation shall pass any bylaws preventing, restricting, or abridging the use of the Affordable Rental Strata Lot as such.
- 6.5 No strata corporation shall pass any bylaw or approve any levies which would result in only the Grantor or a tenant of the Affordable Rental Strata Lot paying any extra charges or fees for the use of any common property, limited common property, or other common areas, facilities, or indoor or outdoor amenities of the strata corporation.

Rental of Strata Lots in General

- 6.6 The Grantor further covenants and agrees with the City that any strata corporation bylaw which prevents, restricts or abridges or purports to prevent, restrict, or abridge the right to use any of the Strata Lot rental accommodation shall have no force or effect.
- 6.7 No strata corporation formed in respect of the Lands shall pass any bylaw(s) preventing, restricting, or abridging the use of the Lands, or the Strata Lots from time to time as rental accommodation.
- 6.8 No Strata Lot purchaser, nor any tenant or mortgagee thereof, shall vote for any strata corporation bylaw purporting to prevent, restrict, or abridge the use of the Lands or any Strata Lot from time to time as rental accommodation.
- 6.9 The Grantor further covenants and agrees with the City that any strata corporation bylaw which prevents, restricts, or abridges or purports to prevent, restrict, or abridge the right to use any of the Affordable Rental Strata Lots as rental accommodation at a Subsidized Rental Rate shall have no force or effect.

7. DEFAULT AND REMEDIES

7.1 Notice of Default

The City may give to the Grantor written notice to cure a default under this Agreement within thirty (30) days of receipt of notice. The notice must specify the nature of the default. The Grantor must act with diligence to correct the default within the time specified.

7.2 Costs

The Grantor will pay to the City, on demand by the City, all of the City's costs of

exercising its rights or remedies under this Agreement, on a full indemnity basis.

7.3 Damages

The Grantor acknowledges that the City requires the Affordable Rental Strata Lot for housing Eligible Persons for the benefit of the community. The Grantor therefore agrees that for each day the Land is occupied in breach of this Agreement, the Grantor must pay the City \$100.00 (the “**Daily Amount**”) as liquidated damages and not as a penalty, due and payable at the offices of the City on the last day of the calendar month in which the breach occurred. The Daily Amount is increased on January 1 of each year by the amount calculated by multiplying the Daily Amount as of the previous January 1 by the percentage increase between that previous January 1 and the immediately preceding December 31 in the Consumer Price Index. The Grantor agrees that payment may be enforced by the City in a court of competent jurisdiction as a contract debt.

7.4 Rent Charge

By this section, the Grantor grants to the City a rent charge under section 219 of the *Land Title Act*, and at common law, securing payment by the Grantor to the City of the Daily Amount as described in section 7.3. The City agrees that enforcement of the rent charge granted by this section is suspended until the date that is thirty (30) days after the date on which any amount due under section 7.3 is due and payable to the City in accordance with section 7.3. The City may enforce the rent charge granted by this section by an action for an order for sale or by proceedings for the appointment of a receiver.

7.5 Specific Performance

The Grantor agrees that, without affecting any other rights or remedies the City may have in respect of any breach of this Agreement, the City is entitled to obtain an order for specific performance of this agreement and a prohibitory or mandatory injunction in respect of any breach by the Grantor of this Agreement. The Grantor agrees that this is reasonable given the public interest in ensuring the provision of the Affordable Rental Strata Lot to be occupied by Eligible Persons and restricting occupancy of the Lands in accordance with this Agreement.

7.6 No Penalty or Forfeiture

The Grantor acknowledges and agrees that it is entering into this Agreement to benefit the public interest in providing the Affordable Rental Strata Lot for Eligible Occupants, and that the City’s rights and remedies under this Agreement are necessary to ensure that this purpose is carried out, and the City’s rights and remedies under this Agreement are fair and reasonable and ought not to be construed as a penalty or forfeiture.

7.7 Cumulative Remedies

No reference to nor exercise of any specific right or remedy under this Agreement or at law or at equity by any party will prejudice, limit, or preclude that party from exercising any other right or remedy. No right or remedy will be exclusive or dependent upon any other right to remedy, but any party, from time to time, may exercise any one or more of such rights or remedies independently, successively, or in combination. The Grantor acknowledges that specific performance, injunctive relief (mandatory or otherwise), or other equitable relief may be the only adequate remedy for a default by the Grantor under this Agreement.

8. **LIABILITY**

8.1 Indemnity

The Grantor will indemnify and save harmless each of the City and its elected officials, board members, officers, directors, employees, and agents, and their heirs, executors, administrators, personal representatives, successors, and assigns, from and against all claims, demands, actions, loss, damage, costs, and liabilities, which all or any of them will or may be liable for or suffer or incur or be put to by reason of or arising out of any act or omission by the Grantor, or its officers, directors, employees, agents, contractors, or other persons for whom at law the Grantor is responsible or the Grantor's ownership, operation, management, or financing of the Affordable Rental Strata Lot or any part thereof, or the use and occupancy of the Affordable Rental Strata Lot by anyone.

8.2 Release

The Grantor hereby releases and forever discharges the City, its elected officials, board members, officers, directors, employees, and agents, and its and their heirs, executors, administrators, personal representatives, successors, and assigns from and against all claims, demands, damages, actions, or causes of action by reason of or arising out of advice or direction respecting the ownership, operation, or management of the Development or any part thereof which has been or hereafter may be given to the Grantor by all or any of them.

8.3 Survival

The covenants of the Grantor set out in sections 8.1 and 8.2 will survive termination of this Agreement and continue to apply to any breach of the Agreement or claim arising under this Agreement during the ownership by the Grantor of the Lands or any Strata Lot therein, as applicable.

9. **GENERAL PROVISIONS**

9.1 City's Power Unaffected

Nothing in this Agreement:

- (a) affects or limits any discretion, rights, or powers of the City under any enactment or at common law, including in relation to the use or subdivision of land;
- (b) affects or limits any enactment relating to the use of the Lands or any condition contained in any approval, including any development permit concerning the development of the Lands; or
- (c) relieves the Grantor from complying with any enactment, including the City's bylaws in relation to the use of the Lands.

9.2 Agreement for Benefit of City Only

The Grantor and City agree that:

- (a) this Agreement is entered into only for the benefit of the City;
- (b) this Agreement is not intended to protect the interests of the Grantor, any Strata Lot owner, any occupant, or any future owner, occupier, or user of any part of the Development, including any Strata Lot; and
- (c) the City may at any time execute a release and discharge of this Agreement in respect of the Development or any Strata Lot therein, without liability to anyone for doing so.

9.3 Agreement Runs With the Lands

This Agreement burdens and runs with the Lands and any part into which any of them may be subdivided or consolidated, by strata plan or otherwise. All of the covenants and agreements contained in this Agreement are made by the Grantor for itself, its successors and assigns, and all persons who acquire an interest in the Lands or in any Strata Lot after the date of this Agreement.

9.4 Release

The covenants and agreements on the part of the Grantor and herein set forth in this Agreement have been made by the Grantor as contractual obligations as well as being made pursuant to section 905 of the *Local Government Act* (British Columbia) and section 219 of the *Land Title Act* and as such will be binding on the Grantor, except that the Grantor shall not be liable for any default in the performance or observance of this Agreement occurring after the Grantor ceases to own the Lands or the Affordable Strata Lot as the case may be.

9.5 Priority of this Agreement

The Grantor will, at its expense, do or cause to be done, all acts reasonably necessary to ensure this Agreement is registered against the title to each Strata Lot in the Development, including any amendments to this Agreement as may be required by the LTO or the City to effect such registration, subject to the discharge provisions contained herein.

9.6 Agreement to Have Effect as Deed

The City and the Grantor each intend by execution and delivery of this Agreement to create both a contract and a deed under seal.

9.7 Waiver

An alleged waiver by a party of any breach by another party of its obligations under this Agreement will be effective only if it is an express waiver of the breach in writing. No waiver of a breach of this Agreement is deemed or construed to be a consent or waiver of any other breach of this Agreement.

9.8 Time

Time is of the essence in this Agreement. If any party waives this requirement, that party may reinstate it by delivering notice to another party.

9.9 Validity of Provisions

If a Court of competent jurisdiction finds that any part of this Agreement is invalid, illegal, or unenforceable, that part is to be considered to have been severed from the rest of this Agreement and the rest of this Agreement remains in force unaffected by that holding or by the severance of that part.

9.10 Notices

All notices, demands, or requests of any kind, which a party may be required or permitted to serve on another in connection with this Agreement, must be in writing and may be served on the other parties by registered mail, by facsimile transmission, or by personal service, to the following address for each party:

If to the City:

City of Port Moody
100 Newport Drive,
Port Moody, BC V3H 5C3

Attention: General Manager of Community Development
Facsimile: 604-469-4550

If to the Grantor:

0790857 B.C. Ltd.
c/o Bridgehouse Law LLP
900-900 West Hastings Street,
Vancouver, BC V6C 1E5

Attention: Falko Wong
Facsimile: 604-684-0916

Service of any such notice, demand, or request will be deemed complete, if made by registered mail, seventy-two (72) hours after the date and hour of mailing in British Columbia, except where there is a postal service disruption during such period, in which case service will be deemed to be complete only upon actual delivery of the notice, demand, or request; if made by facsimile transmission, on the first business day after the date when the facsimile transmission was transmitted; and if made by personal service, upon personal service being effected. Any party, from time to time, by notice in writing served upon the other parties, may designate a different address or different or additional persons to which all notices, demands, or requests are to be addressed.

9.11 Further Assurances

Upon request by the City, the Grantor will promptly do such acts and execute such documents as may be reasonably necessary, in the opinion of the City, to give effect to this Agreement.

9.12 Enuring Effect

This Agreement will enure to the benefit of and be binding upon each of the parties and their successors and permitted assigns.

9.13 Statutory Declaration

Within fifteen (15) days after receiving notice from the City, the Grantor must deliver to the City a statutory declaration, substantially in the form attached as Schedule "B", sworn by the Grantor under oath before a commissioner for taking affidavits in British Columbia, containing all of the information required to complete the statutory declaration.

10. INTERPRETATION

10.1 References

Gender specific terms include both genders and include corporations. Words in the singular include the plural, and words in the plural include the singular.

10.2 Construction

The division of this Agreement into sections and the use of headings are for convenience of reference only and are not intended to govern, limit, or aid in the construction of any provision. In all cases, the language in this Agreement is to be construed simply according to its fair meaning, and not strictly for or against either party.

10.3 No Limitation

The word "including" when following any general statement or term is not to be construed to limit the general statement or term to the specific items which immediately follow the general statement or term similar items whether or not words such as "without limitation" or "but not limited to" are used, but rather the general statement or term is to be construed to refer to all other items that could reasonably fall within the broadest possible scope of the general statement or term.

10.4 Terms Mandatory

The words "must", "shall", and "will" are to be construed as imperative.

10.5 Statutes

Any reference in this Agreement to any statute or bylaw includes any subsequent amendment, re-enactment, or replacement of that statute or bylaw.

10.6 Entire Agreement

- (a) This is the entire agreement between the City and the Grantor concerning its subject, and there are no warranties, representations, conditions, or collateral agreements relating to this Agreement, except as included in this Agreement.
- (b) This Agreement may be amended only by a document executed by the parties to this Agreement and by bylaw, such amendment to be effective only upon adoption by City Council of a bylaw to amend Housing Agreement Bylaw, No. 3279.

10.7 Governing Law

This Agreement is to be governed by and construed and enforced in accordance with the laws of British Columbia. As evidence of their agreement to be bound by the terms of this instrument, the parties hereto have executed the *Land Title Act* Form C that is attached hereto and forms part of this Agreement. The Parties acknowledge that this Agreement has been duly executed and delivered by executing the Forms C and D attached hereto.

Schedule "A"
Rent-to-Own Program

The Rent-to-Own Program acts as a pathway to homeownership and grants local, eligible first-time homebuyers access to the housing market. A homebuyer will be deemed eligible if he or she meets the criteria established from time to time by Canada Mortgage and Housing Corporation for the First-Time Home Buyer Incentive program.

A total of up to twenty (20) homes will be selected for this program by the Grantor.

Up to twenty (20) purchasers will be selected for participation in the program (details of the selection process are set out below). Selected participants will rent their home at the Development at below market rents for a period of two (2) years. Rents will be set at:

\$1,200/month for studios (475 square feet);

\$1,500/month for one-bedroom homes (575 square feet);

\$1,800/month for one-bedroom plus den homes (675 square feet);

\$2,200/month for two-bedroom homes (875 square feet); and

\$2,500/month for two-bedroom plus den homes (950 square feet)

in each case, subject to proportional adjustments based on actual square footage of each home. Rents will include strata fees; however, Program participants will be responsible for utilities and other typical rental costs. All rent accumulated over the two (2) year rental period will be saved on their behalf by the Grantor and will be applied to the purchase price of the home.

At the end of the two (2) year rental period, the participants will have the option to purchase their home at a price that was locked in at the time of selection. The purchase price will have effectively been locked in for a period of four (4) years and will give participants the benefit of an increase in value and will also give them certainty as to the purchase price that they are saving towards.

PROCESS

The selection process for the Rent-to-Own Program will take place within twelve (12) months of the issuance of a development permit for the Development. The process will include the following steps:

Over the course of a six (6) month period following the issuance of a development permit for the Development, the Grantor will advertise the Rent-to-Own Program in a form and frequency acceptable to the City, including advertisement in local newspapers, signage posted on the Lands, and social media, and thereafter accept registrations from persons interested in the Rent-to-Own Program on the Grantor's website.

After the close of the advertising period, the Grantor will email all registrants of the Rent-to-Own Program reminding them of the basic requirements of the Rent-to-Own Program and asking them to confirm their interest in the program.

Application forms will be sent out to all registrants who confirmed that they are interested in the Rent-to-Own Program.

Application forms will only be accepted in hardcopy via mail. Upon delivery of the application form, the registrant will receive a confirmation of receipt and information sheet setting out next steps. These steps include the requirement to meet with a representative of the Grantor's lender (the "Lender") and provide contact information to make an appointment with the Lender's representative.

Applicants will meet with the Lender. Prior to their appointment time, applicants will receive an email setting out a list of documents necessary for the Lender to complete their review.

The Lender will make a determination of which applicants qualify for financing and will forward a list of qualified applicants to the Grantor. All qualified applicants will be entered in the draw for the Rent-to-Own Program.

A draw will be held by the Grantor to select participants for the Rent-to-Own Program. A number of participants equal to the number of available Rent-to-Own Program units, along with two (2) waitlists of three (3) names (a one-bedroom waitlist and a two-bedroom waitlist) will be drawn. Selected participants will be entitled to select their desired units from available units as designated by the Grantor.

Participants will meet with a Grantor representative to review and sign a Contract of Purchase and Sale and Early Possession Agreement.

It is intended that participants in the Rent-to-Own Program take possession of their home at the Development upon issuance of an occupancy permit for the Rent-to-Own Units in the Development. The rental period is expected to conclude two (2) years thereafter and

participants will then complete on the purchase of their home at the Development. Upon completion of the purchase, there are no special rights or restrictions on homeowners who were a part of the Rent-to-Own Program.

Six (6) months prior to the purchase completion date, participants will meet with their Lender representative to re-review their financial situation considering prevailing rates and policies. At that time, the Lender will provide them with approval for financing, should they qualify.

Summary reports will be provided by the Grantor to the City of Port Moody summarizing the roll-out of the program. It is intended that these will be provided upon occupancy of the Development. Information will be provided to the extent that it does not impact the Grantor's obligations of confidentiality.

PURCHASE AGREEMENT

Selected purchasers will enter into a Contract of Purchase and Sale (the "Rent-to-Own Purchase Agreement"). This Rent-to-Own Purchase Agreement formalizes the Rent-to-Own Program and successfully conveys all aspects of the Rent-to-Own Program as initially proposed to City Council.

Key terms of the Rent-to-Own Purchase Agreement include:

Deposit Structure: A \$5,000 deposit is due on the day the participant enters into the Rent-to-Own Purchase Agreement. An additional \$5,000 deposit is due on or before the participant take possession of their home (i.e. the beginning of the rental period).

Possession Date: The participant will take early possession of their home at the Development twenty-four (24) months prior to the Completion Date.

Assignment: A participant in the Rent-to-Own Program may not assign his or her interest in their home at the Development or the Rent-to-Own Purchase Agreement.

Termination Rights: The participant is entitled to terminate the Rent-to-Own Purchase Agreement up to sixty (60) days prior to the Completion Date by written notice to the Grantor. If the participant elects to terminate the agreement, the deposit will be returned to the participant less any portion retained in respect of arrears of rent and/or cleaning or repairing damage that, in either case, exceeds reasonable wear and tear.

Application of Rent: If the participant elects to complete the purchase of their unit, all rent paid by the participant together with the deposit will be applied to the purchase price. If the participant elects not to complete the purchase of the unit, the rent will be retained by the Grantor (as would be the case in a conventional rental agreement) and the Rent-to-Own Purchase Agreement will terminate with no outstanding obligations from either party.

SCHEDULE "B"
Statutory Declaration

CANADA) IN THE MATTER OF A HOUSING AGREEMENT
) with the City of Port Moody ("**Housing Agreement**")
 PROVINCE OF BRITISH COLUMBIA)
)
)
)
)

I, _____, of _____, British Columbia, do solemnly declare:

1. That I am the owner of the strata lot legally described as [insert legal] and make this declaration to the best of my personal knowledge.

[or]

That I am a(n) _____ (authorized signatory, director, officer, employee) of the owner of the strata lot legally described as [insert legal] and [make this declaration to the best of my personal knowledge] [have been informed by _____] and believe the statement in this declaration to be true.

2. This declaration is made pursuant to the Housing Agreement in respect of the strata lot.

3. For the period from _____ to _____, _____, the aforesaid strata lot was occupied by Eligible Persons, whose names and addresses appear below, and in accordance with the Housing Agreement.

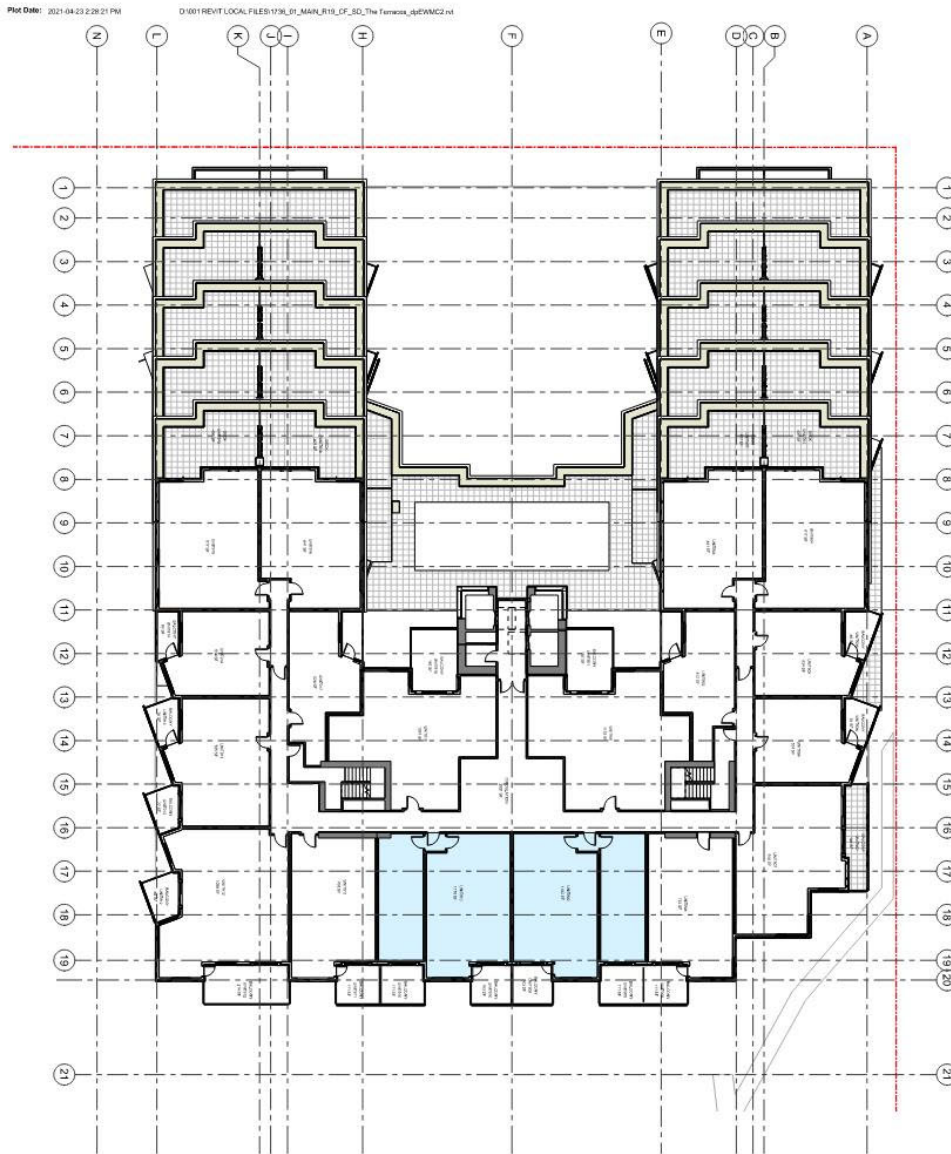
Name of Eligible Person	Age of Eligible Person	Other Resident(s) of Strata Lot	Apt. No.

4. I make this solemn declaration, conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath and pursuant to the *Canada Evidence Act*.

SWORN BEFORE ME at _____,)
 in the Province of British Columbia)
 this ____ day of _____, 20__)

 A Commissioner for Taking Affidavits for
 British Columbia

) _____)
) Signature of person making declaration)



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Author: / /
Checked: / /
No. Date Description
REVISION
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Scale: 3/32" = 1'-0"
DWG. NO. S150

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and

C. the Grantor granted to the City of Port Moody (the “City”) a Covenant attached to this Agreement and registered against title to the Land in the LTO immediately before registration of this Agreement (the “Subsequent Charge”);

NOW THEREFORE this Agreement is evidence that in consideration of \$1.00 and other good and valuable consideration received by the Prior Chargeholder from the City (the receipt and sufficiency of which the Prior Chargeholder acknowledges):

1. The Prior Chargeholder consents to the granting and registration of the Subsequent Charge and the Prior Chargeholder agrees that the Subsequent Charge shall be binding upon their interest in and to the Land; and
2. The Prior Chargeholder grants to the City, as a Subsequent Chargeholder, priority for the Subsequent Charge over the Prior Chargeholder's right, title, and interest in and to the Land, and the Prior Chargeholder postpones the Prior Charge and all of their right, title, and interest thereunder to the Subsequent Charge as if the Subsequent Charge had been executed, delivered, and registered prior to the execution, delivery, and registration of the Prior Charge.

As evidence of its agreement to be bound by the terms of this instrument, the Prior Chargeholder has executed the *Land Title Act* Form C to which this Agreement is attached and which forms part of this Agreement.