



City of Port Moody

Bylaw No. 3378

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, 2022, No. 3378 (1142 Cecile Drive and 300 Angela Drive) (Market-Rental)”.

2. Authorization

- 2.1 Council hereby authorizes the agreement, substantially in the form attached hereto as Schedule “A” between the City of Port Moody and 1030 Cecile Drive Holdings Ltd. with respect to the following lands:

Lot B, District Lot 377, Group 1 New Westminster District Plan EPP93132

PID: 030-919-975

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 – Market Rental Housing – Phase 3.

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 ____ day of ____, 2022.

Read a second time this ____ day of ____, 2022.

Read a third time this ____ day of ____, 2022.

Adopted this ____ day of ____, 2022.

R. Vagramov
Mayor

T. Takahashi
Corporate Officer

I hereby certify that the above is a true copy of Bylaw No. 3378 of the City of Port Moody.

T. Takahashi
Corporate Officer

Schedule A to Bylaw No. 3378

TERMS OF INSTRUMENT – PART 2

MARKET RENTAL HOUSING – PHASE 3

THIS AGREEMENT is dated for reference the ____ day of September 2022.

BETWEEN:

1030 CECILE DRIVE HOLDINGS LTD., INC. NO. BC1186531
1500 – 1021 West Hastings Street
Vancouver, BC V6E 0C3
(the “**Owner**”)

AND:

CITY OF PORT MOODY
100 Newport Drive
Port Moody, BC V3H 5C3
(the “**City**”)

WHEREAS:

- A. Section 483 of the *Local Government Act* permits the City to enter into and note on title to the lands, housing agreements which may include, without limitation, conditions in respect to the form of tenure of housing units, availability of housing units to classes of persons, administration of housing units, and rent which may be charged for housing units;
- B. Section 219 of the *Land Title Act* (as hereinafter defined) permits the registration of a covenant of a negative or positive nature in favour of the City (as hereinafter defined) in respect of the use of land or construction on land;
- C. The Owner (as hereinafter defined) is the registered owner of the Lands (as hereinafter defined);
- D. The City adopted Housing Agreement Bylaw, 2022, No. 3378, authorizing the City to enter into this Agreement on the terms and conditions contained herein;
- E. The Owner and the City wish to enter into this Agreement to restrict the use of and construction on, the Lands on the terms and conditions of this agreement, to have effect as both a covenant under Section 219 of the *Land Title Act* and a housing agreement under Section 483 of the *Local Government Act*.

In consideration of Ten Dollars (\$10.00) and other good and valuable consideration (the receipt and sufficiency of which is acknowledged by both parties), and in consideration of the promises exchanged below, the Owner and the City covenant and agree as follows:

ARTICLE 1

DEFINITIONS AND INTERPRETATION

1.1 In this Agreement, the following words have the following meanings:

- (a) **“Agreement”** means this Market Rental Housing Agreement together with the General Instrument and all schedules attached hereto;
- (b) **“Buildings”** means the two, five, and six-storey buildings to be built on that portion of the Lands, shown on Schedule “A” as contemplated by the Development Authorization (being residential and commercial uses), and includes any portion of any such building or structure, but does not include temporary buildings or structures on the Lands during the period of, and required for the purposes of, any construction contemplated by the Development Authorization;
- (c) **“City”** and **“City of Port Moody”**, being the Transferee described in Item 6 of the General Instrument, means the City of Port Moody and is called the “City” when referring to the corporate entity and “City of Port Moody” when referring to the geographic location;
- (d) **“Development Authorization”** means the development authorization form issued by the City authorizing development of the Lands, or any portion thereof, which Development Authorization includes a Development Permit;
- (e) **“Dwelling Unit”** shall have the meaning set out in Zoning Bylaw, 2018, No. 2937;
- (f) **“General Instrument”** means the Form C under the Land Title (Transfer Forms) Regulation, as amended, and all schedules and addenda to the Form C charging the Lands;
- (g) **“Interpretation Act”** means the *Interpretation Act*, R.S.B.C. 1996, Chapter 238, together with all amendments thereto and replacements thereof;
- (h) **“Land Title Act”** means the *Land Title Act*, R.S.B.C. 1996, Chapter 250, together with all amendments thereto and replacements thereof;
- (i) **“Lands”** means the land described in Item 2 of the General Instrument and any part, including the Buildings or a portion of the Buildings, into which said land is Subdivided;
- (j) **“Local Government Act”** means the *Local Government Act*, R.S.B.C. 2015, Chapter 1, together with all amendments thereto and replacements thereof;
- (k) **“LTO”** means the New Westminster Land Title Office or its successor;

- (l) **“Owner”** means 1030 Cecile Drive Holdings Ltd. Inc. No. BC1186531 being the Transferor described in Item 5 of the General Instrument, and any subsequent owner of the Lands or of any part into which the Lands are Subdivided, and includes any person who is a registered owner in fee simple of the Rental Housing Units from time to time;
- (m) **“Property Manager”** means an entity retained and controlled by the Owner;
- (n) **“Real Estate Development Marketing Act”** means the *Real Estate Development Marketing Act*, S.B.C. 2004, Chapter 41, together with all amendments thereto and replacements thereof;
- (o) **“Related Person”** **“Related Person”** means, where the registered or beneficial Owner of the Rental Housing Units, is:
- (i) a corporation (as such term is defined in the *Business Corporations Act* (British Columbia), then a Related Person is:
- a) an officer, director, or shareholder of such Owner or of another entity which is a shareholder of such Owner; or
- b) the spouse, parent, child, sibling, niece, or nephew of any such officer, director or shareholder; or
- (ii) an individual, then a Related Person is the spouse, parent, child, sibling, niece, or nephew of such individual;
- (p) **“Rental Housing”** means a residential Dwelling Unit which is not occupied by the Owner or by a Related Person, but which is made available by such Owner to the general public, at arms-length, for use as Rental housing on a not less than month-to-month or longer basis in accordance with this Agreement, reasonably prudent landlord-tenant practices for rental residential accommodation and any and all laws applicable thereto, including, without limitation, *Residential Tenancy Act* and human rights legislation in British Columbia;
- (q) **“Rental Housing Units”** means not less than the ONE HUNDRED THIRTY-EIGHT (138) Dwelling Units designated by the Owner as Rental Housing Units to be contained in the Buildings, in the location set out in Schedule “A” of this Agreement and used solely for the purpose of Rental Housing in accordance with this Agreement in accordance with this Agreement and in accordance with the following table:

	Total No. of Units	1-Bedroom Units	2-Bedroom Units	3-Bedroom Units
Rental Housing Units	138	48	84	6

- (r) “**Residential Tenancy Act**” means the *Residential Tenancy Act*, S.B.C. 2002, Chapter 78, together with all amendments thereto and replacements thereof;
- (s) “**Strata Property Act**” means *Strata Property Act* S.B.C. 1998, Chapter 43 together with all amendments thereto and replacements thereof;
- (t) “**Subdivide**” means to divide, apportion, consolidate, or subdivide the Lands, or the ownership or right to possession or occupation of the Lands into two or more lots, strata lots, parcels, parts, portions, or shares, whether by plan, descriptive words or otherwise, under the *Land Title Act*, the *Strata Property Act*, or otherwise, and includes the creation, conversion, organization, or development of “cooperative interests” or “shared interest in land” as defined in the *Real Estate Development Marketing Act*;
- (u) “**Tenancy Agreement**” means a tenancy agreement, lease, licence, or other agreement granting rights to occupy a Rental Housing Unit;
- (v) “**Tenant**” means an occupant of a Rental Housing Unit by way of a Tenancy Agreement who is not the Owner or a Related Person; and
- (w) “**Term**” commences on the deposit of this Agreement in the Land Title Office and shall remain in effect in perpetuity.

1.2 In this Agreement:

- (a) reference to the singular includes a reference to the plural, and vice versa, unless the context requires otherwise;
- (b) article and section headings have been inserted for ease of reference only and are not to be used in interpreting this Agreement;
- (c) if a word or expression is defined in this Agreement, other parts of speech and grammatical forms of the same word or expression have corresponding meanings;
- (d) reference to any enactment includes any regulations, orders, or directives made under the authority of that enactment;
- (e) reference to any enactment is a reference to that enactment as consolidated, revised, amended, re-enacted, or replaced, unless otherwise expressly provided;
- (f) the provisions of section 25 of the *Interpretation Act* with respect to the calculation of time apply;
- (g) time is of the essence;

- (h) all provisions are to be interpreted as always speaking;
- (i) reference to a “party” is a reference to a party to this Agreement and to that party's respective successors, assigns, trustees, administrators, and receivers;
- (j) reference to a “day”, “month”, “quarter”, or “year” is a reference to a calendar day, calendar month, calendar quarter, or calendar year, as the case may be, unless otherwise expressly provided; and
- (k) where the word “including” is followed by a list, the contents of the list are not intended to circumscribe the generality of the expression preceding the word “including”.

ARTICLE 2

USE OF LANDS AND CONSTRUCTION OF RENTAL HOUSING UNITS

- 2.1 The Owner covenants and agrees with the City in respect of the use of the Lands and any Dwelling Unit on, or to be constructed on, the Lands that:
- (a) the Lands will not be used in any way that is inconsistent with the terms of this Agreement;
 - (b) it will not allow any Rental Housing Unit to be used, throughout the Term, except as Rental Housing pursuant to a Tenancy Agreement;
 - (c) Within thirty (30) days after receiving notice from the City, the Owner must, in respect of each Rental Housing Unit, or the Rental Housing Units as a whole provide to the City a statutory declaration, substantially in the form, attached hereto as Schedule “B”, certified by the Owner, containing all of the information required to complete the statutory declaration. The City may request such statutory declaration in respect to each Rental Housing Unit, or Rental Housing Units as a whole as often as it deems necessary, acting in its sole discretion;
 - (d) it hereby authorizes the City to make such inquiries as it considers necessary in order to confirm that the Owner is complying with this Agreement;
 - (e) the Rental Housing Units must be designed and constructed to the same standard, in terms of layout, workmanship, and materials, as the balance of the Dwelling Units in the Buildings on the Lands;
 - (f) not less than the number of residential parking stalls required pursuant to the City’s Comprehensive Development CD Bylaw 3306 will be constructed and assigned to the Rental Housing Units with allocation of specific stalls to Rental Housing Units, determined by the Owner in its sole discretion;

- (g) it will keep and maintain or cause to be kept and maintained, Buildings and the Rental Housing Units, and all parts thereof, in good repair and in a safe, clean, neat, and tidy condition, reasonable wear and tear, excepted, and will insure, or cause to be insured, the Rental Housing Units to the full replacement cost, or such lower threshold as is permitted under the *Strata Property Act*, against perils normally insured against by strata corporations and owners of similar property in the City of Port Moody by reasonable and prudent owners of similar residential units, buildings, and lands; and
- (h) not less than one storage locker will be constructed and assigned to each of the Rental Housing Units.

2.2 The Owner covenants and agrees with the City that the Owner will not:

- (a) be issued a Development Authorization unless the Development Authorization includes the Rental Housing Units;
- (b) permit occupancy of, or apply for an Occupancy Permit from the City for any Dwelling Units to be constructed in the Buildings unless and until the Rental Housing Units have first been constructed and approved for occupancy, as evidenced by the issuance of an Occupancy Permit by the City;
- (c) occupy, or permit any person to occupy any Rental Housing Units, in part or in whole, constructed in the Buildings and the City will not be obligated to permit occupancy of any Rental Housing Units constructed in the Buildings until all of the following conditions are satisfied:
 - (i) the Rental Housing Units and related uses and areas have been constructed to the satisfaction of the City as follows:
 - a) the Rental Housing Units have received final building permit inspection granting occupancy; and
 - b) the Owner is not otherwise in breach of any of its obligations under this Agreement or any other agreement between the City and the Owner in connection with the development of the Lands.

2.3 The Owner must not rent, lease, license, or otherwise permit occupancy of any Rental Housing Unit except to a Tenant and except in accordance with the following additional conditions:

- (a) the Rental Housing Unit will be used or occupied only pursuant to a Tenancy Agreement; and

- (b) no Rental Housing Unit shall be rented on less than a thirty (30) days rental period, whatsoever.

2.4 The Owner will not demolish any Rental Housing Unit unless:

- (a) the Owner has obtained the written opinion of a professional engineer or architect who is at arm's length to the Owner that it is no longer reasonable or practical to repair or replace any structural component of the Rental Housing Unit, and the Owner has delivered to the City a copy of the engineer's or architect's report; or
- (b) the Buildings in which a Rental Housing Unit is located is damaged or destroyed, to the extent of forty percent (40%) or more of its value above its foundations, as determined by the City in its sole discretion,
- (c) and, in each case, a demolition permit for the Rental Housing Unit has been issued by the City and the Rental Housing Unit has been or will be demolished under that demolition permit.

2.5 Should a demolition permit be issued in accordance with section 2.4, the Lands shall not be redeveloped unless such redevelopment includes the provision of not less than one hundred thirty-eight (138) replacement Rental Housing Units.

2.6 Notwithstanding anything to the contrary in this Agreement the Owner shall be entitled to permit the use, rental and occupation from time to time of up to a total of nine (9) Rental Housing Units to persons who are Related Persons.

ARTICLE 3

DISPOSITION AND ACQUISITION OF RENTAL HOUSING UNITS

3.1 The Owner may not, without the prior written consent of the City, acting in its sole discretion, sell or transfer less than one hundred thirty-eight (138) Rental Housing Units in a single or related series of transactions with the result that when the purchaser or transferee of the Rental Housing Unit becomes the owner, the purchaser or transferee will be the legal and beneficial owner of not less than one hundred thirty-eight (138) Rental Housing Units.

3.2 Purposely deleted.

3.3 The Owner must not rent, lease, license, or otherwise permit occupancy of any Rental Housing Unit except to a Tenant and except in accordance with the following additional conditions:

- (a) the Rental Housing Unit will be used or occupied only pursuant to a Tenancy Agreement;

- (b) no Rental Housing Unit shall be rented on less than a thirty (30) day rental period, whatsoever;
- (c) the Owner will:
 - (i) ensure that all Tenants shall be permitted access to all common property and other common areas, facilities, all indoor amenity space within the Buildings and all outdoor amenity space, on that portion of the Lands that the Buildings are located on; and
 - (ii) not require a Tenant to pay any strata fees, strata property contingency reserve fees, or any extra charges or fees charged by the strata corporation for use of any common property, limited common property, or other common areas, facilities, or amenities, including without limitation sanitary sewer, storm sewer, water, other utilities, property or similar tax; provided, however, that, an Owner may charge the Tenant the cost, if any, of renting a storage locker, a parking stall, providing cable television, telephone, other telecommunications, gas, or electricity fees and charges or fines relating to the Tenant's activities or use, provided that if the Rental Housing Unit is part of a strata corporation, the Owner shall not charge the Tenant any of the foregoing costs which are included as part of the strata or similar fees charged by such strata corporation;
- (d) the Owner will set out in every Tenancy Agreement the existence of this Agreement and its registration number in the LTO, and shall provide access to a full copy of this Agreement for their review or records. Each Eligible Tenant shall acknowledge and confirm that it is bound by this Agreement within each Tenancy Agreement;
- (e) the Owner will include in the Tenancy Agreement a clause requiring the Tenant and each permitted occupant of the Rental Housing Unit to comply with this Agreement;
- (f) subject to the *Residential Tenancy Act*, the Owner will include in the Tenancy Agreement a clause entitling the Owner to terminate the Tenancy Agreement if:
 - (i) an Rental Housing Unit is occupied by a person or persons other than a Tenant;
 - (ii) the Rental Housing Unit is occupied by more than the number of people the City's Buildings inspector determines can reside in the Rental Housing Unit given the number and size of bedrooms in the Rental Housing Unit and in light of any relevant standards set by the City in any bylaws of the City;

- (iii) the Rental Housing Unit remains vacant for three (3) consecutive months or longer, notwithstanding the timely payment of rent; or
 - (iv) the Tenant subleases the Rental Housing Unit or assigns the Tenancy Agreement in whole or in part; and
 - (g) the Tenancy Agreement will identify all occupants of the Rental Housing Unit and will stipulate that anyone not identified in the Tenancy Agreement will be prohibited from residing at the Rental Housing Unit for more than thirty (30) consecutive days or more than forty-five (45) days total in any calendar year.
- 3.4 If the Owner has terminated the Tenancy Agreement, then the Owner shall, subject to applicable law, including the *Residential Tenancy Act*, use commercially reasonable efforts to cause the Tenant and all other persons that may be in occupation of the Rental Housing Unit to vacate the Rental Housing Unit on or before the effective date of termination.

ARTICLE 4

STRATA CORPORATION BYLAWS

- 4.1 This Agreement will be binding upon all strata corporations ("**Strata Corporations**") created upon the strata title Subdivision of the Lands or any Subdivided parcel of the Lands, provided however that if the Lands are Subdivided, the City shall, at the Developer's request and expense, without further City council approval, authorization or bylaw, partially discharge this Agreement from those portions of the Lands, other than the Buildings. The Developer acknowledges and agrees that notwithstanding a partial discharge of this Agreement, this Agreement shall be and remain in full force and effect over the Buildings and, but for the partial discharge, otherwise unamended.
- 4.2 Any Strata Corporation bylaw which prevents, restricts, or abridges the right to use the Rental Housing Units as Rental Housing will have no force and effect.
- 4.3 No Strata Corporation shall pass any bylaws preventing, restricting, or abridging the use of the Rental Housing Units as Rental Housing.
- 4.4 No Strata Corporation shall pass any bylaw or approve any levies which would result in only a Tenant of a Rental Housing Unit 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.
- 4.5 No Strata Corporation shall pass any bylaw which purports to restrict access to Tenants to all common property, or other common areas, facilities, and indoor and outdoor amenities, including the outdoor swimming pool and associated fitness centre, regardless of whether the Lands are Subdivided or stratified.

ARTICLE 5

DEFAULT AND REMEDIES

- 5.1 **Notice of Default.** The City may give to the Owner written notice to cure a default under this Agreement within thirty (30) days of receipt of notice or such longer period as reasonably required if such default cannot be cured within thirty (30) days by the Owner acting diligently. The notice must specify the nature of the default. The Owner must act with diligence to correct the default within the time specified.
- 5.2 **Costs.** The Owner will pay to the City on demand by the City all the City's costs of exercising its rights or remedies under this Agreement, on a full indemnity basis.
- 5.3 **Damages.** The Owner acknowledges that the City requires the Rental Housing Units to be rented in accordance with this Agreement for the benefit of the community. The Owner therefore agrees that for each month an occupied Rental Housing Unit is not used in accordance with this Agreement, the Owner must pay the City Five Hundred Dollars (\$500.00) (the “**Damage Payment**”) per month 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 unless the Owner is acting with diligence, to the satisfaction of the City, to correct the breach within a reasonable period of time. The Owner agrees that payment may be enforced by the City in a court of competent jurisdiction as a contract debt.
- 5.4 **Rent Charge.** By this Section 5.4, the Owner grants to the City a rent charge under Section 219 of the *Land Title Act*, and at common law, securing payment by the Owner to the City of the Damage Payment as described in Section 5.3. The City agrees that enforcement of the rent charge granted by this Section 5.4 is suspended until the date that is thirty (30) days after the date on which any amount due under Section 5.3 is due and payable to the City in accordance with Section 5.3. The City may enforce the rent charge granted by this Section 5.4 by an action for an order for sale or by proceedings for the appointment of a receiver.
- 5.5 **Specific Performance.** The Owner 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 Owner of this Agreement. The Owner agrees that this is reasonable given the public interest in ensuring the provision of Rental Housing Units to be occupied by Tenants and restricting occupancy of the Lands in accordance with this Agreement.
- 5.6 **No Penalty or Forfeiture.** The Owner acknowledges and agrees that it is entering into this Agreement to benefit the public interest in providing Rental Housing Units for Tenants, 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.

- 5.7 **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 Owner acknowledges that specific performance, injunctive relief (mandatory or otherwise), or other equitable relief may be the only adequate remedy for a default by the Owner under this Agreement.

ARTICLE 6

MISCELLANEOUS

- 6.1 **Housing Covenant/Section 219 Covenant.** The Owner covenants and agrees with the City that:
- (a) this Agreement includes a housing agreement entered into under Section 483 of the *Local Government Act* and a covenant under Section 219 of the *Land Title Act*; and
 - (b) the Owner may Subdivide the Lands such that the Buildings are created as a fee simple parcel or air space parcel;
 - (c) The Buildings shall not be further Subdivided or stratified such that each of any of the Rental Housing Units becomes separate legal parcels; and
 - (d) where the Lands have not yet been Subdivided, to create the separate legal parcels to be charged by this Agreement, the City may file notice of this Agreement in the LTO over the Lands under Section 483 of the *Local Government Act* and may register this Agreement as a *Land Title Act* Section 219 covenant in the LTO against title to the Lands.
- 6.2 The Owner agrees, pursuant to Section 219 of the *Land Title Act* and Section 483 of the *Local Government Act*, that:
- (a) the terms and conditions of this Agreement constitute a covenant in respect of the use of the Lands and any Rental Housing Units on or to be constructed on the Lands and annexed to and running with the Lands and that the Lands shall only be used in accordance with the terms of this Agreement; and

- (b) the City may register this Agreement in the LTO against title to the Lands as a covenant pursuant to Section 219 of the *Land Title Act* and a Legal Notation pursuant to Section 483 of the *Local Government Act*.

6.3 **Management and Maintenance.** The Owner covenants and agrees that throughout the Term, in order to ensure the long- term maintenance of the Rental Housing Units, they will furnish good and efficient management of the Rental Housing Units through the Property Manager. The Owner further covenants and agrees that it will maintain the Rental Housing Units in a good state of repair and fit for habitation and will comply with all laws, including health and safety standards applicable to the Lands.

6.4 **Reporting.** The Owner will direct the Property Manager to report annually, or as otherwise required, to the City to confirm that the Owner is complying with this Agreement.

6.5 **Indemnity.** The Owner will indemnify and save harmless the City and each of its elected officials, officers, employees, directors, 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:

- (a) the use or occupancy of any Rental Housing Unit;
- (b) any negligent act or omission of the Owner, or its officers, directors, agents, contractors or other persons for whom at law the Owner is responsible relating to this Agreement;
- (c) the City refusing to issue a Development Authorization or building permit, or refusing to permit occupancy of any building, or any portion thereof, constructed on the Lands;
- (d) the construction, maintenance, repair, ownership, lease, license, operation, management or financing of the Lands or any Rental Housing Unit or the enforcement of any Tenancy Agreement; and
- (e) without limitation, any legal or equitable wrong on the part of the Owner or any breach of this Agreement by the Owner.

This indemnity is an integral part of the *Land Title Act* Section 219 Covenant hereby granted by the Owner to the City.

6.6 **Release.** The Owner hereby releases and forever discharges the City and each of its elected officials, officers, employees, directors, 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 or which would or could not occur but for the:

- (a) construction, maintenance, repair, ownership, lease, license, operation, or management of the Lands or any Rental Housing Unit under this Agreement;
- (b) the City refusing to issue a Development Authorization or building permit, or refusing to permit occupancy of any Building or Buildings, or any portion thereof, constructed on the Lands; or
- (c) the exercise by the City of any of its rights under this Agreement or an enactment.

6.7 **Survival.** The obligations of the Owner set out in sections 6.5 and 6.6 of this Agreement will survive termination or discharge of this Agreement.

6.8 **Priority.** The Owner will do everything necessary, at the Owner's expense, to ensure that this Agreement, if required by the City, will be registered against title to the Lands in priority to all financial charges and encumbrances which may have been registered or are pending registration against title to the Lands save and except those in favour of the City or specifically approved in advance in writing by the City's solicitor or senior planner, and that a notice under section 483(5) of the *Local Government Act* will be filed on title to the Lands.

6.9 **City's Powers Unaffected.** This Agreement does not:

- (a) affect, fetter, or limit the discretion, rights, duties, or powers of the City or the council of the City under any enactment or at common law, including in relation to the use or subdivision of the Lands;
- (b) impose on the City any legal duty or obligation, including any duty of care or contractual or other legal duty or obligation, to enforce this Agreement;
- (c) affect or limit any enactment relating to the use or subdivision of the Lands; or
- (d) relieve the Owner from complying with any enactment, including in relation to the use or subdivision of the Lands.

6.10 **Agreement for Benefit of City Only.** The Owner and the 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 Owner, any Tenant, or any future owner, lessee, occupier, or user of the Lands or the buildings or any portion thereof, including any Rental Housing Unit; and

- (c) the City may at any time execute a release and discharge of this Agreement, without liability to anyone for doing so, and without obtaining the consent of the Owner.

6.11 No Public Law Duty. Where the City is required or permitted by this Agreement to form an opinion, exercise a discretion, express satisfaction, make a determination, or give its consent, the Owner agrees that the City is under no public law duty of fairness or natural justice in that regard and agrees that the City may do any of those things in the same manner as if it were a private party and not a public body.

6.12 Notice. Any notice required to be served or given to a party herein pursuant to this Agreement will be sufficiently served or given if delivered, to the postal address of the Owner set out in the records at the LTO, and in the case of the City addressed:

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

or to the most recent postal address provided in a written notice given by each of the parties to the other. Any notice which is delivered is to be considered to have been given on the first day after it is dispatched for delivery.

6.13 Enuring Effect. This Agreement will extend to and be binding upon and enure to the benefit of the parties hereto and their respective successors and permitted assigns.

6.14 Severability. If any provision of this Agreement is found to be invalid or unenforceable, such provision or any part thereof will be severed from this Agreement and the resultant remainder of this Agreement will remain in full force and effect.

6.15 Waiver. All remedies of the City will be cumulative and may be exercised by the City in any order or concurrently in case of any breach and each remedy may be exercised any number of times with respect to each breach. Waiver of or delay in the City exercising any or all remedies will not prevent the later exercise of any remedy for the same breach or any similar or different breach.

6.16 Sole Agreement. This Agreement, and any documents signed by the Owners contemplated by this Agreement, represents the whole agreement between the City and the Owner respecting the use and occupation of the Rental Housing Units, and there are no warranties, representations, conditions, or collateral agreements made by the City, except as set forth in this Agreement.

6.17 Further Assurance. Upon request by the City, the Owner will forthwith do such acts and execute such documents as may be reasonably necessary in the opinion of the City to give effect to this Agreement.

- 6.18 **Covenant Runs with the Lands.** This Agreement burdens and runs with the Lands and every parcel into which it is Subdivided containing the Rental Housing Units for the Term. All of the covenants and agreements contained in this Agreement are made by the Owner for itself, its personal administrators, successors, and assigns, and all persons who after the date of this Agreement, acquire an interest in the Lands.
- 6.19 **Limitation on Owner's Obligations.** The Owner is only liable for breaches of this Agreement that occur while the Owner is the registered owner of the Lands or the Buildings, as the case may be, provided however that notwithstanding that the Owner is no longer the registered owner of the Lands or the Buildings, as the case may be, the Owner will remain liable for breaches of this Agreement that occurred while the Owner was the registered owner of the Lands.
- 6.20 **Equitable Remedies.** The Owner acknowledges and agrees that damages would be an inadequate remedy for the City for breach of this Agreement and that the public interest strongly favours specific performance, injunctive relief (mandatory or otherwise), or other equitable relief, as the only adequate remedy for a default under this Agreement.
- 6.21 **No Joint Venture.** Nothing in this Agreement will constitute the Owner as the agent, joint venturer, or partner of the City or give the Owner any authority to bind the City in any way.
- 6.22 **Applicable Law.** Unless the context otherwise requires, the laws of British Columbia will apply to this Agreement and all statutes referred to herein are enactments of the Province of British Columbia. Without limiting the above, in the event of any conflict between any provision of this Agreement and the *Residential Tenancy Act*, this Agreement is without effect to the extent of the conflict.
- 6.23 **Deed and Contract.** By executing and delivering this Agreement, the Owner intends to create both a contract and a deed executed and delivered under seal.
- 6.24 **Joint and Several.** If the Owner is composed of more than one person, firm, or body corporate, then the covenants, agreements, and obligations of the Owner shall be joint and several.
- 6.25 **Legal Fees.** The Owner covenants and agrees with the City that it will, upon being invoiced by the City, reimburse the City for the City's legal costs incurred in the drafting and negotiating of this Agreement.

ARTICLE 7

SUBDIVISION AND PARTIAL DISCHARGE

- 7.1 The Owner may Subdivide the Lands such that the Rental Housing Units comprise a separate legal parcel but shall not be further Subdivided or stratified.
- 7.2 As the Lands have not been Subdivided, to create the separate legal parcels to be charged by this Agreement, the City may file notice of this Agreement in the LTO over the Lands under Section 483 of the *Local Government Act* and may register this Agreement as a *Land Title Act* Section 219 covenant in the LTO against title to the Lands.
- 7.3 If this Agreement is filed in the LTO as a notice under Section 483 of the *Local Government Act* or registered as a *Land Title Act* Section 219 covenant prior to the Lands being Subdivided to create the separate legal parcels containing the Rental Housing Units, the parties agree that it is the intention that this Agreement shall charge and secure only the legal parcels which contain the Rental Housing Units.
- 7.4 The City shall, at the Owner's request, without further City council approval, authorization, or bylaw, partially discharge this Agreement against those portions of the Lands that do not contain the Rental Housing Units. Notwithstanding any failure or delay by the City to deliver the partial discharge of this Agreement from the legal parcels that do not contain Rental Housing Units, this Agreement is deemed to be discharged from all legal parcels that do not contain Rental Housing Units.
- 7.5 The Owner acknowledges and agrees that notwithstanding a partial discharge of this Agreement, this Agreement shall be and remain in full force and effect and, but for the partial discharge, otherwise unamended.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the General Instrument – Part 1, which is a part hereof.

LOCATION OF RENTAL HOUSING UNITS

[illegible]

Issues
08 Mar 2022 Issue for GP application
08 Mar 2022 Issue for Subdivision application
11 Aug 2022 Issued for Response to GP Comments

**NOT FOR
CONSTRUCTION**

ACTON OSTRY
ARCHITECTS INC

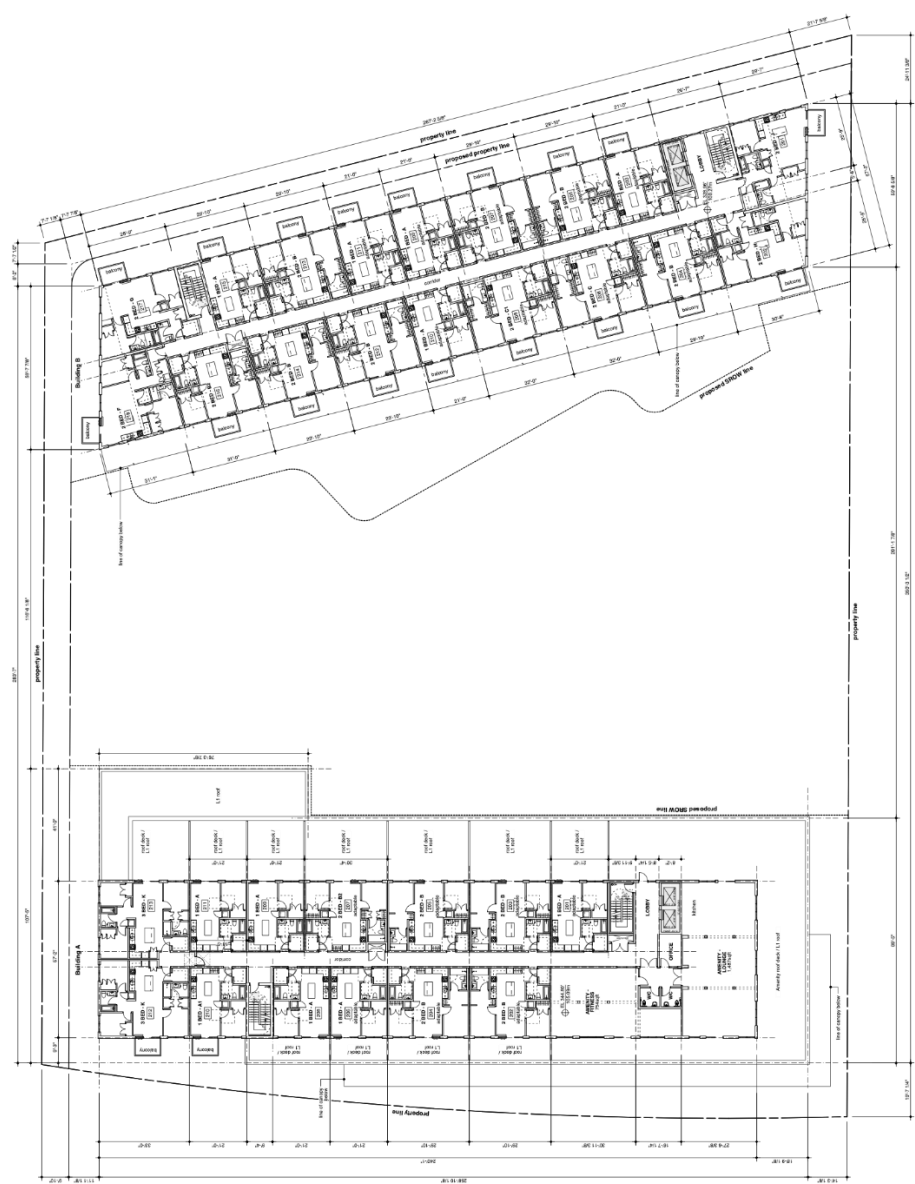


**Woodland Park
Area 3 / Phase 3
The Hub**

NAME	DATE
1/16" = 1'-0" (1:36)	12 Aug 2022
project note	status
WPI	DD
drawn	checked
BY	MS / MD



L2 Floor Plan
drawing number
A112



The document has been digitally certified with digital certificate and encryption, including images of the professional seal and digital certificate, or when granted from the digitally-certified electronic file provided by the architect.

**NOT FOR
CONSTRUCTION**

**ACTON OSTRY
ARCHITECTS INC.**

1111 E. Avenue
Vancouver BC
Canada V6T 1A8
1 866.378.2345
1 604.778.2345
info@actonostry.com



**Woodland Park
Area 3 / Phase 3
The Hub**

paper	0.02
$5/16'' = 1''/2^{10} (1.182)$	12 Aug 2022
project code	none
VAPIC	ED
Owner	(Client)

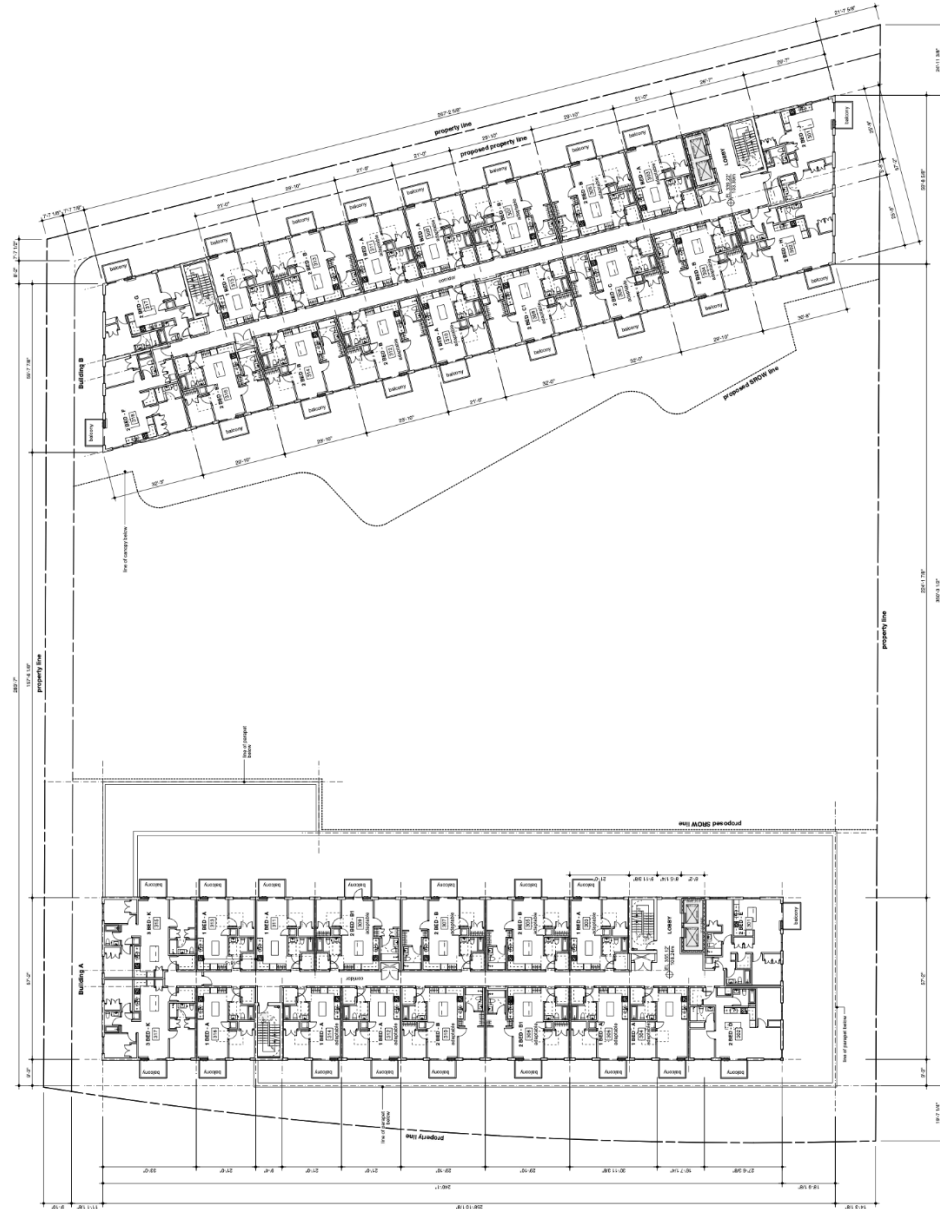


L3 - L4 Floor Plan

drawing number

drawing number
A1113

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SCHEDULE "B"

STATUTORY DECLARATION

OWNER'S DECLARATION

I, _____ of _____, British Columbia, *[in my capacity as the Owner]* do certify that:

1. I am the owner (the "**Owner**") or authorized signatory of the Owner of ____ Rental Housing Units being Units _____ (the "**Rental Housing Unit(s)**") and make this certificate to the best of my personal knowledge.
2. This certificate is made pursuant to the housing agreement registered as CA _____ at the Land Title Office (the "**Housing Agreement**") in respect of the Rental Housing Unit(s).
3. For the period from _____ to _____, the Rental Housing Unit was [the Rental Housing Units were] occupied only by a Tenant (as defined in the Housing Agreement) save and except _____ Rental Housing Units as permitted pursuant to section 2.6 of the Housing Agreement (Rental Housing Units numbers _____).
4. I acknowledge and agree to comply with the Owner's obligations under the Housing Agreement in favour of the City noted or registered in the Land Title Office against the land on which the Rental Housing Unit is situated and confirm that the Owner has complied with the Owner's obligations under the Housing Agreement.
5. I make this Statutory Declaration, conscientiously believing it to be true and knowing that the City of Port Moody will be relying upon the statements made herein.

[Owner]

Signature

PRIORITY AGREEMENT

_____ (the “**Chargeholder**”) is the holder of Mortgage and Assignment of Rents encumbering the Lands which Mortgage and Assignment of Rents were registered in the Lower Mainland LTO under numbers _____, respectively (the “**Bank Charges**”).

The Chargeholder, being the holder of the Bank Charges, by signing the Form C General Instrument attached hereto as Part I, in consideration of the payment of Ten Dollars (\$10.00) and other good and valuable consideration (the receipt and sufficiency of which is hereby acknowledged and agreed to by the Chargeholder) hereby consents to the granting of this Section 483 Housing Agreement and Section 219 Covenant and hereby covenants that this Section 483 Housing Agreement and Section 219 Covenant shall bind the Bank Charges in the Lands and shall rank in priority upon the Lands over the Bank Charges as if the Section 483 Housing Agreement and Section 219 Covenant had been registered prior to the Bank Charges and prior to the advance of any monies pursuant to the Bank Charges. The grant of priority is irrevocable, unqualified, and without reservation or limitation.

END OF DOCUMENT