



District of West Vancouver

Housing Agreement Authorization Bylaw No. 4904, 2016

Effective Date:

District of West Vancouver

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District of West Vancouver

Housing Agreement Authorization Bylaw No. 4904, 2016

A bylaw to enter into a housing agreement under section 483 of the *Local Government Act*.

WHEREAS the District of West Vancouver and Newport Projects Corp. are to enter into a housing agreement under section 483 of the Local Government Act to restrict the use of some of the land;

NOW THEREFORE, the Council of The Corporation of the District of West Vancouver enacts as follows:

Part 1 Citation

- 1.1 This bylaw may be cited as Housing Agreement Authorization Bylaw No. 4904, 2016.

Part 2 Severability

- 2.1 If a portion of this bylaw is held invalid by a Court of competent jurisdiction, then the invalid portion must be severed and the remainder of this bylaw is deemed to have been adopted without the severed section, subsection, paragraph, subparagraph, clause or phrase.

Part 3 Housing Agreement

- 3.1 The District of West Vancouver is authorized to enter into a housing agreement under section 483 of the *Local Government Act*, substantially in the form attached to this bylaw as Schedule A, with Newport Projects Corp. or its nominee, in respect of the land located at 1763 Bellevue Avenue, West Vancouver, B.C. and legally described as: PID: 011-788-461, LOT 12 BLOCK R DISTRICT LOT 775 PLAN 4140; and PID: 011-788-496, LOT 13 BLOCK R DISTRICT LOT 775 PLAN 4140.
- 3.2 The Mayor and Municipal Clerk are authorized to execute and deliver the housing agreement.

Schedule

Schedule A – Housing Agreement

READ A FIRST TIME on

READ A SECOND TIME on

READ A THIRD TIME on

ADOPTED by the Council on

Mayor

Municipal Clerk

SCHEDULE A – HOUSING AGREEMENT

PART 2 – TERMS OF INSTRUMENT

HOUSING AGREEMENT (Section 483 *Local Government Act*)

THIS AGREEMENT is dated for reference the 11th day of May, 2016.

BETWEEN:

NEWPORT PROJECTS CORP., INC. NO. BC0361004
#530 North Office Tower, 650 West 41 Avenue,
Vancouver, British Columbia, V5Z 2M9

(the “Owner”)

AND:

**CORPORATION OF THE DISTRICT OF WEST
VANCOUVER**
750 17TH Street, West Vancouver, British Columbia, V7V
3T3

(the “District”)

WHEREAS:

- A. Section 483 of the *Local Government Act* permits the District to enter into and note on title to 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, and administration of housing units;
- B. The Owner is the owner of the Lands (as hereinafter defined) and proposes to construct a development which includes 20 residential dwelling; and
- C. The Owner and the District wish to enter into this Agreement to ensure that each of the dwelling units located on the Lands may be (but not necessarily must be) used for rental housing on the terms and conditions set out in this Agreement.

In consideration of \$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 District covenant and agree pursuant to section 483 of the *Local Government Act* as follows:

Part 4 DEFINITIONS AND INTERPRETATION

4.1.1 **Definitions** – In this Agreement the following words have the following meanings:

(a) “Dwelling Unit” means one of the 20 residential dwelling units located or to be located on the Lands;

(b) “Lands” means the following lands and premises situate in the District of West Vancouver and any part, including a building or a portion of a building, into which said land is Subdivided:

PID: 011-788-461, Lot 12 Block R District Lot 775 Plan 4140;

(c) “Owner” means the party described on page 1 of this Agreement as the Owner 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 a Dwelling Unit from time to time;

(d) “Subdivide” means to divide, apportion, consolidate or subdivide the Lands or any building on the Lands, or the ownership or right to possession or occupation of the Lands or any building on 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 a “shared interest in land” as defined in the *Real Estate Development Marketing Act*,

(e) “Rentable Unit” means a Dwelling Unit for which there is no restriction, whether by strata bylaw, rule or otherwise, on rental or lease; and

(f) “Tenant” means an occupant of a rented or leased Dwelling Unit.

Part 5 USE OF LANDS

5.1.2 **Use of Dwelling Units** – The Owner agrees that every Dwelling Unit on the Lands shall be a Rentable Unit.

5.1.3 **District Authorized to Make Inquiries** – The Owner hereby irrevocably authorizes the District to make such inquiries as it considers necessary in order to confirm that the Owner is complying with this Agreement.

Part 6 STRATA CORPORATION BYLAWS

6.1.4 **Agreement Binding Upon Strata Corporation** – This Agreement will be binding upon all strata corporations created upon the strata title Subdivision of the Lands or any building on the Lands.

6.1.5 No Bylaws Restricting Use for Rental Accommodation – No strata corporation shall pass any bylaws or rules preventing, restricting or abridging the use or availability of any Dwelling Unit as a Rentable Unit.

6.1.6 No Force and Effect – Any strata corporation bylaw or rule that prevents, restricts, or abridges the right to use or availability of a Dwelling Unit as a Rentable Unit will have no force and effect.

6.1.7 No Extra Levies for Tenants – No strata corporation shall pass any bylaw or approve any levies that would result in only a Tenant or Tenants paying any charges or fees for the use of any common property, limited common property or other common areas, facilities, or amenities of the strata corporation greater than those charges or fees payable by an owner of a Dwelling Unit for use of any common property, limited common property or other common areas, facilities, or amenities of the strata corporation.

6.1.8 No Restrictions on Use of Common Property – No strata corporation shall pass any bylaw or make any rule which would restrict only a Tenant or Tenants from using and enjoying any common property, limited common property or other common areas, facilities or amenities of the strata corporation except on the same basis that governs the use and enjoyment of any common property, limited common property or other common areas, facilities or amenities of the strata corporation by all the owners of Dwelling Units. For greater certainty, a Tenant or Tenants may not use or enjoy any common property designated on a strata plan as limited common property for the exclusive use of any strata lot which is not occupied by that Tenant or Tenants.

Part 7 MISCELLANEOUS

7.1.9 Housing Agreement – The Owner acknowledges and agrees that:

- (a) this Agreement includes a housing agreement entered into under section 483 of the *Local Government Act*,
- (b) the District may file notice of, and register, this Agreement in the Land Title Office pursuant to section 483 of the *Local Government Act* against the title to the Lands.

7.1.10 Modification – This Agreement may be modified or amended from time to time, by consent of the Owner and a bylaw duly passed by the Council of the District and thereafter if it is signed by the District and the Owner.

7.1.11 Indemnity – The Owner will indemnify and save harmless the District and each of its elected officials, officers, 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) 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;
- (b) the construction, maintenance, repair, ownership, lease, license, operation, management or financing of the Lands; or
- (c) without limitation, any legal or equitable wrong on the part of the Owner or any breach of this Agreement by the Owner.

7.1.12 Release – The Owner hereby releases and forever discharges the District and each of its elected officials, officers, 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 under this Agreement; or
- (b) the exercise by the District of any of its rights under this Agreement.

7.1.13 Survival – The indemnity and release set out in this Agreement will survive termination or discharge of this Agreement.

7.1.14 District's Powers Unaffected – This Agreement does not:

- (a) affect, fetter or limit the discretion, rights, duties or powers of the District under any enactment or at common law, including in relation to the use or subdivision of the Lands;
- (b) impose on the District 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.

7.1.15 Agreement for Benefit of District Only – The Owner and the District agree that:

- (a) this Agreement is entered into only for the benefit of the District;
- (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 building or any portion thereof; and
- (c) the District 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.

7.1.16 No Public Law Duty – Where the District 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 District is under no public law duty of fairness or natural justice in that regard and agrees that the District may do any of those things in the same manner as if it were a private party and not a public body.

7.1.17 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 Land Title Office, and in the case of the District addressed listed above, to the attention of the Director of Planning and Development, 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.

7.1.18 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.

7.1.19 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.

7.1.20 Waiver – All remedies of the District will be cumulative and may be exercised by the District 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 District exercising any or all remedies will not prevent the later exercise of any remedy for the same breach or any similar or different breach.

7.1.21 Whole Agreement – This Agreement, and any documents signed by the Owner contemplated by this Agreement, represent the whole agreement between the District and the Owner respecting the use and occupation of the Lands, and there are no warranties, representations, conditions or collateral agreements made by the District except as set forth in or contemplated by this Agreement.

7.1.22 Further Assurance – Upon request by the District the Owner will forthwith do such acts and execute such documents as may be reasonably necessary in

the opinion of the District to give effect to this Agreement.

7.1.23 Agreement Runs with Lands – This Agreement burdens and runs with the Lands and every parcel into which it is Subdivided in perpetuity. 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.

7.1.24 Equitable Remedies – The Owner acknowledges and agrees that damages would be an inadequate remedy for the District for any 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.

7.1.25 No Joint Venture – Nothing in this Agreement will constitute the Owner as the agent, joint venture, or partner of the District or give the Owner any authority to bind the District in any way.

7.1.26 Applicable Law – The laws of British Columbia will apply to this Agreement and all statutes referred to herein are enactments of the Province of British Columbia.

7.1.27 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.

7.1.28 Joint and Several – If the Owner is comprised of more than one person, firm or body corporate, then the covenants, agreements and obligations of the Owner shall be joint and several.

7.1.29 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 provided however that notwithstanding that the Owner is no longer the registered owner of the Lands, the Owner will remain liable for breaches of this Agreement that occurred while the Owner was the registered owner of the Lands.

7.1.30 Interpretation – 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. Wherever the context so requires, reference to a “party” also includes a Tenant, agent, officer and invitee of the party;
- (j) reference to a “day”, “month”, or “year” is a reference to a calendar day, calendar month, calendar 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”.

IN WITNESS WHEREOF the parties hereto have executed this Agreement below on the respective dates written below:

DISTRICT OF WEST VANCOUVER by its authorized signatories:

Mayor:

Municipal Clerk:

Date: _____

NEWPORT PROJECTS CORP. INC. NO. BC0361004
by its authorized signatories:

Name:

Name:

Date: _____

END OF DOCUMENT