

NO: R206

COUNCIL DATE: December 4, 2023

REGULAR COUNCIL

TO: **Mayor & Council** DATE: **November 28, 2023**

FROM: **General Manager, Engineering** FILE: **0910-40/228**
General Manager, Planning & Development XC: **7922-0305-00**

SUBJECT: **Amendment to the Partnering Agreement between City of Surrey and Peninsula Estates Housing Society pertaining to 15153 and 15077 - 20 Avenue**

RECOMMENDATION

The Engineering Department and the Planning & Development Department recommend that Council:

1. Receive this report for information;
2. Approve the execution by the Mayor and City Clerk of an Amendment to the Partnering Agreement (attached as Appendix "I") between the City of Surrey and Peninsula Estates Housing Society to accept letters of indemnity in lieu of cash or letters of credit to secure Servicing Agreement requirements, as well as other securities required, related to Development Application No. 7922-0305-00, subject to compliance with the notice provisions of the *Community Charter*, SBC 2003, C. 26, as amended; and
3. Approve the execution by the Mayor and City Clerk of the letters of indemnity, appended to and forming part of the Amendment, subject to the execution of the Amendment and compliance with the notice provisions of the *Community Charter*, SBC 2003, C. 26, as amended.

INTENT

The purpose of this report is to seek Council's approval for the execution of an amendment to a Partnering Agreement ("PA") to allow the City to accept letters of indemnity from British Columbia Housing Management Commission ("BCHMC") in lieu of cash or letters of credit from Peninsula Housing Estates Society ("PEHS") to secure Servicing Agreement, as required under Subdivision Bylaw 8830, as well as other securities required for the proposed affordable rental housing development (the "Development") at 15153 and 15077 - 20 Avenue (the "Properties"), all as generally illustrated on the map attached as Appendix "III".

BACKGROUND

On March 8, 2021, Council approved Corporate Report No. R051; 2021 (attached as Appendix “IV”), which recommended the Mayor to execute the PA, which outlines the form of assistance the City is providing PEHS in relation to its proposal to construct the “Development on part of the Properties. Corporate Report No. R051; 2021 also recommended the Mayor to execute a land exchange agreement (the “LEA”), which sets out terms for the City to transfer ownership of the property at 15153- 20 Avenue to PEHS.

On November 14, 2022, Council approved Corporate Report No. R198; 2022 (attached as Appendix “V”), which recommended revisions to the PA and the LEA to link both agreements to the current Development Application No. 7922-0305-00 from a previous closed application.

DISCUSSION

PEHS is required through the development approval process to submit to the City cash or letters of credit related to works and services, as well as other securities required, that it is obligated to provide for the Development.

On September 14, 2015, Corporate Report No. R183; 2015 (attached as Appendix “VI”) was approved by Council which included a Memorandum of Understanding (“MOU”) between the City and BC Housing to secure a partnership to promote delivery of government-funded housing facilities. The intent is to assist BC Housing and the Provincial Rental Housing Corporation for their projects. The MOU was signed by the Mayor and a representative of BC Housing on November 16 and 19, 2015, respectively.

BCHMC has requested that the City accept letters of indemnity in lieu of cash or letters of credit to secure Servicing Agreement requirements, as well as other securities required for PEHS to provide for the Development, like other government-funded housing facilities within the City. Staff have confirmed that BCHMC has agreed to loan PEHS monies to construct the Development. It is understood the saved costs to PEHS will be used to better fund the Development. The waiving of the cash or letters of credit could be considered a form of assistance as defined in the *Community Charter SCB 2003, C. 26*, requiring Council’s authorization. The letters of indemnity to append to and form part of the Amendment, relate to erosion and sediment control security (\$297,600.00), engineering works and services security (\$1,906,250.00), landscaping security (\$726,131.18), and tree bonding security (\$81,000.00).

Staff will undertake the public notification process under Sections 24 and 94 of the *Community Charter SBC 2003, C. 26* following Council approval of the recommendations of this report.

Legal Services Review

This report and the related agreements have been reviewed by Legal Services.

CONCLUSION

Based on the above discussion, the Engineering and Planning & Development Departments recommend the City to accept letters of indemnity from British Columbia Housing Management Commission in lieu of letters of credit from PEHS related to works and services associated with Application No. 7922-0305-00.

Scott Neuman, P.Eng.
General Manager,
Engineering

Don Luymes
General Manager,
Planning & Development

AW/kd/cc

Appendix "I" – Partnering Agreement
Appendix "II" – Amendment and Letters of Indemnity
Appendix "III" – Aerial Photo of Site
Appendix "IV" - Corporate Report No. R051; 2021
Appendix "V" – Corporate Report No. R198; 2022
Appendix "VI" - Corporate Report No. R183; 2015

PENINSULA ESTATES HOUSING SOCIETY PARTNERING AGREEMENT

THIS AGREEMENT dated for reference the 1st day of February, 2021.

BETWEEN:

CITY OF SURREY
13450 – 104 Avenue
Surrey, British Columbia
V3T 1V8

("City")

AND: PENINSULA ESTATES HOUSING SOCIETY

15306 – 24 Avenue
Surrey, British Columbia
V4A 2J1

("PEHS")

WHEREAS:

- A. The *Community Charter S.B.C. 2003, Chapter 26* authorizes the City to enter into a partnering agreement with a person pursuant to which the person agrees to undertake or provide services, including an activity, work or facility, on behalf of the City;
- B. The City wishes to partner with PEHS who is proposing to construct and operate a building consisting of Affordable Rental Units and Supportive Rental Units at 2007 to 2075 – 151A Street and 15077 to 15147 – 20 Avenue, Surrey, BC, on the Lands for Development as shown on Schedule "A" and legally described as:

PID: 003-334-562

Legal: Lot 20 Except: Part Subdivided by Plan 65109, Section 15 Township 1 New
Westminster District Plan 63490

(the "Lands")

NOW THEREFORE in consideration of \$10.00 paid by each of the party to the other and other good and valuable consideration, the receipt and sufficiency of which each party acknowledges, the parties agree as follows:

- 1. In this Partnering Agreement,

- (a) **"Affordable Rental Units"** means the Dwelling Units within the Development that are to be used and occupied in accordance with the Housing Agreement;
- (b) **"Approving Officer"** means any approving officer appointed to approve subdivision plans for the City of Surrey;
- (c) **"City Lot"** means those lands and premises legally described as:
 - Municipal Address: 15153 – 20 Avenue
 - Parcel Identifier: 003-527-646
 - Legal Description: Lot 21 Section 15 Township 1 New Westminster District Plan 65109
- (d) **"Development"** means the development of a residential building containing a total of up to 91 Dwelling Units and associated servicing and landscaping which is to be constructed on the Development Lands in accordance with Development Permit No. 7922-0305-00;
- (e) **"Development Lands"** means the portion of the Lands as shown shaded in blue on Schedule "A" comprising approximately 4,815 square metres.
- (f) **"Dwelling Unit"** means one or more habitable rooms which constitute one self-contained unit used or intended to be used for living and sleeping purposes for which is provided cooking equipment or the facilities for the installation of cooking equipment and one or more bathrooms with a water closet, wash basin and shower or bath;
- (g) **"Heritage Bylaw"** means the Surrey Semiahmoo Trail Heritage Designation By-law, 2004, No. 15280, as amended,
- (h) **"Heritage Bylaw Amendment"** means a bylaw to amend the Heritage Bylaw, to remove the heritage designation on the City Lot, and to designate a new alignment within the road to be dedicated from the Lands along 151A Street as heritage, substantially in the form attached as Schedule "B" and forms part of this Agreement;
- (i) **"Housing Agreement"** means the Housing Agreement to be entered into between PEHS and the City, which is attached as Schedule "C" and forms part of this Agreement;
- (j) **"Housing Agreement Bylaw"** means a bylaw to authorize the City to enter into the Housing Agreement;
- (k) **"Lands"** means the same as Recital B;
- (l) **"Partnering Agreement"** means this agreement and all Schedules;
- (m) **"Land Exchange Agreement"** means the Land Exchange Agreement to be entered into between PEHS and the City, substantially in the form attached as Schedule "D" and forms part of this Agreement;

- (n) **"Subdivision Plan"** means a subdivision plan prepared by a British Columbia Land Surveyor to consolidate the Lands with the City Lot and dedicate as "road" a new trail along 151A Street from the Lands;
 - (o) **"Supportive Rental Units"** mean the Dwelling Units withing the Development that are to be used and occupied in accordance with the Housing Agreement; and
 - (p) **"Term"** means thirty (30) years from the effective date of the Partnering Agreement.
2. Notwithstanding that the City requested the realignment of the Semiahmoo Heritage Trail in order to provide an improved alignment, the parties acknowledge there may or may not be assistance with the transactions contemplated in this Partnering Agreement, including the transfer of the existing City Lot trail to PEHS in accordance with the Land Exchange Agreement and waiving the cash-in-lieu contribution for the shortfall in the indoor amenity space requirement. Assistance has the same meaning as in the Community Charter, S.B.C. 2003, c.26, as amended. Any assistance provided is in consideration of PEHS agreeing to realign and construct the Semiahmoo Heritage Trail and provide Affordable Rental Units and Supportive Rental Units in accordance with the Housing Agreement.
 3. This Partnering Agreement is subject to approval by the City of Surrey Council and or the City of Surrey Administration, or its authorized delegates, as required, which approval shall be evidenced by the endorsement of this Partnering Agreement with the signatures of the City's authorized delegates. This Partnering Agreement is further subject to the City Administration satisfying the public notification requirements for the Partnering Agreement pursuant to the notice provisions of the *Community Charter S.B.C., 2003, Chapter 26*, which public notification compliance shall be evidenced by the endorsement of this Partnering Agreement with the signatures of the City's authorized delegates.
 4. This Partnering Agreement only applies to the Development, located within the Development Lands as shown on Schedule "A", and not to the existing buildings on the remaining Lands.
 5. The obligations and duties of the parties as contemplated in this Partnering Agreement are subject to the following conditions precedent:
 - (a) on or before April 30, 2021, the Council of the City of Surrey, representing the City in its capacity as a municipality, in its sole and absolute discretion, approves this Partnering Agreement;
 - (b) on or before April 30, 2021, the City satisfies its obligations under Sections 24 and 94 of the *Community Charter*, regarding the publication of intension to provide certain kinds of assistance;
 - (c) on or before April 30, 2021 the City Council, in its sole and absolute discretion, approves the Land Exchange Agreement;

- (d) on or before the expiration of twelve (12) months following the issuance of Preliminary Layout Approval for the Development, the City Council in its sole and absolute discretion adopts the Heritage Bylaw Amendment;
- (e) on or before the expiration of twelve (12) months following the issuance of Preliminary Layout Approval for the Development, the City Council in its sole and absolute discretion adopts the Housing Agreement Bylaw; and
- (f) on or before expiration of twelve (12) months following the issuance of Preliminary Layout Approval for the Development, the Approving Officer approves the Subdivision Plan.

The foregoing conditions are the sole benefit of the City and may be waived by written notice by the City prior to the dates for the conditions precedent. If the foregoing conditions precedent are not satisfied or waived, this Partnering Agreement shall be null and void and neither party shall have any further obligation to the other hereunder.

- 6. PEHS will execute the Land Exchange Agreement for the transfer of the City Lot to PEHS in return for the road dedication from the Lands of the new trail alignment along 151 A Street to the City before Introduction to Council of the Heritage Bylaw Amendment and the Housing Agreement Bylaw.
- 7. PEHS will execute the Housing Agreement before Introduction to Council of the Housing Agreement Bylaw.
- 8. The parties will pursue with due diligence to obtain Council approval of the Land Exchange Agreement, Final Adoption of the Heritage Bylaw Amendment, Final Adoption of the Housing Agreement Bylaw, approval of the Subdivision Plan and all other required approvals and permits associated with the Development, and shall perform such further acts and execute such further documents as may reasonably be required to obtain all such bylaw adoptions, approvals and permits.
- 9. Nothing in this Partnering Agreement is intended to fetter the discretion of the Council of the City of Surrey to approve or not approve the Land Exchange Agreement, adopt or not adopt the Heritage Bylaw Amendment and the Housing Agreement Bylaw, or the discretion of the Approving Officer to approve or not approve the Subdivision Plan.
- 10. PEHS agrees to pay all costs and assume full responsibility for:
 - (a) construction of the Development according to City standards and in a manner that complies with the City's development approval and building permitting procedures and requirements including site improvements, parking, and landscaping;
 - (b) construction, installation, and servicing of all services and utilities reasonably required for the development and/or operation of the Development;
 - (c) the operation and maintenance of the Development in a good and workman-like manner throughout the Term;

- (d) provision of Affordable Rental Units and Supportive Rental Units in accordance with the Housing Agreement; and
 - (e) the realignment and construction of a portion of the Semiahmoo Heritage Trail from the City Lot to the west side of the Lands along 151A Street, as specified by the City, in accordance with the Heritage Bylaw Amendment, Development Permit, and Heritage Alteration Permit.
11. PEHS covenants and agrees to adhere to the Housing Agreement Bylaw, Heritage Bylaw Amendment, Development Permit, and Heritage Alteration Permit.
 12. No part of this Partnership Agreement alters PEHS's ownership of the Lands or its ownership of the improvements thereon.
 13. The City and PEHS are not joint venturers or the agent of the other.
 14. This Partnering Agreement is effective upon execution by both parties and may not be terminated except by written consent of both parties.

AS EVIDENCE of their agreement to be bound by the terms of the Partnering Agreement, the parties have executed this Partnering Agreement as follows:

CITY OF SURREY

By its authorized signatories:



Brenda Locke
Mayor



Jennifer Ficocelli
City Clerk

PENINSULA ESTATES HOUSING SOCIETY

By its authorized signatories:

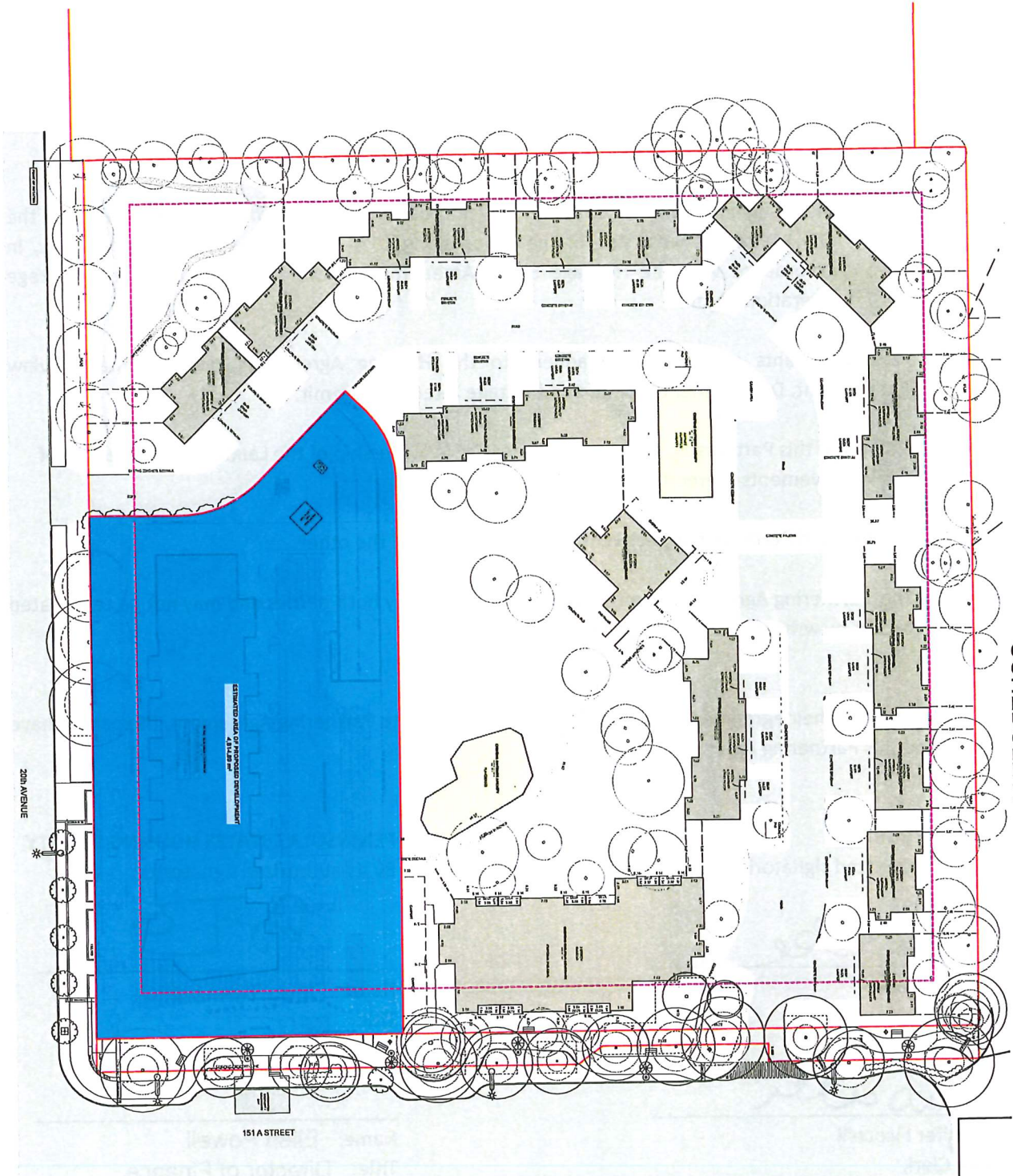


Name: Doug Tennant
Title: CEO



Name: Ellen Powell,
Title: Director of Finance

- Attachments: Schedule "A" – Site Plan
Schedule "B" – Heritage Bylaw Amendment
Schedule "C" – Housing Agreement Bylaw
Schedule "D" – Land Exchange Agreement



SCHEDULE A

UNIT	151405	PROJECT
405 Unit - Harmony	151405	151405
151405, 20th Avenue	151405	151405
SURREY, BC	151405	151405
151405	151405	151405
Simple Site Plan	151405	151405
19405	151405	151405
151405	151405	151405
2021-02-05	151405	151405
DP Re-submission	151405	151405
151405	151405	151405

A-1.250

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SCHEDULE B

CITY OF SURREY

BYLAW NO. 20317

A bylaw to amend Surrey Semiahmoo Trail Heritage
Designation By-law, 2004, No. 15280, as amended

.....

The Council of the City of Surrey, ENACTS AS FOLLOWS:

- 1. Surrey Semiahmoo Trail Heritage Designation By-law, 2004, No. 15280, as amended, is hereby further amended as follows:
 - a. In Schedule A delete row 26 in its entirety.
 - b. In Schedule A insert a new row 33 as follows:

<p>"33 All that portion of 151A Street shown as road on Plan EPP104138</p>	<p>▪ The land and the features associated with the Semiahmoo Trail, including the pedestrian trail, whether paved or naturally surfaced, and the landscaping, trees, trail signage, pedestrian amenities, pedestrian bridges and fences."</p>
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- c. In Schedule B delete the Key Map in its entirety and replace it with a new map attached to this bylaw as Schedule A.
 - d. In Schedule B delete the map in Section 7 in its entirety and replace it with a new map attached to this bylaw as Schedule B.
- 2. This Bylaw shall be cited for all purposes as "Surrey Semiahmoo Trail Heritage Designation Bylaw, 2004, No. 15280, Amendment Bylaw, 2021, No. 20317".

PASSED FIRST READING on the 12th day of April, 2021.

PASSED SECOND READING on the 12th day of April, 2021.

PUBLIC HEARING HELD thereon on the _____ th day of _____, 20 .

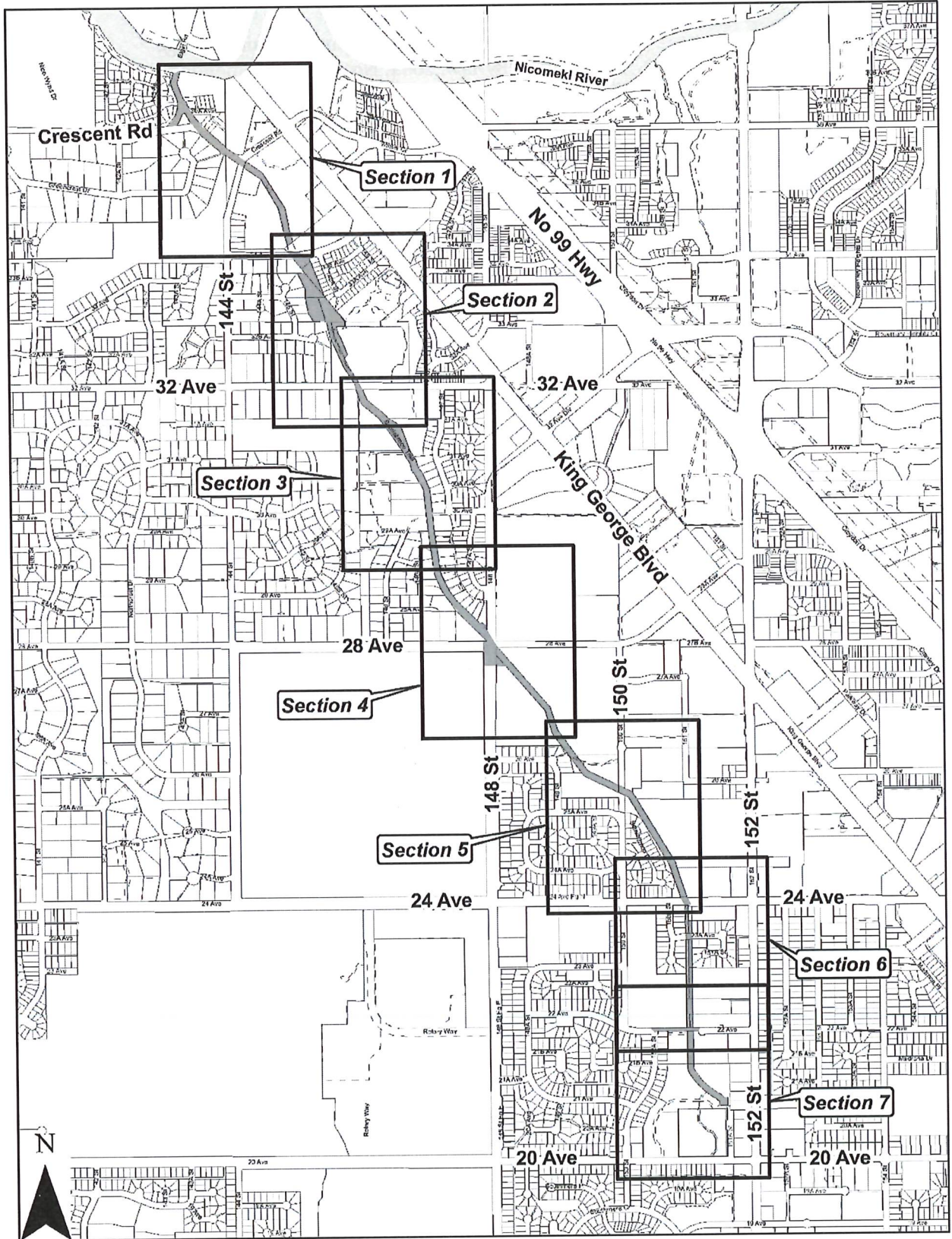
PASSED THIRD READING on the _____ th day of _____, 20 .

RECONSIDERED AND FINALLY ADOPTED, signed by the Mayor and Clerk, and sealed with the Corporate Seal on the _____ th day of _____, 20 .

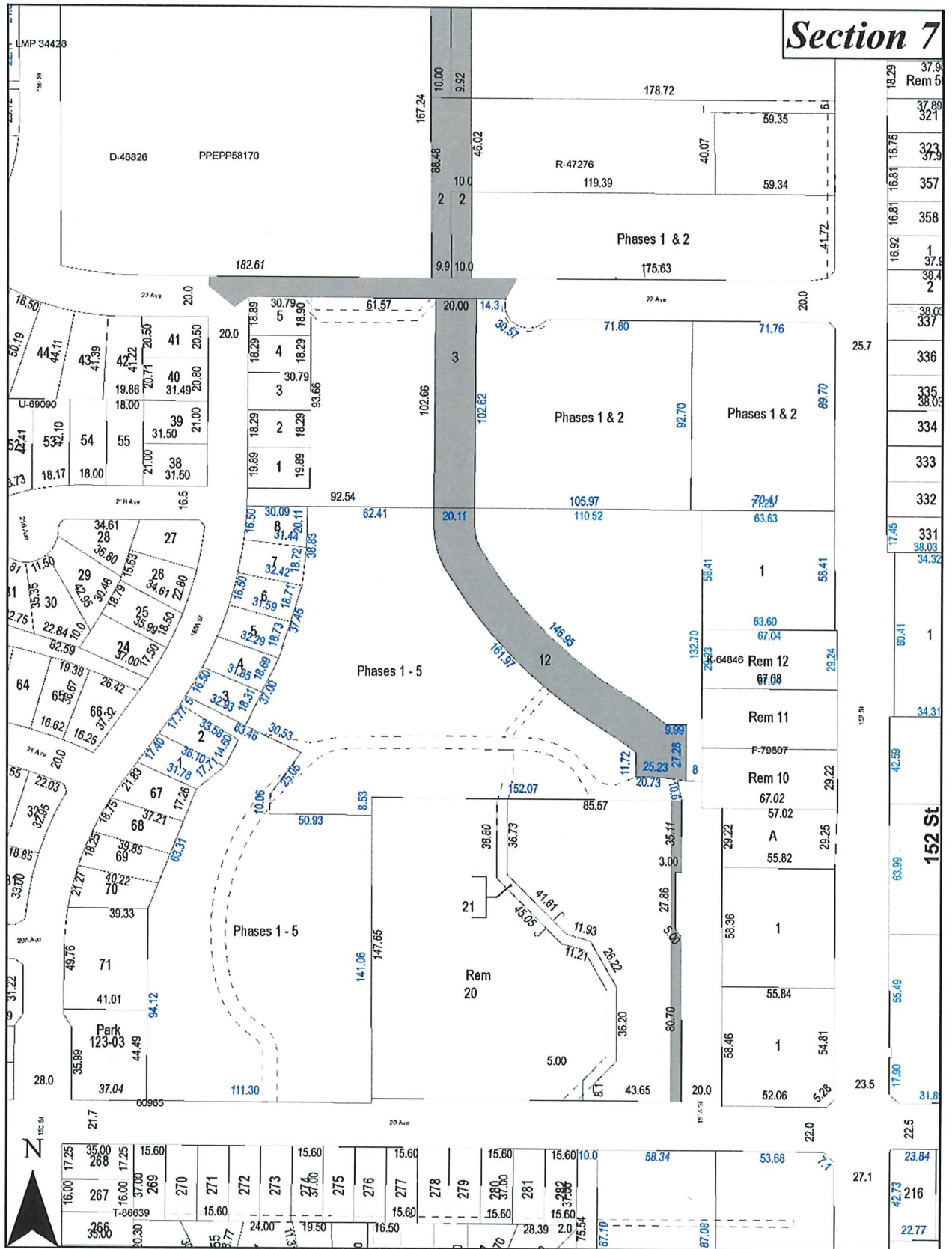
_____ MAYOR

_____ CLERK

SCHEDULE A



SCHEDULE B



SCHEDULE C

CITY OF SURREY

BYLAW NO. 20319

A bylaw to authorize the City of Surrey to enter into a Housing Agreement
.....

WHEREAS the City of Surrey has received an application to enter into a housing agreement;

AND WHEREAS Section 483 of the Local Government Act, R.S.B.C. 2015 c.1, as amended (the "*Local Government Act*"), empowers the Council or the City of Surrey to enter into a housing agreement.

NOW, THEREFORE, the Council of the City of Surrey, enacts as follows:

1. The City of Surrey is hereby authorized to enter into a housing agreement in the form attached as Schedule A and forming part of this Bylaw (the "Housing Agreement") with the following party:

PENINSULA ESTATES HOUSING SOCIETY
 15306 – 24 Avenue
 Surrey, BC V4A 2J1

and with respect to that certain parcel of lands and premises, in the City of Surrey, more particularly known and described as:

Parcel Identifier: 003-334-562
 Lot 20 Except: Part Subdivided by Plan 65109, Section 15 Township 1 New
 Westminster District Plan 63490

As generally shown in the shaded blue area for the proposed building and attached as Appendix A to this Bylaw

(herein after referred to as the "Lands");

2. The Mayor and Clerk are hereby empowered to execute the Housing Agreement on behalf of the City of Surrey.
3. The City of Surrey shall file in the Land Title Office a notice against the Lands in accordance with Section 483 of the *Local Government Act*, that the Lands are subject to the Housing Agreement.

4. This Bylaw shall be cited for all purposes as "The Peninsula Estates Housing Society Housing Agreement, Authorization Bylaw, 2021, No. 20319".

PASSED FIRST READING on the 12th day of April, 2021.

PASSED SECOND READING on the 12th day of April, 2021.

PASSED THIRD READING on the 12th day of April, 2021.

RECONSIDERED AND FINALLY ADOPTED, signed by the Mayor and Clerk, and sealed with the Corporate Seal on the _____ day of _____, _____.

_____ MAYOR

_____ CLERK

SCHEDULE "A"

CITY OF SURREY
HOUSING AGREEMENT

THIS AGREEMENT made the _____ day of _____, 2021

BETWEEN:

CITY OF SURREY, a municipal corporation having its offices at
13450 – 104 Avenue, Surrey, B.C. V3T 1V8

(the "**City**")

OF THE FIRST PART

AND:

PENINSULA ESTATES HOUSING SOCIETY, a non-profit society
having its offices at 15306 – 24 Avenue, Surrey, B.C. V4A 2J1

(the "**Developer**")

OF THE SECOND PART

WHEREAS:

- A. The Developer is the current Registered Owner of those certain lands and premises located in the City of Surrey, in the Province of British Columbia, legally described as:

Parcel Identifier: 003-334-562
Lot 20 Except: Part Subdivided by Plan 65109, Section 15 Township 1 New
Westminster District Plan 63490

(the "**Lands**");

- B. The Developer proposes to use a portion of the Lands for a 6-storey residential building containing a total of up to 91 Dwelling Units and associated servicing and landscaping (the "**Development**") as shown on Appendix A;
- C. Section 483 of the *Local Government Act*, R.S.B.C. 2015, Chapter 1, as amended, authorizes the City to enter into a housing agreement.

NOW THEREFORE in consideration of the premises herein and of the mutual covenants and agreements hereinafter set forth and contained herein and \$1.00 now paid by the City to the Developer (the receipt of which is hereby acknowledged), the parties hereto covenant and agree each with the other as follows:

1. **DEFINED TERMS**

1.1 In and for the purpose of this Agreement, in addition to the definitions on the first page of this document, the following terms shall have the following meanings:

- (a) “**Affordable Housing**” means the provision of the Affordable Rental Units within the Development;
- (b) “**Affordable Rental Unit**” means a Dwelling Unit within the Development that are to be used and occupied in accordance with Sections 2.1 and 2.2 of this Agreement;
- (c) “**Affordable Rental Unit Eligibility Criteria**” means a household in need of affordable housing, as determined by the Peninsula Estates Housing Society;
- (d) “**Agreement**” means this Housing Agreement and any amendments to or modifications of the same;
- (e) “**City**” means the City of Surrey, a municipal corporation having its offices at 13450 – 104 Avenue, Surrey, B.C. V3T 1V8;
- (f) “**Developer**” means Peninsula Estates Housing Society, a non-profit society having its offices at 15306 – 24 Avenue, Surrey, B.C. V4A 2J1;
- (g) “**Development**” means the same as Recital B;
- (h) “**Development Lands**” means the portion of the Lands as shown shaded in blue on Appendix A comprising approximately 4,815 square metres on which the Development will be constructed;
- (i) “**Dwelling Unit**” means each of the approximately 91 self-contained residential dwelling units to be constructed within the Development;
- (j) “**Lands**” means the same as Recital A;
- (k) “**Registered Owner**” means, at any given time, the then registered owner, or if more than one registered owner, the then registered owners of the Lands;
- (l) “**Supportive Rental Unit**” means a Dwelling Unit within the Development that are to be used and occupied in accordance with Sections 2.1 and 2.3 of this Agreement;
- (m) “**Supportive Rental Unit Eligibility Criteria**” means a person with a disability, as defined from time to time by the Peninsula Estates Housing Society; and
- (n) “**Term**” means thirty (30) years, commencing on the first day of the month after the City issues an occupancy permit for the Development.

- 1.2 The captions, section numbers and article numbers appearing in this Agreement are inserted for convenience of reference and shall in no way define, limit, construe or describe the scope of intent of this Agreement or in any way affect this Agreement.
- 1.3 Words importing the singular number only shall include the plural and vice versa, words importing the masculine gender shall include the feminine and neuter gender and vice versa, and words importing persons shall include firms and corporations and vice versa.
- 1.4 Unless otherwise stated, a reference in this Agreement to a numbered or lettered article, section, paragraph or clause refers to the articles, section, paragraph or clause bearing that number or letter in this Agreement.
- 1.5 The words "hereof", "herein" and similar expressions used in any section, paragraph or clause of this Agreement shall relate to the whole of this Agreement and not to that section, paragraph or clause only unless otherwise expressly provided.

2. RESTRICTION ON OCCUPANCY OF DWELLING UNITS

- 2.1 During the Term, the Development on the Development Lands shall be operated as a rental building and at least 75% of the Dwelling Units shall be occupied and used as Affordable Rental Units and up to 25% of the Dwelling Units shall be occupied and used as Supportive Rental Units.
- 2.2 Each Affordable Rental Unit shall be occupied by households that meet the Affordable Rental Unit Eligibility Criteria and rent for each Dwelling Unit will be a minimum of 10% below the average market rent rate. The average market rent rate is determined by a market rent appraisal of similar units within the City of Surrey.
- 2.3 Each Supportive Rental Unit shall be occupied by at least one person that meets the Supportive Rental Unit Eligibility Criteria unless there are no eligible applicants that meet the Supportive Rental Eligibility Criteria, in which case the affected Supportive Rental Unit may be rented as an Affordable Rental Unit.
- 2.4 The City may, from time to time, request the Registered Owner to provide written proof of compliance with sections 2.1, 2.2 and 2.3 and the Registered Owner agrees to provide, or cause an operator of the Lands to provide, the City with such proof in a form reasonably satisfactory to the City.
- 2.5 During the Term, the Development Lands shall not be stratified.
- 2.6 This Agreement shall automatically terminate at the end of the Term and the City shall remove notice of this Agreement from title to the Lands at such time.
- 2.7 The City and the Registered Owner agree that the restrictions on occupancy of the Dwelling Units set out in this Agreement shall not apply to other buildings located on the Lands.

3. ENFORCEMENT

- 3.1 If the Registered Owner fails to enforce compliance with the terms and conditions of Part 2, then it is specifically understood and agreed that the City will be entitled, but will not be obliged, to enforce the terms and conditions of Part 2.

4. LIABILITY

- 4.1 The Registered Owner will indemnify and save harmless the City and each of its selected and appointed officials, employees and agents and their respective administrators, successors and permitted assigns, of and from all claims, demands, actions, damages, costs and liabilities, which all or any of them shall or may be liable for or suffer or incur or be put to by reasons of or arising out of failure of the Registered Owner to comply with the terms and conditions of this Agreement.
- 4.2 Provided the City is in compliance with the terms and conditions of this Agreement, the Registered Owner hereby releases and forever discharges the City and each of its elected and appointed officials, employees and agents and their respective administrators, successors and permitted assigns, of and from any and all claims, demands, actions, damages, economic loss, costs and liabilities which the Registered Owner now has or hereafter may have with respect to or by reasons of or arising out of the fact that the Lands are encumbered by and affected by this Agreement.

5. NOTICE

- 5.1 Any notices or other documents to be given or delivered pursuant to this Agreement will be addressed to the proper party as follows:

- (a) As to the City:

City of Surrey
13450 – 104 Avenue
Surrey, BC V3T 1V8

Attention: General Manager, Planning and Development Department

- (b) As to the Developer:

Peninsula Estates Housing Society
15306 – 24 Avenue
Surrey, BC V4A 2J1

Attention: Chief Executive Officer

or such other address as such party may direct. Any notice or other documents to be given or delivered pursuant to this Agreement will be sufficiently given or delivered if delivered to the particular party as its address set out or determined in accordance with this section and shall be deemed complete two (2) days after the day of delivery.

5.2 It is specifically agreed that for any notice or document to be validly given or delivered pursuant to this Agreement, such notice or document must be delivered and not mailed.

6. **GENERAL**

6.1 Nothing in this Agreement:

(a) affects or limits any discretion, rights, powers, duties or obligations of the City under any enactment or at common law, including in relation to the uses or subdivision of land; and

(b) relieves the Registered Owner from complying with any enactment, including the City's by-laws.

6.2 The Developer and the City acknowledge and agree that this Agreement is only intended to apply to the Development on the Development Lands and not any other portion of the Lands. The City covenants and agrees that concurrently with the registration of any subdivision plan (including an airspace subdivision plan, or a strata plans pursuant to the Strata Property Act) that creates a separate legal parcel or parcels for the Development Lands, the City will, without delay, execute in registrable form and deliver to the Developer for filing in the applicable land title office, a discharge of any notice of this Agreement from title to the parcel(s) so created that do not contain the Development or any portion thereof. Such discharge is to be prepared and registered at the sole cost of the Developer.

6.3 The Developer agrees to obtain from any prospective purchaser or other transferee of the Development an agreement to be bound by the terms of this Agreement. The Developer agrees that the Development will not be held by, or transferred to, more than two parties as Registered Owner without the written consent of the City.

6.4 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.

6.5 Time is of the essence of this Agreement.

6.6 This Agreement shall be construed in accordance with and governed by the laws of the Province of British Columbia.

6.7 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.

- 6.8 Upon request by the City, the Registered Owner of the Lands will promptly do such acts and execute such documents as the City may reasonably require, in the opinion of the City, to give effect to this Agreement.
- 6.9 This is the entire Agreement between and among the parties concerning the subject matter of this Agreement and there are no warranties, representations, conditions or collateral agreements relating to this Agreement, except as included in this Agreement.
- 6.10 This Agreement may be enforced by prohibitory and mandatory court order of the Court. In any action to enforce this Agreement, the City shall be entitled to court costs on a solicitor and own client basis.
- 6.11 This Agreement shall enure to the benefit of and be binding upon the Registered Owner of the Lands and its successors and assigns and all parties claiming through them and this Agreement shall enure to the benefit of and be binding upon the City and its successors and assigns. This Agreement shall charge and run with the Lands.
- 6.12 The covenants of the Registered Owner contained herein shall be personal and be binding upon the Registered Owner only during its ownership of any interest in the Lands herein described.

IN WITNESS WHEREOF the City of Surrey and the Developer have executed this Agreement under seal of their duly authorized officers as of the references of this Agreement.

CITY OF SURREY

By its authorized signatories:

Doug McCallum
Mayor

Jennifer Ficocelli
City Clerk

PENINSULA ESTATES HOUSING SOCIETY

By its authorized signatories:



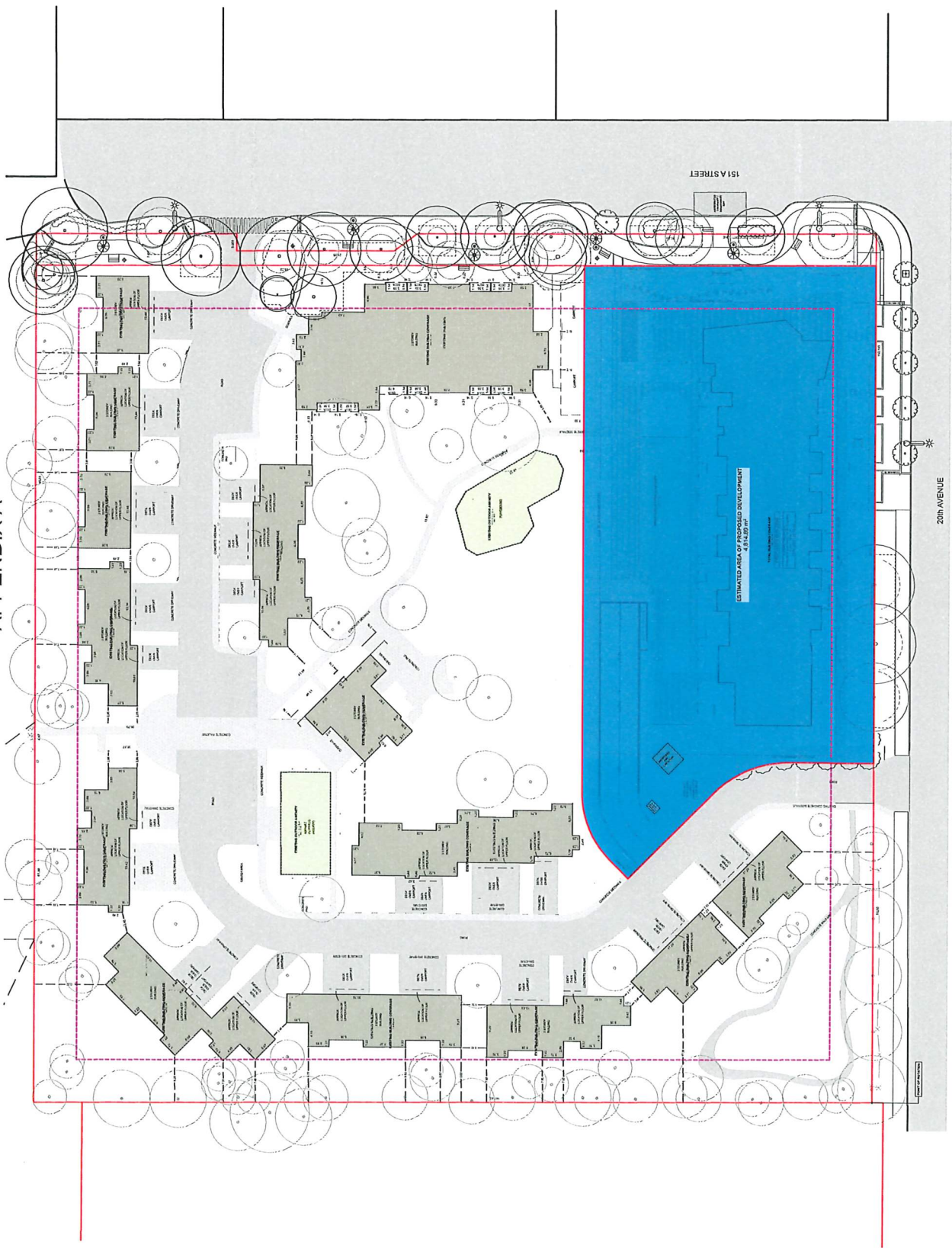
Name: Doug Tennant
Title: CEO



Name: Ellen Powell
Title: Director of Finance

Attachments: Appendix A – Site Plan

APPENDIX A



SCHEDULE D

LAND EXCHANGE AGREEMENT

THIS AGREEMENT dated for reference February 1, 2021.

BETWEEN:

CITY OF SURREY
13450 – 104 Avenue
Surrey, BC V3T 1V8
("City")

AND:

PENINSULA ESTATES HOUSING SOCIETY
(Incorporation Number S00169920)
having a registered office at 15306 – 24 Avenue
Surrey, BC V4A 2J1
("PEHS")

WHEREAS

- A. The City is the registered owner in fee simple of the City Lot and PEHS is the registered owner in fee simple of PEHS Lot.
- B. The City Lot forms part of Surrey Semiahmoo Heritage Trail and traverses PEHS Lot.
- C. PEHS has an in-stream application under Project No. 7922-0305-00 for a development permit to re-develop an existing residential building located on PEHS Lot. The Application is seeking approval to consolidate the City Lot with PEHS Lot.
- D. The City and PEHS have entered into a Partnering Agreement pursuant to the *Community Charter* S.B.C. 2003, Chapter 26, which contemplates the City and PEHS entering into a 30-year term Housing Agreement to reserve the future dwelling units of the re-development as affordable and supportive rental and also a Land Exchange Agreement to transfer the City Lot to PEHS in return for PEHS dedicating the Road Dedication Area from PEHS Lot to facilitate the relocation of Semiahmoo Heritage Trail from the City Lot to the Road Dedication Area.

NOW THEREFORE, in consideration of the mutual covenants and agreements contained in this Agreement and other good and valuable consideration given by each of the parties to each other (the receipt and sufficiency of which is hereby acknowledged), the parties hereto agree as follows:

ARTICLE 1 DEFINITIONS

1.1 In this Agreement:

- (a) "Agreement" means this document and the attached schedules;
- (b) "Approving Officer" means any approving officer appointed to approve subdivision plans for the City of Surrey;
- (c) "BCLS" means a British Columbia Land Surveyor;
- (d) "City Encumbrances and Charges" means those liens, charges, and encumbrances listed in Section B of Schedule "A" attached hereto;

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- (e) "City Lot" means those lands and premises legally described as:
- Municipal Address: 15153 20 Avenue
Parcel Identifier: 003-527-646
Legal Description: Lot 21 Section 15 Township 1 New Westminster District Plan 65109;
- (f) "Completion Date" means:
- (i) the 30th day after waiver or satisfaction of all conditions contained under Article 5; or
- (ii) such other day as the parties agree to in writing,
- or, if the Land Title Office is closed on that day, the next day that the Land Title Office is open.
- (g) "Contaminants" mean any explosives, radioactive materials, asbestos, urea formaldehyde, chlorobiphenyls, hydrocarbons, fuels, gas, propane, oils, lubricants, methanol, odorants, grease, polychlorinated bithenyls, antirust, antifreeze, or other chemicals, chromate solutions, arsenic, cadmium, chromium, lead, or other minerals, underground or above ground tanks, pollutants, contaminants, deleterious substances, dangerous goods, dangerous, hazardous, corrosive, or toxic substances, special or other waste, or any other substances the storage, manufacture, disposal, handling, treatment, generation, use transport, remediation, or release into the Environment of which any Environmental Laws prohibit, control, regulate, or license;
- (h) "day" means a calendar day;
- (i) "Environment" means land including soil and everything on or below land, sediment deposited on land, fill, and land submerged under water; air including all layers of the atmosphere; and water including oceans, lakes, rivers, streams, ground water, and surface water;
- (j) "Environmental Laws" mean all principles of common law and equity and all laws, statutes, regulations, rules, bylaws, remediation, pollution abatement or other orders, directives, standards, guidelines, permits, licences, and other lawful requirements, from time to time, of any government body having jurisdiction concerning the Environment, health, occupational health or safety, product liability, or the transportation of dangerous goods;
- (k) "General Encumbrances and Charges" means those liens, charges, and encumbrances listed in Section A of Schedule "A" attached to this Agreement;
- (l) "GST" means the goods and services tax imposed under the Excise Tax Act, R.S. 1985, C. E-15, as amended;
- (m) "Heritage Bylaw Amendment" means a bylaw to amend Surrey Semiahmoo Trail Heritage Designation By-law, 2004 No. 15280 that will remove the heritage designation on the City Lot.
- (n) "Land Title Office" means the New Westminster Land Title Office;
- (o) "PEHS Lot" means those lands and premises legally described as:
- Municipal Address: 15077 – 24 Avenue
Parcel Identifier: 003-334-562
Legal Description: Lot 20 Except: Part Subdivided by Plan 65109, Section 15 Township 1 New Westminster District Plan 63490;

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- (p) "PEHS Future Lot" means the proposed lot consisting of the City Lot and PEHS Remainder Lot shown as proposed Lot 1 on the preliminary Subdivision Plan attached as Schedule "B" to this Agreement;
- (q) "PEHS Remainder Lot" means PEHS Lot minus the Road Dedication Area;
- (r) "Permitted Encumbrances and Charges" means those liens, charges, and encumbrances set out in Schedule "A" attached to this Agreement;
- (s) "Reference Date" means the reference date set out on the first page of this Agreement;
- (t) "Road Dedication Area" means the 731.4 square metre portion, subject to final survey, of PEHS Lot to be dedicated as municipal highway on the Subdivision Plan, shown "Road" on Schedule "B" preliminary Subdivision Plan attached to this Agreement;
- (u) "Subdivision Charges" means section 219 *Land Title Act* RSBC 1996 c.250 covenants, statutory rights-of-way and other charges or encumbrances any government body may require the City and PEHS to register against the City Lot and PEHS Remainder Lot in connection with the approval of the Subdivision Plan; and
- (v) "Subdivision Plan" means a subdivision plan prepared by a BCLS:
 - (i) consolidating the City Lot and PEHS Remainder Lot to create PEHS Future Lot as a legal Lot 1; and
 - (ii) dedicating as "Road" the Road Dedication Area,

as generally shown on Schedule "B" preliminary Subdivision Plan attached to this Agreement, and includes all other plans, including but not limited to such explanatory, reference, and other plans required to effect the subdivision.

ARTICLE 2 LAND EXCHANGE

- 2.1 Subject to the terms and conditions of this Agreement, including that all required approvals have been obtained, the parties agree:
 - (a) the City will transfer in fee simple the City Lot to PEHS, free and clear of the registered legal notation Heritage Status Notice BW160641, but subject to the General Encumbrances and Charges, City Encumbrances and Charges, and Subdivision Charges; and
 - (b) PEHS will dedicate the Road Dedication Area, free and clear of all encumbrances and charges.
- 2.2 Each party shall pay the other party TEN DOLLARS (\$10.00) as the consideration for the transfer of the City Lot and the Road Dedication Area respectively from one party to the other party.
- 2.3 The parties acknowledge and agree that the market values of the City Lot and the Road Dedication Area are as set out below:
 - (a) the value of the City Lot is \$1,332,000; and
 - (b) the value of the Road Dedication Area is \$1,181,000.

ARTICLE 3 TRANSACTION EXPENSES AND TAXES

- 3.1 Subject to section 10.1, each of the City and PEHS will bear its own legal fees and disbursements and PEHS will pay all registration charges, property transfer tax (if applicable), GST (if applicable), and all other applicable taxes and charges payable upon the transfer to PEHS of the City Lot.
- 3.2 If GST is applicable and if PEHS is not a GST registrant, it will, on the Completion Date, remit to the City the GST payable upon the transfer of the City Lot to PEHS, payable to the City.
- 3.3 If GST is applicable and if PEHS is a GST registrant, it will in accordance with the *Excise Tax Act* provide its GST number to the City and will account directly to the Receiver General Canada for the GST payable upon the transfer of the City Lot to PEHS.
- 3.4 The City's GST registration number is 121391882RT0001.
- 3.5 PEHS's GST registration number is 127386225 RT0001.

ARTICLE 4 COMPLETION, ADJUSTMENTS, AND POSSESSION DATE

- 4.1 The transfer set out in section 2.1 must be completed and possession yielded free and clear of all liens, charges, and encumbrances, except the General Encumbrances and Charges, City Encumbrances and Charges, and Subdivision Charges by 12:00 noon on the Completion Date.
- 4.2 The parties will adjust any applicable property taxes and other items customarily the subject of adjustment in a land transaction as at 12:00 noon on the Completion Date.

ARTICLE 5 CONDITIONS PRECEDENT

- 5.1 PEHS acknowledges the receipt and sufficiency of TEN DOLLARS (\$10.00) from the City which will be non-refundable. In return and despite anything set out in this Agreement, the obligation of the City to complete the transfer of the City Lot and the purchase of the Road Dedication Area according to the terms and conditions of this Agreement will be subject to the satisfaction of the following conditions precedent:
 - (a) on or before April 30, 2021, the Council of the City of Surrey, representing the City in its capacity as a municipality, in its sole and absolute discretion approves this Agreement; and
 - (b) on or before April 30, 2021, the City satisfies its obligations under Sections 26 and 94 of the Community Charter, S.B.C. 2003, Chapter 26, as amended, regarding the giving of notice of the disposition of lands.

The foregoing conditions precedent are for the sole benefit of the City and may be waived by written notice by the City prior to the dates for the conditions precedent. If the foregoing conditions precedent are not satisfied or waived, this Agreement shall be null and void and neither party shall have any further obligation to the other hereunder, and the Deposit (if any) shall be returned to PEHS without interest.

- 5.2 Despite anything set out in this Agreement, the obligation of the City to complete the sale of the City Lot and accept the Road Dedication Area and the obligation of PEHS to complete the purchase of the City Lot and dedicate the Road Dedication Area according to the terms and conditions of this Agreement will be subject to the satisfaction of the following conditions precedent:
 - (a) on or before the expiration of twelve (12) months following the issuance of Preliminary Layout Approval for Project No. 7922-0305-00, the Council of the City of Surrey, representing the City in its capacity as a municipality, in its sole and absolute discretion adopts the Heritage Bylaw Amendment; and

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- (b) on or before the expiration of twelve (12) months following the issuance of Preliminary Layout Approval for Project No. 7922-0305-00, the Approving Officer approves the Subdivision Plan.

The foregoing conditions precedent are for the mutual benefit of the City and PEHS and may not be unilaterally waived or declared satisfied by either party. If any of the foregoing conditions precedent are not satisfied by the applicable dates set out above, then this Agreement shall be null and void and neither party shall have any further obligations to the other hereunder, and the Deposit (if any) shall be returned to PEHS without interest.

- 5.3 The City and PEHS agree that it shall be a condition of the closing of this transaction of purchase and sale that the City Lot and PEHS Lot be consolidated, and the Road Dedication Area be dedicated to creating PEHS Future Lot, and that the Heritage Bylaw Amendment to remove the heritage designation on the City Lot be adopted. The parties agree as follows:
 - (a) PEHS shall proceed with due diligence to obtain all necessary approvals, and perform such further acts and execute such further documents as may reasonably be required to obtain approval of the Subdivision Plan;
 - (c) PEHS shall be responsible for all costs associated with the subdivision of the lands, including all survey and development servicing costs; and
 - (b) the City shall proceed with due diligence to obtain adoption of the Heritage Bylaw Amendment.
- 5.4 Nothing in this Agreement is intended to fetter the Approving Officer's discretion to approve or not approve the Subdivision Plan and the City Council to adopt or not adopt the Heritage Bylaw Amendment.

ARTICLE 6 CLOSING DOCUMENTS

- 6.1 Not later than ten (10) days prior to the Completion Date, PEHS, at its expense, will have its solicitor prepare and deliver the following documents to the City:
 - (a) A Form A Freehold Transfer in registrable form to transfer the fee simple title for the City Lot from the City to PEHS;
 - (b) Statements of the adjustments as provided for in section 4.2;
 - (c) Property transfer tax returns for the City Lot;
 - (d) the application to submit the Subdivision Plan for registration with copies of the Subdivision Plan confirming the intended dedication of the Road Dedication Area;
 - (e) Such other documents as are necessary to carry out the contemplated transfers and Subdivision Plan registration; and
 - (f) A cheque for the amount, if any, due to the City under the statement of the adjustments provided for in section 4.2.
- 6.2 If the documents referred to in section 6.1 are acceptable to the City, it will sign those that require signature by the City and return them to PEHS's solicitor prior to the Completion Date.

ARTICLE 7 CLOSING PROCEDURE

- 7.1 PEHS's solicitor, or their agent, will attend at the Land Title Office on the Completion Date and conduct a pre-registration search of title to the City Lot and PEHS Lot, and upon being satisfied that the titles are free and clear of all liens, charges and encumbrances, except the Permitted Encumbrances and Charges,

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and Subdivision Charges, PEHS's solicitor, or the solicitor's agent will deposit in the Land Title Office all of the transfer documents and legal plans necessary to the transactions contemplated in this Agreement.

- 7.2 After depositing the title documents in accordance with section 7.1, PEHS's solicitor, or their agent, will conduct a post registration search of the titles to PEHS Future Lot, and upon confirming that in the normal course of procedure, the Land Title Office will issue a certificate of title for PEHS Future Lot naming PEHS as registered owner, free and clear of all liens, charges and encumbrances, except the General Encumbrances and Charges, the City Encumbrances and Charges and Subdivision Charges, PEHS's solicitor, will deliver to the City the adjusted balance due to the City, if any, and the GST, if any, to be remitted in accordance with Article 3, payable to the City.
- 7.3 The solicitors for the City and PEHS may exchange such further or amended undertakings as are customary among reputable solicitors having experience in such transactions.

ARTICLE 8 TRANSFER ON OR BEFORE THE COMPLETION DATE

- 8.1 PEHS **will not assign** its rights under this Agreement in whole or in part without the prior written consent of the City, which consent may be withheld or denied, provided always that in the case of an assignment PEHS will not be released from its obligations under this Agreement.

ARTICLE 9 WARRANTIES, REPRESENTATIONS, ACKNOWLEDGEMENTS, AND COVENANTS OF THE CITY AND PEHS

- 9.1 Regardless of any independent investigation PEHS may make, the City warrants, represents, and covenants to PEHS that:
- (a) it has the corporate power, authority, and capacity to transfer the City Lot, and the necessary corporate proceedings have been taken by it to enter into this Agreement and to carry out its obligations under it;
 - (b) it has or will have a good, safe holding, and marketable title to the City Lot in fee simple free and clear of all liens, charges, encumbrances, encroachments, defects in titles, equities, or claims, except the General Encumbrances and Charges and the City Encumbrances and Charges;
 - (c) there is no claim or litigation pending or threatened against it, which would affect the right of PEHS to acquire the City Lot; and
 - (d) the City has received no notice of any claims that the City Lot is not in compliance with Environmental Laws or that Contaminants from the City Lot have migrated to adjoining lands.
- 9.2 Regardless of any independent investigation the City may make, PEHS warrants, represents, and covenants to the City that:
- (a) if it is a corporation, it has been incorporated or registered and exists under the laws of British Columbia or it has been incorporated and exists under the laws of Canada and it has the corporate power, capacity, and authority to enter into this Agreement and to carry out its obligations hereunder, all of which has been authorized by all necessary corporate proceedings
 - (b) it has the corporate power, authority, and capacity to transfer by road dedication the Road Dedication Area, and the necessary corporate proceedings have been taken by it to enter into this Agreement and to carry out its obligations under it;
 - (c) it has good, safe holding, and marketable title to PEHS Lot, free and clear from all liens, charges, encumbrances, encroachments, defects in title, equities, or claims, except the General Encumbrances and Charges and PEHS Encumbrances and Charges;

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- (d) there is no claim or litigation pending or threatened against it, which would affect the right of the City to acquire the Road Dedication Area; and
- (e) PEHS has received no notice of any claims that PEHS Lot is not in compliance with Environmental Laws or that Contaminants from PEHS Lot have migrated to adjoining lands.

9.3 The City covenants and agrees in respect of the City Lot and PEHS covenants and agrees in respect of the Road Dedication Area that:

- (a) except for the representations and warranties expressly set out in this Agreement, the City Lot and the Road Dedication Area are being exchanged "as is";
- (b) in entering into this Agreement, the City has not relied upon any warranty or representation given by or on behalf of PEHS and PEHS has not relied upon any warranty or representation given by or on behalf of the City, including, but not limited to, representation or warranties concerning:
 - i) the fitness of the City Lot for the intended use of it by PEHS and the Road Dedication Area for the intended use of it by the City;
 - ii) the valuation of the City Lot and the Road Dedication Area is or is not based on its environmental condition;
 - iii) the general condition and state of any utilities or other systems on, under or connection to the City Lot and the Road Dedication Area;
 - iv) the zoning of the City Lot and the Road Dedication Area and the bylaws, regulations and laws of any governmental body which relate to the use and occupation of the lands;
 - v) the economic feasibility of the development of the City Lot and the Road Dedication Area;
 - vi) the applicability or otherwise to the City Lot and the Road Dedication Area of any federal or provincial statute or law; or
 - vii) the environmental state or condition of the City Lot and the Road Dedication Area;
- (c) there are no warranties, representations, collateral agreements, or conditions affecting this Agreement except as set out in this Agreement;
- (d) the City is under no obligation, express or implied, to provide financial assistance to contribute, in any way, to the cost of servicing or developing the City Lot and the Road Dedication Area;
- (e) nothing in this Agreement constitutes PEHS as the agent, joint venturer or partner of the City and nothing in this Agreement constitutes the City as the agent, joint venturer, or partner of PEHS; and
- (f) the parties are aware that this Agreement and any information regarding this Agreement, the City or PEHS may be disclosed or may be required to be disclosed pursuant to the Freedom of Information and Protection of Privacy Act, R.S.B.C. 1996, c. 165, as amended, or otherwise.

ARTICLE 10 ADDITIONAL COVENANTS AND COMMITMENTS

10.1 PEHS further covenants and agrees that:

- (a) it will retain a BCLS to prepare the Subdivision Plan for registration at the Land Title Office;
- (b) it will register the Subdivision Plan at the Land Title office if approval has been obtained;
- (c) it will be responsible for all fees, expenses and costs associated with the preparation, approval (whether or not such approval is granted) and, if approved, registration of the Subdivision Plan;

- (d) it will comply with the lawful requirements of government bodies having jurisdiction in connection with or arising out of the subdivision application, including granting such Subdivision Charges in respect of the lands as any such government body may require, and use all reasonable commercial efforts to obtain priority for such Subdivision Charges in such form and substance as each government body may require;
- (e) it acknowledges that the City, by executing and delivering this Agreement to PEHS, does not intend to fetter and will not be deemed to have fettered the discretion of the Approving Officer to approve or not approve the Subdivision Plan; and
- (f) it will be responsible for constructing the Semiahmoo Heritage Trail over the Road Dedication Area and providing all off-site and on-site services to and on the lands all in accordance with the requirements of City of Surrey Engineering Department.

ARTICLE 11 MISCELLANEOUS

11.1 Time is of the essence of this Agreement.

11.2 The City Lot will be at the risk of the City until and including completion of the transfer on the Completion Date and thereafter the City Lot will be at the risk of PEHS. The Road Dedication Area will be at the risk of PEHS until and including completion of the transfer by dedication on the Completion Date and thereafter the Road Dedication Area will be at the risk of the City.

11.3 This Agreement may not be modified except by subsequent agreement in writing.

11.4 Notices:

- (a) Any notice, document, or communication required or permitted to be given under this Agreement must be in writing and will be deemed to have been given if delivered by hand, courier, or double registered mail to the party to whom it is to be given as follows:

To PEHS:

Peninsula Estates Housing PEHS
 15306 – 24 Avenue
 Surrey, BC V4A 2J1
 Telephone: ~~604-644-2359~~ 604-536-1242
 Fax: (604) 536-9507

To the City:

Realty Services Division
 Manager, Realty Services
 13450 – 104 Avenue
 Surrey, BC V3T 1V8
 Telephone: (604) 598-5700
 Fax: 604 598-5701

Provided, however, that a party may, by notice in writing to the other, specify another address for service of notices under this Agreement and, where another address is specified under this section, notice must be delivered to that address in accordance with this Article.

- (b) For information, the parties' telephone numbers and email addresses for contact are:

PEHS:

Tel: ~~604-644-2359~~ 604-536-1242
 Email: D. Tennant@shsbc.ca

City:

Tel: 604 598 5718 (Cell: 778 846 0783)
 Email: AEWright@surrey.ca

- (c) Despite section 11.4(a) and as an alternative to the requirements of section 11.4(a), the City may, at its option, choose to serve or deliver any notice, document, or communication required or permitted under this Agreement to PEHS's legal representative identified in section 11.5 of

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this Agreement. In all cases, service or delivery by the City pursuant to this section 11.4(c) shall constitute effective service and delivery upon PEHS.

11.5 PEHS's legal representative for the transactions as contemplated in this Agreement, is:

Gail Davies, Lawyer
Landmark Law Group
501 – 1367 West Broadway
Vancouver, BC V6H 4A7
Tel: 604 736 6338 (O) 604-629-2150 (D)
Fax: 604 736 3399
Email: gdavies@LLGLAW.ca

provided however that, for greater certainty, PEHS' legal representative identified in this section 11.5 is for the purposes of section 11.4(c) only and PEHS may appoint the above-noted legal representative or a different solicitor to act as PEHS's solicitor for all other purposes under this Agreement.

- 11.6 Delivery of any monies to be paid or remitted hereunder will be effected by hand or courier to the appropriate address specified above, such delivery to be effective only on actual receipt.
- 11.7 The warranties, representations, and agreements contained in this Agreement will not be subject to merger, but will respectively survive the completion of the transactions contemplated by this Agreement.
- 11.8 No term, condition, covenant, or other provision of this Agreement will be considered to have been waived by a party unless such waiver is expressed in writing by the party. The waiver by a party of any breach by the other party of any term, condition, covenant or other provision of this Agreement will not be construed as or constitute a waiver of any further or other breach of the same or any other term, conditions, covenant, or other provision and the consent or approval of a party to any act by the other party requiring the consent or approval of the party will not be considered to waive or render unnecessary such consents or approvals to any subsequent, same or similar act by the other party.
- 11.9 No remedy conferred upon or reserved to either party is exclusive of any other remedy in this Agreement or provided by law, but such remedy will be cumulative and will be in addition to any other remedy in this Agreement now or hereafter existing at law, in equity or by statute.
- 11.10 This Agreement is binding upon and enures to the benefit of the City and its assigns and PEHS and its successors and its assigns.
- 11.11 Neither the City nor PEHS shall be entitled to assign this Agreement without the prior consent of the other party.
- 11.12 This Agreement creates contractual rights only between the parties, does not create any equitable or legal interest in the City Lot and the Road Dedication Area, and shall not be registered by the City or PEHS at any Land Title Office at any time.
- 11.13 The City and PEHS will perform such further acts and execute such further documents as may reasonably be required to give effect to this Agreement.
- 11.14 This Agreement may be executed by the parties and transmitted by facsimile and/or electronic mail and if so executed and transmitted, shall be for all purposes as effective as if the parties had delivered an executed original agreement.
- 11.15 This Agreement may be executed in any number of counterparts, all of which shall together constitute one agreement.

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11.16 The parties confirm that, pursuant to the *Builders Lien Act*, R.S.B.C. 1996, c. 45, as amended, no lien holdback will be required in this transaction.

ARTICLE 12 INTERPRETATION

- 12.1 Wherever the singular or masculine form is used in this Agreement it will be construed as the plural or feminine or neuter form, as the case may be, and vice versa where the context or parties so require.
- 12.2 The recitals, captions and headings contained herein are for convenience only and do not define or limit the scope or intent of this Agreement.
- 12.3 This Agreement will be interpreted according to the laws of the Province of British Columbia.
- 12.4 Where there is a reference to an enactment of the Province of British Columbia or of Canada in this Agreement, that reference will include a reference to any prior or subsequent enactment of the Province of British Columbia or Canada, as the case may be, of like effect and, unless the context otherwise requires, all statutes referred to in this Agreement are enactments of the Province of British Columbia.
- 12.5 If any section of this Agreement or any part of a section is found to be illegal or unenforceable, that part or section, as the case may be, will be considered separate and severable and the remaining parts or sections, as the case may be, will not be affected and will be enforceable to the fullest extent permitted by law.

IN WITNESS WHEREOF this Agreement has been executed as of the Reference Date.

CITY OF SURREY

by its authorized signatory:

Brenda Locke
Mayor

PENINSULA ESTATES HOUSING SOCIETY

by its authorized signatories:



Doug Tennant, CEO



Ellen Powell, Director of Finance

AW/rr

https://surreybc.sharepoint.com/sites/eng.rs.administration/vp_centre/2020/agreements/land_exchange/09211016-aw.docx
RR 4/21/21 9:28 AM

Schedule "A" – Permitted Encumbrances and Charges
Schedule "B" – Preliminary Subdivision Plan

SCHEDULE "A"

PERMITTED ENCUMBRANCES AND CHARGES

A. GENERAL ENCUMBRANCES AND CHARGES

All subsisting exceptions and reservations of interests, rights, privileges, and titles contained in any previous Crown Grant of the Land.

All the interests, rights, privileges, and titles contained in section 50 of the *Land Act*, R.S.B.C. 1996, c. 245.

Any conditional or final water license or substituted water license issued or given under the *Water Act*, R.S.B.C. 1996, c. 483 or any prior or subsequent enactment of the Province of British Columbia of like effect, and to the rights of the holder of it to enter on the Land and to maintain, repair, and operate any works permitted on the Land under the license at the date of the Crown Grant.

All subsisting grants to, or subsisting rights of any person made or acquired under the *Mineral Tenure Act*, R.S.B.C. 1996, c. 292, the *Coal Act*, R.S.B.C. 1996, c. 51 or the *Petroleum and Natural Gas Act*, R.S.B.C. 1996, c. 361 or under any prior or subsequent enactment of the Province of British Columbia of like effect.

B. CITY ENCUMBRANCES AND CHARGES

Undersurface Rights Z32974

C. PEHS ENCUMBRANCES AND CHARGES

Undersurface Rights Z19433

Covenant W74133

D. LEGAL NOTATION ON CITY LOT

Heritage Status Notice, Local Government Act, See BW160641

E. LEGAL NOTATION ON SOCIETY LOT

PPSA Notice See PF224068

AMENDMENT TO PARTNERING AGREEMENT

THIS AMENDING AGREEMENT is dated for reference the 1st day of _____ 2023.

BETWEEN:

CITY OF SURREY
13450 – 104 Avenue
Surrey, British Columbia
V3T 1V8

(“City”)

AND:

PENINSULA ESTATES HOUSING SOCIETY
15306 – 24 Avenue
Surrey, British Columbia
V4A 2J1

(“PEHS”)

WHEREAS:

- A. By a partnering agreement dated for reference the 1st day of February 2021 (the “Partnering Agreement”), the City partnered with PEHS in PEHS’s project to construct and operate a building consisting of affordable rental units on a part of the lands described as:

PID: 003-334-562

Legal: Lot 20 Except: Part Subdivided by Plan 65109, Section 15, Township 1 NWD Plan 63490

(the “Lands”)

- B. The City and PEHS have agreed to amend the Partnering Agreement on the terms and conditions set out in this Amending Agreement.

NOW THEREFORE in consideration of \$10.00 paid by each party to the other and other good and valuable consideration, the receipt and sufficiency of which each party acknowledges, the City and PEHS hereby covenant and agree as follows:

1. To add as paragraph 15 to the Partnering Agreement the following:

“15. PEHS will execute and cause British Columbia Housing Management Commission to execute the four (4) Letters of Indemnity covering tree bonding security, landscaping security, erosion and sediment control security, and civil work and services security (the “Letters of Indemnity”), provided they are substantially in the form attached hereto, prior to all bylaw adoptions, approval, and permits associated with the Development.”

2. To add to the Partnering Agreement to form part thereof the Letters of Indemnity as Schedule "E".
3. This Amending Agreement is subject to approval by the City of Surrey Council and or the City of Surrey Administration, or its authorized delegates, as required, which approval shall be evidenced by the endorsement of the Amending Agreement with the signatures of the City's authorized delegates. This Amending Agreement is further subject to the City Administration satisfying public notification requirements pursuant to the notice provisions of the *Community Charter S.B.C., 2003, Chapter 26*, which public notification compliance shall be evidenced by the endorsement of this Amending Agreement with the signatures of the City's authorized delegates.
4. Except as otherwise expressly provided in the Amending Agreement, all of the terms and conditions of the Partnering Agreement remain unchanged and in full force and effect.
5. This Amending Agreement shall be read and construed along with the Partnering Agreement and treated as a part thereof, and the Partnering Agreement, as hereby amended and modified, will continue to be of full force and effect, and the City and PEHS all confirm and ratify the Partnering Agreement as hereby amended by this Amending Agreement.
6. Save as otherwise defined herein, capitalized terms used in this Amending Agreement have the same meaning ascribed to those terms in the Partnering Agreement.

AS EVIDENCE of their agreement to be bound by the terms of the Partnering Agreement as amended by this Amending Agreement, the City and PEHS have executed this Amending Agreement as follows:

CITY OF SURREY by its authorized signatories:

Brenda Locke
Mayor

Jennifer Ficocelli
City Clerk

PENINSULA ESTATES HOUSING SOCIETY by its authorized signatories:

Doug Tennant
Chief Executive Officer

Ellen Powell
Director of Finance

AW/kd

[https://surreybc.sharepoint.com/sites/eng.rs.administration/wp centre/2023/cr/appendices/10271446-aw 15153 & 15077 20 avenue app ii.docx](https://surreybc.sharepoint.com/sites/eng.rs.administration/wp%20centre/2023/cr/appendices/10271446-aw%2015153%20&%2015077%20avenue%20app%20ii.docx)
DK 11/15/23 11:03 AM

Attachment: Schedule "E" – Letters of Indemnity

SCHEDULE "E"
LETTERS OF INDEMNITY



Home Office
1701 – 4555 Kingsway
Burnaby, BC V5H 4V8

Tel 604-433-1711
Fax 604-439-4722

File: 94752-8449
Surrey File Number: 4523-0112-00
Ref: 7822-0305-00

Date: August 15, 2023

City of Surrey
13450 – 104 Avenue
Surrey, BC, V3T 1V8

Attention: Engineering Department

Dear Sirs/ Mesdames:

Re: City of Surrey (the “City”)

**A. Legal Description: Parcel Identifier 003-334-562
LOT 20 EXCEPT: PART SUBDIVIDED BY PLAN 65109
SECTION 15 TOWNSHIP 1 NEW WESTMINSTER
DISTRICT PLAN 63490**

**Civic Address: 15145 20th Avenue, Surrey, BC
(the “Society Lands”)**

**B. Legal Description: Parcel Identifier 003-527-646
Lot 21 Section 15 Township 1 New Westminster District
Plan 65109**

**Civic Address: 15143 20th Avenue, Surrey, BC
(the “City Lands”)**

(A. and B. collectively the “Lands”)

Peninsula Estates Housing Society (the “**Society**”) is the fee simple owner of the Society Lands. The City of Surrey is the owner of the City Lands. The Society intends to purchase the City Lands, which will be consolidated with the Society Lands to form the Lands.

The Society intends to construct not for profit housing on a portion of the Lands (the “**Project**”) and to that end will enter into a Servicing Agreement with the City (the “**Works Agreement**”) to ensure completion of the Project.

Pursuant to the Works Agreement, the Society agrees to complete the design and construction of certain off-site works and services (the “**Works**”) related to the Project. To ensure completion of the Works in accordance with the Works Agreement, the Society has amongst other matters, agreed to secure the completion of the Works with an irrevocable letter of credit in favour of the

City (the “**LOC**”) in the amount of \$297,600 (the “**LOC Amount**”) for erosion and sediment control permit security (ESC Permit 4523-0112-00).

British Columbia Housing Management Commission (“**BCHMC**”) has agreed to loan the Society monies for construction of the Project on the Lands, including the Works.

In lieu of the Society providing the LOC in favour of the City, thereby allowing such saved costs to be used to better fund the Project, the Society and BCHMC have requested and the City has agreed, that BCHMC will indemnify the City with respect to the installation of the Works in accordance with the Works Agreement and the timeline and completion date, if any (the “**Timeline**”) set out in the Works Agreement.

In consideration of the City: (i) permitting the construction of the Project, including the Works; and (ii) waiving the City’s right that the Society provide the LOC, BCHMC hereby agrees to indemnify and save harmless the City against any liabilities, claims, judgments, losses, damages, costs and expenses incurred by the City (collectively, the “**Indemnified Claims**”) as a result of the non-completion of the Works in accordance with the Works Agreement within the Timeline.

The maximum amount of the Indemnified Claims for which BCHMC will indemnify and save harmless the City is equal to the LOC Amount.

The Society and BCHMC agree that should the Works, or any portion of the Works, not be completed in accordance with the Works Agreement within the Timeline, the City may, in its sole discretion, place a stop work order on the construction of the Project. The Society and BCHMC agree to immediately comply with such stop work order, subject only to resolving issues related to securing the Lands and the safety of the Project.

The Society and BCHMC further agree that the City will only be required to lift the stop work order upon the Society or BCHMC providing an irrevocable letter of credit for 150% of the value of the Works that remain to be completed (the “**Outstanding Works**”). The City, the Society and BCHMC agree to act reasonably in determining the scope and value of the Outstanding Works. Despite the preceding sentence, if the City, **the Society** and BCHMC do not agree on the scope and value of the Outstanding Works, the City may, in its sole discretion, determine both the scope and the value of the Outstanding Works.

This letter and all obligations of BCHMC will expire the later of: (i) the Timeline; and (ii) one year from the date the final occupancy permit(s) is issued by the City for the Project, it being understood by the City that on expiry of this letter and all obligations of BCHMC, this letter will be null and void. The City will return this letter to BCHMC upon expiry.

No amendment or supplement to any part of this letter, including but not limited to any amendment or supplement to the expiry date of this letter, is binding unless it is in writing and signed by each of the City, the Society and BCHMC, or their respective successors or assigns.

We trust you will find the foregoing acceptable.

Yours truly,

British Columbia Housing Management Commission

Signature

_____, Vice President, _____
Name & Position

Signature

_____, Vice President, _____
Name & Position

By signing this letter, **British Columbia Housing Management Commission** commits itself to be bound by the terms set out in this letter.

Peninsula Estates Housing Society

Authorized Signatory

Authorized Signatory

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City of Surrey

Mayor – Brenda Locke

City Clerk – Jennifer Ficocelli

By signing this letter, the **City of Surrey** commits itself to be bound by the terms set out in this letter.



Home Office
1701 – 4555 Kingsway
Burnaby, BC V5H 4V8

Tel 604-433-1711
Fax 604-439-4722

File: 94752-8449
Surrey File Number: 7822-0305-00

Date: October 31, 2023

City of Surrey
13450 – 104 Avenue
Surrey, BC, V3T 1V8

Attention: Engineering Department

Dear Sirs/ Mesdames:

Re: City of Surrey (the “City”)

**A. Legal Description: Parcel Identifier 003-334-562
LOT 20 EXCEPT: PART SUBDIVIDED BY PLAN 65109
SECTION 15 TOWNSHIP 1 NEW WESTMINSTER
DISTRICT PLAN 63490**

**Civic Address: 15145 20th Avenue, Surrey, BC
(the “Society Lands”)**

**B. Legal Description: Parcel Identifier 003-527-646
Lot 21 Section 15 Township 1 New Westminster District
Plan 65109**

**Civic Address: 15143 20th Avenue, Surrey, BC
(the “City Lands”)**

(A. And B. collectively the “Lands”)

Peninsula Estates Housing Society (the “**Society**”) is the fee simple owner of the Society Lands. The City of Surrey is the owner of the City Lands. The Society intends to purchase the City Lands, which will be consolidated with the Society Lands to form the Lands.

The Society intends to construct not for profit housing on a portion of the Lands (the “**Project**”) and to that end will enter into a Servicing Agreement with the City (the “**Works Agreement**”) to ensure completion of the Project.

Pursuant to the Works Agreement, the Society agrees to complete the design and construction of certain off-site works and services (the “**Works**”) related to the Project. To ensure completion of the Works in accordance with the Works Agreement, the Society has amongst other matters, agreed to secure the completion of the Works with an irrevocable letter of credit in favour of the

City (the “**LOC**”) in the amount of \$1,906,250.00 (the “**LOC Amount**”) for engineering works security.

British Columbia Housing Management Commission (“**BCHMC**”) has agreed to loan the Society monies for construction of the Project on the Lands, including the Works.

In lieu of the Society providing the LOC in favour of the City, thereby allowing such saved costs to be used to better fund the Project, the Society and BCHMC have requested and the City has agreed, that BCHMC will indemnify the City with respect to the installation of the Works in accordance with the Works Agreement and the timeline and completion date, if any (the “**Timeline**”) set out in the Works Agreement.

In consideration of the City: (i) permitting the construction of the Project, including the Works; and (ii) waiving the City’s right that the Society provide the LOC, BCHMC hereby agrees to indemnify and save harmless the City against any liabilities, claims, judgments, losses, damages, costs and expenses incurred by the City (collectively, the “**Indemnified Claims**”) as a result of the non-completion of the Works in accordance with the Works Agreement within the Timeline. The maximum amount of the Indemnified Claims for which BCHMC will indemnify and save harmless the City is equal to the LOC Amount.

The Society and BCHMC agree that should the Works, or any portion of the Works, not be completed in accordance with the Works Agreement within the Timeline, the City may, in its sole discretion, place a stop work order on the construction of the Project or withhold building occupancy of the Project. The Society and BCHMC agree to immediately comply with such stop work order, subject only to resolving issues related to securing the Lands and the safety of the Project.

The Society and BCHMC further agree that the City will only be required to lift the stop work order upon the Society or BCHMC providing an irrevocable letter of credit for 150% of the value of the Works that remain to be completed (the “**Outstanding Works**”). The City, the Society and BCHMC agree to act reasonably in determining the scope and value of the Outstanding Works. Despite the preceding sentence, if the City, the Society and BCHMC do not agree on the scope and value of the Outstanding Works, the City may, in its sole discretion, determine both the scope and the value of the Outstanding Works.

This letter and all obligations of BCHMC will expire the later of: (i) the Timeline; and (ii) one year from the date the final occupancy permit(s) is issued by the City for the Project, it being understood by the City that on expiry of this letter and all obligations of BCHMC, this letter will be null and void. The City will return this letter to BCHMC upon expiry.

No amendment or supplement to any part of this letter, including but not limited to any amendment or supplement to the expiry date of this letter, is binding unless it is in writing and signed by each of the City, the Society and BCHMC, or their respective successors or assigns.

We trust you will find the foregoing acceptable.

Yours truly,

British Columbia Housing Management Commission

Signature

_____, Vice President, _____
Name & Position

Signature

_____, Vice President, _____
Name & Position

By signing this letter, **British Columbia Housing Management Commission** commits itself to be bound by the terms set out in this letter.

Peninsula Estates Housing Society

Authorized Signatory

Authorized Signatory

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City of Surrey

Mayor – Brenda Locke

City Clerk – Jennifer Ficocelli

By signing this letter, the **City of Surrey** commits itself to be bound by the terms set out in this letter.



Home Office
1701 – 4555 Kingsway
Burnaby, BC V5H 4V8

Tel 604-433-1711
Fax 604-439-4722

File: 94752-8449
Surrey File Number: 7922-0305-00

Date: November __, 2023

City of Surrey
13450 – 104 Avenue
Surrey, BC, V3T 1V8

Attention: Engineering Department

Dear Sirs/ Mesdames:

Re: City of Surrey (the “City”)

**A. Legal Description: Parcel Identifier 003-334-562
LOT 20 EXCEPT: PART SUBDIVIDED BY PLAN 65109
SECTION 15 TOWNSHIP 1 NEW WESTMINSTER
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Lot 21 Section 15 Township 1 New Westminster District
Plan 65109**

**Civic Address: 15143 20th Avenue, Surrey, BC
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(A. and B. collectively the “Lands”)

Peninsula Estates Housing Society (the “**Society**”) is the fee simple owner of the Society Lands. The City of Surrey is the owner of the City Lands. The Society intends to purchase the City Lands, which will be consolidated with the Society Lands to form the Lands.

The Society intends to construct not for profit housing on a portion of the Lands (the “**Project**”) in accordance with Development Permit No. 7922-0305-00 (the “**Development Permit**”).

Pursuant to the Development Permit, the Society agrees to complete certain on-site landscaping, in accordance to the landscaping plans attached to the Development Permit and numbered 7922-0305-00 (41) through to and including 7922-0306-00 (54) (the “**Works**”), as related to the Project. To ensure completion of the Works in accordance with the Development Permit, the Society has amongst other matters, agreed to secure the completion of the Works with an

irrevocable letter of credit in favour of the City (the “**LOC**”) in the amount of \$726,131.18 (the “**LOC Amount**”) for landscaping security.

British Columbia Housing Management Commission (“**BCHMC**”) has agreed to loan the Society monies for construction of the Project on the Lands, including the Works.

In lieu of the Society providing the LOC in favour of the City, thereby allowing such saved costs to be used to better fund the Project, the Society and BCHMC have requested and the City has agreed, that BCHMC will indemnify the City with respect to the installation of the Works in accordance with the Development Permit and with the works completed prior to receiving final building occupancy of any Building Permit associated with the Project (the “**Timeline**”).

In consideration of the City: (i) permitting the construction of the Project, including the Works; and (ii) waiving the City’s right that the Society provide the LOC, BCHMC hereby agrees to indemnify and save harmless the City against any liabilities, claims, judgments, losses, damages, costs and expenses incurred by the City (collectively, the “**Indemnified Claims**”) as a result of the non-completion of the Works in accordance with the Development Permit within the Timeline. The maximum amount of the Indemnified Claims for which BCHMC will indemnify and save harmless the City is equal to the LOC Amount.

The Society and BCHMC agree that should the Works, or any portion of the Works, not be completed in accordance with the Development Permit within the Timeline, the City may, in its sole discretion, place a stop work order on the construction of the Project or withhold building occupancy of the Project. The Society and BCHMC agree to immediately comply with such stop work order, subject only to resolving issues related to securing the Lands and the safety of the Project.

The Society and BCHMC further agree that the City will only be required to lift the stop work order upon the Society or BCHMC providing an irrevocable letter of credit for 150% of the value of the Works that remain to be completed (the “**Outstanding Works**”). The City, the Society and BCHMC agree to act reasonably in determining the scope and value of the Outstanding Works. Despite the preceding sentence, if the City, the Society and BCHMC do not agree on the scope and value of the Outstanding Works, the City may, in its sole discretion, determine both the scope and the value of the Outstanding Works.

This letter and all obligations of BCHMC will expire on the earlier of one year from the date the final occupancy permit(s) is issued by the City for the Project and of the date final approval of the installation and maintenance of the Works is given by the City, as set out in the Development Permit, it being understood by the City that on expiry of this letter and all obligations of BCHMC, this letter will be null and void. The City will return this letter to BCHMC upon expiry.

No amendment or supplement to any part of this letter, including but not limited to any amendment or supplement to the expiry date of this letter, is binding unless it is in writing and signed by each of the City, the Society and BCHMC, or their respective successors or assigns.

We trust you will find the foregoing acceptable.

Yours truly,

British Columbia Housing Management Commission

Signature

_____, Vice President, _____
Name & Position

Signature

_____, Vice President, _____
Name & Position

By signing this letter, **British Columbia Housing Management Commission** commits itself to be bound by the terms set out in this letter.

Peninsula Estates Housing Society

Authorized Signatory

Authorized Signatory

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City of Surrey

Mayor – Brenda Locke

City Clerk – Jennifer Ficocelli

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Home Office
1701 – 4555 Kingsway
Burnaby, BC V5H 4V8

Tel 604-433-1711
Fax 604-439-4722

File: 94752-8449
Surrey File Number: 7922-0305-00

Date: November ___, 2023

City of Surrey
13450 – 104 Avenue
Surrey, BC, V3T 1V8

Attention: Planning and Development Department

Dear Sirs/ Mesdames:

Re: City of Surrey (the “City”)

**A. Legal Description: Parcel Identifier 003-334-562
LOT 20 EXCEPT: PART SUBDIVIDED BY PLAN 65109
SECTION 15 TOWNSHIP 1 NEW WESTMINSTER
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**Civic Address: 15145 20th Avenue, Surrey, BC
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**B. Legal Description: Parcel Identifier 003-527-646
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(A.and B. collectively the “Lands”)

Peninsula Estates Housing Society (the “**Society**”) is the fee simple owner of the Society Lands. The City of Surrey is the owner of the City Lands. The Society intends to purchase the City Lands, which will be consolidated with the Society Lands to form the Lands.

The Society intends to construct not for profit housing on a portion of the Lands (the “**Project**”) and in accordance with proposed Development Permit No. 7922-0305-00 (the “**Development Permit**”) and proposed Tree Cutting Permit No. T-23-018106-0-0 (the “**Tree Cutting Permit**”).

Pursuant to the Development Permit and the Tree Cutting Permit, the Society agrees to the retention of certain trees as identified by the Arboriculture Report and Inventory prepared by Durante Kreuk Ltd. Landscape Architects and dated March 23, 2023 (the “**Works**”) as related to the Project. To ensure completion of the Works in accordance with the Development Permit and the Tree Cutting Permit, the Society has amongst other matters, agreed to secure the Works with

an irrevocable letter of credit in favour of the City (the “**LOC**”) in the amount of \$81,000 (the “**LOC Amount**”) for tree bonding security.

British Columbia Housing Management Commission (“**BCHMC**”) has agreed to loan the Society monies for construction of the Project on the Lands, including the Works.

In lieu of the Society providing the LOC in favour of the City, thereby allowing such saved costs to be used to better fund the Project, the Society and BCHMC have requested and the City has agreed, that BCHMC will indemnify the City with respect to the Works in accordance with the Development Permit and the Tree Cutting Permit.

In consideration of the City: (i) permitting the construction of the Project; and (ii) waiving the City’s right that the Society provide the LOC, BCHMC hereby agrees to indemnify and save harmless the City against any liabilities, claims, judgments, losses, damages, costs and expenses incurred by the City (collectively, the “**Indemnified Claims**”) as a result of the non-completion of the Works in accordance with the Development Permit, the Tree Cutting Permit, and Surrey Tree Protection Bylaw, 2006, No. 16100 (the “**Bylaw**”). The maximum amount of the Indemnified Claims for which BCHMC will indemnify and save harmless the City is equal to the LOC Amount.

The Society and BCHMC agree that should the Works, or any portion of the Works, not be completed in accordance with the Development Permit, the Tree Cutting Permit, and the Bylaw, the City may, in its sole discretion, place a stop work order on the construction of the Project. The Society and BCHMC agree to immediately comply with such stop work order, subject only to resolving issues related to securing the Lands and the safety of the Project.

The Society and BCHMC further agree that the City will only be required to lift the stop work order upon the Society or BCHMC providing an irrevocable letter of credit for 150% of the value of the Works that remain to be completed (the “**Outstanding Works**”). The City, the Society and BCHMC agree to act reasonably in determining the scope and value of the Outstanding Works. Despite the preceding sentence, if the City, the Society and BCHMC do not agree on the scope and value of the Outstanding Works, the City may, in its sole discretion, determine both the scope and the value of the Outstanding Works.

This letter and all obligations of BCHMC will expire on the earlier of one year from the date the final occupancy permit(s) is issued by the City for the Project and when the Society’s obligation for the protection of existing trees is complete, as outlined in the Development Permit, the Tree Cutting Permit and the Bylaw, it being understood by the City that on expiry of this letter and all obligations of BCHMC, this letter will be null and void. The City will return this letter to BCHMC upon expiry.

No amendment or supplement to any part of this letter, including but not limited to any amendment or supplement to the expiry date of this letter, is binding unless it is in writing and signed by each of the City, the Society and BCHMC, or their respective successors or assigns.

We trust you will find the foregoing acceptable.

Yours truly,

British Columbia Housing Management Commission

Signature

_____, Vice President, _____
Name & Position

Signature

_____, Vice President, _____
Name & Position

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Peninsula Estates Housing Society

Authorized Signatory

Authorized Signatory

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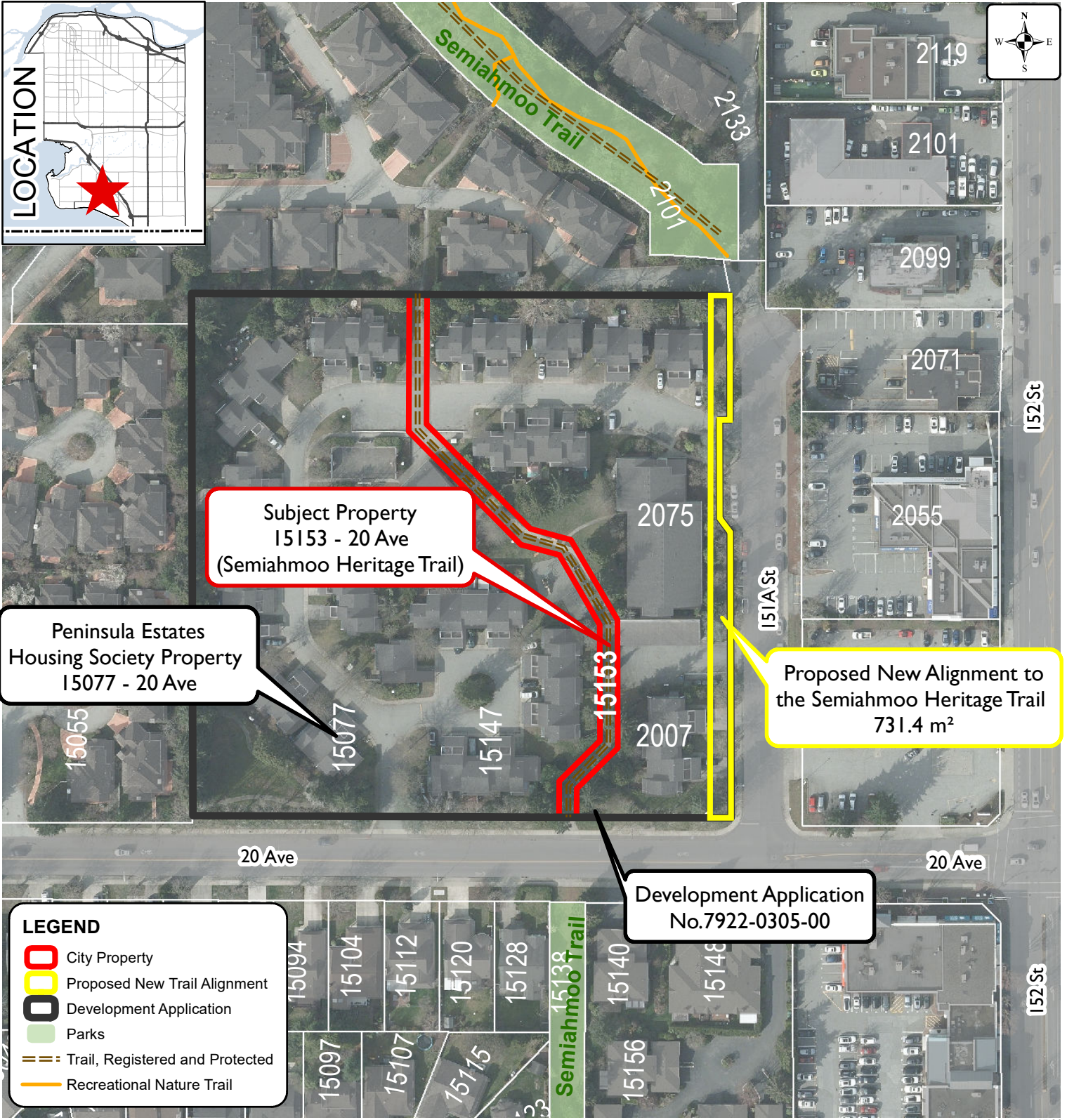
City of Surrey

Mayor – Brenda Locke

City Clerk – Jennifer Ficocelli

By signing this letter, the **City of Surrey** commits itself to be bound by the terms set out in this letter.

AERIAL PHOTOGRAPH OF SITE APPENDIX "III"



LEGEND

- City Property
- Proposed New Trail Alignment
- Development Application
- Parks
- Trail, Registered and Protected
- Recreational Nature Trail

Produced by GIS Section: 31-Oct-2023

Date of Aerial Photograph: 2023

Scale: 1:1,500 0 15 M



**SUBJECT CITY PROPERTY
15153 - 20 Avenue
(Semiahmoo Heritage Trail)**

**ENGINEERING
DEPARTMENT**

The data provided is compiled from various sources and IS NOT warranted as to its accuracy or sufficiency by the City of Surrey. This information is provided for information and convenience purposes only. Lot sizes, Legal descriptions and encumbrances must be confirmed at the Land Title Office.



CORPORATE REPORT

NO: R051

COUNCIL DATE: March 8, 2021

REGULAR COUNCIL

TO: Mayor & Council DATE: March 3, 2021

FROM: General Manager, Engineering FILE: 7919-0306-00
General Manager, Planning & Development XC: 0910-40/228

SUBJECT: Partnering Agreement between the City of Surrey and Peninsula Estates
Housing Society and Land Exchange at 15153 – 20 Avenue

RECOMMENDATION

The Engineering Department and Planning & Development Department recommend that Council:

1. Receive this report as information;
2. Approve the execution by the Mayor & City Clerk of a Partnering Agreement between the City of Surrey and Peninsula Estates Housing Society, subject to compliance with the notice provisions of the Community Charter, SBC 2003, C. 26, provided it is substantially the same as the draft agreement attached to this report as Appendix "I"; and
3. Approve the execution by the Mayor & City Clerk of a Land Exchange Agreement covering the transfer of the City-owned property located at 15153 – 20 Avenue (PID No. 003-527-646) to Peninsula Estates Housing Society in return for the dedication of road from the Society-owned property located at 15077 – 20 Avenue (PID No. 003-334-562) to facilitate the realignment of the Semiahmoo Trail, as generally illustrated in Appendix "II" attached to the report, subject to the execution of the Partnering Agreement and compliance with the notice provisions of the Community Charter, SBC 2003, C. 26.

INTENT

The purpose of this report is to obtain Council approval for a Partnering Agreement between the City and Peninsula Estates Housing Society ("PEHS") that outlines the form of assistance the City may provide PEHS and a proposed Land Exchange Agreement between the City and PEHS that covers the transfer of the City-owned property at 15153 – 20 Avenue (the "City Lot") to PEHS in return for a 731.4 m² road dedication ("Road Dedication Area") from PEHS-owned property located at 15077 – 20 Avenue (the "PEHS Lot").

BACKGROUND

Property Description

This project is located at the southernmost point of the Semiahmoo Trail. Within this property, the trail meanders through a townhouse complex, and as such, is offset from the Semiahmoo Trail entrance at the north end of 151A Street. As part of the development project review, there exists an opportunity for a realignment of Semiahmoo Trail at the eastern edge of the private property along 151A Street which in turn will provide a better alignment with Semiahmoo Trail to the north, providing clarity to residents wanting to enjoy the entire trail while not impacting the private development.

The proposed development will provide much needed affordable rental housing while allowing realignment of the Semiahmoo Trail for all. As the proponent is a not-for-profit society, staff are proposing to enter into a Partnering Agreement to facilitate the project, minimize the financial impacts associated with the relocation of Semiahmoo Trail, and support the delivery of affordable rental housing in Surrey.

The City Lot is a 5-metre-wide recreational trail of 884 m² (9,514 ft.²) in site area. It is improved with a paved landscaped walkway that meanders through the middle of the PEHS Lot. It is a segment of the heritage designated Semiahmoo Trail.

The PEHS Lot is a 21,491 m² (231,329 ft.²/5.31 acre) parcel, hooked across the City Lot. The PEHS Lot is improved with a 1983 constructed rental housing project comprised of 51 townhouses and an 18-unit apartment building.

The City Lot was secured in 1983 when the PEHS Lot was subdivided and developed into the existing housing project located on the PEHS Lot. *Land Purchase By-law, 1983, No. 7433* authorized the purchase of the City Lot and stipulated that it was to be set aside and used for corporate purposes.

Plan Designations, Zoning, and Land Uses

Both the City Lot and PEHS Lot are zoned Multiple Residential 30 (RM-30) Zone and are designated "Urban" in the Official Community Plan and "Low-Rise Residential (4-6 Storeys)" in the Semiahmoo Town Centre Stage 1 Plan. The City Lot is designated as a protected segment of the Semiahmoo Trail under *Surrey Semiahmoo Trail Heritage Designation Bylaw, 2004, No. 15280* (the "Semiahmoo Trail Bylaw"), which describes the Semiahmoo Trail as having "significant cultural, historical and heritage value and character".

DISCUSSION

PEHS is a 1982 incorporated South Surrey non-profit society with a history of developing and managing affordable housing. Development Application No. 7919-0306-00 is seeking approval to consolidate the City Lot with the PEHS Lot, and through a Development Permit, to allow the re-development of 17 existing townhouses located in the southeast corner of the PEHS Lot, as generally illustrated in the attached Schedule "A" to Appendix "I", into a six-storey, 91-unit, affordable rental apartment building.

A key component to Development Application No. 7919-0306-00 will be the undertaking of an amendment to the Semiahmoo Trail Bylaw for the purpose of cancelling the heritage status of the City Lot as a segment of the Semiahmoo Trail to facilitate the transfer of the City Lot to PEHS. The Bylaw amendment will also designate the Road Dedication Area from PEHS Lot along its 151A Street frontage as a heritage segment to Semiahmoo Trail. This new alignment of Semiahmoo Trail, which will be constructed by PEHS, provides improved connectivity and public access.

Another important component to Development Application No. 7919-0306-00 is the proposal for the City and PEHS to enter into a 30-year term housing agreement to secure 75% of the units within the proposed apartment building as affordable rental housing and up to 25% of the units as supportive rental units for people with disabilities. The proposed housing agreement supports the Surrey Affordable Housing Strategy, which focuses on rental housing in Surrey and sets out a series of strategies and actions, including the following:

- Strategy 3.0: Encourage the development of new purpose-built rental housing; and
- Strategy 4.0: Increase the supply of housing affordable to renter households with low to moderate incomes.

Partnering Agreement

The Partnering Agreement as drafted, a copy of which is attached as Appendix "I" to this report, sets out terms for the City to transfer ownership in the City Lot to PEHS without compensation, PEHS to dedicate the Road Dedication Area to accommodate a new alignment to replace the City lot segment of Semiahmoo Trail, and the City and PEHS to enter into a Housing Agreement covering the proposed 91-unit apartment building. The Partnering Agreement acknowledges there may or may not be assistance from the contemplated transactions. Assistance is broadly defined in the Community Charter as "assistance within the meaning of Section 25(1)". Section 25(1) states:

- "25(1) Unless expressly authorized by or under this or another Act, a council must not provide a grant, benefit, advantage or other form of assistance to a business, including:
- a. Any form of assistance referred to in section 24 (1) [*publication of intention to provide certain kinds of assistance*], or
 - b. An exemption from a tax or fee."

The forms of assistance to which Section 24(1) refers are as follows:

- "24(1) A council must give notice in accordance with section 94 [public notice] of its intention to provide any of the following forms of assistance to a person or organization:
- a. Disposing of land or improvements, or any interest or right in or with respect to them, for less than market value;
 - b. Lending money;
 - c. Guaranteeing repayment of borrowing or providing security for borrowing;
 - d. Assistance under a partnering agreement."

The proposed Partnering Agreement with PEHS includes the following potential types of assistance:

- a. Disposition of the City Lot to PEHS for less than market value;
- b. A subdivision to consolidate the City Lot and PEHS Lot to create a single lot;
- c. A heritage bylaw amendment to allow for the relocation of the segment of Semiahmoo Trail from the City Lot;
- d. Facilitation of the re-development over part of PEHS Lot; and
- e. Waiving of the cash-in-lieu contribution for the shortfall in the indoor amenity requirement, as may be approved by Council.

Land Exchange Agreement

The Land Exchange Agreement set out the terms for the transfer of the City Lot to PEHS and the dedication of the Road Dedication Area from PEHS Lot along 151A Street to facilitate the relocation of the City Lot segment of the Semiahmoo Trail. The City Lot segment of the Semiahmoo Trail is integrated into PEHS Lot and is not readily recognized as a City-owned property forming part of Semiahmoo Trail. The proposed alignment along 151 A Street is better exposed and more quickly accessible to the public.

The transactions contemplated in the land exchange agreement are proposed to be transacted without compensation from either party to the other. An accredited staff appraiser completed an appraisal for both the City Lot and the Road Dedication Area and attributed a higher appraised value to the City Lot. In consideration of the City not being compensated for the difference in the land values, the City will receive benefits in kind in the form of the proposed 30-year housing agreement that will secure the proposed 91-unit apartment building for affordable housing. There are also public benefits from having the City Lot segment of the Semiahmoo Trail relocated to the more accessible location along 151A Street. The terms for the disposition of the City Lot and the dedication of road from the PEHS Lot are considered reasonable.

If Council approves the recommendations for the City to enter into the Partnering Agreement and the Land Exchange Agreement, public notices of the City's intention to provide assistance under the Partnering Agreement and to dispose of the City Lot will be undertaken in accordance with the notice provisions of Sections 24 and 26 of the Community Charter, which will be followed by the City executing the two Agreements. The Planning & Development Department intends to present to Council the Planning Report for Development Application No. 7919-0306-00 after the Agreements are executed.

SUSTAINABILITY CONSIDERATIONS

The Agreements support the objectives of the City's Sustainability Charter 2.0. In particular, the Agreements relates to the Sustainability Charter 2.0 themes of Inclusion, and Built Environment and Neighbourhood. Specifically, the Agreements support the following Desired Outcomes ("DO") and Strategic Directions ("SD"):

- Housing DO₁₂: Everyone in Surrey has a place to call home;
- Housing DO₁₃: Appropriate and affordable housing is available to meet the needs of all households in Surrey;

- Housing SD10: Increase and maintain the supply of affordable and appropriate rental housing across all Surrey communities;
- Housing SD11: Ensure development of a variety of housing types to support people at all stages of life;
- Neighbourhoods and Urban Design DO6: Land is used efficiently and sensitively, and development minimizes the impacts on the natural environment, viewscales, agricultural land and urban wildlife; and
- Neighbourhoods and Urban Design DO8: The built environment enhances quality of life, happiness, and well-being.

CONCLUSION

Approval of the Partnering Agreement and the Land Exchange Agreement between the City and PEI-IS will facilitate the realignment of a segment of Semiahmoo Trail and secure long-term affordable housing units within the rental apartment building proposed under Development Application No. 7919-0306-00. It is recommended that Council approve the execution of the Partnering Agreement and the Land Exchange Agreement as described in this report.



Scott Neuman, P.Eng.
General Manager,
Engineering

AW/rr/cc



Jean Lamontagne
General Manager,
Planning & Development

Appendix "I" - Partnering Agreement (includes only Schedule "A")
Appendix "II" - Aerial Photo of Site

[https://surreybc.sharepoint.com/sites/eng.administration/wp_docs/2021/admin/cr/vl2/partnering agreement between the city of surrey and peninsula estates housing society and land exchange at 15153 - 20 avenue.docx](https://surreybc.sharepoint.com/sites/eng.administration/wp_docs/2021/admin/cr/vl2/partnering%20agreement%20between%20the%20city%20of%20surrey%20and%20peninsula%20estates%20housing%20society%20and%20land%20exchange%20at%2015153%20-%2020%20avenue.docx) CLR 3/4/21 2:19 PM

Note: Appendices available upon request

NO: R198

COUNCIL DATE: Nov 14, 2022

REGULAR COUNCIL

TO: Mayor & Council **DATE: November 3, 2022**

FROM: General Manager, Engineering **FILE: 7922-0305-00**
Acting General Manager, Planning & Development **XC: 0910-40/228**

SUBJECT: Revisions to the Partnering Agreement and the Land Exchange Agreement
between the City of Surrey and Peninsula Estates Housing Society pertaining to
15153 - 20 Avenue and 15077 - 20 Avenue

RECOMMENDATION

The Engineering Department and Planning & Development Department recommend that Council authorize staff to revise the Partnering Agreement (attached as Appendix "I") and the Land Exchange Agreement (attached as Appendix "II") between the City of Surrey and Peninsula Estates Housing Society covering the City lot at 15153 - 20 Avenue and the Peninsula Estates Housing Society lot at 15077 - 20 Avenue for the purpose of linking the Agreements to Development Application No. 7922-0305-00.

INTENT

The intent of this report is to seek Council's approval to revise the Partnering Agreement (the "PA"), (Appendix "I") and the Land Exchange Agreement (the "LEA") (Appendix "II"), between the City of Surrey (the "City") and Peninsula Estates Housing Society ("PEHS") (collectively referred to as the "Agreements") to link both Agreements with Development Application No. 7922-305-00, which is the current application associated with the City parcel at 15153 - 20 Avenue (the "City Lot") and the PEHS parcel at 15077 - 20 Avenue (the "PEHS Lot"), as illustrated on the map attached as Appendix "III".

DISCUSSION

On March 8, 2021, Council approved Corporate Report No. R051; 2021, attached as Appendix "IV" recommending the execution of the PA and the LEA between the City and PEHS. These Agreements were related to development application No. 7919-0306-00, which was seeking approval to allow the redevelopment of part of the PEHS Lot to construct affordable rental housing units, as well as to consolidate the City Lot with the PEHS Lot to facilitate new alignment of the Semiahmoo Trail providing improved connectivity and public access, as depicted in the attached Appendix "III". The Development Application number for this project has since changed to 7922-305-00, therefore revisions to the Agreements are required to reflect this change.

The Planning Report for this project was presented to Council at the October 3, 2022 Council meeting and Council granted First and Second Readings of the related Rezoning Bylaw. The Planning Report indicated that a report covering an amendment to the PA to reflect Development Application No. 7922-0305-00 would be presented to Council for approval prior to the Public Hearing for this application, which is this report.

Legal Services Review

This report and the related agreements have been reviewed by Legal Services.

Next Steps

Following Council's approval of the recommendations of this report, Development Application No. 7922-0305-00 will proceed for Public Hearing on November 28, 2022. The Mayor and City Clerk will be requested to execute the Agreements after Third Reading of the Bylaw has been granted.

SUSTAINABILITY CONSIDERATIONS

The Agreements support the objectives of the City's Sustainability Charter 2.0. In particular, the Agreements relate to the Sustainability Charter 2.0 themes of Inclusion, and Built Environment and Neighbourhood. Specifically, the Agreements support the following Desired Outcomes ("DO") and Strategic Directions ("SD"):

- Housing DO12: Everyone in Surrey has a place to call home;
- Housing DO13: Appropriate and affordable housing is available to meet the needs of all households in Surrey;
- Housing SD10: Increase and maintain the supply of affordable and appropriate rental housing across all Surrey communities;
- Housing SD11: Ensure development of a variety of housing types to support people at all stages of life;
- Neighbourhoods and Urban Design DO6: Land is used efficiently and sensitively, and development minimizes the impacts on the natural environment, viewscales, agricultural land and urban wildlife; and
- Neighbourhoods and Urban Design DO8: The built environment enhances quality of life, happiness, and well-being.

CONCLUSION

It is recommended that Council approve the revisions to the PA and LEA (previously approved under terms outlined in Corporate Report No. R051; 2021 attached as Appendix "IV") as described in this report.



Scott Neuman, P.Eng.
General Manager,
Engineering



Jeff Arason, P.Eng.
Acting General Manager,
Planning & Development

AEW/kd/cc

Appendix "I" – Partnering Agreement
Appendix "II" - Land Exchange Agreement
Appendix "III" – Aerial Photo of Site
Appendix "IV" - Corporate Report No. R051; 2021

Note: Appendices available upon request

NO: **R183**

COUNCIL DATE: **September 14, 2015**

REGULAR COUNCIL

TO: **Mayor & Council** DATE: **September 14, 2015**
FROM: **General Manager, Planning and Development** FILE: **4815-01**
SUBJECT: **Memorandum of Understanding between the City of Surrey and
BC Housing Management Commission – Low Barrier Shelter and Transitional
Housing Facility**

RECOMMENDATION

The Planning and Development Department recommends that Council:

1. Receive this report as information; and
2. Approve the terms and conditions of the Memorandum of Understanding (the "MOU"), attached as Appendix I to this report, between the BC Housing Management Commission ("BC Housing") and the City of Surrey; and
3. Authorize the Mayor to sign the MOU on behalf of the City of Surrey.

INTENT

The purpose of this report is to seek Council approval:

- for a partnership between the City and BC Housing that will lead to the delivery of a new purpose-built low barrier shelter and transitional housing facility in Surrey City Centre; and
- to sign an MOU between the City and BC Housing that documents the terms and conditions of the partnership.

BACKGROUND

On May 26, 2014, Council granted first and second readings to rezoning Application No. 7914-0059-00 for properties located at 9687, 9677 and 9671 – 137 Street, allowing for the design, construction and operation of a new low barrier shelter and transitional housing facility. This project is the highest priority of the approved Master Plan for Housing the Homeless in Surrey and is slated to replace the substandard Gateway Shelter located on 135A Street.

In 2008, the City executed a Memorandum of Understanding with BC Housing (the "2008 MOU") leading toward the development of important supportive housing projects for people who are homeless or at-risk of homelessness. To date, three projects (Timber Grove Apartments, the YWCA's Alder Gardens, and Creekside) have been developed.

Under the terms of the 2008 MOU, the City has committed to a long-term lease of City property at a nominal rate and to waive all municipal fees and charges. These projects have all been successfully completed and are fully occupied. These three housing projects combined, provided an additional 156 new housing units for people who were homeless or at-risk of homelessness in Surrey.

DISCUSSION

With the process started to replace the Gateway Shelter a new MOU, attached as Appendix I, has been drafted, which sets out a partnership agreement between BC Housing and the City. The proposed MOU reaffirms the collaboration commitment between the City and BC Housing in continuing to deliver much needed facilities as per the Master Plan for Housing the Homeless (the "Plan") that was developed jointly with BC Housing and approved by Council on July 8, 2013.

The approved Plan lists the replacement of the Gateway Shelter as one of the top priority project as a properly designed facility will help to support people requiring services that will ultimately lead them to a permanent form of housing and wellbeing.

To that extent, Council approved acquisition and zoning for properties that will be home to this new facility.

Once the MOU has been executed by both parties, planning for the facility will continue as BC Housing has indicated they have funding available to proceed with hiring of the consultants that will finalize the design and will be working on the required permits that will ultimately lead to the construction and delivery of the new facility.

This new facility will be operated by a non-profit society and BC Housing will be proceeding with a Request For Proposal to select the facility operator which then will be part of the design process of the new facility, along with the consulting team and City staff.

The consulting team, with the assistance of City staff, will be working on finalizing the rezoning and development permit process and subsequent building permit, leading to the delivery of the new facility.

Legal Services Review

Legal Services has reviewed the MOU and this report and its recommendations and has no concerns.

SUSTAINABILITY CONSIDERATIONS

Managing the delivery of the Master Plan for Housing the Homeless is consistent with the Sustainability Charter. Specifically, scope elements *SC5: Plan for the Social Well Being of Surrey Residents*, *SC6: Accessible and Appropriately Located Services within the City*, *SC9: Adequate, Appropriate and Affordable Housing*,

CONCLUSION

Based on the above discussion it is recommended that Council:

- Approve the terms and conditions of the MOU, attached as Appendix I to this report, between Housing and the City of Surrey; and
- Authorize the Mayor to sign the MOU on behalf of the City of Surrey.



Jean Lamontagne
General Manager,
Planning and Development

JLL:saw

Attachment:

Appendix I Proposed Memorandum of Understanding

Note: Appendix available upon request