

CITY OF SURREY

BY-LAW NO. 17021

A by-law to authorize the City of Surrey to enter into a housing agreement
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WHEREAS the City of Surrey has received an application to enter into a housing agreement;

AND WHEREAS Section 905 of the Local Government Act, R.S.B.C. 1996 c. 323, 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, in open meeting assembled, ENACTS AS FOLLOWS:

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

JOHN VOLKEN FOUNDATION
Inc. No. 37543S of 6911 King George Highway, Surrey, BC V3W 5A1

and with respect to those certain parcels or tracts of lands and premises, situate, lying and being in the City of Surrey, in the Province of British Columbia and being more particularly known and described as:

Parcel Identifier: 009-483-985
Lot 10 Section 17 Township 2 New Westminster District Plan 11180
6826 - 135A Street

Parcel Identifier: 009-483-977
Lot 9 Section 17 Township 2 New Westminster District Plan 11180
6836 - 135A Street

Parcel Identifier: 009-483-951
Lot 8 Section 17 Township 2 New Westminster District Plan 11180
6846 - 135A Street

Parcel Identifier: 009-483-888

Lot 5 Except: Part Within Heavy Outline Taken by Highway Statutory Right of Way Plan 63551 Section 17 Township 2 New Westminster District Plan 11180

6835 King George Highway

Portion of Parcel Identifier: 000-908-002

South 90 Feet Lot 3 Except: Part Included in King George Highway Plan 6363; Section 17 Township 2 New Westminster District Plan 1645, shown as Block A on the Survey Plan attached hereto as Schedule A and forming part of this By-law, certified correct by Gary Sundvick, B.C.L.S. on the 3rd day of June, 2009, containing 3,862 square metres

Portion of 6861 King George Highway

Parcel Identifier: 009-484-043

Lot A, Except: Part on Plan LMP38489 Section 17 Township 2 New Westminster District Plan 11180

13565 - 68 Avenue

Parcel Identifier: 000-886-203

Lot "B" Except: Part Within Heavy Outline Taken by Highway SRW Plan 63551 Section 17 Township 2 New Westminster District Plan 11180

6855 King George Highway

Parcel Identifier: 009-472-355

Lot "D" (U48041) Except: Part Within Heavy Outline Taken by Highway Statutory Right of Way Plan 63551; Section 17 Township 2 New Westminster District Plan 11180

6805 King George Highway

Lane created by Plan No. 11180

Parcel Identifier: 001-847-554

Strata Lot 1 Section 17 Township 2 New Westminster District Strata Plan NW1611 Together With an Interest in the Common Property in Proportion to the Unit Entitlement of the Strata Lot as Shown on Form 1

6825 King George Highway

Parcel Identifier: 001-847-562

Strata Lot 2 Section 17 Township 2 New Westminster District Strata Plan NW1611 Together With an Interest in the Common Property in Proportion to the Unit Entitlement of the Strata Lot as Shown on Form 1

6815 King George Highway

(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 905 of the Local Government Act, that the Lands are subject to the Housing Agreement.
4. This By-law shall be cited for all purposes as "John Volken Foundation Housing Agreement Authorization By-law, 2009, No. 17021".

PASSED THREE READINGS on the 14th day of September, 2009.

RECONSIDERED AND FINALLY ADOPTED, signed by the Mayor and Clerk, and sealed with the Corporate Seal on the 26th day of November, 2012.



MAYOR



CLERK

CITY OF SURREY
HOUSING AGREEMENT

THIS AGREEMENT made the 26th day of November, 2012.

BETWEEN

CITY OF SURREY, a Municipal Corporation having its municipal offices at 14245 - 56 Avenue, Surrey, British Columbia V3X 3A2

(the "City")

OF THE FIRST PART

AND:

JOHN VOLKEN FOUNDATION

Inc. No. 37543S of 6911 King George Highway Surrey, BC V3W 5A1

(the "Foundation")

OF THE SECOND PART

WHEREAS:

- A. The Foundation is the current registered owner of those certain lands and premises located at 6833 King George Boulevard, in the City of Surrey, in the Province of British Columbia, legally described as:

PID Number: 028-988-621

Lot 1 Section 17 Township 2West New Westminster District Plan EPP 24846

(the "Lands");

- B. The Foundation will rezone the Lands in order to construct a development on the Lands with the buildings having a private care facility with Dwelling Units for occupancy by Eligible Occupants;
- C. Section 905 of the *Local Government Act*, R.S.B.C. 1996, Chapter 323, as amended, authorizes the City by by-law 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 Foundation (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, the following terms shall have the following meanings:

- (a) "Agreement" means this Housing Agreement and any amendments to or modifications of the same;
- (b) "Dwelling Unit" means any dwelling unit in the development that is constructed by the Foundation upon the Lands in the form of studios, one-bedroom units, two-bedroom units and three-bedroom units, and is occupied and/or available for occupancy by an Eligible Occupant.
- (c) "Eligible Occupant" means a person who, prior to becoming an occupant of the facility, was homeless or at risk of being homeless, is recovering from addiction to alcohol or drugs, or had a problem with the law, and during the time as such the person is an occupant of the facility meets the selection criteria prescribed from time to time by the Foundation or its successor to attend the Welcome Home Recovery Program, and may include staff of the recovery program. The City will be reasonable in entertaining a request from the foundation to amend the Housing Agreement to allow for change of occupancy in the future, if because of changes in the recovery model, or some other factor the foundation believes it is advisable to modify the restriction on use of the development or to propose amendments to the Housing Agreement to ensure the viability of the development or program;
- (d) "Term" shall mean the period commencing on the date of this Agreement and continuing in full force and effect for 20 years; and
- (e) "Welcome Home Recovery Program" means a recovery program based on the Therapeutic Community (TC) Model.

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 facility shall have only 36 Dwelling Units.

- 2.2 During the Term, only an Eligible Occupant may occupy any Dwelling Unit.
- 2.3 During the Term, the Dwelling Units may not be occupied unless the facility is either licensed or regulated by provincial or federal legislation, including the BC Community Care and Assisted Living Act or has accreditation by the Commission on Accreditation of Rehabilitation Facilities (CARF) or an acceptable third party accrediting body, as determined by the City.
- 2.4 The number of Eligible Occupants shall be determined by the Licensee of the facility or the accrediting body, or maximum number of Eligible Occupants may not exceed 100 persons, whichever is less. No more than two (2) Eligible Occupants may occupy a single bedroom in a Dwelling Unit and only one Eligible Occupant shall occupy a studio unit.
- 2.5 During the Term, the Registered Owner undertakes to ensure that the facility shall be maintained in a neat and tidy condition.
- 2.6 During the Term, the Registered Owner undertakes to ensure the clean-up of any litter in the proximity of the facility on a daily or more frequent basis as may be necessary to ensure that the premises and the environs of the premises remain in a neat and tidy condition and to store securely any garbage and litter.
- 2.7 During the Term, the Registered Owner undertakes to monitor and promote the orderly conduct of the Eligible Occupants outside the facility and to take the appropriate actions to discourage the Eligible Occupants from loitering and/or engaging in behaviour that may disturb the peace quite and enjoyment of the area in the vicinity of the facility.
- 2.8 During the Term, the Registered Owner shall take such actions as are necessary to ensure that alcohol and illegal drug use or any other criminal activity does not occur within or in proximity of the facility.
- 2.9 During the Term, the Registered Owner undertakes to work in a timely and cooperative manner with the City, the Surrey RCMP, and Community Associations in Newton, to resolve issues that may arise in the neighbourhood, as a result of operation of the program within the facility. When incidents occur the Registered Owner shall ensure that all personnel of the program cooperate fully with the City and the members of the Surrey RCMP and not impede or obstruct the members in performing their duties.
- 2.10 The City may, from time to time, request the Registered Owner of the Lands to provide written proof of compliance with Section 2. or seek formal meetings with the City as and when requested by the City to discuss issues and concerns, and the Registered Owner of the Lands agrees to provide the City with such proof in a form reasonably satisfactory to the City or to attend the requested meeting.
- 2.11 During the Term, the building shall not be stratified.

3. ENFORCEMENT

- 3.1 If the Registered Owner the Lands fails to enforce compliance with the terms and conditions of Section 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 Section 2.

3.2 For the purpose of this Agreement, the Registered Owner of the Lands, without the need for further authorization, writing, or documents, hereby irrevocably appoints the City as its agent with respect to the enforcement of this Agreement and with respect to exercising all remedies set out in this Agreement and all other remedies available at law to the Registered Owner of the Lands that relate to this Agreement.

4. **LIABILITY**

4.1 The Registered Owner of the Lands will indemnify and save harmless the City and each of its elected 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 of the Lands 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 of the Lands 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 of the Lands 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 of Surrey:

14245 - 56 Avenue
Surrey, British Columbia V3X 3A2
Attention: General Manager, Planning and Development Department

(b) as to John Volken Foundation

6911 King George Highway, Surrey, BC V3W 5A1
Attention: Chairman

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 sufficient 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 of the Leasehold Interest in the Lands from complying with any enactment, including the City's By-laws.

6.2 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.

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

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

6.5 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.

6.6 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.

6.7 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.

6.8 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.

6.9 This Agreement shall ensure 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 ensure to the benefit of and be binding upon the City and its successors and assigns. This Agreement shall charge and run with the Lands.

6.10 No previous Registered Owner of the leasehold interest of the Lands will be liable for any default in the performance or observance of this Agreement occurring after such party ceases to hold an ownership in the Lands.

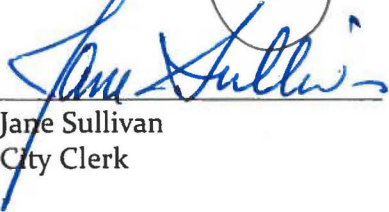
IN WITNESS WHEREOF the City of Surrey and John Volken Foundation have executed this Agreement under seal of their duly authorized officers as of the reference date of this Agreement.

CITY OF SURREY

by its authorized signatory(ies):



Jean Lamontagne
General Manager
Planning and Development

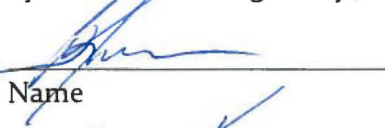
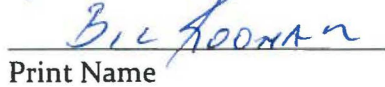


Jane Sullivan
City Clerk



JOHN VOLKEN FOUNDATION

by its authorized signatory(ies):


Name
Print Name

Name

Print Name