CITY OF SURREY

BYLAW NO. 20427

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:

Luke 15 House
11861 - 99 Avenue
Surrey, British Columbia, V3V 2M3

(Operator)

and

Luke 15 House
11861 - 99 Avenue
Surrey, British Columbia, V3V 2M3

(Owner)

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

Parcel Identifier:

Lot "A" Section 36 Block 5 North Range 3 West NWD Plan 19953

11861 - 99 Avenue

(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 Luke 15 House Housing Agreement, Authorization Bylaw, 2021, No. 20427".

PASSED FIRST READING on the 13th day of September, 2021.

PASSED SECOND READING on the 13th day of September, 2021.

PASSED THIRD READING on the 13th day of September, 2021.

RECONSIDERED AND FINALLY ADOPTED, signed by the Mayor and Clerk, and sealed with the Corporate Seal on the 27th day of September, 2021.

_____ MAYOR

_____ CLERK

SCHEDULE A

CITY OF SURREY

A Housing Agreement for a Supportive Recovery Home

THIS AGREEMENT made the_____day of_____, 2021.

BETWEEN

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

(the "City")

OF THE FIRST PART

AND:

Luke 15 House
11861 99 Avenue
Surrey, B.C.
V3V 2M3

(the "Operator")

OF THE SECOND PART

AND:

Luke 15 House
11861 99 Avenue
Surrey, B.C.
V3V 2M3

(the "Owner")

OF THE THIRD PART

WHEREAS:

A. The Owner is the legal and beneficial owner of the Lands (as hereinafter defined);

B. The Operator proposes to operate a Supportive Recovery Home (as hereinafter defined) in accordance with the requirements of this Agreement and all applicable legislation;

C. The Operator, the Owner and the City each recognize that the behaviour of Residents (as hereinafter defined) and the Operator (as hereinafter defined) of the Supportive Recovery Home must be regulated and supervised so as to ensure the protection, convenience and safety of other Residents of the Supportive Recovery Home and users of neighbouring properties, streets and public places;

D. The parties have reached agreement as to certain reasonable and necessary measures to be undertaken by the Operator in the management and operation of the Supportive Recovery Home and now wish to enter into this Agreement in order to ensure compatibility between the use of the Supportive Recovery Home and that of the immediately adjoining neighbourhood; and

E. The City adopted Bylaw No._____authorizing the City to enter into this Housing Agreement on the terms and conditions contained herein.

NOW THEREFORE in consideration of the premises herein and of the mutual covenants and agreements hereinafter set forth and contained herein and $10.00 now paid by the City to each of the parties (the receipt of which is hereby acknowledged), the parties hereto covenant and agree each with the other as follows:

1. Definitions

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) "Agreement" means this Housing Agreement;

b) "Assisted Living Registrar" means the person assigned as the assisted living registrar as per Section 24 of the *Community Care and Assisted Living Act*;

c) *"Assisted Living Regulation*" means the Assisted Living Regulation, B.C. Reg. 189/2019, as amended, replaced, restated, or re-enacted from time to time;

d) "City Personnel" means all of the City's elected and appointed officials, officers, employees, agents, nominees, delegates, permittees, contractors, subcontractors, invitees and the Approving Officer;

e) "Claims and Expenses" means all actions, causes of actions, suits, judgments, proceedings, demands, and claims, whether at law or in equity, losses, damages, expenses and costs (including legal fees and disbursements on an indemnity basis) of any kind or nature whatsoever, at law or in equity, for any damages, losses, injuries or death;

f) *"Community Care and Assisted Living Act*" means the Community Care and Assisted Living Act, S.B.C., 2002, c.75, as amended, replaced, restated, or re-enacted from time to time;

g) "*Community Charter"* means the Community Charter, S.B.C., 2003, c.26 as amended, replaced, restated or re-enacted from time to time;

h) "Lands" means the lands and premises legally described as: 11861 99 Avenue, Surrey, B.C.;

i) "*Local Government Act*" means the Local Government Act, R.S.B.C. 2015, c. 1, as amended, replaced, restated, or re-enacted from time to time;

j) "Owner" has the meaning ascribed to it on Page 1 hereof and such Owner's respective successors in title from time to time as the registered or beneficial owner from time to time of any portion of the Lands;

k) "Resident" means a person over 18 years of age residing in the Supportive Recovery Home;

l) "Supportive Recovery Home" means the Lands and the improvements located on the Lands wherein the Operator intends to provide assisted living services for supportive recovery under the terms and conditions of this Housing Agreement, the City's *Zoning Bylaw*, *Community Care and Assisted Living Act* and the *Assisted Living Regulation*;

m) "Term" as specified in Section 2; and

n) "*Zoning Bylaw*" means the *Surrey Zoning By-law, 1993, No. 12000*, as amended, replaced, or replaced from time to time.

2. Term

2.1. The term of this Agreement is 5-years from the date the Bylaw adopting this Agreement is finally adopted. The City may, at its sole discretion, renew this Agreement for two additional 5-year terms provided that the Owner and/or the Operator have not been in default of any of the conditions of this Agreement.

3. Obligations of the Owner

3.1. The Owner covenants and agrees with the City:

a) that the Lands shall only be used for a Supportive Recovery Home in compliance with the terms, conditions, requirements and restrictions of this Agreement; and

b) to require the Operator to operate the Supportive Recovery Home in compliance with the terms, conditions, requirements and restrictions of this Agreement.

4. Obligations of the Operator

4.1. The Operator covenants and agrees with the City:

4.1.a. that a business license is required;

4.1.b. to operate the Supportive Recovery Home in accordance with the requirements of the City's *Zoning Bylaw*. For greater certainty, the Operator may not use, or cause the Supportive Recovery Home to be used, for short-term emergency housing;

4.1.c. to ensure that the Supportive Recovery Home is, at all times, in compliance with the health, life safety and fire protection requirements of the British Columbia Fire Code and the *Surrey Fire Service By-law, 1990, No. 10771*;

4.1.d. to prepare, obtain approval by the Surrey Fire Service and implement and maintain a fire safety plan, including, at a minimum, requirements that interconnected smoke alarms be installed in all bedrooms and that emergency lighting be installed; and

4.1.e. to ensure that the Supportive Recovery Home is, at all times, in compliance with the health, life safety and fire protection requirements of the British Columbia Building Code.

4.2. The Operator shall, at all times, ensure that both the interior and exterior of the Supportive Recovery Home are well maintained in a neat, tidy and clean condition.

4.3. The Operator shall ensure that all personal belongings, furniture, goods, materials, supplies or other things are only stored within properly designated storage areas located within the interior of the Supportive Recovery Home. For greater certainty, nothing may be stored or allowed to accumulate around the exterior of the Supportive Recovery Home.

4.4. The Operator shall ensure that barbecues and other outdoor activities are carried out in a safe and considerate manner. Barbecues shall be kept a minimum of 3.0 metres away from any building when in use.

4.5. The Operator shall not display or permit the display of any exterior sign or any interior sign which is visible from outside of the Supportive Recovery Home unless the signage is directly related to protecting the health of Residents, visitors and staff of the Supportive Recovery Home.

4.6. The Operator shall provide the City, the Surrey Fire Service and other emergency services with a current 24-hour, seven (7) day a week emergency contact telephone number.

4.7. Each Operator upon request, and no more than 4 times per calendar year, shall provide for every Resident in the preceding month; the date that they arrived, the date that they departed (if applicable), their year of birth, their city of birth, their city of residence prior to entering the Supportive Recovery Home (if applicable) and indicate if they have conditions related to their conditional release, bail, and/or judicial interim release that require them to stay at the Supportive Recovery Home.

4.8. The City, using the data provided in Section 4.7 may prepare various metrics, including:

(a) Average Residents' duration of stay;
(b) Average age of Residents;
(c) % of Residents born in Surrey;
(d) % of Residents who last resided in Surrey;
(e) % of Residents who last resided in the lower mainland (excluding Surrey);
(f) % of Residents who last resided outside of the lower mainland;
(g) % of Residents of no fixed address;
(h) % of Residents who last resided in Surrey that have conditions related to their conditional release, bail, and/or judicial interim release that require them to stay at a Supportive Recovery Home in Surrey; and
(i) % of Residents who last resided outside of Surrey that have conditions related to their conditional release, bail, and/or judicial interim release that require them to stay at a Supportive Recovery Home in Surrey.

4.9. The Operator shall conduct a survey of every Resident using a survey form directed by the City and submit each survey to the City, or any other party as directed by the City, on the first Tuesday of March in each year or as otherwise directed by the City.

5. Satisfying the *Community Care and Assisted Living Act* and the *Assisted Living Regulations*

5.1. The Operator covenants and agrees with the City:

5.1.a. to operate the Supportive Recovery Home in accordance with the requirements of the *Community Care and Assisted Living Act* and the *Assisted Living Regulation*; and

5.1.b. to be registered with the Assisted Living Registrar through the Term of this Agreement.

5.2. The Operator shall ensure that each Resident enters into a residency agreement within 24-hours of occupying a residential premise in the Supportive Recovery Home. The residency agreement shall include all of the applicable content set out in Schedule C of the *Assisted Living Regulation* and require that every Resident, as a condition of residency:

a) may not possess, hold, store, trade, barter, sell, buy or use any alcohol or any controlled substance regulated under the *Controlled Drugs and Substances Act* of Canada anywhere within or on the premises of the Supportive Recovery Home;

b) must not carry out or be involved in any criminal activities, either on or off the Supportive Recovery Home premises, while in residence;

c) must be considerate of other Residents, visitors and staff of the Supportive Recovery Home and of neighbouring premises;

d) must respect the prescribed visiting hours;

e) shall ensure that they and any persons invited onto the premises of the Supportive Recovery Home by the Resident, do not engage in any conduct or behaviour which unreasonably disturbs or harasses other Residents of the Supportive Recovery Home or persons in the neighbourhood and must maintain quiet between the hours of 11:00 p.m. and 7:00 a.m., daily; and

f) not be required to provide a security deposit.

5.3. The Operator shall ensure that each Resident has a short-term Service Plan within 72-hours of occupying a residential premise the Supportive Recovery Home that includes all of the applicable content set out in Section 32 of the *Assisted Living Regulation*.

5.4. The Operator shall ensure that each Resident has a personal service plan within 7-days of occupying a residential premise the Supportive Recovery Home that includes all applicable content set out in Schedule D of the *Assisted Living Regulation*.

5.5. The Operator shall ensure that each Resident has a transition plan within 24-hours of occupying a residential premise the Supportive Recovery Home that includes all the applicable content set out in Section 45 of the *Assisted Living Regulation*.

6. Termination

6.1. The City may, on 60 days prior written notice to the Operator and the Owner, terminate this Agreement where:

a) the Owner or the Operator fails to comply with, satisfactorily perform or meet any of the terms, conditions or requirements of this Housing Agreement and fails to remedy such non-compliance or unsatisfactory performance when and as requested to do so by the City;

b) the Operator, at any time, ceases to operate the Supportive Recovery Home, or carries out, permits or causes to be carried out, any detox or other health service requiring Provincial licensing or any short-term emergency housing use or other similar use within the Supportive Recovery Home which is not authorized by the City's *Zoning Bylaw*; or

c) the goods and chattels of the Operator are at any time seized or taken in execution or attachment or the Operator makes an assignment for the benefit of creditors or becomes bankrupt or insolvent or makes a proposal to creditors.

6.2. The Operator may, on 60-days prior written notice to the City and the Owner, terminate this Agreement.

6.3. Upon the expiry or earlier termination of this Agreement, or with the loss of registration with the Assisted Living Registrar, operation of the Supportive Recovery Home shall cease.

6.4. Should the Lands cease being used as a Supportive Recovery Home, the City, will file the appropriate notice in the Land Title Office, upon:

a) receipt of same from the Owner; and

b) confirmation, to the satisfaction of the City that the Lands are no longer being used as a Supportive Recovery Home.

7. Liability

7.1. The Owner and Operator hereby covenants with the City pursuant to Section 219(6) of the Land Title Act, that the Owner and Operator shall indemnify and save harmless the City and City Personnel from all Claims and Expenses which the City and City Personnel may suffer, or incur, or be put to, arising out of or in connection with any breach or default of any covenants or agreements on the part of the Owner or Operator contained in this Agreement, or arising out of, or in connection with, any personal injury, death, or damage to the Lands, or to any building, improvement, or structure, including the contents of any of them, built, constructed or placed on the Lands.

7.2. The Owner and Operator do hereby remise, release and forever discharge the City and City Personnel from all Claims and Expenses which the Owner or Operator may have against the City and City Personnel for and by reason of any personal injury, death, damage to the Lands, economic loss, costs and liabilities which the Owner or Operator now has as a result of not adhering to this Agreement.

7.3. Pursuant to Section 219 of the Land Title Act, the Owner covenants and agrees that the indemnity and release in Sections 7.1 and 7.2 will remain effective and survive the expiration or termination of this Agreement whether by fulfilment of the covenants contained in this Agreement or otherwise.

8. Notice

8.1. Any notice or other documents to be given or delivered pursuant to this Agreement will be addressed to the proper party as follows:

as to the City:

City of Surrey
13450 104 Avenue, Surrey, BC V3T 1v8
Attention: Director, Strategic Initiatives & Corporate Reporting

as to the Operator:

Luke 15 House
11861 99 Avenue
Surrey, B.C.
V3V 2M3

as to the Owner:

Luke 15 House
11861 99 Avenue
Surrey, B.C.
V3V 2M3

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 to the particular party at its address set out or determined in accordance with this section and shall be deemed complete two 2-days after the day of delivery.

8.2. 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 hand delivered and not mailed.

9. Mutual Covenants and Agreements

9.1. Where the Owner or Operator consists of more than one person, each such person will be jointly and severally liable to perform the Owner's obligations and the Operator's obligations under this Agreement.

9.2. This Agreement or any of the rights conferred by this Agreement upon:

(a) the City may be assigned in whole in in part by the City without the consent of the Owner or Operator;
(b) the Operator may be assigned in whole or in part by the Operator with consent of the City, such consent may unreasonably withheld; and
(c) the Owner may be assigned in whole or in part by the Owner with the consent of the City acting reasonably.

9.3. Nothing contained or implied herein will derogate from the obligations of the Owner or Operator under any other agreement with the City or, if the City so elects, prejudice or affect the City's rights, powers, duties or obligations in the exercise of its functions pursuant to the *Local Government Act* and the *Community Charter*, and all amendments from time to time, and the rights, powers, duties and obligations of the City under all public and private statutes, by-laws, orders and regulations, which may be, if the City so elects, as fully and effectively exercised in relation to the Lands as if this Agreement had not been executed and delivered by the Owner and the City.

9.4. The Owner and Operator and the City hereby acknowledge, agree and declare that this Agreement is entered into for the sole purpose of benefitting the City and, in particular, acknowledge, agree and declare that this Agreement is not designed to protect or promote the interests of the Owner or the Operator or any mortgagee of the Owner or Operator, or any future owner or occupier of the Lands and any improvements on the Lands or any other person and the City may, at its sole option, execute a release of this Agreement at any time without liability to any person for so doing.

9.5. The Owner and the Operator agrees that the City is not required or is under no obligation in law or equity to prosecute or enforce this Agreement in any way whatsoever.

9.6. The Owner and the Operator acknowledges and agrees that no failure on the part of the City to exercise and no delay in exercising any right under this Agreement will operate as a waiver thereof, nor will any single or partial exercise by the City of any right under this Agreement preclude any other or future exercise thereof of the exercise of any other right.

9.7. The remedies provided for in this Agreement will be cumulative and not exclusive of any other remedies provided by law or in equity. In addition to any remedies which are available under this Agreement or at law, the City will be entitled to all equitable remedies, including, without limitation, specific performance, injunction and declaratory relief, or any combination thereof, to enforce its rights under this Agreement. The Owner and the Operator acknowledges that specific performance, injunctive relief (mandatory or otherwise) or other equitable relief may be the only adequate remedy for a default by the Owner or the Operator under this Agreement.

9.8. In an action to enforce this Agreement in respect of which the court determines that the position of the City will prevail, the City will be entitled to court costs on a solicitor-client basis.

9.9. All the obligations and covenants in this Agreement are severable, so that if any one or more of the obligations or covenants are declared by a court of competent jurisdiction to be void and unenforceable, the balance of the obligations and covenants will remain and be binding.

9.10. The word "including", when following any general statement, term, or matter, is not to be construed to limit such general statement, term, or matter to the specific items set forth immediately following, or to similar items; rather, such general statement, term, or matter is to be construed to refer to all other items that could reasonably fall within the broadest possible scope of such general statement, term, or matter.

9.11. This Agreement shall enure to the benefit of and be binding upon the parties hereto and their personal representatives, respective heirs, executors, administrators, successors, and assigns.

9.12. This Agreement will be governed by and construed in accordance with the laws of the Province of British Columbia and the laws of Canada applicable in British Columbia.

9.13. Wherever the singular or the masculine is used in this Agreement, the same shall be construed as meaning the plural or the feminine or the body corporate or politic where the context or the parties hereto so require.

9.14. The Owner shall do, or cause to be done, all things and execute or cause to be executed all documents and give such further and other assurances which may be reasonably necessary to give proper effect to the intent of this Agreement including acts necessary to effect an assignment pursuant to Section 9.2.

9.15. This Agreement may be executed in any number of counterparts and delivered via facsimile or e-mail, each of which will be deemed to be an original and all of which taken together will be deemed to constitute one and the same instrument, provided that any party delivering this Agreement via facsimile or e-mail will deliver to the other party any originally executed copy of this Agreement forthwith upon request by the other party.

9.16. This Agreement represents the entire agreement between the City and the Owner and the Operator regarding the matters set out in this Agreement and supersedes all prior agreements, letters of intent or understandings about these matters.

Agreed:

City	Owner	Operator
Signature:	Signature:	Signature:
	E-SIGNED by Nigel Vincent on 2021-07-23 10:30:28 PDT	E-SIGNED by Nigel Vincent on 2021-07-23 10:30:31 PDT
Mayor	Nigel J. Vincent	Nigel J. Vincent
City Clerk		