

CITY OF SURREY

BY-LAW NO. 16032

An Expropriation by-law for the purpose of acquiring
a temporary Statutory Right-of-Way

.....

WHEREAS the Council of the City of Surrey has found it necessary to acquire the within described property for the purpose of temporary Statutory Right-of-Way;

AND WHEREAS pursuant to Section 8(1) of the *Community Charter*, S.B.C. 2003, c. 26, as amended, the City Council has the capacity, rights, powers and privileges of a natural person of full capacity and may acquire, hold, manage and dispose of land, improvements, personal property or other property, and any interest or right in or with respect to that property;

AND WHEREAS pursuant to Sections 31 & 32 of the *Community Charter*, S.B.C. 2003, c.26, as amended, the City Council may, for the purpose of exercising or performing its powers, duties and functions, expropriate real property or works, or an interest in them, in accordance with the *Expropriation Act*, R.S.B.C. 1996, c. 125, as amended;

NOW, THEREFORE, the Council of the City of Surrey, in open meeting assembled, ENACTS AS FOLLOWS:

1. Pursuant to Sections 31 & 32 of the *Community Charter*, S.B.C. 2003, c.26, as amended, and for the construction and installation of a driveway and access works including related appurtenances and improvements, the Council of the City of Surrey hereby authorizes the expropriation of a temporary Statutory Right-of-Way, in the form of Schedule "A" attached, in, over and upon ALL AND SINGULAR that certain parcel or tract of land and premises situate, lying and being in the Township of Langley in the Province of British Columbia and more particularly described as:

That portion of Lot 1, Except: Part dedicated road on Plan BCP22185, Section 15, Township 8, New Westminster District Plan 18534 (Parcel Identifier: 000-908-541) shown as Statutory Right-of-Way outlined on Statutory Right-of-Way Plan BCP22187 containing 213.9 square meters.

(Portion of 6734 – 196th Street, Langley, B. C.)

2. The Mayor and Clerk are hereby authorized to sign and seal all documents necessary and incidental to effect such expropriation.
3. This By-law may be cited for all purposes as "Portion of 6734 – 196th Street, Langley, B.C. Expropriation By-law, 2006, No. 16032".
4. This By-law comes in to full force and effect on the date of final adoption.

PASSED THREE READINGS on the 12th day of June, 2006.

RECONSIDERED AND FINALLY ADOPTED, signed by the Mayor and Clerk, and sealed with the Corporate Seal on the 26th day of June, 2006.

_____MAYOR

_____CLERK

SCHEDULE A

Land Title Act
FORM C
Section 233
Province of British Columbia

GENERAL INSTRUMENT - PART I (This area for Land Title Office Use) Page 1 of 13 pages

1. APPLICATION: (Name, address, phone number and signature of applicant/applicant's solicitor or agent)

Bea Scott Agent for City of Surrey
Client #011477
7452 - 132 Street
Surrey, B.C. V3W 4M7 (604) 501-5530

E-05-408 1704-330

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:

(PID)

(LEGAL DESCRIPTION)

000-908-541

Lot 1 Except Part Dedicated Road on Plan
BCP 22185, Section 15 Township 8 New
Westminster District Plan 18534

3. NATURE OF INTEREST: DESCRIPTION	DOCUMENT REFERENCE (PAGE AND PARAGRAPH)	PERSON ENTITLED TO INTEREST
<i>STATUTORY RIGHT-OF-WAY</i> over part shown on SRW Plan BCP <u>22187</u> containing 213.9 m ² .	PAGES 6 - 10	TRANSFEE
<i>PRIORITY AGREEMENT</i> granting <u>BA260391</u> priority over Mortgages BT134648 and BW106637.	PAGES 11 & 12	TRANSFEE

4. TERMS: Part 2 of this instrument consists of (select one only)

- | | | |
|---------------------------------|-------------------------------------|---------------------------------------|
| (a) Filed Standard Charge Terms | <input type="checkbox"/> | D.F. No. |
| (b) Express Charge Terms | <input checked="" type="checkbox"/> | Annexed as Part 2 |
| (c) Release | <input type="checkbox"/> | There is no Part 2 of this instrument |

A selection of (a) includes any additional or modified terms referred to in Item 7 or in a schedule annexed to this instrument.
If (c) is selected, the charge described in Item 3 is released or discharged as a charge on the land described in Item 2.

5. TRANSFEROR(S):

KEVIN LONNY FOLDEN AND MARY THERESA NELSON, AS JOINT TENANTS
THE TORONTO-DOMINION BANK, as to grant of priority
COAST CAPITAL SAVINGS CREDIT UNION, as to grant of priority

6. TRANSFEREE(S):(including postal address(es) and postal code(s))

CITY OF SURREY 14245 - 56th Avenue, Surrey, B.C. V3X 3A2

7. ADDITIONAL OR MODIFIED TERMS: N/A

8. EXECUTION(S) This instrument creates, assigns, modifies, enlarges, discharges or governs the priority of the interest(s) described in Item 3 and the Transferors and every other signatory agree to be bound by this instrument, and acknowledge(s) receipt of a true copy of the filed standard charge terms, if any.

OFFICER SIGNATURE(S)

EXECUTION DATE

PARTIES SIGNATURES

Y	M	D

KEVIN LONNY FOLDEN

MARY THERESA NELSON

OFFICER CERTIFICATION:

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act* R.S.B.C. 1996, c.124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.

* if space insufficient, enter "SEE SCHEDULE" and attach schedule in Form E.

** if space insufficient, continue executions on additional page(s) in Form D.

OFFICER SIGNATURE(S)

EXECUTION DATE

TRANSFEROR/BORROWER/
PARTY SIGNATURE(S)

Y	M	D

THE TORONTO-DOMINION
BANK by its authorized
signatory(ies)

(Print Name Below Signature)

(Print Name Below Signature)

OFFICER CERTIFICATION:

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act* R.S.B.C. 1996, c.124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.

Land Title Act
FORM D

EXECUTIONS CONTINUED

Page 4 of 13 pages

OFFICER SIGNATURE(S)

EXECUTION DATE

TRANSFEROR/BORROWER/
PARTY SIGNATURE(S)

Y	M	D

COAST CAPITAL SAVINGS
CREDIT UNION by its authorized
signatories

(Print Name Below Signature)

(Print Name Below Signature)

OFFICER CERTIFICATION:

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act* R.S.B.C. 1996, c.124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.

OFFICER SIGNATURE(S)

EXECUTION DATE

TRANSFEROR/BORROWER/
PARTY SIGNATURE(S)

Y	M	D

CITY OF SURREY by its authorized
signatories

DAVE MIHALECH, Manager
Realty Services

MARGARET JONES
City Clerk

As to the signature of the City Clerk

OFFICER CERTIFICATION:

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act* R.S.B.C. 1996, c.124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.

TERMS OF INSTRUMENT - Part 2

Statutory Right-of-Way

THIS AGREEMENT is dated for reference the _____ day of _____, 2006.

BETWEEN:

KEVIN LONNY FOLDEN
MARY THERESA NELSON
6734 – 196 Street
Langley, BC V3A 4P7
AS JOINT TENANTS

(the "Grantor")

OF THE FIRST PART

AND:

CITY OF SURREY
14245 - 56th Avenue
Surrey, B.C., V3X 3A2

(the "Grantee")

OF THE SECOND PART

WHEREAS:

A. The Grantor is the owner in fee simple of those certain parcels or tracts of land 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: 000-908-541

Lot 1 Except Part Dedicated Road on Plan BCP ~~22185~~, Section 15 Township 8
New Westminster District Plan 18534

(the "Lands")

B. The Grantor has agreed to grant a temporary statutory right-of-way as hereinafter defined for the construction and installation of a driveway and access works, including related appurtenances and improvements (collectively the "Works").

C. Pursuant to section 218 of the *Land Title Act*, R.S.B.C. 1996, c. 250, as amended, a person may be able to create, by grant or otherwise in favour of a municipality a statutory right-of-way for any purpose necessary for the operation and maintenance of the Grantee's undertaking and registration of an instrument granting or otherwise creating a statutory right-of-way constitutes a charge on the Lands in favour of the Grantee and confers on the Grantee the right to use the Lands charged in accordance with the terms of the instrument, and the terms, conditions and covenants expressed in the instrument are binding on and take effect to the benefit of the Grantor and Grantee and their successors in title, unless a contrary intention appears.

D. The granting of this statutory right-of-way is necessary for the operation and maintenance of the Grantee's undertaking.

NOW THEREFORE in consideration of the sum of One (\$1.00) Dollar of lawful money of Canada and other good and valuable consideration now paid by the Grantee to the Grantor (the receipt and sufficiency whereof is hereby acknowledged by the Grantor), the parties hereto hereby covenant, promise and agree with each other as follows:

1. The Grantor does hereby give and grant unto the Grantee forever:
 - (a) the full, free and unrestricted right and liberty to enter in, over, under and upon that portion of the Lands shown in heavy black outline on Plan BCP ~~22187~~ containing 213.9 square meters dated January 27th, 2006, certified correct by Scott E. Netherton, B.C.L.S., a copy of which is attached as Schedule "A" hereto (the "Statutory Right-of-Way Area") for the purpose of constructing and installing all or any part of the Works;
 - (b) the full, free and unrestricted right to enter upon and have free and uninterrupted access to and egress from the Statutory Right-of-Way Area at all times, with or without workmen, vehicles and equipment, for the purpose of constructing and installing all or any part of the Works; and
2. The Grantor hereby covenants and agrees with the Grantee that the Grantor shall not:
 - (a) erect, place or maintain any building, structure, chattel, fixture, possession, vehicle, fence, driveway, patio or landscaping on any part of the Statutory Right-of-Way Area without first obtaining the consent, in writing, of the Grantee, such consent not to be unreasonably withheld;
 - (b) plant any tree, hedge, landscaping or shrubbery on any part of the Statutory Right-of-Way Area without first obtaining the consent, in writing, of the Grantee, such consent not to be unreasonably withheld;

- (c) do or knowingly permit to be done any act or thing which will injure or interfere with the security or efficient functioning of the Works and, in particular, shall not carry out any blasting or excavating on or adjacent to the Statutory Right-of-Way Area, without first obtaining the consent in writing of the Grantee, provided that such consent shall not be unreasonably withheld;
 - (d) damage the Works, and that if the Grantor does cause any damage to the Works, the Grantor shall forthwith repair the same to the satisfaction of the Municipal Engineer, or if the Grantee carries out the repairs, reimburse the Grantee for the costs thereof; and
 - (e) diminish nor increase the soil cover within the Statutory Right-of-Way Area without first obtaining the consent in writing of the Grantee, provided that such consent shall not be unreasonably withheld.
3. The Grantee hereby covenants and agrees with the Grantor that the Grantee:
- (a) will not bury debris or rubbish of any kind in excavations or backfill and will remove shoring and like temporary structures as backfilling proceeds;
 - (b) will thoroughly clean the Statutory Right-of-Way Area, raking up all rubbish and construction debris and leave the Statutory Right-of-Way Area in a neat and clean condition;
 - (c) will, as far as reasonably necessary, carry out the construction and installation of the Works in a proper and workmanlike manner;
 - (d) will repair any damage to the Statutory Right-of-Way Area occasioned by its use of the Statutory Right-of-Way Area; and
 - (e) will not unreasonably deny the Grantor access through, over or across the Statutory Right-of-Way Area.
4. The Grantor and Grantee further covenant and agree that:
- (a) For the purpose of constructing and installing the Works, the Grantee may at its sole discretion remove any structures, vehicles, trees, landscaping, lawn, hedging, shrubbery, fence or other fixtures or chattels located within the Statutory Right-of-Way Area.
 - (b) For the purpose of constructing and installing the Works and without limiting the generality of paragraph 4(a) above, the Grantee may at its sole discretion:
 - (i) dig up and cut down and remove the existing willow tree and other trees, hedging, shrubbery and roots within the Statutory Right-of-Way Area;
 - (ii) break up and remove that portion of the existing fence within the Statutory Right-of-Way Area;

- (iii) break up, dig up and remove that portion of any existing retaining walls or concrete pads or concrete slab within the Statutory Right-of-Way Area which in the Grantee's sole discretion interferes with the construction or installation of the Works;
- (iv) dig up, remove and relocate existing utilities including, but not limited to, water, electrical, gas, telephone, cable, irrigation and drainage systems (if any), within the Statutory Right-of-Way Area; and
- (v) dismantle and remove the existing greenhouse within the Statutory Right-of-Way Area.

5. IT IS MUTUALLY UNDERSTOOD, agreed and declared by and between the parties hereto that:

- (a) the covenants and agreements herein contained shall be construed as running with the Lands;
- (b) the Grantor shall not be liable under any of the covenants and agreements herein contained where such liability arises by reason of an act or omission occurring after the Grantor ceases to have any further interest in the Lands;
- (c) upon completion of construction and installation of the Works and upon being notified in writing by the Grantee, the Grantor shall have full and free use of the Works and the Statutory Right-of-Way Area;
- (d) nothing contained or implied herein shall prejudice or affect the rights and powers of the Grantee in the exercise of their functions under any public and private statutes, by-laws, orders and regulations, all of which may be fully and effectively exercised in relation to the Lands as if this Agreement had not been executed;
- (e) this Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators, successors, personal representatives and assigns;
- (f) the Grantor 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 obtain priority of this Agreement over financial charges which may be registered against the Lands in the Land Title Office;
- (g) 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;
- (h) if there is more than one Grantor the obligations of the Grantor are joint and several;

- (i) save as aforesaid, nothing in this Agreement shall be interpreted so as to restrict or prevent the Grantor from using the Statutory Right-of-Way Area in any manner which does not interfere with the construction and installation of, or unobstructed access to and egress from, the Works;
- (j) waiver of any default by either party shall not be deemed to be a waiver of any subsequent default by that party; and
- (k) if any section, subsection, sentence, clause or phrase in this Agreement is for any reason held to be invalid by the decision of a court of competent jurisdiction, the invalid portion shall be severed and the decision that it is invalid shall not affect the validity of the remainder of this Agreement.

6. The Grantee further covenants and agrees that it will release and discharge this Agreement from the title to the Lands within nine (9) months of the date of its registration which in the context of an expropriation shall be within nine (9) months from the date of registration of the Vesting Notice.

7. Upon discharge of this Agreement the Works shall belong exclusively to the Grantor.

MEMORANDUM AS TO ENCUMBRANCES, LIENS AND INTERESTS

CHARGE IN FAVOUR OF THE TORONTO-DOMINION BANK REGISTERED UNDER MORTGAGE BT134648.

CONSENT

THE TORONTO-DOMINION BANK, being the holder of the encumbrance or entitled to the lien or interest referred to in the memorandum above written, in consideration of **ONE (\$1.00) DOLLAR** and other good and valuable consideration (the receipt of which is hereby acknowledged), **hereby joins in and grants** to the registration of the within Agreement priority over our interest in the said lands and covenants and agrees that the same shall be binding upon its interest in or charge upon the said lands and shall be an encumbrance upon the said lands prior to the above noted charge in the same manner and to the same effect as if it had been dated and registered prior to the said charge.

EXECUTIONS: SEE PART 1

MEMORANDUM AS TO ENCUMBRANCES, LIENS AND INTERESTS

CHARGE IN FAVOUR OF COAST CAPITAL SAVINGS CREDIT UNION REGISTERED UNDER MORTGAGE BW106637.

CONSENT

COAST CAPITAL SAVINGS CREDIT UNION, being the holder of the encumbrance or entitled to the lien or interest referred to in the memorandum above written, in consideration of **ONE (\$1.00) DOLLAR** and other good and valuable consideration (the receipt of which is hereby acknowledged), **hereby joins in and grants** to the registration of the within Agreement priority over our interest in the said lands and covenants and agrees that the same shall be binding upon its interest in or charge upon the said lands and shall be an encumbrance upon the said lands prior to the above noted charge in the same manner and to the same effect as if it had been dated and registered prior to the said charge.

EXECUTIONS: SEE PART 1

STATUTORY RIGHT OF WAY PLAN OF A PORTION OF LOT 1 SEC. 15 TP. 8 N.W.D. PLAN 18534
FOR DEPOSIT PURSUANT TO SECTION 6 OF THE EXPROPRIATION ACT.

B.C.G.S. 92G.017

PURSUANT TO SECTION 113, LAND TITLE ACT

LEGEND

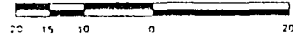
- ⊕ DENOTES CONTROL MONUMENT FOUND
- ⊙ DENOTES STANDARD IRON POST FOUND
- DENOTES STANDARD IRON POST SET
- WT DENOTES WITNESS
- NI DENOTES NO EVIDENCE FOUND
- (c) DENOTES CALCULATED

INTEGRATED SURVEY AREA NO. 41, LANGLEY, NAD83 (CSRS)

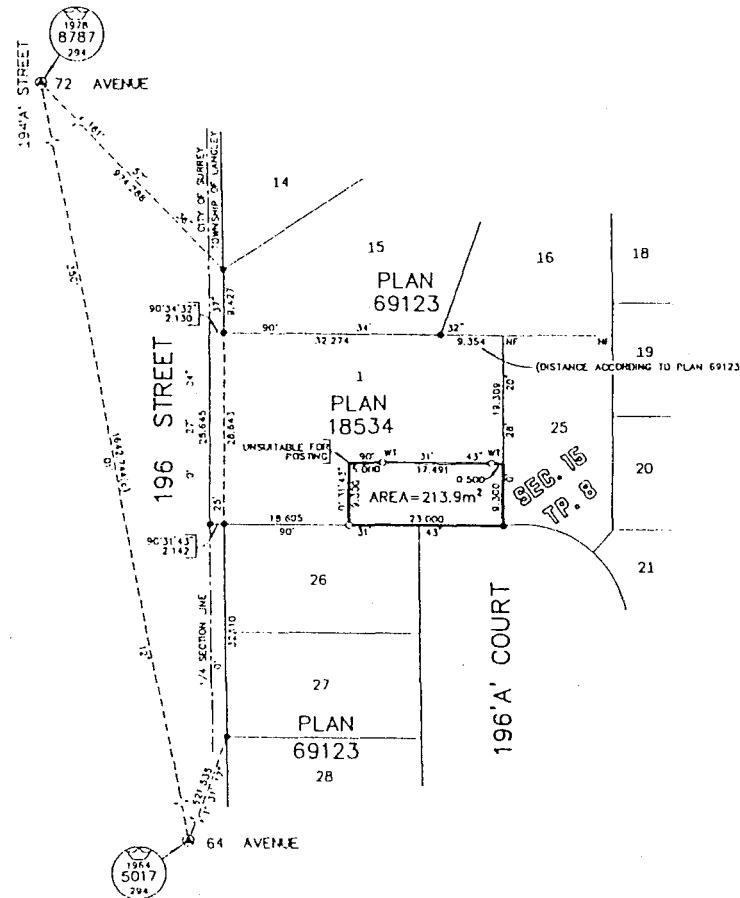
GRID BEARINGS ARE DERIVED FROM OBSERVATIONS BETWEEN
GEODETIC CONTROL MONUMENTS 5017 AND 8787.

THIS PLAN SHOWS HORIZONTAL GROUND LEVEL DISTANCES EXCEPT
WHERE OTHERWISE NOTED. TO COMPUTE GRID DISTANCES, MULTIPLY
GROUND LEVEL DISTANCES BY COMBINED FACTOR 0.9996031

SCALE 1:500



ALL DISTANCES ARE IN METRES



PLAN BCP 22187

DEPOSITED IN THE LAND TITLE OFFICE
AT NEW WESTMINSTER, B.C.

2006.

REGISTRAR

END OF DOCUMENT

SCHEDULE A

Page 13 of 13 pages

THIS PLAN LIES WITHIN THE GREATER
VANCOUVER REGIONAL DISTRICT

I, SCOTT E. NETHERTON, A BRITISH COLUMBIA LAND SURVEYOR OF SURREY,
IN BRITISH COLUMBIA, CERTIFY THAT I WAS PRESENT AT AND PERSONALLY
SUPERINTENDED THE SURVEY REPRESENTED BY THIS PLAN, AND THAT THE
SURVEY AND PLAN ARE CORRECT. THE FIELD SURVEY WAS COMPLETED ON
THE 27TH DAY OF JANUARY, 2006. THE PLAN WAS COMPLETED
AND CHECKED, AND THE CHECKLIST FILED UNDER ECP# 23850, ON
THE 30TH DAY OF JANUARY, 2006.

Scott E. Netherton

B.C.L.S.

CITY OF SURREY
SURVEY SECTION
14245 - 56 AVE.
SURREY, B.C. V3X 3A2
TEL (604) 591-4255
FAX (604) 591-6693