

CITY OF SURREY

BY-LAW NO. 16160

A by-law to authorize the City of Surrey to enter into an Agreement with the Corporation of Delta allowing the City of Surrey to use the sanitary sewer services of the Corporation of Delta to service consumers within a specified area of the City of Surrey.

.....

WHEREAS the City Council of the City of Surrey and the Corporation of Delta have agreed upon the terms and conditions in regard to the provision of sanitary sewer service to consumers within a specified area of the City of Surrey;

NOW THEREFORE, the City Council of the City of Surrey, in open meeting assembled, enacts as follows:

1. The City Council of the City of Surrey is hereby authorized to enter into and carry out the terms and conditions of an agreement with the Corporation of Delta, and the Mayor and Clerk are authorized and empowered to execute the agreement on behalf of the City of Surrey.
2. This By-law may be cited for all purposes as "Surrey-Delta Sanitary Sewer Agreement By-law, 2006, No. 16160."

PASSED THREE READINGS by Council on the 20th day of November, 2006.

RECONSIDERED AND FINALLY ADOPTED, signed by the Mayor and Clerk, and sealed with the Corporate Seal on the 4th day of December, 2006.

_____MAYOR

_____CLERK

THIS AGREEMENT dated the ___ day of _____, 2006.

BETWEEN: THE CORPORATION OF DELTA,
a municipal corporation under the *Local Government Act*
having an office at 4500 Clarence Taylor Crescent,
Delta, British Columbia

("Delta")

AND: CITY OF SURREY,
a municipal corporation under the *Local Government Act*
having an office at 14245 – 56th Avenue,
Surrey, British Columbia

("Surrey")

WHEREAS:

- A. Delta is the owner of certain sanitary sewer works and facilities including a sanitary sewer trunk main located in the vicinity of 70A Avenue and 120th Street, in the municipality of Delta (the "Delta Works") which can be efficiently used to provide service to that portion of the municipality of Surrey shown outlined in heavy black line on the plan attached to this Agreement as Schedule A (the "Surrey Lands");
- B. Pursuant to an agreement authorized by Bylaw No. 3050, 1979 of the Corporation of Delta and Bylaw No. 6010, 1979 of the District of Surrey (the "Original Agreement"), Delta agreed to accept sewage from a portion of the Surrey Lands on certain terms and conditions for a period of ten years; and
- C. By an agreement dated January 16, 1995 (the "First Renewal Agreement"), the parties agreed to renew the previous agreement for a further period of ten years commencing June 6, 1990, subject to further terms and conditions set out in the First Renewal Agreement; and
- D. Since June 6, 2000 the parties have performed their respective obligations under the First Renewal Agreement as if its term had not expired, and the parties intend to continue to do so until December 31, 2006; and
- E. The parties have determined that the 25th percentile average daily flow of sewage from the Surrey Lands to the Delta Works is, as of the date of this Agreement, two point nine (2.9) litres per second; and

- F. WHEREAS the parties wish to provide for the continued acceptance by Delta of sewage from the Surrey Lands on the terms and conditions set out in this Agreement;

THIS AGREEMENT is evidence that, in consideration of the mutual covenants and conditions set out in this Agreement, the parties agree as follows:

1. Delta agrees to:
 - (a) permit Surrey to continue to maintain a sanitary sewer main across 120th Street;
 - (b) permit Surrey to continue the connection of such sanitary sewer main to the Delta Works; and
 - (c) accept into the Delta Works the 25th percentile average daily flow of sewage, which the parties agree is two point nine (2.9) litres per second in 2007 and three point six five (3.65) litres per second thereafter unless adjusted by the parties pursuant to paragraph 5, and a peak flow up to sixteen (16) litres per second, complying with Delta Sanitary Sewer Use and Regulation and Connection Charge Bylaw No. 5783, 2000 (“Delta’s Sewer Bylaw”), generated on and collected from the Surrey Lands.

2. Surrey agrees to:
 - (a) maintain and operate the sanitary sewer main within Surrey up to the Surrey – Delta boundary;
 - (b) maintain the connection of such sewer main to the Delta Works to the satisfaction of Delta’s Director of Engineering; and
 - (c) make efforts to ensure compliance with Delta’s Sewer Bylaw within the Surrey Lands that are at least equivalent to its efforts to ensure compliance with Surrey’s equivalent bylaw outside the Surrey Lands, and will make reasonable efforts to limit the sewage flow to the Delta Works to an average dry weather flow of four (4.0) litres per second and a peak flow of sixteen (16) litres per second.

3. Surrey agrees to indemnify and save Delta harmless from any and all claims, demands, actions and suits of any kind that may arise out of Delta’s acceptance of sewage from the Surrey Lands under this Agreement, including any claim, demand, action or suit relating to the operation of the Delta Works or that portion of Delta’s sewer collection system located between the Delta Works and the first sewage pumping station located downstream of the Delta Works. Surrey’s obligations under this paragraph shall continue despite the expiry of the term of this Agreement or its termination under paragraph 7 or 8.

4. Surrey agrees to pay to Delta a charge for discharging sewage into the Delta Works based on a rate and volume as set out in paragraph 1(c) or the 25th percentile of the average daily flows discharged during the calendar year as may be determined at a future time, at a rate equivalent to the rate that would be charged in respect of an equivalent volume of sewage to the operator of a private sewer system within Delta, as established in Delta Sewer Rates Bylaw No. 5782, 2000 (Delta's Sewer Rates Bylaw), as amended annually. The parties agree that this amount will be paid annually as at December 31 of each year and on the terms as to payment, interest and penalty specified in Delta's Rates Bylaw.
5. For the purposes of paragraph 4, Delta may monitor sewage flows to the Delta Works, and advise Surrey in writing of the results of any such monitoring. The volume for the charge will be the 25th percentile of the average daily flows monitored. The volume of sewage so determined will be the basis for the charge for that calendar year and for the subsequent years until such monitoring again occurs. The parties agree that such monitoring will occur at least once every five years. As of the commencement of the term of this Agreement, the volume of sewage on which a charge will be based is 91,450 cubic metres per year in 2007 and 115,100 cubic metres per year thereafter. If the 25th percentile average daily flow after December 31, 2007 as monitored by Delta and reported to Surrey exceeds three point six five (3.65) litres per second the parties agree that Delta's obligation to accept sewage under paragraph 1(c) shall be increased to correspond to the average daily flow as monitored and reported.
6. Surrey agrees to advise Delta of new developments that will increase the average dry weather flow of sewage from the Surrey Lands to the Delta Works. If the anticipated flow from the new developments makes the flow of sewage from the Surrey Lands to the Delta Works exceed the capacity of the Delta Works or works downstream from the Delta Works, Delta may advise Surrey that the total dry weather flow of sewage from the Surrey Lands to the Delta Works may not exceed four (4) litres per second for the remainder of this Agreement, or for a stipulated period of time.
7. This Agreement is effective January 1, 2007 and shall have a term of ten years. Either of the parties wishing to renew the Agreement for a further term may, by notice in writing to the Corporate Officer of the other party delivered prior to December 31, 2016, indicate the terms on which it wishes to renew the Agreement.

8. Surrey may at any time and for any reason by 60 days written notice to Delta terminate this Agreement. In such case, Surrey will pay to Delta the charges otherwise payable for the calendar year in which the notice is given, but will not be liable for charges thereafter.
9. If either party is in breach of this Agreement, and such breach continues for a period of 60 days after written notice of such breach is sent by facsimile transmission or regular mail to the Corporate Officer of the party alleged to be in breach, this Agreement shall at the option of the party not in breach and on further notice in writing terminate forthwith, and in such event any monies paid to Delta shall not be repayable and shall be retained by Delta in consideration of services provided to Surrey.
10. At the time this Agreement terminates for any reason, Surrey will disconnect and cap the sanitary sewer main at the Surrey – Delta boundary. If Delta requests and facilitates, Surrey will cap the sanitary sewer main at the Delta side at the shoulder area of 120th Street.
11. If Delta continues to accept sewage from Surrey in to the Delta Works after the expiry of the term of this agreement, this Agreement will continue on the same terms and conditions until terminated in writing by either parties or until a new written agreement is entered in to between the parties.
12. The parties agree that Schedule A to this Agreement may be modified from time to time by letter agreement initialed by their respective Corporate Officers.
13. References in this Agreement to a Delta bylaw shall be interpreted as references to the bylaw as amended from time to time and to any bylaw enacted to replace any such bylaw, whether under the same enabling legislation or enabling legislation of like effect.

IN WITNESS OF WHICH the parties have affixed their corporate seals in the presence of their
duly authorized signatories on the ___ day of _____, 2006.

The common seal of the
CORPORATION OF DELTA
was affixed in the presence of:

Mayor

Corporate Officer

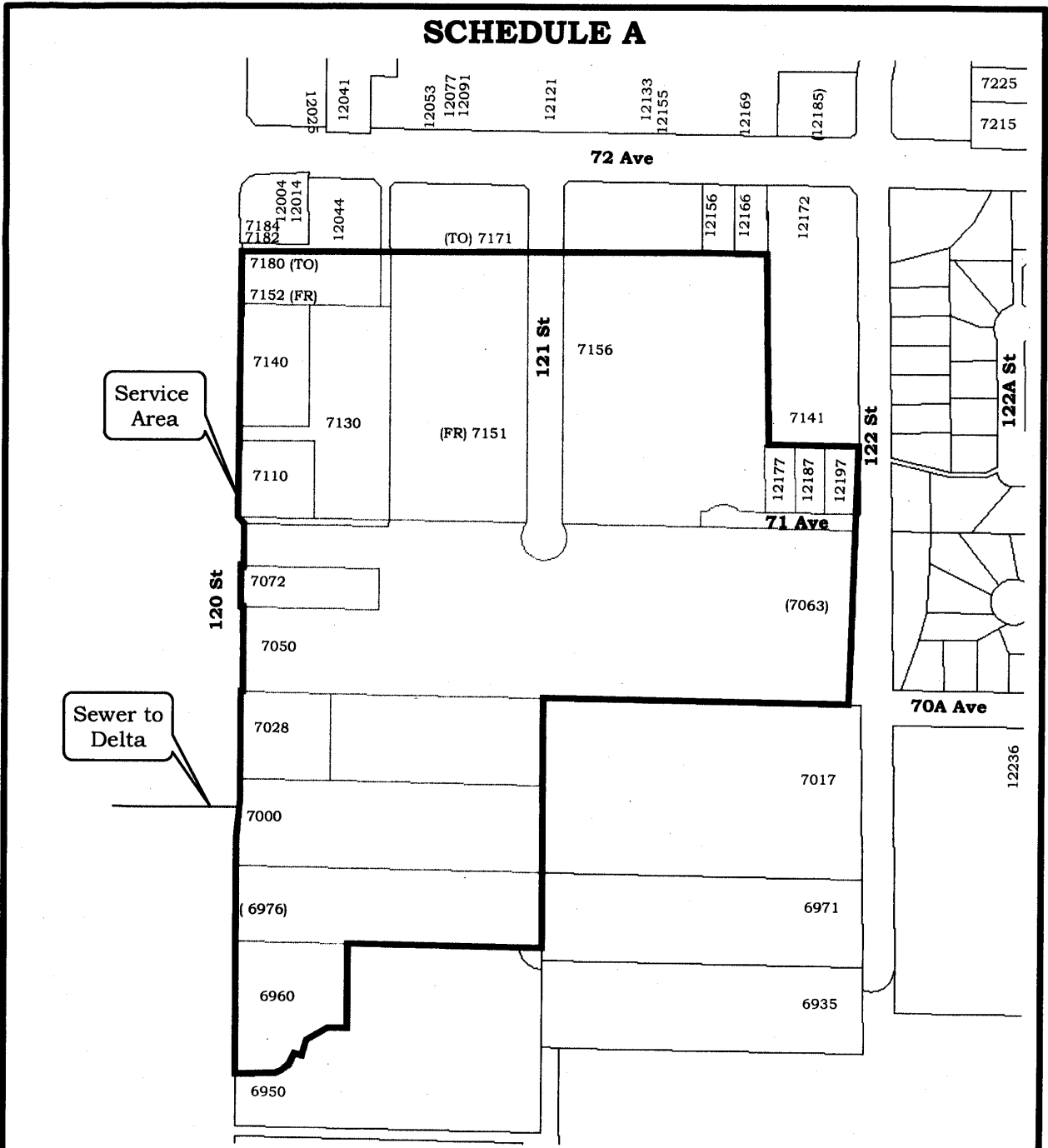
The common seal of the
CITY OF SURREY
was affixed in the presence of:

Mayor

City Clerk

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M 6/21/10 3:30 PM

SCHEDULE A



Service Area

Sewer to Delta

PRODUCED BY ENGINEERING, GIS SECTION: November 6, 2006, WT



**SERVICE AREA:
SURREY-DELTA SANITARY SEWER
INTER-MUNICIPAL AGREEMENT**

**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. Lo
 ons and encumbrances must be confirmed at the Land Title Office.
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