

THE CORPORATION OF THE CITY OF PORT COQUITLAM

BYLAW NO. 3023

A Bylaw to authorize highway encroachments
and set the terms and conditions of encroachment.

Whereas the *Municipal Act*, R.S.B.C. 1979, c. 290, provides that Council may, by bylaw, regulate all uses of or involving a highway or portion of it, and all uses of or involving a public place, and, except as permitted by bylaw, that no person shall excavate in, cause a nuisance on, encumber, obstruct, injure, foul or damage any portion of a highway or other public place; and

And whereas the City wishes to allow highway encroachments in the circumstances and on the terms and conditions as set out in the agreements attached to this Bylaw.

Now therefore the Council of The Corporation of the City of Port Coquitlam, in open meeting assembled, enacts as follows:

1.0 **CITATION**

This Bylaw may be cited for all purposes as "Encroachment Bylaw, 1996, No. 3023".

2.0 **SCOPE, EXEMPTIONS, AND PROHIBITIONS**

- 2.1 No person shall excavate in, cause a nuisance on, encumber, obstruct, injure, foul or damage any portion of a highway or other public place in the City except in accordance with this Bylaw.
- 2.2 The Council hereby authorizes the City to allow encroachments on, in and under highways, and other public places, as follows:
 - 2.2.1 for encroachments of up to one (1) year, where no improvement or structure is being constructed, on substantially the terms and conditions contained in the agreement attached to this Bylaw as Schedule "A"; and
 - 2.2.2 for encroachments of up to two (2) years, with an option for one five (5) year renewal, on substantially the terms and conditions contained in the agreement attached to this Bylaw as Schedule "B".

- 2.3 A person wishing to encroach onto a highway or other public place may do so only if it has entered into an agreement with the City in the form attached to this Bylaw as Schedule "A" or Schedule "B", as applicable.
- 2.4 The Council hereby authorizes the Mayor and Clerk to execute and deliver, on behalf of the City, encroachment agreements substantially in the forms set out as Schedule "A" and Schedule "B" of this Bylaw.
- 2.5 Upon execution of an agreement by the Mayor and Clerk under section 5 of this Bylaw, the agreement will be validly entered into as authorized by this Bylaw.

Read a first time by the Municipal Council this 8th day of January, 1996.

Read a second time by the Municipal Council this 8th day of January, 1996.

Read a third time by the Municipal Council this 8th day of January, 1996.

Reconsidered, finally passed and adopted by the Municipal Council of The Corporation of the City of Port Coquitlam this 22nd day of January, 1996.

L.M. TRABOULAY

Mayor

SUSAN RAUH

Clerk

ENCROACHMENT BYLAW, 1996, NO. 3023
SCHEDULE "A"

HIGHWAY ENCROACHMENT AGREEMENT

[THIS AGREEMENT IS FOR AN ENCROACHMENT OF NO LONGER THAN ONE YEAR AND WHERE NO STRUCTURE IS BEING CONSTRUCTED ON THE HIGHWAY]

THIS AGREEMENT DATED the ____ day of _____, 20____, is

BETWEEN:

CITY OF PORT COQUITLAM, a municipal corporation incorporated under the *Municipal Act*, R.S.B.C. 1979, c. 290, and having an office at 2580 Shaughnessy Street, Port Coquitlam, B.C., V3C 2A8

(the "City")

AND:

(the "Licensee")

GIVEN THAT:

- A. The Licensee is the registered owner in fee simple of those lands and premises in the City of Port Coquitlam having an address of _____ and legally described as:

(the "Lands");

B. The Licensee has requested permission from the City to encroach upon lands the City possesses as highway for the benefit of the public; and

C. The City may, by bylaw, regulate the use of highways and establish terms and conditions according to which a person may encumber or construct on a highway.

NOW THEREFORE THIS AGREEMENT WITNESSES that in consideration of the premises and covenants herein contained, and the sum of ONE (\$1.00) Dollar now paid by the Licensee to the City, the receipt of which is hereby acknowledged by the City, the parties agree as follows:

1. Permission to Encroach - The City grants to the Licensee permission to encroach upon that portion of highway in the City which is shown within the bold outline on the sketch attached as Appendix "A" to this Agreement (the "Encroachment Area") for the sole purpose of:

[DESCRIBE THE ENCROACHMENT IN DETAIL]

(the "Encroachment").

2. Fee For Use - The Licensee agrees to pay to the City, in advance, the fee of _____ (the "Fee") calculated in accordance with Appendix "B", which Fee is payable in full upon execution of this Agreement.

3. Term - This Agreement shall be for a term of _____ (___) months, commencing on _____, 20__ and terminating on _____, 20__, unless terminated sooner or unless extended pursuant to the terms of this Agreement (the "Term").

4. Deposit - As security for the due and proper performance by the Licensee of all of the covenants in this Agreement and for the removal of the Encroachment, the Licensee shall deposit with the City a security deposit (the "Deposit") in the form of cash or an irrevocable letter of credit in the amount of \$_____, which is the same amount as the Fee plus the amount, if any, required to repair and restore the Encroachment Area, as determined by the City Engineer. The Licensee agrees that the City may use the Deposit to pay the costs of the City in making repairs and removing the Encroachment pursuant to this Agreement.

5. Acknowledgment of Highway - The Licensee acknowledges and agrees that the Encroachment Area is a highway and that the City has limited power to authorize the private use of highways. The Licensee further acknowledges and agrees that any rights granted by the City to the Licensee by this Agreement are not exclusive and are subject to the public's right to pass and repass and that the City has full authority pursuant to this Agreement to require the removal of the Encroachment from the Encroachment Area and the restoration of the Encroachment Area, at any time, without notice and without compensation to the Licensee.

6. Construction and Maintenance - Prior to any excavation in the Encroachment Area, the Licensee shall provide to the City detailed plans and specifications showing the intended work and the location of such work on the Encroachment Area. The Plans must show the top and bottom of cuts, a cross-sectional view, and the adjacent property, indicating pavement, services and access points. A detailed methodology of working and supporting ground to ensure stability during construction and after backfill must also be included, and all plans, specifications and other supporting documents must be certified by a professional engineer.

7. The Licensee shall at all times keep and maintain the Encroachment and the Encroachment Area in good and sufficient repair to the satisfaction of the City.

8. Notwithstanding prior approval of any work, the Licensee shall give written notice to the City of its intention to perform any excavation, maintenance or repairs in the Encroachment Area not less than three (3) clear days before the beginning of such work unless otherwise authorized in writing by the City.

9. The Licensee shall use all reasonable efforts to cause a minimum of obstruction and inconvenience during the excavation, maintenance or repairs in the Encroachment Area, and shall place and maintain such warning signs, barricades, lights or flares at or near the site of any work in progress as will give reasonable warning and protection to members of the public. Additionally, the Licensee shall perform those duties set out in Appendix "C" to this Agreement.

10. Except as expressly authorized in writing by the City, all work shall be done in such a manner as not to interfere with any existing municipal utilities located in the highway. In the event that the Licensee is authorized to interfere with existing municipal utilities in or in the vicinity of the Encroachment Area, the Licensee shall, upon written notice by the City, reimburse the City for all sums expended by the City in altering such municipal utilities, as requested, as determined in the sole discretion of the City.

11. Relocation - If any highway under, on or above which any part of the Encroachment is constructed is required for the installation of municipal utilities or other highway purposes such that the removal or relocation of the Encroachment or a portion of the Encroachment, is in the opinion of the City, required, the City may give the Licensee notice and the Licensee shall forthwith, within two weeks, after receipt of such notice, remove or relocate the Encroachment or the portion of the Encroachment affected, all at the sole expense of the Licensee.

12. Consent of Licensee - Where the Licensee is not the registered owner in fee simple of the Lands, the licensee shall, prior to execution of this Agreement by the City, obtain the consent of the fee simple owner or owners of the Lands in the form attached as Appendix "D" to this Agreement.

13. City May Enter - The City by its authorized agents or employees shall have the right at any and all times to enter into and upon the Encroachment Area for the purpose of constructing, maintaining and inspecting or removing any public works or utilities.

14. Indemnification - The Licensee shall indemnify and save harmless the City from and against all actions, proceedings, claims and demands by any person and shall reimburse the City for all damages and expenses caused or contributed to by the negligence or other default of the Licensee in respect of anything done pursuant or ostensibly pursuant to this Agreement including without limitation the excavation, use, maintenance and repair of the Encroachment or Encroachment Area.

15. Notice - Any notice required or allowed to be given under this Agreement shall be deemed to have been given to the party to whom it is addressed if it is mailed in British Columbia, in a prepaid envelope addressed to the address of the party as set out on page one (1) of this Agreement and any notice, demand or request so given shall be deemed to have been received and given five (5) days after the date of mailing. Alternatively, any notice under this Agreement may be delivered by hand and shall be deemed to be received upon the day of delivery.

16. Insurance - The Licensee covenants and agrees with the City that the Licensee shall maintain at its sole expense comprehensive general liability insurance providing coverage for acts or omissions by the Licensee, its employees and agents in the amount of not less than \$5,000,000.00 per occurrence, all inclusive, and the insurance policy shall:

- (a) name the City as an additional insured;
- (b) be issued by an insurance company entitled under provincial law to carry on business in British Columbia;

- (c) state that the policy:
 - (i) applies to each insured in the same manner and to the same extent as if a separate policy of insurance had been issued to each insured; and,
 - (ii) cannot be cancelled, lapsed or materially changed without thirty (30) days written notice to the City;
- (d) be maintained for a period ending twelve months after this Agreement is terminated; and
- (e) not include any deductible amount greater than \$5,000.00 per occurrence.

17. Copies of Policies - The Licensee shall provide the City with a copy of the required policy upon demand and shall thereafter provide copies of any amendment to the policy.

18. Replacement Insurance - In the event the Licensee fails to maintain insurance as required by this Agreement, the City in its sole discretion may, after seven (7) days' notice to the Licensee, obtain such insurance in whole or in part. If the City obtains such insurance, the Licensee shall reimburse the City for the cost of that insurance within fifteen (15) days of receiving written notice to do so from the City.

19. Survival of Terms - The indemnification, release and insurance obligations of the Licensee under this Agreement shall survive any termination of this Agreement in relation to any event first arising or commencing on or before the date of termination of this Agreement.

20. Termination - The Licensee understands and agrees that the City may at any time, in its sole discretion, withdraw the rights it has granted herein to the Licensee by giving five (5) days notice to the Licensee in writing. In the event of such withdrawal, for any cause or reason whatsoever, the Licensee shall, at its own expense, within such time as may be specified by the City, remove the Encroachment and fill up any excavation made, constructed or maintained with respect to it, and otherwise restore the Encroachment Area to its original state to the satisfaction of the City.

21. Removal of Fixtures and Chattels - If the Licensee fails to clear the Encroachment Area as required under this Agreement, the City and its agents may remove all fixtures, chattels, improvements, personal property and all other things on the Encroachment Area. The City may apply the Deposit or part of it to the cost of such removal and any deficiency will be a debt due and owing to the City by the Licensee upon receipt by the Licensee of the City's invoice for the deficiency.

22. Compliance with Other Laws - Nothing in this Agreement exempts the Licensee from complying with all applicable laws, including all municipal bylaws, or from obtaining all required permits and licenses relating to the use of the Encroachment Area or the Encroachment.
23. Release - The Licensee releases and forever discharges the City from all manner of claims of any nature whatsoever which may arise by reason of any act or omission of the City pursuant to this Agreement.
24. Compensation - Notwithstanding any provision of this Agreement, the Licensee shall not be entitled to compensation for injurious affection or disturbance resulting in any way from the removal of the Encroachment and, without limitation, shall not be entitled to business losses, loss of profit, loss of market value, relocation costs or other consequential loss by reason of the removal of the Encroachment or by reason of the termination of the Agreement.
25. Interest in Land - This Agreement grants no interest in land in the Encroachment Area to the Licensee.
26. Waiver - Waiver of any default by either party shall not be deemed to be a waiver of any subsequent default.
27. Interpretation - Whenever the singular or masculine is used in this Agreement, the same is deemed to include the plural or feminine or the body politic or corporate as the context requires.
28. References - Every reference to each party is deemed to include the heirs, executors, administrators, permitted assigns, employees, servants, agents, contractors, officers, directors and invitees of such party, where the context so permits or requires.
29. Enurement - This Agreement shall enure to the benefit of and be binding on the parties and their respective successors and assigns.
30. Severance - If any portion of this Agreement is held invalid by 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.

31. Assignment - The Licensee shall not be entitled to transfer or assign this Agreement, in whole or in part, and shall not permit or suffer any other person to occupy the whole or any part of the Encroachment Area, without the written consent of the City. Prior to transferring, assigning, giving or in any way alienating the Encroachment Area, the Licensee shall advise the prospective transferee of the existence of this Agreement and, as a condition of the transfer, cause the transferee to become a party to this Agreement in the place of the Licensee.

32. Entire Agreement - The provisions herein contained constitute the entire agreement between the parties and supersede all previous communications, representations and agreements, whether verbal or written, between the parties with respect to the subject matter hereof.

33. Time of Essence - Time is of the essence in this Agreement.

34. Governing Law - This Agreement shall be governed by and construed in accordance with the laws of the province of British Columbia.

IN WITNESS WHEREOF the parties have executed this Agreement on the day and year first above written.

The CITY OF PORT COQUITLAM)
by its authorized signatories:)

_____))
Name:)

_____))
Name:)

The Corporate seal of)
_____)

was hereunto affixed in the presence of:)

_____))
Authorized Signatory)

_____))
Authorized Signatory)

(c/s)

OR

Signed, Sealed and Delivered by)
the Licensee in the presence of:)

_____))
Witness)

_____))
Name:)

_____))
Address)

_____))

_____))
Occupation)

APPENDIX "A"
SCHEDULE "A"

Highway Encroachment Agreement

SKETCH OF ENCROACHMENT AREA

APPENDIX "B"
SCHEDULE "A"

Highway Encroachment Agreement

ANNUAL FEE

The Fee payable by the Licensee will be calculated by the City as follows:

- (1) For the excavation work, no Fee is payable.
- (2) For placement of a construction trailer, the Fee is \$250.00 per month.
- (3) For use of City land, the Fee will be based on the per square foot value of the Lands, as follows:
 - (a) The per square foot value of the Lands will be calculated based on the square footage of the Lands and the annual assessment for the Lands, as determined in the most recent assessment pursuant to the *Assessment Act*.
 - (b) The per square foot value of the Lands calculated in (a) will then be multiplied by the square footage of the Encroachment Area.
 - (c) The fee will be an annual fee equal to 5% of the amount calculated in (b), which will be pro-rated in accordance with the Term,

provided that the minimum annual fee in any case shall be \$100.00.

APPENDIX "C"
SCHEDULE "A"

Highway Encroachment Agreement

ANNUAL REQUIREMENTS

The following are the additional requirements of the Licensee referred to in section 9:

APPENDIX "D"
SCHEDULE "A"

Highway Encroachment Agreement

CONSENT OF OWNER

I/we am/are the registered owner(s) of the Lands described in this Agreement and we hereby authorize, acknowledge and consent to the Encroachment and the terms and conditions of this Agreement.

Name:

Name:

ENCROACHMENT BYLAW, 1996, NO. 3023
SCHEDULE "B"

HIGHWAY ENCROACHMENT AGREEMENT

THIS AGREEMENT DATED the ____ day of _____, 20____, is

BETWEEN:

CITY OF PORT COQUITLAM, a municipal corporation incorporated under the *Municipal Act*, R.S.B.C. 1979, c. 290, and having an office at 2580 Shaughnessy Street, Port Coquitlam, B.C., V3C 2A8

(the "City")

AND:

(the "Licensee")

GIVEN THAT:

A. The Licensee is the registered owner in fee simple of those lands and premises in the City of Port Coquitlam having an address of _____ and legally described as:

(the "Lands");

B. The Licensee has requested permission from the City to encroach upon lands the City possesses as highway for the benefit of the public;and

C. The City may, by bylaw, regulate the use of highways and establish terms and conditions according to which a person may encumber or construct on a highway; and

NOW THEREFORE THIS AGREEMENT WITNESSES that in consideration of the premises and covenants herein contained, and the sum of ONE (\$1.00) Dollars now paid by the Licensee to the City, the receipt of which is hereby acknowledged by the City, the parties agree as follows:

1. Permission to Encroach - The City grants to the Licensee permission to encroach upon that portion of highway in the City which is shown within the bold outline on the sketch attached as Appendix "A" to this Agreement (the "Encroachment Area") for the sole purpose of:

[DESCRIBE THE ENCROACHMENT IN DETAIL]

(the "Encroachment")

1. Fee For Use - The Licensee agrees to pay to the City, an annual fee of \$_____, calculated in accordance with Appendix "B" to this Agreement, payable upon execution of this Agreement and on every anniversary on that date until the Term of this Agreement expires.

2. Term - This Agreement shall be for a term of two (2) years, commencing on _____, 20__ and terminating on _____, 20__, unless terminated sooner or unless extended pursuant to the terms of this Agreement (the "Term").

3. Renewals - This Agreement may be renewed, on the terms and conditions provided in this Agreement, for one (1) additional term of up to five (5) years, upon the Licensee providing to the City notice of its intention to renew no less than six (6) months before the expiration of this Agreement or any renewal of it.

4. Deposit - As security for the due and proper performance by the Licensee of all of the covenants in this Agreement and for the removal of the Encroachment, the Licensee shall deposit with the City a security deposit (the "Deposit") in the form of cash or an irrevocable letter of credit in the amount of \$ _____ which is the amount, as determined by the City Engineer, required to remove the Encroachment and conduct all necessary repairs to the Encroachment Area, plus 5%. The Licensee agrees that the City may use the Deposit to pay the costs of the City in making repairs and removing the Encroachment pursuant to this Agreement.

5. Acknowledgment of Highway - The Licensee acknowledges and agrees that the Encroachment Area is a highway and that the City has limited power to authorize the private use of highways. The Licensee further acknowledges and agrees that any rights granted by the City to the Licensee by this Agreement are not exclusive and are subject to the public's right to pass and repass and that the City has full authority pursuant to this Agreement to require the removal of the Encroachment from the Encroachment Area, at any time, without notice and without compensation to the Licensee.

6. Construction and Maintenance - Prior to constructing the Encroachment, the Licensee shall provide to the City detailed plans and specifications showing the intended location on the Encroachment Area of the Encroachment.

7. The Licensee shall at all times keep and maintain the Encroachment and the Encroachment Area in good and sufficient repair to the satisfaction of the City.

8. Notwithstanding prior approval of any work, the Licensee shall give written notice to the City of its intention to perform any construction, maintenance or repairs to the Encroachment not less than three (3) clear days before the beginning of such work unless otherwise authorized in writing by the City.

9. The Licensee shall use all reasonable efforts to cause a minimum of obstruction and inconvenience during the construction, operation, maintenance or repairs of the Encroachment, and shall place and maintain such warning signs, barricades, lights or flares at or near the site of any work in progress as will give reasonable warning and protection to members of the public. Additionally, the Licensee shall perform those duties set out in Schedule "C" to this Agreement.

10. Except as expressly authorized in writing by the City, the Encroachment shall be constructed in such a manner as not to interfere with any existing municipal utilities located in the highway. In the event that the Licensee is authorized to interfere with existing municipal utilities in or in the vicinity of the Encroachment Area, the Licensee shall, upon written notice by the City, reimburse the City for all sums expended by the City in altering such municipal utilities, as requested, as determined in the sole discretion of the City.

11. The Licensee shall provide, if requested by the City, as-built plans of the Encroachment within one (1) month of completion of its construction.

12. Relocation - If any highway under, on or above which any part of the Encroachment is constructed is required for the installation of municipal utilities or other highway purposes such that the removal or relocation of the Encroachment or a portion of the Encroachment, is in the opinion of the City, required, the City may give the Licensee notice and the Licensee shall forthwith, within two weeks after receipt of such notice remove or relocate the Encroachment or the portion of the Encroachment affected, all at the sole expense of the Licensee.

13. Consent of Licensee - Where the Licensee is not the registered owner in fee simple of the Lands, the owner shall, prior to execution of this Agreement by the City, obtain the consent of the fee simple owner or owners of the Lands in the form attached as Schedule "D" to this Agreement.

14. City May Enter - The City by its authorized agents or employees shall have the right at any and all times to enter into and upon the Encroachment Area for the purpose of constructing, maintaining and inspecting or removing any public works or utilities.

15. Indemnification - The Licensee shall indemnify and save harmless the City from and against all actions, proceedings, claims and demands by any person and shall reimburse the City for all damages and expenses caused or contributed to by the negligence or other default of the Licensee in respect of anything done pursuant or ostensibly pursuant to this Agreement including without limitation the construction, operation, maintenance and repair of the Encroachment.

16. Notice - Any notice required or allowed to be given under this Agreement shall be deemed to have been given to the party to whom it is addressed if it is mailed in British Columbia, in a prepaid envelope addressed to the address of the party as set out on page one (1) of this Agreement and any notice, demand or request so given shall be deemed to have been received and given five (5) days after the date of mailing. Alternatively, any notice under this Agreement may be delivered by hand and shall be deemed to be received upon the day of delivery.

17. Insurance - The Licensee covenants and agrees with the City that the Licensee shall maintain at its sole expense comprehensive general liability insurance providing coverage for acts or omissions by the Licensee, its employees and agents in the amount of not less than \$5,000,000.00 per occurrence, all inclusive, and the insurance policy shall:

- (a) name the City as an additional insured;
- (b) be issued by an insurance company entitled under provincial law to carry on business in British Columbia;

- (c) state that the policy:
 - (I) applies to each insured in the same manner and to the same extent as if a separate policy of insurance had been issued to each insured; and,
 - (ii) cannot be cancelled, lapsed or materially changed without thirty (30) days written notice to the City;
- (d) be maintained for a period ending twelve months after this Agreement is terminated; and
- (e) not include any deductible amount greater than \$5,000.00 per occurrence.

18. Copies of Policies - The Licensee shall provide the City with a copy of the required policy upon demand and shall thereafter provide copies of any amendment to the policy.

19. Replacement Insurance - In the event the Licensee fails to maintain insurance as required by this Agreement, the City in its sole discretion may, after seven (7) days' notice to the Licensee, obtain such insurance in whole or in part. If the City obtains such insurance, the Licensee shall reimburse the City for the cost of that insurance within fifteen (15) days of receiving written notice to do so from the City.

20. Survival of Terms - The indemnification, release and insurance obligations of the Licensee under this Agreement shall survive any termination of this Agreement in relation to any event first arising or commencing on or before the date of termination of this Agreement.

21. Termination - The Licensee understands and agrees that the City may at any time, in its sole discretion, withdraw the rights it has granted herein to the Licensee by giving five (5) days notice to the Licensee in writing. In the event of such withdrawal, for any cause or reason whatsoever, the Licensee shall, at its own expense, within such time as may be specified by the City, remove the Encroachment and fill up any excavation made, constructed or maintained with respect to it, and otherwise restore the Encroachment Area to its original state to the satisfaction of the City.

22. Removal of Fixtures and Chattels - If the Licensee fails to clear the Encroachment Area as required under this Agreement, the City and its agents may remove all fixtures, chattels, improvements, personal property and all other things on the Encroachment Area. The City may apply the Deposit or part of it to the cost of such removal and any deficiency will be a debt due and owing to the City by the Licensee upon receipt by the Licensee of the City's invoice for the deficiency.

23. Compliance with Other Laws - Nothing in this Agreement exempts the Licensee from complying with all applicable laws, including all municipal bylaws, or from obtaining all required permits and licenses relating to the use of the Encroachment Area or the Encroachment.
24. Release - The Licensee releases and forever discharges the City from all manner of claims of any nature whatsoever which may arise by reason of any act or omission of the City pursuant to this Agreement.
25. Compensation - Notwithstanding any provision of this Agreement, the Licensee shall not be entitled to compensation for injurious affection or disturbance resulting in any way from the removal of the Encroachment and, without limitation, shall not be entitled to business losses, loss of profit, loss of market value, relocation costs or other consequential loss by reason of the removal of the Encroachment or by reason of the termination of the Agreement.
26. Interest in Land - This Agreement grants no interest in land in the Encroachment Area to the Licensee.
27. Waiver - Waiver of any default by either party shall not be deemed to be a waiver of any subsequent default.
28. Interpretation - Whenever the singular or masculine is used in this Agreement, the same is deemed to include the plural or feminine or the body politic or corporate as the context requires.
29. References - Every reference to each party is deemed to include the heirs, executors, administrators, permitted assigns, employees, servants, agents, contractors, officers, directors and invitees of such party, where the context so permits or requires.
30. Enurement - This Agreement shall enure to the benefit of and be binding on the parties and their respective successors and assigns.
31. Severance - If any portion of this Agreement is held invalid by 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.
32. Assignment - The Licensee shall not be entitled to transfer or assign this Agreement, in whole or in part, and shall not permit or suffer any other person to occupy the whole or any part of the Encroachment Area, without the written consent of the City. Prior to transferring, assigning, giving or in any way alienating the Encroachment Area, the Licensee shall advise the prospective transferee of the existence of this Agreement and, as a condition of the transfer, cause the transferee to become a party to this Agreement in the place of the Licensee.

33. Entire Agreement - The provisions herein contained constitute the entire agreement between the parties and supersede all previous communications, representations and agreements, whether verbal or written, between the parties with respect to the subject matter hereof.

34. Time of Essence - Time is of the essence of this Agreement.

35. Governing Law - This Agreement shall be governed by and construed in accordance with the laws of the province of British Columbia.

IN WITNESS WHEREOF the parties have executed this Agreement on the day and year first above written.

The CITY OF PORT COQUITLAM)
by its authorized signatories:)
)
_____)
Name:)
)
_____)
Name:)

The Corporate seal of)
_____)
was hereunto affixed in the presence of:)
)
_____)
Authorized Signatory)
)
_____)
Authorized Signatory)

(c/s)

OR

Signed, Sealed and Delivered by)
the Licensee in the presence of:)
)
_____)
Witness)
)
_____)
Address)
)
_____)
)
_____)
Occupation)

_____)
Name:

APPENDIX "A"
SCHEDULE "B"
Highway Encroachment Agreement
SKETCH OF ENCROACHMENT AREA

APPENDIX "B"
SCHEDULE "B"
Highway Encroachment Agreement
ANNUAL FEE

The annual fee payable by the Licensee will be calculated by the City as follows:

- (1) The per square foot value of the Lands will be calculated based on the square footage of the Lands and the annual assessment for the Lands, as determined in the most recent assessment pursuant to the *Assessment Act*.
- (2) The per square foot value of the Lands calculated in (1) will then be multiplied by the square footage of the Encroachment Area.
- (3) The annual fee will be the amount equal to 5% of the amount calculated in (2),

provided that the minimum annual fee in any case shall be \$100.00.

APPENDIX "C"
SCHEDULE "B"
Highway Encroachment Agreement

ADDITIONAL REQUIREMENTS

The following are the additional requirements of the Licensee referred to in section 10:

APPENDIX "D"
SCHEDULE "B"
Highway Encroachment Agreement

CONSENT OF OWNER

I/we am/are the registered owner(s) of the Lands described in this Agreement and we hereby authorize, acknowledge and consent to the Encroachment and the terms and conditions of this Agreement.

Name:

Name: