

DISTRICT OPERATIONS – BUSINESS SERVICES
Reporting to Public Session, Monday, January 22, 2018

1. Byrne Creek Secondary School Easements

The School District has received two requests from an adjacent land owner to the Byrne Creek Secondary School site. First, they are requesting that an easement registered on their site in 1999 be released, and second that the district provide a crane swing easement over part of our parking lot during their construction period. The following map indicates the location of the site.



(a) Byrne Creek Secondary School Telus Easement Release Bylaw, 2018

In 1999, a land covenant was registered against the neighbouring site that benefited the school district. The covenant provided that while Telus had a building on site, access to the building fire hydrants would be provided. The covenant indicated that access would remain in place as long as the building exists; it has subsequently been demolished. The land owner is requesting that the Board authorize the release of the covenant as stipulated in the agreement. A review of the Byrne Creek site shows that necessary hydrants exist along the three surrounding roads. Additionally, the school itself contains hydrant access as required by the current Building Code.

Recommendation

It is recommended that Byrne Creek Secondary School Telus Easement Release Bylaw, 2018 receive three readings at this Board meeting and final adoption in accordance with the Board's Procedural Bylaw as follows:

- Motion 1 THAT Byrne Creek Secondary School Telus Easement Release Bylaw, 2018 receive three readings at this Board meeting held January 22, 2018.
- Motion 2 THAT Byrne Creek Secondary School Telus Easement Release Bylaw, 2018 be read a first time.
- Motion 3 THAT Byrne Creek Secondary School Telus Easement Release Bylaw, 2018 be approved a first time and read a second time.
- Motion 4 THAT Byrne Creek Secondary School Telus Easement Release Bylaw, 2018 be approved a second time and read a third time.
- Motion 5 THAT Byrne Creek Secondary School Telus Easement Release Bylaw, 2018 be approved a third time.
- Motion 6 THAT Byrne Creek Secondary School Telus Easement Release Bylaw, 2018 having been read a first, second and third time, be finally passed and adopted the 22nd day of January, 2018; that the Chair of the Board and the Secretary-Treasurer be authorized to sign the bylaw; and that the bylaw be sealed with the corporate seal of the Board.

(b) Byrne Creek Secondary School Crane Swing Easement Bylaw, 2018

The adjacent land owner is requesting that a crane swing easement be provided during construction that would allow the back of the crane to extend over the Byrne Creek north-west parking area. The attached bylaw would authorize the Secretary-Treasurer to enter into an agreement that establishes the terms and conditions of the easement (which would be registered on title) and would provide the Secretary-Treasurer authorization to execute all documents necessary.

Preliminary discussions have occurred with the adjacent land owner to understand the construction requirements, and to investigate the structure of a potential easement – crane swing agreement. Legal counsel has been engaged to review the draft agreement in detail making sure all necessary due diligences are covered and to establish an understanding on

communication, insurance, and compensation. The reasonable compensation to the district to allow the easement is \$10,000 plus reasonable legal expenses are covered.

All lifting of material, storage of material and necessary guy-wires would not occur on or over the school site. Rather, the back-end of the crane (counter weight) would cross over our property line.

Recommendation

It is recommended that Byrne Creek Secondary School Crane Swing Easement Bylaw, 2018 receive three readings at this Board meeting and final adoption in accordance with the Board's Procedural Bylaw as follows:

- Motion 1 THAT Byrne Creek Secondary School Crane Swing Easement Bylaw, 2018 receive three readings at this Board meeting held January 22, 2018.

- Motion 2 THAT Byrne Creek Secondary School Crane Swing Easement Bylaw, 2018 be read a first time.

- Motion 3 THAT Byrne Creek Secondary School Crane Swing Easement Bylaw, 2018 be approved a first time and read a second time.

- Motion 4 THAT Byrne Creek Secondary School Crane Swing Easement Bylaw, 2018 be approved a second time and read a third time.

- Motion 5 THAT Byrne Creek Secondary School Crane Swing Easement Bylaw, 2018 be approved a third time.

- Motion 6 THAT Byrne Creek Secondary School Crane Swing Easement Bylaw, 2018 having been read a first, second and third time, be finally passed and adopted the 22nd day of January, 2018; that the Chair of the Board and the Secretary-Treasurer be authorized to sign the bylaw; and that the bylaw be sealed with the corporate seal of the Board.

THE BOARD OF EDUCATION OF
SCHOOL DISTRICT NO. 41 (BURNABY)

BYRNE CREEK SECONDARY SCHOOL TELUS EASEMENT RELEASE BYLAW, 2018

WHEREAS section 65 (5) of the *School Act* provides that a board of education may exercise a power with respect to the acquisition or disposal of property owned or administered by the board only by bylaw;

AND WHEREAS pursuant to Section 96 (1) of the *School Act*, “land” includes any interest in land, including any right, title or estate in it of any tenure;

AND WHEREAS:

- (i) On December 15, 1999, Easement BN332702 (the “**Telus Easement**”) was registered against PID: 004-346-521 Lot 2 Except Part Dedicated Road on Plan BCP7569 District Lot 53 Group 1 New Westminster District Plan LMP44380 (“**Lot 2**”) in favour of the Byrne Creek Secondary School site (the “**Property**”);
- (ii) The Telus Easement provides the owner of the Property the right to enter Lot 2 to access, utilize, maintain and repair fire hydrants and associated water lines on Lot 2;
- (iii) The Telus Easement provides that it is to automatically terminate and be released once the buildings existing on the Property as at the date of the Telus Easement have been demolished, and those buildings were demolished prior to the construction of the Byrne Creek Secondary School which was completed in 2005;
- (iv) Lot 2 was previously owned by Telus Communications (B.C.) Inc. and is now owned by the City of Burnaby, which has asked The Board of Education of School District No. 41 (Burnaby) (the “**Board**”) to release the Telus Easement;
- (v) The Property is facility number 41068;
- (vi) The address of the Property is 7777 18th Street, Burnaby, British Columbia, V3N 5E5, and the legal description of the Property is:

Parcel Identifier: 025-784-994
Lot C District Lot 53 Group 1 New Westminster District Plan BCP7569;
- (vii) The Board is satisfied that the release of the Telus Easement will not interfere with the Board’s use of the Property for educational purposes.

NOW THEREFORE be it resolved as a Bylaw of the Board that the Board release the Telus Easement.

BE IT FURTHER resolved that the Secretary-Treasurer be and is hereby authorized, on behalf of the Board, to execute and deliver a release of the Telus Easement in registrable form, and all related and ancillary documents required to complete the release of the Telus Easement.

This bylaw may be cited as “School District No. 41 (Burnaby) Byrne Creek Secondary School Telus Easement Release Bylaw, 2018”.

READ A FIRST TIME THE _____ DAY OF _____, 2018;

READ A SECOND TIME THE _____ DAY OF _____, 2018;

READ A THIRD TIME, PASSED AND ADOPTED THE _____ DAY OF _____, 2018.

Board Chair

Secretary-Treasurer

I HEREBY CERTIFY this to be a true and original “School District No. 41 (Burnaby) Byrne Creek Secondary School Telus Easement Release Bylaw, 2018” adopted by the Board this __ day of _____, 2018.

Board Chair

THE BOARD OF EDUCATION OF
SCHOOL DISTRICT NO. 41 (BURNABY)

BYRNE CREEK SECONDARY SCHOOL CRANE SWING EASEMENT BYLAW, 2018

WHEREAS section 65 (5) of the *School Act* provides that a board of education may exercise a power with respect to the acquisition or disposal of property owned or administered by the board only by bylaw;

AND WHEREAS pursuant to Section 96 (1) of the *School Act*, “land” includes any interest in land, including any right, title or estate in it of any tenure;

AND WHEREAS:

- (i) LM Precedence Homes Ltd. (“**Precedence**”) proposes to acquire from the City of Burnaby lands legally described as PID: 004-346-521 Lot 2 Except Part Dedicated Road on Plan BCP7569 District Lot 53 Group 1 New Westminster District Plan LMP44380 (“**Lot 2**”) adjoining the Byrne Creek Secondary School site (the “**Property**”) owned by The Board of Education of School District No. 41 (Burnaby) (the “**Board**”);
- (ii) Precedence proposes to place two cranes on Lot 2 to assist in the development of Lot 2, and has asked the Board to grant to Precedence a temporary crane swing easement (the “**Precedence Crane Swing Easement**”) to be registered against the Property to permit the booms of the cranes (but not any loads) to enter into the airspace over the Property as shown on the site plan attached hereto as Schedule A, subject to the operation safety procedures and site requirements set out in Schedule B attached hereto and other terms and provisions;
- (iii) The Property is facility number 41068;
- (iv) The address of the Property is 7777 18th Street, Burnaby, British Columbia, V3N 5E5, and the legal description of the Property is:

Parcel Identifier: 025-784-994
Lot C District Lot 53 Group 1 New Westminster District Plan BCP7569;
- (v) The Board is satisfied that the granting of the Precedence Crane Swing Easement will not interfere with the Board’s use of the Property for educational purposes.

NOW THEREFORE be it resolved as a Bylaw of the Board that the Board grant the Precedence Crane Swing Easement.

BE IT FURTHER resolved that the Secretary-Treasurer be and is hereby authorized, on behalf of the Board, to execute and deliver the Precedence Crane Swing Easement in registrable form and on such terms as the

Secretary-Treasurer may consider advisable, and all related and ancillary documents required to complete the granting of the Precedence Crane Swing Easement.

This bylaw may be cited as “School District No. 41 (Burnaby) Byrne Creek Secondary School Crane Swing Easement Bylaw, 2018”.

READ A FIRST TIME THE 22nd DAY OF JANUARY, 2018

READ A SECOND TIME THE 22nd DAY OF JANUARY, 2018

READ A THIRD TIME, PASSED AND ADOPTED THE 22nd DAY OF JANUARY, 2018

Board Chair

Secretary-Treasurer

I HEREBY CERTIFY this to be a true and original “School District No. 41 (Burnaby) Byrne Creek Secondary School Crane Swing Easement Bylaw, 2018” adopted by the Board the 22nd day of January, 2018.

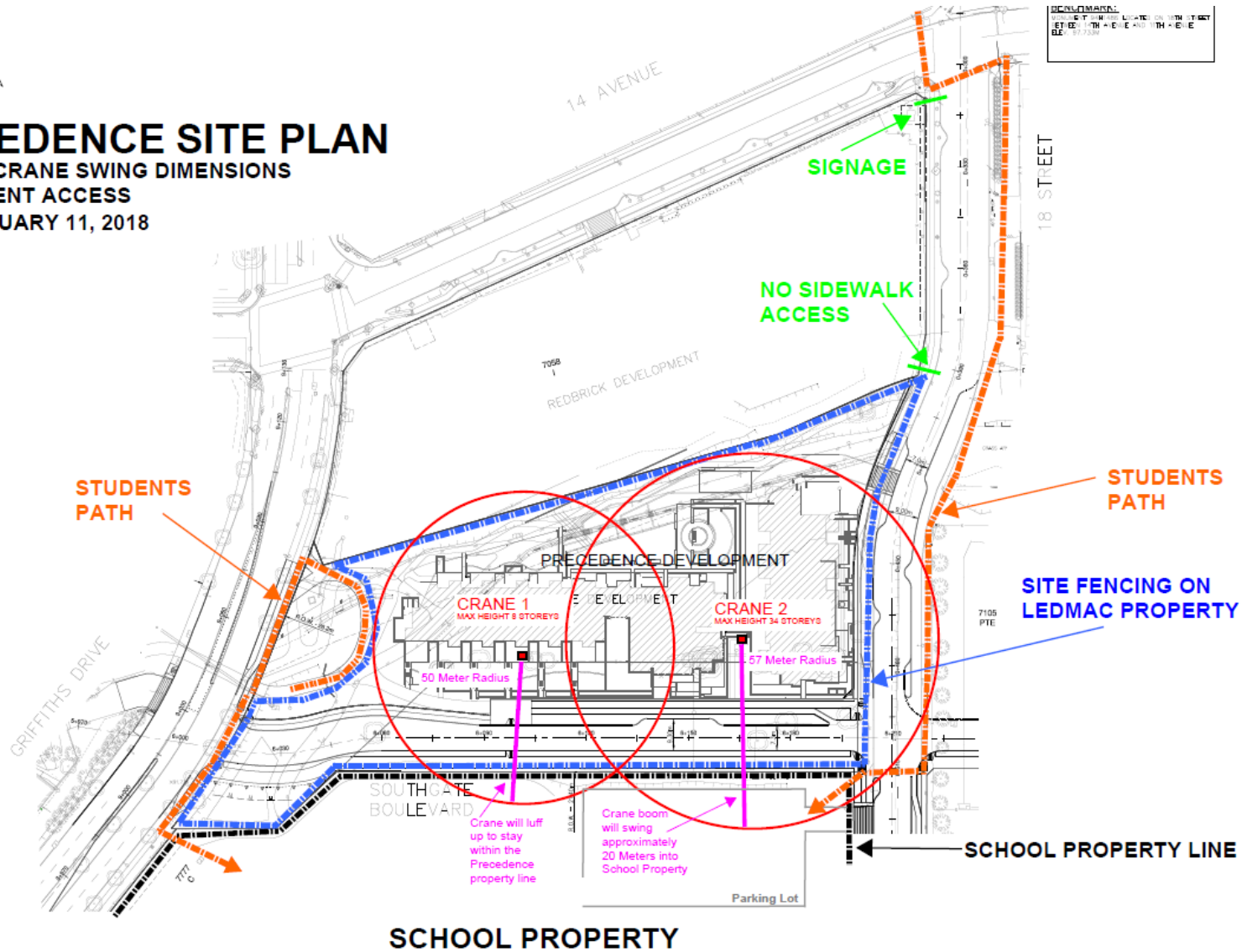
Secretary-Treasurer

SCHEDULE A

PRECEDENCE SITE PLAN

SHOWING CRANE SWING DIMENSIONS
AND STUDENT ACCESS

DATE: JANUARY 11, 2018



SCHOOL PROPERTY

**SCHEDULE B
GRANTEE'S CRANE OPERATION SAFETY PROCEDURES
AND SITE REQUIREMENTS**

There will be 2 overhead cranes on the Precedence site. They will be erected and operated according to all City of Burnaby bylaws and requirements, the *Occupational Health and Safety Regulation* (British Columbia) and WorkSafeBC rules and regulations. Included in these regulatory documents are the following strict precautions, crane operation safety procedures and site requirements, which at all times will be maintained and adhered to on the Precedence site:

- The crane is tested daily before it's allowed to be operational.
- Following Crane Manufacturers' recommendations, the crane is inspected and maintained by certified crane safety personnel.
- No work shall take place over or on sidewalks while they are open to the public. The crane jib (arm) will swing over the sidewalks as needed but there will never be loads over the public areas.
- No crane loads will be carried or permitted over students at any time.
- When the crane is in operation, the crane operator and the ground crew are always in radio contact. There is an intense safety protocol regarding any overhead work with pedestrian or vehicular traffic below.
- Marcon Construction continually monitors and updates its 'Site Safety Plan' as construction on site progresses.