

THE CORPORATION OF THE DISTRICT OF BURNABY

BY-LAW NO. 7075

A BY-LAW to ratify and confirm a certain agreement in writing made between The British Columbia Telephone Company and The Corporation of the District of Burnaby.

The Council of The Corporation of the District of Burnaby ENACTS as follows:

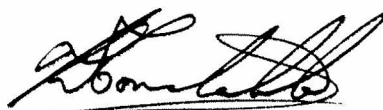
1. This By-law may be cited as "BURNABY KINGSWAY PEDESTRIAN OVERPASS BY-LAW, 1977."
2. The Council does hereby ratify and confirm an agreement in writing dated the        day of June, 1977 made between The British Columbia Telephone Company and The Corporation of the District of Burnaby, a true copy of which is hereunto annexed and marked as Schedule "A".
3. The Mayor and Clerk are hereby authorized and empowered to sign the said agreement in writing and affix the Corporate Seal thereto.

Read a first time this 27th day of June, 1977.

Read a second time this 27th day of June, 1977.

Read a third time this 27th day of June, 1977.

Reconsidered and adopted this 4th day of July, 1977.



MAYOR



CLERK



SCHEDULE "A"

THIS INDENTURE made and dated the 22nd day of June, 1977.

BETWEEN:

BRITISH COLUMBIA TELEPHONE COMPANY,  
a Company duly incorporated pursuant  
to the laws of the Dominion of Canada,  
registered extra-provincially within  
the Province of British Columbia and  
having its head office within said  
Province at 768 Seymour Street, in  
the City of Vancouver,

(herein referenced "the Grantor")

OF THE FIRST PART

AND:

THE CORPORATION OF THE DISTRICT OF BURNABY,  
a Municipal Corporation under the "Municipal  
Act" of the Province of British Columbia and  
having its municipal offices at 4949 Canada  
Way, in the District of Burnaby, in the  
Province of British Columbia,

(herein referenced "the District of Burnaby")

OF THE SECOND PART

WHEREAS by by-law adopted the 27th day of January, 1974,  
Council of the District of Burnaby did approve application  
No. 32/74 made by and in the name of the Grantor for plan of  
comprehensive development and rezoning of certain lands and pre-  
mises situate, lying and being in the Municipality of Burnaby and  
presently known and described as:

FIRSTLY: Lot Two Hundred and Three (203) of  
District Lots Thirty-Five (35) and  
One Hundred and Fifty-One (151), and

SECONDLY: Lot Two Hundred and Four (204) of  
District Lot Thirty-Five (35)

both of Group One (1), Plan 51937,  
New Westminster District

(herein collectively referenced "the lands and premises")

AND WHEREAS adoption of said by-law was made conditional that the Grantor, developer of the lands and premises shall, inter alia, construct and install or cause to be constructed and installed in the name of and on behalf of the District of Burnaby a certain public bridgeway including all sidewalks, railings, stairs, ramps and other appurtenances including foundations and columns necessary or incident thereto (herein referenced "the said works"), the same to be designed for the elevated passage of pedestrians over and across part of dedicated roadway constituted as "Kingsway" and to inter-connect and to be erected and sited upon:

- (a) the firstly lands, comprising a part of lands situate within the District of Burnaby and constituted and known as "Central Park" and more particularly described pursuant to a certain grant of leasehold interest thereof made pursuant to indenture by Her Majesty the Queen, as Lessor, dated the 4th day of September, 1959, the said firstly lands and portion of the works thereon outlined red on plan annexed hereto as Schedule "A";
- (b) secondly lands, comprising air space to said dedicated roadway, the portion of the works thereon outlined green on plan annexed hereto as Schedule "A";

- (c) thirdly lands, comprising a part of the lands and premises herein, the said thirdly lands and part of the works thereon outlined blue on plan annexed hereto as Schedule "A";

AND WHEREAS in furtherance of such intent and purpose, the District of Burnaby was then vested or did acquire the right for itself by the Grantor to so place and install the said works:

- (a) as to the firstly lands, pursuant and subject to the said indenture of lease and right therein for the District of Burnaby to erect or place thereon any leasehold structure deemed convenient or necessary for public recreational use, subject always to proviso for permitted removal;
- (b) as to the secondly lands, pursuant and subject to the terms of a certain permit and licence numbered NW356/76 granted unto the District of Burnaby by Her Majesty the Queen represented by the Department of Highways;
- (c) as to the thirdly lands, pursuant and subject to the terms and conditions of a certain grant by the Grantor unto the District of Burnaby of public right of way in and upon part of the lands and premises herein, all of which said leasehold, licence and other authorities contemplate the construction and installation of the said works

in and upon the respective lands therein, the title thereto to be reserved unto the District of Burnaby;

AND WHEREAS the District of Burnaby did agree to accept possession of the said works and dedication thereof by deed of gift unto the District of Burnaby subject and conditional to completion made in accordance with all of the design specifications and construction detail therefor as determined by the District of Burnaby;

AND WHEREAS the Grantor did by Deed in conveyance made the 11th day of March, 1975 grant unto 70,074 Limited the said lands and premises subject, inter alia, to the said right of way hereinbefore described, and with the benefit of said authority for comprehensive development of the lands and premises; provided, however, that in consideration of agreement to grant unto the Grantor a certain leasehold interest in and to the lands and premises or part thereof and for the better use thereof, the Grantor did agree to construct and install the said works to be made and taken on its behalf by said 70,074 Limited and did further agree to pay and indemnify said 70,074 Limited for and with respect to all costs and expense incurred in connection therewith;

AND WHEREAS the said works are properly completed and constructed in accordance with all design specifications and construction detail therefor, the parties agreeing that the

Grantor shall deliver possession thereof and shall grant and dedicate by deed of gift all right, title and interest therein unto the District of Burnaby.

NOW THIS AGREEMENT WITNESSETH that:

1. The Grantor does hereby release unto the District of Burnaby and deliver all possessory right and interest in and to the said works so constructed and installed in the name of the District of Burnaby, and by and in pursuance of the several leasehold, licence and other authorities hereinbefore provided and held in the name of the District of Burnaby;

2. The Grantor does hereby grant, release and dedicate by deed of gift unto the District of Burnaby any and all right, claim or interest whatsoever and howsoever arising in and to the said works including, without limitation, the concept design and engineering therefor and all claim for monies incurred either directly or indirectly by itself or by its contractors or agents and in connection with the construction and installation thereof, the Grantor having completed or caused the said works to be completed in the name and on behalf of the District of Burnaby;

3. The Grantor does hereby further covenant and agree:

- (i) That the said works are free and clear of all liens, charges and encumbrances whatsoever save and except the reservations and provisos set forth and contained in the said leasehold, licence and other authorities

as granted to and vested in the name of the District of Burnaby, and otherwise, the Grantor shall indemnify and save the District of Burnaby harmless from and against any and all said claim including demand for cost of labour or material directly or indirectly attributable to the said works or part thereof;

- (ii) That the Grantor has fully paid and satisfied all cost and expense directly or indirectly arising in consequence of the said works and construction and installation thereof, in total amount of ONE HUNDRED FORTY-ONE THOUSAND TWO HUNDRED AND TWENTY-NINE DOLLARS (\$141,229.00);
- (iii) That the Grantor shall execute and deliver unto the District of Burnaby all such further assurances as the District of Burnaby may deem requisite to give effect to the intent hereof and the grant, release and dedication by deed of gift of the said works unto the District of Burnaby.

4. And the District of Burnaby does hereby covenant and agree:

- (i) That the said works are fully complete and constructed pursuant to all District of Burnaby approved design and engineering plans and drawings therefor and in accordance with specifications as determined by the District of Burnaby;

- (ii) That the Grantor did construct or did cause the said works to be constructed under authority, direction and supervision of the District of Burnaby and that same were made and completed in accordance with the terms and conditions of the leasehold, licence and other authorities granted to the District of Burnaby and that the Grantor has not caused the District of Burnaby to be in default of the terms and conditions thereof;
- (iii) That the District of Burnaby does hereby acknowledge and confirm that the said works and all legal and equitable estate and interest therein are by effectual gift vested absolutely in the name of the District of Burnaby, the Grantor having fully satisfied all conditions and proviso to acceptance of possession and the grant, release, dedication and gift herein made by the Grantor unto the District of Burnaby;
- (iv) That the District of Burnaby does hereby acknowledge that the present value of the said works is in amount of ONE HUNDRED FORTY-ONE THOUSAND TWO HUNDRED AND TWENTY-NINE DOLLARS (\$141,229.00);
- (v) That the District of Burnaby does hereby approve and confirm performance by the Grantor of said condition to development of the lands and premises as assumed by and reserved to the Grantor for the better use of leasehold interest of the lands and premises granted unto the Grantor;



- (vi) That the District of Burnaby shall by by-law duly adopted by Council of the District of Burnaby confirm and ratify these presents, acceptance of delivery of possession of the said works, and shall acknowledge that all conditions to the grant, release and dedication by deed of gift thereof unto the District of Burnaby are fully met and satisfied, the said works and all right, title and interest therein being vested absolutely in the name of the District of Burnaby for the public purposes herein provided;
- (vii) That the District of Burnaby does hereby acknowledge that part of the said works in and upon the thirdly lands lead and connect to certain improvements including walkway affixed to and forming a part of the lands and premises, the District of Burnaby further acknowledging that same do not form a part of the said works, provided however that the District of Burnaby shall not obstruct and shall permit free access from the lands and premises at such point of connection and leading to the said works, and further provided and it is expressly understood and agreed that the Grantor or the registered owner from time to time of the lands and premises shall be permitted to erect at said point of connection a gate or other attachment as the Grantor may deem necessary in assurance of security of the lands and premises and improvements thereon;

(viii) That on and following the date hereof, the District of Burnaby shall at its sole cost and expense operate, maintain, repair, replace and renew the said works, the Grantor relieved of any and all obligation or liability therefor whatsoever and howsoever arising whether breach of construction warranty or otherwise, provided however, that the Grantor shall on behalf of the District of Burnaby, keep and maintain the travelled portion of the said works in a clean and tidy state free of debris and snow accumulation, and to equivalent standard maintained by the District of Burnaby in relation to sidewalks appurtenant and leading to the said works; provided that, the Grantor not being in default hereunder, the District of Burnaby shall indemnify and save the Grantor harmless from and against any and all action, proceeding, claim, cost, expense, demand or liability whatsoever and howsoever arising in connection with the said works and whether for loss or damage suffered or occasioned to persons or property while in or upon the said works;

(ix) That insofar as same may be necessary to give effect to the grant herein, the District of Burnaby shall use its best efforts to obtain on or before December, 1977, all necessary consents and approvals of Her Majesty the Queen represented by the Department of Municipal Affairs;

(x) That the said works and the Grantor and registered owner of the lands and premises from time to time shall not be subject to rate, levy or assessment of the said works by the District of Burnaby including equipment or improvement tax thereof.

IN WITNESS WHEREOF the Grantor has caused its corporate seal to be affixed in the presence of its duly authorized officers in that behalf and the Corporation of the District of Burnaby has hereunto caused its common seal to be affixed in the presence of its duly authorized officers in that behalf on the day and year first above written.

THE CORPORATE SEAL of  
BRITISH COLUMBIA TELEPHONE  
COMPANY was hereunto  
affixed in the presence of:

C/S

  
\_\_\_\_\_  
Signature

VICE PRESIDENT

\_\_\_\_\_  
Title

  
\_\_\_\_\_  
Signature

Assistant Secretary

\_\_\_\_\_  
Title

THE COMMON SEAL of THE  
CORPORATION OF THE DISTRICT  
OF BURNABY was hereunto  
affixed in the presence of:

C/S

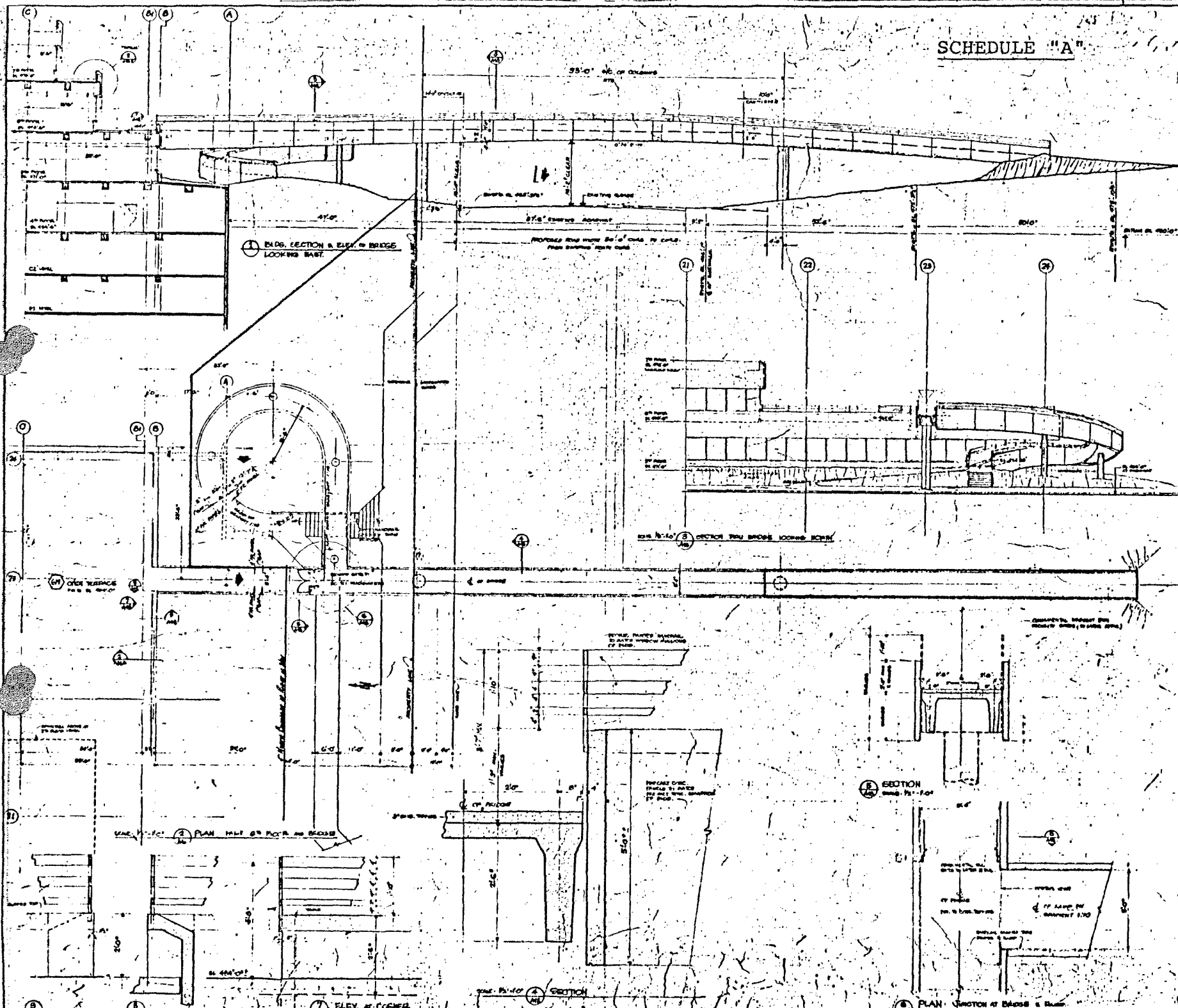
\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

SCHEDULE "A"



1	BRIDGE NUMBER	
2	BRIDGE LOCATION	
3	BRIDGE TYPE	
4	BRIDGE MATERIAL	
5	BRIDGE SPAN	
6	BRIDGE DEPTH	
7	BRIDGE HEIGHT	
8	BRIDGE WIDTH	
9	BRIDGE AREA	
10	BRIDGE VOLUME	
11	BRIDGE WEIGHT	
12	BRIDGE COST	
13	BRIDGE DATE	
14	BRIDGE DRAWN BY	
15	BRIDGE CHECKED BY	
16	BRIDGE APPROVED BY	
17	BRIDGE SCALE	
18	BRIDGE SHEET NO.	
19	BRIDGE PROJECT NO.	
20	BRIDGE CLIENT	

Musson Cattell & associates architects

DOMINION CONSTRUCTION

Headquarters for B.C. Telephone Co. Kingsway at Boundary Rd. Burnaby B.C.

DATE AS SHOWN: 1951  
 DRAWN BY: [Signature]  
 CHECKED BY: [Signature]  
 APPROVED BY: [Signature]

DATED: JUNE 22, 1977

BETWEEN:

BRITISH COLUMBIA TELEPHONE  
COMPANY

AND:

THE CORPORATION OF THE  
DISTRICT OF BURNABY

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DEDICATION AGREEMENT

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*Norton, Stewart, Norton,  
Johns & Cave*

BARRISTERS & SOLICITORS

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401 - MONTREAL TRUST BUILDING  
700 WEST BENDER STREET