

THE CORPORATION OF THE DISTRICT OF BURNABY

BY-LAW NO. 7504

A BY-LAW to authorize an agreement between the City of Vancouver and The Corporation of the District of Burnaby concerning the widening and improvement of Boundary Road from Imperial Street to Marine Way.

WHEREAS section 535 of the Municipal Act provides that all highways forming the boundary or part of the boundary between municipalities shall be opened, maintained, kept in repair and improved by the municipalities of which they form such boundary.

AND WHEREAS Boundary Road forms the boundary between the City of Vancouver and the District of Burnaby.

AND WHEREAS the City of Vancouver and the District of Burnaby deem it advisable and in the public interest to improve Boundary Road by widening the road between Imperial Street (49th Avenue) and Marine Way.

AND WHEREAS the agreement made by the City of Vancouver and the District of Burnaby for the said purpose is not valid until ratified by by-laws adopted by a vote of not less than two-thirds of all the members of each respective Council and no such by-laws shall come into effect until approved by the Minister of Municipal Affairs.

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

1. This by-law may be cited as "BURNABY BOUNDARY ROAD WIDENING BY-LAW 1980".
2. The Council of The Corporation of the District of Burnaby is hereby authorized and empowered to enter into an agreement in writing and under seal with the City of Vancouver to improve and widen Boundary Road between Imperial Street (49th Avenue) and Marine Way in the form annexed hereto as Schedule "A" and forming part of this by-law.

3. The Council does hereby ratify the said agreement annexed hereto as Schedule "A".

Read a first time this 8th day of APRIL 1980.

Read a second time this 8th day of APRIL 1980.

Read a third time this 8th day of APRIL 1980.

Received the approval of the Minister of Municipal Affairs this 15th day of May 1980.

Reconsidered and adopted by a vote of not less than two-thirds of all the members of Council this 2nd day of June 1980.



M A Y O R



C L E R K

THIS AGREEMENT made the *28th* day of *March* ,

1980

BETWEEN:

CITY OF VANCOUVER

(hereinafter called "Vancouver")

OF THE FIRST PART

AND:

THE CORPORATION OF THE DISTRICT
OF BURNABY, of 4949 Canada Way,
in the municipality of Burnaby,
Province of British Columbia,

(hereinafter called "Burnaby")

OF THE SECOND PART

WHEREAS Boundary Road is located upon the north/
south boundary line between Vancouver and Burnaby;

AND WHEREAS Burnaby and Vancouver consider it to
be in their mutual interests that the existing Boundary Road
between 49th Avenue in Vancouver (Imperial Street in Burnaby)
and Marine Way be widened and improved;

AND WHEREAS it is more convenient that some of the
widening and improvements be completed entirely on Vancouver
lands and that the portions of the road on Vancouver lands
be maintained by Vancouver as well as a portion of the road
in Burnaby lands;

AND WHEREAS Burnaby and Vancouver by agreement
dated the 6th day of December, 1979, (herein called the
"Agreement") have agreed that City lands described in the
Agreement shall be used for the construction of the widened
and improved Boundary Road.

NOW THEREFORE the parties hereto, in consideration
of the covenants and agreements contained herein, mutually
covenant and agree as follows:

1. Vancouver will carry out construction of Boundary
Road substantially in accordance with the plan attached
hereto as Schedule "A" and, so far as they apply to the
Project as defined herein, City of Vancouver construction
contract documents 801, 802 and 803 and the plans and specifi-
cations included therein, or such amended plans, specifications
and contracts as may be agreed upon in writing by Vancouver's
City Engineer and Burnaby's Municipal Engineer.

2. Unless otherwise specifically provided for or excepted, Boundary Road for the purpose of this agreement shall mean

- (a) that portion of the street known as Boundary Road situated between a point approximately 175 metres north of the south property line of 49th Avenue in Vancouver (Imperial Street in Burnaby) and North Kent Avenue to include transitions,
- (b) the portion of the road between the westerly curb of the southbound portion of the road and the easterly curb of the northbound portion, including the said curbs, as shown outlined in black on Schedule "A",
- (c) lighting standards and electrical wiring connecting thereto from Vancouver or Burnaby services,
- (d) overpasses including approach ramps as shown shaded in red on Schedule "A",
- (e) necessary traffic control measures including but not limited to signals, signs, paint markings and warning flashers,
- (f) drainage facilities required for the project,
- (g) grading of adjacent land to obtain road elevations, relocation of utilities to facilitate construction and construction of retaining walls, fences and barriers,
- (h) work included in the areas outlined in green on Schedule "A",

all of which are collectively called the "Project").

3. Burnaby agrees to share the costs of the Project as follows:

- (a) by payment to Vancouver pursuant to the Agreement the sum of one million, one hundred and fifty two thousand dollars (\$1,152,000.00) being the agreed cost of the lands described in the Agreement, receipt of which is acknowledged by Vancouver,
- (b) pay to Vancouver fifty per cent (50%) of the cost of construction of the Project, the said construction cost to include the cost of constructing, maintaining and necessary removal of detour roads during the course of construction of the Project, but said construction cost does not include any increase in cost incurred by reason of raising the height of retaining walls over and above those referred to in the construction contract documents,
- (c) pay to Vancouver fifty per cent (50%) of all maintenance costs for the Project (hereinafter called the "maintenance costs")

4. For the purpose of Paragraph 3 the cost of the Project shall include costs incurred by Burnaby for detour roads and such other costs as may be agreed to by Vancouver and Burnaby may set off fifty per cent (50%) of such costs against payment referred to in 3(b) and any funds received by Vancouver from the Provincial Government in respect to the construction of the Project shall be applied to Project construction costs unless otherwise provided for in the grant.

5. Maintenance work upon the Project shall be carried out by Vancouver until January 1, 1986. After January 1, 1986, the parties shall mutually agree upon the procedure for maintaining the Project PROVIDED THAT until agreement is reached maintenance shall continue to be carried out in accordance with paragraph 3(c) of this agreement, and if the parties do not reach agreement either party may proceed pursuant to Section 536 of the Municipal Act to request the Minister of Highways to determine the apportionment of costs for maintenance.

6. Maintenance expense shall include operation and maintenance of the Project as described in paragraph 2 and shall be to a standard customarily applied to arterial streets in the City of Vancouver but shall not include
 - (a) utilities under the Project except for wiring forming part of the street lighting system and street drainage system,
 - (b) fences, barriers, retaining walls, landscaping, grading of berms or sidewalks outside the black lines on Schedule "A" and work referred to in paragraph 2(a).

7. The cost of maintenance shall be calculated by including the following:
 - (a) labour based on actual costs plus fringe benefits for time worked upon the Project,
 - (b) material and equipment used on the Project,
 - (c) normal overhead charges.

8. Vancouver and Burnaby will be responsible for traffic and law enforcement of all those portions of the Project which are within their territorial boundaries.

9. Vancouver agrees that, in consideration of the payment by Burnaby of the overhead charges referred to in paragraph 8(c) it will be responsible for the legal liability for cost, expenses, damages or claims for compensation for bodily injury or property damage arising out of its ownership, and maintenance or lack of it of the Project to the extent of five million dollars (\$5,000,000.00) for all claims arising out of any single occurrence AND Vancouver and Burnaby mutually agree that they will share equally the cost, expense, damage or claims for compensation in excess of the aforementioned five million dollars (\$5,000,000.00). PROVIDED THAT the limit of five million dollars shall be deemed to be increased to an amount equal to the amount of indemnity provided by Vancouver's insurers in respect to a claim referred to in this paragraph. For the purpose of this paragraph the word "occurrence" shall mean an accident or unexpected event or happening or a continuous or repeated exposure to injurious conditions which results in personal injury or damage to or destruction of property by Vancouver or by any of Vancouver's servants, employees or agents.

10. Vancouver agrees that it will not close the portion of Boundary Road within the Project, except in the case of emergency road construction or maintenance without the consent of Burnaby, nor will it sell, lease or otherwise dispose of the lands described in the Agreement without the consent of Burnaby, such consent not to be unreasonably withheld but may be granted upon terms agreed upon by the parties hereto.

11. Vancouver and Burnaby agree that the configuration of Boundary Road as shown on Schedule "A" will not be changed without the consent of the parties hereto as evidenced by an agreement pursuant to Section 177 of the Municipal Act.

IN WITNESS WHEREOF the parties hereto have hereunto caused their respective seals to be affixed under the hands

of their proper officers duly authorized in that behalf as
of the day and year first above written.

SEALED with the Common Seal)
of the CITY OF VANCOUVER and)
signed by:)
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Director of Legal Services

(Approved by Council Resolution
March 25, 1980)

SEALED with the Common Seal)
of THE CORPORATION OF THE)
DISTRICT OF BURNABY and)
signed by:)
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DATED:

CITY OF VANCOUVER

AND

THE CORPORATION OF THE DISTRICT
OF BURNABY

BOUNDARY ROAD AGREEMENT

Ian G. Henley,
LAW DEPARTMENT
CITY HALL
VANCOUVER 10. B.C.

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