

ITEM 17
MANAGER'S REPORT NO. 1
COUNCIL MEETING Jan. 12/76

Re: TEXACO CANADA LTD. PURCHASE AGREEMENT

Attached is a report from the Director of Planning on the acquisition of property from Texaco Canada Limited.

On December 30, 1975, our Legal Department received the following letter from Texaco's solicitors:

DAVIS & COMPANY
BARRISTERS & SOLICITORS

A. T. R. CAMPBELL, Q.C.
A. B. FERRIS, Q.C.
E. S. THORNE
A. W. SUTHERLAND
W. J. WRIGHT
J. PEARSON
P. W. BOGARDUS
R. T. BANNO
M. R. V. STORROW
R. E. MARRIOTT
R. B. D. SWIFT
G. D. BURNYEAT
W. R. ELLISON
R. D. WATTS
N. M. ROBERTSON

A. W. FISHER, Q.C.
D. S. D. HOBBIE
G. K. FUJISAWA
D. H. C. PATERSON
D. M. JOHNSTON
J. D. LAMBERT
P. J. FURLONG
I. G. NATHANSON
P. J. GORDON
D. L. PAGE
R. K. MCLEOD
W. SCHWEGLER
D. C. MORLEY
R. D. DIEBOLT

A. J. F. JOHNSON, Q.C.
H. C. MILLHAM
D. W. SHAW
J. R. MACKAY
M. R. TAYLOR
A. C. ROBERTSON
J. M. PELRINE
J. M. D. TOOTILL
M. S. SHANNON
D. W. OONHOE
D. R. CLARK
J. A. KELLY
F. Y. HANANO
M. M. KAREN

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1030 WEST GEORGIA STREET
VANCOUVER, CANADA V6E 3C2

TELEPHONE 687-9444
AREA CODE 604
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C. W. BRAZIER, Q.C. — ASSOCIATE COUNSEL

FILE NO.
REPLY TO: Miss M.S. Shannon

December 30 1975

The Corporation of the District of Burnaby,
Municipal Hall,
4949 Canada Way,
Burnaby, B.C.

Attention: Mr. W.L. Stirling

Dear Sirs:

Re: Sale from Texaco Canada Limited

Please find enclosed agreement between Texaco Canada Limited and The Corporation of the District of Burnaby for your perusal and if satisfactory for execution by the District as soon as possible. As you know, it is very important that the sale be included in Texaco's 1975 tax year so we would greatly appreciate it if the document could be signed today and returned to us or if you could advise when it has been signed and we will have it picked up. Since it is impossible to close by December 31, 1975 may we also please have a letter from the District moving the Closing Date to, may we suggest, January 31, 1976.

Yours very truly,

DAVIS & COMPANY

Per: 

MSS:ab
Encl

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MANAGER'S REPORT NO. 1
COUNCIL MEETING Jan. 12/76

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Re: Texaco Canada Ltd. Purchase Agreement - (Cont'd.)

The Municipality's Signing Officers executed the agreement, as requested by Texaco, on December 30, 1975. Although the normal procedure is to acquire Council's approval before agreements are executed, in this case it was decided to simply seek Council's ratification of the action taken after the fact because the firm urgently needed to have the execution completed in 1975 (Council approved the basic terms of acquisition in April, 1975; execution of the agreement on December 31 was therefore considered appropriate under the special circumstances that prevailed on that date).

There will be no conveyance of money and no work performed on the fence until such time that the agreement is executed by Texaco.

The agreement is attached only to Council's reports. Extra copies can be obtained from the Planning Department.

RECOMMENDATIONS:

1. THAT Council ratify the action taken by the Staff Technical Committee in having the subject purchase agreement executed by the appropriate Municipal representatives.
2. THAT Council authorize the necessary expenditure of funds for the construction of the wire mesh security fence as described in clause #3 of the agreement.

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MANAGER'S REPORT NO. 1

COUNCIL MEETING Jan. 12/76

Planning Department,
January 8, 1976
Our File #15.142

TO: MUNICIPAL MANAGER
FROM: STAFF TECHNICAL COMMITTEE
RE: TEXACO CANADA LTD. PURCHASE AGREEMENT.

On April 21, 1975, Council passed the following motion with respect to the acquisition of property along Burrard Inlet from Texaco Canada Limited:

"THAT the subject property be purchased for the sum of \$1,100,000 subject to the following conditions:

- a. The Municipality undertake all surveys and legal work required to effect this transaction.
- b. The Municipality provide a suitable security fence on the perimeter of Texaco's property wherever it adjoins the Park Area.
- c. A mutually acceptable agreement covering the conditions set forth in the Company's letter of February 11, 1975."

At its meeting of July 7, 1975 Council was advised that the Board of Directors of Texaco Canada Ltd. had approved the sale of the subject property to the Municipality and that a report requesting Council's approval to execute the related agreement would be forthcoming in due course.

A mutually acceptable agreement covering the conditions of sale for this acquisition has been prepared (see attached on Council Members' reports only) and approved by both parties. In order to help expedite completion of this transaction, the agreement was executed by the Mayor and the Clerk on December 30, 1975 and forwarded to Texaco Canada Ltd. for their documentation.

Under the terms of the agreement, the following principle conditions apply:

1. Burnaby agrees to undertake all surveys and legal work required to effect the transaction. The necessary survey work has now been completed by the Municipality.
2. Burnaby is to provide a wire mesh security fence on the perimeter of Texaco's property on those unfenced areas abutting the park area. This

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fence is to become the property of Texaco who will assume responsibility for its maintenance. No monies has or will be spent on this item prior to the formal execution of the transaction agreement. Preliminary estimates indicate that the cost of constructing this facility will be approximately \$6,500.


3. Texaco is to obtain a series of specified easements, outlined in the agreement, necessary for their access or protection of accessory dock facilities.
4. Burnaby is to obtain access privileges over the level crossing granted to Texaco by the C. P. R. .
5. Burnaby agrees to grant to Texaco a restrictive covenant to affect that portion of Lot 7 to be acquired by the Municipality immediately adjoining the 2 acre parcel retained by Texaco. This restrictive covenant is to restrict the development of structures that would conflict with the setback regulations required for the potential installation of additional tankage on the 2 acre portion of Lot 7. It should be emphasized however that the granting of this covenant in no way constitutes a Municipal commitment towards the approval of any future application for additional tank storage facilities.
6. Texaco is to grant to Burnaby a first right to purchase in the event that Texaco desires to sell all or a portion of Lot 7 retained by it.

The closing date now specified in paragraph 16 as December 31, 1975 has been changed to January 31, 1976 to permit adequate time for final execution.

The Staff Technical Committee coordinating the preparation of the subject purchase agreement is satisfied with the terms contained within the agreement and would recommend that Council ratify the action taken by the Committee in having the agreement executed by the appropriate Municipal representatives.

RECOMMENDATIONS

1. THAT Council ratify the action taken by the Staff Technical Committee in having the subject purchase agreement executed by the appropriate Municipal representatives.
2. THAT Council authorize the necessary expenditure of funds for the construction of the wire mesh security fence as described in clause #3 of the agreement.


A. L. Parr,
DIRECTOR OF PLANNING

(for)

Municipal Manager)
Parks and Recreation
Administrator) STAFF TECHNICAL
Land Agent) COMMITTEE
Municipal Solicitor)
Director of Planning)

JSB:ew
att.

c. c. Municipal Treasurer
Land Agent
Municipal Engineer
Parks and Recreation Administrator
Municipal Solicitor