

Re: PIPE CROSSING AGREEMENT WITH C.P.R.
AT MILE 119.85 - CASCADE SUBDIVISION

ITEM	16
MANAGER'S REPORT NO.	82
COUNCIL MEETING	Dec. 20/76

The following is a report from the Municipal Engineer concerning an agreement with the C.P.R. for a watermain crossing to serve the Kapoor property. A copy of the Agreement is attached. Since the cost is over \$100, Council authority is required.

RECOMMENDATIONS:

1. THAT authority be given to execute the Agreement No. PV6768; and
2. THAT the Treasurer be authorized to make payment as provided for in the Agreement, and charge this amount to the appropriate account.

TO: MUNICIPAL MANAGER

15 DECEMBER, 1976

FROM: MUNICIPAL ENGINEER

RE: PIPE CROSSING AGREEMENT WITH C.P.R.
AT MILE 119.85 - CASCADE SUBDIVISION

The Canadian Pacific Railway holds an agreement with Kapoor Holdings for a watermain serving Kapoor Holdings Ltd. The property which this watermain serves has now been transferred to the Corporation of Burnaby. Also, in conjunction with this watermain serving Kapoor Holdings Ltd. the Corporation of Burnaby obtained permission from C.P. Rail to cross the C.P. Rail right-of-way. The agreement between the Corporation of Burnaby and C.P. Rail for the continuance of this crossing was never completed.

C.P. Rail would like to combine both the watermain agreement and the pipe crossing agreement into one agreement. With this in mind, all necessary plans and forms have been completed by Burnaby Engineering Department and C.P. Rail. C.P. Rail has now submitted to the Corporation, Agreement No. PV6768 for execution by the Corporation's authorized officers. The cost to execute this agreement is \$120. This is made up of \$95. to cover the first year's rental and \$25. for documentation.

RECOMMENDATIONS:

1. THAT the Mayor and Municipal Clerk be given Council approval to execute Agreement No. PV6768; and,
2. THAT the Municipal Treasurer be directed to issue a cheque in the amount of \$120. to C.P. Rail to be included in the return documents to C.P. Rail.
3. THAT the Municipal Treasurer be authorized to pay the annual rental for the agreement as it becomes due.

VMT:wlh


MUNICIPAL ENGINEER

Canadian Pacific Railway Company

AGREEMENT FOR THE LAYING OF PIPE LINES, WATER PIPES, SEWERS,
CONDUITS, ETC., UNDER RAILWAY LANDS.

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THIS AGREEMENT made in triplicate this **First** day
of **November**, 19 **76**

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MANAGER'S REPORT NO.	82
COUNCIL MEETING	Dec. 20/76

CANADIAN PACIFIC APPROVED
_____ Superintendent
_____ Reg. Engineer
_____ Asst. to V.P.

BETWEEN:

CANADIAN PACIFIC RAILWAY COMPANY, hereinafter called the
"Railway Company",

of the First Part;

and

THE CORPORATION OF THE DISTRICT OF BURNABY, of
4949 Canada Way, Burnaby, British Columbia
hereinafter called the "Applicant",

of the Second Part;

Location

WHEREAS the Applicant has applied to the Railway Company for
permission to construct and maintain under railway lands **Two**
Pipe Crossings, minimum of four feet below base of rail
at Mile 119.85 Cascade Subdivision.

as shown on the plan hereto attached, dated the **25th** day
of **October**, 19 **76**, which plan is hereby declared to be
part of this agreement. and plan dated **April, 1967**

NOW THEREFORE THIS AGREEMENT WITNESSETH and it is
hereby agreed by and between the parties hereto as follows:

Designation

1. That for the purpose of this agreement the said **Pipe**
Crossings shall be known and designed as the "said works".

Construction,
maintenance
and repair

2. That the Railway Company hereby permits the Applicant to
construct, maintain and repair the said works under the Railway
Company's lands and railway as aforesaid subject to and in accordance
with the rules and regulations of the Canadian Transport Commission
now made or which may hereafter be made in reference thereto, and to
the terms and conditions of this agreement

Work of
supporting
tracks

3. That any work of supporting the Railway Company's tracks or
structures or of protecting train movements made necessary by the
construction, maintenance or repair of the said works shall be performed
by the Railway Company and the Applicant shall pay to the Railway
Company the entire cost of all such work forthwith upon receipt of
certified accounts therefor on the basis of cost plus labour overheads
as may be currently applicable and as set by the Railway Association
of Canada, and material handling cost as may be currently applicable
on the Railway Company.

Placement of
signs

4. As directed by the Railway Company or required by the appli-
cable Commission Order, that the Applicant at its own expense shall
install and maintain at locations satisfactory to the Railway Company,
signs prominently marking the said works and their distance underground.

Supervision

5. That the work of construction, renewal and repair of the said
works shall be subject to the supervision of a representative of the
Railway Company whose instructions shall be strictly followed and
whose wages and expenses shall be paid by the Applicant, but the
Applicant shall not thereby be relieved from any of its obligation under
this agreement. The Applicant shall give to the local Superintendent
of the Railway Company at least forty-eight hours' notice in writing of

intention to do such work, which notice period shall not be deemed to include, Saturdays, Sundays, and statutory holidays. When construction, renewal or repairs have been completed, the property of the Railway Company shall be restored by the Applicant to its former condition, and the Applicant shall at all times maintain the said works in good order and condition and to the entire satisfaction of the Railway Company.

Indemnity

6. That the Applicant shall at all times wholly indemnify the the Railway Company from and against all loss, costs, damage, injury and expense to which the Railway Company may be put by reason of any injury or damage to persons or property caused by the said works or by any substance being carried in the said works or by any works herein provided for, or by the imprudence, neglect or want of skill of the employees or agents of the Applicant in connection with the laying, maintenance, renewal, repair, moving, altering or removal of the said works, or the use thereof, unless the cause of such loss, cost, damage, injury or expense can be traced elsewhere, the burden of proof whereof shall be upon the Applicant.

Applicant's employees on Railway Company's premises

7. That subject to and in conformity with any rules or regulations now or hereafter in force governing railway employees, or the operation of railways, the Applicant and the agents and employees of the Applicant shall have the right to enter upon the lands of the Railway Company at such times as may be necessary for the purpose of the construction, maintenance, inspection, removal and repair of the said works herein contemplated; and that all persons so entering upon the lands of the Railway Company shall assume all risks of and the Railway Company shall not be liable for any injury (including injury resulting in death) loss, damage or expense to such person or his property while on the lands of the Railway Company, and the Applicant shall indemnify and save harmless the Railway Company against all claims and demands arising or resulting from any injury (including injury resulting in death) loss, damage or expense in connection therewith.

Default

8. That if at any time during the continuance of this agreement the Applicant shall neglect to do such work of repair or maintenance as in the opinion of the Railway Company is necessary, the Railway Company may carry out such work of repair or maintenance itself as agent of the Applicant, and the Applicant shall pay to the Railway Company the entire cost of all such work forthwith upon receipt of certified accounts therefor on the basis of cost plus labour overheads as may be currently applicable and as set by the Railway Association of Canada, and material handling cost as may be currently applicable on the Railway Company.

Taxes

9. That the Applicant shall indemnify the Railway Company from and against all taxes or assessments of any description whatsoever levied by any authority in respect of the said works herein contemplated.

Fee

10. That the Applicant shall pay to the Railway Company as compensation for the permission hereby granted the sum of - - - - -
- - - Ninety-Five Dollars - - - - - (\$ 95.00)
per year, in advance, on the First day of November
in each year, during the continuance of this agreement, provided that on the termination of this agreement by either party hereto during any contract year, there shall be no prorata adjustment of such sum.

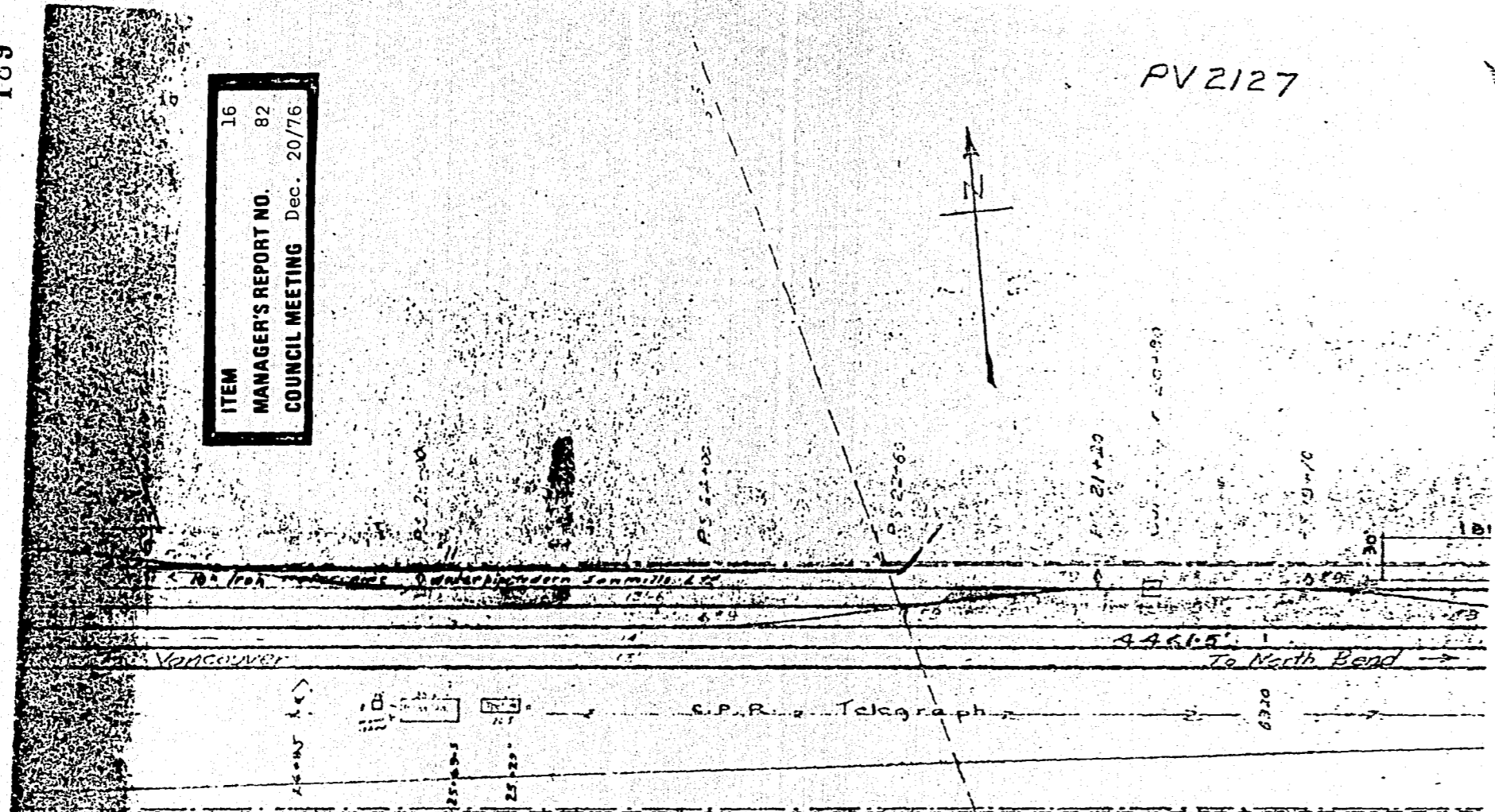
Moving or alteration

11. That should the Railway Company at any time desire, or be ordered by the Canadian Transport Commission, or other authority having jurisdiction, to make such changes in the Railway Company's tracks, structures or facilities as would in the opinion of the Railway Company necessitate the moving or alteration of the said works herein contemplated, or should the Railway Company desire to build on the property crossed by the said works, or use it for any other purpose, or deem it necessary in order to protect its tracks, structures or property to make any change in the location or construction of said works, the Applicant shall at its own expense and to the entire satisfaction of the Railway Company perform all such work of moving or altering or carrying out protective measures to safeguard the said works as may be necessary within one month after receipt of notice so to do, and should the Applicant fail to perform such work of moving or altering within the time specified the Railway Company shall have the right to do such work as agent of the Applicant and the Applicant shall pay to the Railway Company the entire cost of all such work forthwith upon receipt of certified accounts therefor on the basis of cost plus labour

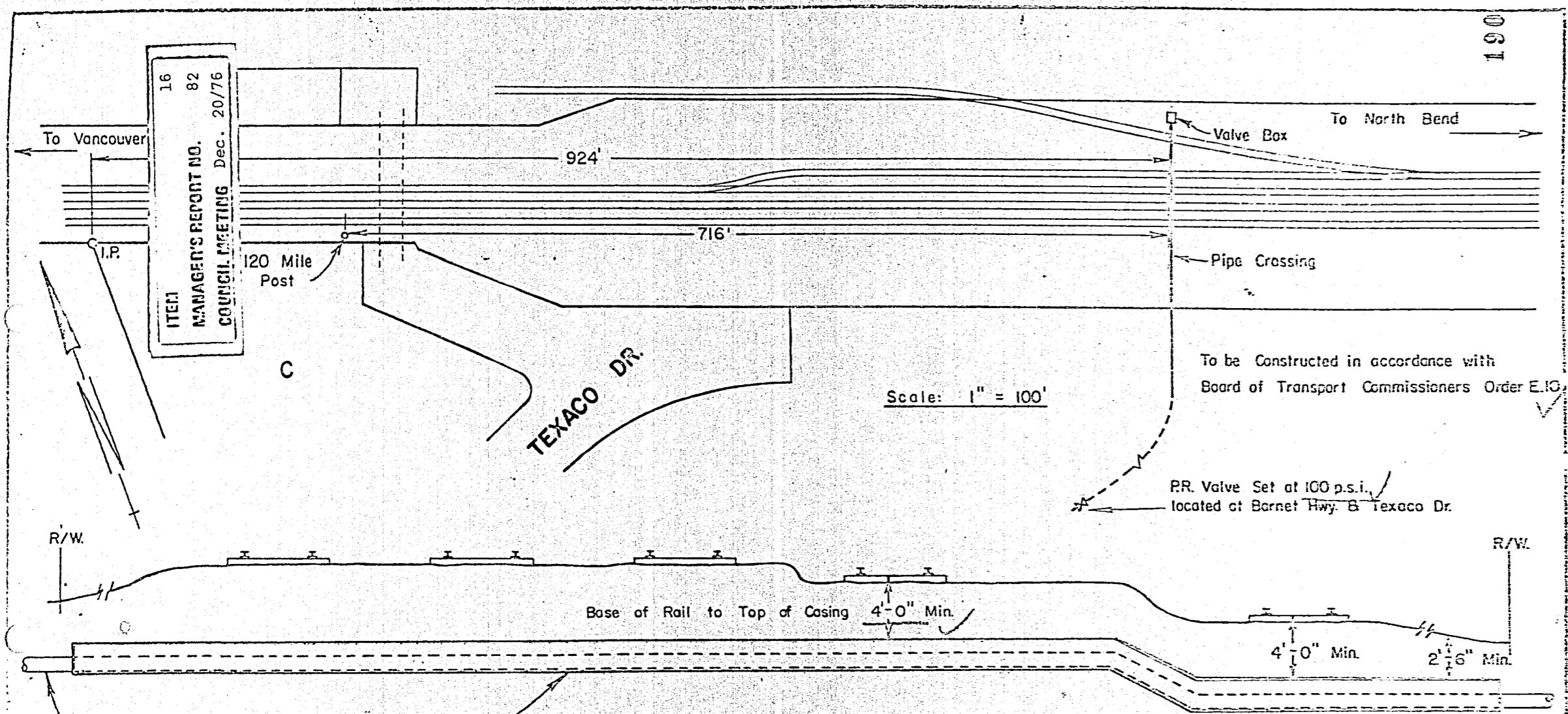
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PV 2127



CANADIAN PACIFIC RAILWAY CO.
 PACIFIC REGION - VANCOUVER DIV.
 WATER PIPE CROSSING FOR
 Corporation of the District of Burnaby.
 MILE 119.85 CASCADE SUB.
 SCALE 1" = 100'
 VANCOUVER, B.C.
 Co 119.85 P
 OCT. 25, 1976
 PV 2127



Scale: 1" = 100'

Scale: 1/8" = 1"

CARRIER PIPE		CASING PIPE	
Wall Thickness	= 0.330"	Wall Thickness	= 0.375" ✓
Diameter	= 12" ✓	Diameter	= 24" ✓
Type	= Grade A	Type	= Grade S.
		Length	= To Suit
Water Pressure = 100 p.s.i. ✓			

PIPE CROSSING FOR
 THE CORPORATION OF BURNABY
 MILE 120. CASCADE SUBDIVISION

Ca. 119-85P

[Signature]
 DIVISION ENGINEER

CORPORATION OF THE DISTRICT OF BURNABY
 ENGINEERING DEPARTMENT
 DESIGN DIVISION

DESIGNED BY	SCALE AS STATED
DRAWN BY H. SMITH	DATE APRIL 1967
CHECKED BY	DRAWN NO.
APPROVED BY <i>[Signature]</i>	L-779

NO.	DATE	REVISION

overheads as may be currently applicable and as set by the Railway Association of Canada, and material handling cost as may be currently applicable on the Railway Company, and all the provisions of this agreement shall apply to the said works while being moved or altered and in their changed condition or location and to the parties hereto in respect thereof.

Assignment

12. That the Applicant shall not assign, transfer or dispose of this agreement or of the rights and privileges conferred thereby, without the consent in writing, first obtained, of the Railway Company.

Termination

13. That this agreement shall continue and be in force for a period of one (1) year from the date hereof, and from year to year thereafter, subject, however, to termination at any time by either party giving to the other party a written notice naming therein a date at least three (3) months from the giving of such notice upon which this agreement shall terminate and on the day so named in such notice this agreement and all rights and privileges thereunder shall come to an end, provided that notwithstanding such termination the Applicant shall continue to be liable to the Railway Company for all payments due and obligations incurred thereunder prior to the date of such termination. The notice above mentioned may be given by mailing it postage prepaid and registered, addressed to the Superintendent of the Railway Company in the Division in which the said works is located, or to the Applicant at the address mentioned above.

Agreement binding successors and assigns

14. That this agreement shall, subject to clause 12 hereof, enure to the benefit of and be binding upon the parties hereto, the successors and assigns of the Railway Company, and the heirs, executors, administrators, successors and assigns of the Applicant.

Removal of works

15. And that upon the termination of this agreement the Applicant shall, if requested by the Railway Company so to do, remove at the expense of the Applicant the said works from the lands of the Railway Company, and restore the property of the Railway Company to its original state and condition; provided that the Railway Company may, at its option, perform such work as agent of and at the expense of the Applicant and in either case, the conditions embodied in paragraphs 6 and 7 hereof shall remain applicable and effective until such time as all work to be performed by the Applicant or by the Railway Company as agent of the Applicant as provided for in this clause shall have been carried out to the entire satisfaction of the Railway Company.

IN WITNESS whereof the parties hereto have executed these presents.

CANADIAN PACIFIC RAILWAY COMPANY.

Vice-President.

Assistant-Secretary.

Applicant:

THE CORPORATION OF THE DISTRICT OF BURNABY

MAYOR

(Witness for Applicant)

CLERK

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