

ITEM 2
MANAGER'S REPORT NO. 62
COUNCIL MEETING 84/10/09

RE: AGREEMENT PROVIDING THE MUNICIPALITY WITH AN OPTION
TO PURCHASE B.C. TRANSIT MAINTENANCE CENTRE PROPERTY

MUNICIPAL MANAGER'S RECOMMENDATION:

1. THAT the recommendation of the Director Planning & Building Inspection be adopted.

* * * * *

TO: MUNICIPAL MANAGER 1984 September 27
FROM: DIRECTOR PLANNING & BUILDING INSPECTION Our File: 08.230.1
SUBJECT: AGREEMENT PROVIDING THE MUNICIPALITY WITH AN OPTION TO
PURCHASE B.C. TRANSIT MAINTENANCE CENTRE PROPERTY

RECOMMENDATION:

1. THAT this report be received for the information of Council.

REPORT

BACKGROUND:

When Council approved the transfer of Municipal lands to B.C. Transit for the development of the A.L.R.T. Maintenance Centre, they adopted a resolution stating that the transfer be subject to these lands reverting to the Municipality, at a negotiated price, in the event that they should cease to be required for the A.L.R.T. Maintenance Centre. An agreement that provides for this has been executed by B.C. Transit (since the Municipality is receiving the Option, it is necessary for only B.C. Transit to execute the document.)

EXISTING SITUATION:

In reviewing this matter, the Municipal Solicitor has advised that the most appropriate way to accommodate Council's wish is to register an Option to purchase. Accordingly, B.C. Transit's solicitors have prepared the attached agreement which has been reviewed and found acceptable by the Municipal Solicitor.

Re: Agreement Providing the Municipality with
an Option to Purchase B.C. Transit Maintenance
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This agreement provides for the maximum period of 80 years which is the current limitation under the rule against perpetuities. Moreover, the option is exercisable by the Corporation if the use of all or any part of the lands is changed, e.g., B.C. Transit decided to lease the lands.

It is staff's view that this Option to Purchase satisfies Council's request and B.C. Transit has, therefore, been requested to execute this option agreement which will be registered concurrent with the transfer of municipal lands.



A. L. PARR
DIRECTOR PLANNING &
BUILDING INSPECTION

PB/jce
Attach.

cc: Municipal Solicitor

ITEM
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84/10/09

LAND TITLE ACT (FORM 17)

NATURE OF INTEREST: OPTION TO PURCHASE
TRUE VALUE:

HEREWITH FEES OF:

ADDRESS OF PERSON ENTITLED TO BE REGISTERED: SAME

LEGAL DESCRIPTION: AS SHOWN IN INSTRUMENT

PERSON PRESENTING APPLICATION:

Signature of Applicant,
Solicitor or Agent

OPTION TO PURCHASE LAND

THIS AGREEMENT dated for reference the day of
, 1984.

BETWEEN:

BRITISH COLUMBIA TRANSIT, a Corporation incorporated by
the British Columbia Transit Act R.S.B.C. 1979, c. 421,
having an office at 874 - 1055 Dunsmuir Street,
Vancouver, British Columbia.

(hereinafter called the "Vendor")

AND:
OF THE FIRST PART

THE CORPORATION OF THE DISTRICT OF BURNABY, 4949 Canada
Way, Burnaby, British Columbia, V5G 1M2

(hereinafter called the "Purchaser")

OF THE SECOND PART

W H E R E A S:

- A. The Vendor is the registered owner of certain lands and premises situate in the Municipality of Burnaby, in the Province of British Columbia and legally described as:

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Lot 75
District Lot 171
Group 1
Plan 67185
New Westminster District

(hereinafter called the "Lands")

B. The Vendor has agreed to grant to the Purchaser an option to purchase the Lands on the terms and conditions hereinafter set forth.

1. WITNESSETH that in consideration of the sum of ONE DOLLAR (\$1.00) now paid by the Purchaser to the Vendor (the receipt and sufficiency of which is hereby acknowledged) the Vendor hereby grants to the Purchaser the sole and exclusive first right and option (the "Option"), irrevocable within the time limited herein for exercise, to purchase, free and clear from all financial encumbrances, all of the Vendor's interest in and to the Lands upon the terms and conditions contained herein.
2. The Option hereby granted shall be open for exercise by the Purchaser by notice in writing delivered to the Vendor at its address set out above only following such time that the Lands cease to be used by the Vendor as a maintenance centre for or in the operation of the Advanced Light Rapid Transit System (being constructed and to be operated by the Vendor), in which event notice must be received by the Vendor within one (1) year of the date of such cessation of use, PROVIDED ALWAYS that if this option is not exercised on or before the 1st day of May, 2064, it shall be null and void.
3. Upon the exercise of this Option by the Purchaser this Option and the notice of exercise shall thereupon become a binding contract of sale and purchase between the parties and shall be completed upon the terms and conditions herein set forth.

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4. The contract constituted from the exercise of this Option shall be completed thirty (30) days after the date the purchase price is determined in accordance with the provisions of paragraph 5 hereof, unless on such date the New Westminster Land Title Office is closed, in which case the Sale will be completed on the next day that the Land Title Office is open for business (the "Completion Date").
5. The purchase price of the Lands shall be mutually agreed upon by the parties and failing agreement by an arbitrator selected by the parties in accordance with the Arbitration Act of British Columbia, R.S.B.C. 1979, Chapter 18, as amended from time to time or such legislation as may be enacted in substitution therefor.
6. All adjustments of incomings and outgoings shall be made as of the Completion Date.
7. The Vendor shall be entitled to occupy the Lands up to and including the Completion Date.
8. The Vendor shall deliver vacant possession of the Lands to the Purchaser free and clear of any and all financial encumbrances on the Closing Date.
9. All documents required herein to complete the Sale will be executed and delivered in registrable form by the parties on or before 12:00 noon on the Completion Date or at such earlier date as solicitors for the parties may reasonably require.
10. The cost of the conveyance will be borne by the Purchaser and the cost of clearing title will be borne by the Vendor.

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11. The place of closing will be the New Westminster Land Title Office unless otherwise agreed to between the parties.

12. The tender of documents or money may be made upon the solicitor for either party and the funds may be tendered by certified cheque, bank draft or solicitor's trust cheque.

13. Time will be of the essence of the Option and the contract constituted by the exercise thereof.

14. The interest of the Purchaser in and to this Option may be assigned by the Purchaser to any other party corporate or otherwise.

15. This Option and the contract constituted by the exercise thereof shall enure to the benefit of and be binding upon the Vendor and the Purchaser and their respective heirs, executors, administrators, successors and assigns.

IN WITNESS WHEREOF the parties have executed this Agreement as of the day and year first above written.

THE CORPORATE SEAL OF)
BRITISH COLUMBIA TRANSIT was)
hereunto affixed in the)
presence of:)
_____)
_____)
_____)

c/s

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LAND TITLE ACT

FORM 6
(Section 46)

PROOF OF EXECUTION BY CORPORATION

I CERTIFY that on the _____ day of _____, 1984, at _____, in the Province of British Columbia, _____, who is personally known to me, appeared before me and acknowledged to me that he/she is the authorized signatory of **BRITISH COLUMBIA TRANSIT** and that he/she is the person who subscribed his/her name and affixed the seal of the corporation/society to the instrument, that he/she was authorized to subscribe his/her name and affix the seal to it and that the corporation/society existed at the date the instrument was executed by the corporation/society.

IN TESTIMONY WHEREOF I have hereunto set my hand, at the City of Vancouver, in the Province of British Columbia, this _____ day of _____, 1984.

A Commissioner for Taking Affidavits
within the Province of British Columbia.

