

ITEM	15
MANAGER'S REPORT NO.	6
COUNCIL MEETING	92/01/27

TO: MUNICIPAL MANAGER **DATE:** 1992 01 22

FROM: DIRECTOR ENGINEERING **FILE:** 50-01-08

SUBJECT: BOUNDARY ROAD MAINTENANCE AGREEMENT

PURPOSE: To obtain Council approval to enter into an agreement with the City of Vancouver for the maintenance of Boundary Road.

RECOMMENDATION:

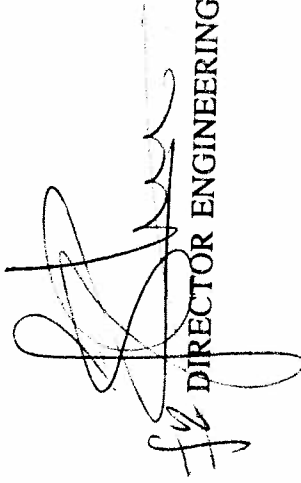
1. THAT the Municipal Solicitor be directed to bring forward a bylaw for Council's consideration to authorize ratification of the Agreement between the City of Vancouver and The Corporation of the District of Burnaby for the maintenance of Boundary Road.

REPORT

Boundary Road extends from the Fraser River to Burrard Inlet. As each section was constructed, various agreements were entered into for construction and maintenance purposes. As a result, there are a number of different agreements between the City of Vancouver and the Municipality concerning maintenance responsibilities for the joint boundary. Boundary Road has now been completed and Vancouver and Burnaby wish to consolidate the several different agreements.

Section 237 of the Municipal Act stipulates that an Agreement entered to jointly exercise a power conferred by the Act is not valid until ratified by a bylaw adopted by a vote of not less than two-thirds of all members of the Council. An Agreement satisfactory to both the City Solicitor for Vancouver and Municipal Solicitor for Burnaby has been drawn to cover the maintenance of Boundary Road (Attachment 1).

The agreement details what facilities each Municipality maintains solely and what facilities are shared. Items such as traffic signals and pedestrian and vehicle overpasses are shared. The agreement stipulates that Vancouver will maintain these shared facilities and invoice Burnaby under the terms and conditions in the agreement. Funds for these maintenance costs are contained within existing maintenance accounts detailed in the operating budget. Staff are recommending that the Solicitor be directed to bring forward a bylaw to ratify the agreement.


 J. J. BURNABY
 DIRECTOR ENGINEERING

BCD:jb
 Attach.

cc: Municipal Solicitor
 Director Adm. & Community Services
 Director Finance
 Director Recreation & Cultural Services

BOUNDARY ROAD MAINTENANCE AGREEMENT

THIS AGREEMENT made as of _____ day of _____, 1992.

BETWEEN:

CITY OF VANCOUVER, a municipal corporation,
having offices at 453 West 12th Avenue,
in the City of Vancouver,
in the Province of British Columbia,
V5Y 1V4

(hereinafter called "Vancouver")

OF THE FIRST PART

AND:

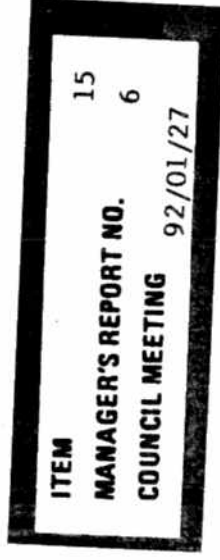
THE CORPORATION OF THE DISTRICT OF BURNABY,
4949 Canada Way, in the Municipality of
Burnaby, Province of British Columbia.
V5G 1M2

(hereinafter called "Burnaby")

OF THE SECOND PART

WHEREAS:

- A. Boundary Road (as hereinafter defined) straddles the legal boundary between Vancouver and Burnaby;
- B. The legal boundary line between Vancouver and Burnaby is variable and is not consistently at the Agreed Boundary (as hereinafter defined) of Boundary Road;
- C. Vancouver and Burnaby wish to share responsibility for the Maintenance of Boundary Road and have agreed to enter into this Agreement to better define each party's responsibilities regarding the Maintenance of Boundary Road;



D. Vancouver and Burnaby agree that the Agreed Boundary (as hereinafter defined) will be the dividing line between Vancouver and Burnaby for Maintenance purposes.

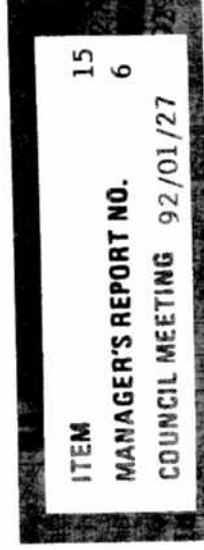
NOW THEREFORE WITNESSETH that in consideration of the covenants and agreements contained herein, the sum of Five (\$5.00) Dollars (the receipt and sufficiency whereof is hereby acknowledged by the parties) the parties hereto covenant and agree as follows:

1. The following terms shall have the meaning hereinafter specified and the definitions given herein shall be applicable to the singular, plural and possessive for the terms defined:

- (a) "Agreed Boundary" means the following:
 - (i) the north/south centre line connecting the midpoints between the curbs or edges of the median for the divided roadway portion of Boundary Road;
 - (ii) the north/south yellow painted traffic line for the portion of Boundary Road which is not divided by a raised median;
 - (iii) the north/south line connecting the midpoints between the edges of the roadway surface for the undivided and unmarked portion of Boundary Road;
 - (iv) the north/south lines across each of the intersections of Boundary Road connecting the end points of the centre lines and the yellow painted traffic lines defined above; except for the six (6) areas listed below where the Agreed Boundary shall be located as indicated in Schedules "A", "B", "C", "D", "E" and "F" attached hereto:

Adanac Street, Price Street, Regent Street,
Canada Way, Schou Street, Boundary Road south of
Kent Avenue South;

- (b) "Boundary Road" means that portion of the street known as Boundary Road between Fellowes Street on the north and the Fraser River on the south;
- (c) "Maintenance" means the maintaining of the various facilities to a standard equivalent to the standard that existed at the date of this Agreement including but not limited to all surface repairs, inspections necessary, snow removal and street cleaning, landscaping, grass cutting and litter cleanup but does not include the complete replacement of any of the facilities covered by this Agreement;
- (d) "Shared Facilities" means:
- (i) surfaces of the medians and traffic islands which straddle the Agreed Boundary, including but not limited to: grass, sidewalks, hard surfaces and trees;
 - (ii) yellow painted traffic line of the portion of Boundary Road which is not divided by a raised median;
 - (iii) pedestrian and vehicle overpasses;
 - (iv) traffic and pedestrian signals, controllers and wiring;
 - (v) street lighting that connects from Vancouver to Burnaby;



- (e) "Non Shared Facilities" means the following:
- (i) pavement structures, curb and gutter and related drain tile and catch basin leads;
 - (ii) other facilities including signs, painted pavement markings, boulevard landscaping, fences, guard rails, retaining walls and sidewalks with the exception of sidewalks and hard surfaces on the medians and traffic islands straddling the Agreed Boundary;
- (f) "Street Lighting" means street lighting poles, luminaires, conduits, service panels and all wiring.
2. The term of the Agreement shall commence on January 1, 1992 and shall continue in full force and effect until January 1, 1997, unless extended by further agreement of the parties.
3. The Maintenance of the Non Shared Facilities east of the Agreed Boundary shall be the responsibility of Burnaby and the maintenance of the Non Shared Facilities west of the Agreed Boundary shall be the responsibility of Vancouver. Provided however, if the Maintenance of the Non Shared Facilities can be more expediently carried out by the adjoining municipality then the parties hereto may agree to permit the other to carry out such Maintenance and shall invoice the other party at a cost to be agreed upon.
4. Vancouver and Burnaby agree that the responsibility for the Maintenance of the following Shared Facilities shall be as follows:
- (a) surfaces of medians and traffic islands which straddle the Agreed Boundary including grass, sidewalks, hard surfaces and trees within these medians and traffic islands: Burnaby shall be responsible for the Maintenance south of the centre line of the Lougheed Highway and Vancouver shall be



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- responsible for the Maintenance north of the centre line of the Lougheed Highway;
- (b) the yellow painted traffic line of the portion of Boundary Road which is not divided by raised medians shall be the responsibility of Vancouver;
 - (c) the pedestrian and vehicle overpasses on Boundary Road shall be the responsibility of Vancouver;
 - (d) traffic and pedestrian signal plant on Boundary Road shall be the responsibility of Vancouver;
 - (e) the Street Lighting on Boundary Road:
 - (i) Vancouver shall be responsible for Maintenance of the Street Lighting from 29th Avenue to Price Street and from Kingsway to Kent Avenue South on both sides of the Agreed Boundary;
 - (ii) the remainder of the Street Lighting shall be the sole responsibility of the municipality on which side of the Agreed Boundary that the Street Lighting is located on.
5. Vancouver and Burnaby agree to share equally the Maintenance costs of the Shared Facilities set out in paragraph 4, (b), (c), (d) and (e)(i). The Maintenance costs shall be invoiced by the party responsible for such Maintenance to the other party in accordance with paragraph 4 hereof for fifty (50%) percent of such Maintenance cost, itemized by the type of work, and calculated by including the following charges:
- (a) Labour based on wage rates plus fringe benefits for time spent upon the Maintenance;

- (b) material and equipment used in the Maintenance;
 - (c) energy costs for the traffic signals and shared street lighting;
 - (d) normal overhead charges which shall be calculated at fifteen (15%) percent of the total of paragraph 5 (a), (b) and (c);
 - (e) all applicable taxes including any Goods and Services Taxes payable.
6. The completion and cost of the Maintenance of any of the Non Shared Facilities that straddle the Agreed Boundary will be negotiated between Vancouver and Burnaby on a case by case basis.
7. Vancouver and Burnaby agree that the responsibility and liability for the design of Boundary Road shall be shared equally between Vancouver and Burnaby.
8. Vancouver and Burnaby hereby grant each to the other, its respective contractors, subcontractors, employees, agents and officials the right to enter, labour, pass, repass, work and be in, on, under and over the other's property on Boundary Road with or without vehicles, tools, supplies, materials and equipment and supplies for any purpose connected with the performance by each of them of Maintenance services referred to in this Agreement.
9. Vancouver covenants and agrees with Burnaby that in the event that Vancouver's contractors or subcontractors, employees or agents shall cause damage to Burnaby's property during the carrying out of any Maintenance pursuant to this Agreement and does not forthwith repair, Burnaby may complete such repairs as necessary and Vancouver shall make payment for all such repair and cost of Burnaby forthwith upon receipt of an invoice.

10. Burnaby covenants and agrees with Vancouver that in the event that Burnaby's contractors or subcontractors, employees or agents shall cause damage to Vancouver's property during the carrying out of any Maintenance pursuant to this Agreement and does not forthwith repair, Vancouver may complete such repairs as necessary and Burnaby shall make payment for all such repair and cost of Vancouver forthwith upon receipt of an invoice.

11. Burnaby shall indemnify and hold harmless Vancouver and its employees and agents from and against all losses, damages, debts, costs, expenses, actions, causes of action, claims, demands and judgments (collectively referred to in this paragraph 11 as "Losses") suffered or incurred by Vancouver or any person, or made or instituted by any person against Vancouver, in any way connected with this Agreement for the failure of Burnaby to carry out the Maintenance obligation set out herein or any Losses caused by the negligent performance by Burnaby of its Maintenance obligations pursuant to this Agreement. This indemnity survives termination of this Agreement.

12. Vancouver shall indemnify and hold harmless Burnaby and its employees and agents from and against all losses, damages, debts, costs, expenses, actions, causes of action, claims, demands and judgments (collectively referred to in this paragraph 12 as "Losses") suffered or incurred by Burnaby or any person, or made or instituted by any person against Burnaby, in any way connected with this Agreement for the failure of Vancouver to carry out the Maintenance obligation set out herein or any Losses caused by the negligent performance by Vancouver of its Maintenance obligations pursuant to this Agreement. This indemnity survives termination of this Agreement.

13. Any notice, approval or request given under this Agreement may be well and adequately given if served personally upon any officer of the party for whom it is intended or mailed by prepaid registered mail from any post office in British Columbia and in the case of Vancouver addressed to it at:

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City Clerk
City of Vancouver
453 West 12th Avenue
Vancouver, British Columbia
V5Y 1V4

with a copy to:

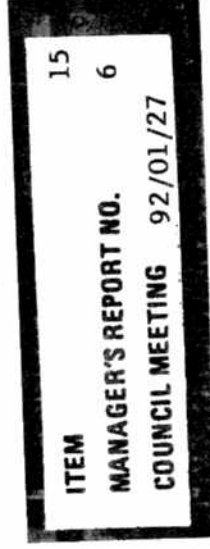
City Engineer
City of Vancouver
453 West 12th Avenue
Vancouver, British Columbia
V5Y 1V4

and in the case of Burnaby addressed to it at:

Municipal Clerk
District of Burnaby
4949 Canada Way
Burnaby, British Columbia
V5G 1M2

or at such other address as the parties may from time to time advise by notice in writing. The date of receipt of any such notice, approval or request shall be deemed to be the date of delivery of such notice, approval or request if served personally or, on the third business day next following the date of such mailing if mailed as aforesaid, provided that if mailed should there be, between mailing and the actual receipt of such notice, approval or request, a mail strike, slowdown or other labour dispute which might affect the delivery of such notice, approval or request, such notice, approval or request shall only be affected if actually delivered.

14. If any portion of any section of this Agreement or if any section of this Agreement is declared by a court of competent jurisdiction to be void or unenforceable then that portion of that section or that section shall be severed from the balance of this Agreement and the balance of this Agreement shall survive and be enforceable.



15. The parties hereto shall do such things and execute such documents and in such form necessary in order to perfect the intention of this Agreement.
16. Neither party to this Agreement may assign this Agreement nor any of its rights hereunder without the prior written consent of the other, which consent may be arbitrarily withheld.
17. The failure of either of the parties hereto to insist upon performance of any covenant or condition contained in this Agreement or to exercise any right or option hereunder shall not be construed or operate as a waiver or relinquishment for the future of any such covenant, condition, right or option and no waiver shall be inferred from or implied by anything done or admitted to be done by either of the parties hereto save an expressed waiver in writing.
18. This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective successors, administrators and assigns.
- IN WITNESS WHEREOF the parties hereto have hereunto caused their respective seals to be affixed under the hands of their proper

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

The Common Seal of the)
CITY OF VANCOUVER)
was hereunto affixed)
in the presence of:)
Authorized Signatory)

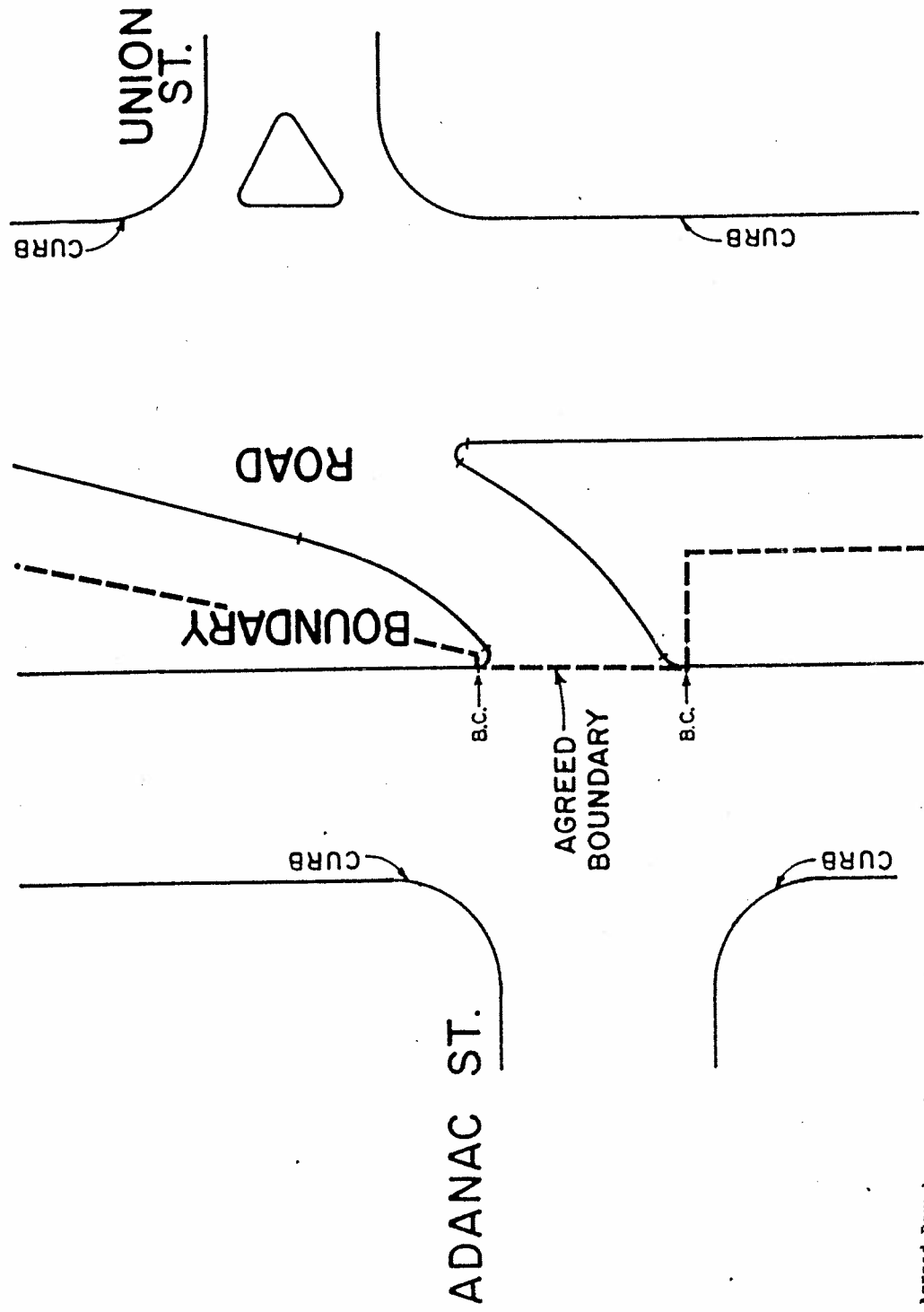
C/S

The Common Seal of THE)
CORPORATION OF THE DISTRICT)
OF BURNABY was hereunto)
affixed in the presence)
of:)
Authorized Signatory)
Authorized Signatory)

C/S

(JFS0065/78)

SCHEDULE A



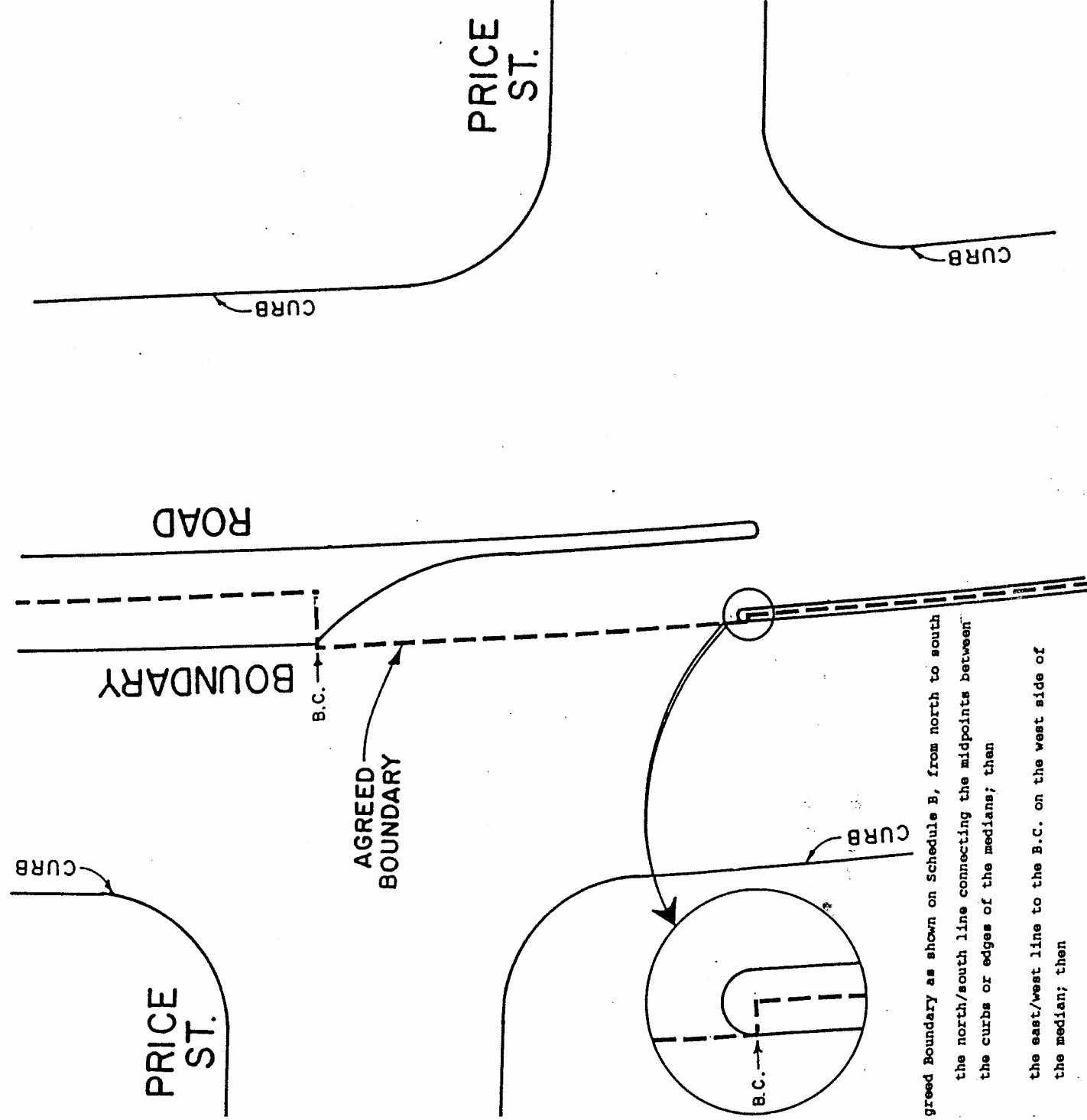
The Agreed Boundary as shown on Schedule A, from north to south is:

- the north/south line connecting the midpoints between the curbs or edges of the medians; then
- the east/west line to the B.C. on the west side of the median; then
- the north/south line connecting the two B.C.'s on the west side of the medians; then
- the east/west line from the B.C.; then
- the north/south line connecting the midpoints between the curbs or edges of the medians

B.C. - BEGINNING OF CURVE

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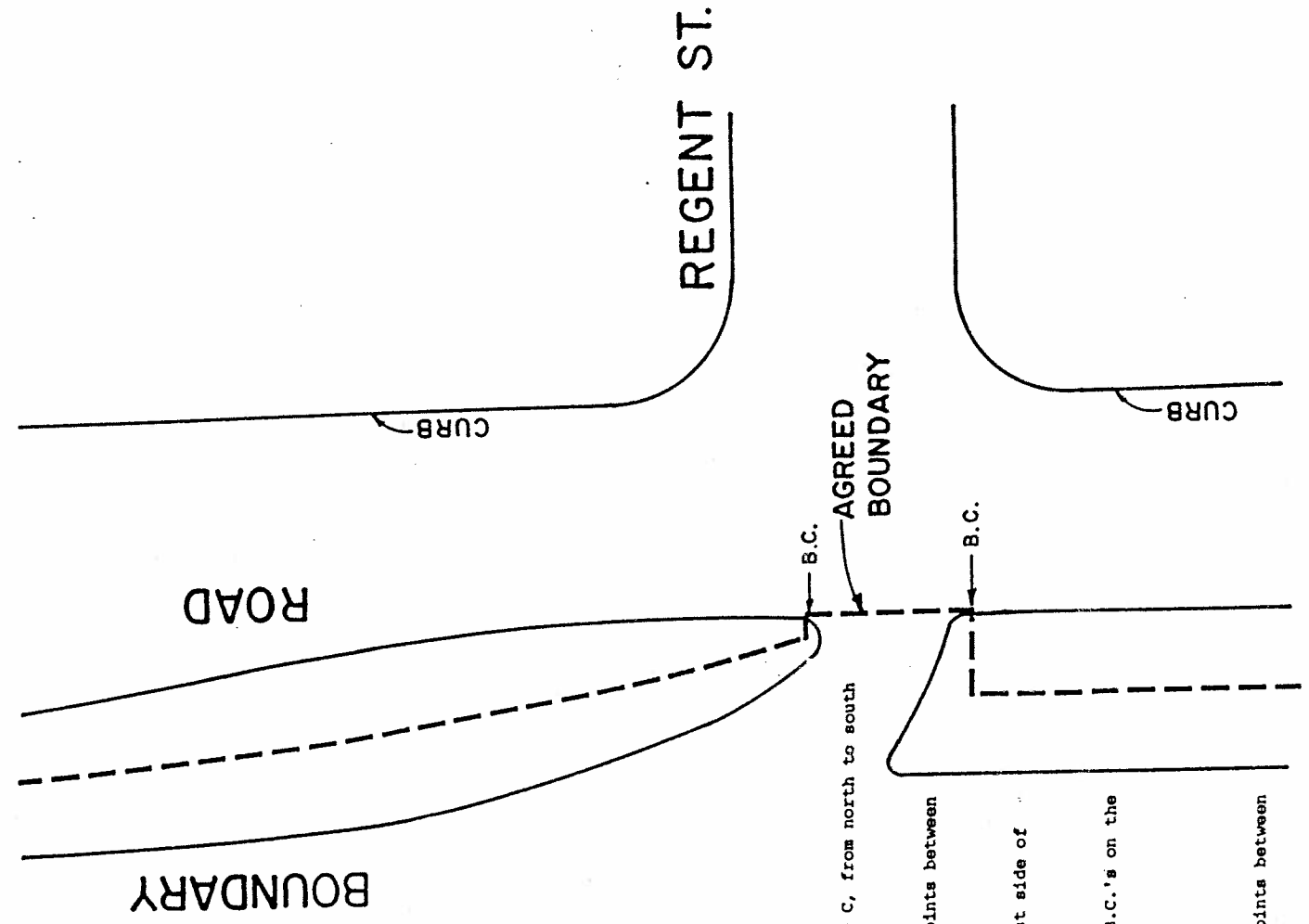
SCHEDULE B



Agreed Boundary as shown on Schedule B, from north to south
 the north/south line connecting the midpoints between
 the curbs or edges of the medians; then
 the east/west line to the B.C. on the west side of
 the median; then
 the north/south line connecting the two B.C.'s on the
 west side of the medians; then
 the east/west line from the B.C.; then
 the north/south line connecting the midpoints between
 the curbs or edges of the medians

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SCHEDULE C

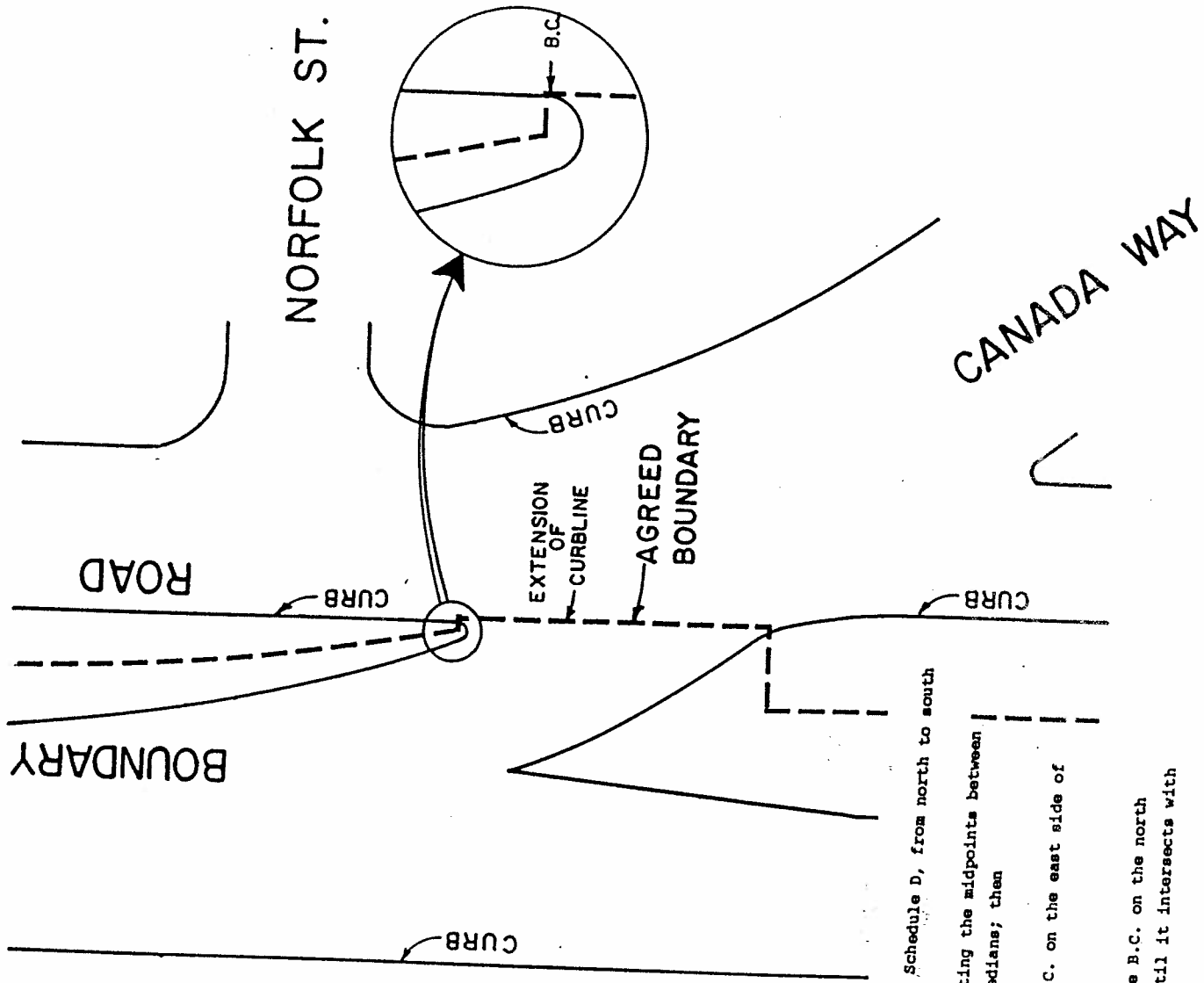


The Agreed Boundary as shown on Schedule C, from north to south is:

- the north/south line connecting the midpoints between the curbs or edges of the medians; then
- the east/west line to the B.C. on the east side of the median; then
- the north/south line connecting the two B.C.'s on the east side of the medians; then
- the east/west line from the B.C.; then
- the north/south line connecting the midpoints between the curbs or edges of the medians

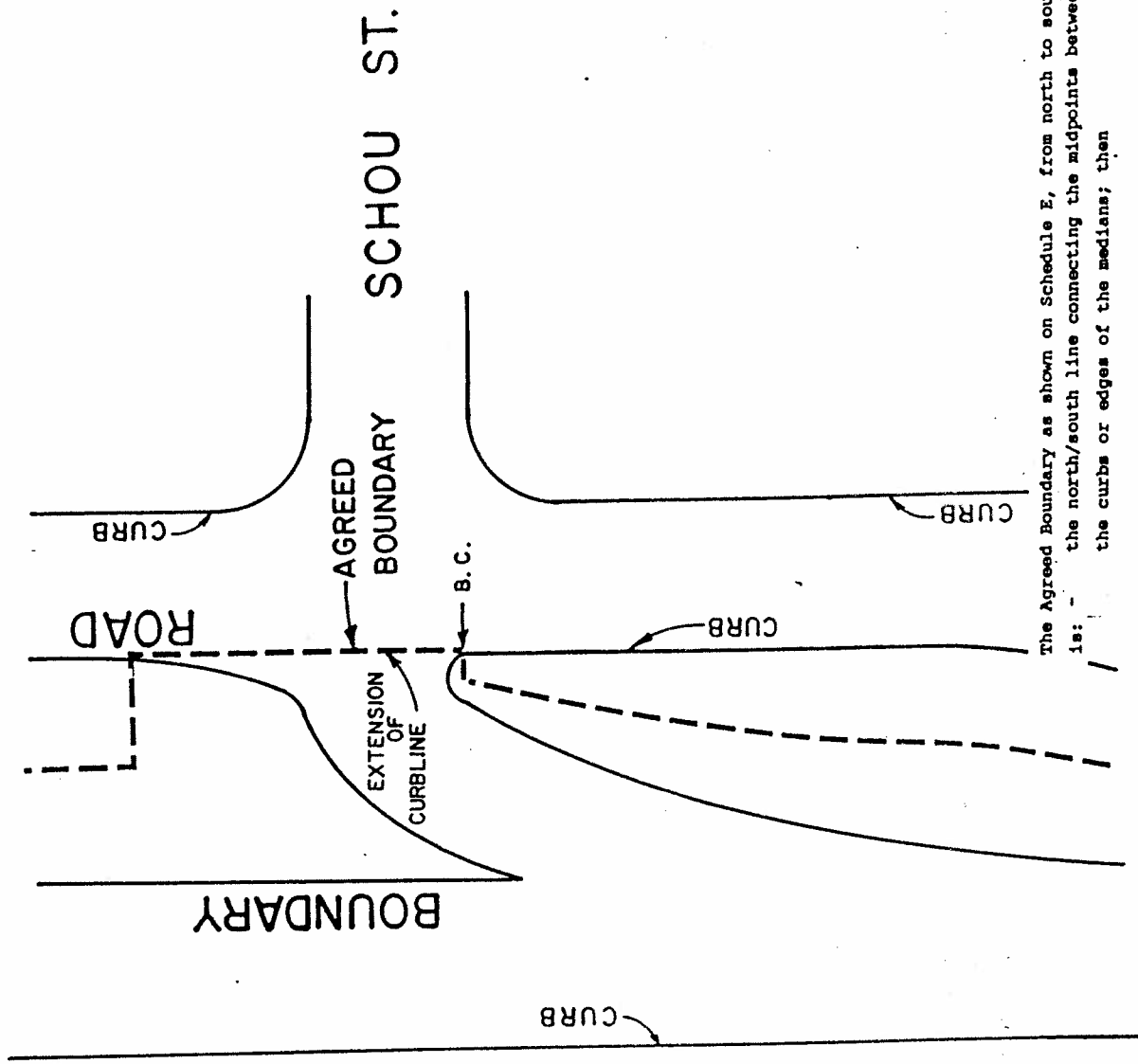
B.C. — BEGINNING OF CURVE

SCHEDULE D



- the Agreed Boundary as shown on Schedule D, from north to south
- the north/south line connecting the midpoints between the curbs or edges of the medians; then
- the east/west line to the B.C. on the east side of the median; then
- the north/south line from the B.C. on the north median extended due south until it intersects with the southerly median; then
- the east/west line from the intersection of the line above and the curb; then
- the north/south line connecting the midpoints between the curbs or edges of the medians

SCHEDULE E



The Agreed Boundary as shown on Schedule E, from north to south is: - the north/south line connecting the midpoints between the curbs or edges of the medians; then

- the east/west line to the extension of the east curb line of the southerly median with the curb of the northerly median; then

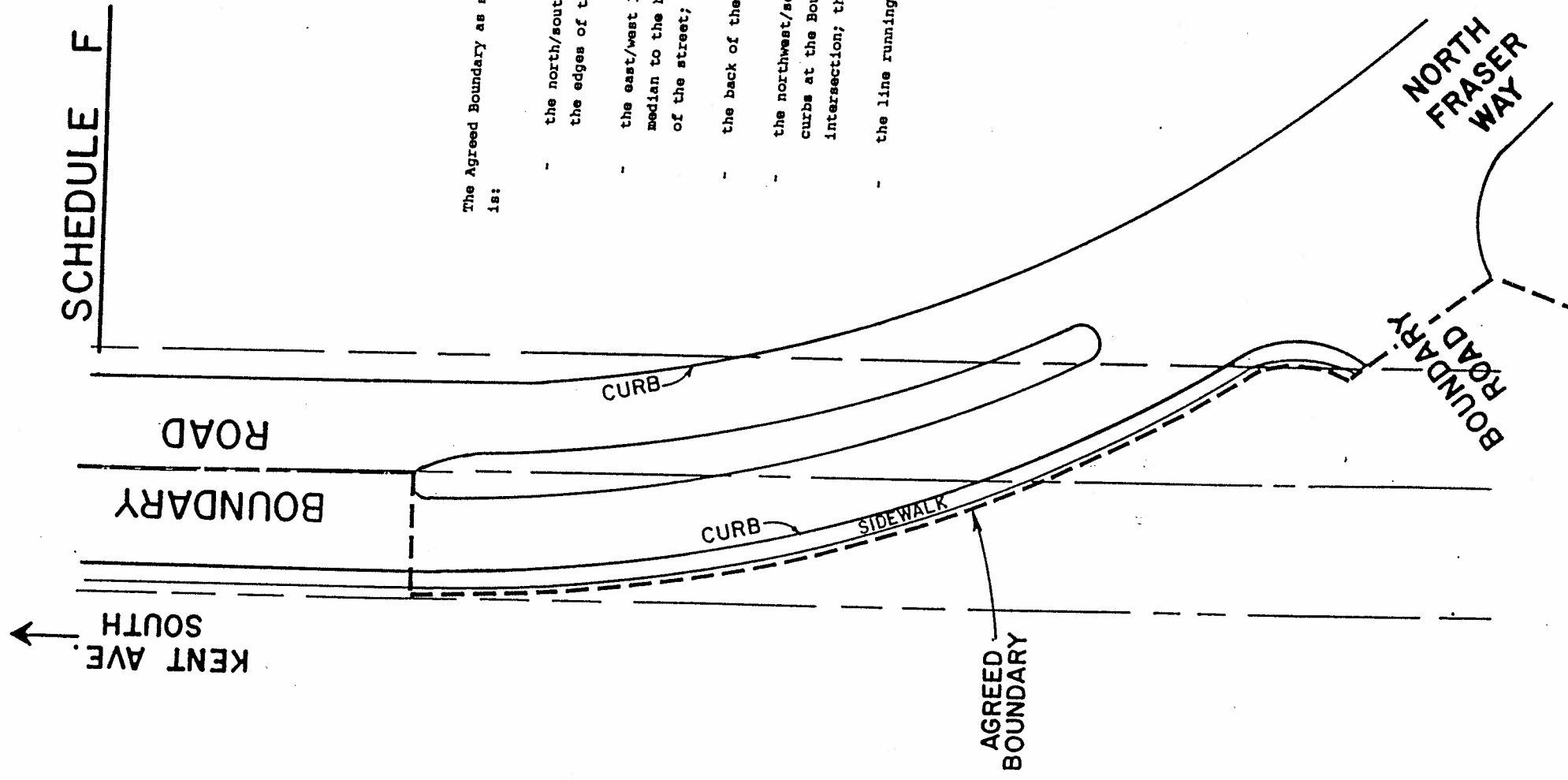
- the extension of the east curb line of the southerly median to the B.C. on the east side of the southerly median; then

- the east/west line from the B.C. of the southerly median; then

- the north/south line connecting the midpoints between the curbs or edges of the medians

B.C. — BEGINNING OF CURVE

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SCHEDULE F



- The Agreed Boundary as shown on Schedule F, from north to south is:
- the north/south line connecting the midpoints between the edges of the roadway surface; then
 - the east/west line from the northerly tip of the median to the back of the sidewalk on the west side of the street; then
 - the back of the sidewalk; then
 - the northwest/southeast line between the ends of the curbs at the Boundary Road/North Fraser Way intersection; then
 - the line running due south from the line above.

