

CORPORATION OF THE TOWNSHIP OF ESQUIMALT

BY-LAW NO. 1613

BEING a By-law to direct the execution of an agreement to amend the Greater Victoria Public Library agreement and to direct the execution of a Lease of library premises from British Columbia Buildings Corporation.

WHEREAS there is in existence an agreement, dated the first day of January, 1976 between the Greater Victoria Public Library Board, the Corporations of the Township of Esquimalt, of the Districts of Oak Bay and Saanich, and of the City of Victoria whereby the City has agreed, inter alia, to make available space for a public library in premises owned by the City (hereafter called "the Library Agreement");

AND WHEREAS the Greater Victoria Public Library Board has negotiated with British Columbia Buildings Corporation to grant a lease of library premises to the City in premises at 940 Blanshard Street, and British Columbia Buildings Corporation has executed and delivered to the City a draft of such lease agreement;

AND WHEREAS the substitution of the proposed leased premises for the present premises of the library will necessitate an amendment to the Library Agreement;

AND WHEREAS a draft of the agreement containing the necessary amendments to the Library Agreement has been submitted to the Council by the Greater Victoria Public Library Board for approval, and the Council has approved of its execution provided that the Greater Victoria Public Library Board receives not less than the sum of \$400,000.00 from the Government of the Province of British Columbia or one of its agencies, such money to be applied by the Board to the cost of relocating the library in the new premises;

AND WHEREAS a copy of the said draft agreement is attached hereto:

NOW THEREFORE THE MUNICIPAL COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF ESQUIMALT, in open meeting assembled, enacts as follows:

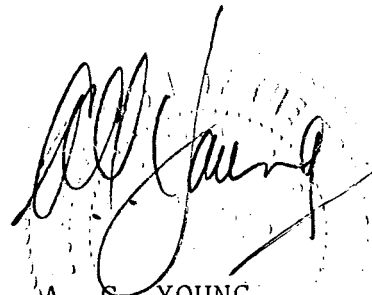
1. Upon receipt of written confirmation from or on behalf of the Government of the Province of British Columbia that the above-mentioned grant of \$400,000.00 will be made, the Mayor and Clerk shall execute the said agreement under the seal of the Corporation.

2. After such agreement has been executed by all the other parties thereto and has been approved by the responsible Minister, the Mayor and Clerk shall execute the said lease under the seal of the Corporation.
3. This By-law may be cited as the "LIBRARY AGREEMENT AND LEASE AUTHORIZATION BY-LAW, 1978".

PASSED by the Municipal Council on 23rd October, 1978.

RECONSIDERED, ADOPTED and FINALLY PASSED by the Municipal Council on 18th December, 1978.


G. MERZ
MUNICIPAL CLERK


A. G. YOUNG
MAYOR

THIS AGREEMENT made as of the first day of
January, A.D., 1978.

BETWEEN:

GREATER VICTORIA PUBLIC LIBRARY BOARD

a Public Library duly constituted pursuant
to the provisions of the Public Libraries
Act (hereafter called the "Board")

OF THE FIRST PART

AND:

THE CORPORATION OF THE TOWNSHIP OF ESQUIMALT
THE CORPORATION OF THE DISTRICT OF OAK BAY
and THE CORPORATION OF THE DISTRICT OF SAANICH

all municipal corporations duly incorporated
under the laws of the Province of British
Columbia, (hereafter collectively referred to
as the "participating municipalities" and
individually as "Esquimalt", "Oak Bay", and
"Saanich" respectively)

OF THE SECOND PART

AND:

THE CORPORATION OF THE CITY OF VICTORIA

a municipal corporation duly incorporated
under the laws of the Province of British
Columbia (hereafter called the "City")

OF THE THIRD PART

WITNESSETH THAT WHEREAS:

A. The parties hereto entered into an Agreement
dated the first day of January, A.D., 1976, relating
to the operation of a Public Library by the City and
branch libraries by the participating municipalities
(hereafter called the "main agreement");

B. The Library maintained by the City, and referred
to in the main agreement is situated upon premises at
the corner of Yates and Blanshard Streets in the City
of Victoria;

C. With the approval of the Board and of the participat-
ing municipalities the City, as Lessee, is about to

execute a lease from British Columbia Buildings Corporation of certain premises in a building in the block surrounded by Blanshard, Broughton, Douglas and Courtney Streets in the City of Victoria, in a form approved by the Board and the participating municipalities;

D. The term of the lease will probably commence some time during the year 1978 or the year 1979 and there is provision in the draft lease for the renewal of the term of the lease and the extension of the area of the demised premises;

E. Certain costs will be incurred by the City with the approval of the Board in installing shelving and other fixtures, fittings and furnishings, as well as in moving from the existing premises to the new premises, and the City intends to raise a loan to defray such costs;

F. The rent to be paid for the new Library premises by the City is intended to become an operating expense of the Board;

G. The participating municipalities have contributed financially to the cost of erection of that part of the present library which was built in or about the year 1951 on the premises facing Blanshard Street, and the City wishes to compensate them for their contribution;

H. The execution of this agreement has been authorized by By-law No.
of the Corporation of the City of Victoria;
by By-law No.
of the Corporation of the Township of Esquimalt;
by By-law No.
of the Corporation of the District of Oak Bay; and
by By-law No.
of the Corporation of the District of Saanich;

NOW THEREFORE the parties hereto covenant with each other as follows:

1. This Agreement shall come into effect as soon as and not before the City and British Columbia Buildings

Corporation have duly executed the lease of the new Library premises mentioned in the preamble hereto.

2. The Library provided by the City shall hereafter be housed in the premises demised by the said lease and including any extension of the area of the demised premises.

3. At the request of the Board and with the approval of the participating municipalities, signified by resolutions of their municipal councils, the City may from time to time exercise all or any of the options conferred upon it in the lease to renew the term thereof and to extend the area of the demised premises.

4. Notwithstanding Paragraph (e) of Clause 14 of the main agreement the ordinary expenses of maintaining and managing the Library shall include the actual rent paid by the City pursuant to the lease from the date of its inception, and the annual rental value of the existing Library shall be calculated in respect of the year during which the term commences pro rata for the period from the first day of January of that year to the date upon which the term of the lease commences, whereafter the annual rental value of the existing Library shall no longer be an operating expense.

5. For the purpose of the preceding clause the rent payable by the City shall be deemed to include all charges and expenses payable by the City to the Lessor by virtue of the provisions of the Lease.

6. The expenses incurred by the City in moving the contents of the existing Library to the new premises and all expenses incurred by the City in respect of the fixtures, fittings and furniture of the new premises, including all equipment and "tenant's improvements" shall be deemed to be an ordinary expense of the Board within the meaning of Clause 14 of the main agreement to be debited to the Board by the City in the manner set forth in the next clauses.

7. In respect of each item of the expenses referred to in the preceding clause simple interest shall be

calculated from the date of such expense to the date of commencement of the lease at a rate equal to the prime rate of interest charged on the date of commencement of the lease by the bank with which the City is on that date conducting its principal banking business.

8. The aggregate of the interest calculated by virtue of the preceding clause shall on the date of commencement of the lease be credited to the City and debited to the Board as an operating expense.

9. On the first anniversary of the lease a calculation shall be made of the aggregate of the expenses referred to in Clause 6 and which the City has incurred at that time, whether before or after the date of commencement of the lease, and the amount of expenses so incurred together with interest thereon from the date of commencement of the lease, at an annual rate equal to the prime rate of interest charged on the date of commencement of the lease by the bank with which the City is on that date conducting its principal banking business, shall be amortized over a period of ten years from the date of commencement of the lease in 40 equal quarterly instalments of principal and interest.

10. The first 4 instalments, calculated in accordance with the preceding clause, shall then be credited quarterly to the City and debited to the Board as an operating expense.

11. On the second anniversary of the lease the principal balance together with interest thereon from the date of the first anniversary of the lease, at an annual rate equal to the prime rate of interest charged on the date of the first anniversary by the bank with which the City is conducting its principal banking business on such first anniversary, shall be amortized quarterly over a period of nine years from the first anniversary of the lease in 36 equal quarterly instalments of principal and interest.

12. The instalments falling due on and after the second anniversary of the lease, and calculated in

accordance with the preceding clause, shall then be credited to the City and debited to the Board quarterly as an operating expense.

13. On each of the third to the tenth anniversaries of the date of commencement of the lease the principal balance and interest shall be recalculated in accordance with the prime rate of interest, prevailing on the previous anniversary, shall be re-amortized in the manner set forth in Clauses 9 and 11, and shall be debited and credited quarterly as in the preceding clause.

14. (a) Upon the termination of the lease the City shall provide alternative accommodation for the Library, acceptable to and approved by the Board.

(b) If such accommodation is leased to the City the rent payable shall continue to be an operating expense.

(c) If such accommodation is in premises owned by the City the rental value thereof shall be deemed to be an operating expense, and shall be calculated and established in the same manner as the rental value of premises, used in the Participating Municipalities as libraries pursuant to the main agreement.

(d) Such operating expense as well as any costs incurred at that time by the City of the kind described in Clause 6 hereof shall be deemed to be an expenditure mentioned in Paragraph (e) of Clause 14 of the main agreement, provided that if the accommodation is in premises belonging to the City, then only the moving expenses, and not the outfitting expenses, shall be included in such costs.

15. If the City hereafter grants one or more leases or tenancies of all or part of the building erected next to the old Carnegie Library building (during the years 1949 to 1951 on the south 22 feet of lot 107 and on the northern part of lot 29, Victoria City, hereafter called "the said building"), the City

shall pay the net receipts of rent, after deduction of repairs and maintenance costs, to the Board, at intervals not exceeding 12 months.

16. If the City uses all or part of the said building for its own purposes it shall pay in the same manner to the Board a sum equal to the fair market rental value of such premises, at intervals not exceeding 12 months, and, if there is any dispute between the City and the Board or a participating municipality as to the value of such rent, the dispute shall be settled by arbitration.

17. If the City sells the said building and the land on which it stands or any part thereof it shall distribute the net proceeds amongst the Participating Municipalities and itself according to the following formulas:

| | |
|-----------|--------|
| Victoria | 41.95% |
| Saanich | 37.02% |
| Oak Bay | 14.64% |
| Esquimalt | 6.39% |

100.00%

and the City covenants to use its best endeavours to sell the said building without delay.

18. In the preceding Clause "net proceeds" means the gross sale price actually received less

(a) commission, advertising costs and other expenses directly related to the sale;

(b) the costs of surveying the lands to create a separate, single parcel of land underlying the building;

(c) the costs of such alterations to the said building and the old Carnegie Library as may be necessary to separate them; and

(d) the costs of any other alterations which the City may hereafter make to the said building.

19. If the City for any reason, other than the default of a participating municipality, is in default in making a rental payment under the lease, and, as a result of such default, is obliged to pay legal costs to the Lessor, then the City alone shall bear such costs, and such costs shall not, for the purpose of Clause 5 hereof, be deemed to be included in the rent.

20. If the City, during any part of the term of the said lease or any renewal thereof, receives any tax or grant in lieu thereof in respect of the building in which the library is situate then it shall pay the net amount of such tax or grant, on receipt thereof, attributable to the library premises, to the Board to defray the Board's operating expenses.

21. For the purpose of the preceding Clause the "net amount of such tax or grant" means the amount thereof after deduction of the proportion which the City is obliged to pay over to the School District, the Regional District, the Regional Hospital District, the Municipal Finance Authority and any other entity which may hereafter collect taxes from or through the City, and the amount attributable to the library premises shall, in case of doubt, be deemed to be that portion of the total taxes or grant paid in respect of the entire building which corresponds to the respective floor areas of the building leased to the City at the time when the tax or grant is calculated and the floor area of the entire building, excluding common areas.

22. Clause 8 of the main agreement is amended, with effect from January 1, 1978, by deleting the words "100% of the assessed value of lands and 75% of the assessed value of improvements" and by substituting therefor the words "taxable assessed values of lands and improvements, based on a percentage of actual value, in accordance with the provisions of the Assessment Act".

23. Clause 19 of the main agreement is amended by increasing the total membership of the Board from 15 to 16 and by increasing the number of members to be appointed by the Municipal Council of Esquimalt from two to three, the additional member to be appointed immediately after this agreement becomes effective.

24. This agreement, notwithstanding its execution by all parties hereto, only becomes effective and binding upon the parties when it has been approved by the Minister, pursuant to the Public Libraries Act.

IN WITNESS whereof the parties hereto have executed these presents.

The Seal of
THE GREATER VICTORIA PUBLIC
LIBRARY BOARD was hereunto
affixed in the presence of:

The Corporate Seal of the
CORPORATION OF THE TOWNSHIP
OF ESQUIMALT was hereunto
affixed in the presence of:

MAYOR

MUNICIPAL CLERK

The Corporate Seal of the
CORPORATION OF THE DISTRICT
OF OAK BAY was hereunto
affixed in the presence of:

MAYOR

MUNICIPAL CLERK

The Corporate Seal of the
CORPORATION OF THE DISTRICT
OF SAANICH was hereunto
affixed in the presence of:

MAYOR

MUNICIPAL CLERK

The Corporate Seal of the
CORPORATION OF THE CITY OF
VICTORIA was hereunto
affixed in the presence of:

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MAYOR

CITY CLERK