



CHAPTER 72.

An Act to confer upon the Council of the Corporation of the District of Oak Bay certain Powers in addition to those conferred by the “Municipal Clauses Act.”

[10th March, 1910.]

WHEREAS a petition has been presented by the Corporation of Preamble.
the District of Oak Bay praying for the passage of an Act to confer upon the Council of the said Corporation certain powers in addition to those conferred by the “Municipal Clauses Act”:

And whereas it is expedient to grant the prayer of the said petition:

Therefore, His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:—

1. In the construction of this Act the following expressions Interpretation.
wherever used shall have the following meanings respectively unless the context otherwise requires:—

“The Corporation” shall mean the Corporation of the District of Oak Bay:

“The Reeve” shall mean the Reeve, or Acting Reeve, of the Corporation of the District of Oak Bay:

“The Council” shall mean the Municipal Council of the Corporation of the District of Oak Bay:

“The said Act” shall be deemed to refer to and mean and include the “Municipal Clauses Act” and all amendments thereto:

“The Municipality” shall mean the Municipality of the District of Oak Bay.

2. In addition to the corporate powers vested in the Council under the provisions of the said Act, there is hereby conferred upon the said Council the following powers:—

To charge frontage
water rate.

(1.) To charge the owner or occupant of any house, tenement, lot, or part of a lot, or both, in the Municipality, in, through, or past which the water-pipes or water-mains of the Corporation shall run, a frontage water rate, whether such owner or occupant shall use the water or not, having due regard in the assessment for any special benefit and advantage derived by such owner or occupant, or conferred upon his or their property by such water pipe or main, and the locality in which the same is situate; and such water rate, so charged as aforesaid, shall be considered a lien and charge unless paid upon such house, tenement, lot, or part of lot: Provided, always, that the rate in this section mentioned shall be in addition to any rate or rental chargeable under any by-law passed pursuant to the provisions of the said Act:

To borrow money
for water-main.

(2.) To borrow or authorise the borrowing of such sums of money as may be required for the purchasing, laying, and constructing of water pipes and mains, subject to the provisions of section 68 of the said Act, but without the restrictions contained in section 81 of the said Act:

To prevent fouling
of water-courses.

(3.) To prevent the obstruction or fouling of streams, water-courses, and drains, and for authorising any municipal officers and workmen to enter in and upon any lands within the Municipality for the purpose of cleaning or clearing any stream, water-course, or drain, and to lay drains or sewerage pipes through any part of such stream or water-course: Provided that any by-law passed under the provisions of this section shall declare that such right of entry or the necessity of laying any such drain is a public necessity:

To regulate speed
of vehicles.

(4.) To regulate the speed of automobiles and other vehicles on public roads and streets within the limits of the Municipality:

To regulate
firearms.

(5.) To prohibit and regulate the discharging or firing of fire-arms in the Municipality:

Passing of by-laws.

(6.) To make, alter, and repeal by-laws for any of the purposes or in relation to matters coming within the classes of subjects mentioned in subsections one (1) to five (5) of this section: Provided, however, that the assent of the electors of the Corporation shall in manner provided by section 75 of the said Act be, and it is hereby declared to be, necessary to the validity of any by-law to be passed in relation to any of the matters or subjects mentioned in clause 1 of this section.

3. The agreement recited and incorporated in a by-law finally passed after ratification by the electors of the Municipality on the seventeenth day of January, 1910, known as the "Upland Farm By-law," of which by-law a true and correct copy is set forth in Schedule C to this Act, is hereby ratified and confirmed, and the Council shall have the power to adopt and carry into effect the said agreement and do all things necessary to enable the Council to carry out and confer the rights, franchises, and privileges in the said agreement or in the said by-law mentioned or referred to.

Ratifying Upland
Farm By-law.

4. The Council shall have power to borrow from any person, firm, or corporation, upon such terms as it shall think fit, the sum of money necessary for the purpose of repaying to William Hicks Gardner the cost of the water-main mentioned in clause 8 of the said agreement, and it shall not be necessary to obtain the assent of the electors to the passing of any such by-law under the provisions of the said Act, and no petition as required by section 69 of the said Act shall be necessary.

Authorising money
for repayment cost
of water-main to be
laid by W. H.
Gardner.

POWERS AS TO LOCAL IMPROVEMENTS GENERALLY.

5. The Municipal Council, for the purpose of effecting local improvements and works, the whole or a part of the cost of which it proposes to assess upon the real property specially benefited thereby, may, subject as hereinafter provided, pass by-laws for the following purposes:—

Local improvement
by-laws.

- (1.) For (a) opening, widening, extending, prolonging, altering the grade of or diverting any public street, lane, alley, or place, or opening up or establishing a new street in the Municipality; or (b) constructing or reconstructing any bridge, culvert, subway, or embankment as part of any public street, lane, alley, or place, or any roadway or pavement thereon; or (c) constructing, reconstructing, enlarging, or prolonging and extending any common sewer or drain into or through the lands of any owner other than the Corporation, and making all proper and necessary connections therewith:
- (2.) For (a) constructing, reconstructing, enlarging, or prolonging and extending any common sewer or drain, and constructing and making all proper and necessary private drains and connections therewith in and along any public street, lane, alley, or place or any part thereof; or (b) for constructing roadways, or macadamising, planking, paving, or curbing any public street, lane, alley, or place; or (c) for resurfacing with wood-block pavement, asphalt, or other suitable material a pavement having a concrete foundation which in the opinion of the engineer is sufficient therefor; or (d) for constructing sidewalks or footways in, upon, and along any public street, lane, alley,

or place, and for reconstructing any such roadway, curbing, or sidewalk, or footway, when the term of the special assessment therefor shall have expired, or the work or improvement shall be worn out; or (e) for setting apart a portion or portions of any public street or place for the purpose of a boulevard or boulevards thereon and therein, and for constructing and maintaining such boulevard or boulevards; or (f) for sodding any portion of and planting, maintaining, and caring for trees, shrubs, and plants upon and in any public street, square, or other public place:

- (3.) For constructing, extending, and maintaining all such mains, conduits, and pipes, and for constructing all such branch mains, conduits, and pipes, making connections with all buildings and premises, and constructing all such other works and doing all such other things as may be necessary for the supplying of water for public as well as for private use:
- (4.) For providing the means of ascertaining and determining the probable cost of every such work, improvement, or service above mentioned:
- (5.) Subject as hereinafter provided, for providing the means of ascertaining and determining what real property will be benefited by the construction and carrying-out of any of the above-mentioned works, improvements, or services; what portion thereof is liable for special assessments therefor, and what portion thereof (if any) is exempt from such special assessment; what proportion or amount of the cost of any such proposed improvement, work, or service is to be assumed and borne by the Municipal Corporation as its share or part thereof, and what proportion or amount thereof is to be charged against and specially assessed upon the assessable real property benefited thereby; the proportion in which the assessment of that part of the said cost which is chargeable against the real property benefited is to be made upon the various portions of real property benefited thereby; the time to be allowed for the payment of any debt which may be created for the purposes of any such improvement, work, or service, and the number of annual special assessments which will be imposed to pay the interest upon the said debt and create a sinking fund sufficient to extinguish the debt at maturity, or to pay the annual instalments covering interest and part of the principal of the debt, as the case may be:
- (6.) Subject also as herein provided, for assessing the cost of any such improvement, work, or service or such portion of the cost thereof as may be permitted by this Act upon the real property to be benefited thereby, and for levying

and collecting such cost or such portion thereof by an annual special rate upon the said real property according to the frontage thereof:

- (7.) For regulating the time or times and the manner in which the special assessments to be levied and collected under this section are to be paid, and for arranging the terms upon which the owners and other persons liable to pay the same may commute by the cash payment of their proportionate shares of the cost of any such work, improvement, or service in principal sums:
- (8.) For effecting any of the improvements, works, or services mentioned above with funds provided by persons desirous of having the same effected:
- (9.) No local improvement by-law shall be passed by the Council for the purpose of assessing any part of the proposed cost of any improvement or work upon the real property specially benefited thereby, in the event of the portion of the proposed cost of such improvement or work which is to be assessed upon the real property benefited, together with the cost of any other work or improvement assessed against such real property under any other local improvement by-law, exceeding forty per cent. of the assessed value of the real property proposed to be assessed: Provided, however, that such portion of the cost of any local improvement work assessed against any real property benefited thereby as may from time to time be paid to the Corporation in respect of the real property so assessed shall not be taken into account in ascertaining such forty per cent. of the assessed value of the real property proposed to be assessed under any other local improvement by-law.

6. Instead of passing individual by-laws, the Municipal Council By-laws. may pass one by-law for several local improvement works, giving the same information concerning each of such works as would be given in the several individual by-laws, and the passing of one by-law covering several distinct works shall not in any way invalidate the said by-law.

7. If the contemplated work or improvement is the construction of a common sewer having a sectional area of more than four feet, one-third of the whole cost thereof shall be provided for by the Council. The Council shall also provide, in connection with all sewers and roadways, the cost of all culverts and other works necessary for street surface drainage, and may also, in the case of roadways and sidewalks, provide the cost of that part of every work, improvement, or service which is incurred at and is chargeable in respect of street intersections, and also that part thereof done or made opposite real property which by any general or special Act is exempt from special or local assessment. Common sewers, how cost to be borne.

How special rate
assessed and levied.

8. (1.) The special rate to be so assessed and levied shall be an annual rate according to the frontage thereof, upon the real property immediately benefited by the work or improvement.

(2.) If in any case the first assessment for any such work or improvement proves insufficient, the Council shall make a second or other additional assessment in the same manner, and so on until sufficient moneys have been realised to pay for such improvement or work; and if too large a sum has at any time been raised, the excess shall be refunded rateably to those by whom it was paid.

(3.) Provided that, instead of assessing and levying by a frontage rate, the Council may by by-law provide that the cost of the local improvement therein specified may be assessed and levied by a special rate upon the lands benefited thereby, according to the proportion of benefit received therefrom, instead of by a frontage rate.

Repairs to be at
expense of
Corporation.

9. Nothing contained in the three next preceding sections shall be construed to apply to any work of ordinary repair or maintenance during the estimated lifetime of the work of local improvement, and all works or improvements constructed under the said sections shall during such estimated lifetime be kept in a good and sufficient state of repair at the expense of the Municipality generally:

Provided that nothing herein contained shall be construed to affect the liability of the Corporation for injuries to persons or property, but such liability shall continue even after the expiration of such estimated lifetime.

By-laws for
determining what
real property
benefited by local
improvement.

10. It shall be deemed to have been and to be a sufficient compliance with the provisions of section 5 if the Council shall have passed or shall pass a general by-law or general by-laws providing the means of ascertaining and determining what real property will be immediately benefited by any proposed work or improvement, the whole or any part of the expense of which is proposed to be assessed upon the real property immediately benefited thereby, and of ascertaining and determining the proportions in which the assessment of the final cost thereof is to be made on the various portions of real estate so benefited, and it shall not be deemed to have been or to be necessary to pass a special by-law in each particular instance for the purposes above mentioned.

MODE OF INITIATING LOCAL IMPROVEMENT WORKS.

(1.) *By Petition.*

Mode of initiating
local improvement
works.

11. (1.) Upon the receipt of a petition praying for any of the works and improvements mentioned in section 5 of this Act, signed by at least two-thirds in number of the owners of any real property to be benefited thereby, according to the last revised assessment roll of the Corporation, such owners representing at least one-half in value of such real property (the number of such owners and the value of such real property as appears by the last revised assessment

roll as aforesaid having been first ascertained and finally determined in the manner and by the means provided by by-law in that behalf), the Council may take all proper and necessary proceedings for the execution and completion of the work or improvement with as little delay as possible.

(2.) *On Sanitary Grounds.*

(2.) If the Council affirm by vote of two-thirds of all the members of the Council at any regular meeting thereof that it is desirable and necessary in the public interest to construct, make, enlarge, or prolong a drain, sewer, or sewers for the purpose of draining a particular locality for sanitary or drainage purposes, as a local improvement, it shall not be necessary for the Council to give notice of the proposed assessment for such local improvement, except the notice required by subsection (3) of section 14 of this Act of the sitting of the Court of Revision for the purpose of hearing complaints against such proposed assessment.

(3.) *On the Initiative Method.*

12. (1.) Any work or improvement mentioned in section 5 of this Act may be undertaken and the assessment of the cost thereof may be made upon the properties benefited thereby, unless the majority of the owners of such real property, representing at least one-half in value thereof, petition the Council against the same within one month after the last publication of a notice of the intention of the Council to undertake the said work, such notice to be inserted once in each week for two weeks in one newspaper published in the City of Victoria, and any number of different works or improvements may be included in one such notice and shall stand good for any one or more that may not be petitioned against which the Council may determine to proceed with:

- (a.) In addition to being given publication, as provided in the next preceding paragraph, the notice of the intention of the Council to undertake any work as a local improvement shall be served by mailing the same to the present or last-known place of abode of the owners of the properties benefited thereby; and a declaration of the officer or person charged with the duty of giving any such notice that the same was mailed as stated in the declaration shall be accepted as conclusive evidence of the proper service thereof:
- (b.) It shall be sufficient if the notice of the proposed work or improvement, by a general description, describes the street, lane, alley, or place or the portion thereof whereon or wherein and the points between which the same is to be made or done, and the street, lane, alley, or place or portions thereof upon which the real property benefited and proposed to be specially assessed fronts or abuts; and

the number of such annual special assessments. It shall not be necessary in such cases to state the value of the real property rateable for the work or improvement or to impose a rate upon such real property by any description other than that hereinbefore mentioned.

(2.) In the event of any sufficiently signed petition as aforesaid against the proposed work or improvement being presented to the Council, no second notice for the same shall be given by the Council within two years thereafter: Provided, however, that a notice may be given within such two years if such notice is for a different kind of pavement, or for a less expensive pavement though of the same kind, than the one included in the notice previously given.

(3.) The number of the owners petitioning against the proposed improvement or work, and the value of the real property which they represent, may be ascertained and finally determined in such manner and by such means as are provided by by-law in that behalf.

(4.) When notice of a proposed improvement, work, or service to be paid for by special assessment as a local improvement has been given by the Council, pursuant to the provisions of this Act, and no petition sufficiently signed as aforesaid has, within the time limited in that behalf by this Act, been presented to the Council against such proposed improvement, work, or service and assessment, it shall be lawful for the Council, in the same or any succeeding year, to carry on the proposed work, improvement, or service to completion before making the assessment therefor:

(a.) A notice so given shall stand good as the authority for undertaking any such work, improvement, or service, and for making such assessment or assessments, and passing all necessary by-laws, whether the same shall have been or shall be undertaken and completed by the Council giving such notice or by any succeeding Council.

(5.) Any owner of real property to be benefited by the construction of any work or improvement, the cost of which is payable by local special assessment under sections 5 to 20 of this Act, may, notwithstanding that his name does not appear on the last revised assessment roll of the Municipality, petition for or against such local improvement upon satisfying the Clerk of the Municipality by statutory declaration or otherwise that he is the owner of the property instead of the person assessed therefor upon such last revised assessment roll.

Short Form of Local Improvement By-laws.

Form of local
improvement
by-laws.

13. (1.) Where a by-law made according to the form set forth in Schedule A annexed to this Act, or any other by-law expressed to be made in pursuance of this section or referring thereto, passed by the Council for borrowing money by the issue of debentures secured by local special rates on the property benefited thereby,

contains any of the forms of words contained in column one of Schedule B hereto annexed and distinguished by a number therein, such by-law shall be taken to have the same effect and shall be construed as if it contained the form of words contained in column two of said Schedule B, and distinguished by the same number, but it shall not be necessary in any such by-law to insert any such number.

(2.) Any by-law which fails to take effect by virtue of this section shall, nevertheless, be as effectual to bind the Corporation, the Council of which passed such by-law, as if this Act had not been passed.

(3.) Nothing herein contained shall require the Corporation to adopt the said form of by-law.

Notice may be given in Lieu of Advertising By-law.

14. (1.) No by-law passed under the provisions of section 5 of this Act shall require to be advertised in any newspaper, but a written or printed, or partly written and partly printed, notice of the sitting of the Court of Revision for the confirmation of every such special assessment shall be given to the owners and lessees having the right to petition, or to the agents of such owners and lessees.

By-laws need not be advertised.

Contents of Notice and how served.

(2.) Every such notice shall contain a general description of the property in respect of which the same is given, and the nature of the improvement, work, or service, the estimated or actual cost thereof, the amount of the frontage of the particular piece of property, and the time and manner in which the special assessment is to be payable, and shall be signed by the clerk, assessment commissioner, or other officer appointed by the Council for the purpose, and shall, at least fifteen days before the day appointed for the sitting of the Court, be mailed to the address of the person entitled to receive the notice. Ten days' notice of the time and place of the meeting of the said Court shall also be given by publication in some newspaper having a general circulation in the Municipality, which notice shall specify generally what such assessment is for and the total amount to be assessed.

(3.) The said notice may be in the form or to the effect following:—

“Take notice that the Council of the Corporation of the District of Oak Bay intends to construct [or has constructed, *as the case may be*] [*describing the work or improvements*] on [or in] Street, between [*describing the points between which the work or improvement is to be made or done*], and intends to assess the final cost [or a portion of the final cost, *as the case may be*] thereof upon the real property to be immediately benefited thereby fronting or

abutting upon [*give the name or names of the street, lane, alley, or place or streets, lanes, alleys, or places, and the points between which the real property fronts or abuts, upon which the proposed special assessment is to be made, and the annual rate per foot on the frontage upon each street and the number of such annual assessments*], and that a statement showing the lands liable to and proposed to be specially assessed for the said improvement [*or work*] and the names of the owners thereof, so far as the same can be ascertained from the last revised assessment roll and otherwise, is now filed in the office of the Clerk of the Corporation, and is open for inspection during office hours. The cost [*or estimated cost, as the case may be*] of the improvement [*or work*] is \$ (of which \$ is to be provided out of the general funds of the Corporation).

“A Court of Revision will be held on the day of , 191 , at the hour of , at the [*insert the place of meeting*], for the purpose of hearing complaints against the proposed assessment or the accuracy of frontage measurements or any other complaint which the persons interested may desire to make and which is by law cognisable by the Court.

“Dated .

“Clerk.”

(4.) The Council shall, for the purpose of making the special assessment for the cost of any work, improvement, or service, procure a measurement to be made of the frontages liable to assessment for such cost and of the frontages exempt from taxation, and shall for at least ten days before the time fixed for hearing appeals from such assessment keep a statement of the same open for inspection in the office of the Clerk of the Corporation.

Appeals to a Court of Revision and to a Judge.

(5.) From any such assessment or proposed assessment there shall be the right of appeal to the Municipal Council or any committee thereof, by by-law duly appointed, sitting as a Court of Revision, and from the Court of Revision to a Judge of the Supreme Court, or to the Judge of any County Court having jurisdiction within the Municipality. The Court of Revision and the Judge shall have power to revise and alter assessments, and to correct any errors in the names of the owners or in the frontage measurements of the properties assessed or caused by the omission of property which should be assessed, and to determine the proportion of assessment of corner lots or triangular or other irregular pieces of land, and the proportion of the cost to be borne by the Corporation where the cost exceeds the estimates by ten per cent., and also whether or not the property is or will be benefited by the work or improvement, and

the proceedings thereon shall be the same (as nearly as practicable) as in the case of appeals from ordinary assessment under the "Municipal Clauses Act."

(6.) Wherever an appeal lies from the Court of Revision to a Judge of the Supreme Court or to the Judge of any County Court having jurisdiction within the Municipality, under sections 5 to 20 inclusive, the said Judge, in addition to his other powers under this Act, may inquire and determine what lands (if any) other than those included in the assessment appealed from are or will be specially benefited by the proposed work or improvement, and may add such lands to the lands to be assessed, notwithstanding that such lands may not have been specified in any notice of appeal to the said Judge; and the said Judge shall cause all persons who may be affected by the addition of their lands to the lands so to be assessed to be notified of the time and place when the said appeal and matter will be considered, and may for that purpose, from time to time, adjourn the hearing of the said appeal.

When Assessment becomes Final.

(7.) The assessment referred to in the two preceding subsections, unless so far as the same is altered or varied by the Court of Revision or a Judge of the Supreme Court, or a Judge of the County Court therein mentioned upon appeal, shall be final and conclusive as to all matters therein contained.

(8.) Where the proposed assessment has been regularly brought before a Court of Revision and a Judge of the Supreme Court or a Judge of the County Court aforesaid (in case there has been an appeal to such Judge), it shall not be necessary to submit to another Court of Revision the by-law for the actual cost of the work or improvement when such actual cost does not exceed by more than ten per cent. the estimated cost thereof as submitted to the Court of Revision.

Power to Incur Debts for the Cost of Local Improvements.

15. (1.) The Council may make agreements with any bank, or with any person or body corporate, for temporary advances and loans for meeting the cost of the work or improvements until the completion thereof, and may in their option make the special assessments for the cost thereof after the work or improvement has been completed, and may then pass the necessary by-law authorising the issue of debentures to repay the amount of the temporary loan or advance.

Council may incur debts for cost of local improvements.

(2.) Every by-law passed under the provisions of this Act for borrowing money by the issue of debentures as aforesaid shall provide for the repayment of the loan and the maturing of the debentures to be issued pursuant to such by-law, within the probable life of the work or improvement for which such debt has been incurred, as certified by the engineer, or other proper officer to be appointed by the Council for that purpose.

(3.) If a debt has been incurred by the Corporation for any work done or improvement constructed under the provisions of this Act, and if after the incurring of the said debt the special assessment for such work or improvement or the by-law providing for borrowing money therefor is set aside or quashed, either wholly or in part, on the ground of any irregularity or illegality in making such assessment or passing such by-law, it shall be lawful for the Council, and they are hereby authorised, to cause a new assessment or assessments to be made, and to pass a new by-law, so often as may be necessary to provide funds for the payment of the debt so incurred for such work or improvement.

(4.) Nothing herein contained shall be construed as authorising any assessment to be made, or any work or improvement to be undertaken, unless the same has been initiated in some one of the four methods by law provided, namely:—

- (a.) Either on the report of the engineer or other sanitary officer, and of a committee of the Council, adopted by the Council, recommending the proposed work or improvement for sanitary or drainage purposes; or
- (b.) On a sufficiently signed petition of the owners of the real property to be benefited; or
- (c.) After due notice, as above provided, of the proposed assessment and no sufficiently signed petition of the owners, as hereinbefore defined, of the real property benefited being presented to the Council against the proposed assessment within the time limited therefor.

Council may pass by-law to settle for work done, though not in strict compliance with contract.

16. The Council shall have power to pass a by-law to agree and settle as upon a quantum meruit with any contractor or contractors for any work which has been done or shall be done as a local improvement, where it shall consider the work to have been performed sufficiently for the purposes of such local improvement, although not in strict compliance with the contract, and the amount so agreed upon and fixed shall be the amount, or part of the amount, as the case may be, for which an assessment may be made upon the properties benefited by such local improvement: Provided that nothing herein shall be construed to enlarge or extend the rights (if any) of any contractor as against the Corporation, unless the Council thereof shall see fit to pass a by-law hereunder, and then only subject to the terms of such by-law.

SPECIAL PROVISIONS AS TO ASSESSMENTS FOR LOCAL IMPROVEMENTS.

(1.) *As to Sewers.*

Special provisions.

17. (1.) In ascertaining and determining the cost of draining any locality or of making and laying or prolonging any common sewer, the Council may estimate the cost of the construction of branch drains from the drain or sewer to the line of street, and may, in

making the assessment for such drains or sewers, include the cost of such branch drains as part of the cost of the local improvement, or may assess and levy the cost thereof by a special rate upon the lands benefited thereby instead of by a frontage rate. The provisions of this section shall apply to sewers heretofore constructed as well as to those hereafter constructed.

(2.) Where, in order to afford an outlet for the sewerage and drainage of real property other than that fronting or abutting upon the street in which a sewer is proposed to be or is constructed, such sewer is proposed to be or has been constructed of a larger capacity than that required for the efficient sewerage and drainage of the real property fronting or abutting upon the street, the Council may impose a special assessment upon any other real property benefited by the construction of such sewer in the manner provided by sections 18 and 19 of this Act.

(3.) In the case of common sewers already constructed or hereafter constructed out of the general funds of the Corporation, the Municipal Council shall, upon a resolution of the Council supported by two-thirds of the members of the Council being passed, and without any special notice being published or served upon the owners, have the right at any time to construct branch drains from such sewers to the line of the street as a local improvement, without any petition or other authority than such resolution therefor, or may assess and levy the cost thereof by a special rate upon the lands benefited thereby instead of by a frontage rate. The amount to be assessed and levied upon each adjoining property, or upon the lands benefited thereby, shall be the cost of construction of the branch drain from the centre of the street to the line along the adjoining property, whether the sewer be laid on the centre or side of the street.

As to Pavements.

(4.) In case the Council is about to construct, renew, or alter the character of a pavement on any street, highway, or public place, or portion thereof, as a local improvement, the Council may, before putting down such pavement, put in all necessary private drain connections from any existing drain or sewer upon such street or portion thereof to the street line on each side of the drain or sewer, and also all necessary water-mains, and may assess and levy the cost thereof, and of any alterations of service pipes and stop-cocks thereby necessitated, against the properties benefited thereby as part of the cost of the said local improvement, pursuant to the provisions of section 5 of this Act.

As to Corner and Irregular Lots.

(5.) The Council may, by by-law, provide an equitable mode of assessing for local improvements, works, and services, corner lots, triangular or other irregular-shaped pieces of land situate at the

intersection or junctions of streets, having due regard to the situation, value, and superficial area of such lots, as compared with adjoining lots and pieces of land assessable for such improvements, works, and services, and may charge the amount of any allowance made on any such lot or piece of land on the other real property fronting on the improvements, or may assume the same as a portion of the Corporation's share of the works or improvements. Any such assessment shall be subject to appeal to the Court of Revision, and from the Court of Revision to a Judge of the Supreme Court or a Judge of the County Court, as in this Act provided.

Lands on same Street unequally benefited.

(6.) Where the lands on either side of a street, lane, or alley in the Municipality are, in the opinion of the Council, unfit from any cause for building purposes, and the Council deems it inequitable to assess the same for local improvements at so high a rate as the building lots fronting on said street, lane, or alley, the Council shall, in all such cases, determine in what proportion the cost of any such improvement shall be borne by the lands on each side of said street, lane, or alley, respectively.

Lands fronting on Parks, Boulevards, etc.

(7.) Real property adjoining and fronting on any park, square, public drive, or boulevard shall be specially assessable for and in respect of the improvements, works, and services made, done, or provided upon or in any such drive or boulevard in like manner as real property fronting or abutting upon any public street; but where a public park, square, drive, or boulevard exists or may hereafter be established, the lands adjoining it not exempt from taxation shall be assessable only in respect of such improvements, works, and services to the extent to which such lands are specially benefited by such improvements, works, and services; and where the lands on one side of such drive or boulevard are a public park or square, or for other reasons are exempt from taxation, at least one-half of the cost of such improvements, works, and services shall be borne by the Corporation generally:

- (a.) No petition shall avail to prevent the carrying-out of any local improvement, work, or service in any such park, square, drive, or boulevard, and the making of special assessments therefor as aforesaid.

BRIDGES, STREET EXTENSIONS, SIDEWALKS, ETC.

Property not Fronting or Abutting may be Assessed.

Bridges, culverts,
sidewalks, etc.

18. (1.) Where, in the opinion of the Council, it is expedient and necessary to construct or repair bridges or culverts on any street, lane, or alley, or to open up or extend any street, lane, or alley, within the limits of the Municipality for the more immediate convenience or benefit of any locality within such limits, and the Council

is of opinion that from any cause it is inequitable to charge the whole of the cost of the improvements on the lands fronting thereon, the Council shall determine what lands are benefited by such works or improvements, and the proportion in which the cost thereof shall be assessed against the lands so benefited, and also the proportion (if any) of the cost of the improvement, which shall be assumed by the Corporation as its share thereof:

- (a.) The share or proportion of the cost of such improvement assumed by the Corporation may be provided for by the issue of debentures upon the credit of the Corporation at large in like manner as in the case of the share of the Corporation of other local improvements:
- (b.) All assessments made under the above provisions shall be subject to an appeal to the Court of Revision, and from the Court of Revision to a Judge of the Supreme Court or a Judge of the County Court, in like manner as in the case of other special assessments for local improvements under the provisions of this Act.

(2.) In case of the construction or repair of a bridge or culvert, or the opening-up or extension of any street, lane, or alley (if the Council determines that any real property other than that fronting or abutting on the street, lane, or alley, or the portion thereof whereon or wherein the improvement is made, or to be made, is specially benefited, and ought to be charged with a part of the cost thereof, and determines the proportion in which the cost of the improvement shall be assessed against the land so benefited), the Council shall assess and levy the proportion of the cost chargeable against the lands benefited by, but not fronting or abutting upon, such street, lane, or alley by a frontage rate, in like manner as the same would be assessed and levied in the case of lands fronting or abutting upon the street, lane, or alley, or the portion thereof whereon or wherein the improvement is made or to be made.

(3.) Or the Council may, by by-law, provide that the costs of the works therein specified may be assessed and levied by a special rate upon the lands benefited thereby according to the proportion of benefit received therefrom instead of by a frontage rate, as herein-before provided.

When Corporation may Contribute Part of the Cost of Bridges, etc.

19. In any case where a Council affirms by a two-thirds vote thereof that the constructing, erecting, or making of any bridge, culvert, or embankment benefits the Corporation at large, and that it would be inequitable to raise the whole cost of such improvement or work by local special assessments, the Council may pass a by-law for borrowing money by the issue of debentures upon the credit of the Corporation at large to provide, as the Corporation's share of the cost of such improvement or work, an amount not exceeding one-

half of the whole cost thereof; and any such by-law for borrowing money to provide the Corporation's share of the cost of such improvement or work shall require the assent of the electors of the Municipality, under the provisions of section 75 of the "Municipal Clauses Act."

Sidewalks Constructed by Private Owners.

20. The Council may permit the owner or owners of lands to build on or improve the sidewalk in front of his or their lands, under the direction of the Council or an officer thereof appointed for that purpose, and according to such plans and regulations as the Council may prescribe, in which case the owners or occupants of such lands shall be exempt from all taxes for improvements of a like nature so long as they keep the same in repair to the satisfaction of the Council.

Cost of Local Improvements Opposite Street Intersections or Exempt Properties.

21. (1.) In case of a special assessment being made on property benefited by any local improvement, the Council (if they think fit) may, by by-law, provide for constructing, at the expense of the general funds of the Corporation, such part of the local improvement as is situate upon or in that part of any street, lane, alley, public place, or square which is intersected by any other street, lane, alley, public place, or square, or as would otherwise fall on property exempt from assessment; and the Council may provide for the cost thereof in the general rates or taxes for the year, or by the issue of debentures, or in such other manner, not inconsistent with the provisions of this Act or of the "Municipal Clauses Act," as to said Council may seem best, and subject to such by-laws as the Council may pass in that behalf.

(2.) The by-law authorising the issue of the debentures shall be submitted for the assent of the electors of the Municipality in accordance with section 75 of the "Municipal Clauses Act," and the debentures issued to pay for that part of the work payable by local assessment may, if the Council thinks fit, be issued as a series distinct from those required to pay for that part which is to be borne by the general funds of the Corporation, or all the debentures required for the work may be issued in one series, as "local improvement debentures."

EXEMPTION OF LOCALLY ASSESSED PROPERTIES FROM GENERAL RATES FOR LIKE PURPOSES.

22. (1.) Any real property specially assessed by the Council for any local improvement or work under this Act shall be exempted by the Council from any general rate or assessment for the like purpose, except the cost of works at the intersection of streets, and except

such portion of the general rate as may be imposed to meet the cost of like works opposite real property which is exempt from such special assessment, and such exemptions shall be upon the value of the lands only and not on the improvements thereon.

(2.) Where a local improvement or service is petitioned for and the petition is by two-thirds in number of the owners of the real property fronting or abutting upon the street or place wherein or whereon such improvement or work is proposed to be done or made, the exemption may be for a specified period named in the petition and agreed to by the Council.

(3.) Or if, either with or without naming any period for such exemption, the petition requests an arbitration, the Council may accede to the proposal for an arbitration.

(4.) In case the matter is to be determined by arbitration, a sole arbitrator shall be chosen for the purpose by a Judge of the Supreme Court or a Judge of the County Court having jurisdiction within the Municipality, unless some person or persons is or are agreed to in that behalf by the petitioners and the Council.

(5.) Where by reason of a special assessment the owners are exempted from a general rate for the like purpose as aforesaid, the Council shall, from year to year, by by-law directing the general rate of assessment, or by some other by-law, state what proportion of the general rate is for purposes for which there is special assessment in any part of the Corporation, and shall state the same in such manner as may give effect to this section.

(6.) Until a by-law is passed containing such statement, none of the money raised by general rate on real property specially assessed or rated for any work or service hereafter executed shall be applied to any work or service of the same character in any part of the Municipality.

MUNICIPALITY'S SHARE OF LOCAL IMPROVEMENT DEBTS MUST BE
RAISED WITH ASSENT OF ELECTORS.

23. (1.) The Council may pass all by-laws necessary from time to time to raise loans and borrow money required for its share of any local improvements and works, on the credit of the Corporation at large; but it shall be necessary to obtain the assent of the electors to the passing of any such by-law under the provisions of section 75 of the "Municipal Clauses Act."

Council may pass all by-laws to raise loans for local improvements, etc.

Ratepayers' Share may be Raised without Assent of Electors.

(2.) The Council may pass all by-laws necessary from time to time to raise loans and borrow moneys required for the share of any duly authorised local improvement works payable by local assessment upon debentures (called "local improvement debentures") secured by local special rates on the property benefited thereby; and it shall not be necessary to obtain the assent of the electors to the passing of

any such by-law under the provisions of the "Municipal Clauses Act," and no petition as required by section 69 of the "Municipal Clauses Act" shall be necessary.

Ratepayers' Share not to be Counted as Part of General Debt of the Municipality.

Debentures issued under local improvement by-law not part of general debt.

(3.) It is hereby declared that the debentures issued under local improvement by-laws on the security of special assessments therefor form no part of the general debt of the Corporation, within the meaning of the "Municipal Clauses Act," and it shall not be necessary to recite the amount of the local improvement debt so assured by special rates or assessments in any by-law for borrowing money by local special rates on the property benefited thereby; and it shall be sufficient to state in any such by-law that the amount of the general debt as therein set forth is exclusive of local improvement debts, secured by special rates or assessments.

Municipality may Guarantee Debentures.

(4.) In the case of by-laws passed or to be passed for works payable by local assessment, the Council may, in order to facilitate the negotiation of debentures issued thereunder, either for the part of the work payable by local assessment or for that part of the work payable by the Corporation, and to add to their commercial value, declare that the debt to be created on the security of the special rate settled by the by-law is further guaranteed by the Municipality at large, anything contained in clause (d) of section 71 of the "Municipal Clauses Act" to the contrary notwithstanding.

Municipality may Guarantee Debentures.

(5.) In order to obviate difficulty in negotiating local improvement debentures, in consequence of many of the same having to be issued for small and broken amounts, the Council may, from time to time, after the passing of the several by-laws covering the several amounts required for particular local improvements, as therein specified, and without in any way affecting the liens on the lands therein named and to be improved thereby, pass a collective or cumulative by-law consolidating the said several amounts, and may issue the required debentures in a general consecutive issue under such consolidated by-law, apportioning, nevertheless, the amount raised thereby, and crediting each service with the amount previously estimated and named for the same under the individual by-law passed in the first instance.

(6.) If the Council desires to avail itself of the provisions of the preceding subsection, it shall insert in each such by-law a clause intimating that the amount of the debentures to be issued thereunder is subject to consolidation; and in such case it shall be sufficient to state in the said individual by-law that debentures to be issued thereunder shall be issued at so many years from the date of issue of the same without defining a specific date.

EXTENSION OF LOCAL IMPROVEMENT SYSTEM.

Sweeping, Lighting, and Watering Streets.

24. (1.) The Council may pass by-laws for raising, upon the petition of at least two-thirds of the persons resident in any street, square, alley, or lane, or any portion of any street, square, alley, or lane, whose names appear upon the last revised assessment roll as freeholders or tenants of the assessed real property therein representing in value one-half of the assessed real property, such sums as may be necessary for sweeping, watering, or lighting the street, square, alley, or lane, by means of a special rate on the real property therein, according to the frontage thereof, or according to the assessed value thereof when only such latter system of assessment shall have been adopted by a three-fourths vote of the full Council; but the Council may charge the general corporate funds with the expenditure incurred in such sweeping, watering, or lighting as aforesaid.

Council may pass by-laws for sweeping, watering, and lighting streets.

(2.) The Council may also, by by-law, designate certain streets or parts of streets, or define certain areas or special sections, within the Municipality in which the streets should be watered, swept, and lighted, and may impose a special rate upon the assessed real property therein, according to the frontage thereof, or according to the assessed value thereof when only such latter system of assessment shall have been adopted by a three-fourths vote of the full Council, in order to pay any expenses incurred in watering, sweeping, or lighting such streets.

Define areas which should be watered, swept, and lighted.

Cutting Grass and Weeds—Trimming Trees or Shrubbery.

(3.) The Council may also include in either of the foregoing by-laws the cutting of grass and weeds and trimming the trees or shrubbery on any street, square, alley, or lane, and otherwise cleaning the same.

Cutting grass and weeds, etc.

Removing Snow, Ice, and Dirt.

(4.) The Council may also, by by-law, define certain areas or sections within the Municipality in which all snow, ice, and dirt and other obstructions shall be removed from the sidewalks, streets, lanes, or alleys in such area or sections, and may impose a special rate upon the real property therein, according to the frontage thereof, in order to pay any expenses incurred in removing such snow, ice, dirt, or other obstruction.

Removing snow, ice, and dirt.

25. Section 50, subsection (128), and section 258 and amendments of the "Municipal Clauses Act" shall not apply to the Corporation, but all other sections of the "Municipal Clauses Act" and amendments thereto shall apply, except when the provisions of the said Acts are inconsistent with or repugnant to the provisions of this Act.

26. This Act may be cited as the "Oak Bay Act, 1910."

Schedule A.

SCHEDULE A.

SHORT FORM OF LOCAL IMPROVEMENT BY-LAW.

A By-law to provide for borrowing money by the issue of Debentures secured by local special rates on the property fronting or abutting on [Street between Street and Street] for the paving of said portion of said Street.

(Passed , 191 .)

Whereas, upon the recommendation of the Engineer of the Corporation and in the opinion of the Council of the Corporation of the District of Oak Bay, it became desirable and necessary to pave with asphalt paving and stone curbing (or as the case may be), part of Street between Street and Street, as a local improvement, and the said Council thereupon gave due notice of their intention to pass a by-law for that purpose, and to assess and levy the cost of such improvement and work upon the real property fronting or abutting upon Street, within the limits hereinafter described, pursuant to the provisions of the Statutes in that behalf:

And whereas, although duly notified as aforesaid, the majority of the owners of such real property, representing at least half of the value thereof, have not petitioned the said Council against the said work and assessment: [or in lieu of the above two recitals, if the work is petitioned for, use the following:]

Whereas and others have petitioned to have Street, between Street and Street, paved with asphalt paving and stone curbing:

And whereas it has been ascertained and determined that the real property fronting or abutting upon the lines described as follows, that is to say:—

1. Commencing at a point on the north side of Street at its intersection with the east side of Street; thence easterly along the north side of Street feet, more or less, to the west side of Street, being the frontage on the north side of Street, from Street to Street, producing, after deducting the width of feet for street intersections and exempt properties, as shown by the statement of the frontage liable for assessment as finally settled, feet, more or less, of frontage assessable on the north side of the street:

2. Commencing at a point on the south side of Street, at its intersection with the east side of Street; thence easterly along the south side of Street feet, more or less, to the east side of Street, being the frontage on the south side of Street, from Street to Street, producing, after deducting the width of feet for street intersections and exempt properties, as shown by the report of the Engineer of the Corporation, feet, more or less, of frontage assessable on the side of the street; or a total of feet, more or less, of assessable property on both sides of Street aforesaid, is immediately, directly, equally, and especially benefited by the said improvement:

And whereas the total assessed value of the said property is \$:

And whereas the said pavement has been laid, and the total cost thereof is the sum of \$, of which amount the [Corporation] disburses the sum of \$, being the cost of laying down the said pavement opposite the said street intersections and exempt properties [add and flankages if flankages are allowed by a by-law of the Corporation]; and the remaining \$ is to be defrayed by the ratepayers, and is the amount of the debt to be created by this By-law:

And whereas it will require the sum of \$ to be raised annually for a period of years, the currency of the debentures to be issued under and by virtue of this By-law, to pay the interest of the said debt, and the sum of \$ to be raised annually during the said period for the payment of the debt to be created by this By-law, such last-mentioned sum being sufficient, with the estimated interest on the investment thereof, to discharge the said debt when the same becomes payable, making in all the sum of \$ to be raised annually as aforesaid:

And whereas there are feet of frontage of the said assessable real property on both sides of [Street], within the limits aforesaid according to the said description, immediately, directly, equally, and specially benefited by the said improvement and work, upon which it will be required to charge an annual special rate per foot sufficient to pay the interest and create an annual sinking fund for paying the said principal debt of \$ within years, which said debt is created on the security of the special rate settled by this By-law, and on that security only [*or, if the debentures are to be guaranteed by the Corporation at large, substitute for all the words after the word "By-law" the following: "and further guaranteed by the said Corporation at large"*]:

And whereas it is expedient to raise the said sum of \$ by debentures of the Corporation of the District of Oak Bay to defray that part of the expense of said work payable by local special rates:

Therefore, the Council of the Corporation of the District of Oak Bay enacts as follows:

SCHEDULE B.

Schedule B.

SHORT CLAUSES FOR LOCAL IMPROVEMENT BY-LAWS.

1. Insert in the blanks in the short forms the number of years in which the rate is to be raised, the sum to be raised for interest and sinking fund, the rate to be imposed on each foot, and other particulars.

Column One.

1. During years \$ shall be raised for interest and \$ for debt, making together \$.

2. A special rate of per foot is imposed on each foot of above-described property to produce \$, and shall be collected by collector of taxes as other rates.

Column Two.

1. During years the currency of the debentures to be issued under the authority of this By-law, the sum of \$ shall be raised annually for the payment of interest on said debentures, and also the sum of \$ shall be raised annually for the payment of the debt, making in all the sum of \$ to be raised annually as aforesaid.

2. A special rate of per foot is hereby imposed on the real property above described, according to the frontage thereof, over and above all other rates and taxes, which special rate shall be sufficient to produce in each year the said sum of \$, and shall be annually inserted on the collector's roll for Ward Number Two in each year for the next succeeding years,

Column One.

3. During years, commencing with 19 , above-described property shall be exempt from general rates for improvements.

4. \$ shall be raised by loan on above special rate, and debentures therefor shall be issued.

5. Debentures shall be payable years after issue, and shall bear per cent. interest.

6. Debentures may be made payable anywhere, in any currency, and proceeds thereof shall be used in paying off loans for work (if any).

Column Two.

and shall be payable to and collected by in the same way as other rates on the said roll.

3. During the period of years, commencing from and after the first day of January, A. D. 19 , the said above-described real property shall be exempt from all general rates or assessments for improvements, and works similar to those above mentioned, save and except the costs of similar works and improvements at the intersection of streets, and except such portion of the general rate as may be imposed to meet the costs of like works and improvements opposite real property which is exempt from such special assessment.

4. The sum of \$ shall be raised by loan by this Corporation on the security of the special rate hereby imposed, and on that security only; and debentures amounting to the sum of \$ shall be issued by the said Corporation therefor.

[If the debentures are to be guaranteed by the Corporation, add after the word "issued," in the first column, "guaranteed by the Corporation," and after the word "only," in the second column, "and further guaranteed by the Corporation at large."]

5. The said debentures shall be made payable at the expiration of years from the date of issue of the same, and bear interest at the rate not exceeding per cent. per annum.

6. The debentures may, both as to principal and interest, be payable in any place in Great Britain, in the United States of America, or Canada, and may be expressed in sterling money or in any other currency, and may be made payable in gold, and the amount to be raised thereon shall be paid out and expended in paying off and discharging any temporary loans heretofore obtained on account of the said improvement and works, and in no other way and for no other purpose whatsoever.

Column One.

7. Owners may commute assessment by paying per foot in first year, and a proportionately reduced rate for the years collected.

8. Moneys received from special rate or commutation shall be invested.

9. Debentures shall be subject to consolidation.

10. This By-law to take effect now.

Column Two.

7. If at any time any of the owners of the said real property hereinbefore described, or of any part thereof, desire to commute the assessment imposed by this By-law by the payment of his, her, or their proportionate share or shares of the cost thereof as a principal sum in lieu thereof, he, she, or they may so commute by the payment of per foot on his, her, or their property on Street aforesaid, at any time during the first year after the passing of this By-law, or in any subsequent year, by the payment of such sum as may be necessary to realise at the end of the currency of such debentures a sum equivalent to the balance then unpaid of the said annual special rate thereon.

8. All moneys arising out of the said annual special rate and all moneys received in commutation thereof under the preceding section of this By-law shall be invested by the Treasurer of this Corporation from time to time, as the law directs.

9. The amount of debentures authorised to be issued under this By-law is subject to consolidation by including the same in a collective or cumulative by-law to be hereafter passed, consolidating the same with other amounts authorised, or to be authorised, by other local improvement by-laws, and under which consolidating by-law the required debentures to provide for the amounts to be raised under this and said other individual by-laws shall be issued in a consecutive issue, as shall in said consolidating by-law be more particularly enacted in that behalf.

10. This By-law shall come into operation and take effect on the day of the passing hereof.

SCHEDULE C.

Schedule C.

A BY-LAW

AUTHORISING and SANCTIONING AN AGREEMENT with William Hicks Gardner for improving lands known as "Upland Farm," and the assessment of the said Upland Farm for the term of ten (10) years.

Whereas the Corporation of the District of Oak Bay has arranged an agreement with William Hicks Gardner providing that the assessment of certain lands referred to in the said agreement and known as "Upland Farm" shall not be assessed during the years 1910 to 1919, inclusive, for a larger amount than two hundred and seventy-nine thousand dollars (\$279,000) in each year, in consideration of the said William Hicks Gardner improving the said Upland Farm as provided in said agreement, and spending at least the sum of two hundred and fifty thousand dollars (\$250,000) on such improvements, which arrangement is set forth in an agreement submitted to and approved by the Council and already executed by William Hicks Gardner, which agreement is in the words and figures following:—

"THIS INDENTURE, made the twenty-seventh day of December in the year of our Lord 1909,

"Between,

"THE CORPORATION OF THE DISTRICT OF OAK BAY (hereinafter called 'the Corporation'), of the First Part;

"and

"WILLIAM HICKS GARDNER, of the City of Winnipeg, in the Province of Manitoba (hereinafter called the 'Second Party'), of the Second Part.

"Whereas the Second Party is assessed by the Corporation as the owner of certain lands and premises situate in Victoria District, in the Province of British Columbia, within the municipal limits of the District of Oak Bay, known as and hereinafter referred to as the 'Upland Farm' (full particulars whereof are contained in the Schedule hereto), which lands, except certain parts thereof reserved to the Hudson's Bay Company, the said William Hicks Gardner has agreed to purchase from the Hudson's Bay Company:

"And whereas the plan marked 'A' and deposited with the Clerk of the Corporation is a preliminary plan of subdivision of said Upland Farm prepared by the Second Party and approved by the parties hereto, on the understanding that a final plan or plans not materially differing from the plan deposited shall be substituted on or before the first day of July, 1910, on which plans all the proposed private roads and streets shall be shown as Lot 'X':

"And whereas it is intended by the Second Party that the Upland Farm shall be a first-class residential district, and to carry out said intention certain restrictions and limitations are to be incidental to and conditions precedent to the purchase and ownership of any lots according to said plans:

"And whereas it is further intended that there shall be a Board of Trustees for such Upland Farm, to whom is to be intrusted the management, regulation, and control of the same:

"And whereas the Second Party intends to use the lot shown on the said plan and thereon designated as Lot 'X' for the purposes of private roads, subject to such restrictions, regulations, and limitations as may be imposed by the Second Party or by the owners of the said Lot 'X,' or by the Board of Trustees as hereinbefore referred to, but does not intend to dedicate the said-mentioned lot to the public or to the Corporation as public roads or streets, except as hereinafter provided:

"And whereas, according to the last revised assessment roll of the Corporation, the said Upland Farm was assessed at two hundred and seventy-nine thousand dollars (\$279,000):

"And whereas the Second Party, being desirous of improving the said Upland Farm before disposing of or selling any of the lots in the said subdivision thereof, has applied to the Corporation to enter into an agreement

binding the Corporation not to assess Upland Farm during the years 1910 to 1919, inclusive, for a larger amount than two hundred and seventy-nine thousand dollars (\$279,000) in each year:

"And whereas the Corporation has agreed, subject to the terms and conditions hereinafter contained, to enter into the said agreement upon the Second Party agreeing to commence within two years from the first day of January, 1910, and complete within five (5) years from such date, at the expense of the Second Party, the improvements on the said Upland Farm referred to, which improvements will cost at least two hundred and fifty thousand dollars (\$250,000), and on which will be spent at least fifty thousand dollars (\$50,000) during each year after the commencement of the said improvements:

"And whereas the improvements of the said Upland Farm by the Second Party will be a benefit to the Municipality of Oak Bay at large:

"Now, this Agreement witnesseth that, in consideration of the mutual covenants on the part of the Corporation and of the Second Party hereinafter contained, it is hereby agreed by and between the parties hereto as follows:—

"1. The Second Party agrees within two years from the first day of January, 1910, to commence, and within five (5) years from such date to complete, the following improvements on the said Upland Farm, namely:—

"(a.) Grading and macadamizing the bed of said Lot 'X' shown on the hereinbefore-mentioned plan (to be used as a private road as afore-said):

"(b.) Constructing cement sidewalks on one side of said Lot 'X' shown on the said plan:

"(c.) Constructing cement gutters on one side of said Lot 'X' shown on the said plan:

"(d.) Levelling and sowing grass on each side of said Lot 'X' shown on the said plan, between the cement sidewalk and the roadway, and planting trees:

"(e.) Laying water-pipes throughout the Upland Farm and under said Lot 'X' shown on the said plan, of a sufficient size to supply the contemplated residents of the said Upland Farm with a sufficient supply of water for domestic purposes and fire protection:

"(f.) Fire and street hydrants and street-sprinkling connections on said Lot 'X':

"(g.) Construction of a proper sewerage system and surface drainage on said Lot 'X' of the said subdivision sufficient for the needs of the contemplated residents of the said Upland Farm:

"(h.) Such other improvements as the Second Party shall deem necessary.

"All of which shall be done at the expense of the Second Party at a cost estimated at about five hundred thousand dollars (\$500,000): Provided that the Corporation shall be under no obligation to maintain or keep in repair any portion of the said Lot 'X' or the sewer or pipe-line thereunder, except such portion of said Lot 'X' as may from time to time be dedicated to the Corporation under the terms of clause eleven (11) hereof, and except the pipe-line and sewer under such portion of said Lot 'X' which shall be so dedicated.

"2. The Second Party agrees to submit to the Engineer of the Corporation the plans and specifications of such improvements for his approval, which approval shall be shown by the signature of the said Engineer to the said plans and specifications, and when so approved to carry out such improvements in accordance with the said plans and specifications:

"3. The Second Party covenants with the Corporation that he will in each year between the first day of January, 1912, and the first day of January, 1915, spend in carrying out the work and improvements hereinbefore mentioned not less than fifty thousand dollars (\$50,000) : Provided, however, that all the said work shall be completed before the first day of January, 1915.

"4. In consideration of the Second Party commencing the said work and completing the same within the time hereinbefore mentioned, and spending in each year after the first day of January, 1912, until the first day of January, 1915, not less than fifty thousand dollars (\$50,000), and spending in such improvements not less than two hundred and fifty thousand dollars (\$250,000) before the first day of January, 1915, all of which shall be of the essence of this Agreement, the Corporation agrees that all the lands shown on the said subdivision plan described in the Schedule hereto, including the lands reserved to the Hudson's Bay Company, but other than the said Lot 'X,' to be used as private roads and streets and proposed private parks and squares, shall be assessed during the years 1910 to 1919, inclusive, at the sum of two hundred and seventy-nine thousand dollars (\$279,000) in each year, and no more, whether owned by the Second Party or his assigns, or any company that shall be incorporated for the purpose of acquiring the said Upland Farm from him, or whether sold to any other person or persons; and that the said Lot 'X' and the parks and squares shown on the said plan shall not be assessed at all during such period: Provided that nothing herein contained shall affect the right of the Corporation to raise the rate of taxation during the said years: Provided, however, that on default of the Second Party commencing the said work on or before the first day of January, 1912, or in default of the Second Party completing the said work within the time hereinbefore mentioned, or in default of the Second Party spending, in carrying out the works and improvements hereinbefore mentioned, at least fifty thousand dollars (\$50,000) in each year during the period between the first day of January, 1912, and the first day of January, 1915, or in default of the Second Party spending, in carrying out said works and improvements, at least two hundred and fifty thousand dollars (\$250,000) before the first day of January, 1915, the Second Party or his assigns, or the Corporation, shall be at liberty to give to the other party notice that this Agreement is cancelled. And the Second Party or his assigns shall also at any time hereafter, before the first day of January, 1912, be at liberty to give to the Corporation notice that this Agreement is cancelled; and upon the giving of such notice by either party as aforesaid this Agreement shall be absolutely null and void and of no effect whatsoever, notwithstanding its having been executed by any of the parties hereto, or having been ratified by the ratepayers of the Municipality as hereinbefore provided, or being sanctioned by an Act of the Legislature of the Province of British Columbia as hereinafter provided. And thereupon the Second Party and his assigns and the Corporation shall not be bound or affected in any way whatsoever by any of the terms of this Agreement, and shall not be liable for any damages for breach of this Agreement: Provided that in the event of such notice being given by either party on or before the first day of January, 1912, the Second Party shall forthwith pay to the Corporation any additional taxes payable in respect of any increase of assessment that in the meantime might have been imposed had this Agreement not been made: Provided, however, that the Second Party shall first have a right to appeal from any increase in assessment.

"5. The said assessment of two hundred and seventy-nine thousand dollars (\$279,000) shall be assessed pro rata against each acre contained in the said Upland Farm other than the said Lot 'X' and the private parks and squares shown on the said plan lettered 'A' to 'O' inclusive without regard to location, and whether the said lands are owned by the Second Party, the Hudson's Bay Company, or sold to any other person or company.

"6. The assessment of the Upland Farm, other than said Lot 'X' and the parks and squares shown on the said plan, shall in no way affect the assessment during the years 1910 to 1919 of any other lands within the municipal limits of the Corporation, or of preventing the Corporation or Assessor thereof from assessing such other lands under the 'Municipal Clauses Act' at a higher value than the lands in the said Upland Farm, notwithstanding the provisions of the said Act.

"7. The Second Party covenants and agrees with the Corporation that all persons may at all times hereafter have free right-of-way over the said Lot 'X' shown on the said plan, subject, however, to the observance by such persons of all the regulations, limitations, and restrictions which may from time to time be imposed or made by the Second Party or his assigns or the owners of the lands in the said subdivision, or by the Board of Trustees hereinbefore referred to, relating to traffic and right-of-way over the said Lot 'X': Provided that nothing herein contained shall be deemed a dedication of the said Lot 'X' to the public or to the Municipality as public roads or streets: Provided that the proper municipal officers of the Corporation may at all times hereafter have a right-of-way over said Lot 'X' for municipal purposes: Provided, also, that the Corporation shall have a right to connect with the sewerage system or water system of the Upland Farm for the purpose of extending said sewerage or water system to a district or districts of the Municipality outside of the Upland Farm, upon such terms and conditions as shall be approved by the said Trustees. And in default of such approval the Corporation shall have the right to lay or repair any sewer or pipe-line under said Lot 'X' or any part thereof for the purpose of extending said sewerage or water system of the Municipality lying outside of said Upland Farm, upon the Corporation undertaking to leave Lot 'X' in the same state of repair as said Lot 'X' may be in previous to the laying or repairing of such sewer or pipe-line; and provided the Corporation lays such sewerage or water system up to the same standard as the sewerage or water system of the said Upland Farm, and without assessing any part of the cost or maintenance thereof as a local improvement rate or tax on any portion of the real property in the said Upland Farm.

"8. The Corporation agrees that it will, at the cost of the Second Party, upon being requested by the Second Party so to do, lay a water-main of not less than eight inches from and connecting with the existing pipe-line owned by the Municipality and situate near the Willows Hotel by a convenient route, to be approved by the Engineer of the Corporation, to the boundary of the Upland Farm. In the event of such water-main being laid at the cost of the Second Party, the Corporation agrees that, as soon as the net rentals and revenue received by the Corporation from the water distributed by such main to be laid at the cost of the Second Party amount in one year to six per cent. (6 %) of the amount of money expended by the Second Party in laying such main, the Corporation will repay to the Second Party the money expended by him in laying such main. The Corporation further agrees with the Second Party that after such main is laid and connected the Corporation will supply to the Second Party and to the residents of said Upland Farm for domestic and fire purposes, on the same terms as it is furnished in other parts of the Municipality, their proper proportion of water for the time being running in the municipal main.

"9. The Corporation shall, at the cost of the Second Party, as soon as practicable after this Agreement has been duly executed by the Second Party, submit to the electors of the Municipality who are entitled to vote upon a by-law to contract a debt, pursuant to section 64 of the 'Municipal Clauses Act,' for their assent, a by-law embodying, validating, and sanctioning this Agreement, and authorising the assessment of Upland Farm other than Lot 'X' and the parks and squares shown on the said plan and thereon lettered

'A' to 'O' inclusive, during the years 1910 to 1919, both inclusive, at the sum of two hundred and seventy-nine thousand dollars (\$279,000) in each year, and authorising that the said Lot 'X' and the parks and squares shown on the said plan and lettered 'A' to 'O' inclusive be not assessed at all during such period: Provided that the Second Party carries out all the terms of this Agreement.

"10. The Corporation agrees, at the expense of the Second Party, to apply to the Legislative Assembly of the Province of British Columbia at its next session for an Act ratifying the said by-law and for power to borrow money under the provisions of section 68 of the 'Municipal Clauses Act' to repay the Second Party the cost of the water-main before mentioned, without submitting a by-law for such purpose to the ratepayers of the Municipality, pursuant to section 75 of the 'Municipal Clauses Act,' and without the necessity of obtaining the petition under section 69 of said Act.

"11. The Second Party hereby agrees from time to time to dedicate the said Lot 'X,' or any part thereof, as a public road or roads, street or streets, upon being requested by the Corporation so to do, upon such terms and conditions as may be agreed upon between the Corporation and the Second Party, and, in default of agreement, subject to such terms and conditions as may be settled by arbitration.

"12. Nothing herein contained shall in any way limit the statutory rights of the Corporation to expropriate any of the lands herein referred to.

"13. Time shall be of the essence of this Agreement.

"14. Upon this Agreement becoming binding upon the Corporation, the benefits hereof shall enure to and the obligations hereof shall be binding upon the Second Party and any company incorporated for the purpose of acquiring the said lands from him, and upon the heirs, executors, administrators, and assigns of the Second Party and the successors and assigns of such Corporation, including all persons who shall from time to time be the owners of any lands situate within the said Upland Farm.

"15. This Agreement shall only be binding upon the parties hereto upon being signed by the Second Party and the Corporation, and on the by-law herein-before mentioned receiving the assent of not less than three-fifths (3-5) of the ratepayers of the Corporation who shall vote upon such by-law, and upon the Legislature of the Province of British Columbia at its next session passing an Act ratifying such by-law; and if such assent shall not be given, or such Act not be passed, this Agreement shall be absolutely null and void and of no effect whatsoever, notwithstanding its having been executed by any of the parties hereto, and any such party so executing shall not be bound or affected in any way whatsoever.

"In witness whereof the Corporation has hereunto caused its Common Seal to be affixed, and the Second Party has set his hand and seal the day and year first above written.

" SCHEDULE ABOVE REFERRED TO.

"All that portion of land known as the 'Upland Farm,' being Reserve marked Number Two (2), Lot Thirty-one (31), and Section Thirty-one (31) on the official plan of the Victoria District, in Vancouver Island, in the Province of British Columbia, described as follows, namely:—

"Commencing at the point where the southerly boundary of said land intersects the high-water mark of Oak Bay; thence westerly and following along the southern boundary of said land to the point where the eastern boundary of the Cadboro Bay Road, as shown on a plan of survey of said road made by Gore and McGregor, Provincial Land Surveyors, and now on file in the Lands and Works Department of the Province of British Columbia, intersects the said southern boundary of said land; thence northerly and along the eastern boundary of said Cadboro Bay Road to the point

where the said eastern boundary of the said road intersects the northern boundary of said land; thence easterly and along said northern boundary of said land to the high-water mark of Cadboro Bay; thence southerly and following the sinuosities of the high-water mark along the shore-line to the place of beginning: Saving and excepting, firstly, that part thereof containing one-half ($\frac{1}{2}$) acre, more or less, heretofore conveyed to Her Majesty the Queen for school purposes; secondly, any portion thereof heretofore taken for a public road.

<p>"The Common Seal of the Corporation of the District of Oak Bay was hereunto affixed in the presence of—</p> <p style="padding-left: 40px;">"WM. HENDERSON, <i>Reeve</i>. "J. S. FLOYD, <i>Clerk</i>.</p>	}	[SEAL.]
<p>"Signed and sealed by the said William Hicks Gardner in the pres- ence of—</p> <p style="padding-left: 40px;">"JOHN A. MACHRAY.</p>	}	<p>"W. H. GARDNER."</p> <p>[SEAL.]</p>

Now, therefore, the Municipal Council of the Corporation of the District of Oak Bay enacts as follows:—

1. The terms of the said Agreement hereinbefore fully set out in the recital of this By-law shall be and the same are hereby accepted and the said Agreement is hereby validated and sanctioned.

2. The said Corporation shall forthwith, after the assent of the ratepayers of the Corporation shall have been given in manner hereinafter required, execute the said Agreement and carry the same into effect; and the said Agreement when executed is hereby incorporated with and shall be deemed to form part of and be read with this By-law, in so far as it contains any grants, agreements, or covenants on the part of the Corporation, and in so far as the same has to be performed by and on the part of the Corporation.

3. The said property described in the said draft Agreement and referred to as "Upland Farm," other than Lot "X" and the parks and squares shown on the plan referred to in said Agreement, shall be assessed by the Corporation during the years 1910 to 1919 inclusive at the sum of two hundred and seventy-nine thousand dollars (\$279,000) in each year so long as the said Agreement is in force and uncanceled, and the said Lot "X" and the parks and squares shown on the said plans shall not be assessed at all during such period so long as the said Agreement is in force and uncanceled.

4. This By-law shall, before the final passing thereof, receive the assent of not less than three-fifths ($\frac{3}{5}$) of the number of the electors of the Corporation who shall vote upon such By-law, in a manner provided for in the "Municipal Clauses Act," and shall take effect on the day after the final passing thereof by the Council of the Corporation.

5. This By-law shall be cited as the "Upland Farm By-law."

Passed the Municipal Council this third day of January, 1910.

Received the assent of the ratepayers the fifteenth day of January, 1910.

Reconsidered, adopted, and finally passed the seventeenth day of January, 1910.

[SEAL.]

{ WILLIAM HENDERSON, *Reeve*.
J. S. FLOYD, *Clerk*.

VICTORIA, B. C.:

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1910.