

ITEM 22
MANAGER'S REPORT NO. 78
COUNCIL MEETING Nov. 25/74

Re: Lease from Crown Provincial to Burnaby of Lots 5096 and 5097, Group 1, N.W.D., comprising Burnaby Lake

Council on August 6, 1974 tabled the attached report with the understanding that the Mayor would confer with the three Burnaby Members of the Legislative Assembly in an effort to enlist their support in getting the subject area permanently dedicated for park purposes. The Mayor will be reporting on this matter.

Mr. R. C. Watt, Director of Lands with the Provincial Department of Lands, Forests and Water Resources, on October 25 advised the Land Agent by telephone that time for the execution of the lease document has been extended to November 25, and that another extension would probably be granted if the Municipality required additional time for the finalization of this matter.

This is for the information of Council.

ITEM 38 MANAGER'S REPORT NO. 53 COUNCIL MEETING Aug. 6/74
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Re: Lease from Crown Provincial to Burnaby
OF Lots 5096 and 5097, Group 1, N.W.D.,
Comprising Burnaby Lake

During May 1973, we discovered that Burnaby Lake and its shores are legally two District Lots held in the name of Crown Provincial. In view of the fact that we had undertaken extensive works in connection with the Canada Summer Games, we felt that we should negotiate a long-term lease with the Province for these lots.

Since that time, we have been negotiating with representatives of the Lands Branch, Department of Lands, Forests and Water Resources, in Victoria.

We were required to search all of the titles of the upland properties on the Lake and provide Certificates of Encumbrances covering all of these properties. We also had to obtain the consent of all of the upland property owners and we were not able to obtain approval from all of the people involved. We have had considerable discussion with the Lands Branch representatives and, on July 16, 1974, we received a copy of the attached lease document in this respect.

The basic points covered in the lease are as follows:

1. The lease is for recreational purposes only.
2. The lease is for the comparatively short term of 20 years, and there is no right of renewal, although it is provided that if the Minister decides to release the land and Burnaby is not in default, Burnaby shall have prior right to a further lease.
3. Any improvements that Burnaby has on the leased area must be removed at the expiration of the lease.
4. The lease is subject to all bylaws, rules and regulations of any authority which relate to or affect the leased lands.
5. Burnaby may not deposit any material on the leased lands without the consent of the Minister.
6. The rental rate is \$25.00 per annum for the first five years and thereafter the rent is subject to review and adjustment at the discretion of the Province for each successive five year period.
7. The term of the lease is for 20 years commencing July 20, 1973.

We feel that the Lease is for too short a term and we have checked with the Lands, Forests and Water Resources Department by telephone with the hope of obtaining a greater period, say 40 years or better. We are informed that at the present time it is doubtful if this can be achieved, and it is suggested that we complete the present lease document and return it to the Department for processing.

The Land Agent recommends that the Minister be advised that this lease be executed at this time as a 20 year lease, with the thought that at a later date, we will try to revise it into a lease for a longer term.

RECOMMENDATIONS:

THAT authority be granted to have the lease document executed on behalf of the Municipality; and

THAT a copy of this report item be forwarded to the Parks and Recreation Commission.

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This Indenture, made the 20th

day of July, A.D. 19 73, BETWEEN Her Majesty the Queen (hereinafter called the "Lessor," represented herein by her Minister of Lands, Forests, and Water Resources, for the Province of British Columbia, hereinafter called the "Minister"), of the one part, AND

The Corporation of the District of Burnaby

(hereinafter called the "Lessee"), of the other part.

WITNESSETH that the Lessor, under and by virtue of all powers thereto enabling, doth hereby lease unto the Lessee ALL that tract or parcel of foreshore and (or) land covered by water described as:

Lots 5096 and 5097, Group 1,
New Westminster District

(hereinafter referred to as the "Crown lands"), and more particularly shown on the map or plan hereunto annexed and thereon outlined in red, containing in the aggregate 398 acres, more or less, with the appurtenances thereto, save and except all such lands as may, under the provisions and conditions of these presents, be and become hereafter withdrawn from the operation thereof. The Lessor may make a reduction of rent proportionate to any reduction of area made in accordance with the terms of this paragraph.

TO HOLD the Crown lands unto the Lessee for recreational purposes for the term of twenty years from the date hereof, determinable, nevertheless, as hereinafter provided.

YIELDING and paying therefor unto the Lessor, in advance, yearly and every year, the rent of \$25.00 per annum for the first five years, and thereafter the rent shall be subject to review and adjustment at the discretion of the Lessor for each successive five-year period and that payable on or before the 20th day of July in each year at the office of the Minister at the City of Victoria, whether demanded or not.

AND THE LESSEE HEREBY COVENANTS WITH THE LESSOR, HER SUCCESSORS AND ASSIGNS,

- To pay rent at the times and in the manner aforesaid;
- To enter forthwith upon the Crown lands and make reasonable and diligent use of the same during the term hereof for the purposes aforesaid only;
- To pay all taxes, rates, duties, and assessments whatsoever now charged or hereafter to be charged upon the Crown lands or any part thereof; upon the rent or any part thereof; or upon the Lessor, her successors and assigns, in respect thereof;
- To observe all and singular the provisions of the Land Laws for the time being of the Province;
- To not assign or sublet this lease or the privileges and rights hereby conferred, or any part thereof, without the written consent of the Minister, the consent to be subject to such terms and conditions as the Minister may determine.

PROVIDED that in case of any dispute or difference arising as to any matter or thing connected with this Indenture, or the interpretation thereof, the same shall be settled finally, without appeal, by the Minister or his duly authorized representative:

PROVIDED also that in case of neglect or default of the Lessee to duly and regularly pay the rent and observe any covenant, condition, or stipulation contained or referred to in this Indenture, it shall be lawful for the Lessor, upon notice in writing mailed by prepaid registered post, addressed to the Lessee's last-known place of residence, registered office, or chief place of business in the Province, or by a like notice posted in a conspicuous place on the Crown lands, to forfeit absolutely all or any portions of the Crown lands as specified in the notice, and all of the rights and privileges hereby conferred shall at once (as to the part or parts so specified only) be absolutely void and of no effect without any actual re-entry on the part of the Lessor, or other proceeding whatever:

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PROVIDED also that any notice, demand, notice of cancellation, or default, or other communication otherwise affecting the tenancy hereunder which the Lessor may require or desire to give or serve upon the Lessee, may be legally given and served by the Minister, the Deputy Minister of Lands, or other officer acting in their behalf if mailed or posted in the manner hereinbefore provided:

PROVIDED also that in the construction of this Indenture rent not paid in advance shall be deemed to be rent in arrears, and carry with it all the incidents and remedies attaching by law to rent in arrears:

PROVIDED also that any assignment by operation of any law of bankruptcy or insolvency or any assignment for the benefit of creditors of the Lessee of the premises and privileges hereby conferred shall of itself be a forfeiture of the premises and privileges, but no forfeiture hereunder shall be deemed to affect any rights or damages which may have accrued to the Lessor against the Lessee by reason of any breach of any of the provisions herein contained:

PROVIDED also that the Crown lands shall be subject to all rights of free miners under the Mining Laws of the Province for the time being, and to the laws of the Province in force from time to time with respect to the acquisition of minerals, precious and base, including phosphate, coal, petroleum, and any gas or gases:

PROVIDED also that if, upon the expiration of the term hereof, the Minister decides to re-lease the Crown lands, or any portion thereof, and the Lessee has duly and regularly paid the rent and observed all the covenants, conditions, and stipulations herein contained, the Lessee shall have prior right to a lease of the Crown lands, or portion thereof:

PROVIDED also that on the expiration or sooner determination of this Indenture or upon the withdrawal of a portion of the Crown lands, the Lessee may, within thirty days thereafter, with the written consent of the Minister, remove any buildings or other structures which have been placed on the Crown lands by the Lessee:

PROVIDED also, during the term hereof, the Lessee shall not deposit upon the Crown lands, or any part thereof, any earth or other material for the purpose of reclaiming, filling in, or raising the level of any portion of the Crown lands without the consent in writing of the Minister, and then only in accordance with such terms, conditions, and regulations as the Minister may make:

PROVIDED also that upon the expiration or sooner determination of this Indenture, the Lessee, if required by the Minister, shall, at the Lessee's expense and to the satisfaction of the Minister, forthwith remove or cause to be removed from the Crown lands any structures or other materials which have been erected, placed, or otherwise deposited thereon by the Lessee during the term hereof:

PROVIDED also that if this Indenture has been secured by misrepresentation as to any material facts, it may be summarily cancelled by the Lessor in the manner hereinbefore provided:

PROVIDED also that, notwithstanding the rights and privileges of the Lessee herein contained, the Lessor reserves the right to grant rights-of-way across, through, under, or over any portions of the Crown lands for any purpose whatsoever on the condition, however, that the rights-of-way so granted shall not unreasonably interfere with the rights granted by this Indenture or with the Lessee's improvements on the Crown lands, and in the event that the Lessee's rights and improvements are interfered with, compensation shall be set at the sole discretion of the Minister, and his decision as to compensation shall be final:

PROVIDED also that this Indenture is subject to the *Navigable Waters Protection Act*, being chapter 193, *Revised Statutes of Canada, 1952*, and amendments.

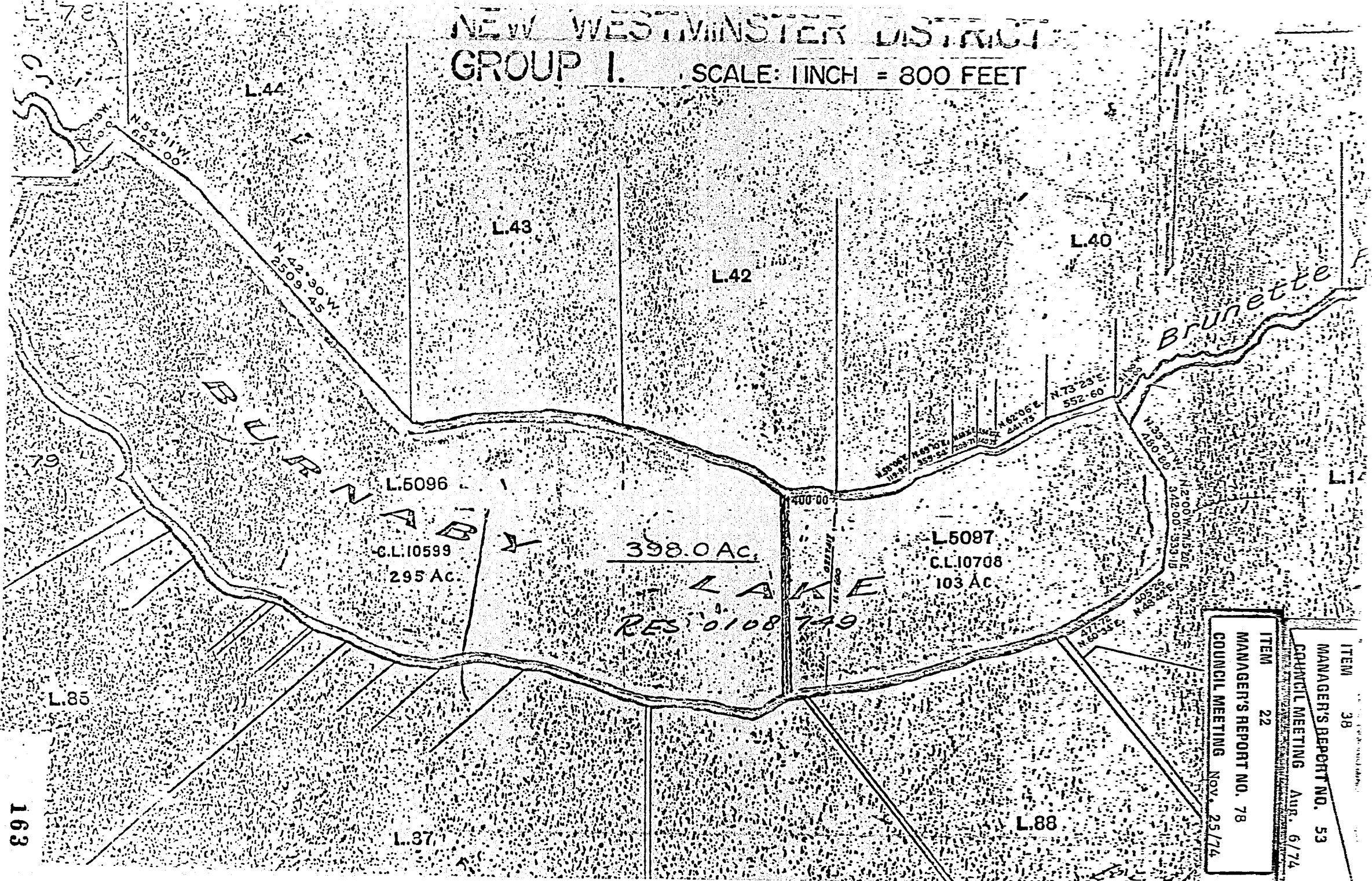
PROVIDED also that the Lessee agrees to keep the Crown lands in a safe, clean and sanitary condition at all times during the tenure of the lease and shall upon termination thereof remove the improvements situated thereon to the satisfaction of the Lessor.

PROVIDED also that this lease is issued and accepted subject to all lawful by-laws, rules and regulations of every Municipality or other authority which in any manner relate to or affect the Crown lands.

PROVIDED also that this lease is issued and accepted subject to the existing rights of riparian owners.

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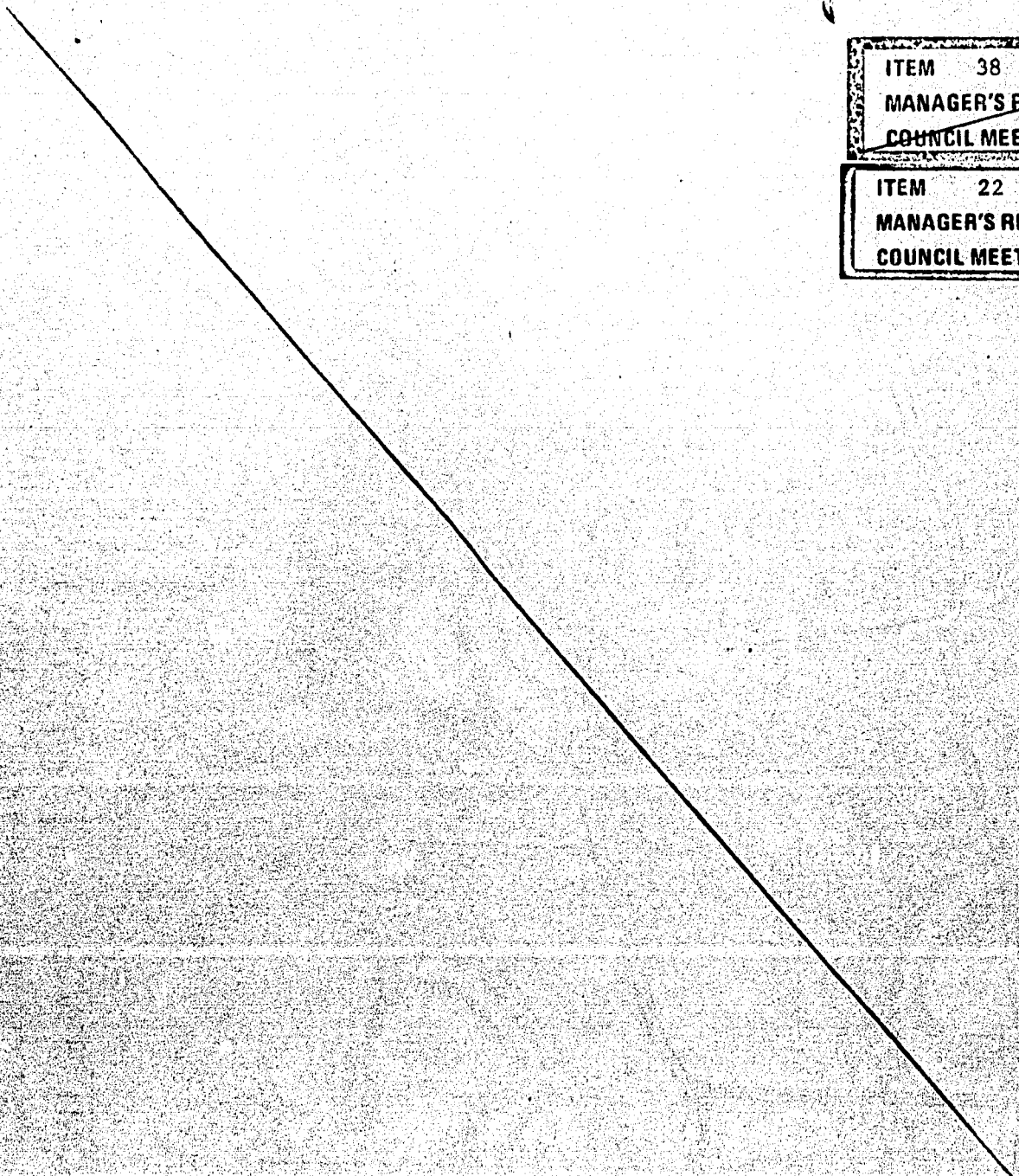
NEW WESTMINSTER DISTRICT
 GROUP I. SCALE: 1 INCH = 800 FEET



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Wherever the singular or masculine is used in this Indenture, the same shall be deemed to include the plural or the feminine, or the body politic or corporate, also the heirs, executors, administrators, successors, and assigns of the parties hereto and each of them (where the context or the parties so require).

IN WITNESS WHEREOF the Deputy Minister of Lands and the Lessee have hereunto set their hands and seals the day and year first above written.

Signed, sealed, and delivered in the presence of--

.....
Witness to Deputy Minister's signature.

.....
Deputy Minister of Lands.



.....
-Witness to Lessee's signature-

.....
Lessee.

.....
Witness to Lessee's signature.

.....
Lessee.

NOTE.--If the Lessee is a copartnership, the instrument must be signed and sealed by each member of the partnership. If the Lessee is a corporation, the corporate seal must be affixed by the officials who are authorized to execute deeds on behalf of the corporation and be accompanied by the signature of these officials.