

ITEM 30

MANAGER'S REPORT NO. 1

COUNCIL MEETING Jan. 13/75

Re: Lease Agreement Between the Corporation of the District of Burnaby  
And the Province of British Columbia  
Court Facilities, Justice Building, 6263 Gilpin Street

Attached for Council consideration is a draft of a Lease Agreement as between the Municipality and the Provincial Government for use, by Provincial personnel, of the Court level of the Justice Building, and of a portion of the Justice Building parking lot.

The Agreement is for a five year period commencing April 1, 1974, the date on which Municipal responsibility for Justice administration was assumed by the Province.

For the term of the Agreement the rent is \$486,060.00, with monthly installments of \$8,101.00 payable on the first day of each month. In addition, operating expenses for the term of the Agreement are estimated at \$350,670.75 (see Schedule "C" of the Agreement for monthly payments). Provision is made in the Agreement to adjust payments in the event that operating expenses increase or decrease.

Council is advised that of the 19,590 square feet of building space being leased, 15,320 square feet is finished, 4,100 square feet is unfinished, and 170 square feet represents an area common to Court and Police personnel. The net rental rate is \$4.96 per square foot which, together with \$2.559 per square foot for operating expenses, produces an overall rate of \$7.52 per square foot. Built into the rate is an amount for maintenance of grounds adjacent to the Justice Building and an amount for the 57 parking spaces for use by Court personnel. In addition, included with the rental rate is an allowance for Municipal services.

We have received advice from the Province that the terms of the Agreement are acceptable.

The Land Agent is of the opinion that the terms of the Agreement are reasonable and recommends acceptance.

RECOMMENDATION:

1. THAT Council approve of the terms of the subject Lease Agreement and authorize execution of such.

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THIS INDENTURE made and entered into this 1st day of  
 April, 1974.

IN PURSUANCE OF THE SHORT FORM OF LEASES ACT

BETWEEN:

THE CORPORATION OF THE DISTRICT OF BURNABY

(hereinafter called the "Lessor")

OF THE FIRST PART

AND:

HER MAJESTY THE QUEEN IN THE RIGHT  
 OF THE PROVINCE OF BRITISH COLUMBIA,  
 as represented by the Minister of Public Works  
 of said Province.

(hereinafter called the "Lessee")

OF THE SECOND PART

WHEREAS the Lessor is the owner of those lands situate,  
 lying and being in the Municipality of Burnaby, in the Province  
 of British Columbia more particularly hereinafter described.

NOW THEREFORE THIS INDENTURE WITNESSETH:

1. That in consideration of the premises and the rents,  
 covenants and conditions herein respectively reserved and contained,  
 the Lessor doth lease unto the Lessee ALL AND SINGULAR that parcel  
 or tract of land (hereinafter called the "said demised premises")  
 situate, lying and being in the Municipality of Burnaby, Province  
 of British Columbia, and more particularly known and described as  
 a Portion of Lots Five (5), Six (6), Seven (7) and Eight (8),  
 Block Seven (7), District Lot Seventy-Nine (79), Except Parcel "H",  
 Explanatory Plan 30169 and Plan 2547, Group One (1), New Westminster  
 District, in a building situated at <sup>6263</sup>~~6355~~ Gilpin Street, in the said  
 Municipality of Burnaby, comprising 19,590 Square Feet, shown outlined  
 in red on sketch attached hereto and marked "A".

2. TO HAVE AND TO HOLD the said demised premises unto the Lessee for the term of Five (5) years, commencing the 1st day of April, 1974, and ending on the 31st day of March, 1979.
3. YIELDING AND PAYING THEREFORE unto the Lessor during the said term, Firstly, the rent of Four Hundred Eighty-Six Thousand, and Sixty Dollars (\$486,060.00) of lawful money of Canada, payable by monthly installments of Eight Thousand, One Hundred and One Dollars (\$8,101.00) each on the first day of each and every month during the term, the first payment to be made on the First day of April, 1974; Secondly, the sum of Three Hundred Fifty Thousand, Six Hundred Seventy Dollars and Seventy-Five Cents (\$350,670.75) (being the estimated annual operating expenses for five years) of lawful money of Canada payable by monthly installments as more particularly set forth in the schedule attached hereto and marked "C" on the first day of each and every month during the term, the first payment to be made on the First day of April, 1974.
4. THAT in this Lease Operating Expenses mean all expenses in connection with the operation, maintenance and conduct of the said lands and premises.
- If the said Operating Expenses shall in any calendar year, or in a portion thereof, of which the term hereby demised forms part, exceed the total payment for the corresponding period set forth in the Schedule of Operating Cost Payments attached hereto and marked "C", then the Lessee shall pay to the Lessor that proportion of the increase in Operating Expenses as the rentable area of the said demised premises bears to the rentable area of the whole of the said lands and premises of which the said demised premises forms part, and if the said Operating Expenses shall in any calendar year, or in a portion thereof, as aforesaid, be less than the total payment for the corresponding period set forth in said Schedule of Operating Cost Payments, then the Lessor shall repay to the Lessee that proportion, calculated as aforesaid, of the decrease in Operating Expenses.

As soon as reasonably feasible after the expiration of each calendar year the Lessor will furnish to the Lessee a Statement showing in reasonable detail the Operating Expenses for said calendar year. At the time of rendering such Statement, the Lessor shall bill or credit the Lessee for any amount due from either Party by reason of an increase or decrease in Operating Expenses. Unless the Lessee shall take written exception to any item thereof within 45 days, such Statement will be considered as final and settlement shall be made in full within 90 days of the delivery thereof.

5. THAT the Lessee covenants with the Lessor:

- (a) To Pay rent and telephone.
- (b) Not to carry on the said demised premises or any improvements thereon any trade or business without first obtaining the written consent of the Lessor.
- (c) To observe and abide by all laws, regulations and By-Laws <sup>of</sup> the Lessor or other competent authority which may be applicable to the said demised premises and any improvements thereon and the use to which the said demised premises and any improvements thereon shall be put by the Lessee; and not to carry on or suffer to be carried on any activity upon the said demised premises or any improvements thereon which may be deemed by the Lessor to constitute a nuisance.
- (d) And to repair, save and except reasonable wear and tear, and damage by fire, lightning, and tempest.
- (e) And the Lessor may enter and view the state of repair, and that the Lessee will repair according to notice, save and except reasonable wear and tear, and damage by fire, lightning and tempest.
- (f) And will not assign without leave, and will not sublet without leave, such leave not to be unreasonably withheld.
- (g) And that it will leave the premises in good repair, save and except reasonable wear and tear, and damage by fire, lightning and tempest.

- (h) At all times to obey all orders, directives and requests made by any municipal or other public authorities including all orders, directives and request to carry out repairs and/or effect changes to the said demised premises or any improvements thereon in order that they will comply with local health, safety, fire, zoning, building and other requirements authorized by law.
- (i) That it will immediately pay and discharge any Sheriff's executions filed against the said demised premises or any improvements thereon for which it is responsible, and also any liens or other charges attaching thereto by reason of any act or omission on its part, whether caused by any work, services or materials which it has had performed or supplied in connection with the said demised premises or any improvements thereon, or by failure to pay any sales or corporation tax for which it is responsible.
- (j) To assume the sole responsibility for the condition, operation, maintenance and management of the said demised premises and any improvements thereon and that the Lessor shall be under no liability for injury to any servant, agent, or employee of the Lessee or any sub-lessee, licensee or invitee of the Lessee or for loss of or damage to the property of the Lessee or of any of the aforementioned persons.
- (k) To indemnify the Lessor against all liabilities, costs, fines, suits, claims, demands and actions and causes of action of any kind for which the Lessor may become liable by reason of any breach, violation or non-performance by the Lessee of any covenant, term or provision of this lease, or any injury, death, or damage to property, occasioned to or suffered by any person or any property by reason of any act, neglect or default by the Lessee or its servants, employees, agents, sub-lessees, or licensees or invitees on the said demised premises or any improvements thereon.



The Lessor shall be at liberty to settle or compromise any such claim, demand, suit or action and any damages, compensation and costs paid or incurred by the Lessor and all such claims, demands, suits or actions recoverable from the Lessor or the property of the Lessor shall be a debt due to it from the Lessee and recoverable by action or by set-off against any money due from the Lessor to the Lessee.

6. PROVISIO for re-entry by the Lessor on non-payment of rent or non-performance of covenants.

7. THE Lessor covenants with the Lessee for quiet enjoyment.

8. THE Lessee covenants that the Lessee shall not have any claim or demand against the Lessor for detriment, damage or injury of any nature and howsoever caused to the said demised premises or to any buildings, structures, erections, improvements, motor or other vehicles, materials, supplies, goods, articles, effects, or things at any time erected, brought, placed, made or being upon the said demised premises, or arising out of the Lessee's use and occupancy of the said demised premises or any buildings, structure, erections, improvements, motor or other vehicles, materials, supplies, goods, articles, effects, or things at any time erected, brought, placed, made or being on the said demised premises.

9. It is agreed that any failure by the Lessor to enforce, either in part or in whole, the rights and remedies available to it under these presents for any breach or failure by the Lessee to observe the provisions of any covenant or other matter herein contained shall not be deemed to be a waiver or acquiescence of same on the part of the said Lessor, nor shall such failure preclude the Lessor from enforcing such rights and remedies against the Lessee for any subsequent breach or non-observance.

10. The Lessor covenants to provide heat, water and washroom facilities, electric power, lightbulb and fixture maintenance, other electric power (as required), gas, janitor services, janitor supplies, garbage removal and fifty-seven (57) parking spaces in the area outlined in red on sketch attached hereto and marked "B".

11. And it is agreed that if the Lessee is at any time in default in the observance of any of its covenants contained in Clause 5 hereof, other than the covenant requiring payment of rent, and if the Lessor shall have served notice in writing upon the Lessee specifying the default and requiring the Lessee to make compensation in money for same, and the Lessee has failed to rectify the default and pay reasonable compensation for same within thirty days after its receipt of such notice, the Lessor may, in addition to any other remedy available to it for breach of the particular covenant, itself cure the default for the account of, and at the cost of, the Lessee, and the sum so expended or incurred by it shall be deemed to be additional rent and shall on demand be paid by the Lessee on the next day, or on such other rent days as the Lessor may specify, and if not paid by the Lessee be treated in the same manner and be subject to the same remedies as for non-payment of rent. If the default is, in the opinion of the Lessor, of such a nature as to be incapable of being cured by the Lessor at the cost of the Lessee, then the Lessor may without further notice or demand on the Lessee at any time after the expiration of the thirty-day period above referred to, re-enter into and upon the said demised premises or any part thereof and any improvements thereon, in the name of the whole, to re-enter, repossess and enjoy the same, and this lease shall be thereby determined.

12. And it is agreed that if the term hereby granted shall be at any time seized or taken in execution or in attachment by any creditor of the Lessee, or if the Lessee shall make any assignment for the benefit of creditors, or becoming bankrupt or insolvent, shall take the benefit of any act that may be in force for bankrupt or insolvent debtors the then current month's rent shall immediately become due and payable and the said term shall immediately become forfeited and void.

13. And it is agreed that in case the said demised premises or any part thereof shall at any time during the term hereby granted be burned or damaged by fire or tempest so as to render the same unfit for the purpose of the Lessee then the rent hereby reserved or a proportionate part thereof according to the nature and extent

of the injuries sustained, and all remedies for recovering the same shall be suspended and abated until the said demised premises shall at the option of the Lessor have been repaired or made fit for the purpose of the Lessee.

14. Provided always and it is hereby agreed by and between the parties hereto that if the said Lessee shall hold over after the expiration of the term hereby granted and the Lessor shall accept rent, the new tenancy thereby created shall be a tenancy from month to month and not a tenancy from year to year, and shall be subject to the covenants and conditions herein contained so far as the same are applicable to a tenancy from month to month.

15. Whenever in this lease it is required or permitted that notice or demand be given by one or either of the parties upon the other, such notice or demand shall be deemed sufficiently given if in writing and forwarded by Registered Mail addressed as follows:

To the Clerk of the Lessor at 4949 Canada Way, Burnaby, B.C.

To the Lessee at the Parliament Buildings, Victoria, B.C.

Such addresses may be changed from time to time by either party serving notices as above provided.

Notice may also be given to the Lessee by delivering it to some adult person on the said demised premises, if occupied, or, if not occupied, by posting up a copy of the said notice on the said demised premises or any improvements thereon.

16. AND IT IS FURTHER DECLARED AND AGREED that at the expiration of the term the ownership of all fixtures, structures, and improvements affixed to the said demised premises shall vest in the Lessor and no compensation shall be payable to the Lessee by the Lessor for the said fixtures, structures and improvements as aforesaid.

WHEREVER the singular and the masculine are used throughout this Indenture, the same shall be construed as meaning the plural or the feminine, or body corporate or politic; also the successors and assigns of the respective parties hereto and each of them, (where the context or the parties so require).



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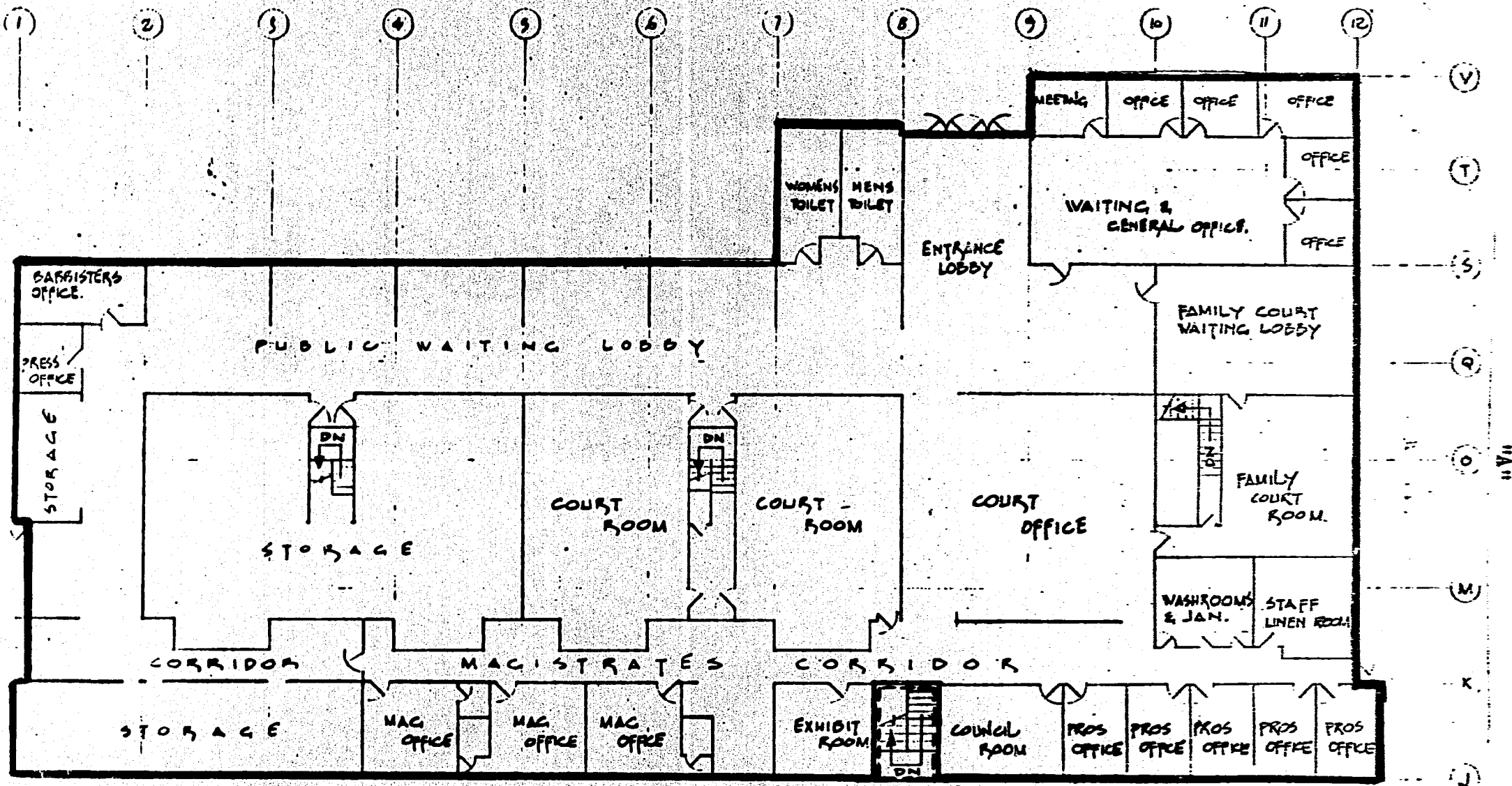
IN WITNESS WHEREOF the Lessor and the Lessee have hereunto  
affixed their corporate seals, attested by the hands of their proper  
signing officers in that behalf duly authorized, as of the day and  
year first above written.

THE CORPORATE SEAL OF THE )  
CORPORATION OF THE DISTRICT )  
OF BURNABY WAS HEREUNTO )  
AFFIXED IN THE PRESENCE OF: )

\_\_\_\_\_)  
MAYOR )

\_\_\_\_\_)  
CLERK )

\_\_\_\_\_)  
\_\_\_\_\_)



THIRD FLOOR

--- Indicates leased area (shared)  
 ——— (Exclusive)  
 Also, 57 reserved parking spaces.

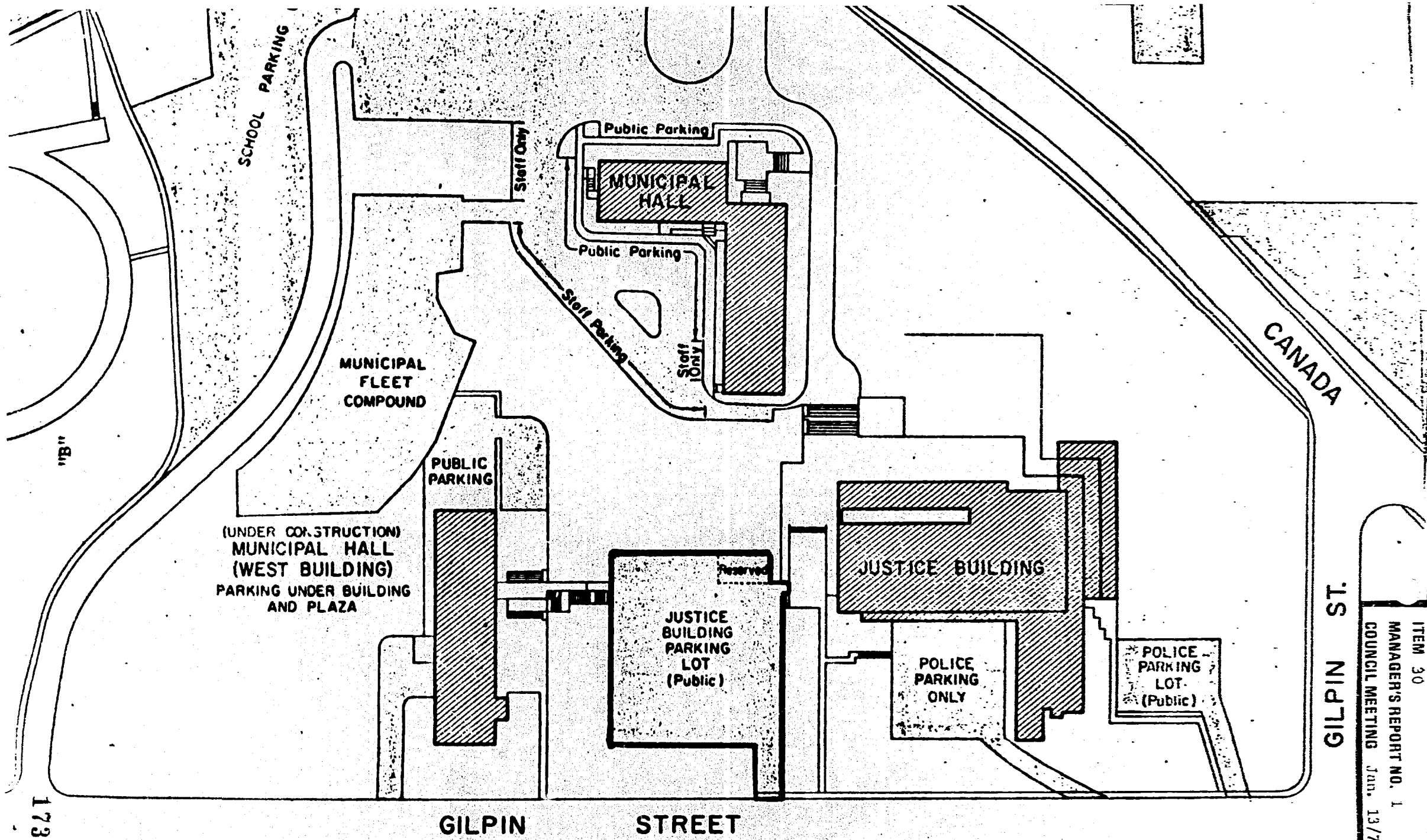
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MAGISTRATES COURT & POLICE STATION

Burnaby B.C.

CUNNINGHAM & RIVARD APPRAISALS LTD.



GILPIN ST.

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"C"

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SCHEDULE OF OPERATING COST PAYMENTS

<u>Period</u>	<u>Amount of Monthly Payment</u>	<u>Total Payment For Period</u>
1/4/74 31/12/74	\$4,177.00	\$37,593.00
1/1/75 31/12/75	4,804.20	57,650.40
1/1/76 31/12/76	5,524.83	66,297.96
1/1/77 31/12/77	6,353.55	76,242.60
1/1/78 31/12/78	7,306.59	87,679.08
1/1/79 31/03/79	8,402.57	25,207.71
<b>TOTAL PER TERM</b>		<b><u><u>\$350,670.75</u></u></b>