

THE CORPORATION OF THE CITY OF PORT COQUITLAM

COMMITTEE MEETING AGENDA

November 23rd, 1992

*** 7:00 P.M. ***

Description of Item

Item No.

Page No.

- | | |
|---|--|
| 1 | City Clerk, re: Item No. 4 of Council Agenda
Foreshore Lease and Sublease |
|---|--|

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2. Labour disruption - check into joining GVRD.

THE CORPORATION OF THE CITY OF PORT COQUITLAM

BYLAW NO. 2736

A Bylaw to authorize the acquisition of a foreshore lease and the sublease of the property.

WHEREAS Section 322 of the Municipal Act, RSBC 1979, c. 290 authorizes Council, by Bylaw, to enter into a lease for the acquisition of real property and associated personal property;

AND WHEREAS Council wishes to acquire a foreshore lease (the "Lease") of a portion of the bed and foreshore of the Pitt River (the "Foreshore") by way of an assignment of the lease (the "Assignment Agreement") from Itaru Shimizu (which Lease is attached as Schedule "A" to the Assignment Agreement which is attached as Schedule "A" to this Bylaw);

AND WHEREAS Section 542 of the Municipal Act, RSBC 1979, c. 290 authorizes Council, by Bylaw, to lease any real property held by the City;

AND WHEREAS the City wishes to sublease the Foreshore to Harken Towing Co. Ltd. by way of a sublease agreement (the "Sublease") in the form attached to this Bylaw as Schedule "B";

AND WHEREAS the City has posted a Notice of Intention to sublease the Foreshore, in compliance with Section 538 of the Municipal Act;

AND WHEREAS the Fraser River Harbour Commission has consented to both the assignment of the Lease to the City and the City's sublease to Harken Towing Co. Ltd.;

NOW THEREFORE the Municipal Council of The Corporation of the City of Port Coquitlam, in open meeting assembled, hereby enacts as follows:

1. The Corporation is hereby authorized and empowered to lease the Foreshore by entering into an assignment agreement with Itaru Shimizu in substantially the same form as the Assignment Agreement attached as Schedule "A" and the Mayor and Clerk are authorized to execute, seal, and deliver the Assignment Agreement and all other documents necessary to acquire the Lease.
2. The Corporation is authorized to sublease the Foreshore to Harken Towing Co. Ltd. by entering into a sublease agreement in substantially the same form as the Sublease which is attached as Schedule "B" and the Mayor and Clerk are authorized to execute, seal and deliver the Sublease and all other documents necessary to sublease the Foreshore.

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3. This Bylaw may be cited as "Foreshore Lease and Sublease Bylaw, 1992, No. 2736".

Read a first time by the Municipal Council this 23rd day of November, 1992.

Read a second time by the Municipal Council this 23rd day of November, 1992.

Read a third time by the Municipal Council this 23rd day of November, 1992.

Reconsidered, finally passed and adopted by the Municipal Council of The Corporation of the City of Port Coquitlam, this day of , 1992.

Mayor

City Clerk

2736

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ASSIGNMENT OF FORESHORE LEASE

THIS ASSIGNMENT made as of the _____ day of _____, 1992.

BETWEEN:

ITARU SHIMIZU, Businessman, c/o 3-4 Horaicho,
Marugame City, Kagawa-Pref., 763 Japan

(hereinafter called the "Assignor")

OF THE FIRST PART

AND:

CITY OF PORT COQUITLAM, a municipality
incorporated under the *Municipal Act*, R.S.B.C.
1979, c.290, and having its address at 2580
Shaughnessy Street, Port Coquitlam, B.C., V3C
2A8

(hereinafter called the "Assignee")

OF THE SECOND PART

WHEREAS:

A. By a lease (the "Lease") made the 1st day of January, 1981 between the Fraser River Harbour Commission (the "Commission") and Crown Zellerbach Canada Limited, a copy of which is attached as Schedule "A", the Commission leased a portion of the foreshore and bed of the Pitt River fronting Lot 12, Section 18, Block 6 North, Range 1 East, New Westminster District, Plan LMP5051 as more particularly described in the Lease (the "Leased Premises") for a term of 5 years from January 1, 1981 subject to the covenants and conditions in the Lease;

B. The Lease was assigned to the Assignor on February 20, 1987;

C. Pursuant to clause 31 of the Lease, the Lease was renewed for 5 years until December 31, 1990 and then for another 5 years until December 31, 1995;

D. The Assignor has agreed to assign the Lease to the Assignee pursuant to the terms of this Assignment, but subject to the Assignee obtaining the prior written consent of the Commission to this assignment;

NOW THEREFORE, THIS AGREEMENT WITNESSETH that in consideration of the sum of One Dollar (\$1.00) and other good and valuable

consideration now paid by the Assignee to the Assignor (the receipt and sufficiency of which are hereby acknowledged), the parties agree as follows:

1. Subject to the prior consent of the Commission, the Assignor hereby grants and assigns to the Assignee effective the 1st day of December 1992 (the "Commencement Date") the Leased Premises together with the unexpired residue of the term of the Lease and the Lease (all of which are sometimes hereinafter referred to collectively as the "said premises") and all benefit and advantage to be derived therefrom, to hold the same unto the Assignee for the residue of the term thereby granted, and for all other the estate, term and interest of the Assignor therein SUBJECT TO the payment of rent and the performance of the Lessee's covenants and agreements in the Lease reserved and contained.
2. The Assignor hereby covenants with the Assignee that, subject to the Commission's prior consent to this Assignment:
 - (a) the Lease is a good, valid and subsisting Lease and the current 1992 annual rent of \$3,834.74 thereby reserved has been duly paid and there are no liens or encumbrances in respect of the Lease created by the Assignor;
 - (b) the covenants and conditions contained in the Lease on the part of the Lessee therein to be observed and performed will have been duly observed and performed by the Assignor up to and including the Commencement Date;
 - (c) the Assignor has the right to assign the Lease in the manner aforesaid;
 - (d) subject to the payment of the rent and the performance of the Lessee's covenants as set out in the Lease, it shall be lawful for the Assignee peaceably and quietly to hold, occupy and enjoy the said premises hereby granted by the Lease without any interruption by the Assignor or any person claiming under it, free from all charges and encumbrances whatsoever created by the Assignor;
 - (e) the Assignor and all persons lawfully claiming under it will, at all times hereafter, at the request and cost of the Assignee, confirm to the Assignee the said premises for the residue of the said term as the Assignee shall reasonably require; and
 - (f) the Assignor hereby covenants and agrees with the Assignee that, from and after the Commencement Date, the Assignor will indemnify and save harmless the Assignee and its officers, officials, agents and employees from

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and against all claims, demands, losses, costs, damages, actions, suits and expenses of any nature or kind whatsoever arising from or relating to any default under the Lease during its tenure.

3. The Assignee hereby covenants and agrees with the Assignor that, from and after the Commencement Date, the Assignee will pay the rent and observe and perform the covenants and conditions on the part of the Lessee in the Lease to be observed and performed and will indemnify and save harmless the Assignor and its officers, directors, agents and employees from and against all claims, demands, losses, costs, damages, actions, suits and expenses of any nature or kind whatsoever arising from or relating to the Lease during its tenure or its use or occupation of the Leased Premises.

4. The Assignee shall pay, on or before the Commencement Date, an adjustment of \$319.00 in respect of the rent paid by the Assignor for the 1992 calendar year.

5. This Assignment shall enure to the benefit of the parties and their respective heirs, administrators, executors, successors and permitted assigns.

6. This Assignment shall in all respects be governed by and construed in accordance with the laws of the Province of British Columbia and the Assignor hereby submits to the jurisdiction of the courts of the Province of British Columbia. Any notice, demand, originating process or other document may be served on the Assignor by leaving a true copy of the same at c/o 3-4 Horaicho, Marugame City, Kagawa-Pref., 763 Japan.

7. This Assignment may be executed in one or more counterparts, each of which shall be considered an original and all of which taken together shall constitute a single agreement between the parties hereto.

IN WITNESS WHEREOF the parties hereto have hereunto signed as of the day and year first above written.

The Corporate Seal of CITY OF)
PORT COQUITLAM was hereunto)
affixed in the presence of:)

Mayor)

Clerk)

(c/s)

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ITARU SHIMIZU by his Attorney
in fact

RYON SHIMIZU

Occupation

5710PW

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FORESHORE SUBLEASE AGREEMENT

THIS AGREEMENT dated as of the _____ day of November, 1992

BETWEEN:

CITY OF PORT COQUITLAM, a municipality incorporated under the *Municipal Act*, R.S.B.C. 1979, c.290, and having its address at 2580 Shaughnessy Street, Port Coquitlam, B.C., V3C 2A8

(the "Municipality")

AND:

HARKEN TOWING CO. LTD. (Inc. No. 257329), a company incorporated under the laws of British Columbia and having its registered address c/o E.G. Mark, 106 - 8927 152nd Street, Surrey, B.C., V3R 4E5

(the "Tenant")

WHEREAS:

A. By a lease (the "Head Lease") made the 1st day of January, 1981 between the Fraser River Harbour Commission (the "Commission") and Crown Zellerbach Canada Limited, a copy of which is attached as Schedule "A", the Commission leased a portion of the foreshore and bed of the Pitt River fronting a portion of Lot 12, as more particularly described in the Lease (the "Lands") for a term of 5 years from January 1, 1981 subject to the covenants and conditions in the Lease;

B. Pursuant to clause 31 of the Head Lease, the Head Lease was renewed for 5 years until December 31, 1990 and then for another 5 years until December 31, 1995;

C. The Municipality has agreed to accept an assignment of the Head Lease, which assignment will become effective December 1, 1992;

D. The Tenant wishes to sublet the Lands and the Municipality agrees to sublet the Lands to the Tenant;

E. The Commission has consented to the assignment of the Head Lease and to this sublease;

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the rents, covenants and agreements herein reserved (the receipt

and sufficiency of which are hereby acknowledged), the parties agree as follows:

Sublease

1. The Municipality hereby demises and leases the Lands to the Tenant, on the terms and conditions herein contained and at all times subordinate to the Head Lease.

Term

2. This Lease shall be in effect from the 1st day of December 1992 until the 30th day of December 1995, but subject to earlier termination as set out herein.

Renewal

3. If the Municipality should renew the Head Lease in the manner permitted by it, the parties may, by their mutual agreement, renew this Lease on terms and conditions satisfactory to both the parties.

Rent

4. The Tenant shall pay the Municipality an annual rent of \$3834.74 plus \$500.00 per year as a service charge in respect of the Municipality's costs of administering this Lease (the "Rent"), payable by December 15th of the previous year.

Adjustment

5. At the time of execution of this Lease, the Tenant shall pay the Municipality \$361.23 as an adjustment of the Rent for December 1992.

Tenant's Covenants

6. The Tenant hereby covenants to the Municipality as follows:

Rent

- (a) the Tenant shall promptly pay the Rent when due and if the rent payable under the Head Lease should be increased by the Commission, the Tenant shall pay the increase;

Taxes

- (b) the Tenant shall promptly pay when due all charges, levies, fees and taxes, including property tax, Property Purchase Tax, and Goods and Services Tax, which may be imposed or which may arise in respect of the Lands or this Lease;

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Utilities

- (c) the Tenant shall pay all charges for water, sewer, gas, heating, fuel, telephone service, cablevision, electricity, power or other utility or communication service rendered in respect of the Lands;

Buildings

- (d) the Tenant shall not clear land, excavate, construct buildings or other structures or do any other development on the Lands unless the Tenant first obtains the express approval of the Municipality, EXCEPT THAT the Tenant may install pilings in conformity with the Fraser River Estuary Management Program in which case the Tenant shall provide the Municipality with construction drawings showing the location of those pilings;

Purpose

- (e) the Tenant shall use the Lands only for log storage and necessarily incidental purposes and for no other purpose whatsoever;

Compliance With Laws

- (f) the Tenant shall comply with and observe all federal, provincial and municipal laws, bylaws, rules, regulations and orders in force with respect to the Lands or the operations of the Tenant;

Maintenance

- (g) the Tenant shall keep the Lands in a well-maintained, clean and tidy state and the Tenant shall promptly repair all damage to the Lands (including improvements built on the Lands), whether caused by the Tenant or not;

Restoration

- (h) Tenant shall leave the Lands in a safe and clean condition and it shall remove any of its buildings and structures, including pilings, which the Municipality requires be removed and in addition, it shall remove any of the buildings and structures in the manner required by the Head Lease;

Hazardous Use

- (i) the Tenant shall:

- (i) operate its log storage business in such a manner to minimize disturbance to owners or occupiers of adjoining lands or to the public generally, and in full compliance with any municipal, provincial or federal law, regulation or order respecting noise, nuisance or environmental protection; and
- (ii) use the Lands in a manner which ensures the safety of those persons entering the Lands and those persons who may use the Lands in the future and in particular, the Tenant shall take adequate steps to guard against environmental damage or harm to the Lands;

Right to Inspect

- (j) the Tenant shall permit the Municipality to enter the Lands at all reasonable times to determine if the Tenant is complying with all its covenants under this Lease;

Builders Liens

- (k) the Tenant shall post and keep posted at all times, in at least two conspicuous places on the Lands and on improvements constructed by the Tenant on the Lands, a notice in writing that neither the Commission nor the Municipality will be responsible for the improvements or any work done on the Lands in respect of the filing of builders liens;

Indemnity

- (l) the Tenant hereby releases, indemnifies and saves harmless the Municipality from and against all liabilities, actions, causes of action, demands, claims, debts, costs, damages, expenses, legal fees (on a solicitor and client basis) and other losses of any kind, including death, personal injury, property loss or damage, which the Municipality now has or may at any time suffer, arising out of or in any way related to:
 - (i) any act, omission, negligence or default of the Tenant under this Lease; or
 - (ii) the Tenant's use or occupation of the Lands; or
 - (iii) the Lease herein granted;

and the Municipality may add the amount of such loss to the Rent, and the amount so added shall be payable to the Municipality immediately, EXCEPT THAT the Tenant

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shall not be responsible for any of the pilings located on the Lands at the commencement of this Agreement;

- (m) the obligations of the Tenant to release, indemnify and save harmless the Municipality in respect of events occurring during the currency of the Lease shall survive for one year from the date of the expiry or any termination of the Lease, notwithstanding anything in this Lease to the contrary;

Insurance

- (n) the Tenant shall ensure that all buildings and structures located on the Lands and the contents of those buildings and structures are insured to full replacement value and the Tenant shall provide to the Municipality a Certificate of Insurance at the time of each new or renewed policy;
- (o) the Tenant shall obtain and keep in force a policy of comprehensive general liability insurance (the "Policy") providing coverage for all losses, including death, bodily injury, property loss and property damage arising out of the Tenant's use and occupation of the Lands in an amount of not less than Five Million (\$5,000,000.00) Dollars per occurrence and the Municipality shall be named an additional insured under the Policy (without any rights of cross-claim or subrogation against the Municipality). At the time of execution of this Lease, the Tenant shall provide the Municipality with a Certificate of Insurance. The amount of insurance required herein shall be increased to a reasonable amount, if so required by the Municipality, on 120 days written notice;

Mortgage

- (p) the Tenant shall not mortgage or otherwise charge or encumber its interest in the Lands;

Compliance with Lease

- (q) the Tenant shall fulfil all the obligations of the Municipality under the Head Lease and the Tenant shall do nothing which may constitute a default of the Municipality under the Head Lease.

Municipality's Covenants

7. The Municipality hereby covenants with the Tenant that, upon the Tenant paying the Rent and performing and observing its covenants herein contained and not being in default under this

Lease, the Tenant may quietly possess and enjoy the Lands without any interruption or disturbance from the Municipality or from any other person lawfully claiming by, from or through it.

Provisos

8. Provided always and it is hereby agreed that the Municipality may terminate the Lease herein granted and re-enter the Lands, by giving a 30-day notice of termination to the Tenant, in the manner herein required, and without payment of compensation to the Tenant:

- (a) if the Rent is unpaid for thirty (30) days, whether formally demanded or not; or
- (b) if the Tenant should breach any of its covenants or agreements herein and such breach is not cured within a reasonable time as specified in a notice sent by the Municipality to the Tenant, in the manner herein provided, requiring that the breach be cured; or
- (c) if the Tenant should cease for more than sixty (60) consecutive days to construct, establish or operate a log storage business on the Lands; or
- (d) if the Head Lease should expire, be cancelled or otherwise terminate, in which case no 30 day notice shall be required.

Yielding Up

9. The Tenant agrees to return the Lands at the termination of this Lease, in the safe and clean manner required herein, subject only to reasonable wear and tear and damage from fire, storm, tempest or other casualties not caused by or contributed to by the Tenant.

Holding Over

10. If the Tenant shall hold over after the expiration of the Term and the Municipality 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 same covenants and conditions herein contained so far as the same are applicable to a tenancy from month to month.

As Is Basis

11. The Tenant acknowledges that the Lands are being leased on an "as is" basis and the Municipality is not providing any representation, warranty or guarantee as to the fitness of the Lands for any purpose or as to their environmental condition.

Assignment

12. This Lease may not be assigned or transferred by the Tenant without the consent of the Municipality.

Subletting

13. The Tenant shall not sublease the Lands without the prior written approval of the Municipality EXCEPT THAT the Tenant may permit Tidal Towing Ltd. to use the Lands from time to time for the purpose permitted herein, in which case the Tenant shall be solely responsible for and shall indemnify the Municipality in respect of the actions of Tidal Towing Ltd. as if they were the actions of the Tenant under this Agreement.

Bankruptcy

14. If the term of the Lease hereby granted should be at any time seized or taken in execution or in attachment by any creditor of the Tenant, or if the Tenant should make any assignment for the benefit of creditors, or becoming bankrupt or insolvent, if the Tenant should take the benefit of any legislation that may be in force for bankrupt or insolvent debtors, then the current Rent shall become immediately due and payable and the said term shall immediately become forfeited and void.

Distress

15. When the Rent payable by the Tenant is in arrears, the Municipality or a person authorized in writing by the Municipality may enter upon the Lands and seize any goods or chattels of the Tenant and may sell the same, or the Municipality may use any other means under law for recovering any rent due and payable under this Lease.

Notice

16. All notices and demands required or permitted to be given hereunder shall be in writing and may be personally served on a director of the Tenant or the Clerk of the Municipality, as the case may be, or may be sent by telecopy, telegram or telex, or may be sent by prepaid registered mail. Any notice personally delivered or sent by telecopy, telegram or telex shall be deemed to have been given and received at the time of delivery. Any notice mailed as aforesaid shall be deemed to have given and received on the expiration of 72 hours after it is posted at a mail box situated in the Province of British Columbia, addressed to the addresses provided herein or at such other address as may from time to time be notified in writing by the parties hereto, provided that if there shall be between the time of mailing and the actual receipt of the notice a mail strike, slow down or other labour dispute which might affect the delivery of such notice by the

mails, then such notice shall only be effective if actually delivered.

Law to the Contrary

17. This Lease shall enure to the benefit of and be binding on all parties hereto notwithstanding any rule of law or equity to the contrary.

Severance

18. If any portion of this Lease is held invalid by a court of competent jurisdiction, the invalid portion shall be severed and the decision that it is invalid shall not affect the validity of the remainder of this Lease.

Governing Law

19. This Lease shall be governed by and construed in accordance with the laws of the Province of British Columbia.

Waiver

20. Waiver of any default by either party shall not be deemed to a waiver of any subsequent default.

References

21. Every reference to each party is deemed to include the heirs, executors, administrators, successors, permitted assigns, sublessees, licensees, directors, employees, members, servants, agents, officers, and invitees of such party, wherever the context so requires or permits.

Amendment

22. This Lease may not be modified or amended except by an instrument in writing signed by the Municipality and the Tenant.

Municipality's Right to Perform

23. If the Tenant should fail to perform any of its obligations under this Lease, the Municipality may notify the Tenant that the default must be rectified within the reasonable time specified in the notice and if the Tenant should fail to rectify the default within the time specified, the Municipality may take all steps considered necessary to rectify the default and all costs of doing so, including the cost of retaining professional advisors, shall be payable immediately by the Tenant. Nothing in this Lease obligates the Municipality to rectify any default of the Tenant and should the Municipality choose to do so, the Municipality shall

not be liable to the Tenant for any act or omission in the course of curing or attempting to cure any default.

Remedies Not Exclusive

24. No remedy conferred upon or reserved to the Municipality is exclusive of any other remedy herein or provided by law, but such remedy shall be cumulative and shall be in addition to any other remedy herein or hereafter existing at law, in equity or by statute.

No Joint Ventureship

25. Nothing in this Lease shall constitute the Tenant the agent, joint venturer or partner of the Municipality or give the Tenant any authority or power to bind the Municipality in any way.

Powers Preserved

26. Nothing in this Lease affects the right of the Municipality to exercise its powers within its jurisdiction.

Authority

27. The Municipality represents and warrants that it has full authority to enter into this Lease and to carry out the actions contemplated herein and that doing so will not constitute a breach of its bylaws or of the Municipal Act.

28. The Tenant represents and warrants that it is validly established and in good standing under the laws of the Province of British Columbia, that it has full authority to enter into this Lease and to carry out the actions contemplated herein, that all resolutions and other preconditions to validity have been validly adopted, and that those signing this Lease on its behalf are authorized to bind the Tenant by their signatures.

Enurement

29. This Lease shall enure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns.

Captions

30. The captions appearing in this Lease have been inserted for reference and as a matter of convenience and in no way define, limit or enlarge the scope or meaning of this Lease or any provision thereof.

Interpretation

31. Wherever the singular or masculine or neuter is used in this Lease, the same shall be construed as meaning the plural, the feminine or body corporate where the context or the parties hereto so require.

Entire Agreement

32. The provisions herein contained constitute the entire agreement between the parties and supersede all previous communications, representations, warranties, covenants and agreements whether verbal or written between the parties with respect to the subject matter hereof.

Time of Essence

33. Time is of the essence of this Lease.

Further Assurances

34. The parties hereto shall execute and do all such further deeds, acts, things, and assurances as may be reasonably required to carry out the intent of this Lease.

Municipal Opinion

35. Any approval or opinion which the Municipality is entitled to give or form pursuant to this Lease may be made on the Municipality's behalf by the Director of Planning.

IN PURSUANCE OF THE "SHORT FORM OF LEASES ACT"

This Indenture

made in quadruplicate the 1st day of JANUARY, A.D. 1981.

BETWEEN:

FRASER RIVER HARBOUR COMMISSION,
a Corporation incorporated under the Statutes of Canada,
Chapter 32 of 13, Elizabeth II,
(hereinafter called the "Commission")

OF THE FIRST PART

AND:

CROWN ZELLERBACH CANADA LIMITED
a body corporate having an office at
1800 - 1030 West Georgia Street, in the
City of Vancouver, in the Province of
British Columbia
(hereinafter called the "Lessee")

OF THE SECOND PART

Recital

WHEREAS the lands hereinafter described form part of the harbour of the Fraser River vested in Her Majesty as represented by the Government of Canada.

AND WHEREAS the Lessee has applied for a lease of the lands hereinafter described for the purpose of Log Storage.

AND WHEREAS the Minister of Transport hath given authority for the issue of this lease of the hereinafter described lands to the Lessee upon the terms embodied in these presents.

Description

NOW THEREFORE THIS INDENTURE WITNESSETH that the Commission in consideration of the rents, covenants, provisos and conditions hereinafter reserved and contained, hath demised and leased, and, by these presents, doth demise and lease unto the Lessee:

ALL AND SINGULAR that certain parcel or tract of land and land covered by water and premises situate, lying and being a portion of the foreshore and bed of Pitt River fronting a portion of Parcel 1, Reference Plan 6041 of Sections 18 and 19, Block 6 North, Range 1 East, District of New Westminster, Province of British Columbia, and being more particularly described as follows:-

COMMENCING at the Southeasterly corner of Parcel 1 aforesaid, said point being the Southwesterly corner of Lot 5 in the subdivision of a portion of Sections 18 and 19, according to Plan 8850 deposited;

THENCE S. 31° 30' E. Astronomic, 263.6 feet;

THENCE S. 62° 27' 30" W. Astronomic, 224.1 feet;

THENCE S. 57° 26' W. Astronomic, 1038.9 feet;

THENCE N. 31° 30' W. Astronomic, 266.0 feet to the Southerly boundary of Parcel 1 aforesaid, said boundary being the line of average ordinary High Water on the Northerly shore of Pitt River;

THENCE Northeastwardly and following the said Southerly boundary of Parcel 1, 1263.0 feet more or less, to the point of commencement;

herein referred to as "the said land" and being on the location shown coloured red on the map or plan hereto annexed and containing in the aggregate 7.87 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 hereinafter withdrawn from the operation thereof. The Commission may make a reduction of rent proportionate to any reduction of area made in accordance with the terms of this paragraph.

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Habendum

TO HAVE AND TO HOLD the demised premises, herein referred to as "the said premises", unto the Lessee, its ~~successors and approved assigns~~, successors and approved assigns for and during the term of Five years to be computed from the 1st day of January in the year of our Lord one thousand nine hundred and Eighty-one subject to the conditions hereinafter mentioned.

Reddendum

YIELDING AND PAYING therefor unto the Commission for the term or period commencing on the 1st day of January, 1981 and ending on the 31st day of December, 1985, the rent or sum of Twenty-three Hundred and Sixty (\$ 2,361.00) per annum, in lawful money of Canada, payable in advance on the 1st day of January in each year, and thereafter, in like manner, the rents or sums determined as in clause number 32 provided.

That, notwithstanding anything in this Lease contained, the annual rental reserved to the Commission under this Lease will be subject to review, from time to time, by the Commission and, at the option of the Commission, may be fixed and determined, at the beginning of each five (5) year period under this Lease, by the Minister of Transport upon the recommendations of the Commission at any greater or other sum than herein reserved, and in the event that the Lessee refuses to pay such revised sum this Lease may be cancelled and determined at any time by notice in writ and either delivered to the Lessee or any officer of the Lessee, or mailed addressed to the last known address of the Lessee at any of Her Majesty's Post Offices, and thereupon after the delivery mailing of such written notification, this Lease shall be determined and ended.

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1/1/1981

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PROVIDED ALWAYS that, and these presents are issued and entered into upon and subject to the following stipulations, provisos and conditions, that is to say:

- To Pay Rent 1. THAT the Lessee shall and will pay the rent hereby reserved in the manner aforesaid, and shall and will also pay all charges, taxes, rates and assessments whatsoever which shall during the said term, be charged upon or payable in respect of the demised premises.
- Inspection and repair 2. AND THAT it shall be lawful for the Commission, or any person thereunto authorized by it, at all reasonable times, during the term by these Presents created, and any renewal or renewals thereof, to enter upon the said premises and to examine the condition thereof and view the state of repair, and that the Lessee will repair according to notice at its own cost and to the satisfaction of the Commission.
- Assignment 3. AND THAT the Lessee shall not, nor will not during the said term assign or sublet the said premises or any part thereof without the consent in writing of the Commission thereto being first had and obtained, such consent to be subject to such terms and conditions as the Commission may determine.
- Use 4. AND THAT the lands and premises hereby demised and leased shall be used for the purpose of Log Storage only, and for no other purpose or purposes whatever.
- Condition of Repair 5. AND THAT the Lessee hereby acknowledges that he has examined the said premises and is aware of the present condition of repair and the Lessee covenants and agrees that he will forthwith make any and all necessary repairs, if required, to the said premises at his own cost and to the satisfaction of the Commission.
- Insurance of Structures 6. AND THAT the Lessee further covenants that if there are any structures or buildings on the said premises that he will forthwith insure same for their full insurable value in the joint names of the Commission and the Lessee and will show receipts, and will rebuild in case of fire.
- Removal of Structures 7. AND THAT the Lessee shall upon the expiration or sooner determination of this lease in any other manner except re-entry, if required by the Commission, at the Lessee's expense and to the satisfaction of the Commission, forthwith remove from the said premises all piles, dolphins, structures, erections, equipment, articles, materials, effects and things at any time brought or placed thereon by the Lessee and shall also to the satisfaction of the Commission repair all and every damage and injury occasioned to the said land by reason of such removal, or in the performance thereof, but the Lessee shall not, by reason of any action taken or things performed or required under this clause, be entitled to any compensation whatever; PROVIDED THAT unless required by the Commission, no goods, chattels, materials, effects or things shall be removed from the lands and premises of the Commission until all rent due or to become due under this lease is fully paid.
- Posting the area 8. AND THAT the Lessee further covenants and agrees that it will at its expense post the area of the Lease in accordance with the by-laws of the Commission in force at the time.
- Upland 9. IT IS UNDERSTOOD AND AGREED between the Parties hereto that if the upland owners request cancellation of this lease, that the same may be cancelled by the Commission at the expiration of TWELVE (12) months after notice in writing has been given by the Commissioners to the Lessee by registered mail addressed to the Lessee at its aforesaid address and at the expiration of the said TWELVE (12) months from the date of delivery of the said Notice, this lease shall ipso facto be cancelled and determined forthwith.
- Forfeiture 10. AND 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 said premises and all rights and privileges hereunder, but no forfeiture hereunder shall be deemed to affect any rights or damages which may have accrued to the Commission against the Lessee by reason of any breach of any of the provisions herein contained.
- Formation of Land 11. AND THAT the Lessee shall not during the term hereof deposit upon the lands hereby demised or any part thereof any earth or other material for the purpose of reclaiming, filling-in or raising the level of any portion of these lands, without the consent in writing of the Commission and then only in accordance with such terms, conditions and regulations as the said Commission may make.
- Easements 12. AND THAT notwithstanding the rights and privileges of the Lessee herein contained, the Commission reserves the right to grant rights-of-way across, through, under or over any portion of the lands hereby demised 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 lands hereby demised, and in the event that the Lessee's rights and improvements are interfered with, compensation shall be set at the sole discretion of the Commission and its decision as to compensation shall be final.

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Arrears

13. AND THAT in the interpretation 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.

Use of Lands

14. AND THAT the Lessee will enter forthwith upon the lands hereby demised and make reasonable and diligent use of the same during the term hereof for the purposes aforesaid only.

Compliance with Provincial Law

15. AND THAT the Lessee shall observe and perform and comply with all the laws of the Province of British Columbia with respect to the use and occupation of land.

Compliance with Law

16. AND THAT the Lessee shall in all respects abide by and comply with all statutes, rules, regulations and by-laws of lawful authorities in any manner whatsoever affecting the said premises, or the exercise in any manner of rights arising hereunder, and to all rules, regulations and by-laws of the Commission.

Disputes

17. AND THAT in the case of any dispute or difference arising as to any matter or thing connected with this Lease, or any matter or thing connected with any provisions herein contained, or the interpretation thereof, the same shall be settled finally, without appeal, by the Commission or any other person duly authorized by it in that behalf.

Aids

18. AND THAT the Lessee will at his own expense, and upon the request in writing of the Commission install and maintain such aids to navigation in or upon the said premises as shall be deemed necessary by the Commission.

Approval

19. AND THAT all structures to be erected upon the said premises shall be first approved by the Commission, and all such structures shall be constructed and maintained at the expense of the Lessee, and to the satisfaction of the Commission.

Destruction of Buildings

20. AND THAT if the said Structures erected or hereafter to be erected by the lessee upon the said land shall at any time be destroyed or partially destroyed by fire or the elements then the Lessee shall have the option to either

- (a) declare that the lease shall cease and become null and void from the date of such damage or destruction and in such case the Lessee shall immediately vacate and surrender the premises to the Commission and the Lessee shall be liable for the rent only to the time of such surrender and the Commission may re-enter and repossess the premises discharged of this lease and may remove all persons and goods therefrom; or
 - (b) rebuild or repair the said Structures
- PROVIDED that such rebuilding or repairs shall commence within SIXTY (60) Days of the date of such damage or destruction and shall continue to completion with all reasonable speed and diligence and PROVIDED FURTHER that the rent shall not cease to run during such period of rebuilding or repairing.

Repair

21. AND THAT the said Lessee shall during the continuance of the term hereby created keep the said Structures in good repair.

Risk

22. AND THAT all structures, erections, materials and supplies, articles and effects and things at any time erected, brought, placed or being upon the said premises shall be entirely at the risk of the Lessee in respect of loss, damage, injury, destruction or accident from whatsoever cause arising.

Waiver and Indemnification

23. AND THAT the Lessee for his own part does hereby waive for the future and as regards Third Parties shall at all times indemnify and save harmless the Commission from and against all claims, demands, loss, costs, damages, actions, suits, or other proceedings by whomsoever made, brought or prosecuted, in any manner based upon, occasioned by, or attributable to the execution of this lease, or any action taken or things done or maintained by virtue thereof, or omitted to be so taken or maintained or the exercise in any manner of rights arising hereunder, whether the same shall arise in consequence of a navigational accident or whether damage or injury shall be caused or occasioned to the property hereby demised in connection with the use and occupation of the same, the Commission may make good the same and recover the costs thereof from the Lessee; SAVE AND EXCEPT any negligence arising through any act or omission of the Commission its servants or agents.

Default

24. AND THAT in case of neglect or default of the Lessee to duly and regularly pay the rent, or observe any covenant, proviso, condition or stipulation contained or referred to in this Lease, it shall be lawful for the Commission upon notice in writing mailed by prepaid registered post addressed to the Lessee in the Province, or by a like notice posted in a conspicuous place on the said land, to forfeit absolutely all or any part of the portions of the lands hereby demised as specified in the notice, and all other 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 Commission or other proceeding whatsoever provided that the Commission shall nevertheless be entitled to recover from the Lessee any rent then accrued or accruing and moreover, that any right of action of the Commission against the Lessee in respect of any antecedent breach of the said covenants, proviso, stipulations or conditions shall not be thereby prejudiced.

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Notice

25. AND THAT any notice, demand, notice of cancellation or default or other communication otherwise affecting the tenancy hereunder which the Commission may require or desire to give or serve upon the Lessee may be legally given and served by the Commission or any other officer of the Commission acting in its behalf, if mailed or posted in the manner hereinbefore provided.

N.W.P.A.

26. AND THAT nothing in these presents shall be held to absolve the Lessee from fulfilling in all respects the requirements of Part I of the Navigable Waters Protection Act, Chapter 193 of the Revised Statutes of Canada, 1952, and Amending Acts, and it is an express condition of this lease that no "work" within the meaning of said Part I shall be undertaken or constructed on the said land by the Lessee or shall be suffered or allowed by the Lessee to be constructed thereon until as regards such work the provisions of the said Part I shall have been fully complied with.

Reservation

27. AND THAT it is hereby declared that this demise is accepted by the Lessee upon the express condition and understanding that the Lessee shall have no recourse against Her Majesty the Queen or the Commission should Her Majesty's title or the title of the Commission to the said land be found to be defective or should these presents prove ineffectual by reason of any defect in such title.

Removal
by Order

28. AND the Lessee shall, within thirty (30) days after written notice from the Commission remove any buildings or other structure situate on the said land which, in the opinion of the Commission, should be removed for any reason.

Misrepresentation

29. AND THAT if this Lease has been secured by misrepresentation as to any material fact, this Lease may be summarily cancelled by the Commission in the manner hereinbefore provided.

Ownership
of Buildings
and Erections

30. AND THAT on the expiration or sooner determination of this lease, all buildings and erection put, erected or placed on the said land by the Lessee during the term by these presents created, or any renewal thereof, shall be and become the property of the Commission.

Repossession
for Public
Purpose

31. AND THAT, notwithstanding anything in this Lease contained, if the said premises or any portion thereof shall be required for public purposes, as determined by the Minister of Transport possession of the same may at any time during the said term or any renewal thereof be resumed by the Commission upon six (6) months notice in writing by the Commission to the Lessee in which event the Commission shall pay to the Lessee the fair value of the buildings and erections on the said lands at the time of the giving of such notice such value in no case to exceed the amount actually expended on such buildings and erections and to be determined in case of dispute by a single arbitrator if the Commission and Lessee agree upon one otherwise by three arbitrators of whom the Commission shall appoint one, the Lessee one and the two arbitrators thus appointed the third, and if the Lessee shall after two weeks' notice fail to appoint such arbitrator or if the two arbitrators fail to appoint a third arbitrator within two weeks from their own appointment in either of such cases the appointment may be made by a Judge of the Supreme Court of British Columbia upon the ex parte application of the Commission, the award of such single arbitrator or a majority of such three arbitrators to be final.

Renewal

32. That if, at the expiration of the term by these Presents created, the Lessee shall desire : renewal of these Presents for a further term of five (5) years, or any lesser term, the Lessee shall at least one month before such expiration give notice in writing of such desire to the Commission and if it shall then appear that all rent or other sums or charges due or payable by virtue of these Presents have been fully paid and that the Lessee has on its part observed and performed all the covenants, provisions, conditions and reservations in these Presents contained, the Commission shall grant to the Lessee a renewal or extension of this Lease for a further term not exceeding five (5) years, as may be stipulated by the Lessee in such notice, and in like manner, at the expiration of such second term for a third term of five (5) years, and in like manner, at the expiration of such third term for a fourth term of five (5) years, subject to the covenants, provisions, conditions and reservations herein contained, except, however, that the rental to be paid during each such renewal period under these Presents may be fixed and determined by the Minister of Transport at the time of each such renewal at any greater or other rate than herein reserved and that last mentioned renewal lease shall not contain a clause for further or other renewal; and the Lessee hereby undertakes and agrees that such revised rental shall be paid effective as of the beginning of the term of each renewal of this lease and that any rental payment made after the expiration of the term of these Presents created or after the expiration of any renewal thereof, in an amount other than the revised amount fixed and determined pursuant to this clause as the rental payable during such renewal term shall be a conditional instalment payment, only, and shall be subject to adjustment after the rental for such renewal term has been so fixed and determined.

Holding Over

33. PROVIDED ALWAYS AND THAT it is hereby agreed by and between the Parties heret that if the said Lessee shall hold over after the expiration of the term hereby granted and the Commission shall accept rent, the new tenancy thereby created shall be a tenancy at will and not a tenancy from year to year, and the Lessee shall pay as rent during the time of such occupancy a rental to be determined at the discretion of the Commission and shall be subject to the covenants and conditions herein contained so far as the same are applicable to tenancy at will.

Interpretation

34. AND THAT where the context allows the expression "Her Majesty" includes the successors and assigns of Her Majesty, and the expression "Lessee" includes the executors, administrators successors and assigns of the Lessee or Lessees; and the expression "the Commission" includes the successors and assigns of the Fraser River Harbour Commission; and the singular or masculine shall include the plural or the feminine or the body politic or corporate.

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Testamentum

IN WITNESS WHEREOF the Commission and the Lessee have executed these presents the day and year first above written.

Attestation

THE CORPORATE SEAL of the FRASER RIVER HARBOUR COMMISSION was hereunto affixed in the presence of:

[Signature]
(Chairman)

[Signature]
(Secretary)

SIGNED, SEALED AND DELIVERED by the Lessee in the presence of:

Name _____

Address _____

Occupation: _____

THE CORPORATE SEAL of the LESSEE
CROWN ZULLEBACH CANADA LIMITED

[Signature]
VICE PRESIDENT
[Signature]
SECRETARY

NOTE: If the Lessee is a partnership, this instrument must be signed and sealed by each member of the partnership. If the Lessee is a corporation, the Corporate Seal of the corporation must be affixed by such officers of the Corporation as are authorized to execute documents on behalf of the Corporation and must be accompanied by the signature and designation of these officers.

FRONTIER TOWNSHIP AND BEU OF THE

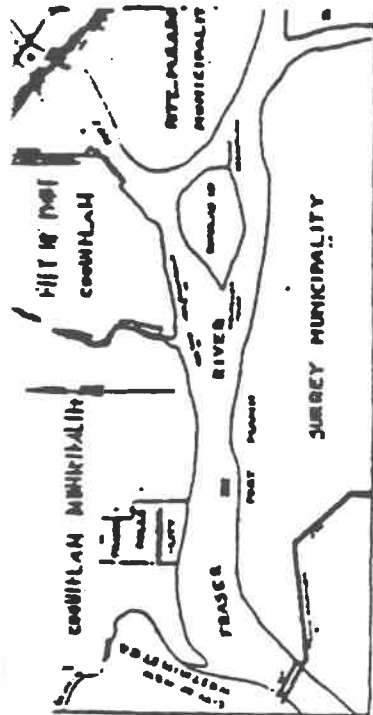
IT RIVER, EXHIBITING A PORTION OF PARCELS ONE, EYERANCE PLAN 6040, OF SECTIONS 18 AND 19,

BLOCK 6 NORTH ; RANGE 1 EAST, NEW WESTMINSTER DISTRICT.

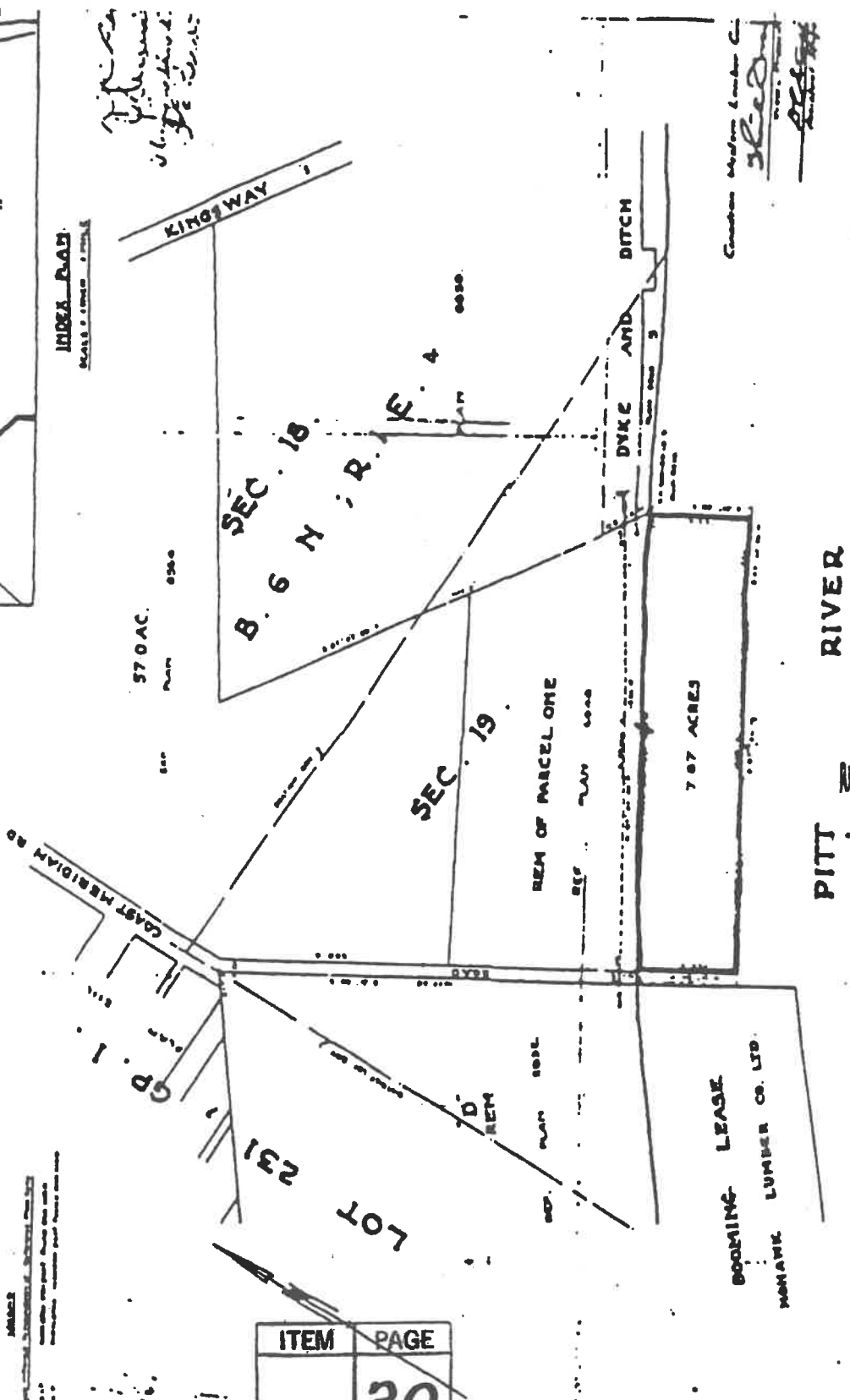
SCALE - 1 INCH = 200 FEET.

CANADIAN WESTERN LUMBER COMPANY LIMITED.

NOTES:
1. The area shown is for information only.
2. The area shown is not to be used for any purpose.
3. The area shown is not to be used for any purpose.



INDEX MAP
SCALE - 1 INCH = 1 MILE



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BOOMING LEASE
MONTAGUE LUMBER CO. LTD.

PITT RIVER

Canadian Western Lumber Co.
K. L. L. L.
K. L. L. L.

IN WITNESS WHEREOF the parties hereto have executed this Agreement
as of the day and year first above written.

The Common Seal of HARKEN TOWING)
CO. LTD. was hereunto affixed in)
the presence of:)

Authorized Signatory)

(c/s)

Authorized Signatory)

The Corporate Seal of CITY OF PORT)
COQUITLAM was hereunto affixed in)
the presence of:)

Mayor)

Clerk)

5788PW