

## **Appendix “D”**

File No. 10333

June 21, 2021

**BY EMAIL**

Mitch Vininsky, Bobby Kofman and Murtaza Tallat  
KSV Advisory Inc.  
150 King Street West, Suite 2308  
Toronto, Ontario M5H 1J9

**Re: YG Limited Partnership and YSL Residences Inc. (Re) (31-2734090)**

We are counsel for a group of former employees of YSL, David Ryan Millar, Sarven (Steve) Cicekian, Mike Catsiliras, Louie Giannakopoulos and Marco Mancuso (the **Former Employees**).

The Former Employees wish to amend their proofs of claim to partially withdraw, reduce, and credit certain claims. I have attached revised particulars of the each proof of claim, which reflect these amendments. With these amendments, the aggregate amount of the claims asserted by each of the Former Employees will be as follows:

1. David Ryan Millar – \$734,996.71
2. Sarven (Steve) Cicekian – \$767,399.00
3. Mike Catsiliras – \$681,190.50
4. Louie Giannakopoulos – \$444,615.00
5. Marco Mancuso – \$430,000.00

**Total: \$3,058,200.21**

# NAYMARK LAW

Please let us know if you require any further information to adjudicate the amended claims of the Former Employees.

Yours truly,

A handwritten signature in black ink, appearing to read "J.G.", with a stylized flourish at the end.

James Gibson

Enclosures

Copy to: Daniel Naymark, Naymark Law  
David Gruber and Jesse Mighton, Bennett Jones LLP

**EXHIBIT "A" – AMENDED PARTICULARS OF PROOF OF CLAIM**

1. THE CLAIMS (together, the **Claims**) as against YG Limited Partnership and YSL Residences Inc. (together, **YSL**) are:

- (a) damages for constructive dismissal: \$141,101.38;
- (b) bonus accrued in November 2019 related to the YSL project: \$83,333.33;
- (c) bonus unit credit for the condominium unit in the Clover project (the **Clover unit**): \$200,000.00;
- (d) bonus unit credit for the condominium unit in the 33 Yorkville project (the **Yorkville unit**): \$350,000.00;
- (e) unit credit for the Clover unit granted as an employment benefit: \$17,596.00;
- (f) unit credit for the Yorkville unit granted as an employment benefit: \$23,716.00;
- (g) 50% of the bonus earned and due January 2021, reduced to reflect contingencies associated with this claim: \$87,500.00 ~~\$175,000.00~~;

less:

- (h) amounts received in respect of the above claims from the insolvencies of the Clover CCAA Applicants the Clover on Yonge Inc. and The Clover on Yonge Limited Partnership, pursuant to a claim approved PricewaterhouseCoopers in its capacity as court-appointed Monitor: \$55,500.00-; and
- (i) amounts expected to be received in respect of the above claims from the insolvencies of 480 Yonge Street Inc. and 480 Yonge Street Limited Partnership (Halo), equal to 55% of the \$205,000 unsecured claim approved PricewaterhouseCoopers in its capacity as court-appointed receiver: \$112,750.00.

2. Total value of the Claims described above is \$734,996.71 ~~\$935,246.71~~.

## **A. OVERVIEW**

3. David Ryan Millar was one of the Cresford group's most senior employees, responsible for overseeing a number of its developments including YSL. Among other achievements, Millar succeeded in obtaining the zoning that allowed the YSL project to be one of the tallest buildings in Canada, increasing its value by millions of dollars.

4. Millar was employed in common by the various Cresford companies for which he worked, including YSL. He was constructively terminated in the summer of 2020 after Cresford failed to pay outstanding employment compensation. As a result, YSL and Millar's other employers in common are jointly and severally liable for his outstanding employment entitlements.

5. PricewaterhouseCoopers (**PwC**) has already approved claims by Millar in insolvency proceedings of related Cresford entities, in which PwC is court-appointed Monitor and Receiver, respectively. Millar has received and will receive partial recovery of the amounts owed to him via those proceedings, both of which provided for partial reimbursement of unsecured creditors. He now submits a claim for the balance.

## **B. THE CRESFORD GROUP**

6. Millar was employed in common by a number of companies, including YSL, until his constructive dismissal, most recently as Vice President, Planning and Development.

7. YSL is part of a commonly owned group of companies and partnerships (together, **Cresford**) engaged in the development, construction, marketing and sale of condominiums in Toronto, Ontario under the business name Cresford.

8. In addition to YSL, Millar worked on real estate projects related to a series of Cresford companies (together with YSL, the **Cresford Employers**). The Cresford Employers controlled Millar's activities and were Millar's employers in common.

9. These common employers, including YSL, are jointly and severally liable for the entitlements owed to Millar under his written employment agreement. The most significant part of Millar's compensation were bonuses, which were to be paid in cash or paid as credits on Millar's purchase of units in Cresford projects.

10. Despite Cresford's repeated assurances, these bonuses were never paid. Millar warned Cresford that he would consider himself to be constructively dismissed if it did not pay the outstanding bonuses. By failing to honour these obligations, Cresford made unilateral changes to Millar's employment that were substantial and detrimental, amounting to constructive dismissal. Millar is accordingly entitled to the contractual damages in lieu of reasonable notice set out in his written employment contract.

### **C. MILLAR'S EMPLOYMENT BY CRESFORD**

11. In 2001, Cresford hired Millar as a Project Coordinator. Millar was promoted to the position of Director of Planning and Development and remained with Cresford for over 10 years.

12. In February 2012, Millar accepted an offer to act as the Vice President of Planning and Development at a competing real estate developer and resigned from Cresford.

13. In 2014, Cresford approached Millar and asked him to return as Vice President of Planning and Development. Based on the compensation and bonuses that Cresford was offering, Millar accepted their offer.

14. Cresford drafted and delivered an employment agreement dated November 5, 2014 to Millar, which he signed without any amendment (the **Employment Agreement**, included as **Attachment 1**). Millar was employed as Cresford's Vice President of Planning and Development pursuant to the Employment Agreement from February 2015 until his recent dismissal, described below.

15. Under the Employment Agreement drafted by Cresford, Millar's employer was identified as "Cresford Developments", which is not a legal entity or registered business name. Rather, it is a generic term applying to the entire Cresford group of companies.

16. In addition to YSL, Millar performed work for the following Cresford companies (together with YSL, defined above as the Cresford Employers) as employers in common, and worked on each of the real estate projects associated with them: The Clover on Yonge Inc. and its associated partnership (**Clover**); Cresford (Rosedale) Developments Inc.; East Downtown Redevelopment Partnership; 33 Yorkville Residences Limited Partnership and 33 Yorkville Residences Inc., its general partner; 480 Yonge Street Limited Partnership and 480 Yonge Street Inc.; 50 Charles Street Limited; 11 Gloucester Street Inc.; 69 Hayden Street Limited; 9615334 Canada Inc.; and Cresford Holdings Ltd.

17. Because Millar worked for all of the Cresford Employers, he was employed in common by them, including YSL, within the meaning set out in *Downtown Eatery (1993) Ltd. v. Ontario*, [2001 CanLII 8538](#) (Ont. C.A.) and *Nortel Networks Corporation (Re)*, [2016 ONSC 6030](#) because:

- (a) The Cresford Employers were under the common control of the same managers, who acted on behalf of each of the Cresford Employers;
- (b) YSL and each of the relevant project companies directed and exercised effective control over his activities relating to the associated real estate projects;
- (c) Cresford held Millar out as a representative of YSL and the relevant project companies in the course of Millar's employment, including during Concord's due diligence on the project;
- (d) Millar signed applications and contracts on behalf of YSL and the relevant project companies;
- (e) Millar's bonus entitlements were specifically linked to milestones related to his work on YSL and the relevant project companies; and
- (f) Millar's bonus entitlements involved credits on units purchased from project companies, obligations that could only be performed by the relevant project company.

18. Each of the Cresford employers, including YSL, is jointly and severally liable for the employment obligations owed to Millar.



19. Millar's primary activities were the planning and development of the condominium developments carried out by various project companies, including YSL. YSL was the only company with the authority and control to direct Millar in carrying out the activities related to the YSL project, in furtherance of its business. Cresford held Millar out as acting on behalf of those project companies. He was the named representative of the YSL project on many core project documents. A small sample of such documents is attached as **Attachment 2**:

- (a) YSL's application to the City of Toronto for a permit to construct the building foundation, signed by Millar as its representative;
- (b) YSL's application to the City of Toronto stating YSL's commitment to obtain a general review of the proposed construction, signed by Millar as its representative;
- (c) YSL's application to the City of Toronto for a permit to construct the building, plumbing and foundation, signed by Millar as its representative;
- (d) a building permit from the City of Toronto, identifying Millar as YSL's agent; and
- (e) a municipal infrastructure agreement between YSL and the City of Toronto, identifying Millar as YSL's point of contact for any relevant notices (under section 11.1 of the agreement).

20. This sample of records should be sufficient to establish that YSL was one of Millar's employers in common. Should the Proposal Trustee have any remaining doubts, Millar would be pleased to provide further information on request.

#### **D. MILLAR'S DUTIES AND COMPENSATION ENTITLEMENTS**

21. As Vice President of Planning and Development, Millar was responsible for leading the planning and development of Cresford's real estate projects from inception through to completion and closing. Millar succeeded in obtaining the zoning that allowed the YSL project to be one of the tallest buildings in Canada, increasing its value by millions of dollars. His duties included leading: due diligence efforts; planning and municipal approvals processes to obtain zoning and official plan amendments; the negotiation and execution of complex municipal agreements; and the process of obtaining building permits, construction-related permits, draft plan approval, occupancy and the required registration and severance for project closings.

22. Millar performed these responsibilities for each of the Cresford Employers. In particular, Millar was responsible for planning and development for each of the Clover, Halo, Yorkville, YSL and 59 Hayden condominium projects. Millar also performed various work on the 357 Yonge project (due diligence on the purchase, as well as the project's involvement in the YSL approvals process), the 11 Gloucester project (due diligence on the purchase) and the 69 Hayden property (dealing with municipal matters).

23. In carrying out these responsibilities, Millar acted on behalf of each of the project company Cresford Employers associated with that project. These project companies acted through a common management team, which gave directions to and exercised control over Millar on each project company's behalf. Each of the Cresford Employers were accordingly a common employer of Millar and jointly owed all of an employer's obligations to him, including YSL.

24. At the time of his dismissal, Millar's annual compensation was:

- (a) a salary of \$300,000 per year;
- (b) a car allowance (\$600 per month) and car insurance allowance (\$137.41 per month);
- (c) gas for personal and business use;
- (d) 4 weeks' vacation with pay;
- (e) group benefit coverage; and
- (f) certain project-based bonuses, as described below.

25. An integral part of Millar's employment compensation were significant bonuses, which included both cash bonuses and credits granted on the purchase of units in Cresford condominium projects.

26. For example, as a signing bonus under the Employment Agreement, Cresford granted Millar a \$200,000 credit that could be applied towards the purchase of a Cresford condominium unit in any new development announced after his start date. The Employment Agreement also granted Millar a series of earned cash bonuses that were payable following the registration of various Cresford condominium projects.

27. As Cresford developed new projects, Millar continued to receive project-based bonuses, which increased in amount over time. These bonuses were an essential term of Millar's employment.

28. Millar also entered into agreements of purchase and sale for units in the Clover project (on December 22, 2015) and in the Yorkville project (on May 29, 2018). Millar was offered preferential terms for these purchases as bonus compensation for his work on the projects.

29. To grant these bonuses, Cresford amended the agreements of purchase and sale for the Clover unit (on December 22, 2015 and January 21, 2020) and for the Yorkville unit (on May 29, 2018 and January 21, 2020). As further employment benefits to Millar, these amendments also limited the deposits that Millar was obliged to pay, fixed the maximum amounts of closing adjustments, and recorded credits to Millar against the purchase price (in amount of \$17,596 on the Clover unit and \$23,716 on the Yorkville unit).

30. The agreements of purchase and sale for the Clover unit and for the Yorkville unit, together with the relevant amendments showing the credits on the Clover and Yorkville units, are included as **Attachment 3** and **Attachment 4**.

31. On November 29, 2018, Millar executed an amendment to the Employment Agreement (the **Amending Agreement**, included as **Attachment 5**) that, among other things, confirmed the following earned bonuses (together, the **Bonuses**):

- (a) a \$200,000 cash bonus to be paid within 60 days after the final registration of the declaration of any new developments;
- (b) a credit bonus of \$350,000 to be applied to his purchase of a unit in the Yorkville project;

- (c) a credit bonus of \$200,000 to be applied to his purchase of a unit in the Clover project (being the bonus previously granted in the Employment Agreement, which was applied to a unit in the Clover project);
- (d) cash bonuses of \$100,000 payable 60 days after the final registration of the declaration for each of the Clover, Halo and Yorkville projects;
- (e) a cash bonus of \$250,000 for the YSL project, payable in three \$83,333.33 installments upon the following project milestones: the enactment of the zoning by-law and expiry of appeal period, receipt of the above grade structural building permit, and 60 days after the final registration of the declaration of the condominium.

32. On January 6, 2020, Daniel C. Casey (**Casey**), the principal of Cresford, called a meeting of five senior employees including Millar and granted each of them a further bonus of \$250,000 on behalf of Cresford. He advised that the intention of this bonus was to reward these senior employees for seeing Cresford through “tough times.” By this time, as described below, Cresford had begun to experience financial distress. Casey provided Millar with a cheque for \$75,000 to satisfy part of that bonus amount. He promised that Cresford would pay the remaining bonus amount of \$175,000 one year later, in January 2021.

33. Each of the above bonuses were earned and remained in existence at the time of Millar’s dismissal. In addition, a cash bonus of \$83,333.33 became payable on November 4, 2019 in relation to the YSL project.

34. Millar's cash compensation was paid by EDRP, which acted as a paymaster for the Cresford group, receiving fees from project companies and using those fees to pay, among other things, Cresford's employees. To the best of Millar's knowledge, EDRP has no material assets of its own and carries out no business other than servicing Cresford and its project companies. Bonuses in the form of credits against the purchase of units in Cresford developments were credited by the Cresford company that owned the respective developments.

35. As described in section I below, Cresford and Clover effectively acknowledged that they were employers in common of Millar, by acknowledging Millar's claims for bonuses and other amounts in the Clover and Halo proceedings.

#### **E. CRESFORD'S FINANCIAL DISTRESS AND COMMITMENTS TO HONOUR MILLAR'S BONUSES**

36. Over the course of 2019, Cresford began to experience significant financial distress. In early 2020, allegations surfaced of financial irregularities within certain Cresford developments. As a result of these allegations, several of Cresford's secured creditors arranged for an investigation of these allegations and later reported that:

- (a) Cresford had surreptitiously obtained a loan to fulfill its lenders' requirement that Cresford inject equity into the projects, and had then used lender funds to service that secret loan;
- (b) Cresford had maintained two sets of books. One set of books showed costs consistent with the construction budget provided to lenders. A second, secret set of books showed overspending above Cresford's approved construction budgets; and

- (c) Cresford had hidden increased costs by selling units to its suppliers at substantial discounts to their listing prices, without disclosing these adjustments to its lenders.

37. In early March 2020, Cresford began preparing to commence an application for relief under the *Companies' Creditors Arrangement Act*. As Cresford's finances deteriorated, Millar raised concerns with Casey on multiple occasions about whether he would receive his earned Bonuses.

38. Casey provided his personal commitment that Cresford would honour the credits granted on Millar's Clover and Yorkville unit as well as the original purchase prices in Millar's purchase and sale agreements, and that Cresford would pay the outstanding Bonuses that had by then accrued. In particular, Casey assured Millar that Cresford would soon pay a milestone Bonus of \$83,333 for the YSL project (described at subparagraph 23(e) above) that had accrued in November 2019. Millar relied on Casey's commitment, which induced him to continue to work for Cresford.

39. On March 21, 2020, David Mann (**Mann**), Cresford's CFO, advised Millar that his outstanding Bonuses would remain outside of the insolvency process, were on Cresford's account and would be paid. Millar similarly relied on Mann's assurances and continued to work for Cresford. Three days later, Mann confirmed that the outstanding \$83,333.33 Bonus would be paid by April 15, 2020. This email correspondence is included as **Attachment 6**.

40. On March 27, 2020, Cresford's secured creditors obtained orders appointing receivers over the Clover and Halo project companies (in a proceeding with the court file number CV-20-00637301-00CL) and the Yorkville project companies (CV-20-00637297-00CL).

41. After the receivership orders, Millar assisted the receiver on the insolvent projects and continued to work for Cresford on its solvent projects. Among other tasks, Millar represented YSL during Concord's due diligence on the project and sent emails providing Concord with information on YSL's behalf (which can be produced upon request).

42. On March 31, 2020, after the receivership orders were issued, Mann emailed Millar and other employees and confirmed that they would remain employees of Cresford under their current contracts for at least 30 days.

#### **F. FAILURE TO HONOUR MILLAR'S EMPLOYMENT ENTITLEMENTS LEADS TO CONSTRUCTIVE DISMISSAL**

43. Following the receivership orders, Millar made repeated requests for Cresford to confirm that his employment entitlements, including his unit credit Bonuses, the purchase prices in the signed purchase and sale agreements, and his cash Bonuses would continue to be honoured. Despite their past assurances, neither Casey, Mann nor Cresford provided the requested confirmation.

44. On April 10, 2020, Millar's counsel sent letters to the monitor and receiver for Clover and Yorkville, PwC, requesting confirmation that his unit credit Bonuses would be honoured in the receivership. In response, PwC offered to pay drastically reduced bonuses to Millar in exchange for his continued work on the project companies in receivership.

45. On May 5, 2020, Millar emailed Casey, Mann and others to advise them that PwC was unwilling to honour his employment agreement and requested that Cresford (that is, those companies in the group not in receivership) honour his employment entitlements.



46. On May 21, 2020, Casey requested that Millar provide urgent assistance to the YSL project. Millar agreed to do so but again requested confirmation that his outstanding Bonuses and entitlements would be honoured. Casey advised that Cresford would provide an offer the next day dealing with Millar's outstanding Bonuses and unit credits.

47. Despite Millar's repeated requests afterwards, Cresford did not provide such an offer and did not confirm what Bonuses and entitlements it would honour. Instead, it made repeated promises that it would deliver offers outlining what it was prepared to pay Millar by a series of deadlines, including May 24, May 26, May 28, June 12 and June 22, 2020. Contrary to these promises, it did not deliver offers by any of these deadlines.

48. By mid-July 2020, Cresford had still not paid Millar's \$83,333.33 Bonus for the YSL project that had been due since November 2019, had not confirmed it would honour his other Bonuses earned and to be earned including unit credits, and had not presented its promised offer for how and when it would pay those amounts or proposed alternative amounts. In addition, Millar learned that Cresford intended not to honour the credits or purchase prices outlined in Millar's purchase and sale agreements against the unit purchases that it had granted him in the Amending Agreement.

49. On July 16, 2020, Millar wrote to Casey and Cresford and advised that he was not prepared to wait any longer for Cresford to honour its commitments, while being asked to continue to work for Cresford (attached as **Attachment 7**). He warned that he would consider himself constructively dismissed if by July 24, 2020, his outstanding \$83,333.33 Bonus was not paid and satisfactory commitments were not received regarding his credits for the units (which had appreciated

considerably in value). He also requested confirmation that his future Bonuses would be paid if and as accrued.

50. On July 17, 2020, counsel for Millar sent a letter to counsel for the CCAA Applicants and requested clarification of how Millar's bonus unit credit on the Clover unit would be treated under the proposed plan of arrangement (included as **Attachment 8**).

51. On July 20, 2020, counsel for the Clover CCAA Applicants sent a letter advising that the plan of arrangement did not compromise any claims by Millar against his employer "Cresford", against whom Millar could claim any related losses (included as **Attachment 9**). Although the Clover CCAA Applicants did not advise which company is Millar's employer "Cresford", this response suggested that the CCAA Applicants would not honour any of the Bonuses owing to Millar, including the bonus unit credit on the Clover unit. The Clover CCAA Applicants did not deny that Millar was owed these bonus credits or other bonuses.

52. Cresford failed to pay Millar's outstanding Bonus or to confirm that it would otherwise honour Millar's employment entitlements by July 24, 2020. Millar therefore confirmed in writing that he had been constructively dismissed and ceased working.

53. Cresford did not deny that it had constructively dismissed Millar in response to his July 16 or July 24, 2020 letters.

54. On August 4, 2020, Millar issued a statement of claim against Cresford seeking damages for breach of contract, wrongful dismissal, and oppression (included as **Attachment 10**). Millar

included YSL as defendants in the action. Cresford has delivered a statement of defence in the action (attached as **Attachment 11**).

## **G. BREACH OF CONTRACT**

55. Under the Employment and Amending Agreements, the Cresford Employers were contractually required to pay or credit to Millar the accrued Bonuses relevant to Millar's claim in this proceeding:

- (a) the cash bonus of \$83,333.33 that accrued on November 4, 2019;
- (b) the credit bonus of \$200,000 on his purchase of the Clover unit;
- (c) the credit bonus of \$350,000 on his purchase of the Yorkville unit;
- (d) the unit credit of \$17,596 on his purchase of the Clover unit;
- (e) the unit credit of \$23,716 on his purchase of the Yorkville unit; and
- (f) the cash bonus of \$175,000 orally promised by Casey.

56. The Cresford Employers – including YSL – have breached their contractual obligations to Millar by failing to pay the \$83,333.33 bonus that was outstanding. As well, they have repudiated their contractual obligation to honour the \$200,000 credit bonus on Millar's Clover unit, the \$350,000 credit bonus on Millar's Yorkville unit, the unit credits on the Clover and Yorkville units, and the additional \$175,000 cash bonus. Millar has suffered damages as a result of these breaches, which deprive him of the compensation that he earned from his past service to the Cresford, including YSL.

## **H. WRONGFUL DISMISSAL**

57. By persistently refusing to honour Millar's employment entitlements, the Cresford Employers and YSL implemented significant changes to Millar's employment. The essential terms and conditions of Millar's employment substantially changed as a consequence of the Cresford Employers and YSL's actions.

58. The Cresford Employers, including YSL, did not consult Millar before implementing these changes. Rather, they continually delayed and renege on its promises to confirm Millar's contractual entitlements in order to induce him to continue working for the Cresford Employers and YSL.

59. The changes to Millar's employment, imposed by the Cresford Employers and YSL, amount to constructive dismissal. The changes were substantial and detrimental, and entitled Millar to terminate his contract of employment and claim damages in lieu of reasonable notice.

60. The Employment Agreement expressly provided that the Cresford Employers and YSL were entitled to terminate Millar's employment without cause only upon 10 months' notice or bi-monthly pay in lieu of such notice, subject to a 50% reduction in pay in lieu in the event Millar finds alternative employment:

### **Termination of Employment:**

The Employee's employment may be terminated as follows:

...

3. By the Employer without cause upon ten months' notice or, bi-monthly pay in lieu thereof subject to the following. In the event of the employee finding comparable alternative employment, the employee will be paid 50% of the balance owing on the

remainder of the termination payment from the date of commencement of such employment to the end of the notice period herein. The Employee agrees that he will advise the Employer forthwith upon finding such comparable employment.

61. The Cresford Employers and YSL have failed to pay Millar pay in lieu of notice of termination. Accordingly, Millar was entitled to the following damages for wrongful termination:

- (a) \$250,000, for ten months of salary;
- (b) \$7,374.10, for ten months of car and car insurance allowances; and
- (c) \$36,538.46, for ten months of vacation entitlements plus three weeks of vacation accrued to date.

62. In October 2020, Millar found comparable alternative employment. Under the terms of the employment agreement, Millar's contractual entitlement for dismissal was reduced to 50% for the 8 months of the notice period then remaining. Millar is accordingly entitled to \$141,101.38 in damages, which reflects 100% of his contractual entitlement for August and September 2020 (\$58,782.51), 50% of his entitlement for the remaining 8 months (\$117,565.02), and an adjustment for amounts received from PwC for post-filing services.

## **I. CLAIMS IN OTHER INSOLVENCY PROCEEDINGS**

63. Millar filed claims in the Clover CCAA proceeding and Halo receivership that were substantially similar to the claims in this proof of claim.

64. Concord and Cresford acknowledged Millar's claims in the Clover proceeding and consented to PwC approving them. On January 11, 2021, David Gruber advised on behalf of

Clover that it acknowledged Millar's claims for constructive dismissal damages, for bonuses related to the Clover and YSL projects, and for certain other amounts. Mr. Gruber's email acknowledging Millar's claims and Mr. Millar's request for amendment (without attachments) setting out the referenced claims are included as **Attachment 12**.

65. On May 3, 2021, PwC issued notices of revision acknowledging Millar's claims for \$222,000 in the Clover CCAA proceeding and for \$205,000 in the Halo receivership (attached as **Attachment 13**). These approvals reflected at least some amounts for each of the claims asserted here. In doing so, PwC treated Millar as being employed in common by the Cresford Employers, acknowledging his claims that Clover and Halo were jointly liable for bonuses related to other projects.

66. PwC reduced several of Millar's claims where it expected Millar to be paid from other employers in common. In particular, PwC's acknowledgements of Millar's claims did not acknowledge the \$83,333.33 bonus earned for the YSL project. In an email dated May 3, 2021 (attached as **Attachment 14**), PwC advised Millar that Dave Mann, Cresford's CFO, had told PwC on March 24, 2021 that YSL would pay this bonus.

67. PwC accordingly disallowed that claim, on the basis that Millar would recover that YSL's management had represented to PwC that YSL would pay this bonus and that YSL was not insolvent. However, no such payment was made to Millar prior to the NOI in this matter, filed shortly after Mann's assurance to PwC that YSL would pay the bonus.

68. PwC also reduced Millar's claim for the \$175,000 by 50%, to account for contingencies associated with that claim. Millar's corresponding reduction of this claim by 50% to account for

contingencies is without prejudice to his right to claim the full amount of the bonus in other proceedings.

69. Aside from YSL, it appears that there are no remaining Cresford Employers with operating businesses that could satisfy Millar's employment entitlements.

70. Millar agreed to assign his Clover claims to Concord in exchange for 25% of the approved claim amount (which was more than the amount payable to unsecured creditors under the plan of arrangement sanctioned in the Clover CCAA). As a result, Millar has received \$55,500 in respect of his Clover claims.

71. Millar has not yet received any distributions in respect of his Halo claims and has not yet been advised what percentage of unsecured claims will be distributed in that receivership proceeding. Millar is prepared to credit the amount he ultimately receives on account of these claims, if any, against the amount of his claims herein, and will advise the proposal trustee if such amounts are received prior to the completion of this proposal process. Because of the possibility that Millar's Halo distribution amount will not be known before his within claim is valued for distribution purposes, Millar has included an interim credit of \$112,750 in respect of this claim, being 55% of the claim amount. He understands that present estimates are that the distribution will be at this level or slightly above it.

*Bankruptcy and Insolvency Act ("Act")*

**Proof of Claim**

(Section 50.1, 81.5, 81.6, Subsections 65.2(4), 81.2(1), 81.3(8), 81.4(8), 102(2), 124(2), 128(1), and Paragraphs 51(1)(e) and 66.14(b) of the Act)

All notices or correspondence regarding this claim must be forwarded to the following address:

Creditor Name:	<u>David Ryan Millar</u>	Telephone:	<u>(416) 768-9994</u>
Address:	<u>c/o James Gibson, Naymark Law</u>	Fax:	<u>(647) 660-5060</u>
	<u>171 John Street, Suite 101,</u>	Email:	<u>jgibson@naymarklaw.com</u>
	<u>Toronto, ON, M5T 1X3</u>		
Account No.:	<u>Nil</u>		

In the matter of the bankruptcy (or the proposal, or the receivership) of YSL Residences Inc. and YG Limited Partnership (*name of debtor*) of the City of Toronto, Ontario (*city and province*) and the claim of David Ryan Millar, creditor.

I, David Ryan Millar (*name of creditor or representative of the creditor*), of City of Toronto, Ontario (*city and province*), do hereby certify:

1. That I am a creditor of the above-named debtor (~~or that I am \_\_\_\_\_ (*state position or title*) of \_\_\_\_\_ (*name of creditor*)~~).
2. That I have knowledge of all the circumstances connected with the claim referred to below.
3. That the debtor was, at the date of bankruptcy, (or the date of the receivership, or in the case of a proposal, the date of the notice of intention or of the proposal, if no notice of intention was filed), namely the 30th day of April, 2021, and still is, indebted to the creditor in the sum of **\$935,246.71**, as specified in the statement of account (or affidavit) attached and marked **Schedule "A"**, after deducting any counterclaims to which the debtor is entitled. (The attached statement of account or affidavit must specify the vouchers or other evidence in support of the claim.)
4. (Check and complete appropriate category.)

**A. UNSECURED CLAIM (AFFECTED CLAIM) OF \$935,246.71** (other than as a customer contemplated by Section 262 of the Act)  
That in respect of this debt, I do not hold any assets of the debtor as security and  
(Check appropriate description.)

Regarding the amount of \$933,246.71, I do not claim a right to a priority.

Regarding the amount of \$2,000.00, I claim a right to a priority under Section 136 of the Act.  
(Set out on an attached sheet details to support priority claim.)  
See **Schedule "B"**.

**B. SECURED CLAIM OF \$0.00**

That in respect of this debt, I hold assets of the debtor valued at \$ \_\_\_\_\_ as security, particulars of which are as follows:

(Give full particulars of the security, including the date on which the security was given and the value at which you assess the security, and attach a copy of the security documents.)

**C. CONSTRUCTION LIEN CLAIM OF \$0.00**

That in respect of this debt I have registered a lien on title to the Debtors' real property in accordance with the *Construction Act* (Ontario), particulars of which are as follows:




(Give full particulars of the lien, including the date on which the lien was registered and the value secured by such lien, and attach a copy of any relevant documents, including any statement of claim).

1. That, to the best of my knowledge, I am (or the above-named creditor is) (or am not or is not) related to the debtor within the meaning of Section 4 of the Act, and have (or has) (or have not or has not) dealt with the debtor in a non- arm's-length manner.
2. That the following are the payments that I have received from, the credits that I have allowed to, and the transfers at undervalue within the meaning of Subsection 2(1) of the Act that I have been privy to or a party to with the debtor within the three months (or, if the creditor and the debtor are related within the meaning of Section 4 of the Act or were not dealing with each other at arm's length, within the 12 months) immediately before the date of the initial bankruptcy event within the meaning of Subsection 2(1) of the Act: (Provide details of payments, credits and transfers at undervalue.)

Dated at City of Toronto, Ontario, this 10 day of June, 2021.

  
Witness Denise Millar

  
Creditor Authorized Signatory  
**David Ryan Millar**

**NOTE:** If an affidavit is attached, it must have been made before a person qualified to take affidavits.

**WARNINGS:** A trustee may, pursuant to Subsection 128(3) of the Act, redeem a security on payment to the secured creditor of the debt or the value of the security as assessed, in a proof of security, by the secured creditor.

Subsection 201(1) of the Act provides severe penalties for making any false claim, proof, declaration or statement of account.

**DIRECTIONS FOR COMPLETION OF THIS FORM ARE ON THE REVERSE SIDE**

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**CONDITIONAL CLAIM ADDENDUM**

By checking the box below, you are electing for your Claim to be treated as a Conditional Claim (as defined in the Proposal). By electing for your claim to be treated as a Conditional Claim, you are recognizing that:

- a) One or more contractual conditions in your arrangements with the Company were not satisfied as at April 30, 2021 (referred to in the Proposal as "Conditional Claim Conditions");
- b) You are undertaking to complete all Conditional Claim Conditions and provide proof of such completion by no later than the Conditional Claim Completion Deadline; and
- c) You understand that the failure to complete all Conditional Claim Conditions by the Conditional Claim Completion Deadline will result in your Claim being fully, finally and irrevocably disallowed.

I hereby elect for my Claim to be treated as a Conditional Claim:

---

Creditor Authorized Signatory

# TAB A

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**(IN BANKRUPTCY AND INSOLVENCY)**  
**COMMERCIAL LIST**

IN THE MATTER OF THE BANKRUPTCY AND INSOLVENCY  
ACT, R.S.C. 1985, C. B-3, AS AMENDED

IN THE MATTER OF THE NOTICES OF INTENTION TO  
MAKE A PROPOSAL OF YG LIMITED PARTNERSHIP  
AND YSL RESIDENCES INC.

Applicants

**AFFIDAVIT OF DAVID RYAN MILLAR**  
**(Sworn on June 10, 2021)**

I, DAVID RYAN MILLAR, of the City of Toronto, Ontario, MAKE OATH AND SAY:

1. I am the creditor, and as such have knowledge of the matters contained in this affidavit. Where my knowledge is based on information from other sources, I state the source of that information and believe the information to be true.
2. I confirm that the information contained in the particulars of claim attached as **Exhibit "A"**, together with the supporting attachments, is true and accurate and I adopt it for the purposes of this affidavit.

3. I make this affidavit in support of a proof of claim in this proceeding, and for no other or improper purpose.

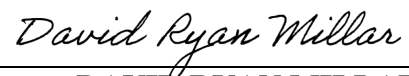
SWORN by videoconference technology by the deponent, located in the City of Toronto, Ontario, before the commissioner, located in the City of Toronto, Ontario in accordance with O. Reg. 431/20, Adminstrating Oath Remotely on June 10, 2021

}



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Commissioner for Taking Affidavits  
JAMES GIBSON



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**DAVID RYAN MILLAR**

THIS IS EXHIBIT "A" REFERRED TO  
IN THE AFFIDAVIT OF DAVID RYAN MILLAR  
SWORN BEFORE ME, THIS 10TH DAY OF JUNE, 2021

A handwritten signature in black ink, appearing to read "J.G.", positioned above a horizontal line.

---

JAMES GIBSON

A Commissioner Etc.

<b>EXHIBIT “A” – PARTICULARS OF PROOF OF CLAIM</b>
--

1. THE CLAIMS (together, the **Claims**) as against YG Limited Partnership and YSL Residences Inc. (together, **YSL**) are:

- (a) damages for constructive dismissal: \$141,101.38;
  - (b) bonus accrued in November 2019 related to the YSL project: \$83,333.33;
  - (c) bonus unit credit for the condominium unit in the Clover project (the **Clover unit**): \$200,000.00;
  - (d) bonus unit credit for the condominium unit in the 33 Yorkville project (the **Yorkville unit**): \$350,000;
  - (e) unit credit for the Clover unit granted as an employment benefit: \$17,596.00;
  - (f) unit credit for the Yorkville unit granted as an employment benefit: \$23,716.00;
  - (g) bonus earned and due January 2021: \$175,000.00;
- less:
- (h) amounts received in respect of the above claims from the insolvencies of the Clover CCAA Applicants the Clover on Yonge Inc. and The Clover on Yonge Limited Partnership, pursuant to a claim approved PricewaterhouseCoopers in its capacity as court-appointed Monitor: \$55,500.

2. Total value of the Claims described above is \$935,246.71.

**A. OVERVIEW**

3. David Ryan Millar was one of the Cresford group’s most senior employees, responsible for overseeing a number of its developments including YSL. Among other achievements, Millar

succeeded in obtaining the zoning that allowed the YSL project to be one of the tallest buildings in Canada, increasing its value by millions of dollars.

4. Millar was employed in common by the various Cresford companies for which he worked, including YSL. He was constructively terminated in the summer of 2020 after Cresford failed to pay outstanding employment compensation. As a result, YSL and Millar's other employers in common are jointly and severally liable for his outstanding employment entitlements.

5. PricewaterhouseCoopers (**PwC**) has already approved claims by Millar in insolvency proceedings of related Cresford entities, in which PwC is court-appointed Monitor and Receiver, respectively. Millar has received and will receive partial recovery of the amounts owed to him via those proceedings, both of which provided for partial reimbursement of unsecured creditors. He now submits a claim for the balance.

## **B. THE CRESFORD GROUP**

6. Millar was employed in common by a number of companies, including YSL, until his constructive dismissal, most recently as Vice President, Planning and Development.

7. YSL is part of a commonly owned group of companies and partnerships (together, **Cresford**) engaged in the development, construction, marketing and sale of condominiums in Toronto, Ontario under the business name Cresford.

8. In addition to YSL, Millar worked on real estate projects related to a series of Cresford companies (together with YSL, the **Cresford Employers**). The Cresford Employers controlled Millar's activities and were Millar's employers in common.



9. These common employers, including YSL, are jointly and severally liable for the entitlements owed to Millar under his written employment agreement. The most significant part of Millar's compensation were bonuses, which were to be paid in cash or paid as credits on Millar's purchase of units in Cresford projects.

10. Despite Cresford's repeated assurances, these bonuses were never paid. Millar warned Cresford that he would consider himself to be constructively dismissed if it did not pay the outstanding bonuses. By failing to honour these obligations, Cresford made unilateral changes to Millar's employment that were substantial and detrimental, amounting to constructive dismissal. Millar is accordingly entitled to the contractual damages in lieu of reasonable notice set out in his written employment contract.

### **C. MILLAR'S EMPLOYMENT BY CRESFORD**

11. In 2001, Cresford hired Millar as a Project Coordinator. Millar was promoted to the position of Director of Planning and Development and remained with Cresford for over 10 years.

12. In February 2012, Millar accepted an offer to act as the Vice President of Planning and Development at a competing real estate developer and resigned from Cresford.

13. In 2014, Cresford approached Millar and asked him to return as Vice President of Planning and Development. Based on the compensation and bonuses that Cresford was offering, Millar accepted their offer.

14. Cresford drafted and delivered an employment agreement dated November 5, 2014 to Millar, which he signed without any amendment (the **Employment Agreement**, included as

**Attachment 1).** Millar was employed as Cresford’s Vice President of Planning and Development pursuant to the Employment Agreement from February 2015 until his recent dismissal, described below.

15. Under the Employment Agreement drafted by Cresford, Millar’s employer was identified as “Cresford Developments”, which is not a legal entity or registered business name. Rather, it is a generic term applying to the entire Cresford group of companies.

16. In addition to YSL, Millar performed work for the following Cresford companies (together with YSL, defined above as the Cresford Employers) as employers in common, and worked on each of the real estate projects associated with them: The Clover on Yonge Inc. and its associated partnership (**Clover**); Cresford (Rosedale) Developments Inc.; East Downtown Redevelopment Partnership; 33 Yorkville Residences Limited Partnership and 33 Yorkville Residences Inc., its general partner; 480 Yonge Street Limited Partnership and 480 Yonge Street Inc.; 50 Charles Street Limited; 11 Gloucester Street Inc.; 69 Hayden Street Limited; 9615334 Canada Inc.; and Cresford Holdings Ltd.

17. Because Millar worked for all of the Cresford Employers, he was employed in common by them, including YSL, within the meaning set out in *Downtown Eatery (1993) Ltd. v. Ontario*, [2001 CanLII 8538](#) (Ont. C.A.) and *Nortel Networks Corporation (Re)*, [2016 ONSC 6030](#) because:

- (a) The Cresford Employers were under the common control of the same managers, who acted on behalf of each of the Cresford Employers;

- (b) YSL and each of the relevant project companies directed and exercised effective control over his activities relating to the associated real estate projects;
- (c) Cresford held Millar out as a representative of YSL and the relevant project companies in the course of Millar's employment, including during Concord's due diligence on the project;
- (d) Millar signed applications and contracts on behalf of YSL and the relevant project companies;
- (e) Millar's bonus entitlements were specifically linked to milestones related to his work on YSL and the relevant project companies; and
- (f) Millar's bonus entitlements involved credits on units purchased from project companies, obligations that could only be performed by the relevant project company.

18. Each of the Cresford employers, including YSL, is jointly and severally liable for the employment obligations owed to Millar.

19. Millar's primary activities were the planning and development of the condominium developments carried out by various project companies, including YSL. YSL was the only company with the authority and control to direct Millar in carrying out the activities related to the YSL project, in furtherance of its business. Cresford held Millar out as acting on behalf of those project companies. He was the named representative of the YSL project on many core project documents. A small sample of such documents is attached as **Attachment 2**:

- (a) YSL's application to the City of Toronto for a permit to construct the building foundation, signed by Millar as its representative;
- (b) YSL's application to the City of Toronto stating YSL's commitment to obtain a general review of the proposed construction, signed by Millar as its representative;
- (c) YSL's application to the City of Toronto for a permit to construct the building, plumbing and foundation, signed by Millar as its representative;
- (d) a building permit from the City of Toronto, identifying Millar as YSL's agent; and
- (e) a municipal infrastructure agreement between YSL and the City of Toronto, identifying Millar as YSL's point of contact for any relevant notices (under section 11.1 of the agreement).

20. This sample of records should be sufficient to establish that YSL was one of Millar's employers in common. Should the Proposal Trustee have any remaining doubts, Millar would be pleased to provide further information on request.

#### **D. MILLAR'S DUTIES AND COMPENSATION ENTITLEMENTS**

21. As Vice President of Planning and Development, Millar was responsible for leading the planning and development of Cresford's real estate projects from inception through to completion and closing. Millar succeeded in obtaining the zoning that allowed the YSL project to be one of the tallest buildings in Canada, increasing its value by millions of dollars. His duties included leading: due diligence efforts; planning and municipal approvals processes to obtain zoning and

official plan amendments; the negotiation and execution of complex municipal agreements; and the process of obtaining building permits, construction-related permits, draft plan approval, occupancy and the required registration and severance for project closings.

22. Millar performed these responsibilities for each of the Cresford Employers. In particular, Millar was responsible for planning and development for each of the Clover, Halo, Yorkville, YSL and 59 Hayden condominium projects. Millar also performed various work on the 357 Yonge project (due diligence on the purchase, as well as the project's involvement in the YSL approvals process), the 11 Gloucester project (due diligence on the purchase) and the 69 Hayden property (dealing with municipal matters).

23. In carrying out these responsibilities, Millar acted on behalf of each of the project company Cresford Employers associated with that project. These project companies acted through a common management team, which gave directions to and exercised control over Millar on each project company's behalf. Each of the Cresford Employers were accordingly a common employer of Millar and jointly owed all of an employer's obligations to him, including YSL.

24. At the time of his dismissal, Millar's annual compensation was:

- (a) a salary of \$300,000 per year;
- (b) a car allowance (\$600 per month) and car insurance allowance (\$137.41 per month);
- (c) gas for personal and business use;
- (d) 4 weeks' vacation with pay;

- (e) group benefit coverage; and
- (f) certain project-based bonuses, as described below.

25. An integral part of Millar's employment compensation were significant bonuses, which included both cash bonuses and credits granted on the purchase of units in Cresford condominium projects.

26. For example, as a signing bonus under the Employment Agreement, Cresford granted Millar a \$200,000 credit that could be applied towards the purchase of a Cresford condominium unit in any new development announced after his start date. The Employment Agreement also granted Millar a series of earned cash bonuses that were payable following the registration of various Cresford condominium projects.

27. As Cresford developed new projects, Millar continued to receive project-based bonuses, which increased in amount over time. These bonuses were an essential term of Millar's employment.

28. Millar also entered into agreements of purchase and sale for units in the Clover project (on December 22, 2015) and in the Yorkville project (on May 29, 2018). Millar was offered preferential terms for these purchases as bonus compensation for his work on the projects.

29. To grant these bonuses, Cresford amended the agreements of purchase and sale for the Clover unit (on December 22, 2015 and January 21, 2020) and for the Yorkville unit (on May 29, 2018 and January 21, 2020). As further employment benefits to Millar, these amendments also limited the deposits that Millar was obliged to pay, fixed the maximum amounts of closing

adjustments, and recorded credits to Millar against the purchase price (in amount of \$17,596 on the Clover unit and \$23,716 on the Yorkville unit).

30. The agreements of purchase and sale for the Clover unit and for the Yorkville unit, together with the relevant amendments showing the credits on the Clover and Yorkville units, are included as **Attachment 3** and **Attachment 4**.

31. On November 29, 2018, Millar executed an amendment to the Employment Agreement (the **Amending Agreement**, included as **Attachment 5**) that, among other things, confirmed the following earned bonuses (together, the **Bonuses**):

- (a) a \$200,000 cash bonus to be paid within 60 days after the final registration of the declaration of any new developments;
- (b) a credit bonus of \$350,000 to be applied to his purchase of a unit in the Yorkville project;
- (c) a credit bonus of \$200,000 to be applied to his purchase of a unit in the Clover project (being the bonus previously granted in the Employment Agreement, which was applied to a unit in the Clover project);
- (d) cash bonuses of \$100,000 payable 60 days after the final registration of the declaration for each of the Clover, Halo and Yorkville projects;
- (e) a cash bonus of \$250,000 for the YSL project, payable in three \$83,333.33 installments upon the following project milestones: the enactment of the zoning by-law and expiry of appeal period, receipt of the above grade structural building

permit, and 60 days after the final registration of the declaration of the condominium.

32. On January 6, 2020, Daniel C. Casey (**Casey**), the principal of Cresford, called a meeting of five senior employees including Millar and granted each of them a further bonus of \$250,000 on behalf of Cresford. He advised that the intention of this bonus was to reward these senior employees for seeing Cresford through “tough times.” By this time, as described below, Cresford had begun to experience financial distress. Casey provided Millar with a cheque for \$75,000 to satisfy part of that bonus amount. He promised that Cresford would pay the remaining bonus amount of \$175,000 one year later, in January 2021.

33. Each of the above bonuses were earned and remained in existence at the time of Millar’s dismissal. In addition, a cash bonus of \$83,333.33 became payable on November 4, 2019 in relation to the YSL project.

34. Millar’s cash compensation was paid by EDRP, which acted as a paymaster for the Cresford group, receiving fees from project companies and using those fees to pay, among other things, Cresford’s employees. To the best of Millar’s knowledge, EDRP has no material assets of its own and carries out no business other than servicing Cresford and its project companies. Bonuses in the form of credits against the purchase of units in Cresford developments were credited by the Cresford company that owned the respective developments.

35. As described in section I below, Cresford and Clover effectively acknowledged that they were employers in common of Millar, by acknowledging Millar’s claims for bonuses and other amounts in the Clover and Halo proceedings.



## **E. CRESFORD'S FINANCIAL DISTRESS AND COMMITMENTS TO HONOUR MILLAR'S BONUSES**

36. Over the course of 2019, Cresford began to experience significant financial distress. In early 2020, allegations surfaced of financial irregularities within certain Cresford developments. As a result of these allegations, several of Cresford's secured creditors arranged for an investigation of these allegations and later reported that:

- (a) Cresford had surreptitiously obtained a loan to fulfill its lenders' requirement that Cresford inject equity into the projects, and had then used lender funds to service that secret loan;
- (b) Cresford had maintained two sets of books. One set of books showed costs consistent with the construction budget provided to lenders. A second, secret set of books showed overspending above Cresford's approved construction budgets; and
- (c) Cresford had hidden increased costs by selling units to its suppliers at substantial discounts to their listing prices, without disclosing these adjustments to its lenders.

37. In early March 2020, Cresford began preparing to commence an application for relief under the *Companies' Creditors Arrangement Act*. As Cresford's finances deteriorated, Millar raised concerns with Casey on multiple occasions about whether he would receive his earned Bonuses.

38. Casey provided his personal commitment that Cresford would honour the credits granted on Millar's Clover and Yorkville unit as well as the original purchase prices in Millar's purchase and sale agreements, and that Cresford would pay the outstanding Bonuses that had by then accrued. In particular, Casey assured Millar that Cresford would soon pay a milestone Bonus of

\$83,333 for the YSL project (described at subparagraph 23(e) above) that had accrued in November 2019. Millar relied on Casey's commitment, which induced him to continue to work for Cresford.

39. On March 21, 2020, David Mann (**Mann**), Cresford's CFO, advised Millar that his outstanding Bonuses would remain outside of the insolvency process, were on Cresford's account and would be paid. Millar similarly relied on Mann's assurances and continued to work for Cresford. Three days later, Mann confirmed that the outstanding \$83,333.33 Bonus would be paid by April 15, 2020. This email correspondence is included as **Attachment 6**.

40. On March 27, 2020, Cresford's secured creditors obtained orders appointing receivers over the Clover and Halo project companies (in a proceeding with the court file number CV-20-00637301-00CL) and the Yorkville project companies (CV-20-00637297-00CL).

41. After the receivership orders, Millar assisted the receiver on the insolvent projects and continued to work for Cresford on its solvent projects. Among other tasks, Millar represented YSL during Concord's due diligence on the project and sent emails providing Concord with information on YSL's behalf (which can be produced upon request).

42. On March 31, 2020, after the receivership orders were issued, Mann emailed Millar and other employees and confirmed that they would remain employees of Cresford under their current contracts for at least 30 days.

## **F. FAILURE TO HONOUR MILLAR'S EMPLOYMENT ENTITLEMENTS LEADS TO CONSTRUCTIVE DISMISSAL**

43. Following the receivership orders, Millar made repeated requests for Cresford to confirm that his employment entitlements, including his unit credit Bonuses, the purchase prices in the signed purchase and sale agreements, and his cash Bonuses would continue to be honoured. Despite their past assurances, neither Casey, Mann nor Cresford provided the requested confirmation.

44. On April 10, 2020, Millar's counsel sent letters to the monitor and receiver for Clover and Yorkville, PwC, requesting confirmation that his unit credit Bonuses would be honoured in the receivership. In response, PwC offered to pay drastically reduced bonuses to Millar in exchange for his continued work on the project companies in receivership.

45. On May 5, 2020, Millar emailed Casey, Mann and others to advise them that PwC was unwilling to honour his employment agreement and requested that Cresford (that is, those companies in the group not in receivership) honour his employment entitlements.

46. On May 21, 2020, Casey requested that Millar provide urgent assistance to the YSL project. Millar agreed to do so but again requested confirmation that his outstanding Bonuses and entitlements would be honoured. Casey advised that Cresford would provide an offer the next day dealing with Millar's outstanding Bonuses and unit credits.

47. Despite Millar's repeated requests afterwards, Cresford did not provide such an offer and did not confirm what Bonuses and entitlements it would honour. Instead, it made repeated promises that it would deliver offers outlining what it was prepared to pay Millar by a series of

deadlines, including May 24, May 26, May 28, June 12 and June 22, 2020. Contrary to these promises, it did not deliver offers by any of these deadlines.

48. By mid-July 2020, Cresford had still not paid Millar's \$83,333.33 Bonus for the YSL project that had been due since November 2019, had not confirmed it would honour his other Bonuses earned and to be earned including unit credits, and had not presented its promised offer for how and when it would pay those amounts or proposed alternative amounts. In addition, Millar learned that Cresford intended not to honour the credits or purchase prices outlined in Millar's purchase and sale agreements against the unit purchases that it had granted him in the Amending Agreement.

49. On July 16, 2020, Millar wrote to Casey and Cresford and advised that he was not prepared to wait any longer for Cresford to honour its commitments, while being asked to continue to work for Cresford (attached as **Attachment 7**). He warned that he would consider himself constructively dismissed if by July 24, 2020, his outstanding \$83,333.33 Bonus was not paid and satisfactory commitments were not received regarding his credits for the units (which had appreciated considerably in value). He also requested confirmation that his future Bonuses would be paid if and as accrued.

50. On July 17, 2020, counsel for Millar sent a letter to counsel for the CCAA Applicants and requested clarification of how Millar's bonus unit credit on the Clover unit would be treated under the proposed plan of arrangement (included as **Attachment 8**).

51. On July 20, 2020, counsel for the Clover CCAA Applicants sent a letter advising that the plan of arrangement did not compromise any claims by Millar against his employer "Cresford",

against whom Millar could claim any related losses (included as **Attachment 9**). Although the Clover CCAA Applicants did not advise which company is Millar's employer "Cresford", this response suggested that the CCAA Applicants would not honour any of the Bonuses owing to Millar, including the bonus unit credit on the Clover unit. The Clover CCAA Applicants did not deny that Millar was owed these bonus credits or other bonuses.

52. Cresford failed to pay Millar's outstanding Bonus or to confirm that it would otherwise honour Millar's employment entitlements by July 24, 2020. Millar therefore confirmed in writing that he had been constructively dismissed and ceased working.

53. Cresford did not deny that it had constructively dismissed Millar in response to his July 16 or July 24, 2020 letters.

54. On August 4, 2020, Millar issued a statement of claim against Cresford seeking damages for breach of contract, wrongful dismissal, and oppression (included as **Attachment 10**). Millar included YSL as defendants in the action. Cresford has delivered a statement of defence in the action (attached as **Attachment 11**).

## **G. BREACH OF CONTRACT**

55. Under the Employment and Amending Agreements, the Cresford Employers were contractually required to pay or credit to Millar the accrued Bonuses relevant to Millar's claim in this proceeding:

- (a) the cash bonus of \$83,333.33 that accrued on November 4, 2019;
- (b) the credit bonus of \$200,000 on his purchase of the Clover unit;

- (c) the credit bonus of \$350,000 on his purchase of the Yorkville unit;
- (d) the unit credit of \$17,596 on his purchase of the Clover unit;
- (e) the unit credit of \$23,716 on his purchase of the Yorkville unit; and
- (f) the cash bonus of \$175,000 orally promised by Casey.

56. The Cresford Employers – including YSL – have breached their contractual obligations to Millar by failing to pay the \$83,333.33 bonus that was outstanding. As well, they have repudiated their contractual obligation to honour the \$200,000 credit bonus on Millar’s Clover unit, the \$350,000 credit bonus on Millar’s Yorkville unit, and the additional \$175,000 cash bonus. Millar has suffered damages as a result of these breaches, which deprive him of the compensation that he earned from his past service to the Cresford, including YSL.

## **H. WRONGFUL DISMISSAL**

57. By persistently refusing to honour Millar’s employment entitlements, the Cresford Employers and YSL implemented significant changes to Millar’s employment. The essential terms and conditions of Millar’s employment substantially changed as a consequence of the Cresford Employers and YSL’s actions.

58. The Cresford Employers, including YSL, did not consult Millar before implementing these changes. Rather, they continually delayed and reneged on its promises to confirm Millar’s contractual entitlements in order to induce him to continue working for the Cresford Employers and YSL.

59. The changes to Millar's employment, imposed by the Cresford Employers and YSL, amount to constructive dismissal. The changes were substantial and detrimental, and entitled Millar to terminate his contract of employment and claim damages in lieu of reasonable notice.

60. The Employment Agreement expressly provided that the Cresford Employers and YSL were entitled to terminate Millar's employment without cause only upon 10 months' notice or bi-monthly pay in lieu of such notice, subject to a 50% reduction in pay in lieu in the event Millar finds alternative employment:

**Termination of Employment:**

The Employee's employment may be terminated as follows:

...

3. By the Employer without cause upon ten months' notice or, bi-monthly pay in lieu thereof subject to the following. In the event of the employee finding comparable alternative employment, the employee will be paid 50% of the balance owing on the remainder of the termination payment from the date of commencement of such employment to the end of the notice period herein. The Employee agrees that he will advise the Employer forthwith upon finding such comparable employment.

61. The Cresford Employers and YSL have failed to pay Millar pay in lieu of notice of termination. Accordingly, Millar was entitled to the following damages for wrongful termination:

- (a) \$250,000, for ten months of salary;
- (b) \$7,374.10, for ten months of car and car insurance allowances; and
- (c) \$36,538.46, for ten months of vacation entitlements plus three weeks of vacation accrued to date.

62. In October 2020, Millar found comparable alternative employment. Under the terms of the employment agreement, Millar's contractual entitlement for dismissal was reduced to 50% for the 8 months of the notice period then remaining. Millar is accordingly entitled to \$141,101.38 in damages, which reflects 100% of his contractual entitlement for August and September 2020 (\$58,782.51), 50% of his entitlement for the remaining 8 months (\$117,565.02), and an adjustment for amounts received from PwC for post-filing services.

## **I. CLAIMS IN OTHER INSOLVENCY PROCEEDINGS**

63. Millar filed claims in the Clover CCAA proceeding and Halo receivership that were substantially similar to the claims in this proof of claim.

64. Concord and Cresford acknowledged Millar's claims in the Clover proceeding and consented to PwC approving them. On January 11, 2021, David Gruber advised on behalf of Clover that it acknowledged Millar's claims for constructive dismissal damages, for bonuses related to the Clover and YSL projects, and for certain other amounts. Mr. Gruber's email acknowledging Millar's claims and Mr. Millar's request for amendment (without attachments) setting out the referenced claims are included as **Attachment 12**.

65. On May 3, 2021, PwC issued notices of revision acknowledging Millar's claims for \$222,000 in the Clover CCAA proceeding and for \$205,000 in the Halo receivership (attached as **Attachment 13**). These approvals reflected at least some amounts for each of the claims asserted here. In doing so, PwC treated Millar as being employed in common by the Cresford Employers, acknowledging his claims that Clover and Halo were jointly liable for bonuses related to other projects.



66. PwC reduced several of Millar's claims where it expected Millar to be paid from other employers in common. In particular, PwC's acknowledgements of Millar's claims did not acknowledge the \$83,333.33 bonus earned for the YSL project. In an email dated May 3, 2021 (attached as **Attachment 14**), PwC advised Millar that Dave Mann, Cresford's CFO, had told PwC on March 24, 2021 that YSL would pay this bonus.

67. PwC accordingly disallowed that claim, on the basis that Millar would recover that YSL's management had represented to PwC that YSL would pay this bonus and that YSL was not insolvent. However, no such payment was made to Millar prior to the NOI in this matter, filed shortly after Mann's assurance to PwC that YSL would pay the bonus.

68. Aside from YSL, it appears that there are no remaining Cresford Employers with operating businesses that could satisfy Millar's employment entitlements.

69. Millar agreed to assign his Clover claims to Concord in exchange for 25% of the approved claim amount (which was more than the amount payable to unsecured creditors under the plan of arrangement sanctioned in the Clover CCAA). As a result, Millar has received \$55,500 in respect of his Clover claims.

70. Millar has not yet received any distributions in respect of his Halo claims and has not yet been advised what percentage of unsecured claims will be distributed in that receivership proceeding. Millar is prepared to credit the amount he ultimately receives on account of these claims, if any, against the amount of his claims herein, and will advise the proposal trustee if such amounts are received prior to the completion of this proposal process.

# Appendix 1

**THIS AGREEMENT**, made as of 5th day of November, 2014,

**BETWEEN:**

**Cresford Developments**

**(the "Employer")**

**-and-**

**Ryan Millar**

**(the "Employee")**

The Employee and the Employer wish to enter into an employment agreement governing the terms and conditions of employment.

**THEREFORE THE EMPLOYER AND THE EMPLOYEE AGREE AS FOLLOWS:**

**TITLE:**

The Employer will employ the Employee in the position of Vice President of Planning and Development, effective immediately from signing of this agreement. Salary start date to be determined, employee to give up to 3 and half months notice to current Employer and put the start date in writing.

**Duties and Responsibilities:**

The duties and responsibilities of the position have been determined and agreed upon by the Employer and the Employee which form schedule "A" of this agreement. The duties may be amended from time to time by mutual agreement.

**Salary:**

The Salary of the Employee will be \$225,000 per annum, payable bi-weekly less applicable statutory deductions. The salary of the employee will increase 3% per annum to a maximum of \$300,000.00. In addition, the Employee will participate in the group benefit plan provided by the Employer as amended from time to time. The Employee will be entitled to leave as required for absence due to illness.

The Employee will receive a bonus at the registration of the condominium declaration of each development based on the agreed process that takes into account the performance of the specific duties on the Employee as outlined in schedule "B" of this agreement.

**Other Benefits:**

The Employer will pay the Employee a monthly vehicle allowance of \$400 plus the cost of insurance and gas for personal and business use (less statutory deductions). The Employee will be responsible for all other costs of his vehicle. The Employer will pay the monthly allowance on a bi-monthly basis.

The Employer will provide a cellular phone to the Employee.

The Employer will reimburse for all reasonable travel and other business expenses incurred while carrying out his responsibilities on behalf of the Employer, upon presentation of appropriate receipts for the expenses claimed.

The Employer will reimburse the Employee for the cost of memberships in business related professional associations, provided these membership fees are approved in advance by the Employer.

**Annual Leave:**

The Employee is entitled to 4 weeks' vacation with pay.

**Performance Review:**

The performance of the Employee will be reviewed on an annual basis based on criteria agreed upon by the Employee and the Employer at the beginning of the year subject to review, and based on the agreed duties to be performed by the Employee as outlined in schedule "A".

The Employees annual performance will be reviewed at the end of each calendar year and at that time the Employer and the Employee may make amendments to this contract and to compensation at their mutual agreement.

**Termination of Employment:**

The Employee's employment may be terminated as follows:

1. By the Employee at any time upon providing the employer with 6 weeks' notice in writing; or
2. By the Employer at any time for just cause, without notice; or
3. By the Employer without cause upon ten months notice or, bi-monthly pay in lieu thereof subject to the following. In the event of the employee finding comparable alternative employment, the employee will be paid 50% of the balance owing on the remainder of the termination payment from the date of commencement of such employment to the end of the notice period herein. The Employee agrees that he will advise the Employer forthwith upon finding such comparable employment.

**Confidential Information:**

It is essential to the success of the Employer that the business and affairs of the Employer be kept in the strictest confidence. Therefore, the Employee shall not at any time nor in any manner, except where authorized or required by law or by the Employer, divulge, disclose or communicate to any person, firm or corporation any information concerning any matters affecting or relating to the enterprise of the Employer, including without limiting the generality of the foregoing, any information concerning the Employers products and product designs, customer lists, the prices it obtains of has obtained or has obtained from the sale of, or at which it sells or has sold its products, types and kinds of raw materials used by it, the suppliers and costs thereof, the manner of its operation, its marketing, product development and other plans, its manufacturing and other processes and any financial affairs of the Employer.

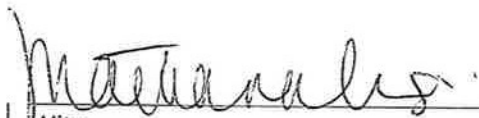
**Company Property:**

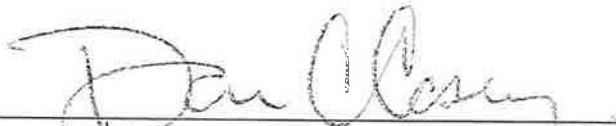
The Employee agrees that upon termination of his employment, all property belonging to Employer will be returned immediately.


**Amendment of Agreement:**

Any amendment to this agreement must be in writing and signed by both parties.

Dated at Toronto this 5<sup>th</sup> day of November, 2014

  
Witness

  
Per: Dan Casey, President & C.E.O "Employer"

  
Witness

  
Per: Ryan Millar "Employee"

## Schedule A

### Duties and Responsibilities

- Assist with due diligence on potential sites and preliminary project pro-formas (municipal fees, levies, zoning comfort, drilling, and other such tasks).
- Selection, scope definition and fee proposal negotiation for project consultants with respect to municipal approvals and working drawings.
- Involved in conceptual design and lead in planning objectives in coordination with management team.
- Selection and securing of negotiated proposals for legal, zoning, condo doc consultants (as needed).
- Co-ordination/ preparation of condominium documents assist.
- Provide partnership/ management updates and reports on municipal progress and scheduling (if required). Provide the same to financial institutions as required.
- Manage all re-zoning activities and provide schedules for the management team as needed.
- Carry out all site plan processes including negotiating all municipal and government requirements.
- Deal with all municipal and regulatory departments, politicians and rate payers.
- Oversee agreements – easements, cost sharing, encroachments, tiebacks, air rights, public art, heritage etc.
- Establish the overall building project phasing program with the management team.
- Legal & Municipal Agreements - Sec. 37, Site Plan, Parks Contributions etc.
- Assist with preliminary planning relative to construction projections and site staging.
- Oversee building permit applications and process.
- Arrange all utilities and services applications and requirements.
- Arrange all closures (municipal) for construction site staging.
- Initiate & Co-ordinate all partial / occupancy and inspection processes.
- Direct the registration process with Surveys, legal, etc. and all required applications for draft plan approval/ severance.

## SCHEDULE "B"

The bonus earned, provided the employee is employed by the employer at the time the money is deemed due shall be;

1. \$50,000 due 60 days after final registration of the declaration of 1000 Bay Condominiums
2. \$50,000 due 60 days after the final registration of the declaration of CASA II Condominiums
3. \$50,000 due 60 days after the final registration of the declaration of CASA III Condominiums
4. \$50,000 due 60 days after final declaration of the VOX Condominiums
5. The employer agrees to a \$100,000 bonus paid within 60 days after the final registration of the declaration on any new developments announced after the commencement date of this contract
6. The employer agrees to a \$200,000 credit to be applied towards the purchase of a Cresford condominium unit, that can be used on any new development announced after the employees start date.

# Appendix 2





# Application for a Permit to Construct or Demolish

This form is authorized under subsection 8(1.1) of the *Building Code Act, 1992*

For use by Principal Authority			
Application number:		Permit number (if different):	
Date received (yyyy-mm-dd):		Roll number:	
Application submitted to: <u>City of Toronto</u> (Name of municipality, upper-tier municipality, board of health or conservation authority)			
A. Project information			
Building number, street name 363-385 Yonge Street		Unit number	Lot/con.
Municipality Toronto	Postal code M5B1S1	Plan number/other description	
Project value est. \$ \$ 0.00		Area of work (m <sup>2</sup> ) 93,629.00	
B. Purpose of application			
<input checked="" type="checkbox"/> New construction <input type="checkbox"/> Addition to an existing building <input type="checkbox"/> Alteration/repair <input type="checkbox"/> Demolition <input type="checkbox"/> Conditional Permit			
Proposed use of building Mixed-use commercial and residential		Current use of building Vacant mixed-use	
i) Description of proposed work: <b>Part Permit - Foundation</b> Construction of an 85 storey mixed-use building with 1103 residential units, retail on B1, ground, 2nd and 3rd floor as well as institutional uses above a 5 level below grade structure containing 249 parking spaces and associated bike parking			
ii) Detailed description of proposed work must also be stated:			
C. Applicant			
Applicant is: <input type="checkbox"/> Owner or <input checked="" type="checkbox"/> Authorized agent of owner			
Last name Millar	First name Ryan	Corporation or partnership YSL Residences Inc	
Street address 59 Hayden Street		Unit number 200	Lot/con.
Municipality Toronto	Postal code M4Y0E7	Province Ontario	E-mail rmillar@cresford.com
Telephone number (416) 971-7557	Fax (416) 955-9452	Cell number (416) 230-0648	
D. Owner* (if different from applicant)			
*Owner* - includes the registered owner of the land, or a lessee, or mortgagee in possession.			
Last name	First name	Corporation or partnership YSL Residences Inc	
Street address 59 Hayden Street		Unit number 200	Lot/con.
Municipality Toronto	Postal code M4Y0E7	Province Ontario	E-mail rmillar@cresford.com
Telephone number (416) 971-7557	Fax (416) 955-9452	Cell number (416) 230-0648	



Folder No.
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**District Offices**

<input checked="" type="checkbox"/> Toronto and East York	<input type="checkbox"/> North York	<input type="checkbox"/> Scarborough	<input type="checkbox"/> Etobicoke York
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**PART A – To be Completed by Owner**

**Project Description**  
Construction of an 85 storey mixed use building with 1103 residential units, retail on B1, ground, 2nd and 3rd floor as well as institutional uses above a 5 level below grade structure with 249 parking spaces and associated bike parking

**Address of Project**  
363-385 Yonge Street

**WHEREAS the Ontario Building Code requires that the project described above be designed and reviewed during construction or demolition by an architect, professional engineer or both that are licensed to practice in Ontario;**  
**WHEREAS Ontario Law prohibits the construction or demolition of a building if a permit has not been issued to authorize it, and**  
**WHEREAS Architects and engineers are prohibited by law from undertaking reviews if a permit has not been issued,**  
**NOW THEREFORE the Owner, who intends to construct or demolish or have the building constructed or demolished hereby confirms that:**

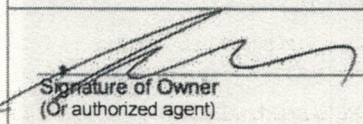
1. The undersigned architect and/or professional engineers have been retained to provide general reviews of the construction or demolition of the building to determine whether the work is in general conformity with the plans and other documents that form the basis for the issuance of a permit, in accordance with the performance standards of the Ontario Association of Architects (OAA) and/or Professional Engineers of Ontario (PEO);
2. All general review reports by the architect and/or professional engineers will be forwarded promptly to the Chief Building Official;
3. Should any retained architect or professional engineer cease to provide general reviews for any reason during construction or demolition, the Chief Building Official will be notified in writing immediately, and another architect or engineer will be appointed so that general review continues without interruption; and
4. Construction or demolition will only be undertaken if an architect and/or professional engineers are retained to undertake general review, and a permit authorizing the proposed construction or demolition has been issued.

**The undersigned hereby certifies that he/she has read and agrees to the above.**

<b>Owner's First Name</b> YSL Residences Inc	<b>Last Name</b>
---	------------------

<b>Street No.</b> 59	<b>Street Name</b> Hayden Street	<b>Postal Code</b> M4Y0E7
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<b>Telephone No.</b> (46) 971-7557	<b>Mobile No.</b> (416) 230-0648	<b>Fax No.</b> (416) 955-9452
---------------------------------------	-------------------------------------	----------------------------------

 <b>Signature of Owner</b> (Or authorized agent)	<b>Print Name</b> Ryan Millar	<b>Date (yyyy-mm-dd)</b> 2019-12-04
---	----------------------------------	--

**Co ordinator of the work of all consultants**  
Michael Monier

<b>Street No.</b> 317	<b>Street Name</b> Adelaide Street West	<b>Postal Code</b> M5V1P9
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<b>Telephone No.</b> (416) 971-7557	<b>Mobile No.</b> (416) 230-0648	<b>Fax No.</b> (416) 955-9452
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Continue on next page


The personal information on this form is collected under the City of Toronto Act, S.O. 2006, Chapter 11, Schedule A, s. 136 (b) & (c) and the Ontario Building Code Act, S.O. 1992, Chapter 23. The information collected will be used for processing applications and creating aggregate statistical reports. Questions about this collection may be referred to the Customer Service Manager in the appropriate district. Toronto East York District, 100 Queen Street West, Ground Floor, West Tower, Toronto M5H 2N2; North York District, 5100 Yonge Street, 1st Floor, Toronto M2N 5W4; Etobicoke York District, 2 Civic Centre Court, 1st Floor, Toronto M9C 2Y2; Scarborough District, 150 Borough Drive, 3rd Floor, Toronto M1P 4N7. Phone: (416) 397-5330

## Commitment to General Reviews

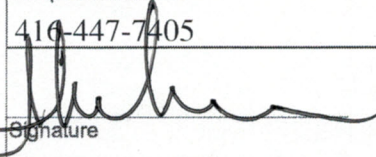
### PART B – To be completed by Consultants

The undersigned architect and/or professional engineer(s) hereby certify that they are qualified in and have been retained to provide general reviews of the parts of construction or demolition of the building indicated, to determine whether the work is in general conformity with the plans and other documents that form the basis for the issuance of a permit, in accordance with the performance standards of the Ontario Association of Architects (OAA) or Professional Engineers Ontario (PEO).

#### First Consultant Information and Declaration

<input checked="" type="checkbox"/> Architectural <input type="checkbox"/> Structural <input type="checkbox"/> Mechanical <input type="checkbox"/> Electrical <input type="checkbox"/> Site Services				
<input type="checkbox"/> Other:				
First Name Michael		Last Name Monier		Firm Architects Alliance
Street Number 317	Street Name Adelaide Street West			Postal Code M5V 1P3
Telephone Number 416 593-6500		Mobile Number 647 200 5923		Fax Number
		Michael Monier		Date (yyyy-mm-dd)
Signature		Print Name		Date

#### Second Consultant Information and Declaration (if applicable)

<input type="checkbox"/> Architectural <input checked="" type="checkbox"/> Structural <input type="checkbox"/> Mechanical <input type="checkbox"/> Electrical <input type="checkbox"/> Site Services				
<input type="checkbox"/> Other:				
First Name Jeff		Last Name Watson		Firm Jablonsky, Ast and Partners
Street Number 3, 4th Floor	Street Name Concorde Gate			Postal Code M3C 3N7
Telephone Number 416-447-7405		Mobile Number		Fax Number 416-447-2771
		Jeff Watson		2019-12-13
Signature		Print Name		Date (yyyy-mm-dd)

#### Third Consultant Information and Declaration (if applicable)

<input type="checkbox"/> Architectural <input type="checkbox"/> Structural <input type="checkbox"/> Mechanical <input type="checkbox"/> Electrical <input type="checkbox"/> Site Services				
<input type="checkbox"/> Other:				
First Name		Last Name		Firm
Street Number	Street Name			Postal Code
Telephone Number		Mobile Number		Fax Number
Signature		Print Name		Date (yyyy-mm-dd)



# Application for a Permit to Construct or Demolish

This form is authorized under subsection 8(1.1) of the *Building Code Act, 1992*

For use by Principal Authority			
Application number:		Permit number (if different):	
Date received (yyyy-mm-dd):		Roll number:	
Application submitted to: <b>City of Toronto</b> (Name of municipality, upper-tier municipality, board of health or conservation authority)			
A. Project information			
Building number, street name <b>363 - 385 Yonge Street</b>		Unit number	Lot/con.
Municipality <b>Toronto</b>	Postal code <b>M5B1S1</b>	Plan number/other description	
Project value est. \$ <b>\$ 340,675,000.00</b>		Area of work (m <sup>2</sup> ) <b>93,629.00</b>	
B. Purpose of application			
<input checked="" type="checkbox"/> New construction <input type="checkbox"/> Addition to an existing building <input type="checkbox"/> Alteration/repair <input type="checkbox"/> Demolition <input type="checkbox"/> Conditional Permit			
Proposed use of building <b>Mixed-use commercial and residential</b>		Current use of building <b>Vacant mixed-use</b>	
i) Description of proposed work: <b>Building, Plumbing and HVAC</b>			
ii) Detailed description of proposed work must also be stated: <b>Construction of an 85 Storey mixed-use building with 1103 residential units, retail on B1, ground, 2nd and 3rd floor as well as institutional uses above a 5 level below grade structure with 249 parking spaces and associated bike parking.</b>			
C. Applicant			
Applicant is: <input type="checkbox"/> Owner or <input checked="" type="checkbox"/> Authorized agent of owner			
Last name <b>Millar</b>		First name <b>Ryan</b>	Corporation or partnership <b>YSL Residences Inc</b>
Street address <b>59 Hayden Street</b>		Unit number <b>200</b>	Lot/con.
Municipality <b>Toronto</b>	Postal code <b>M4Y0E7</b>	Province <b>Ontario</b>	E-mail <b>rmillar@cresford.com</b>
Telephone number <b>(416) 971-7557</b>	Fax <b>(416) 955-9452</b>	Cell number <b>(416) 230-0648</b>	
D. Owner* (if different from applicant)			
*Owner* - includes the registered owner of the land, or a lessee, or mortgagee in possession.			
Last name		First name	Corporation or partnership <b>YSL Residences Inc</b>
Street address <b>59 Hayden Street</b>		Unit number <b>200</b>	Lot/con.
Municipality <b>Toronto</b>	Postal code <b>M4Y0E7</b>	Province <b>Ontario</b>	E-mail <b>rmillar@cresford.com</b>
Telephone number <b>(416) 971-7557</b>	Fax <b>(416) 955-9452</b>	Cell number <b>(416) 230-0648</b>	



# BUILDING PERMIT

This card must be kept posted in a conspicuous place on site of construction.

**19 148484 BLD 00 BA**

**This Building Permit has also been reviewed and approved under the provisions of the Ontario Heritage Act.**

Site Address 363 YONGE ST

Project Description Multiple Unit Building;

Other(BA)

Date Issued Friday May 31, 2019

**William M. Johnston, P. Eng.**  
Chief Building Official and  
Executive Director

**Timothy C. Crawford**  
Deputy Chief Building Official and  
Director

**THIS IS YOUR PERMIT TO CONSTRUCT  
PERMIT NUMBER: 19 148484 BLD 00 BA**

**Owner:**

YSL RESIDENCES INC

2502295 ONTARIO INC.

**Address:**

C/O RYAN MILLAR  
59 HAYDEN ST  
TORONTO ON M4Y 2P2

59 HAYDEN ST 200  
TORONTO, ON M4Y 0E7  
CAN

**Project Description:** Multiple Unit Building; Other(BA)

**Project Location:** 363 YONGE ST

**Ward:**

---

The issuance of this permit is based on the drawings, specifications, details and information submitted with the application. The submitted documents have been reviewed for compliance with the Ontario Building Code, Zoning By-laws, applicable regulations and legislation.

The referenced permit number listed above and on your permit placard also appears on all plans reviewed for this building permit application. The validity of this permit is restricted to the person/company named as owner. Permit ownership cannot be transferred unless prior written authorization is given by the Chief Building Official.

The extent of construction authorized under this permit is limited to the description contained herein as follows:  
Proposal to construct a heritage retention system to retain facade of existing building.

Stated work and use must be in accordance with the plans, specifications, building permit notes and other information issued with this building permit. Changes to any documents submitted are not to be made unless prior authorization is obtained from the Chief Building Official or designate. False information may be grounds for revocation of the building permit.

Notwithstanding, it is the responsibility of the owner to comply with requirements of the Ontario Building Code and applicable laws as well as to ensure compliance ..

The permit placard must be posted in a conspicuous place on the construction site.

Timothy C. Crawford  
Deputy Chief Building Official  
Toronto and East York District

**Issued by:** South District Issuance Team  
**Date Issued:** May 31, 2019

**Please see the second page of this letter for additional requirements and inspection information.**



## **WHEN YOU BEGIN DEMOLITION/CONSTRUCTION ...**

### **Site Fencing**

**As soon as construction or demolition starts, your site must be entirely surrounded by a fence which is in compliance with the City of Toronto Municipal Code Chapter 363, Article III.** The minimum requirement is plastic mesh fencing, 1.2 metres high, tied to posts spaced no more than 1.2 metres apart with an 11 gauge top and bottom wire threaded through the mesh and looped around each post. The Municipal Code is available on the City website at:

**[http://www.toronto.ca/legdocs/municode/1184\\_363.pdf](http://www.toronto.ca/legdocs/municode/1184_363.pdf)**

### **Construction Noise**

Any construction which generates noise is prohibited in residential areas between the hours of 7:00 p.m. one day to 7:00 a.m. the next day, 9:00 a.m. on Saturdays, and all day Sunday and Statutory holidays.

### **When To Call For Inspection**

You are required by Division C, Part 1, Article 1.3.5.1. of the Ontario Building Code, to notify the building inspection office at several prescribed stages of construction. Please contact the building inspection office at the telephone number listed below, when each of the following stages are substantially complete:

### **Inspection Stages**

- |                             |                                |                             |
|-----------------------------|--------------------------------|-----------------------------|
| * Excavation/Shoring        | * Footings/Foundations         | * Structural Framing        |
| * Insulation/Vapour Barrier | * Fire Separations             | * Fire Protection Systems   |
| * Fire Access Routes        | * Interior Final Inspection    | * Exterior Final Inspection |
| * Site Grading Inspection   | * Pool Suction/Gravity Outlets | * Pool Circulation System   |
| * Occupancy                 |                                |                             |

### **To Schedule your Next Mandatory Inspection**

When you are ready to book your inspection, you may request an inspection online from your computer or smart phone using Toronto Building's Inspection Request web application at [www.toronto.ca/building-inspection-request](http://www.toronto.ca/building-inspection-request).

Alternatively, you may contact your local building inspection office by telephone at 416-338-0700, by fax 416-696-4151 or by email to [TOBldgInsp@toronto.ca](mailto:TOBldgInsp@toronto.ca).

Inspections will take place within two days commencing at the start of business on the day following your notification (Inspection Request).

Please leave a telephone number where you can be reached or a message can be left.

The inspector assigned to your project is Michele Argiro (416) 338-5766

## **PERMIT PLANS MUST BE ON SITE**

Your permit plans and specifications must be on site at all times. Inspections are conducted with your copy of the plans.

May 31, 2019

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## BULLETIN - CONSTRUCTION SAFETY

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The responsibilities of the City of Toronto under the Occupational Health and Safety Act apply to all our employees regardless of the location at which they are working.

Responsibilities for the Construction Safety Regulations on construction sites are clearly spelled out in the Act under the definitions of constructor, employer, supervisor and worker.

The City of Toronto believes that the goal of safe and injury free construction sites is a priority for all parties involved in building construction.

Safety training for the City of Toronto Building Inspectors is mandatory. However the delivery of a safe working environment on construction sites must include the compliance of individual builders with the Occupational Health and Safety Act.

Safety measures include the following:

1. Temporary guards on all openings,
2. Correct use of ladders,
3. Temporary or permanent stairs above or below grade by the time the sub floor is complete,
4. Clear and safe access to the site,
5. Protection of trenches and excavation below four feet deep, and
6. Correct use of fall prevention equipment where required.

As the employer responsible for the safety of building inspectors, the City of Toronto has instructed its Building Inspectors not to conduct inspections on sites where conditions exist that could jeopardize their health and safety.

The following are examples of conditions which may jeopardize the health and safety of inspectors:

1. Guards are missing,
2. Ladders do not meet regulations,
3. Temporary or permanent stairs, above or below grade, to all floor levels are not provided as required.
4. Access to the site has impediments or hazards, or
5. Trenches or excavations lack required shoring or slope of bank.

Prior to calling for an inspection the appropriate safety measures shall be in place as a site inadequately provided with these measures is not ready for inspection. The City of Toronto Building Inspectors will cooperate with builders regarding the timing of making provision for these safety measures. However, if the measures are not provided, an Order Not To Cover could be issued and the Ministry of Labour informed.

We look forward to working with you toward the goal of a safe environment for all workers.

Notice of Project - Please be advised that the Ministry of Labour requires a Notice of Project be filed with them before starting any project costing \$50,000 or more.

For more information about the Notice of Project form and construction information please visit Ministry of Labour website at: <https://www.labour.gov.on.ca/english/hs/forms/>

### Report an Incident

Notify the ministry of fatalities, critical injuries, work refusals, reprisals and unsafe work practices.  
Ministry of Labour Health Safety Contact Centre

Toll-free: 1-877-202-0008

TTY: 1-855-653-9260

Fax: 905-577-1316

Construction of the work approved in this building permit must be carried out with reasonable care to ensure protection for everyone on the construction site from the hazards associated with all overhead and underground power lines. Obtain further information at: <http://www.torontohydro.com/powerlinesafety>

**TORONTO MUNICIPAL CODE 441  
FEES AND CHARGES  
Appendix C - Schedule 8, Toronto Building**

19 148484 BLD 00 BA  
363 YONGE STREET

Total Permit Fee **\$198.59**

**Work Proposed** *Other(BA)*                      **Sub** *Multiple Unit Building*

<b>Building Classification</b>	<b>Service</b>	<b>Index</b>	<b>Value in Square Meters</b>	<b>Fee</b>
	<small><i>Dollars per Square Meter unless otherwise indicated</i></small>		<small><i>(unless otherwise indicated)</i></small>	

**Other Applicable Fees:**

examiner to verify		198.59
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Total Permit Fee **\$198.59**

**Subject to a minimum permit fee of \$198.59**



# Heritage Advisory Comments

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The reviewed plans and specifications must be available on site during construction/demolition. Changes to these plans and specifications are not to be made unless prior written approval is obtained from the Chief Building Official and the Manager, Heritage Preservation Services.

The owner/permit holder is required to comply with the following Permit Notes, which are part of the reviewed permit documents:

---

- Any modification to the drawings included as a part of this application must be approved by Heritage Preservation Services
- A letter of credit secures this work

**Name:** Ragini Dayal  
**Title:** Planner  
**Contact Info:** 17th Floor, East Tower  
100 Queen Street West  
Toronto, ON M5H 2N2  
rdalay@toronto.ca

**NOTES:**

**1. GENERAL**

- 1.1 WHERE DOCUMENTS ARE REFERENCED IN THE GENERAL AND DESIGN NOTES, THEY SHALL BE THE LATEST EDITIONS, UNLESS OTHERWISE NOTED OR SHOWN.
- 1.2 READ STRUCTURAL DRAWINGS IN CONJUNCTION WITH SPECIFICATIONS AND ALL OTHER CONTRACT DOCUMENTS.
- 1.3 BEFORE PROCEEDING WITH THE WORK, CONTRACTOR MUST CHECK ALL THE DIMENSIONS SHOWN ON THE STRUCTURAL DRAWINGS AGAINST ACTUAL SITE CONDITIONS. CONTRACTOR IS TO REPORT ANY DISCREPANCIES TO THE CONSULTANT.

**2. DESIGN**

- 2.1 THE STRUCTURE HAS BEEN DESIGNED IN ACCORDANCE WITH THE REQUIREMENTS OF THE 2012 ONTARIO BUILDING CODE AND THE NATIONAL BUILDING CODE OF CANADA 2015
- 2.2 ALL REINFORCED CONCRETE ELEMENTS HAVE BEEN DESIGNED IN ACCORDANCE WITH A23.3, DESIGN OF CONCRETE STRUCTURES.
- 2.3 ALL STRUCTURAL STEEL ELEMENTS HAVE BEEN DESIGNED IN ACCORDANCE WITH CAN/CSA-S16-09, LIMIT STATES DESIGN OF STEEL STRUCTURES.
- 2.4 FAÇADE TIES AND TEMPORARY FAÇADE RETENTION STEEL ARE DESIGNED TO RESIST THE FOLLOWING DESIGN PARAMETERS.
  - 2.4.1 WIND LOADS  $q = 0.53kPa$ ,  $C_e$ ,  $C_p$  AND  $C_{pi}$  ARE CALCULATED BASED ON THE USER'S GUIDE - NBCC - STRUCTURAL COMMENTARIES (PART 4 OF DIVISION B).
  - 2.4.2 LATERAL LOAD ASSESSED AS ARISING FROM OFFSET AND OUT-OF-PLUMB OF THE FAÇADE AT THE LEVEL OF THE CONNECTION BEING CONSIDERED: 2.5% OF FAÇADE WEIGHT RESTRAINED BY THE CONNECTION.
- 2.5 A LATERAL DEFLECTION LIMIT OF HEIGHT 1/750.
- 2.6 FACTORS OF SAFETY AGAINST OVERTURNING AND SLIDING OF TWO (2) CONSIDERED IN THE DESIGN OF THE TEMPORARY RETENTION STEEL FRAME SUPPORTS.

**3. MONITORING**

- 3.1 A CERTIFIED SURVEYOR IS TO RECORD MOVEMENT OF THE RETAINED FAÇADES AT LOCATIONS SHOWN ON THE ELEVATIONS BELOW AND AT THE CLOSEST CORRESPONDING FRONT MEMBER OF THE STEEL RETENTION TOWERS.
  - 3.1.1 A BASELINE SURVEY AND SUBSEQUENT WEEKLY SURVEYS (UNTIL ONE (1) MONTH AFTER THE FAÇADE IS FULLY RETAINED) ARE TO BE COMPLETED ONCE THE CAST-IN-PLACE CONCRETE SLABS, RETENTION TOWERS AND COUNTER WEIGHTS HAVE BEEN INSTALLED.
  - 3.1.2 SURVEYS ARE TO BE COMPLETED NOT LESS THAN DAILY DURING THE PHYSICAL SEPARATION OF THE FAÇADE.
  - 3.1.3 SURVEYS ARE TO CONTINUE NOT LESS THAN MONTHLY (SCHEDULE MAY BE ADJUSTED DEPENDING ON MOVEMENT) UNTIL THE PERMANENT SUPPORTS AND CONNECTIONS TO THE NEW STRUCTURE HAVE BEEN INSTALLED AND REVIEWED BY THE ENGINEER OF RECORD.



**KEYPLAN - WORK AREAS**  
SCALE: NOT TO SCALE

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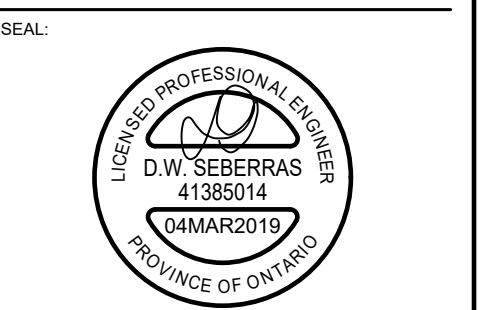
No.	Revision	Date
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5	ISSUED FOR TENDER	29 JAN 2019
6	RE-ISSUED FOR BUILDING PERMIT	04 MAR 2019

SECTION/DETAIL NUMBER  
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**Toronto Building**  
PERMIT REVIEWED FOR COMPLIANCE WITH THE ONTARIO BUILDING CODE

19 148484 BLD 00

ZONING	Tamondong, Ray	29/May/2019
O.B.C.	Kramanovic, Gordana	15/May/2019
FIRE SERVICES		
O.B.C. (S)		



CHECKED BY: D.S. FIRM NO: 30361  
DRAWN BY: B.B.



PROJECT LOCATION:  
YSL RESIDENCE  
385 YONGE STREET  
TORONTO, ON

PROJECT DESCRIPTION:  
EXISTING HISTORICAL  
FAÇADE RETENTION

**Facet Group Inc.**  
Heritage Building Consultants,  
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David Seberas P. Eng.  
SEBERAS PROFESSIONAL SERVICES LTD

**ENTUITIVE**  
Entuitive Corporation  
200 University Avenue, 7th Floor  
Toronto, ON M5H 3C9 Canada  
entuitive.com

DRAWING TITLE:  
GENERAL NOTES  
FAÇADE ELEVATIONS

PROJECT NO: 201705  
SCALE: 1:150  
DRAWING NO: HS-1



**385 YONGE STREET - NORTH ELEVATION (GERRARD STREET)**  
SCALE: 1:150

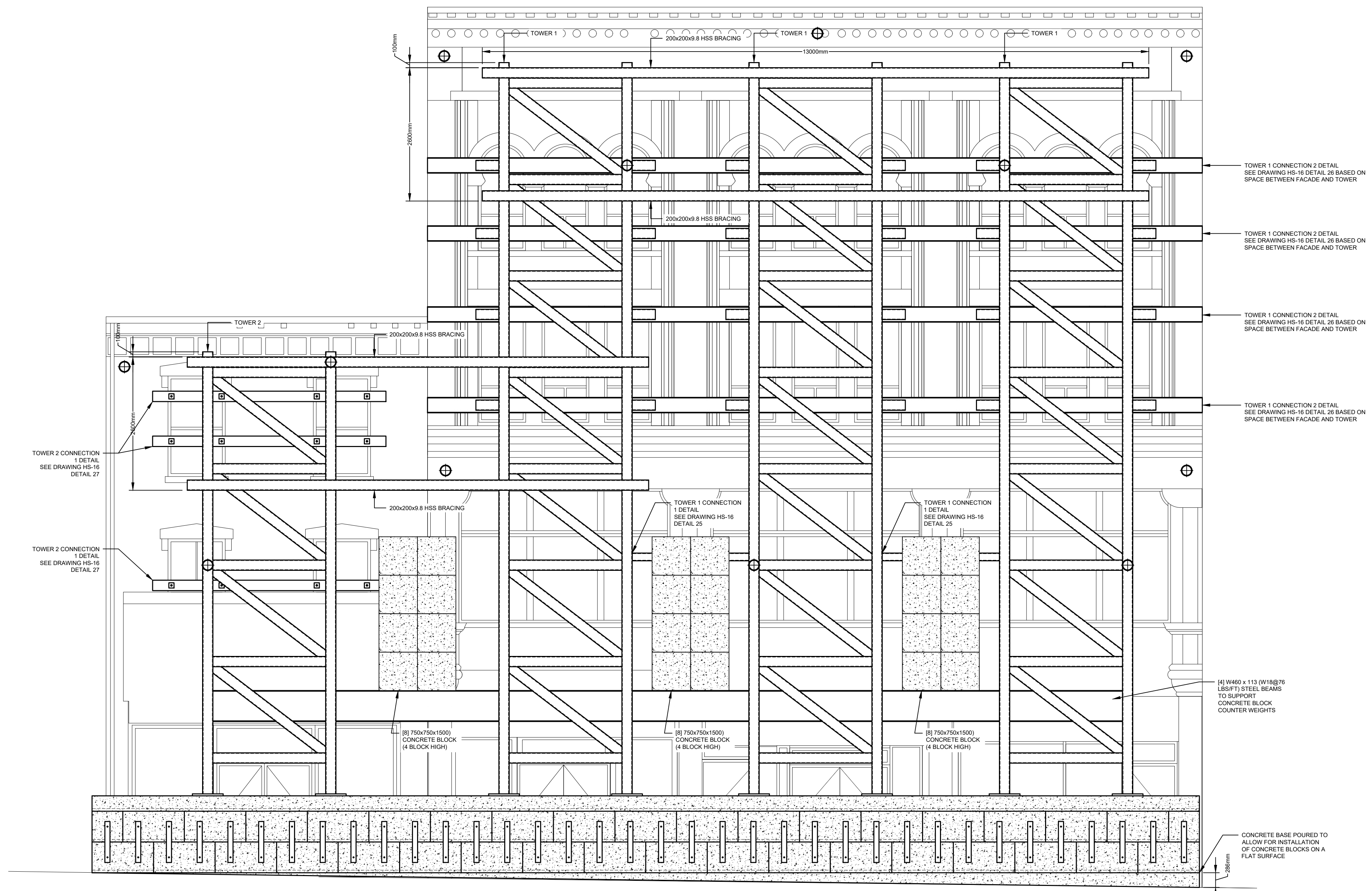


**385 YONGE STREET - WEST ELEVATION**  
SCALE: 1:150

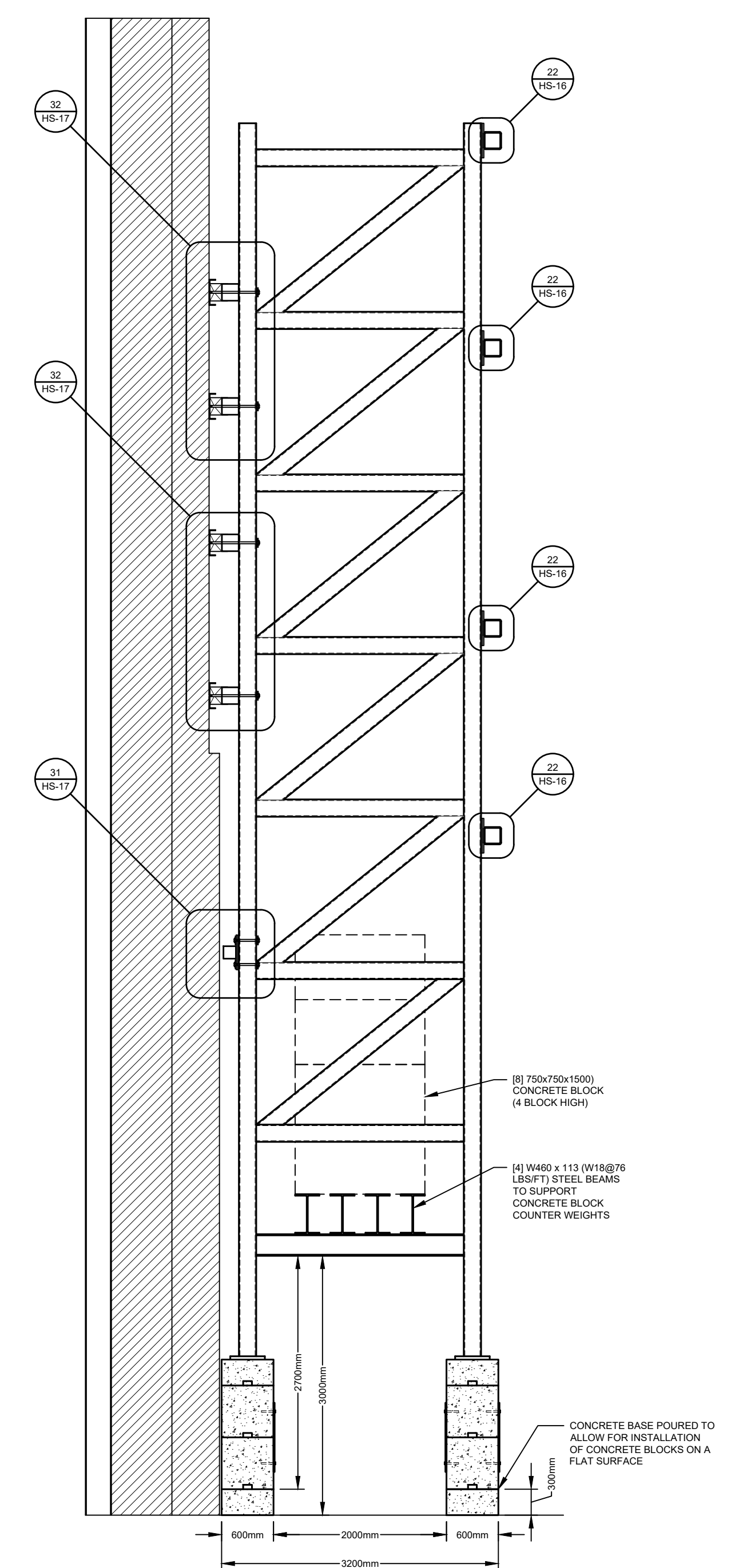


**363 - 365 YONGE STREET - WEST ELEVATION**  
SCALE: 1:150

**STRUCTURAL DESIGN BY PROFESSIONAL ENGINEER:**  
The City has relied upon the plans and drawings prepared and submitted by the qualified architects and/or engineers on this project. The issuance of a building permit does not imply that a complete design review of this project has been performed and does not relieve the owner and designers from the need to comply with the Ontario Building Code and referenced standards where contraventions are subsequently noted.



363 - 365 YONGE STREET - WEST ELEVATION TOWER 1 and TOWER 2 LAYOUT  
SCALE: 1:50



363 - 365 YONGE STREET - WEST ELEVATION CROSS SECTION TOWER 1  
SCALE: 1:50

**ELEVATION NOTES:**

1. GENERAL
  - 1.1 STOREFRONT OPENING SUPPLEMENT SUPPORT TO BE REVIEWED

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**Toronto Building**

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19 148484 BLD 00

ZONING	O.B.C.	Krsmanovic, Gordana	15/May/2019
FIRE SERVICES	O.B.C. (S)		

CHECKED BY: D.S.

FIRM NO: 30361

DRAWN BY: B.B.

SEAL:

Construction North

PROJECT LOCATION:  
YSL RESIDENCE  
385 YONGE STREET  
TORONTO, ON

PROJECT DESCRIPTION:  
EXISTING HISTORICAL  
FACADE RETENTION

**Facet Group Inc.**

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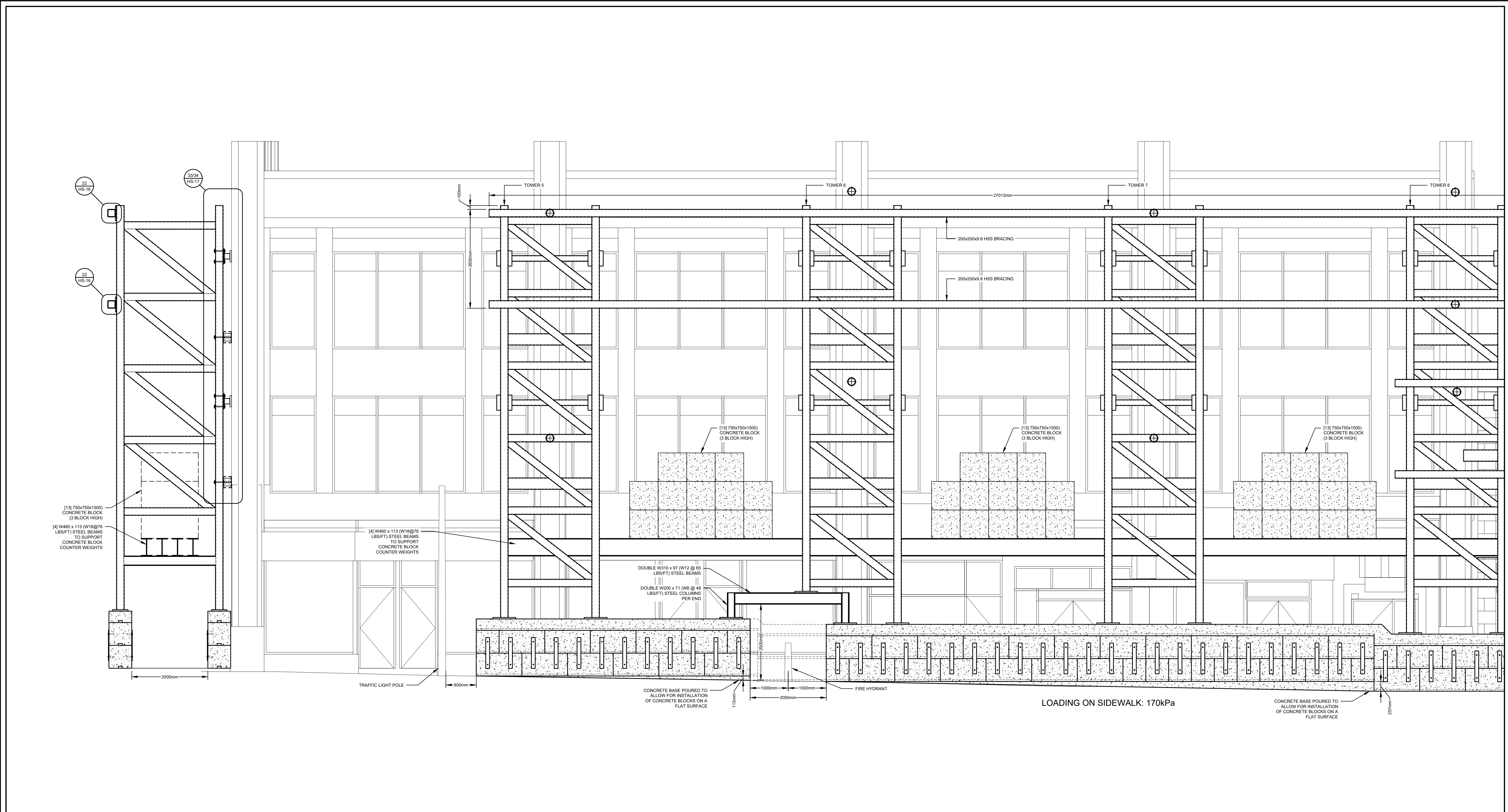
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DRAWING TITLE:  
FACADE ELEVATIONS  
TOWER ELEVATIONS

PROJECT NO: 201705  
SCALE: 1:50

DRAWING NO: **HS-2**



385 YONGE STREET - WEST ELEVATION TOWER 5, 6, 7, 8 LAYOUT  
SCALE: 1:50

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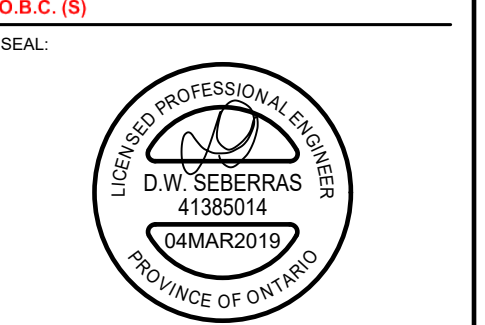
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**Toronto Building**  
PERMIT REVIEWED FOR COMPLIANCE WITH  
THE ONTARIO BUILDING CODE  
19 148484 BLD 00

ZONING	O.B.C.	Kismanovic, Gordana	15/May/2019
FIRE SERVICES	O.B.C. (S)		



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B.B.	

Construction North

PROJECT LOCATION:  
YSL RESIDENCE  
385 YONGE STREET  
TORONTO, ON

PROJECT DESCRIPTION:  
EXISTING HISTORICAL  
FACADE RETENTION

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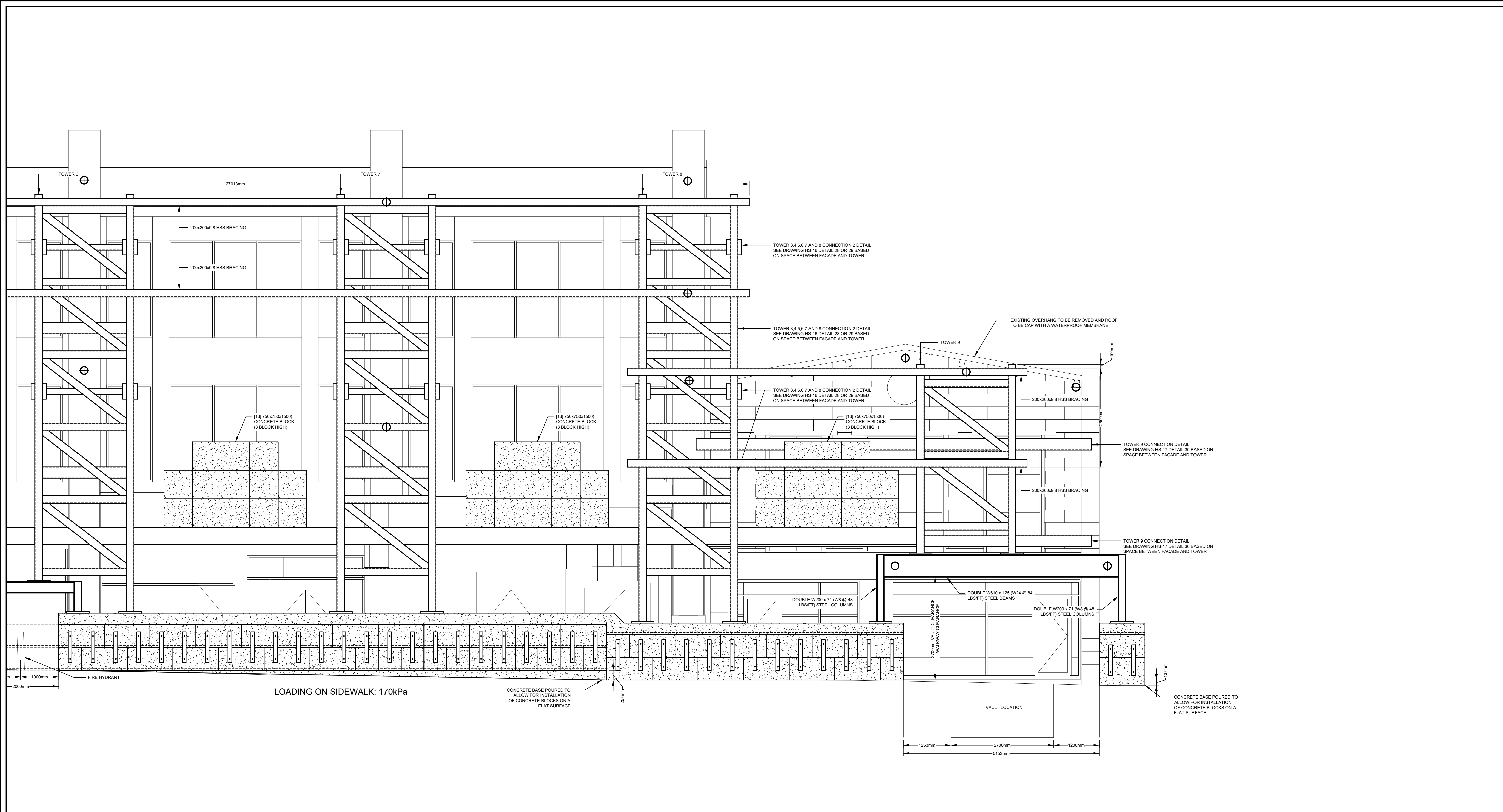
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DRAWING TITLE:  
FACADE ELEVATIONS  
TOWER ELEVATIONS

PROJECT NO: 201705	DRAWING NO: HS-3
SCALE: 1:50	

**ELEVATION NOTES:**  
1. GENERAL  
1.1 STOREFRONT OPENING SUPPLEMENT SUPPORT TO BE REVIEWED





385 YONGE STREET - WEST ELEVATION TOWER 6, 7, 8, 9 LAYOUT  
SCALE: 1:50

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ZONING  
O.B.C. Krizanovic, Gordana 15/May/2019

FIRE SERVICES  
O.B.C. (S)



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PROJECT LOCATION:  
YSL RESIDENCE  
385 YONGE STREET  
TORONTO, ON

PROJECT DESCRIPTION:  
EXISTING HISTORICAL  
FACADE RETENTION

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DRAWING TITLE:  
FACADE ELEVATIONS  
TOWER ELEVATIONS

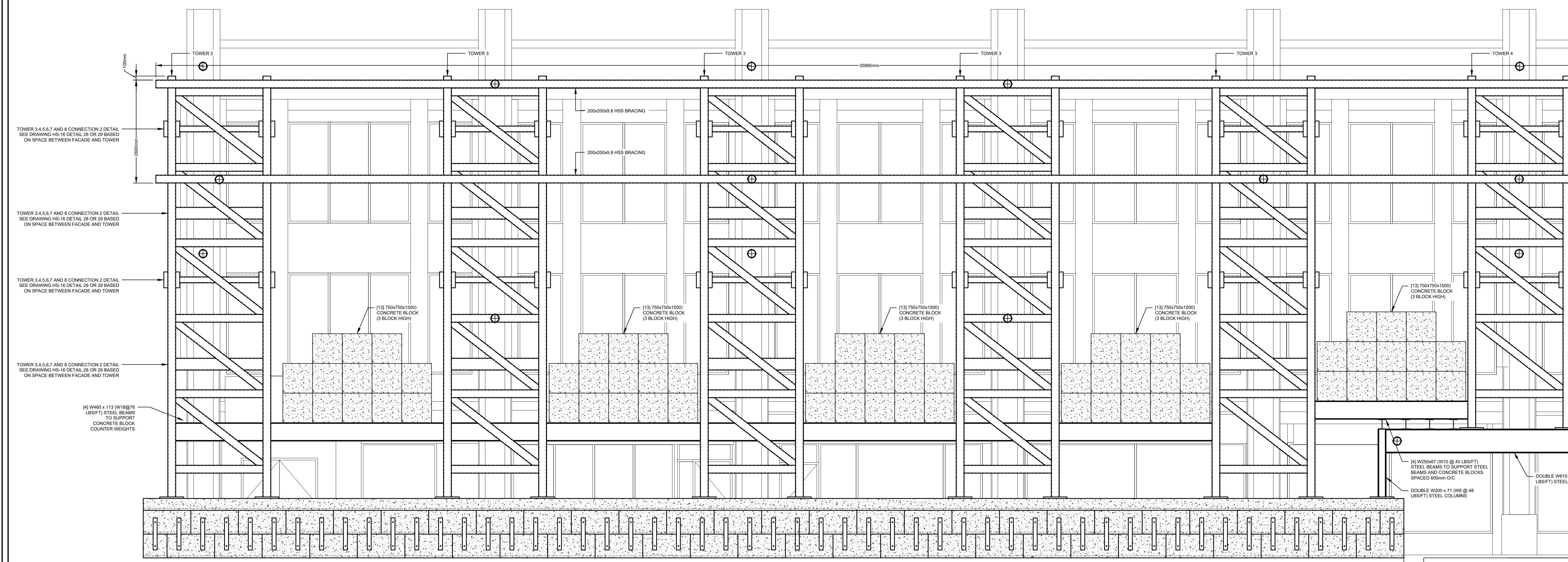
PROJECT NO: 201705  
SCALE: 1:50  
DRAWING NO: HS-4

**ELEVATION NOTES:**  
1. GENERAL  
1.1 STOREFRONT OPENING SUPPLEMENT SUPPORT TO BE REVIEWED

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385 YONGE STREET - NORTH ELEVATION (GERRARD STREET) PARTIAL TOWER 3, 4 LAYOUT  
 SCALE: 1:50

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ZONING	O.B.C.	Kismanovic, Gordana	15/May/2019
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PROJECT LOCATION:  
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 385 YONGE STREET  
 TORONTO, ON

PROJECT DESCRIPTION:  
 EXISTING HISTORICAL  
 FACADE RETENTION

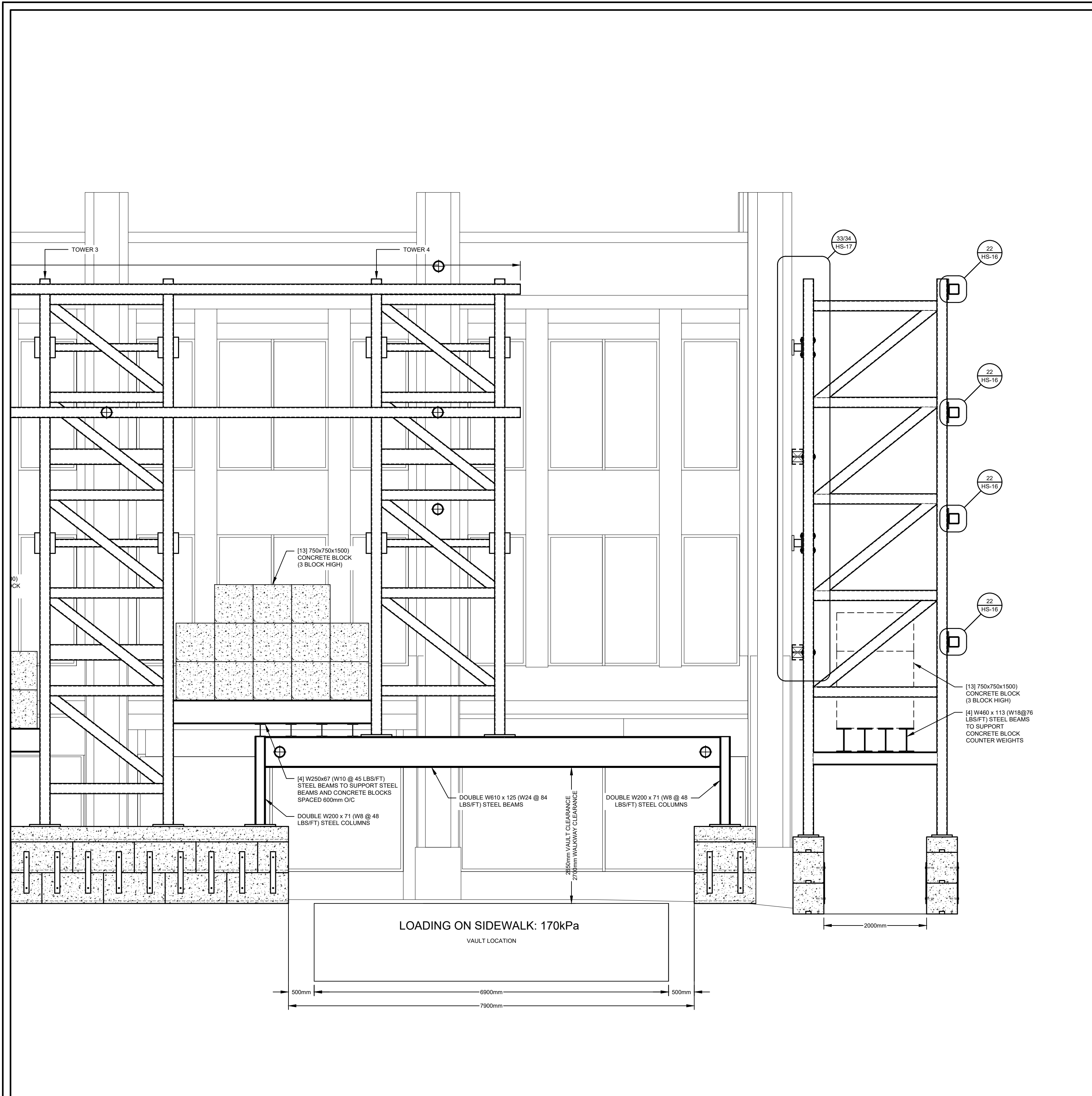
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DRAWING TITLE:  
 FACADE ELEVATIONS  
 TOWER ELEVATIONS

PROJECT NO:	DRAWING NO:
201705	HS-5
SCALE:	
1:50	

**ELEVATION NOTES:**  
 1. GENERAL  
 1.1 STOREFRONT OPENING SUPPLEMENT SUPPORT TO BE REVIEWED



385 YONGE STREET - NORTH ELEVATION (GERRARD STREET) PARTIAL TOWER 3, 4 LAYOUT  
SCALE: 1:50

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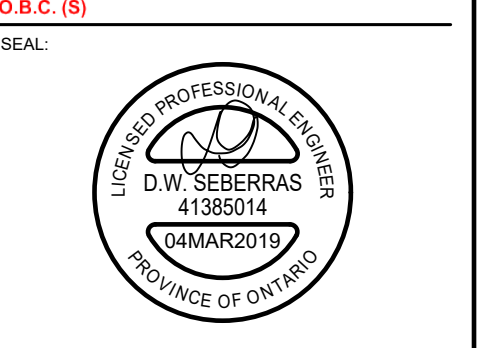
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ZONING	
O.B.C.	Krsmanovic, Gordana 15/May/2019
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PROJECT LOCATION:  
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385 YONGE STREET  
TORONTO, ON

PROJECT DESCRIPTION:  
EXISTING HISTORICAL  
FACADE RETENTION

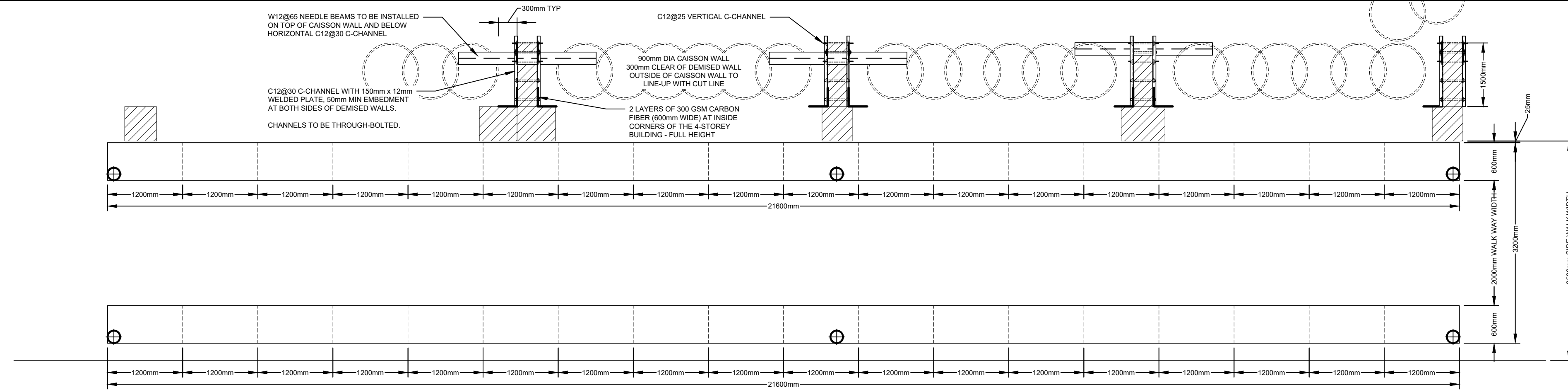
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DRAWING TITLE:  
FACADE ELEVATIONS  
TOWER ELEVATIONS

PROJECT NO:	DRAWING NO:
201705	HS-6
SCALE:	AS NOTED

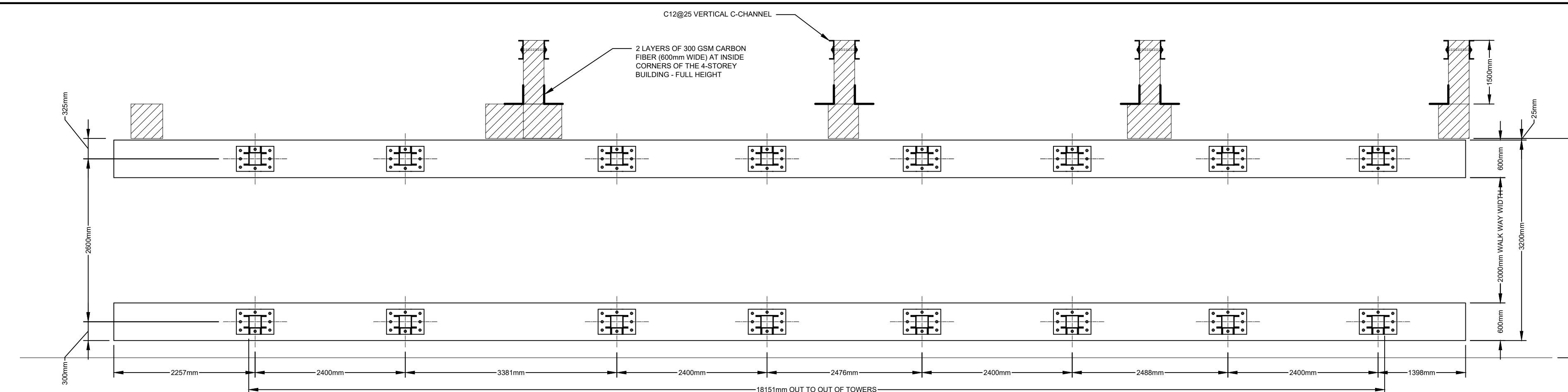
**ELEVATION NOTES:**  
1. GENERAL  
1.1 STOREFRONT OPENING SUPPLEMENT SUPPORT TO BE REVIEWED



NOTE: BELOW GRADE SHORING DESIGNED BY ISHERWOOD GEOSTRUCTURAL ENGINEERS

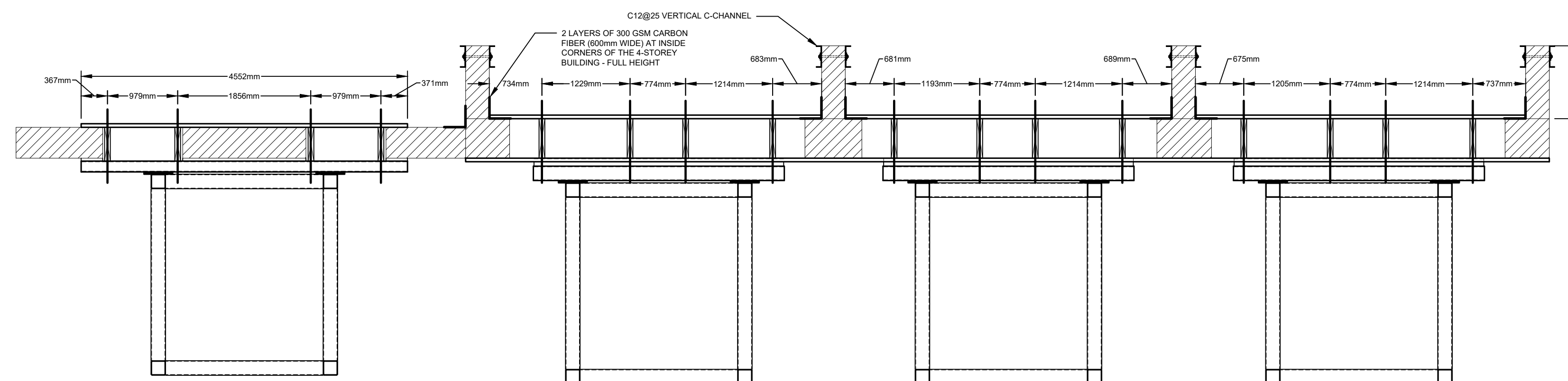
363 - 365 YONGE STREET - WEST ELEVATION PLAN AT GRADE

SCALE: 1:50



363 - 365 YONGE STREET - WEST ELEVATION TOWER BASE PLATE LOCATIONS

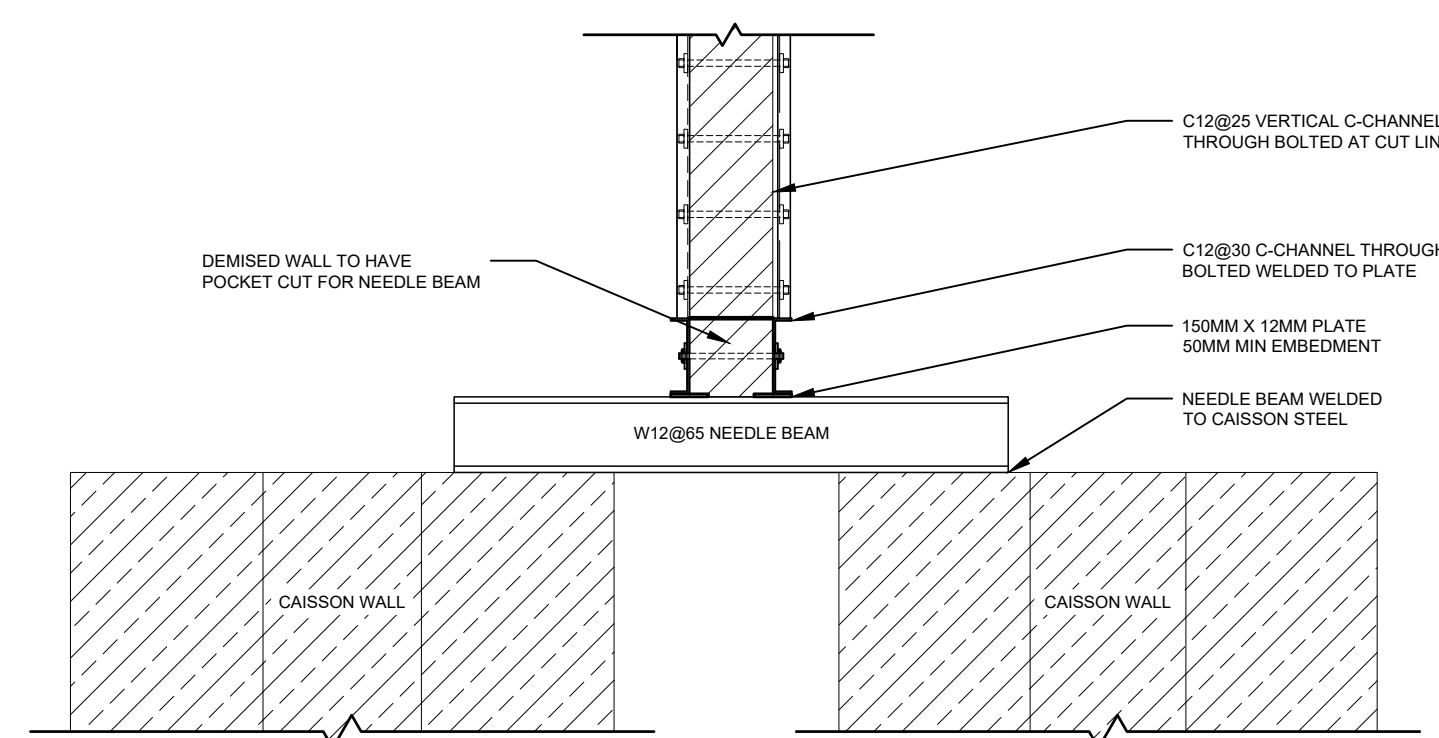
SCALE: 1:50



363 - 365 YONGE STREET - WEST ELEVATION - SECOND FLOOR TOWER TO FACADE CONNECTION 1 PLAN

SCALE: 1:50

LOADING: 90kN PER PILE



363 - 365 YONGE STREET - NEEDLE BEAM DETAIL

SCALE: 1:30

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O.B.C. Krsmanovic, Gordana 15/May/2019

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O.B.C. (S)

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Construction North

PROJECT LOCATION:  
YSL RESIDENCE  
385 YONGE STREET  
TORONTO, ON

PROJECT DESCRIPTION:  
EXISTING HISTORICAL  
FACADE RETENTION

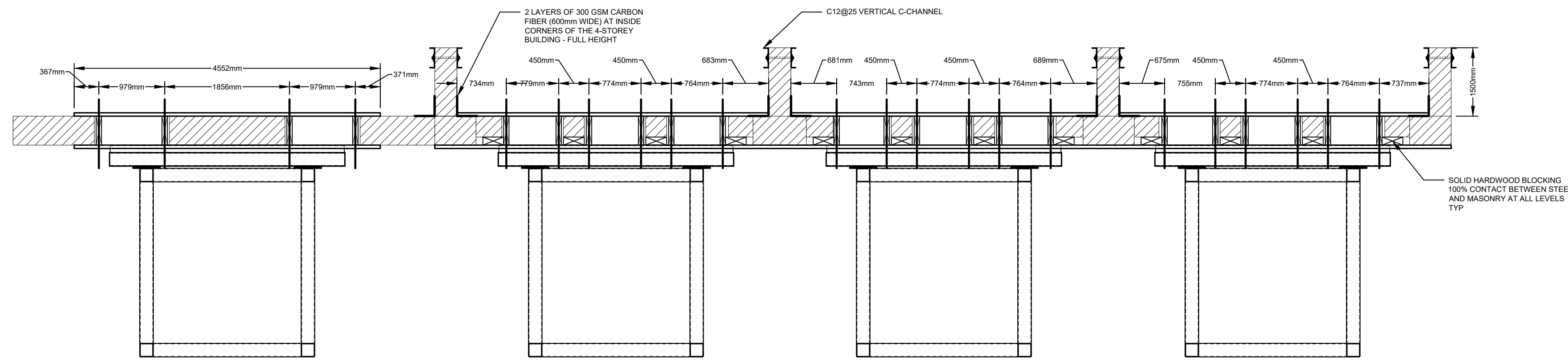
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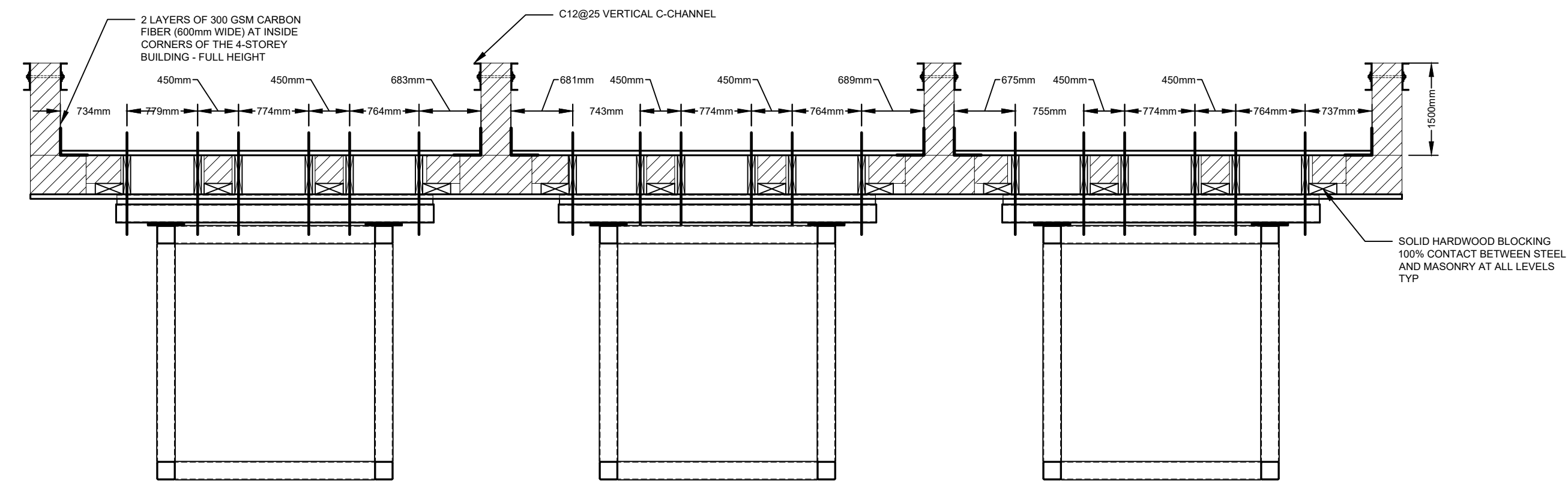
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DRAWING TITLE:  
TOWER FRAME PLAN  
NEEDLE BEAM DETAIL

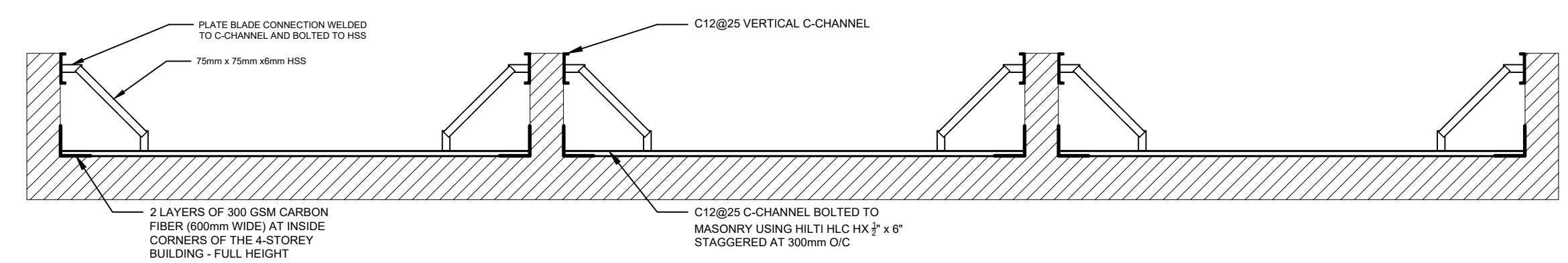
PROJECT NO: 201705  
SCALE: AS NOTED  
DRAWING NO: HS-7



363 - 365 YONGE STREET - WEST ELEVATION - THIRD FLOOR TOWER TO FACADE CONNECTION 2 PLAN  
SCALE: 1:50



363 - 365 YONGE STREET - WEST ELEVATION - FOURTH FLOOR TOWER TO FACADE CONNECTION 2 PLAN  
SCALE: 1:50



- NOTE:
- ELEVATION TO BE CONFIRMED AFTER REMOVAL OF ROOF BUILDUP AND FRAMING
  - PLATE BLADE CONNECTIONS AND HSS BRACING TO HAVE 6mm FILLET WELD, CONTINUOUS, ALL SIDES

363 - 365 YONGE STREET - WEST ELEVATION - PARAPET REINFORCEMENT  
SCALE: 1:50

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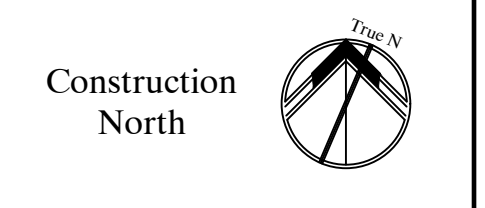
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DWG No. WHERE DETAILED	

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ZONING	
O.B.C.	Krsmanovic, Gordana 15/May/2019
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PROJECT LOCATION:  
YSL RESIDENCE  
385 YONGE STREET  
TORONTO, ON

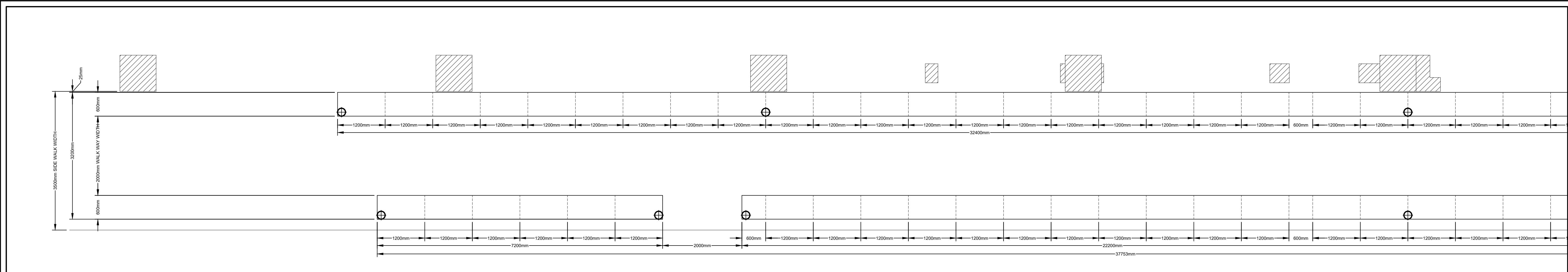
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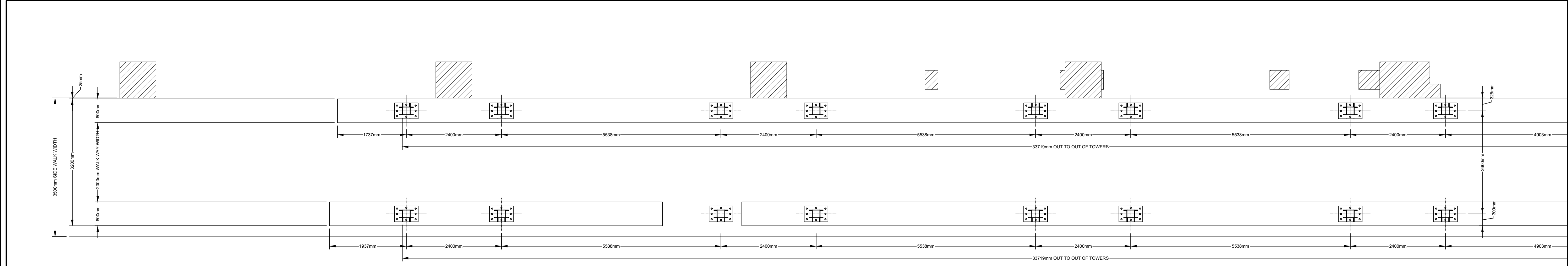
DRAWING TITLE:  
TOWER FRAME PLAN

PROJECT NO: 201705	DRAWING NO: HS-8
SCALE: AS NOTED	



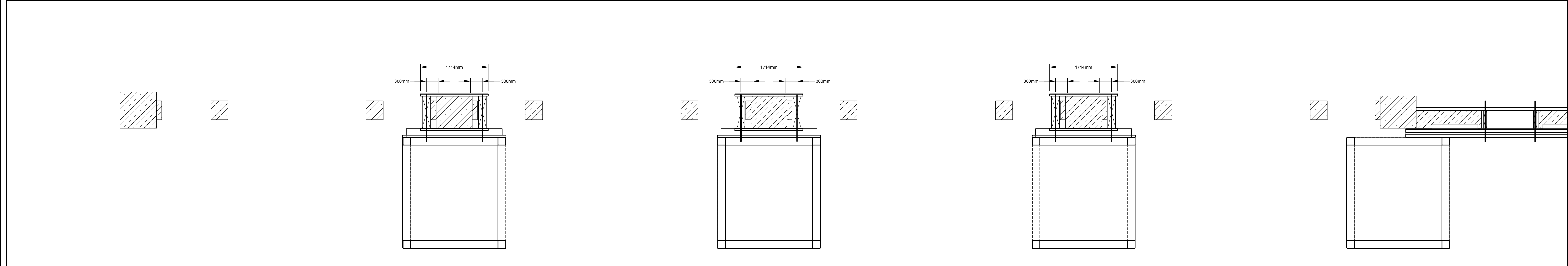
385 YONGE STREET - WEST ELEVATION - CONCRETE BLOCK PLAN

SCALE: 1:50



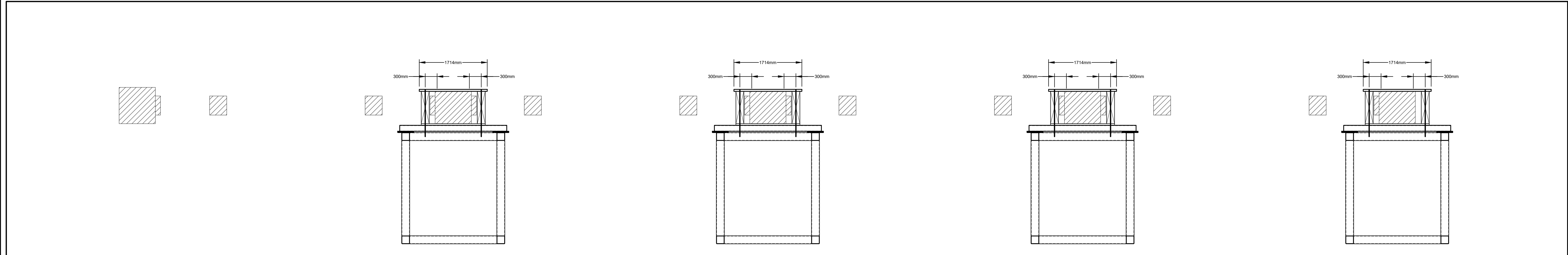
385 YONGE STREET - WEST ELEVATION TOWER BASE PLATE LOCATIONS

SCALE: 1:50



385 YONGE STREET - WEST ELEVATION - SECOND FLOOR TOWER TO FACADE CONNECTION 1 PLAN

SCALE: 1:50



385 YONGE STREET - WEST ELEVATION - THIRD FLOOR TOWER TO FACADE CONNECTION 2 PLAN

SCALE: 1:50

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5	ISSUED FOR TENDER	29 JAN 2019
6	RE-ISSUED FOR BUILDING PERMIT	04 MAR 2019

**TORONTO Building**  
PERMIT REVIEWED FOR COMPLIANCE WITH THE ONTARIO BUILDING CODE

19 148484 BLD 00

ZONING	
O.B.C.	Krsmanovic, Gordana 15/May/2019
FIRE SERVICES	

O.B.C. (S)  
SEAL:



CHECKED BY:	FIRM NO:
D.S.	30361
DRAWN BY:	
B.B.	

Construction North

PROJECT LOCATION:  
YSL RESIDENCE  
385 YONGE STREET  
TORONTO, ON

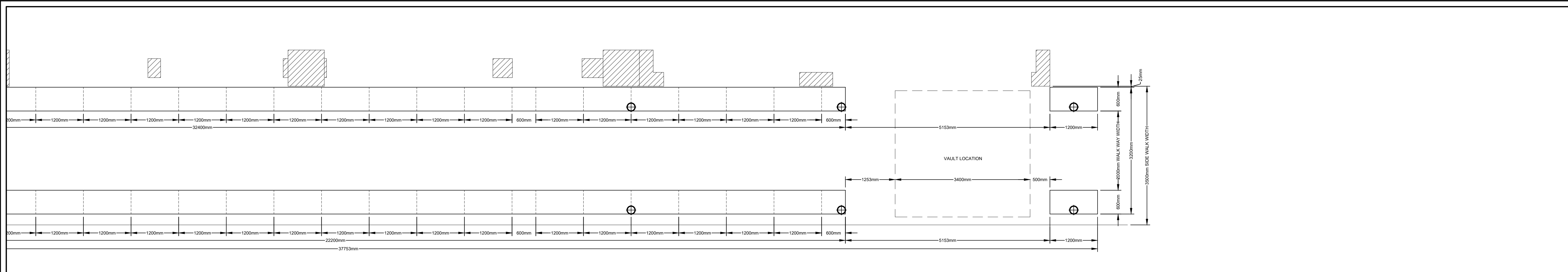
PROJECT DESCRIPTION:  
EXISTING HISTORICAL  
FACADE RETENTION

**Facet Group Inc.**  
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Engineering and Project Management  
716 - 228 Queens Quay West  
Toronto, Ontario M5J 2X1  
Tel: 416-409-0772 | Fax: 416-349-2453  
www.facetgroup.ca | neil@facetgroup.ca  
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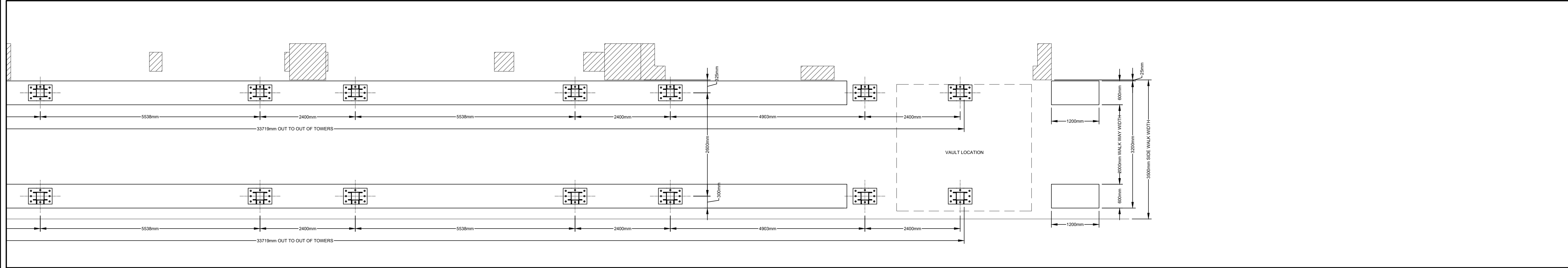
DRAWING TITLE:  
TOWER FRAME PLAN

PROJECT NO:	DRAWING NO:
201705	HS-9
SCALE:	AS NOTED



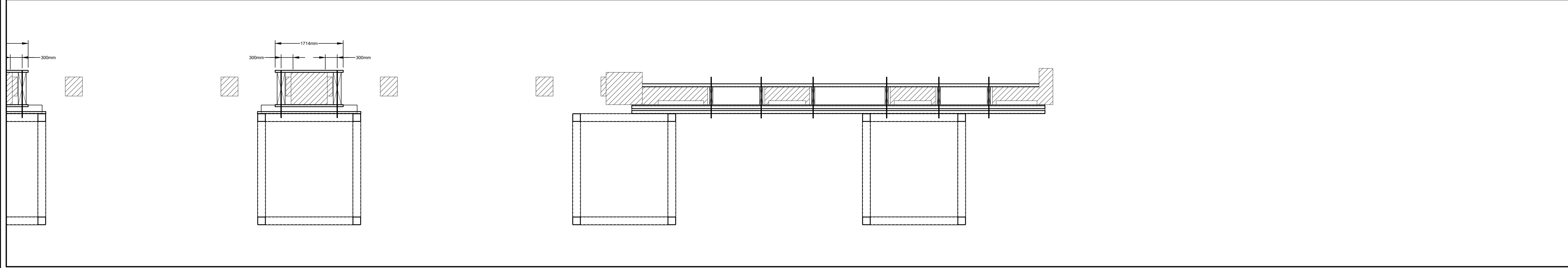
385 YONGE STREET - WEST ELEVATION - CONCRETE BLOCK PLAN

SCALE: 1:50



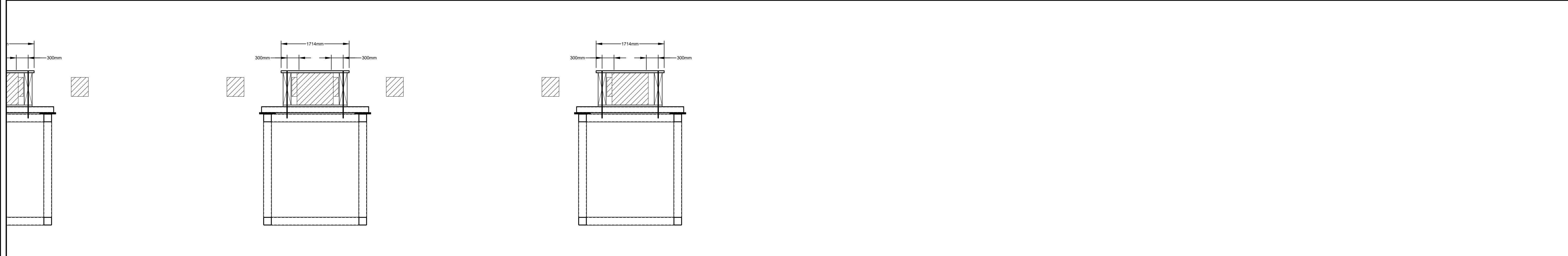
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SCALE: 1:50



385 YONGE STREET - WEST ELEVATION - SECOND FLOOR TOWER TO FACADE CONNECTION 1 PLAN

SCALE: 1:50



385 YONGE STREET - WEST ELEVATION - THIRD FLOOR TOWER TO FACADE CONNECTION 2 PLAN

SCALE: 1:50

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**TORONTO Building**  
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THE ONTARIO BUILDING CODE

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O.B.C.	Krsmanovic, Gordana	15/May/2019
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O.B.C. (S)  
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CHECKED BY:	FIRM NO:
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DRAWN BY:	
B.B.	

Construction  
North

PROJECT LOCATION:  
YSL RESIDENCE  
385 YONGE STREET  
TORONTO, ON

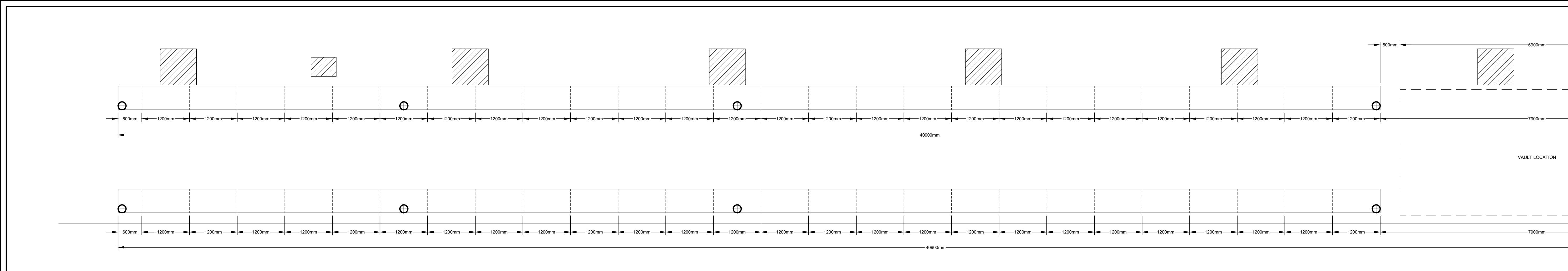
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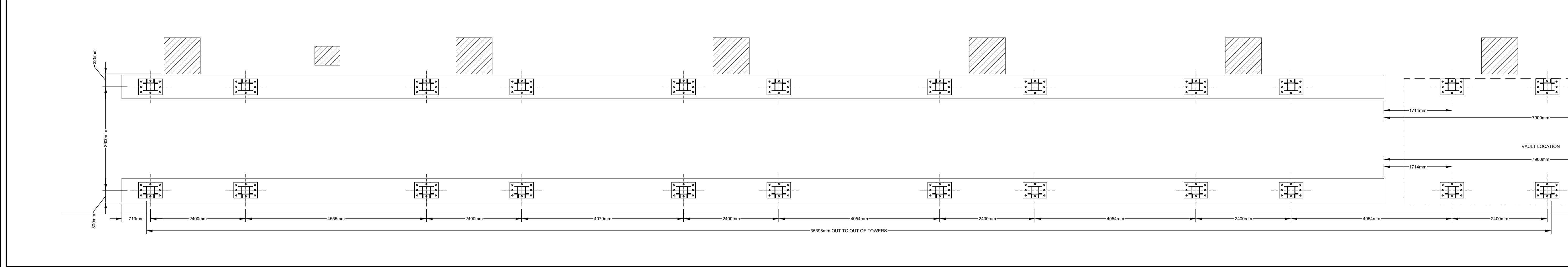
DRAWING TITLE:  
TOWER FRAME PLAN

PROJECT NO: 201705	DRAWING NO: HS-10
SCALE: AS NOTED	



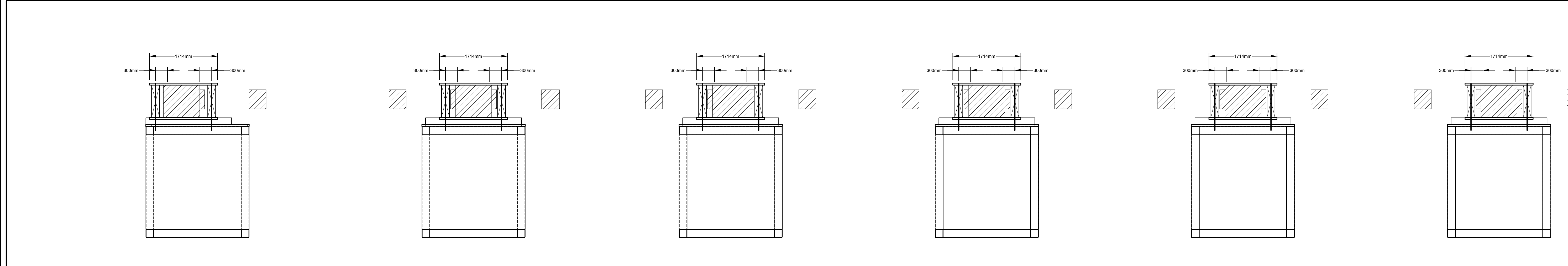
385 YONGE STREET - NORTH ELEVATION (GERRARD STREET) - CONCRETE BLOCK PLAN (PARTIAL)

SCALE: 1:50



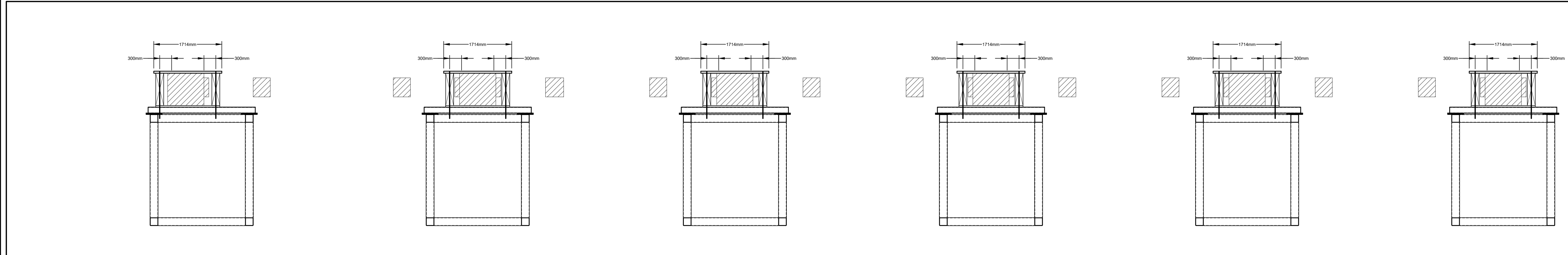
385 YONGE STREET - NORTH ELEVATION (GERRARD STREET) - TOWER BASE PLATE LOCATIONS (PARTIAL)

SCALE: 1:50



385 YONGE STREET - NORTH ELEVATION (GERRARD STREET) - SECOND AND THIRD FLOOR TOWER TO FACADE CONNECTION 1 PLAN (PARTIAL)

SCALE: 1:50



385 YONGE STREET - NORTH ELEVATION (GERRARD STREET) - SECOND TO THIRD FLOOR TOWER TO FACADE CONNECTION 2 PLAN (PARTIAL)

SCALE: 1:50

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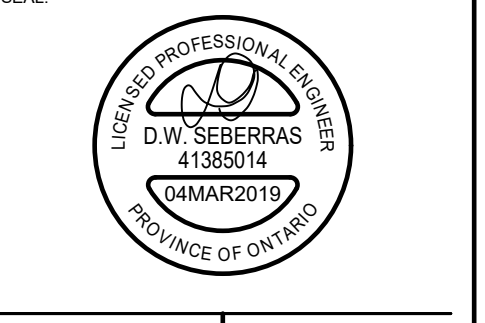
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**TORONTO Building**  
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ZONING  
 O.B.C. Krstanovic, Gordana 15/May/2019

FIRE SERVICES  
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CHECKED BY: D.S. FIRM NO: 30361  
 DRAWN BY: B.B.

Construction North

PROJECT LOCATION:  
 YSL RESIDENCE  
 385 YONGE STREET  
 TORONTO, ON

PROJECT DESCRIPTION:  
 EXISTING HISTORICAL  
 FACADE RETENTION

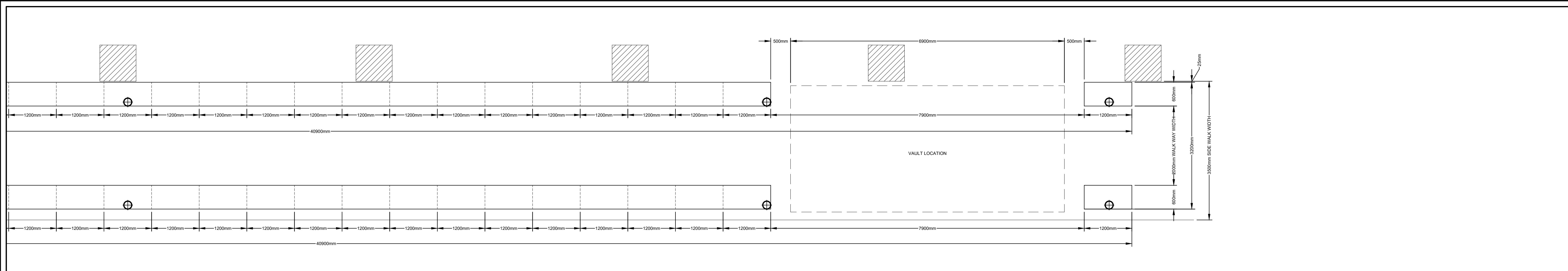
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DRAWING TITLE:  
 TOWER FRAME PLAN

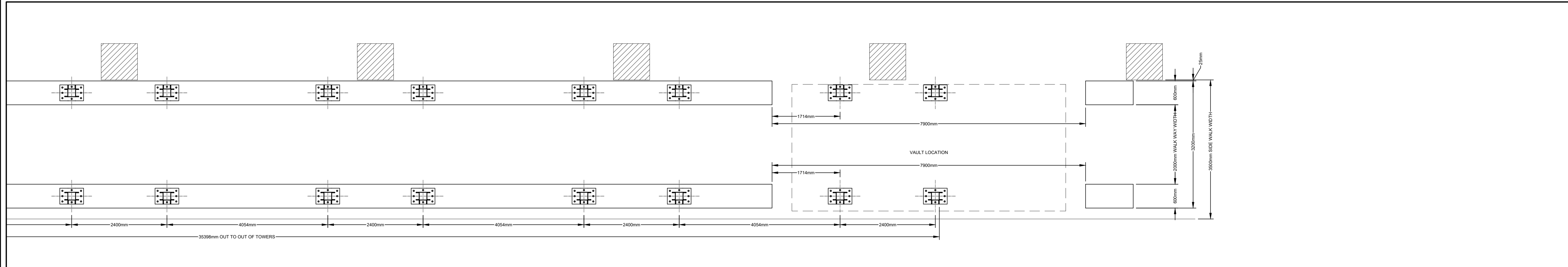
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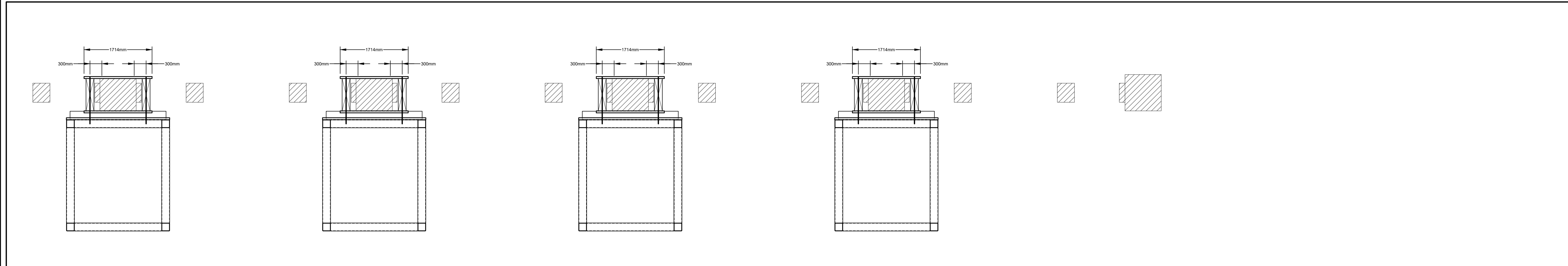
385 YONGE STREET - NORTH ELEVATION (GERRARD STREET) - CONCRETE BLOCK PLAN (PARTIAL)

SCALE: 1:50



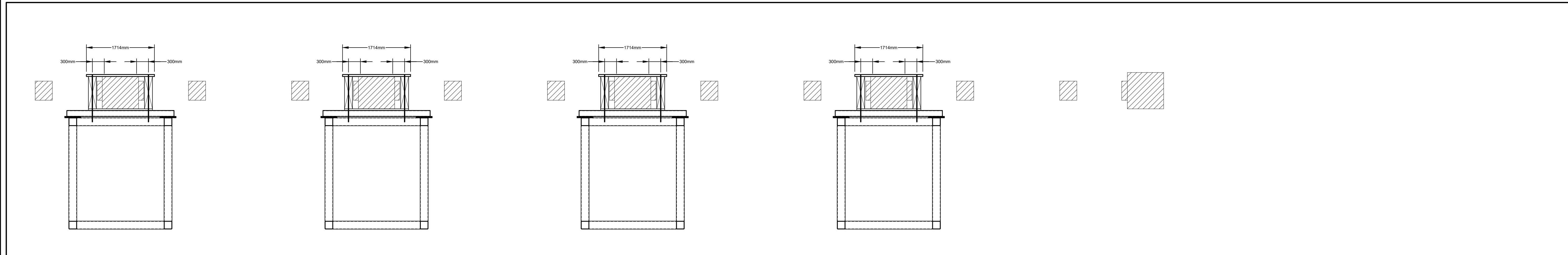
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SCALE: 1:50



385 YONGE STREET - NORTH ELEVATION (GERRARD STREET) - SECOND AND THIRD FLOOR TOWER TO FACADE CONNECTION 1 PLAN (PARTIAL)

SCALE: 1:50



385 YONGE STREET - NORTH ELEVATION (GERRARD STREET) - SECOND TO THIRD FLOOR TOWER TO FACADE CONNECTION 2 PLAN (PARTIAL)

SCALE: 1:50

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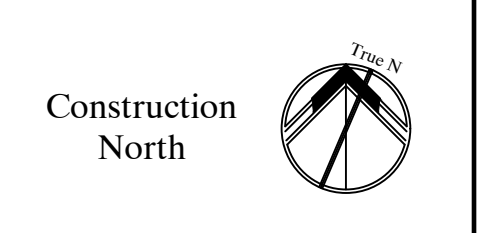
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DRAWN BY:	
B.B.	



PROJECT LOCATION:  
YSL RESIDENCE  
385 YONGE STREET  
TORONTO, ON

PROJECT DESCRIPTION:  
EXISTING HISTORICAL  
FACADE RETENTION

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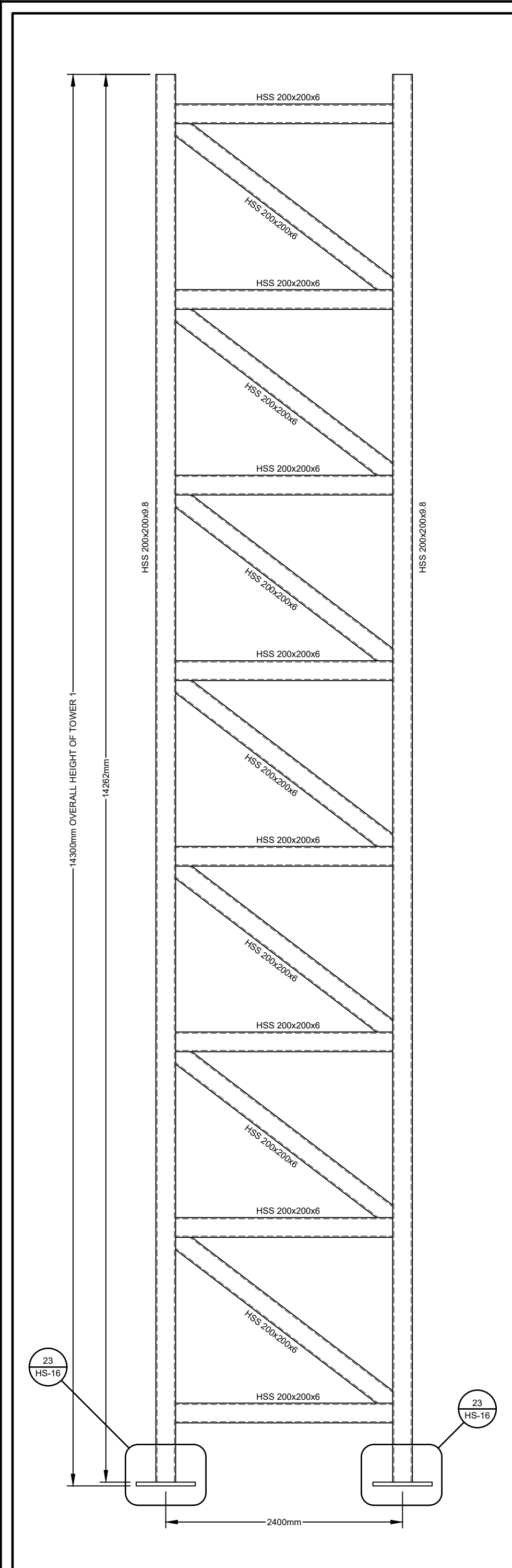
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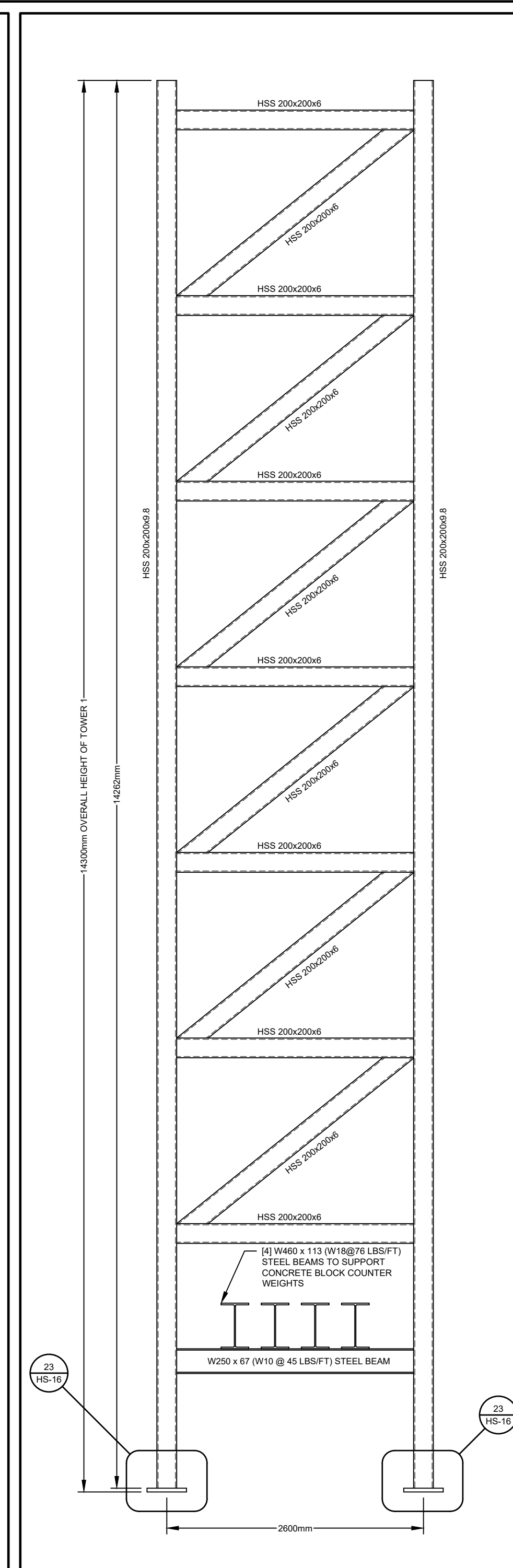
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DRAWING TITLE:  
TOWER FRAME PLAN

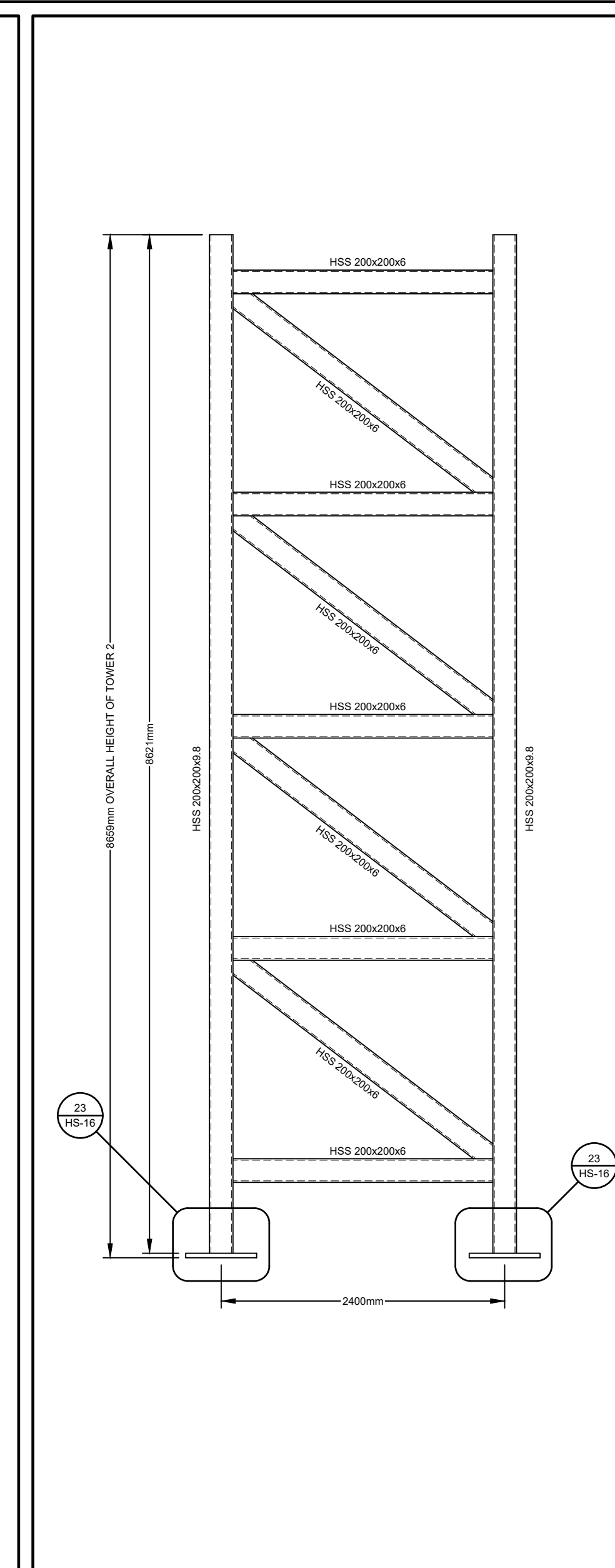
PROJECT NO:	DRAWING NO:
201705	HS-12
SCALE:	AS NOTED



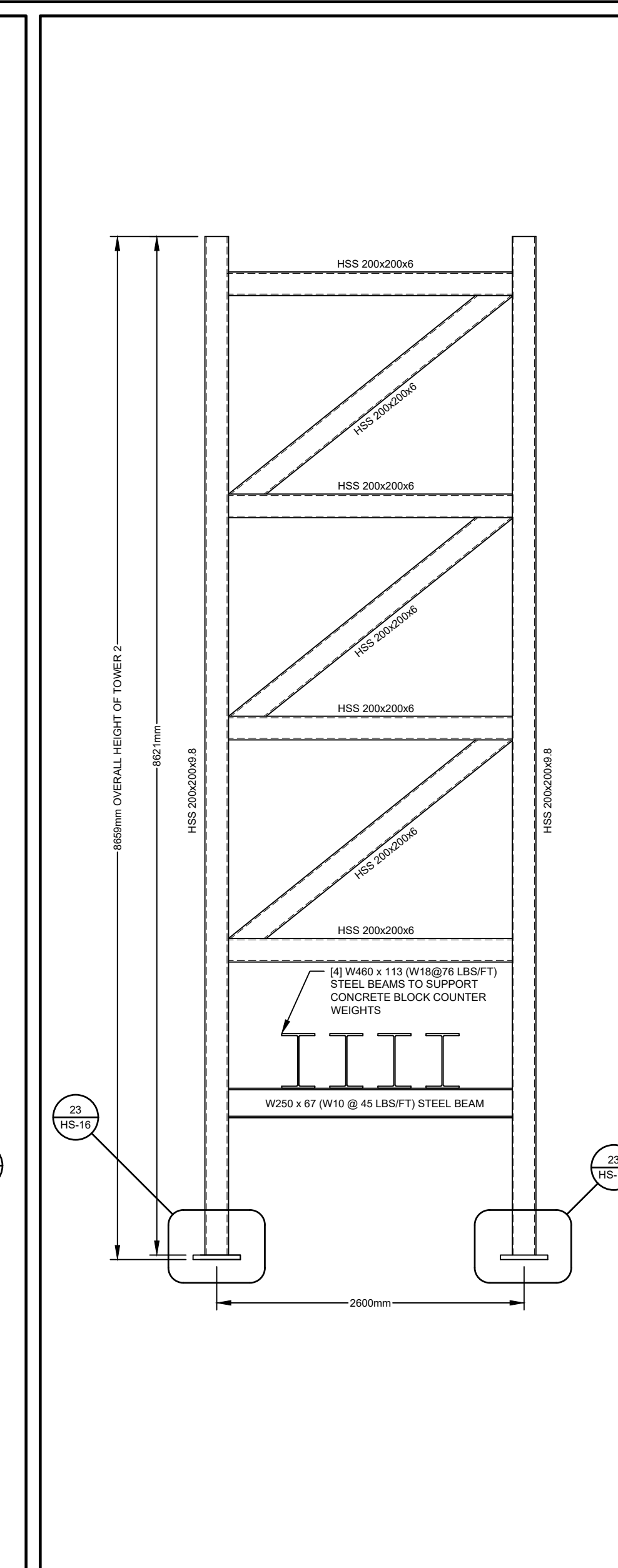
DETAIL 1: TOWER 1 FRONT/REAR ELEVATION  
SCALE: 1:40



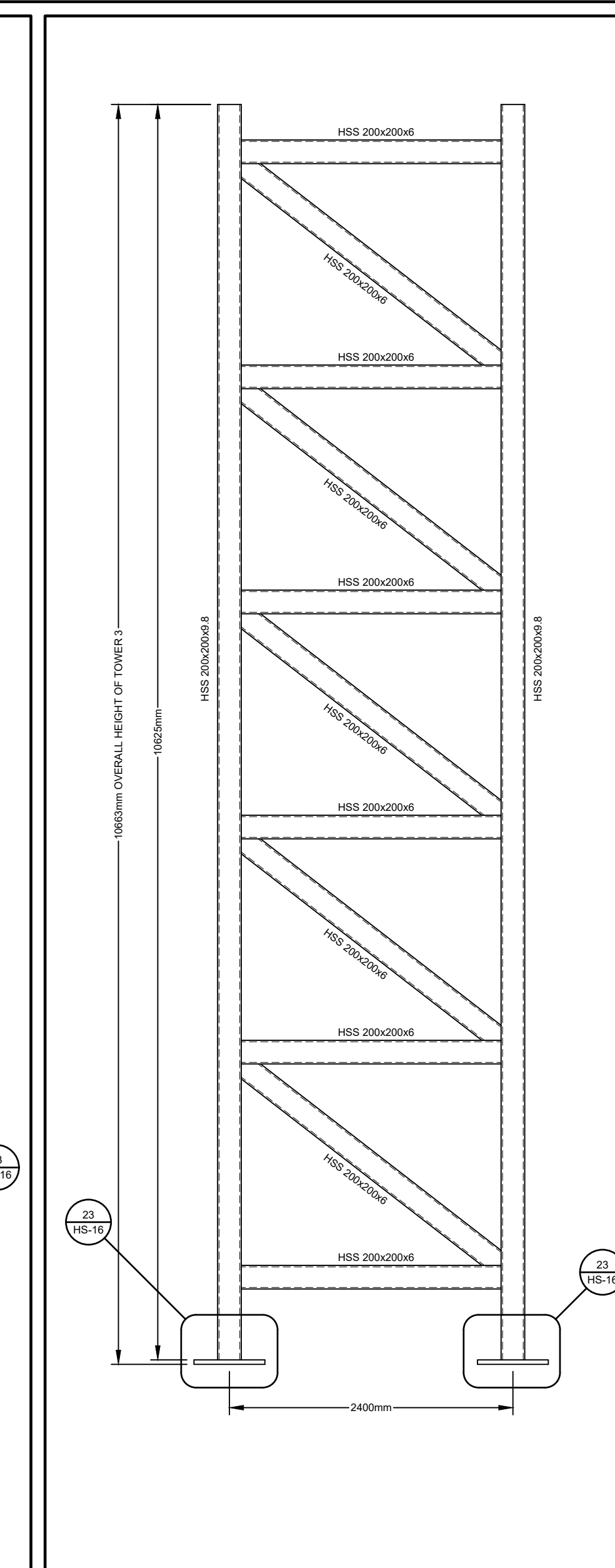
DETAIL 2: TOWER 1 SIDE ELEVATION  
SCALE: 1:40



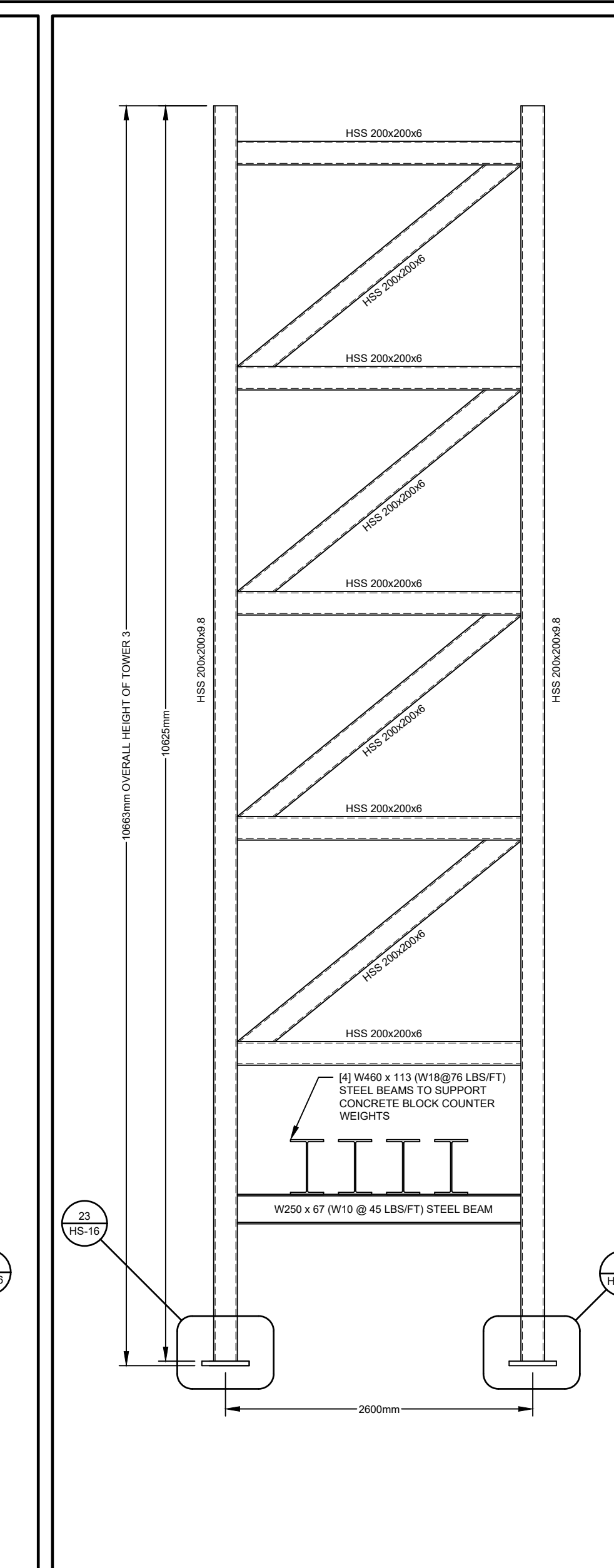
DETAIL 3: TOWER 2 FRONT/REAR ELEVATION  
SCALE: 1:40



DETAIL 4: TOWER 2 SIDE ELEVATION  
SCALE: 1:40



DETAIL 5: TOWER 3 FRONT/REAR ELEVATION  
SCALE: 1:40



DETAIL 6: TOWER 3 SIDE ELEVATION  
SCALE: 1:40

**CONCRETE NOTE:**  
MINIMUM CONCRETE STRENGTH: 40 MPa  
FILTER CLOTH TO BE PLACED UNDER GRANULAR BASE (TYP)

**WELDING NOTES:**  
1. HSS WELD:  
1.1. 9mm THICK WALL  
1.2. 6mm FILLET WELD, CONTINUOUS ALL SIDES  
1.3. 7018 WELDING ROD

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PERMIT REVIEWED FOR COMPLIANCE WITH THE ONTARIO BUILDING CODE

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ZONING	
O.B.C.	Krsmanovic, Gordana 15/May/2019
FIRE SERVICES	
O.B.C. (S)	



CHECKED BY: D.S.  
DRAWN BY: B.B.

FIRM NO: 30361



PROJECT LOCATION:  
YSL RESIDENCE  
385 YONGE STREET  
TORONTO, ON

PROJECT DESCRIPTION:  
EXISTING HISTORICAL  
FACADE RETENTION

**Facet Group Inc.**  
Heritage Building Consultants,  
Engineering and Project Management  
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Toronto, Ontario M5J 2X1  
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www.facetgroup.ca | neil@facetgroup.ca

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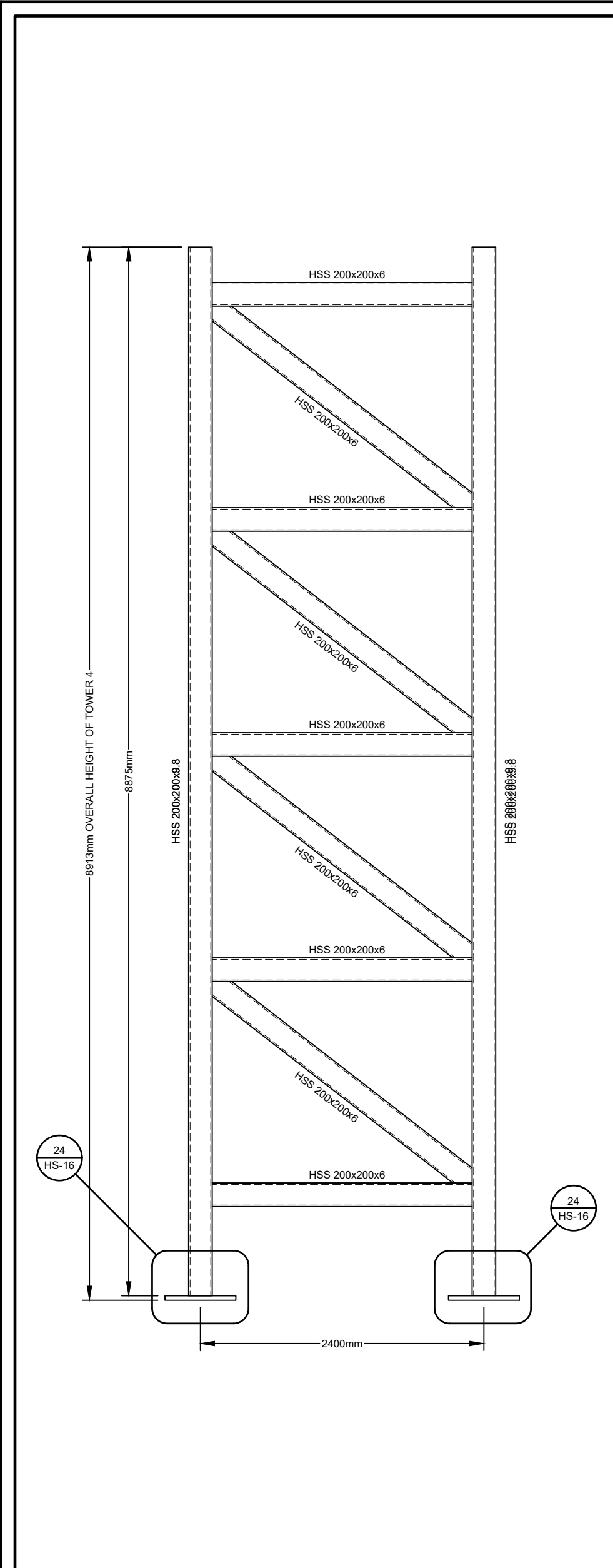
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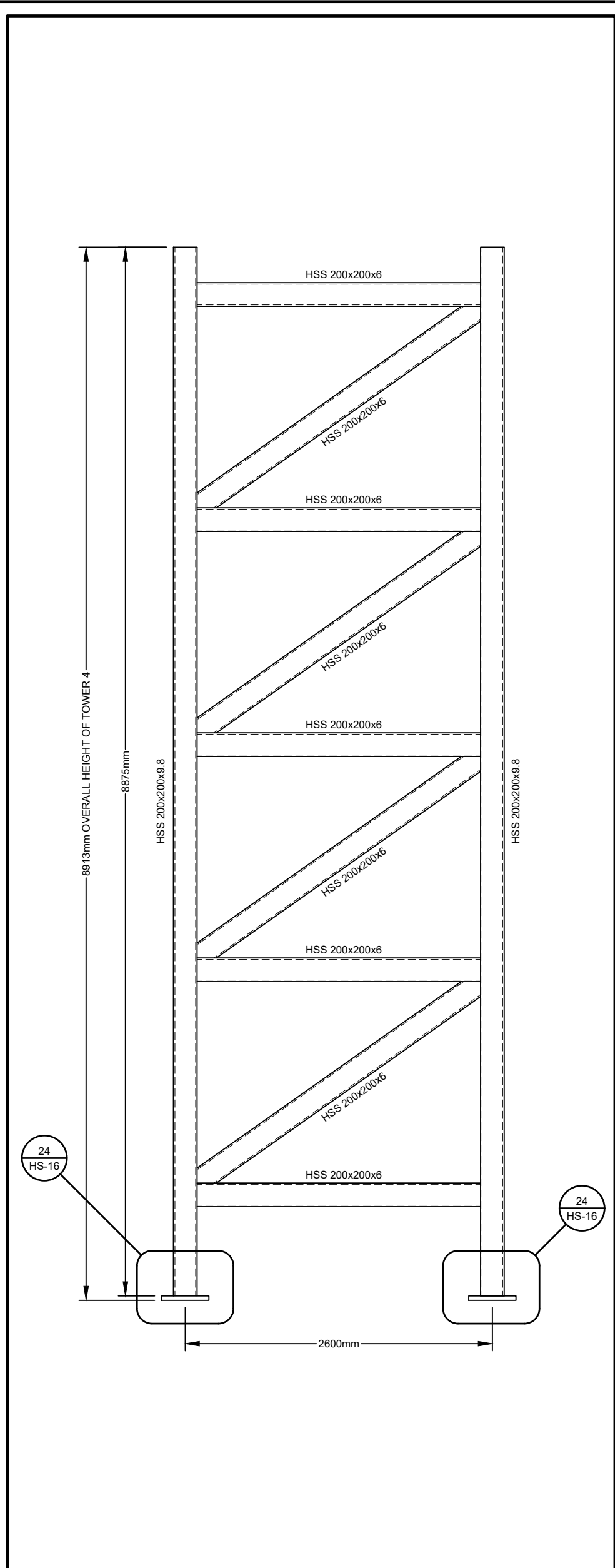
DRAWING TITLE:  
TOWER FRAME PLAN

PROJECT NO: 201705  
SCALE: AS NOTED

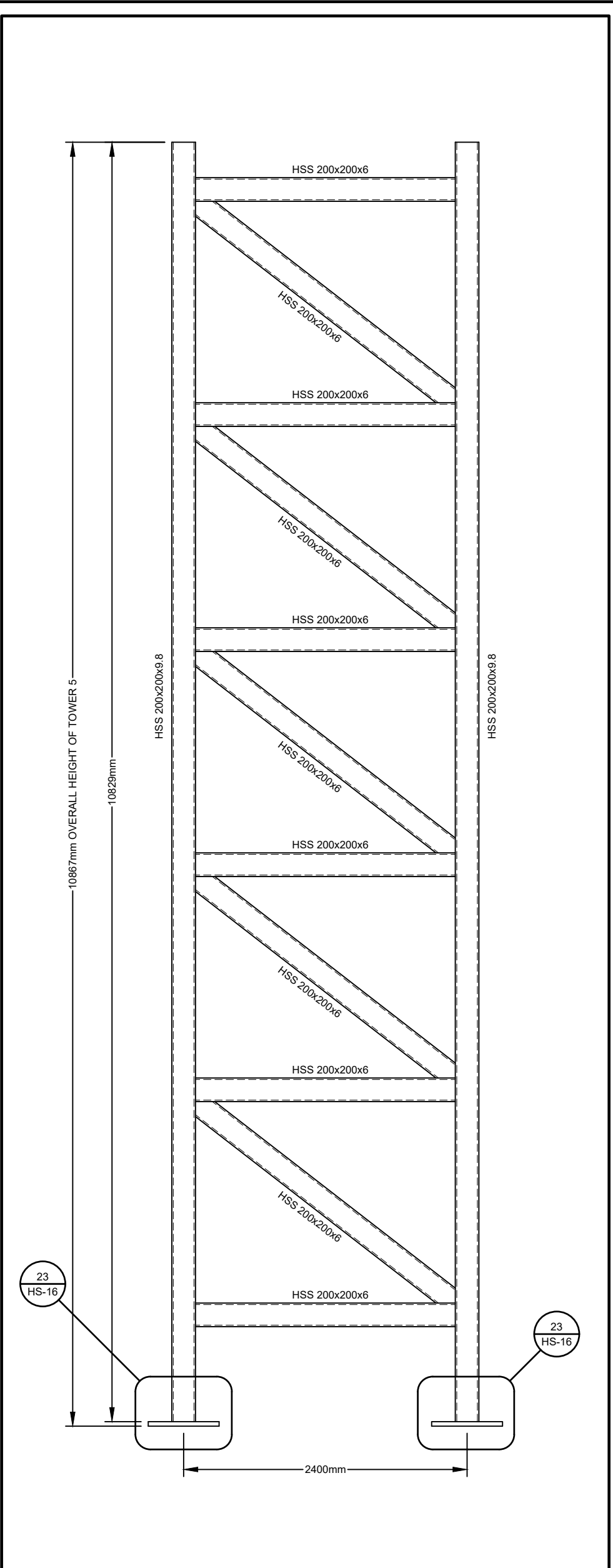
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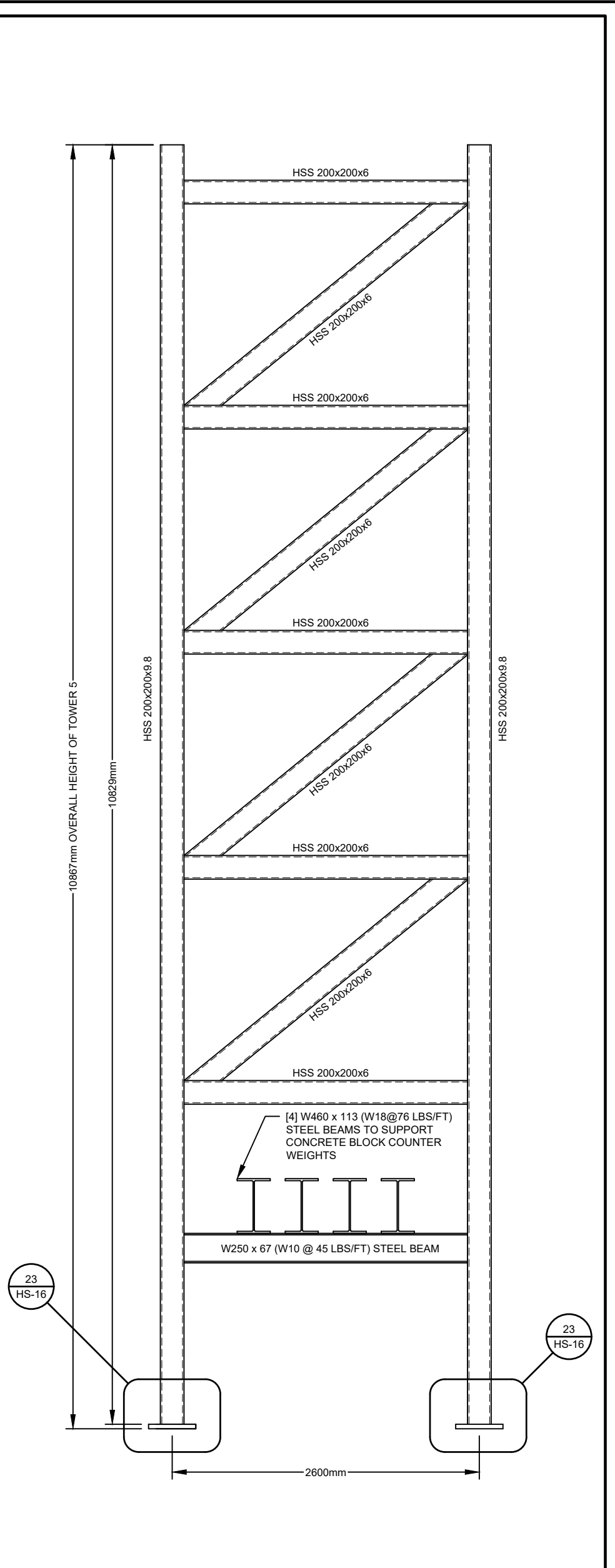
DETAIL 7: TOWER 4 FRONT/REAR ELEVATION  
SCALE: 1:40



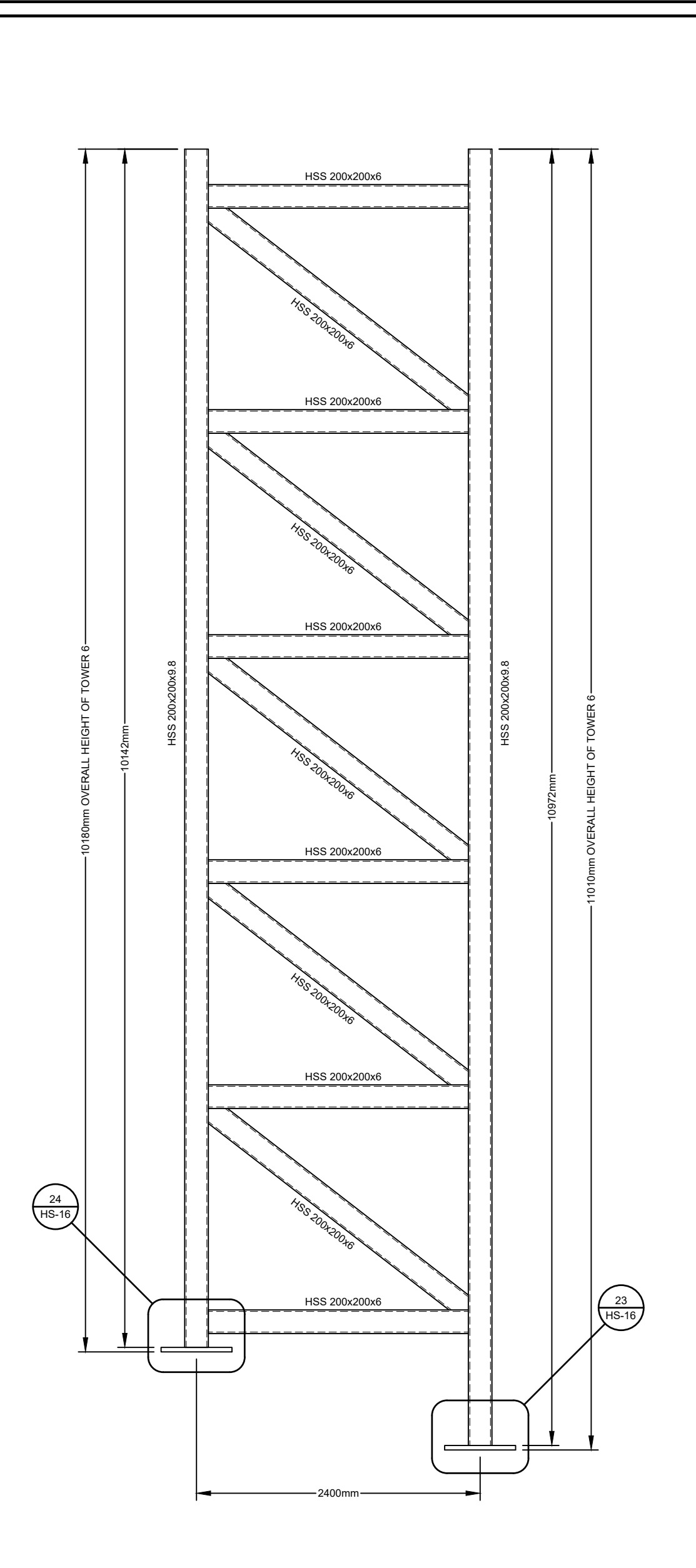
DETAIL 8: TOWER 4 SIDE ELEVATION  
SCALE: 1:40



DETAIL 9: TOWER 5 FRONT/REAR ELEVATION  
SCALE: 1:40



DETAIL 10: TOWER 5 SIDE ELEVATION  
SCALE: 1:40



DETAIL 11: TOWER 6 FRONT ELEVATION  
SCALE: 1:40

**CONCRETE NOTE:**

MINIMUM CONCRETE STRENGTH: 40 MPa  
FILTER CLOTH TO BE PLACED UNDER GRANULAR BASE (TYP)

**WELDING NOTES:**

1. HSS WELD:
- 1.1. 9mm THICK WALL
- 1.2. 6mm FILLET WELD, CONTINUOUS ALL SIDES
- 1.3. Z018 WELDING ROD

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O.B.C.	Krsmanovic, Gordana 15/May/2019
FIRE SERVICES	
O.B.C. (S)	



CHECKED BY:	FIRM NO:
D.S.	30361
DRAWN BY:	
B.B.	

Construction North

PROJECT LOCATION:  
YSL RESIDENCE  
385 YONGE STREET  
TORONTO, ON

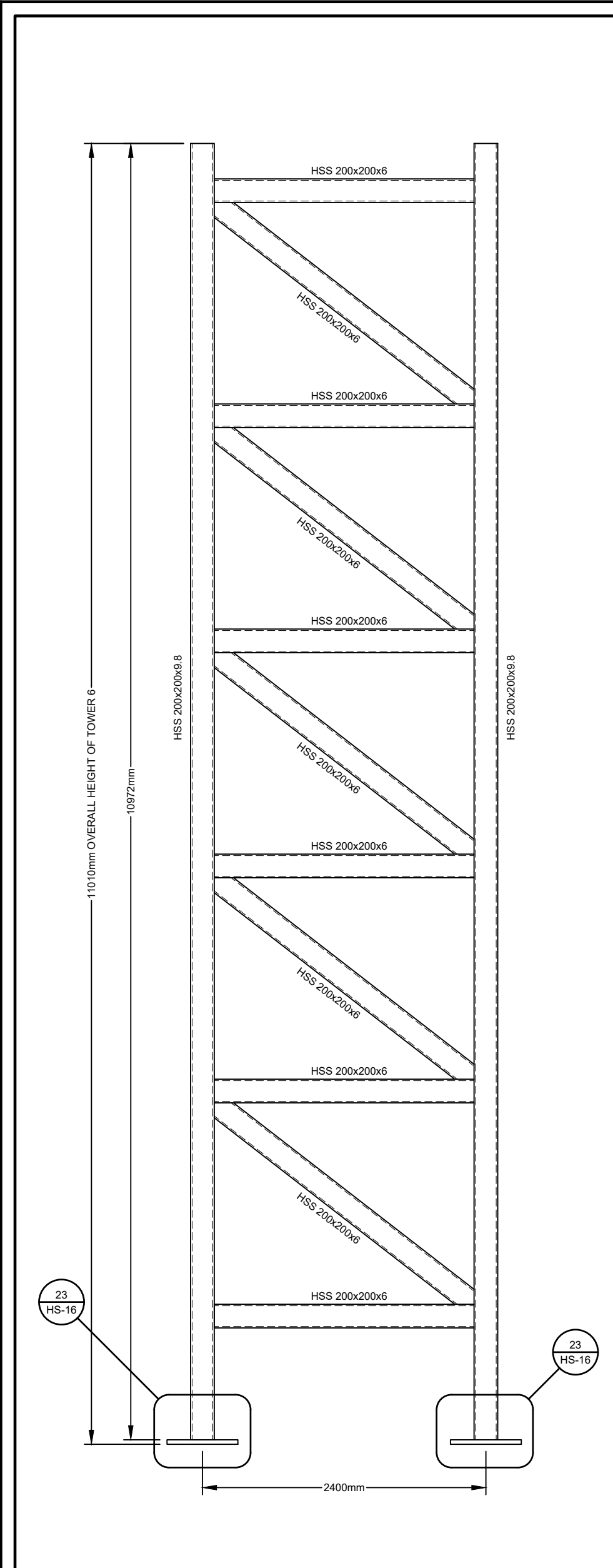
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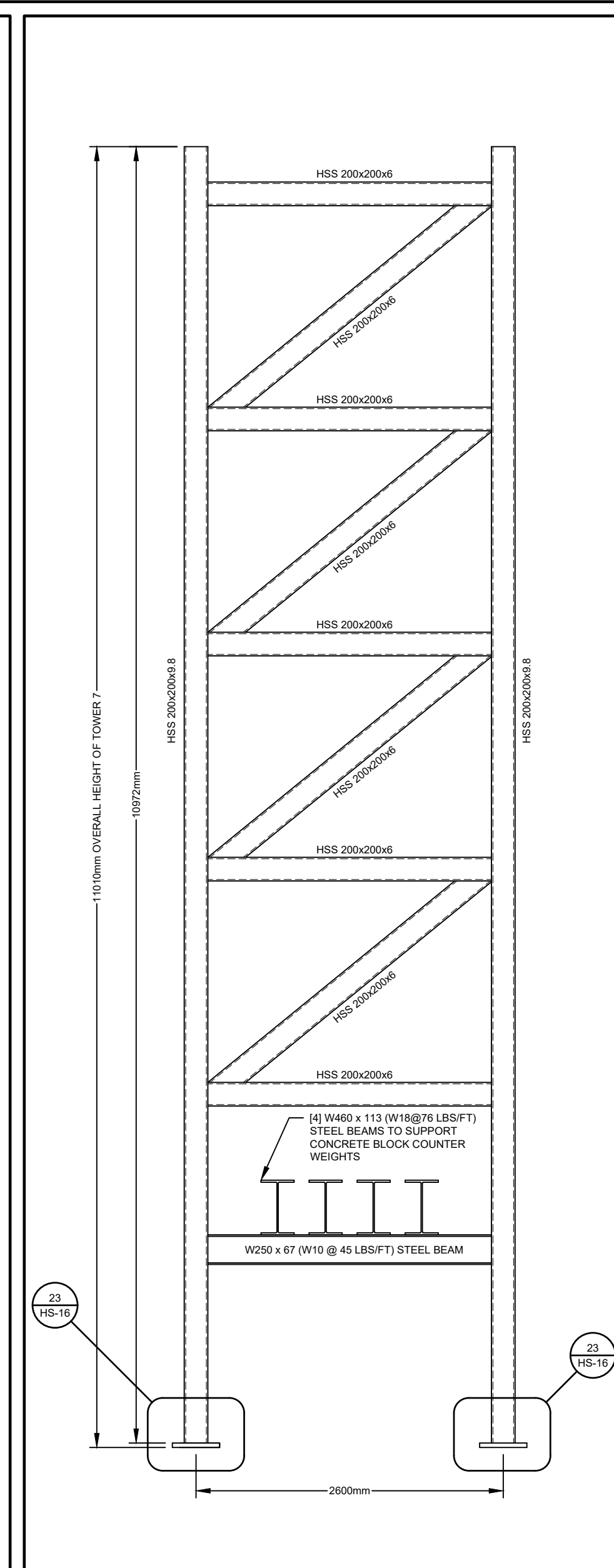
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Toronto, ON M5S 3C9 Canada  
entuitive.com

DRAWING TITLE:  
TOWER FRAME PLAN

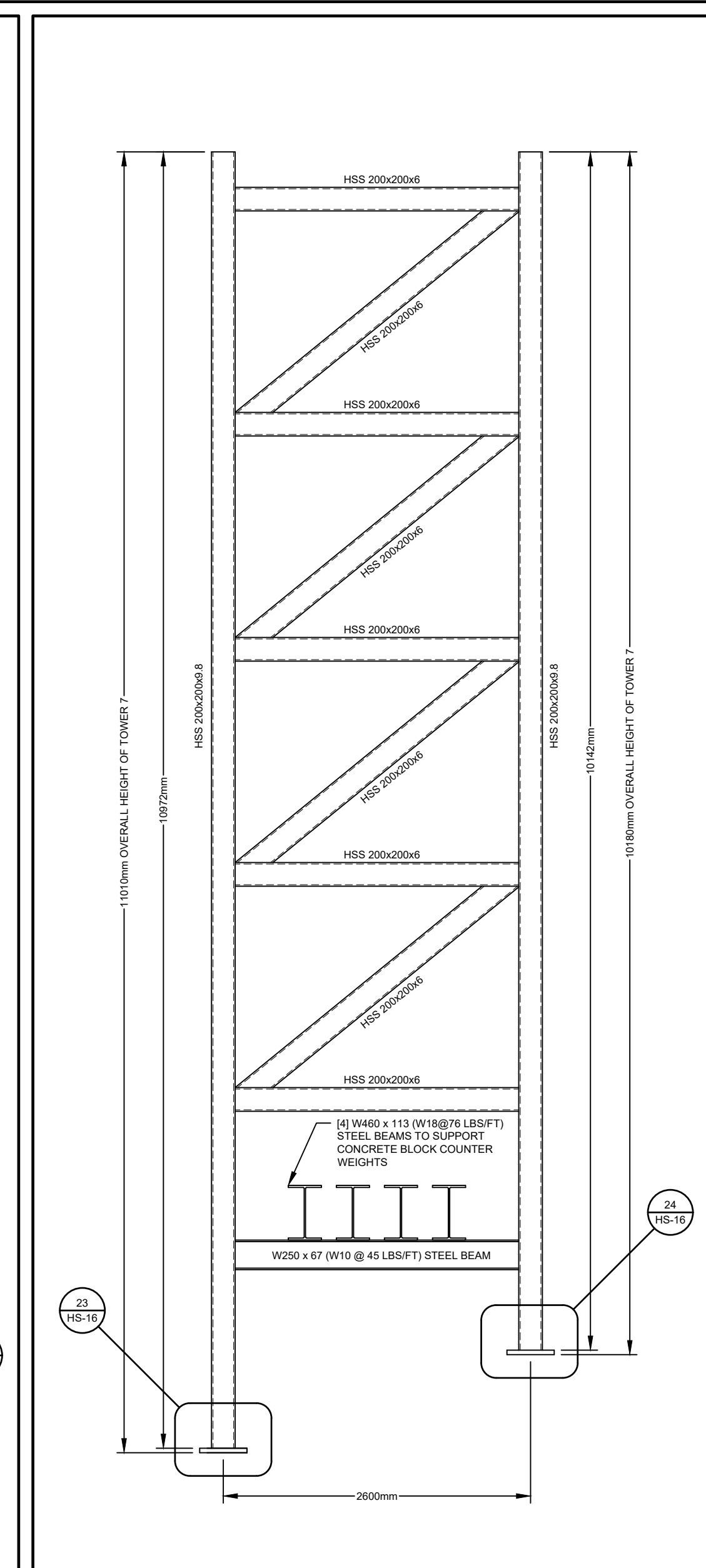
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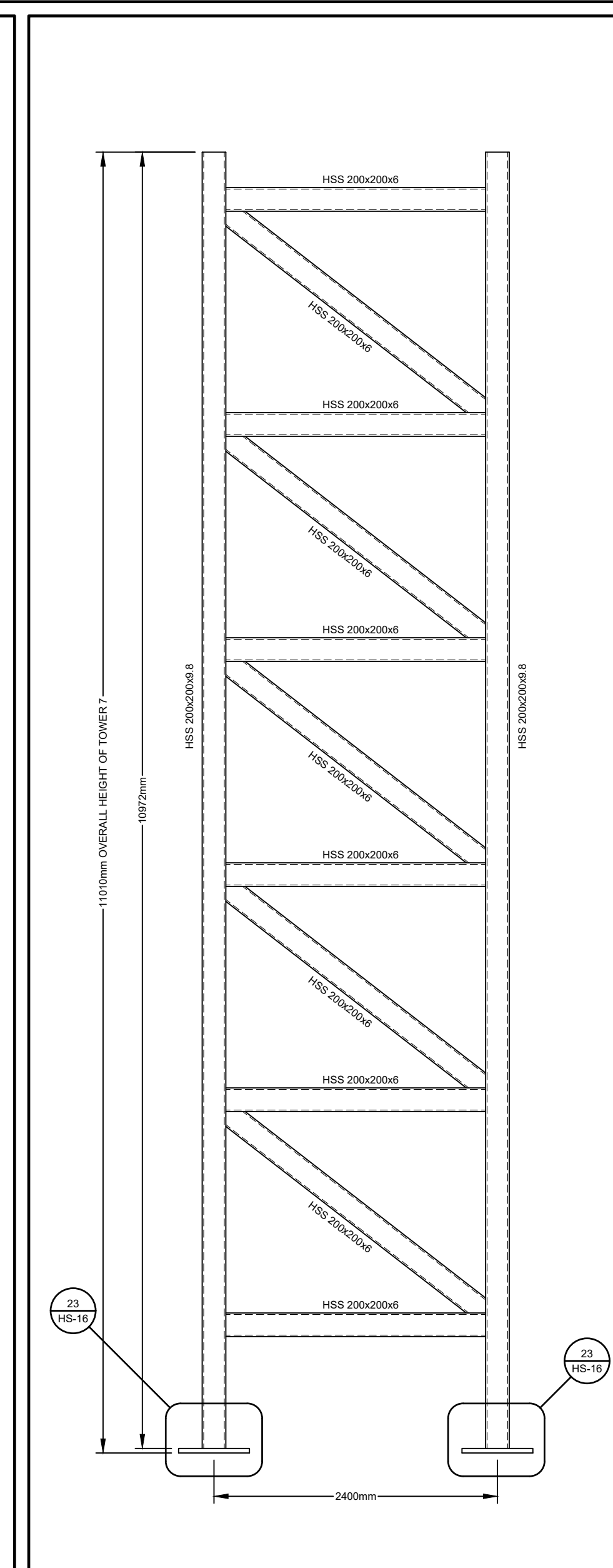
DETAIL 12: TOWER 6 REAR ELEVATION  
SCALE: 1:40



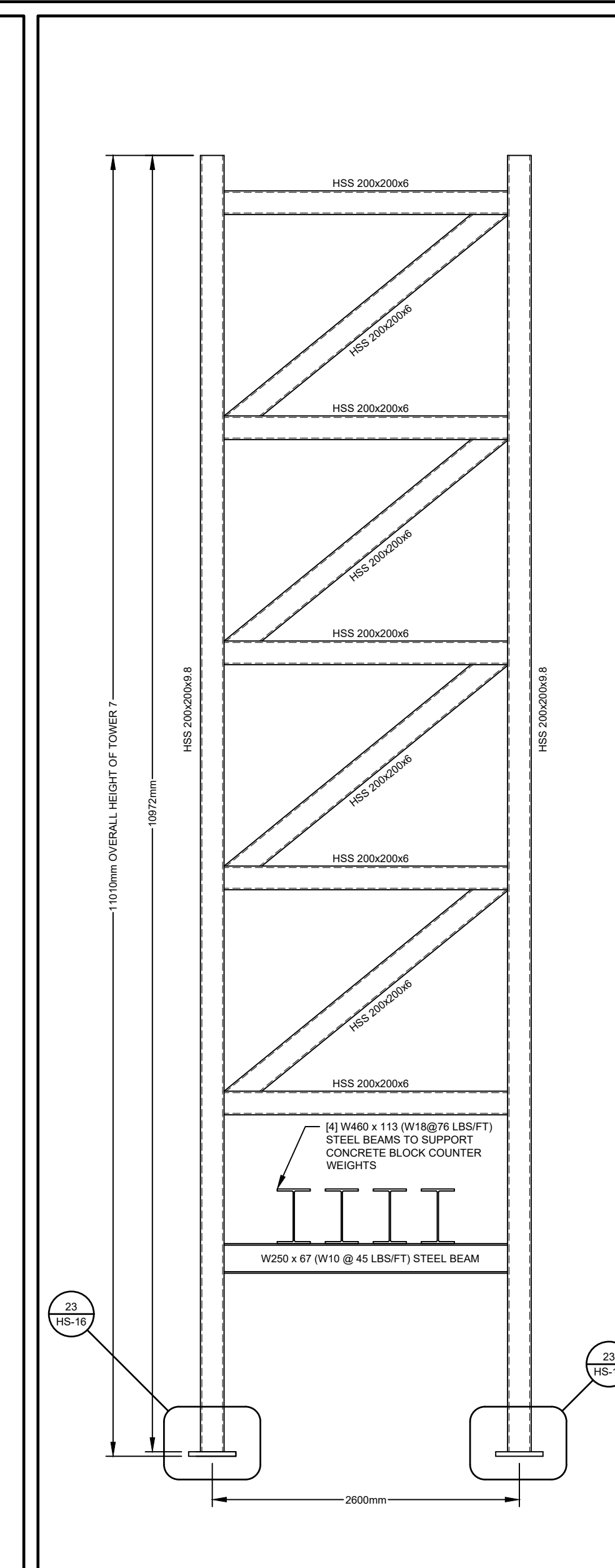
DETAIL 13: TOWER 6 SIDE ELEVATION 1  
SCALE: 1:40



DETAIL 14: TOWER 6 SIDE ELEVATION 2  
SCALE: 1:40



DETAIL 15: TOWER 7 FRONT/REAR ELEVATION  
SCALE: 1:40



DETAIL 16: TOWER 7 SIDE ELEVATION  
SCALE: 1:40

**CONCRETE NOTE:**  
MINIMUM CONCRETE STRENGTH: 40 MPa  
FILTER CLOTH TO BE PLACED UNDER GRANULAR BASE (TYP)

**WELDING NOTES:**  
1. HSS WELD:  
1.1. 9mm THICK WALL  
1.2. 6mm FILLET WELD, CONTINUOUS ALL SIDES  
1.3. 7018 WELDING ROD

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SECTION/DETAIL NUMBER  
DWG No. WHERE DETAILED

No.	Revision	Date
1	ISSUED FOR GENERAL REVIEW	30 MAY 2017
2	UPDATED AS PER COMMENTS	02 JUNE 2017
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4	ISSUED FOR BUILDING PERMIT	29 SEP 2018
5	ISSUED FOR TENDER	29 JAN 2019
6	RE-ISSUED FOR BUILDING PERMIT	04 MAR 2019

**Toronto Building**  
PERMIT REVIEWED FOR COMPLIANCE WITH THE ONTARIO BUILDING CODE

19 148484 BLD 00

ZONING	O.B.C.	Krsmanovic, Gordana	15/May/2019
FIRE SERVICES	O.B.C. (S)		



CHECKED BY: D.S.  
DRAWN BY: B.B.  
FIRM NO: 30361



PROJECT LOCATION:  
YSL RESIDENCE  
385 YONGE STREET  
TORONTO, ON

PROJECT DESCRIPTION:  
EXISTING HISTORICAL  
FACADE RETENTION

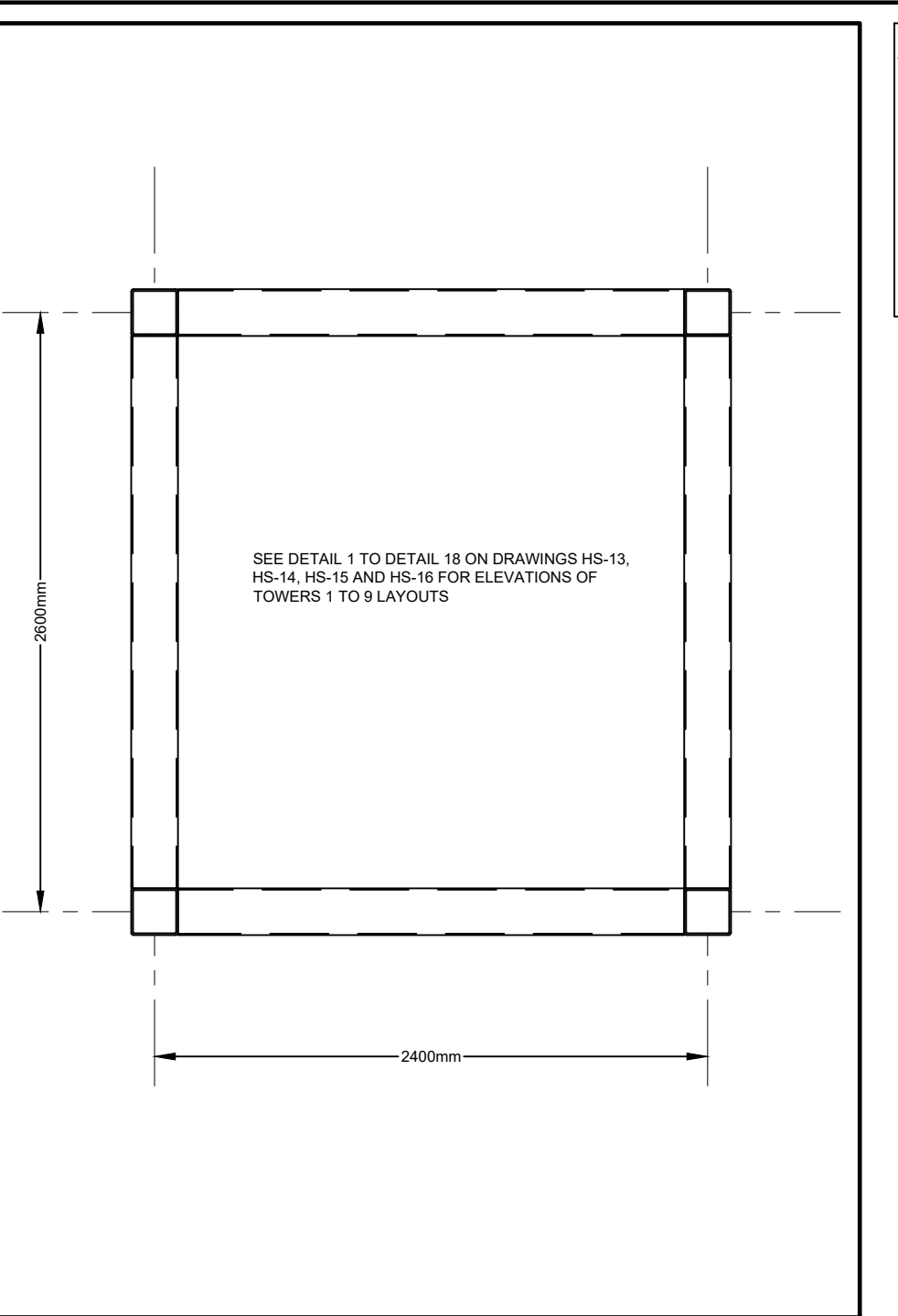
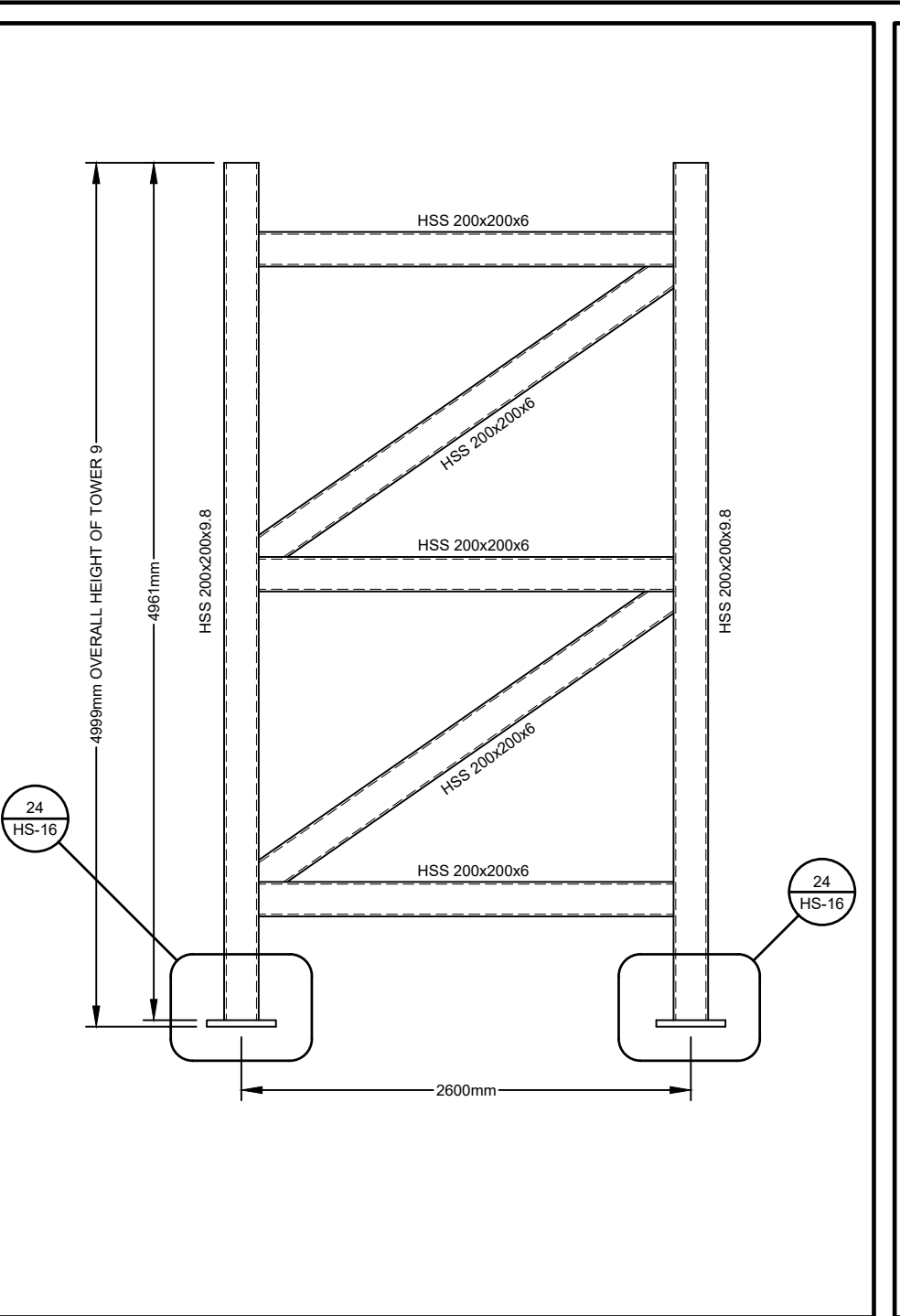
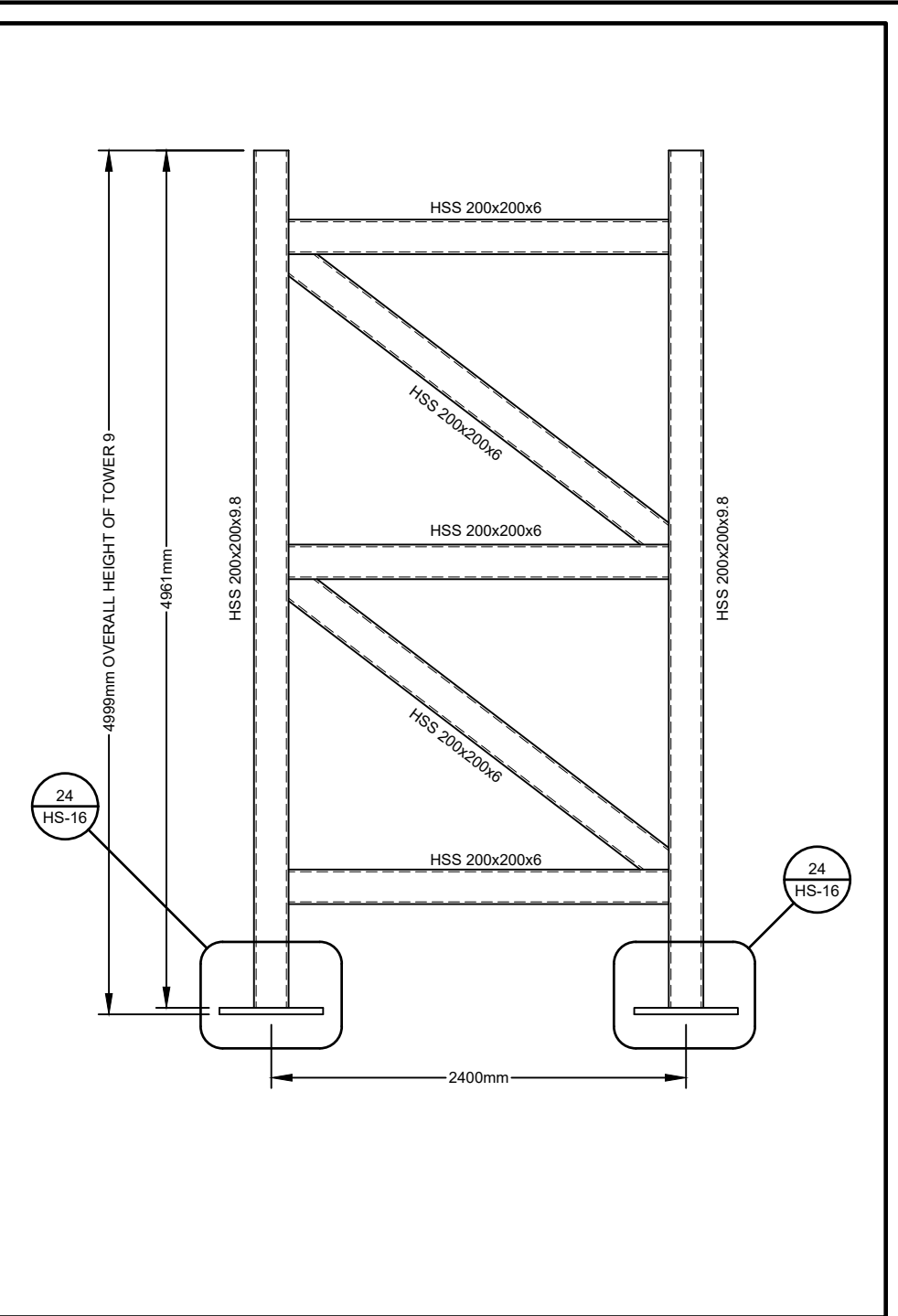
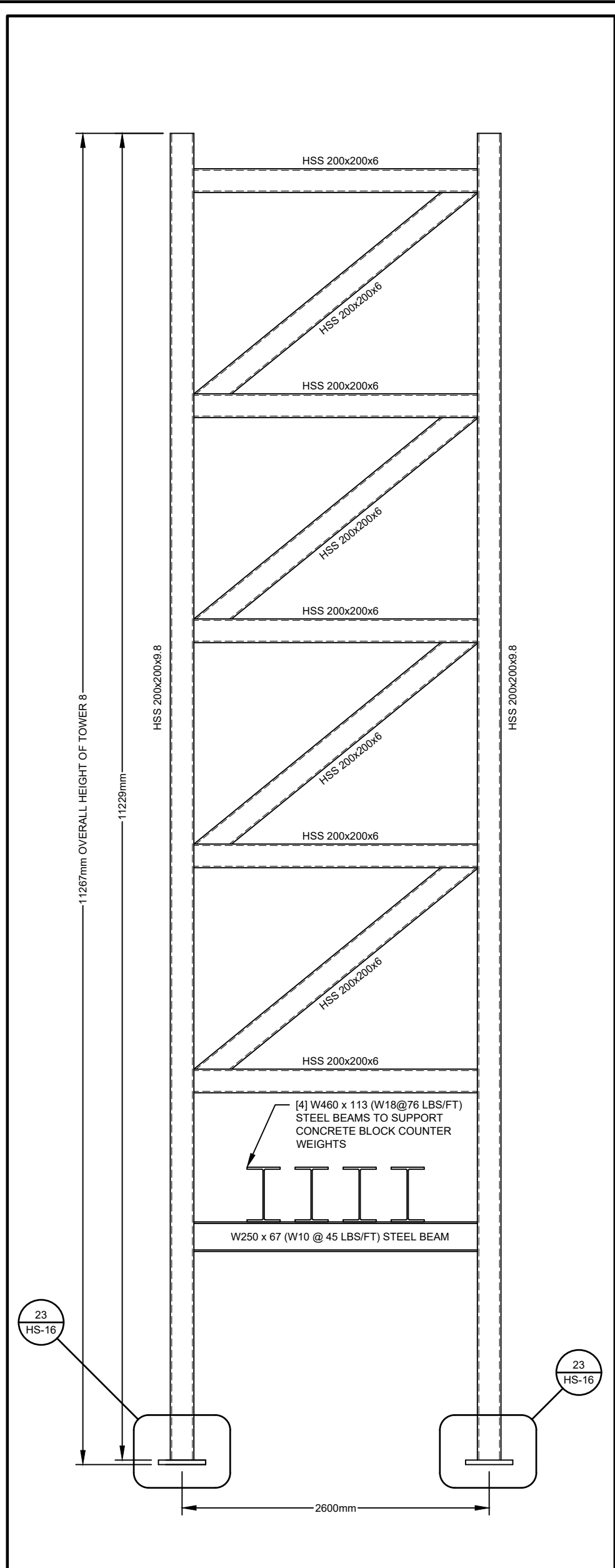
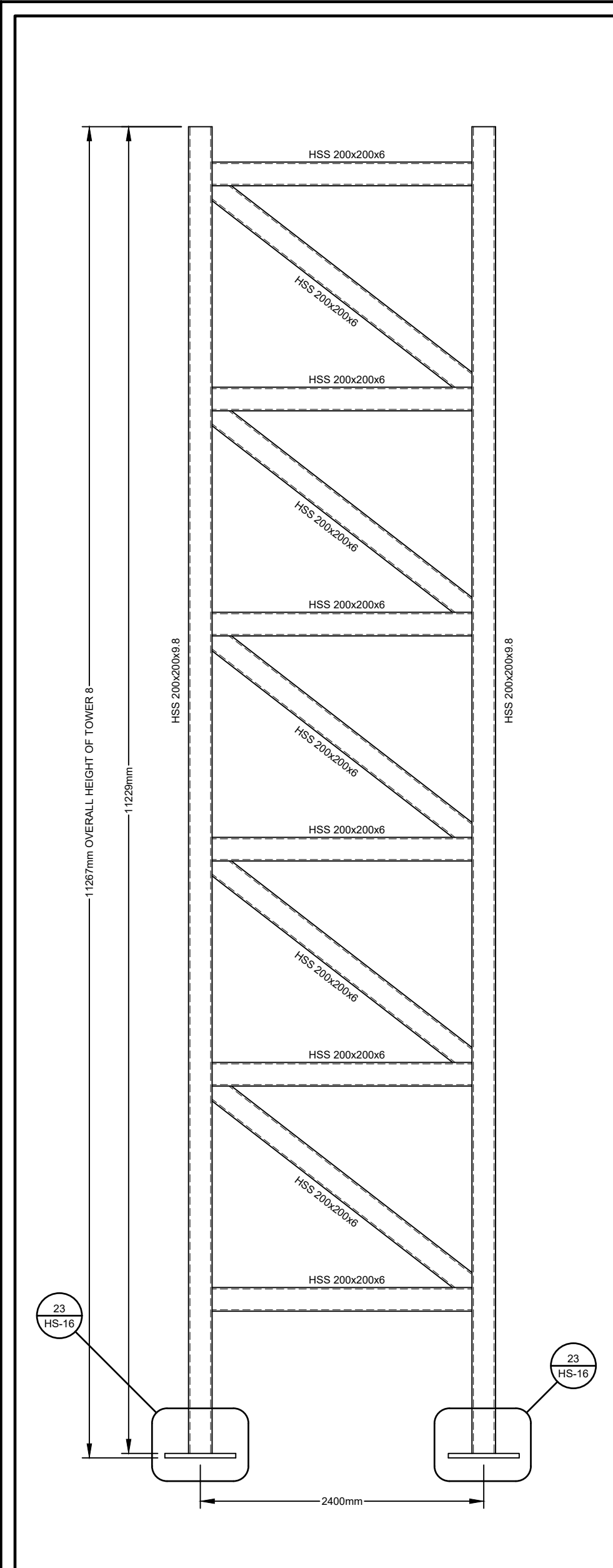
**Facet Group Inc.**  
Heritage Building Consultants,  
Engineering and Project Management  
716 - 228 Queens Quay West  
Toronto, Ontario M5J 2X1  
Tel: 416-409-0772 | Fax: 647-349-2453  
www.facetgroup.ca | neil@facetgroup.ca

David Seberras P. Eng.  
SEBERRAS PROFESSIONAL SERVICES LTD

**ENTUITIVE**  
Entuitive Corporation  
200 University Avenue, 7th Floor  
Toronto, ON M5H 3C9 Canada  
entuitive.com

DRAWING TITLE:  
TOWER FRAME PLAN

PROJECT NO: 201705  
SCALE: AS NOTED  
DRAWING NO: HS-15



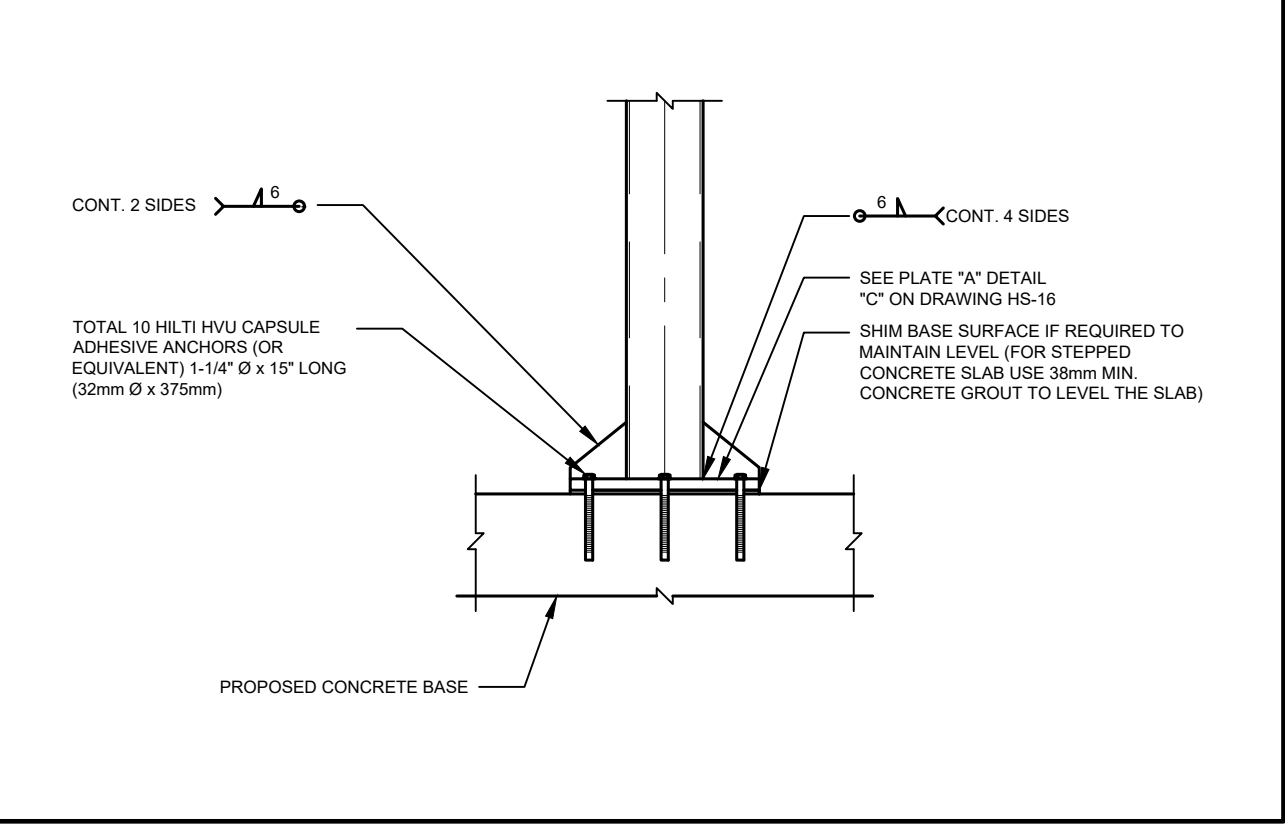
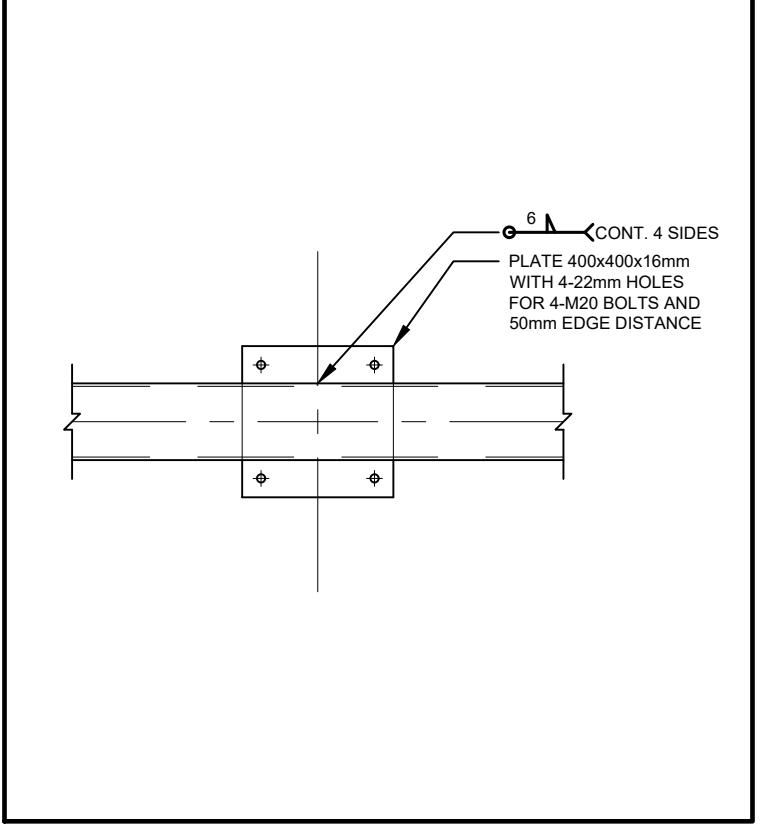
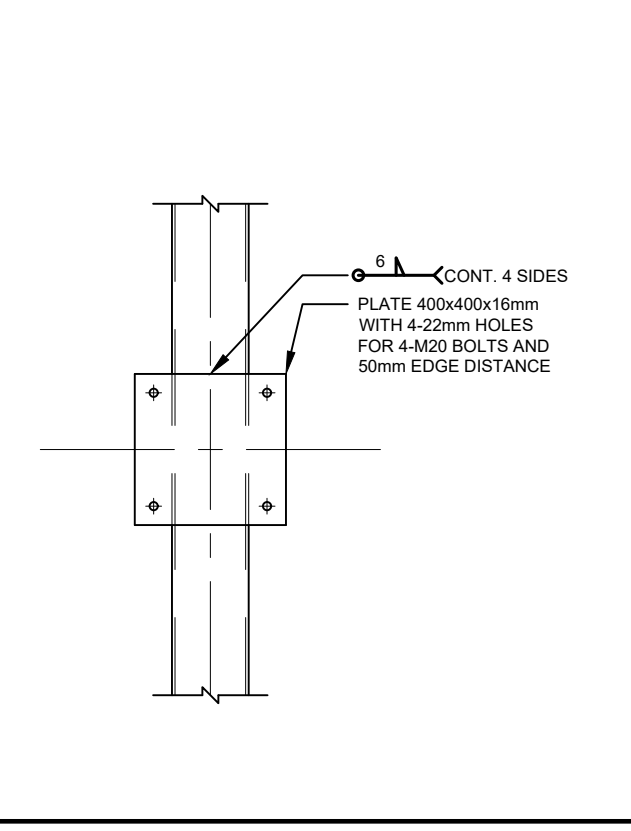
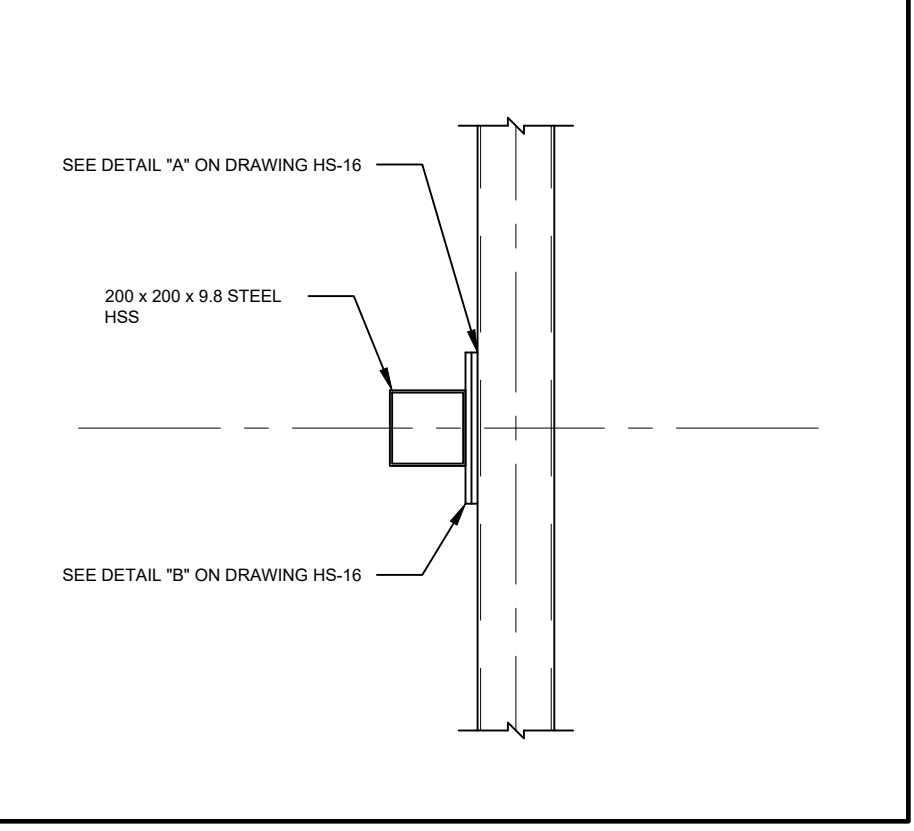
**CONCRETE NOTE:**  
 MINIMUM CONCRETE STRENGTH: 40 MPa  
 FILTER CLOTH TO BE PLACED UNDER GRANULAR BASE (TYP)

**WELDING NOTES:**  
 1. HSS WELD:  
 1.1. 9mm THICK WALL  
 1.2. 6mm FILLET WELD, CONTINUOUS ALL SIDES  
 1.3. 7018 WELDING ROD

DETAIL 19: TOWER 9 FRONT/REAR ELEVATION  
 SCALE: 1:40

DETAIL 20: TOWER 9 SIDE ELEVATION  
 SCALE: 1:40

DETAIL 21: TOWER OVERHEAD VIEW  
 SCALE: 1:30



DETAIL 22: TOWER FRAME TO HSS SUPPORT CONNECTION DETAIL  
 SCALE: 1:20

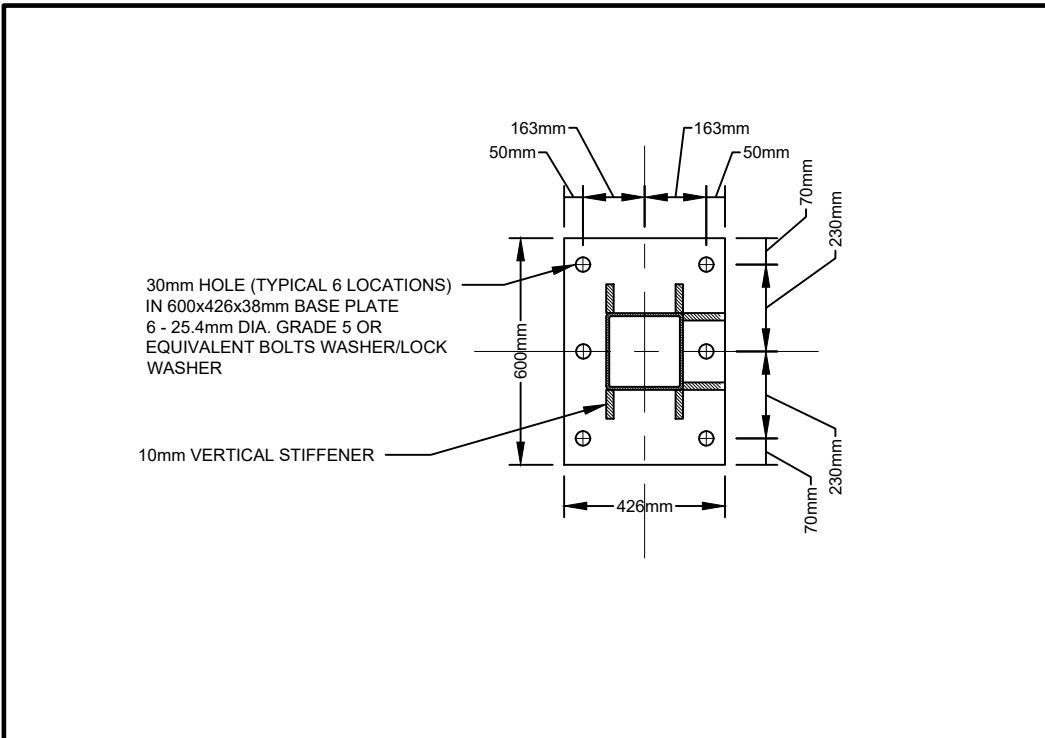
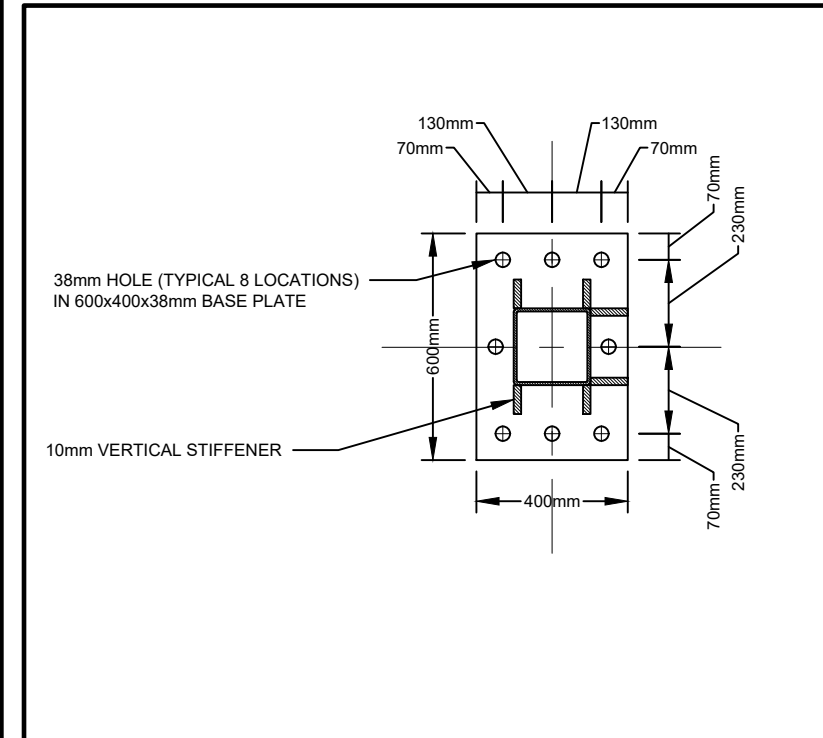
DETAIL A: PLATE CONNECTION  
 SCALE: 1:20

DETAIL B: PLATE CONNECTION  
 SCALE: 1:20

DETAIL 23: BASE PLATE TO CONCRETE BASE CONNECTION DETAIL  
 SCALE: 1:20

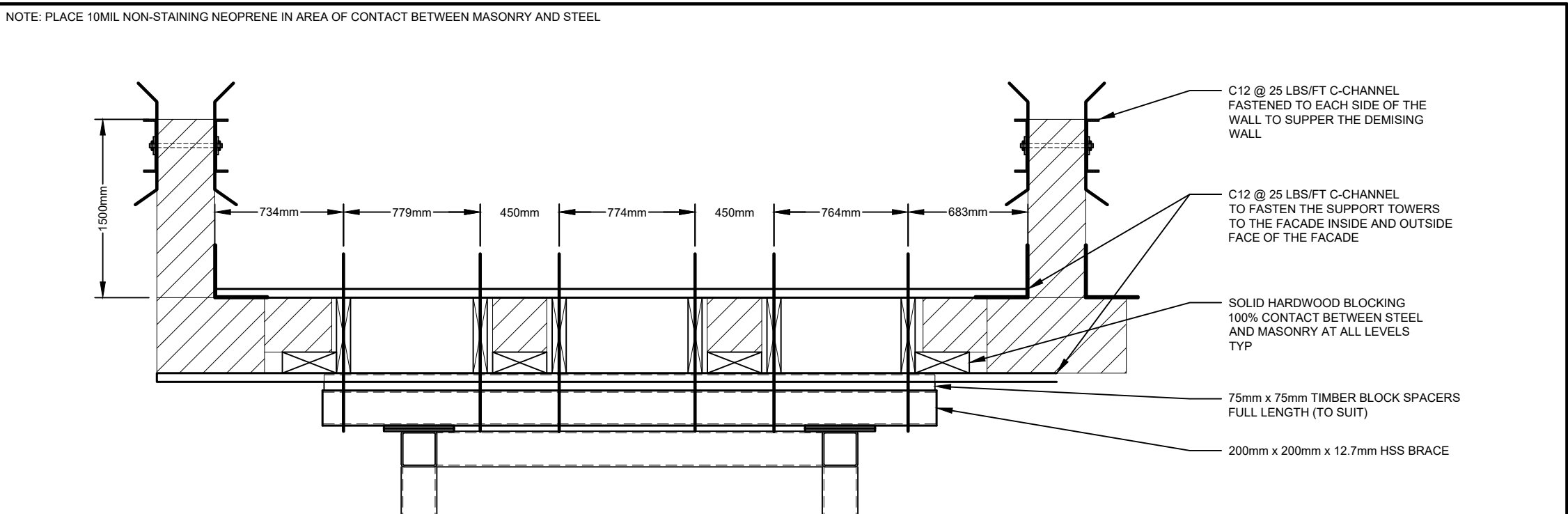
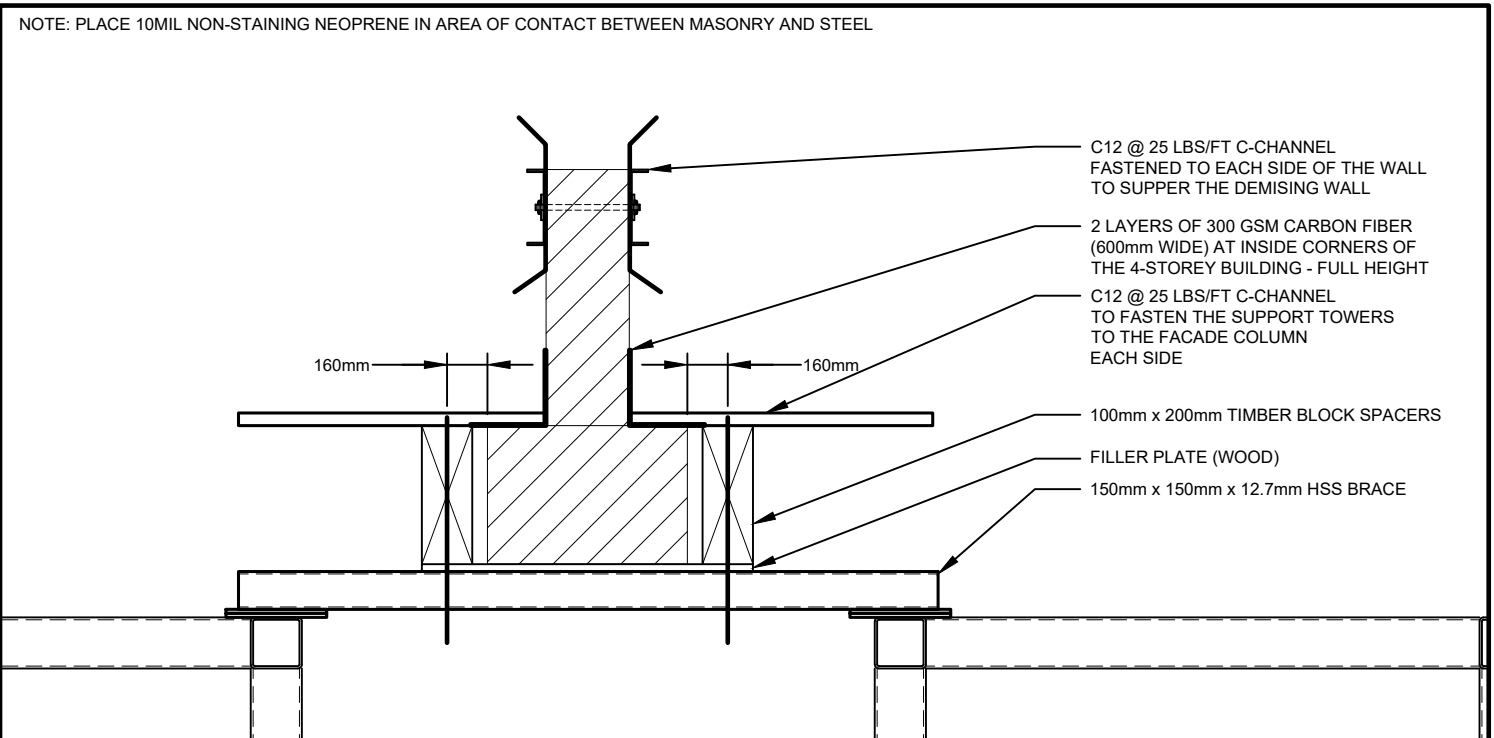
DETAIL 17: TOWER 8 FRONT/REAR ELEVATION  
 SCALE: 1:40

DETAIL 18: TOWER 8 SIDE ELEVATION  
 SCALE: 1:40



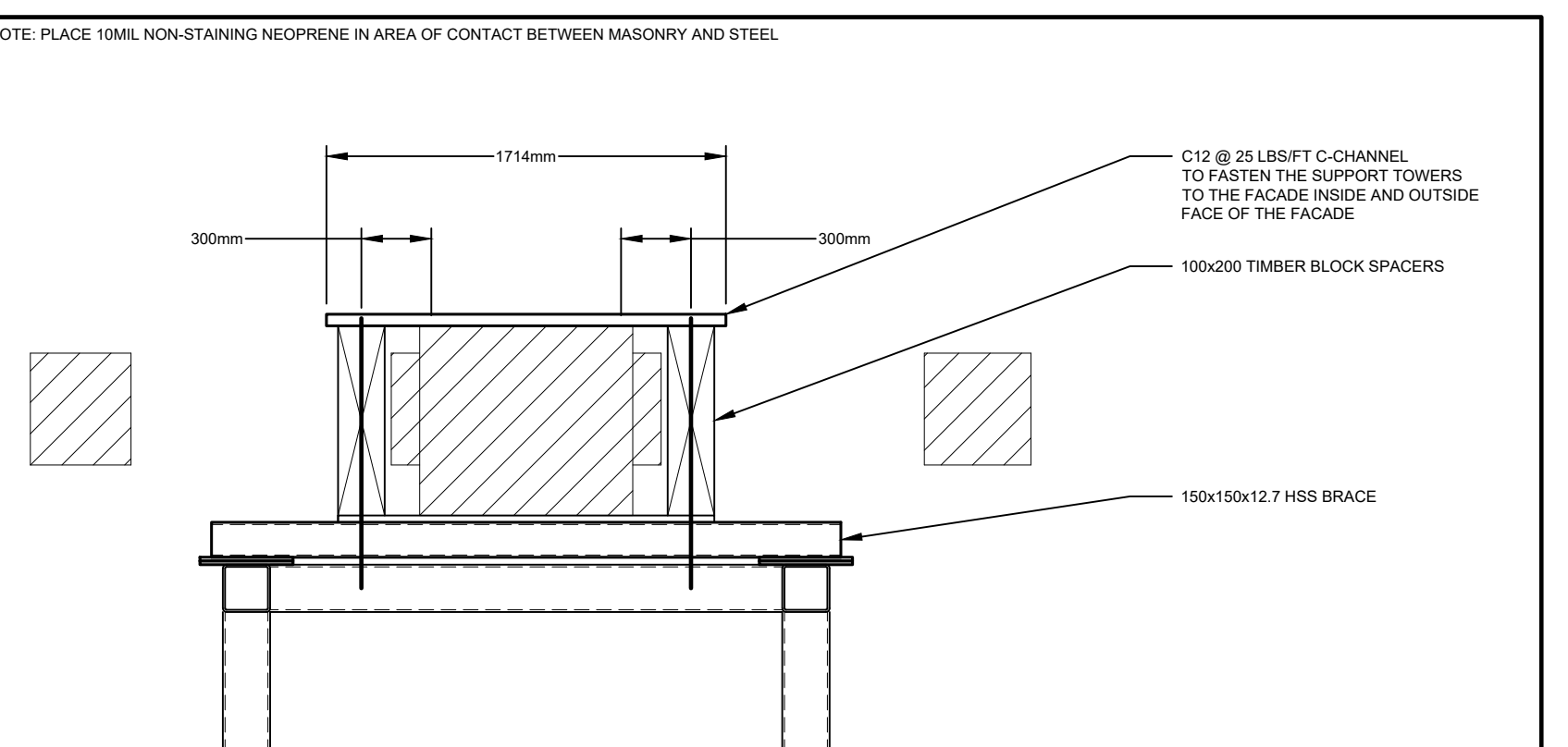
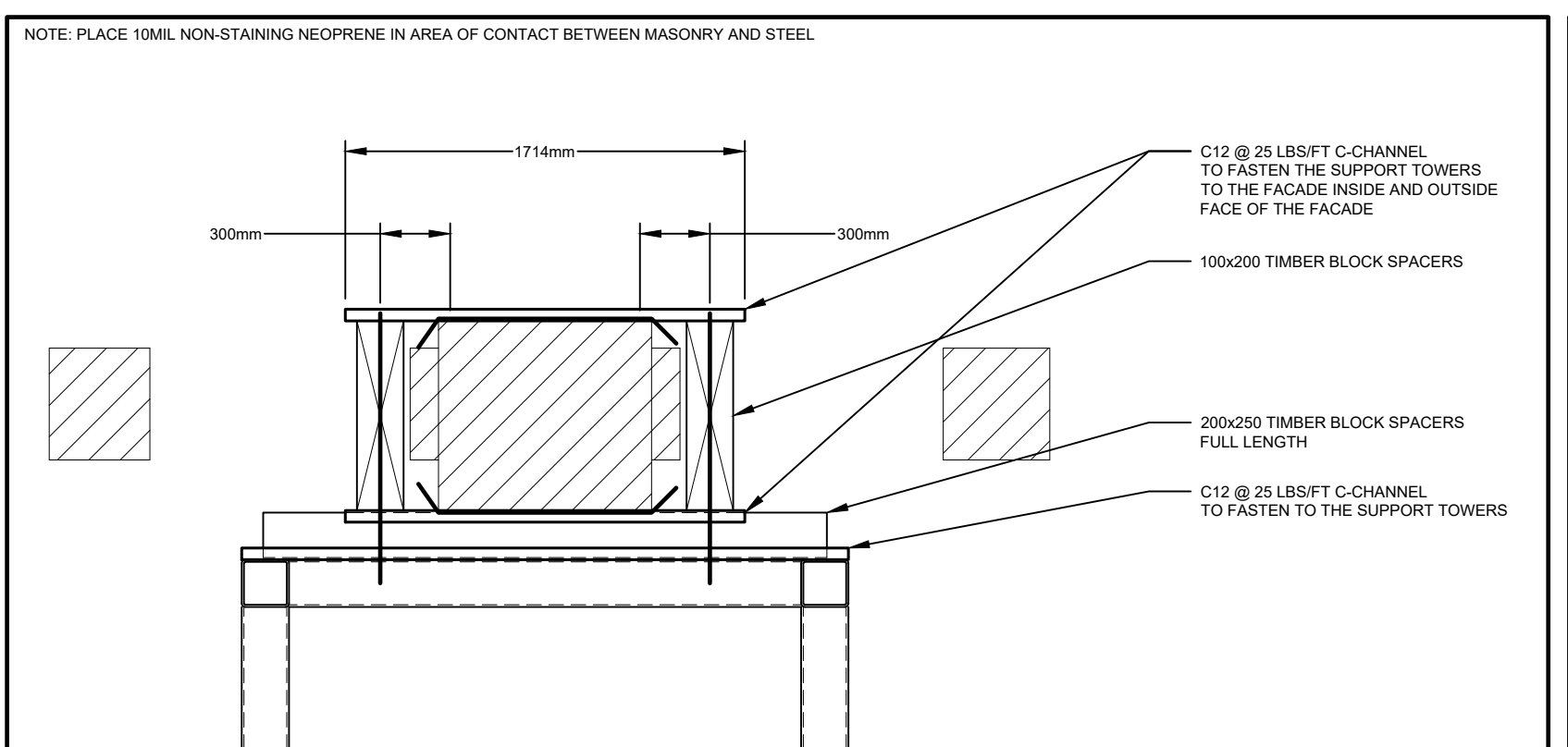
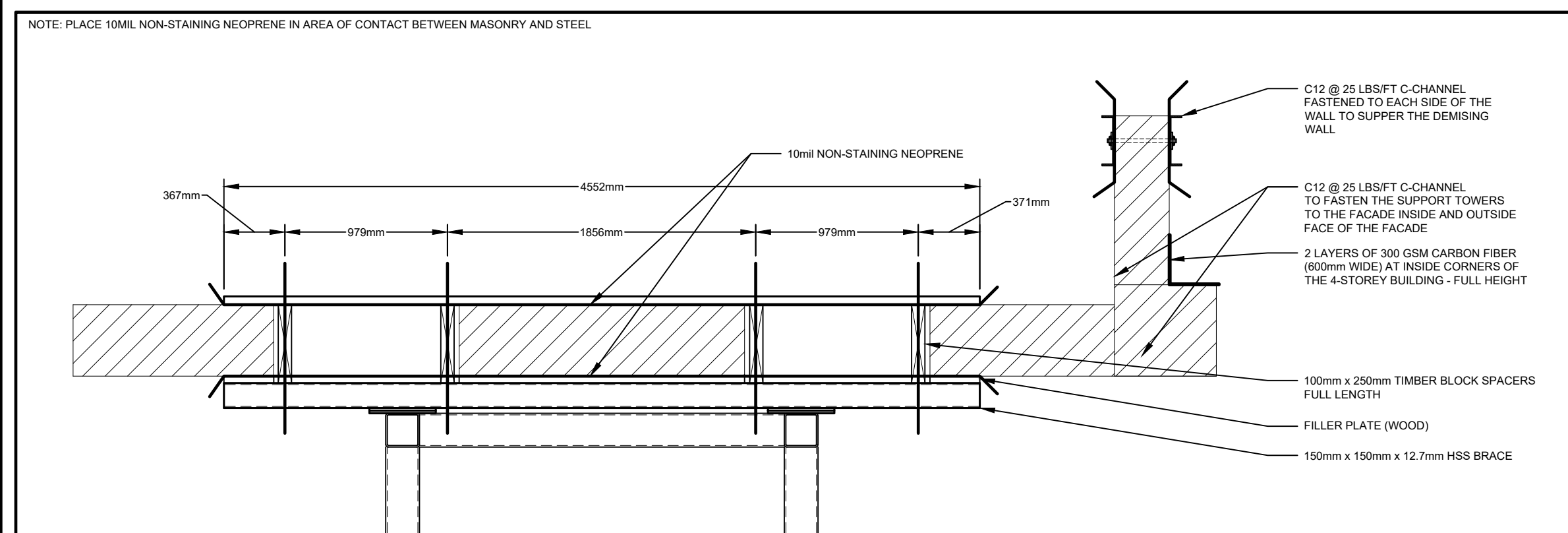
DETAIL C: PLATE \"A\" BASE PLATE  
 SCALE: 1:20

DETAIL 24: BASE PLATE AND CONNECTION DETAIL TO MAIN BEAMS  
 SCALE: 1:20



DETAIL 25: TOWER 1 CONNECTION 1 TO FACADE  
 SCALE: 1:30

DETAIL 26: TOWER 1 CONNECTION 2 TO FACADE  
 SCALE: 1:30



DETAIL 27: TOWER 2 CONNECTION 1 TO FACADE  
 SCALE: 1:30

DETAIL 28: TOWER 3, 4, 5, 6, 7 AND 8 CONNECTION 1 TO FACADE  
 SCALE: 1:30

DETAIL 29: TOWER 3, 4, 5, 6, 7 AND 8 CONNECTION 2 TO FACADE  
 SCALE: 1:30

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ZONING	O.B.C.	PERMIT REVIEWED FOR COMPLIANCE WITH THE ONTARIO BUILDING CODE
19 148484 BLD 00	Krsmanovic, Gordana	15/May/2019

0 B.C. (S)

SEAL:

**TORONTO Building**

PERMIT REVIEWED FOR COMPLIANCE WITH THE ONTARIO BUILDING CODE

19 148484 BLD 00

0 B.C. (S)

SEAL:

**PROFESSIONAL ENGINEER**  
 D.W. SEBERRAS  
 41385014  
 04MAY2019  
 PROVINCE OF ONTARIO

CHECKED BY: D.S.	FIRM NO: 30361
DRAWN BY: B.B.	

Construction North

PROJECT LOCATION:  
 YSL RESIDENCE  
 385 YONGE STREET  
 TORONTO, ON

PROJECT DESCRIPTION:  
 EXISTING HISTORICAL  
 FACADE RETENTION

**Facet Group Inc.**

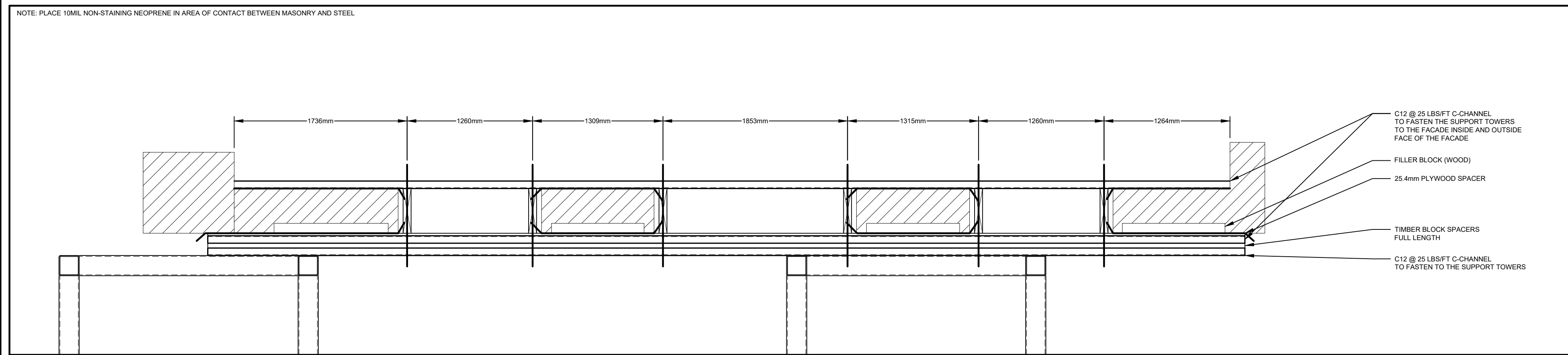
Heritage Building Consultants,  
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716 - 228 Queens Quay West  
 Toronto, Ontario M5J 2X1  
 Tel: 416-409-0772 | Fax: 416-349-2453  
 www.facetgroup.ca | neil@facetgroup.ca

David Seberas P. Eng.  
 SEBERRAS PROFESSIONAL SERVICES LTD

**ENTUITIVE**  
 Corporation  
 200 University Avenue, 7th Floor  
 Toronto, ON M5H 3G9 Canada  
 entuitive.com

PROJECT NO: 201705	DRAWING NO: HS-16
SCALE: AS NOTED	

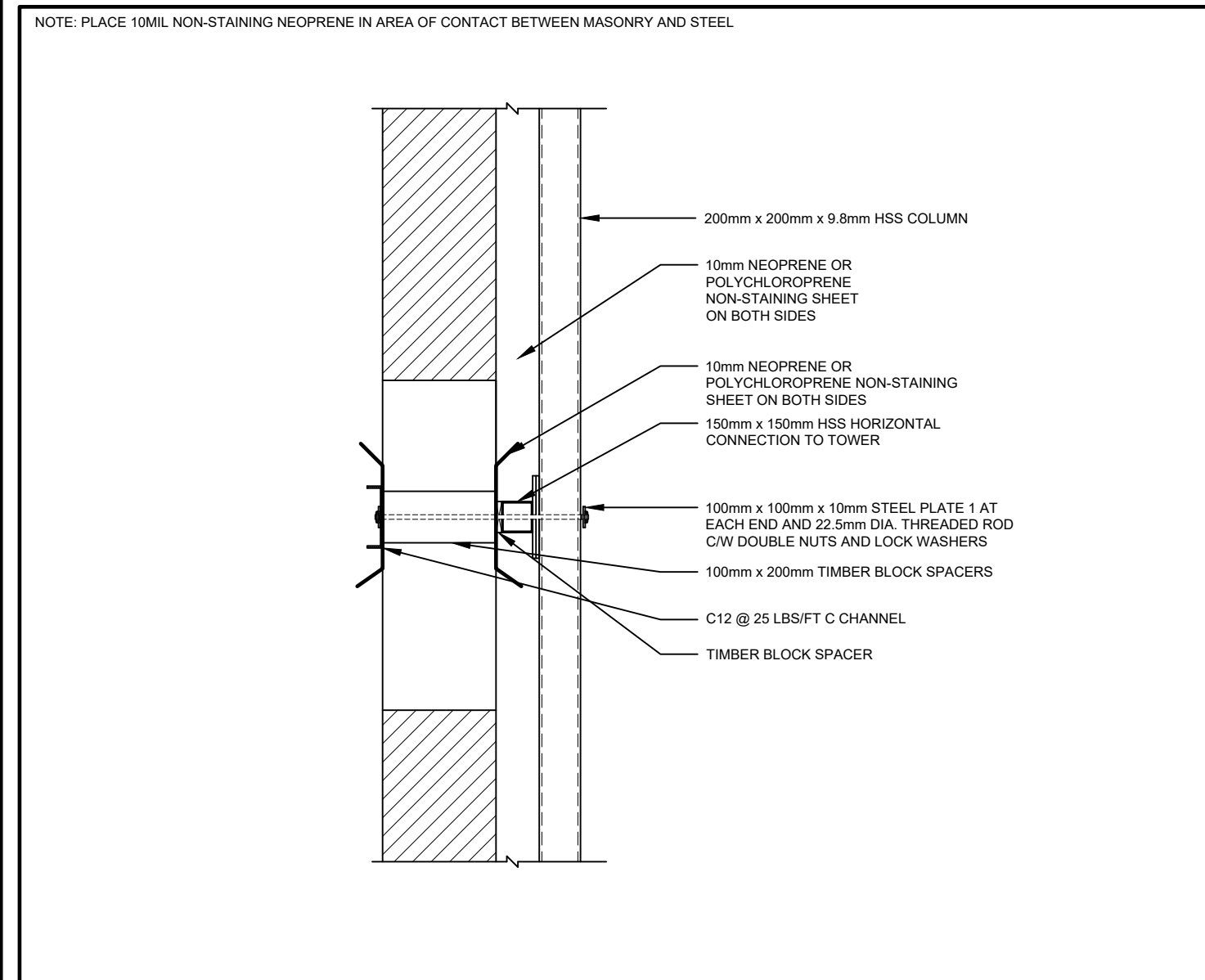


DETAIL 30: TOWER 9 CONNECTION TO FACADE

SCALE: 1:30

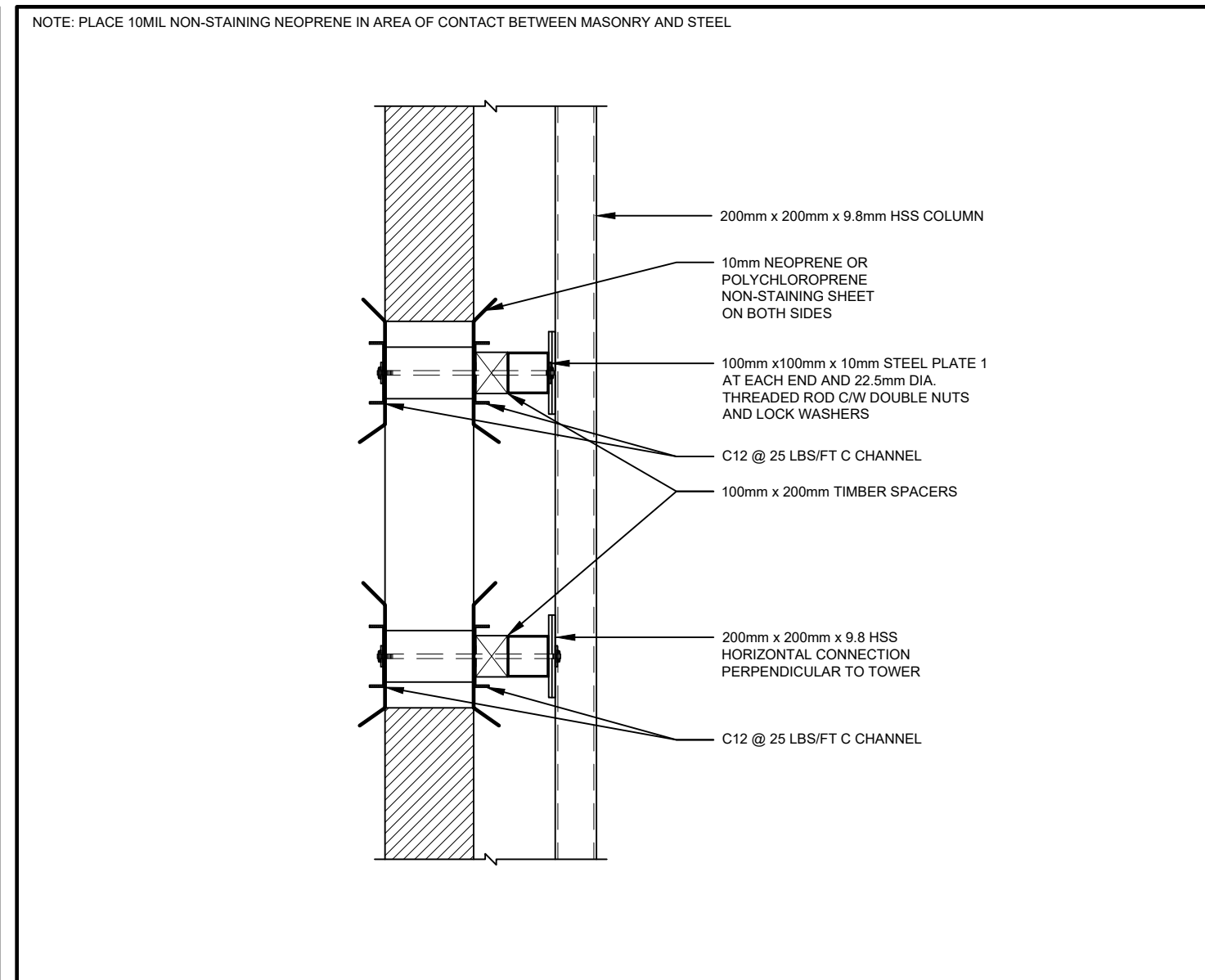
**CONCRETE NOTE:**  
 MINIMUM CONCRETE STRENGTH: 40 MPa  
 FILTER CLOTH TO BE PLACED UNDER GRANULAR BASE (TYP)

**WELDING NOTES:**  
 1. HSS WELD:  
 1.1. 8mm THICK WALL  
 1.2. 6mm FILLET WELD, CONTINUOUS ALL SIDES  
 1.3. 7019 WELDING ROD



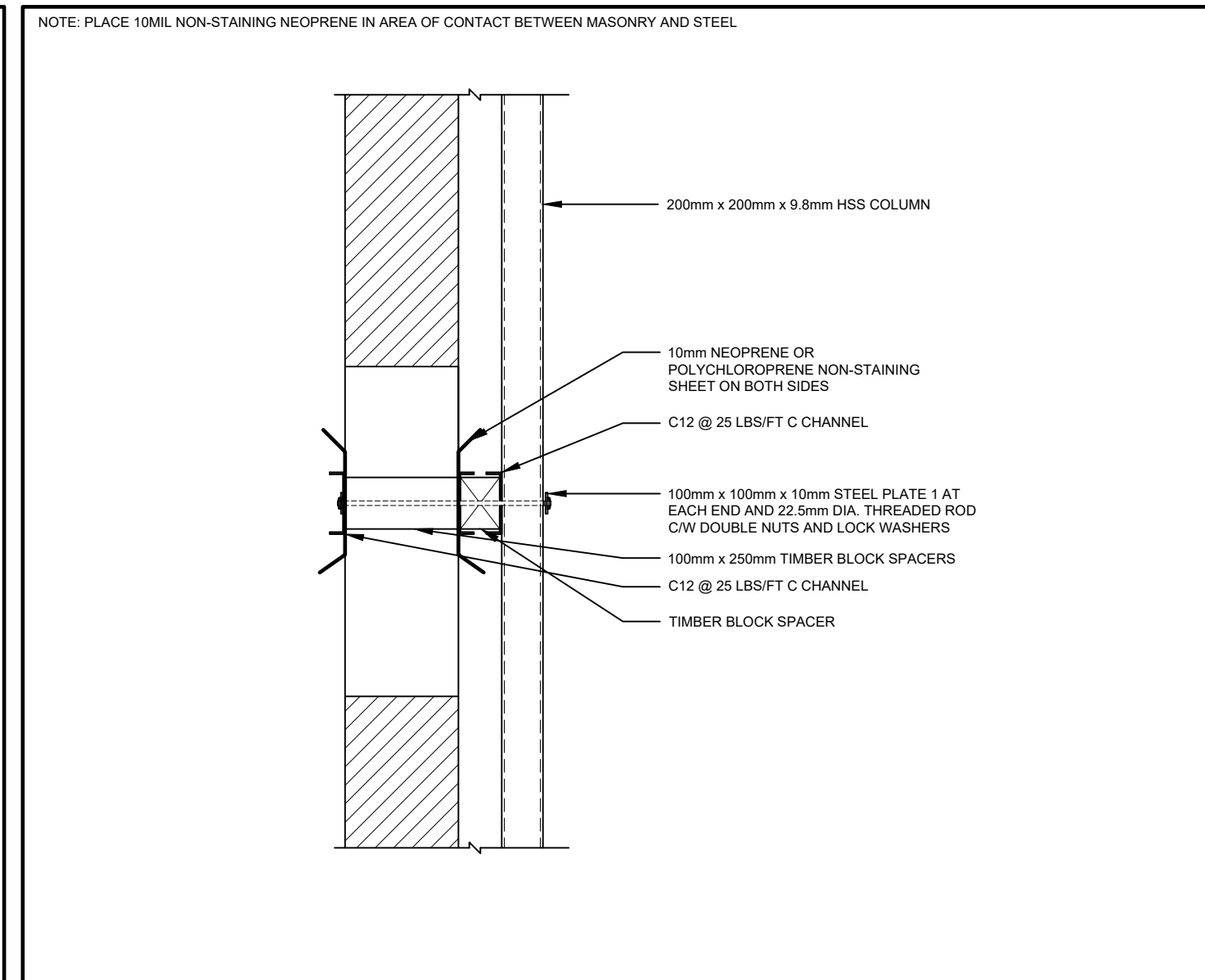
DETAIL 31: TOWER 1 AND 2 CONNECTION 1 TO FACADE CROSS SECTION

SCALE: 1:30



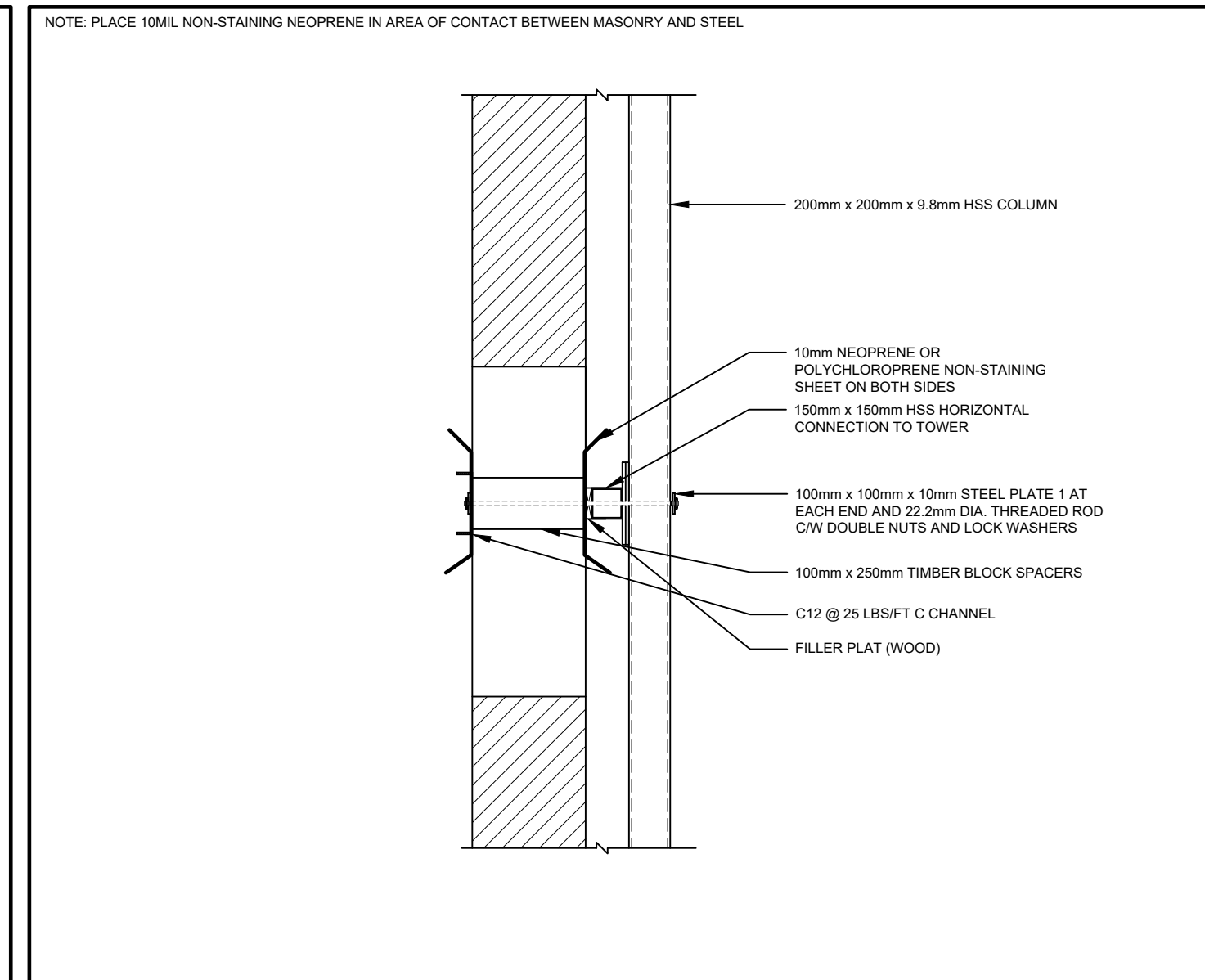
DETAIL 32: TOWER 1 CONNECTION 2 TO FACADE CROSS SECTION

SCALE: 1:30



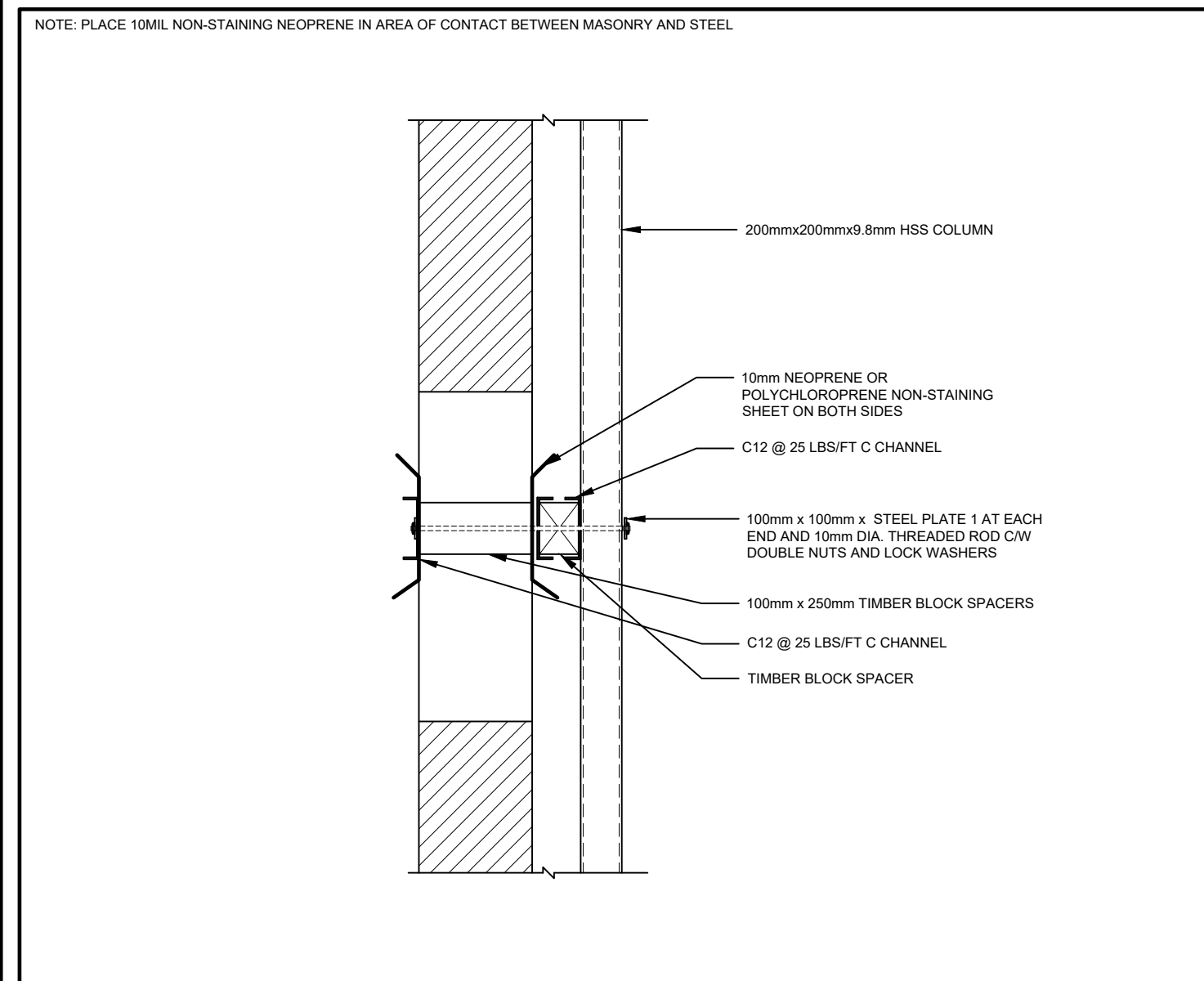
DETAIL 33: TOWER 3,4,5,6,7 AND 8 CONNECTION 1 TO FACADE CROSS SECTION

SCALE: 1:30



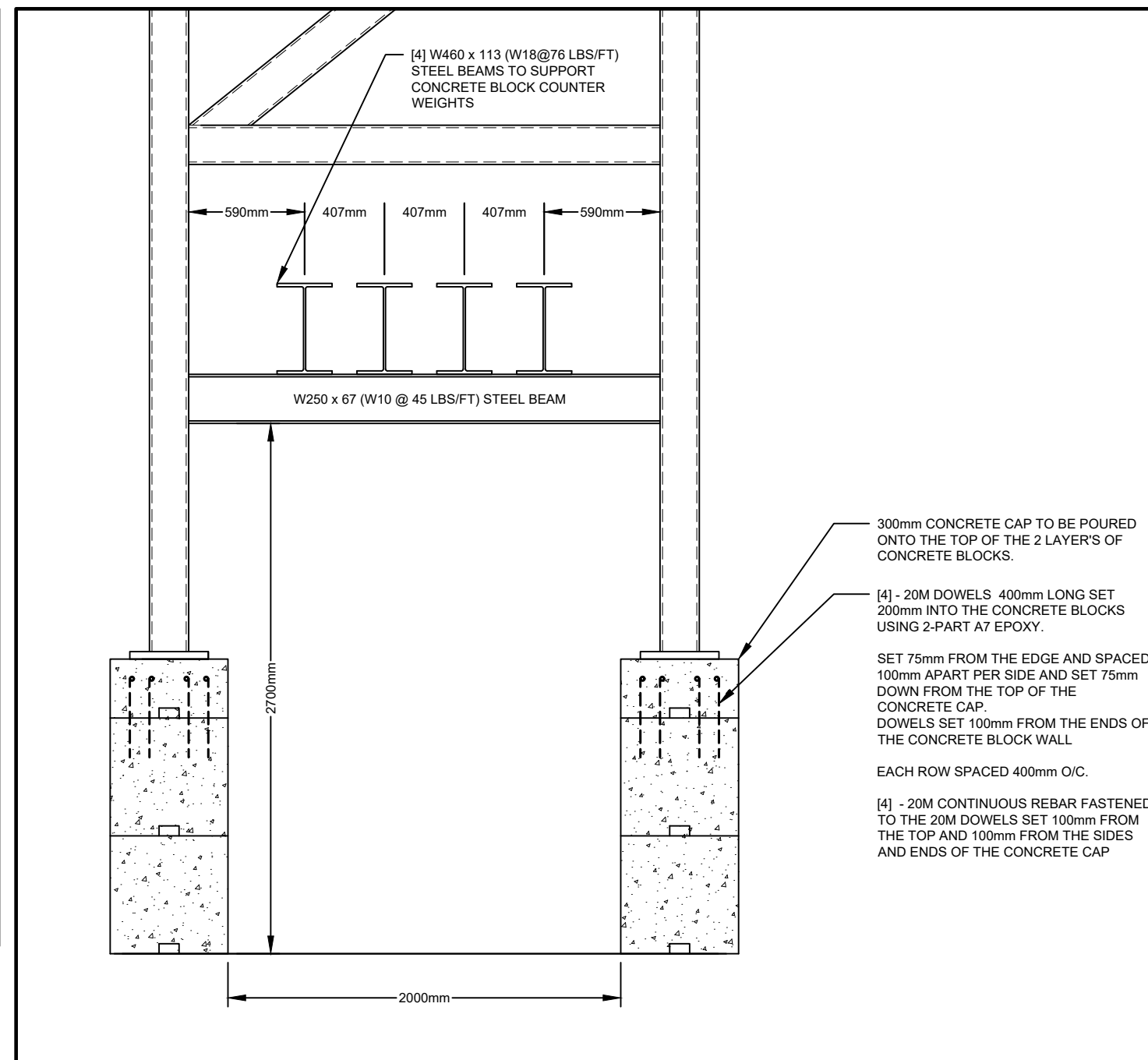
DETAIL 34: TOWER 3,4,5,6,7 AND 8 CONNECTION 2 TO FACADE CROSS SECTION

SCALE: 1:30



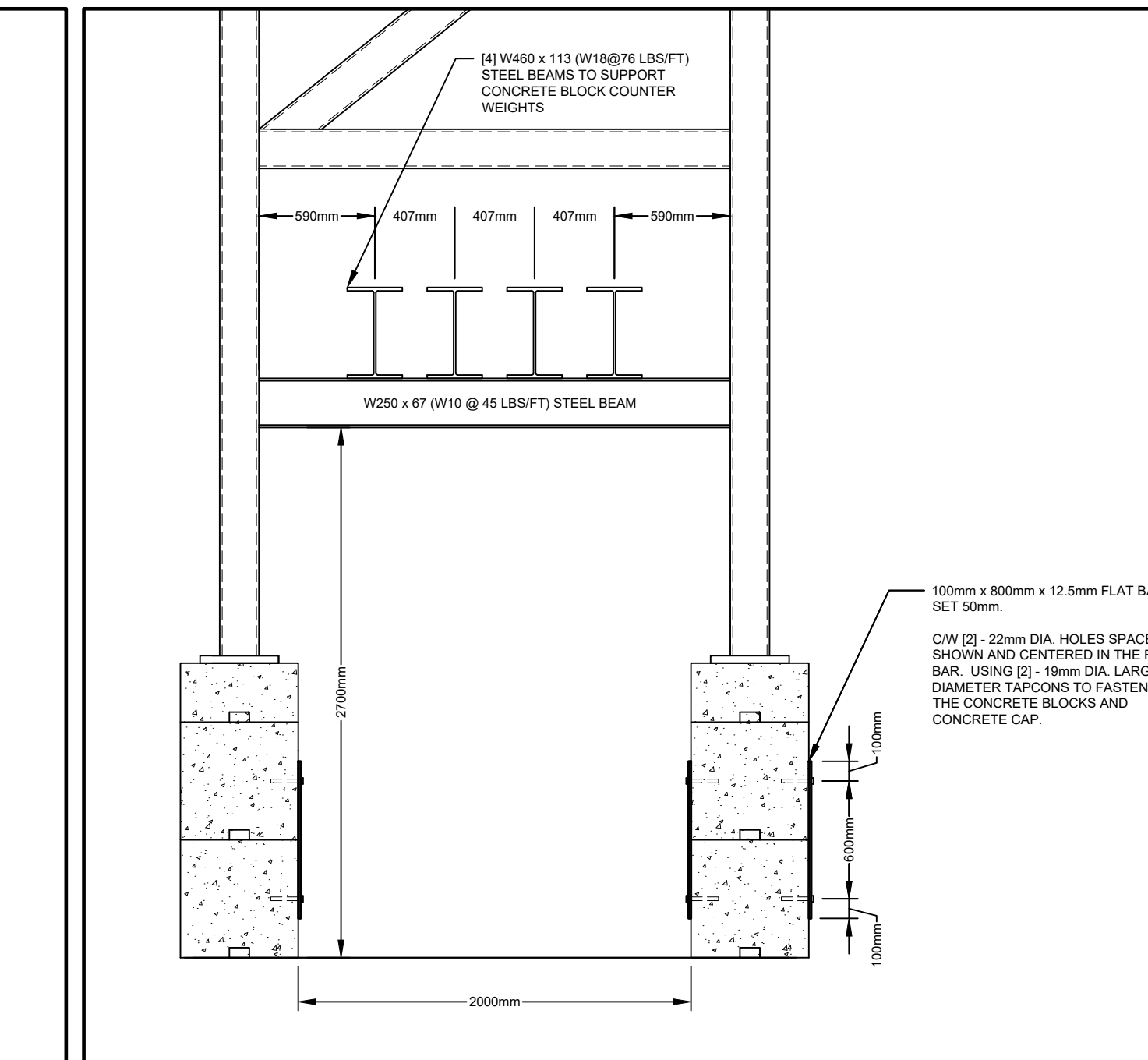
DETAIL 35: TOWER 9 CONNECTION TO FACADE CROSS SECTION

SCALE: 1:30



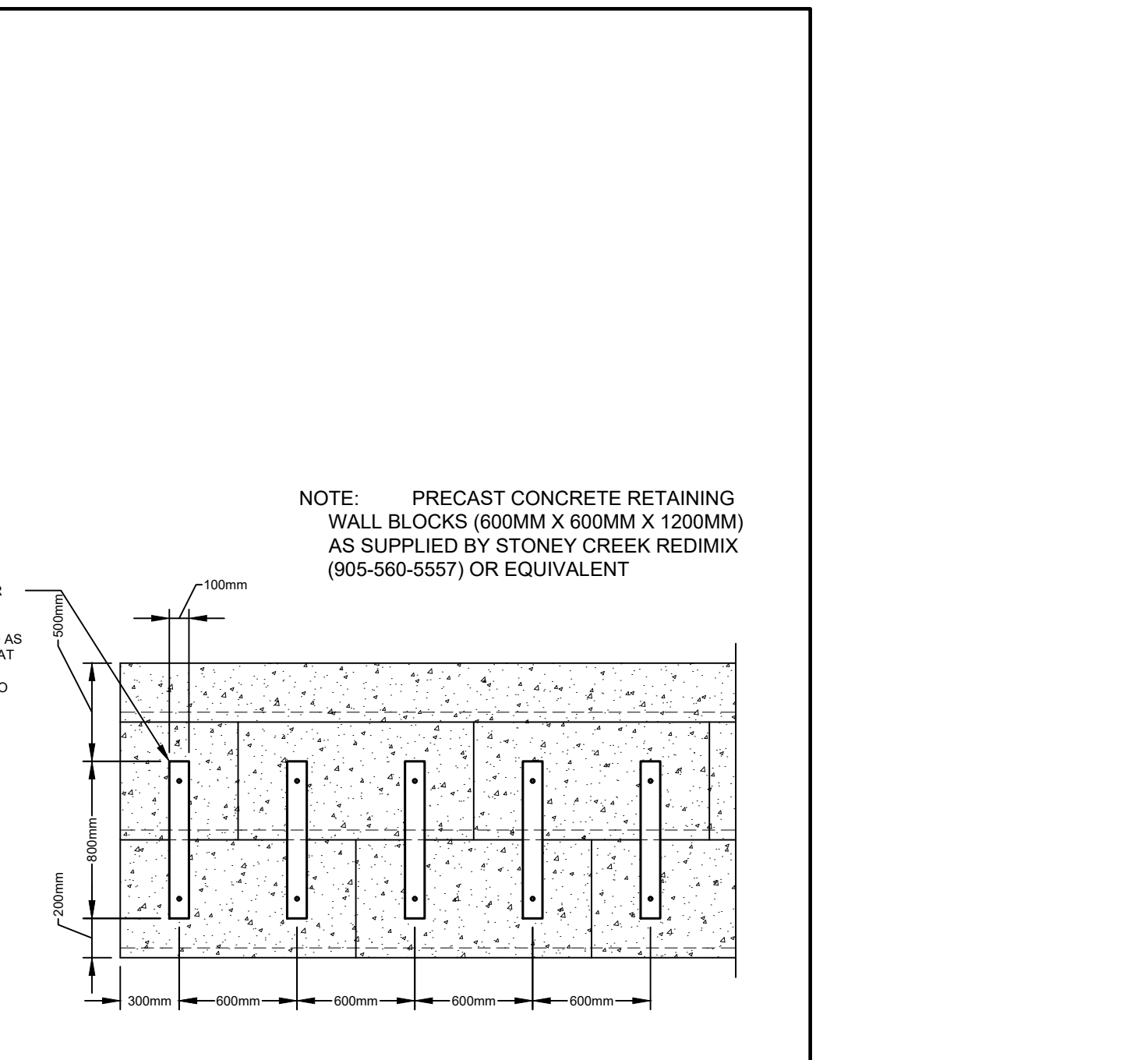
DETAIL 36: CONCRETE CAP TO CONCRETE BLOCK FASTENING DETAIL

SCALE: 1:30



DETAIL 37: STRAPPING CONNECTION AND PLACEMENT DETAIL

SCALE: 1:30



DETAIL 38: PRECAST CONCRETE RETAINING WALL BLOCKS

SCALE: 1:30

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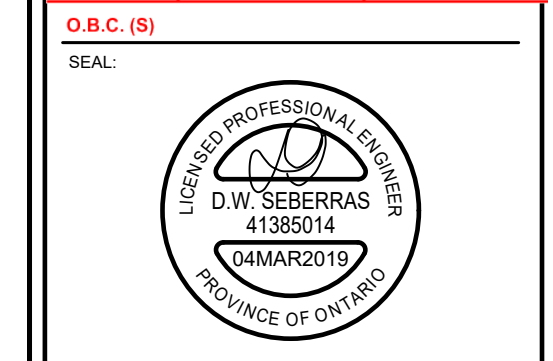
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SECTION/DETAIL NUMBER	
DWG No. WHERE DETAILED	

19 148484 BLD 00

ZONING	
O.B.C.	Krsnanovic, Gordana 15/May/2019
FIRE SERVICES	
O.B.C. (S)	



CHECKED BY:	FIRM NO:
D.S.	30361
DRAWN BY:	
B.B.	



PROJECT LOCATION:  
 YSL RESIDENCE  
 385 YONGE STREET  
 TORONTO, ON

PROJECT DESCRIPTION:  
 EXISTING HISTORICAL  
 FACADE RETENTION

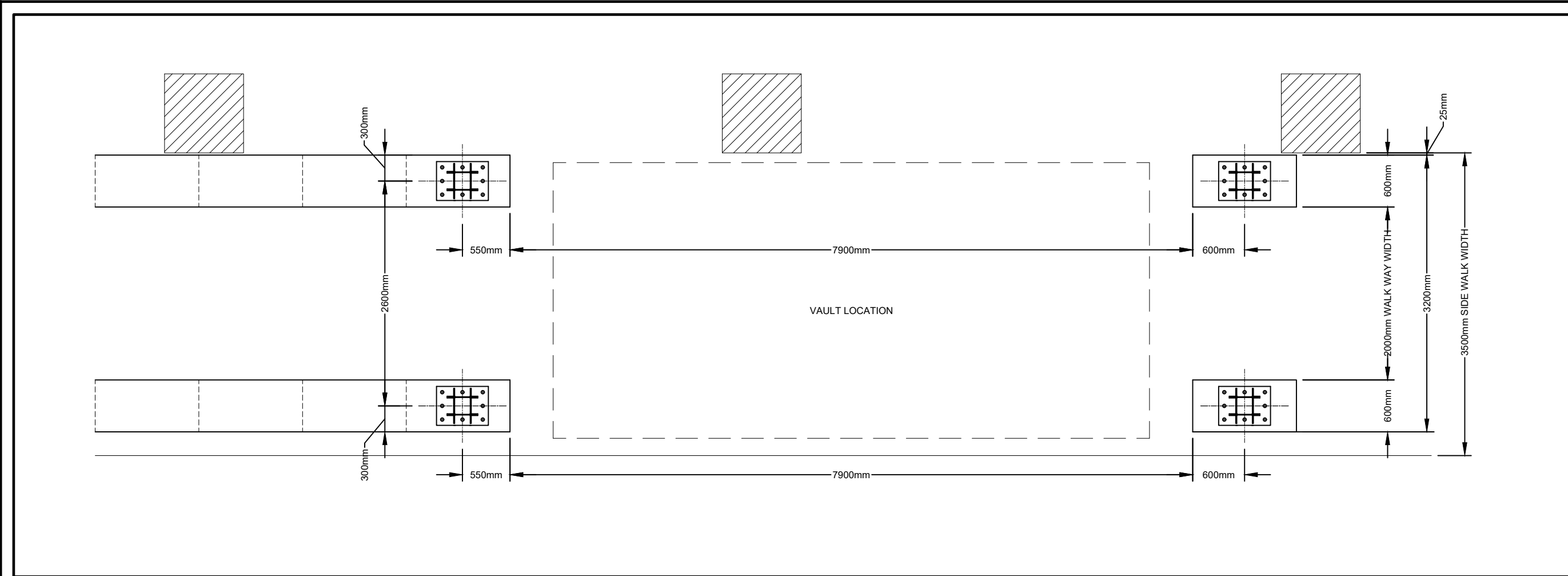
**Facet Group Inc.**  
 Heritage Building Consultants,  
 Engineering and Project Management  
 716 - 228 Queens Quay West  
 Toronto, Ontario M5J 2X1  
 Tel: 416-409-0772 | Fax: 416-469-2453  
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**ENTUITIVE**  
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 200 University Avenue, 7th Floor  
 Toronto, ON M5S 3C9 Canada  
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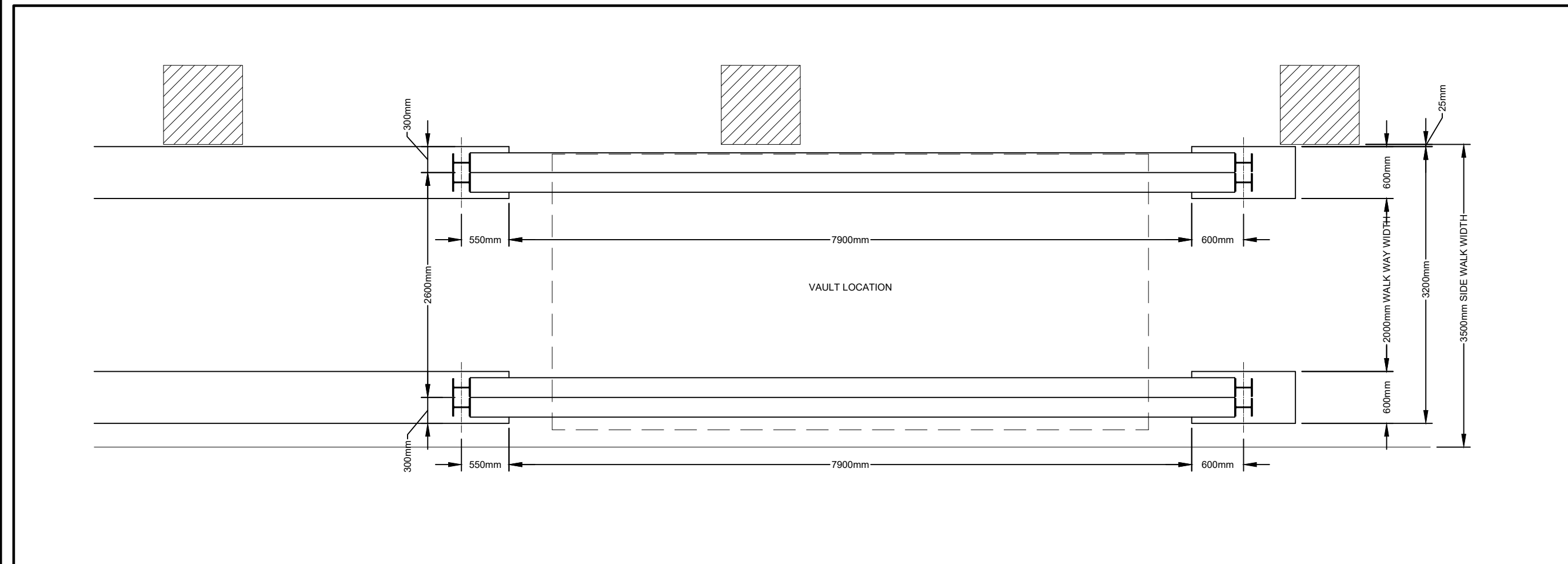
DRAWING TITLE:  
 FACADE CONNECTION DETAILS  
 CONCRETE BLOCK WALL DETAILS

PROJECT NO:	DRAWING NO:
201705	HS-17
SCALE:	AS NOTED



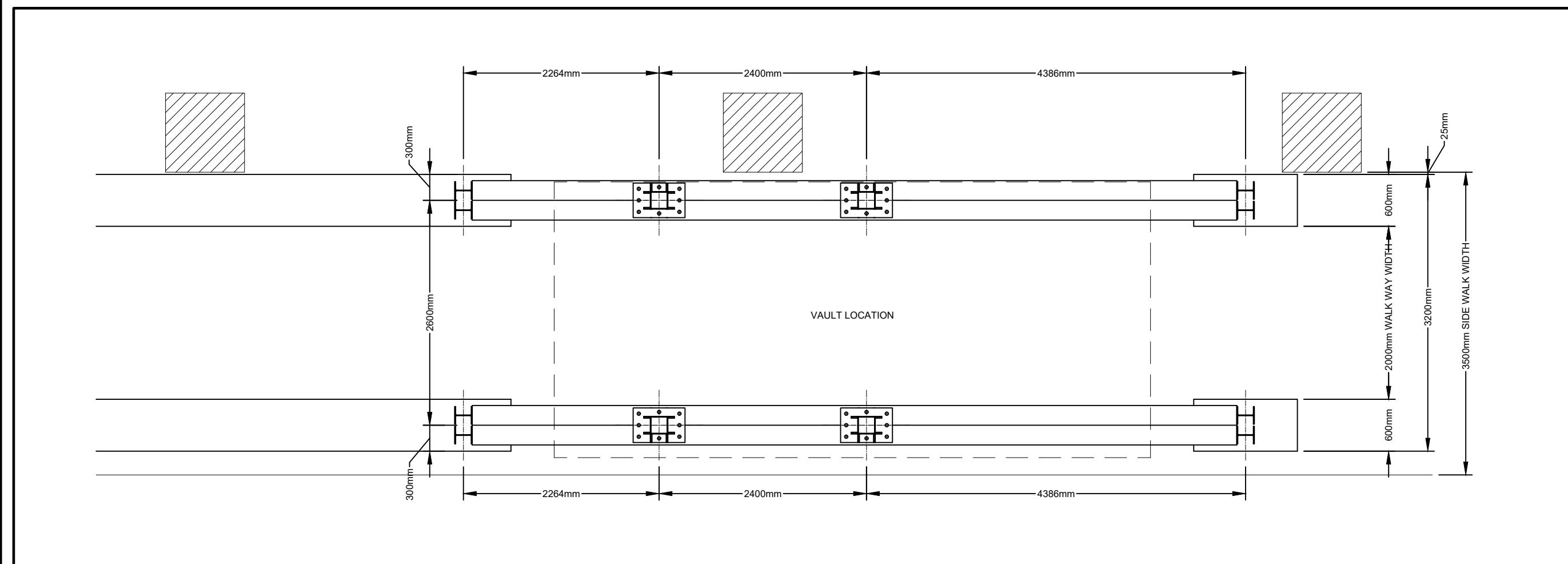
DETAIL 38: GERRARD VAULT FACADE TOWER SUPPORT FRAME - BASE PLATE LOCATIONS

SCALE: 1:50



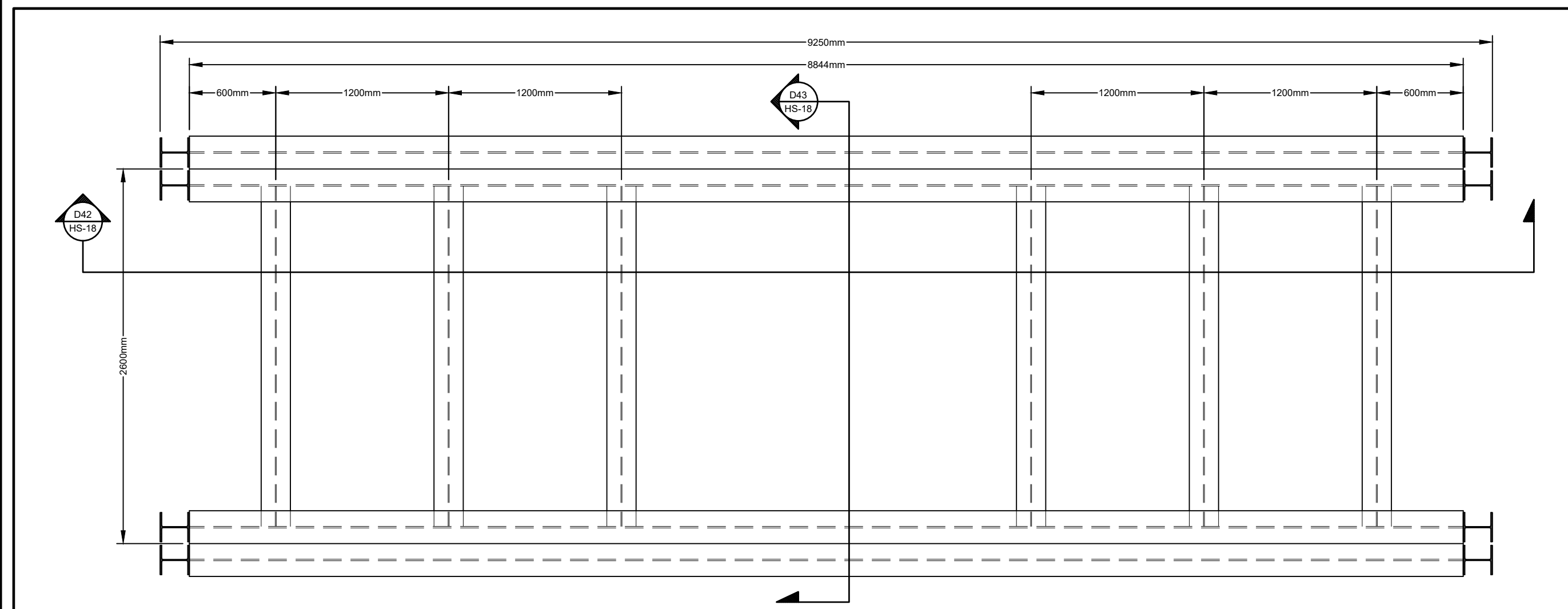
DETAIL 39: GERRARD VAULT FACADE TOWER SUPPORT FRAME - MAIN BEAM LOCATIONS

SCALE: 1:50



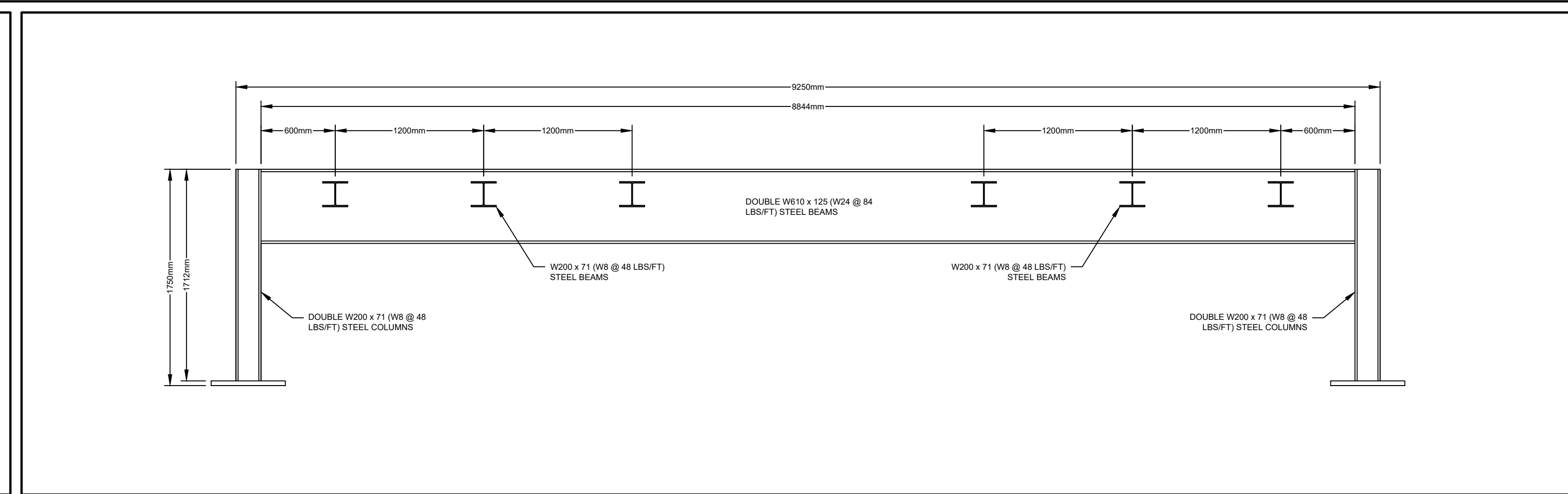
DETAIL 40: GERRARD VAULT FACADE TOWER - BASE PLATE LOCATIONS

SCALE: 1:50



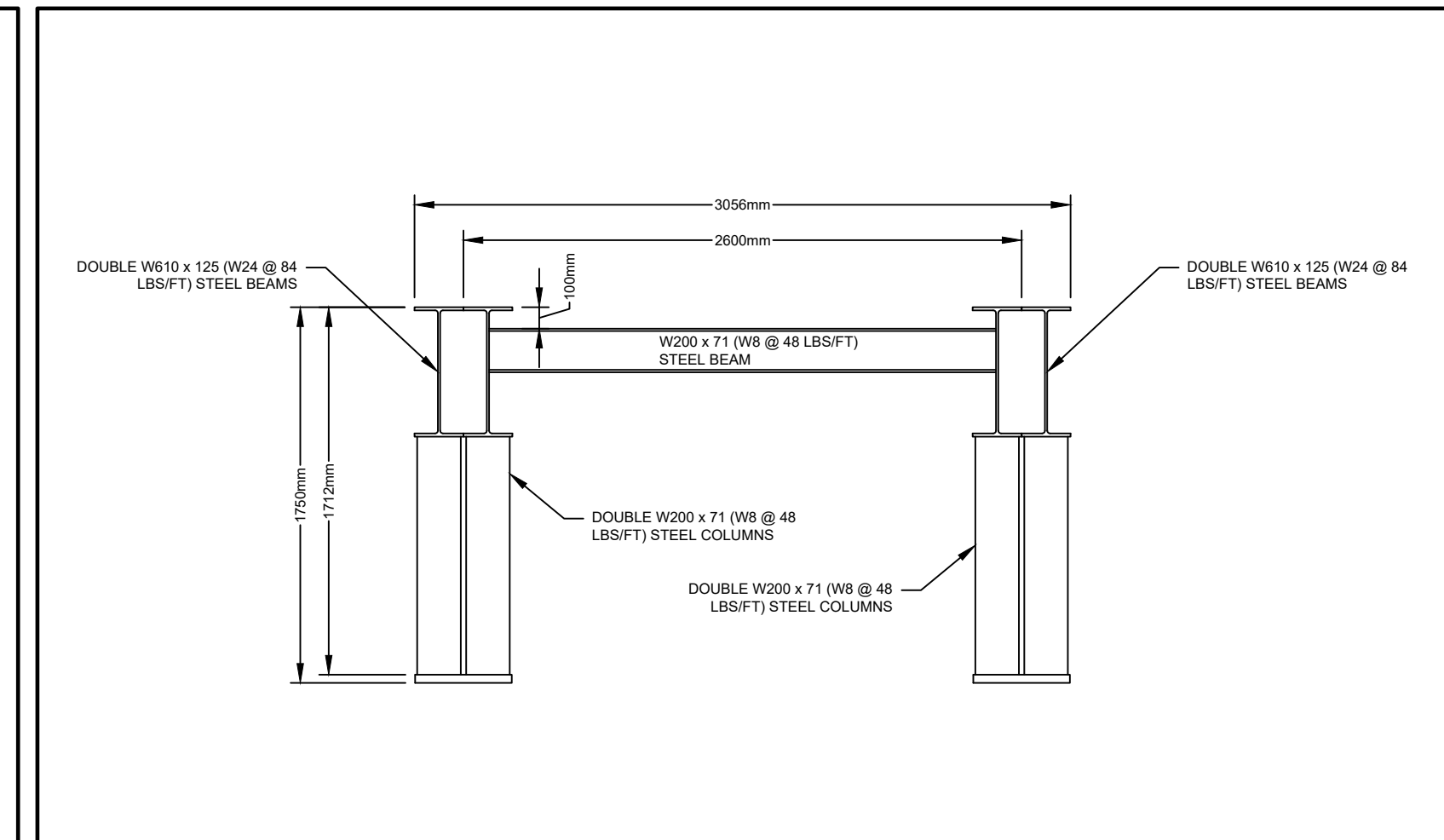
DETAIL 41: GERRARD VAULT FACADE TOWER - STEEL FRAME PLAN

SCALE: 1:30



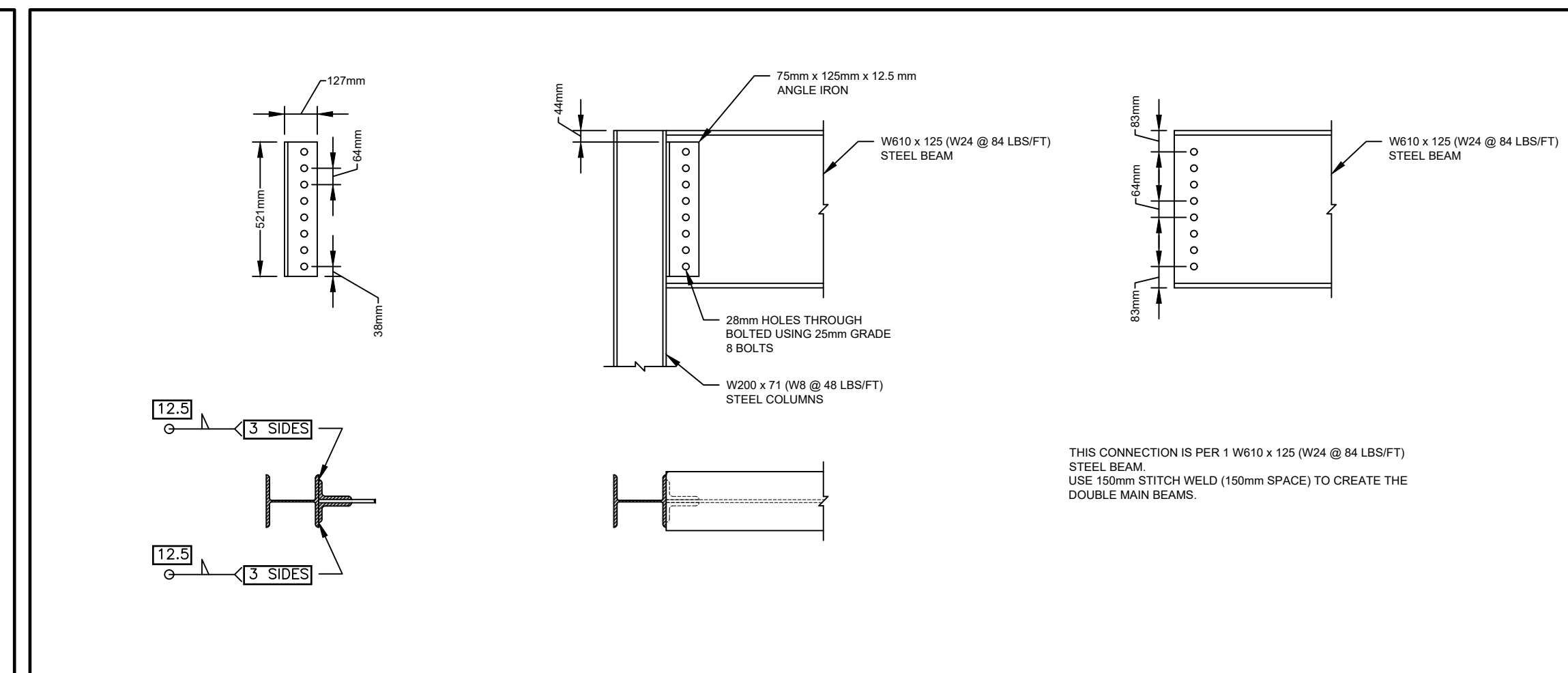
DETAIL 42: GERRARD VAULT FACADE TOWER - STEEL FRAME PLAN CROSS SECTION 1

SCALE: 1:30



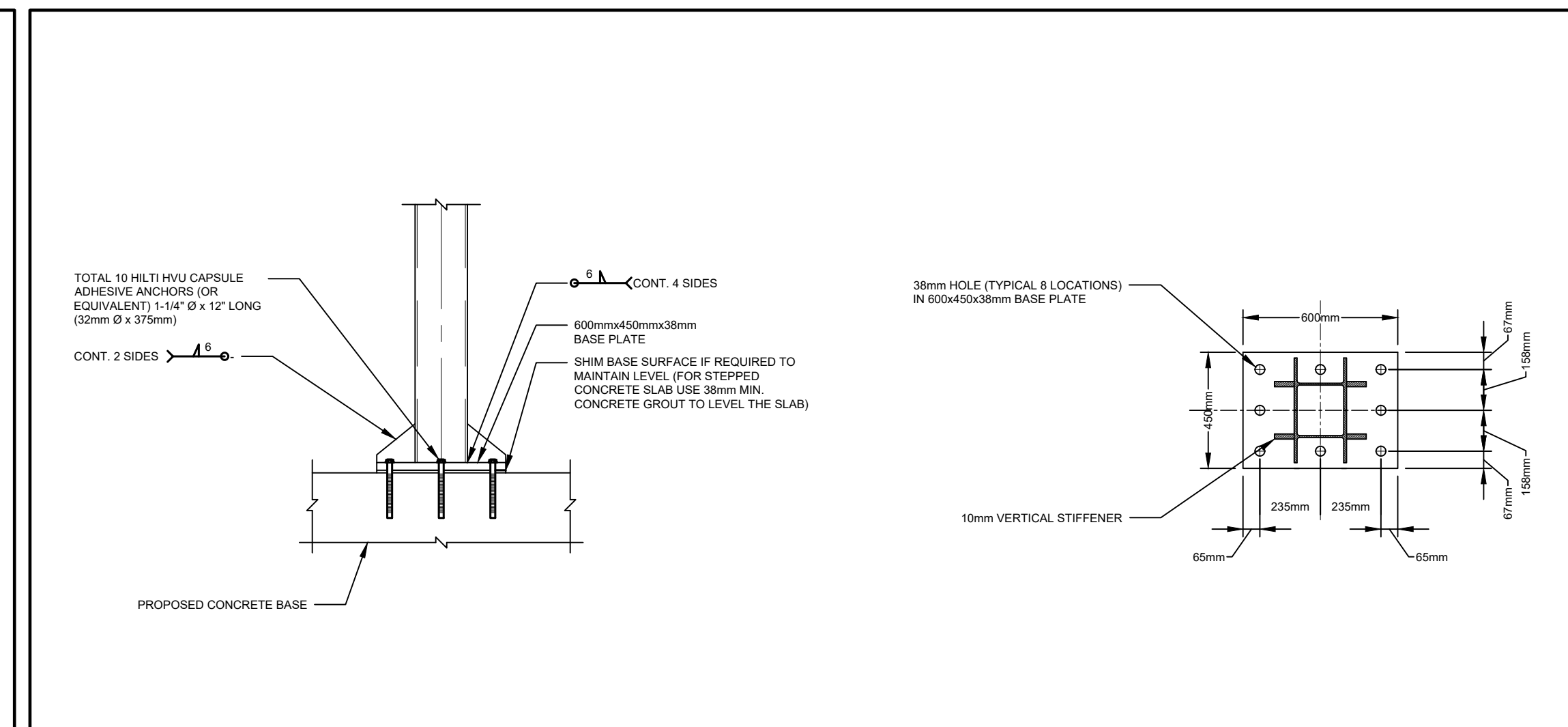
DETAIL 43: GERRARD VAULT FACADE TOWER - STEEL FRAME PLAN CROSS SECTION 2

SCALE: 1:30



DETAIL 44: GERRARD VAULT FACADE TOWER - STEEL FRAME CONNECTION DETAILS

SCALE: 1:20



DETAIL 45: GERRARD VAULT FACADE TOWER - STEEL FRAME BASE PLATE TO CONCRETE WALL CONNECTION

SCALE: 1:20

**CONCRETE NOTE:**  
MINIMUM CONCRETE STRENGTH: 40 MPa  
FILTER CLOTH TO BE PLACED UNDER GRANULAR BASE (TYP)

**WELDING NOTES:**  
1. HSS WELD:  
1.1. 9mm THICK WALL  
1.2. 6mm FILLET WELD, CONTINUOUS ALL SIDES  
1.3. 7018 WELDING ROD

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6	RE-ISSUED FOR BUILDING PERMIT	04 MAR 2019

SECTION/DETAIL NUMBER  
DWG No. WHERE DETAILED



PERMIT REVIEWED FOR COMPLIANCE WITH THE ONTARIO BUILDING CODE

19 148484 BLD 00

O.B.C. Krizanovic, Gordana 15/May/2019

O.B.C. (S)

CHECKED BY: D.S. FIRM NO: 30361

DRAWN BY: B.B.



CHECKED BY: D.S. FIRM NO: 30361

DRAWN BY: B.B.

Construction North

PROJECT LOCATION: YSL RESIDENCE 385 YONGE STREET TORONTO, ON

PROJECT DESCRIPTION: EXISTING HISTORICAL FACADE RETENTION

Facet Group Inc. Heritage Building Consultants, Engineering and Project Management

716 - 228 Queens Quay West Toronto, Ontario M5J 2X1 Tel: 416-409-0772 | Fax: 416-349-2453 www.facetgroup.ca | neil@facetgroup.ca

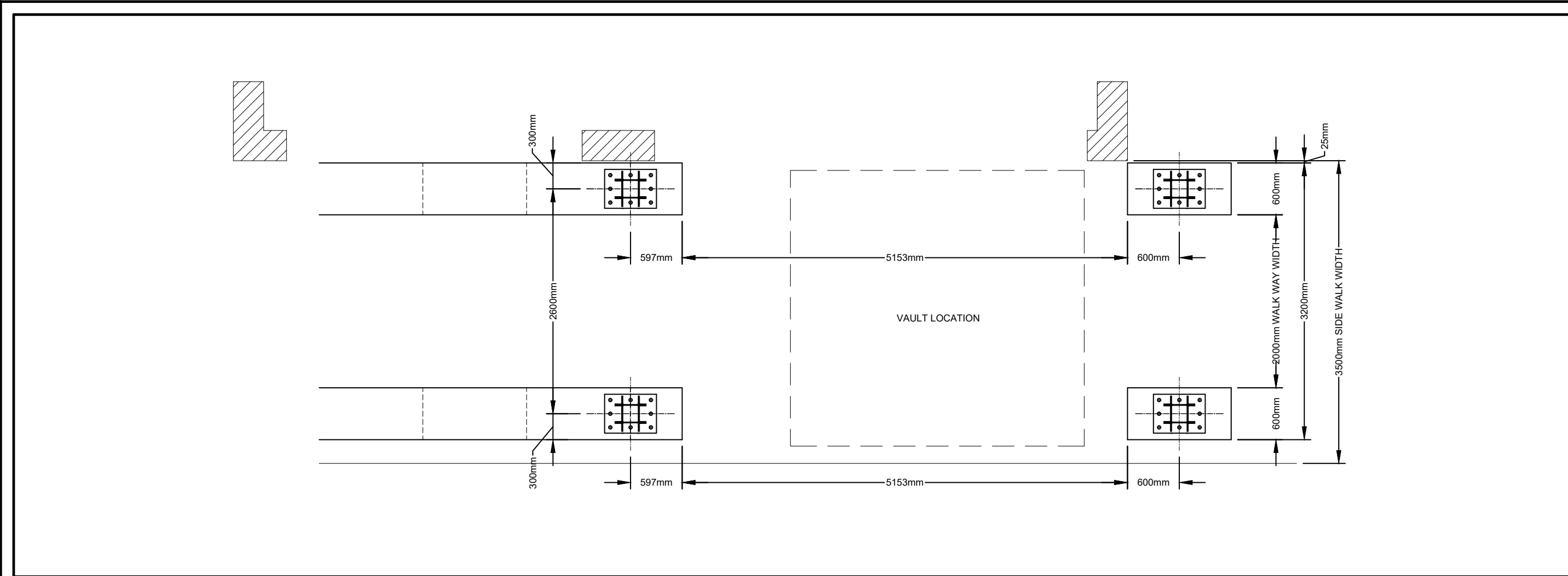
David Seberas P. Eng. SEBERAS PROFESSIONAL SERVICES LTD

ENTUITIVE Corporation 200 University Avenue, 7th Floor Toronto, ON M5H 3C9 Canada entutive.com

DRAWING TITLE: VAULT SUPPORT FRAME DETAILS AND STEEL CONNECTION DETAILS GERRARD STREET

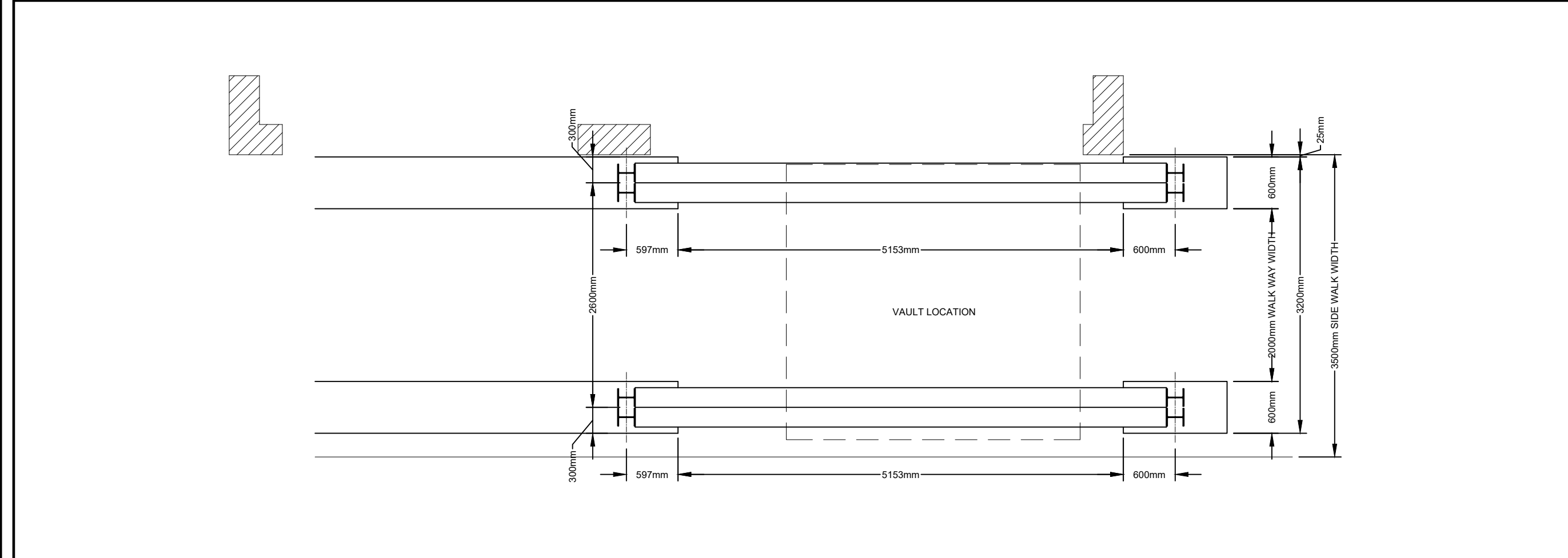
PROJECT NO: 201705 SCALE: AS NOTED

DRAWING NO: HS-18



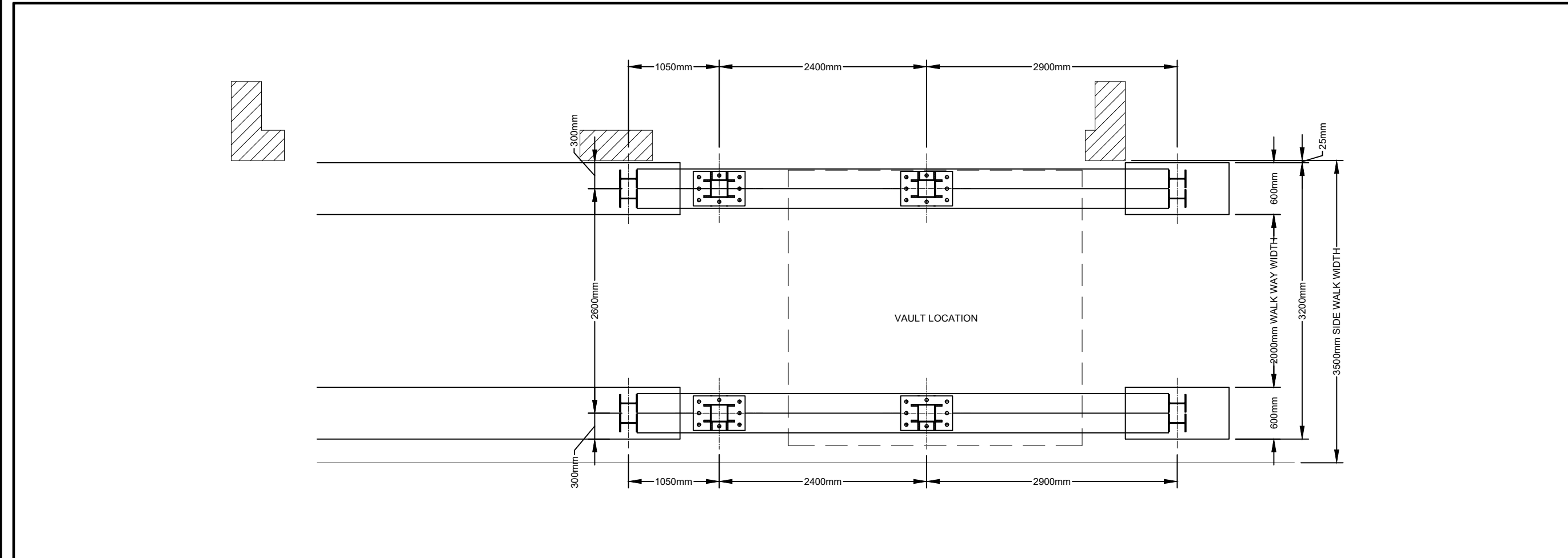
DETAIL 46: YONGE ST. VAULT FACADE TOWER SUPPORT FRAME - BASE PLATE LOCATIONS

SCALE: 1:50



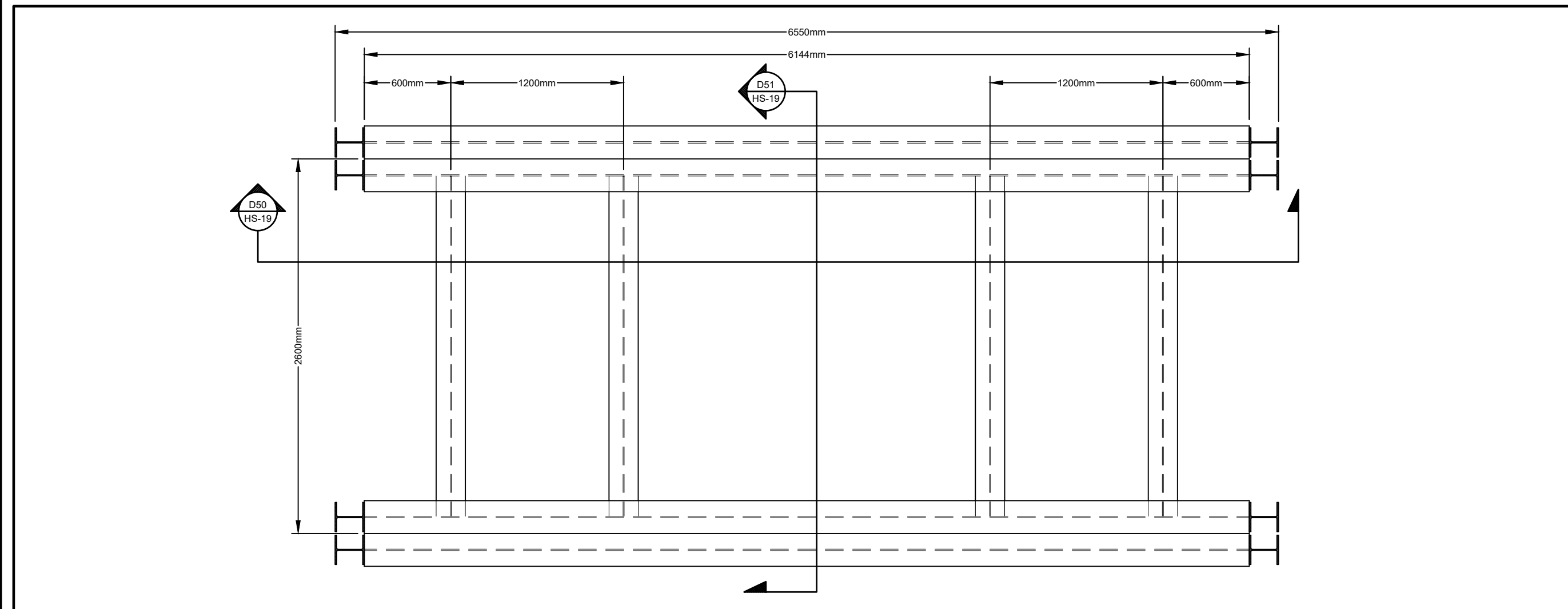
DETAIL 47: YONGE ST. VAULT FACADE TOWER SUPPORT FRAME - MAIN BEAM LOCATIONS

SCALE: 1:50



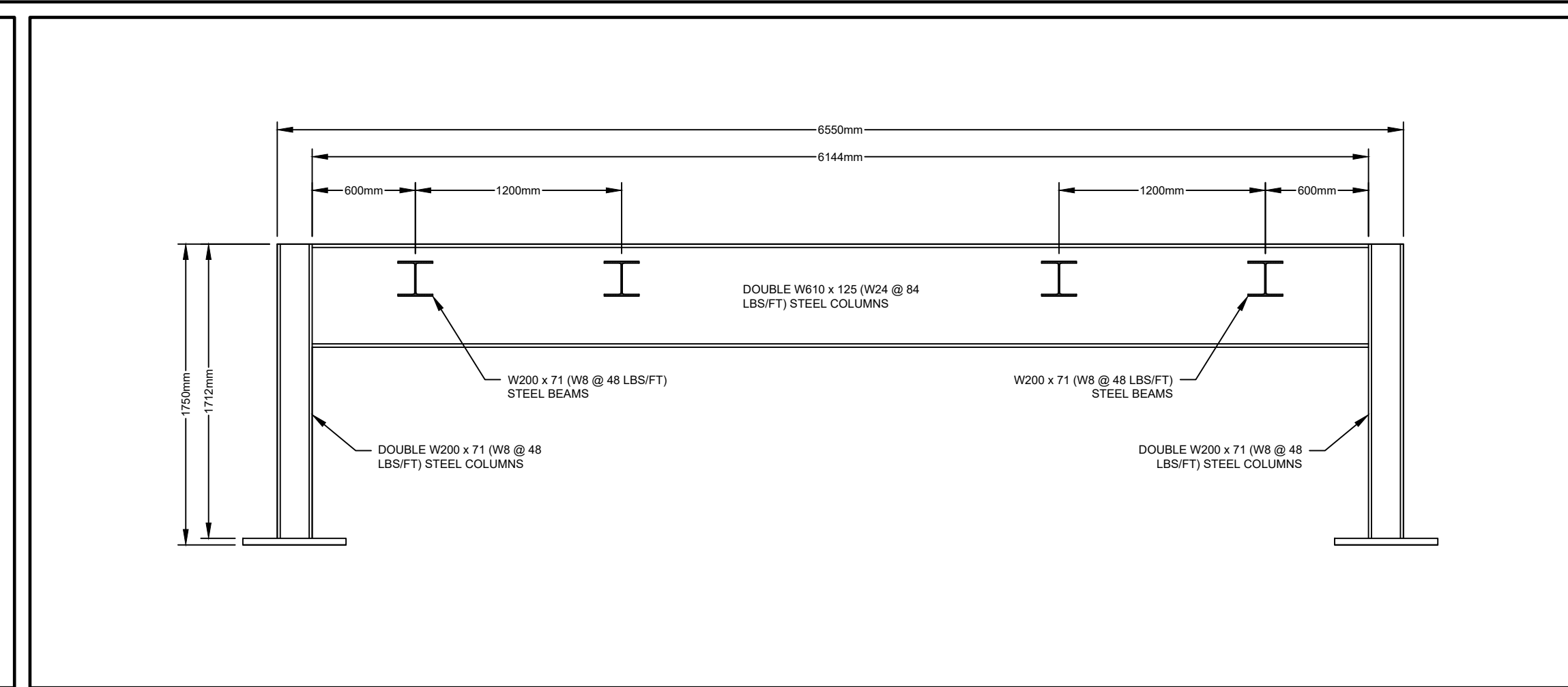
DETAIL 48: YONGE ST. VAULT FACADE TOWER - BASE PLATE LOCATIONS

SCALE: 1:50



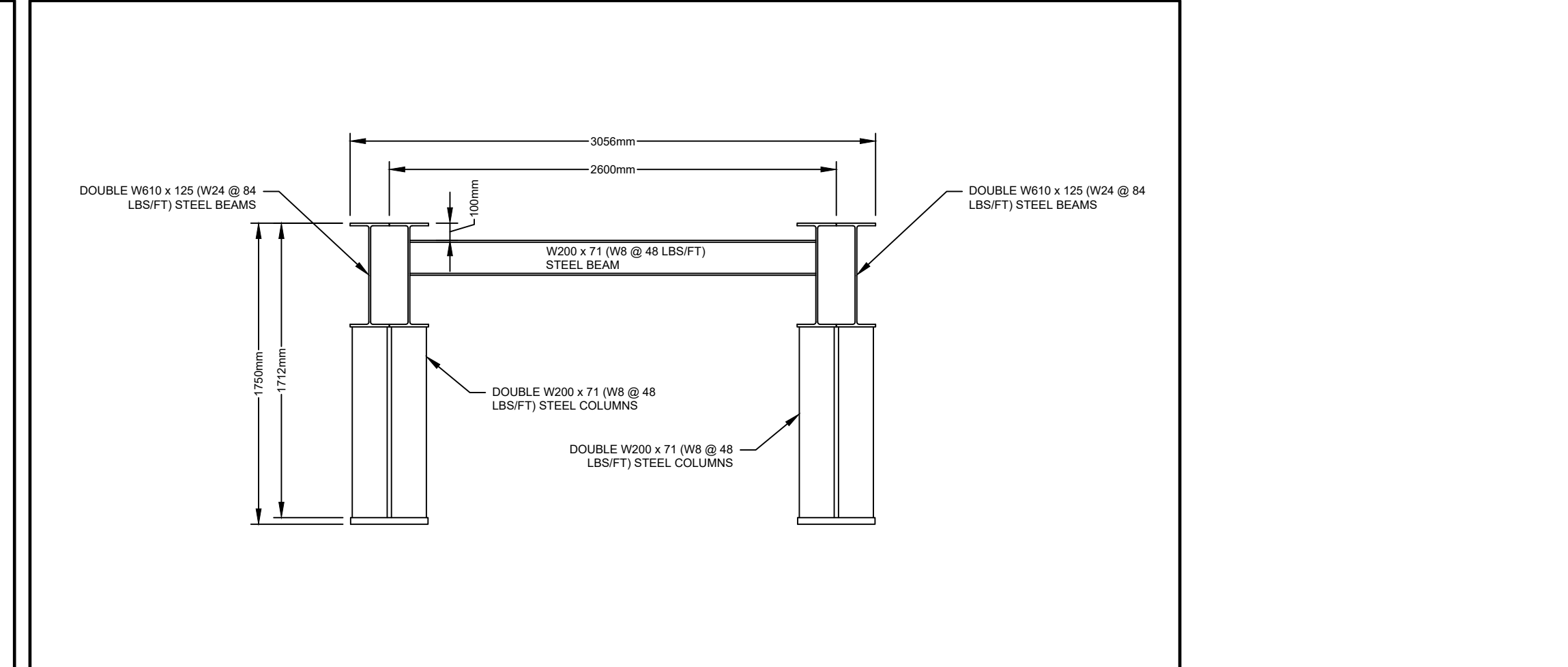
DETAIL 49: YONGE ST. VAULT FACADE TOWER - STEEL FRAME PLAN

SCALE: 1:30



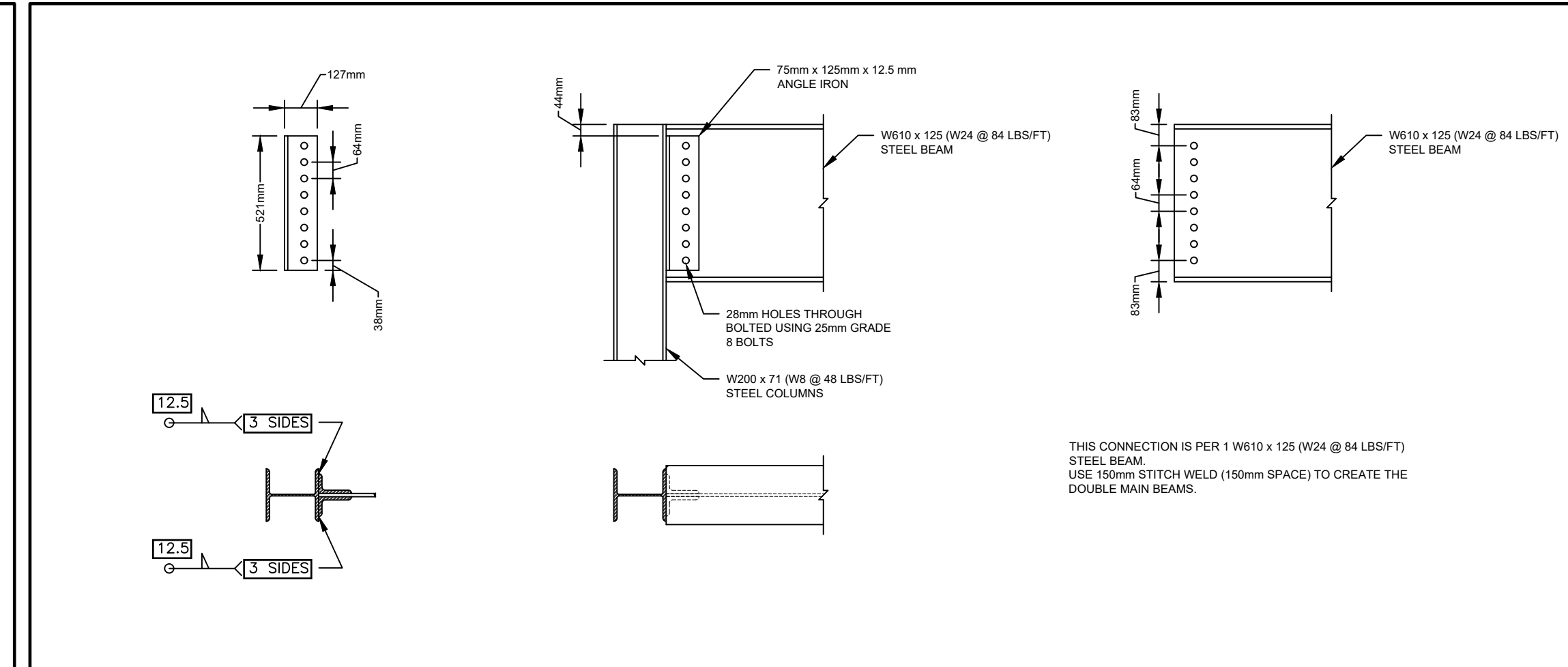
DETAIL 50: YONGE ST. VAULT FACADE TOWER - STEEL FRAME PLAN CROSS SECTION 1

SCALE: 1:30



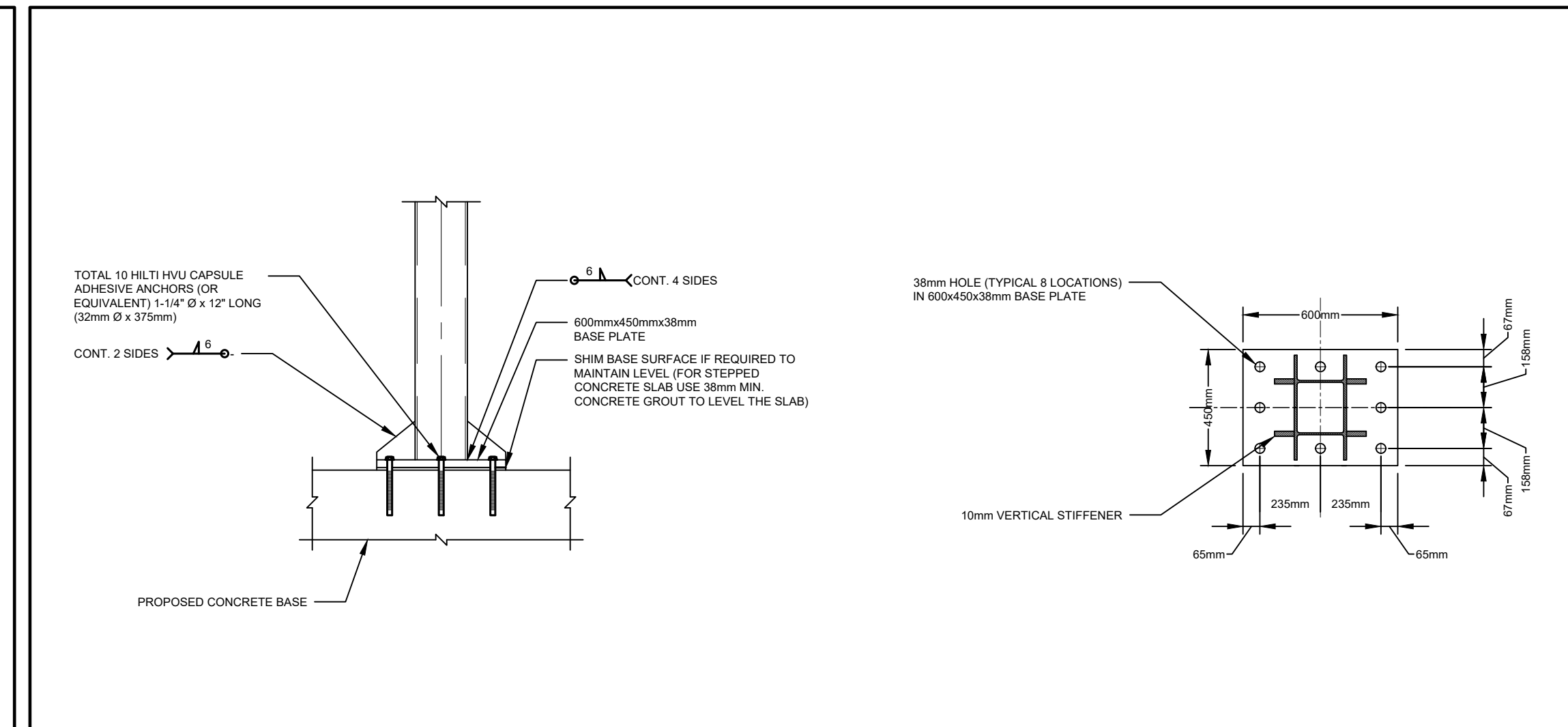
DETAIL 51: YONGE ST. VAULT FACADE TOWER - STEEL FRAME PLAN CROSS SECTION 2

SCALE: 1:30



DETAIL 52: YONGE ST. VAULT FACADE TOWER - STEEL FRAME CONNECTION DETAILS

SCALE: 1:20



DETAIL 53: YONGE ST. VAULT FACADE TOWER - STEEL FRAME BASE PLATE TO CONCRETE WALL CONNECTION

SCALE: 1:20

**CONCRETE NOTE:**

MINIMUM CONCRETE STRENGTH: 40 MPa  
FILTER CLOTH TO BE PLACED UNDER GRANULAR BASE (TYP)

**WELDING NOTES:**

- HSS WELD:
- 9mm THICK WALL
- 6mm FILLET WELD, CONTINUOUS ALL SIDES
- 7018 WELDING ROD

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19 148484 BLD 00

O.B.C. Krstanovic, Gordana 15/May/2019

FIRE SERVICES

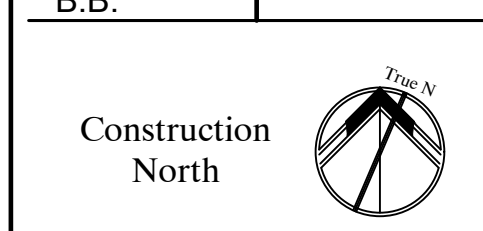
O.B.C. (S)



CHECKED BY: D.S. FIRM NO: 30361

DRAWN BY: B.B.

Construction North



PROJECT LOCATION: YSL RESIDENCE 385 YONGE STREET TORONTO, ON

PROJECT DESCRIPTION: EXISTING HISTORICAL FACADE RETENTION

Facet Group Inc. Heritage Building Consultants, Engineering and Project Management

716 - 228 Queens Quay West Toronto, Ontario M5J 2X1 Tel: 416-409-0772 | Fax: 416-409-2453

www.facetgroup.ca | neil@facetgroup.ca

David Seberras P. Eng. SEBERRAS PROFESSIONAL SERVICES LTD

ENTUITIVE Corporation

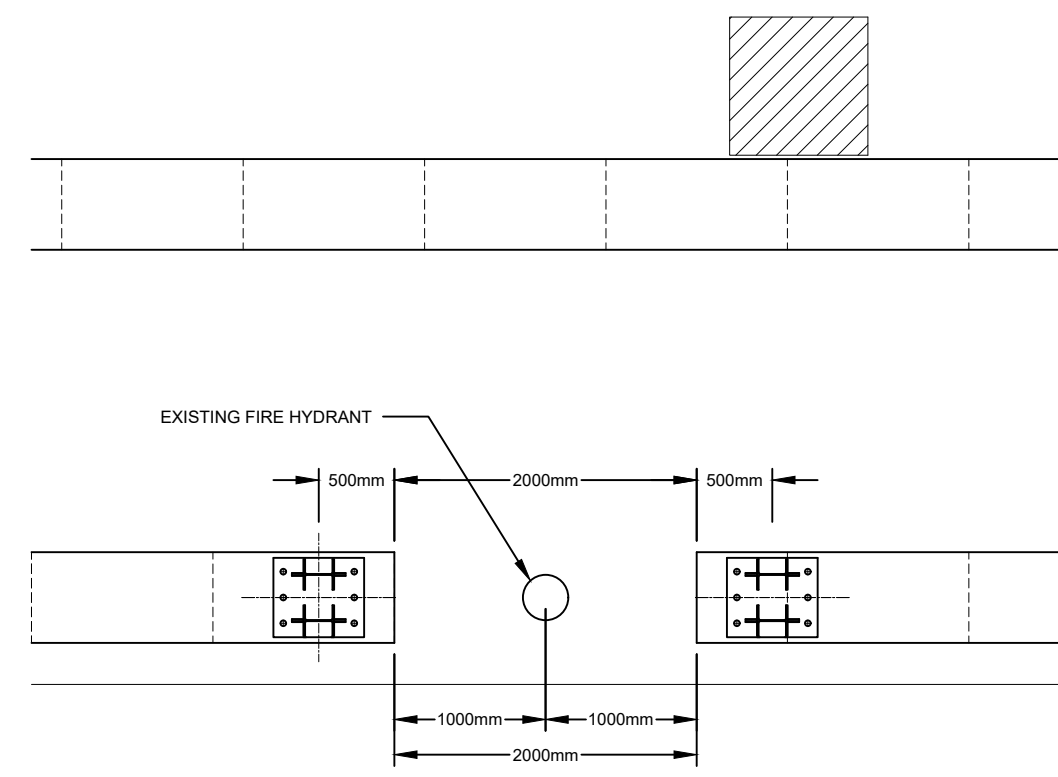
200 University Avenue, 7th Floor Toronto, ON M5A 3C9 Canada entutive.com

DRAWING TITLE: VAULT SUPPORT FRAME DETAILS AND STEEL CONNECTION DETAILS YONGE STREET

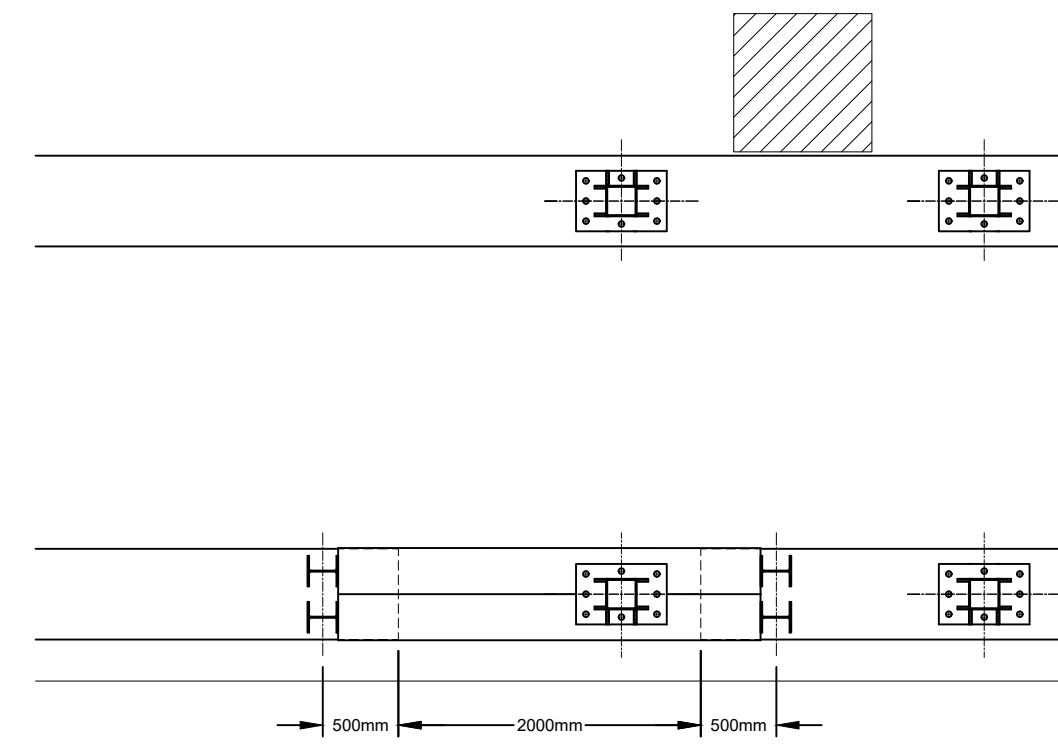
PROJECT NO: 201705 SCALE: AS NOTED

DRAWING NO: HS-19

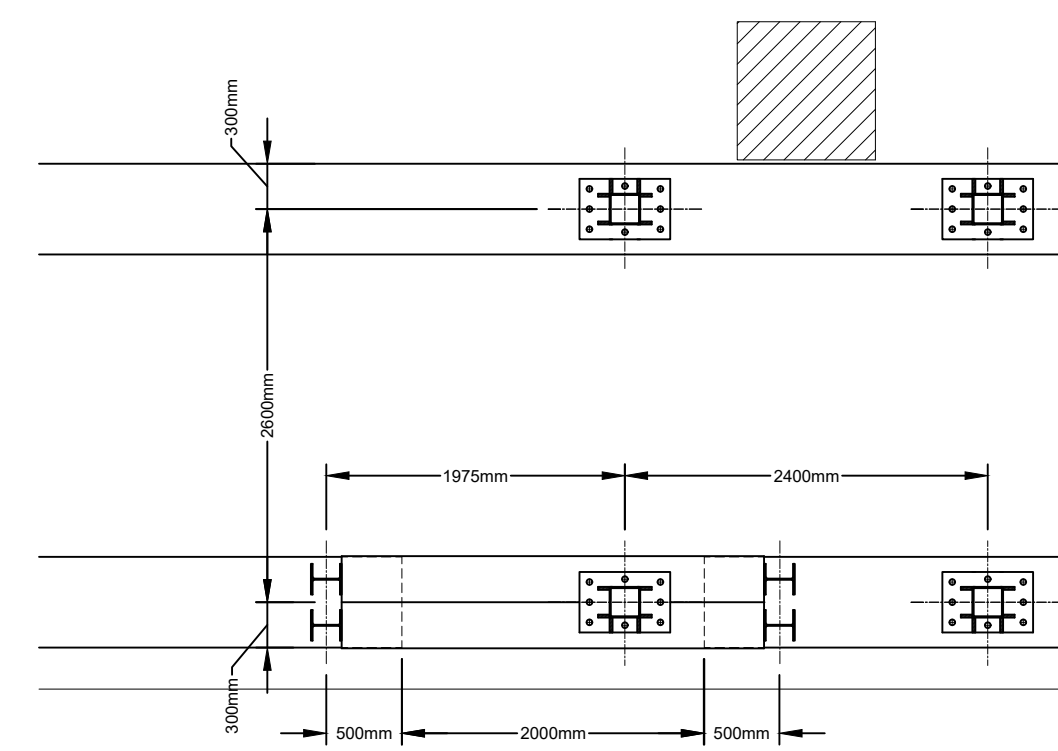




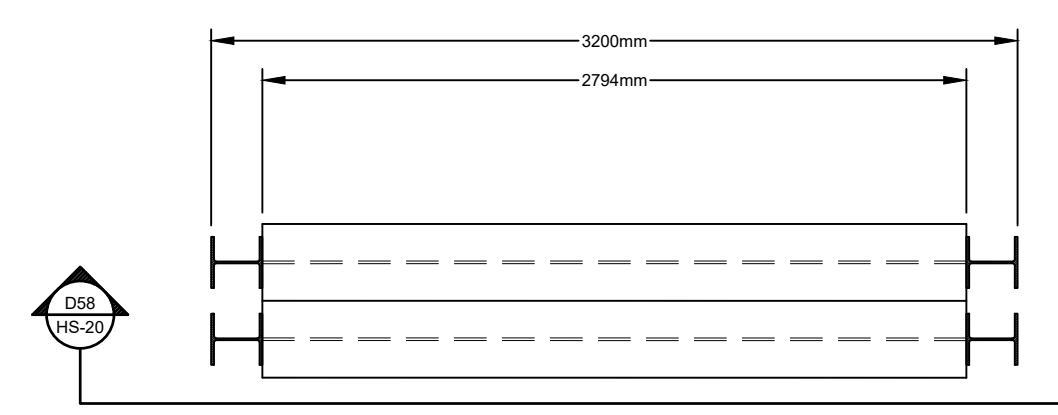
DETAIL 54: YONGE ST. TOWER 6 LEG SUPPORT FRAME - BASE PLATE LOCATIONS  
SCALE: 1:50



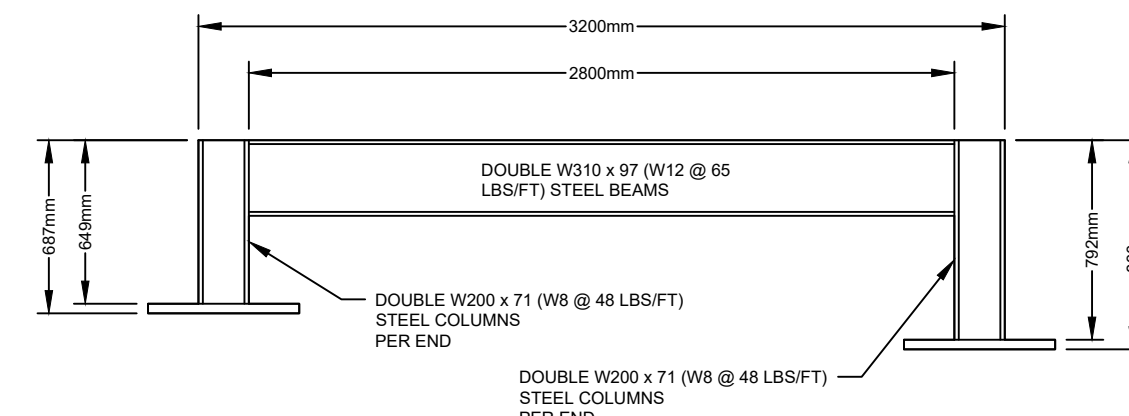
DETAIL 55: YONGE ST. TOWER 6 LEG SUPPORT FRAME - MAIN BEAM LOCATIONS  
SCALE: 1:50



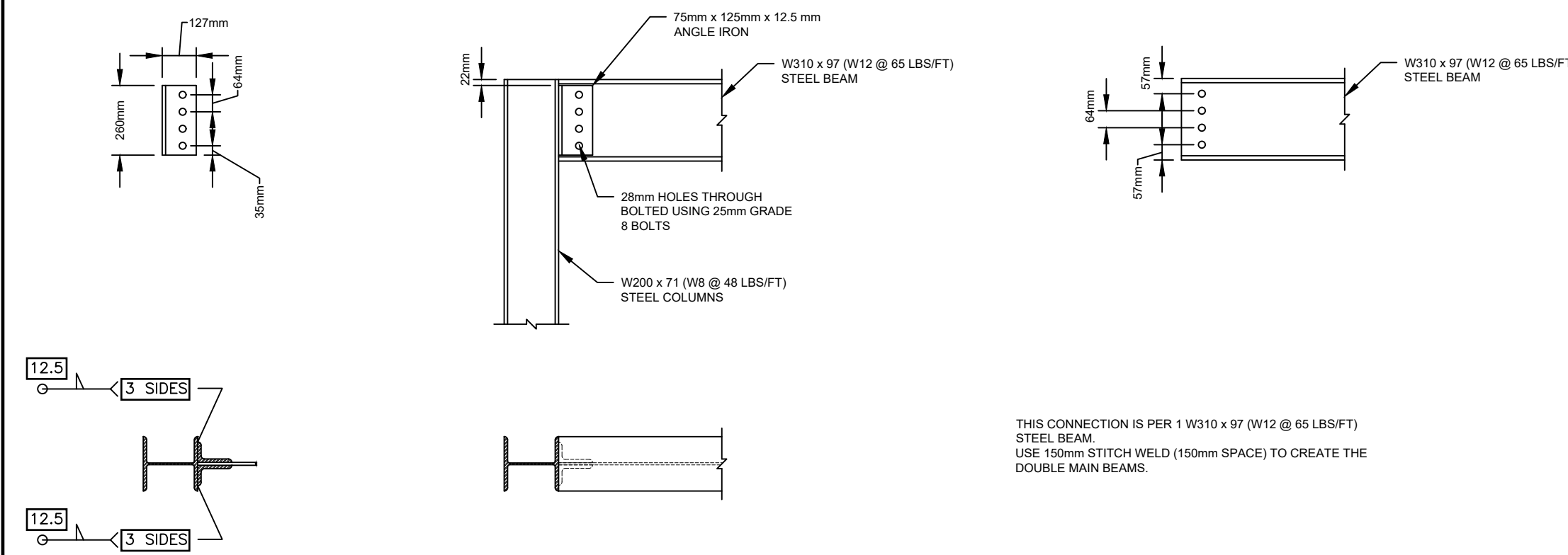
DETAIL 56: YONGE ST. TOWER 6 - BASE PLATE LOCATIONS  
SCALE: 1:50



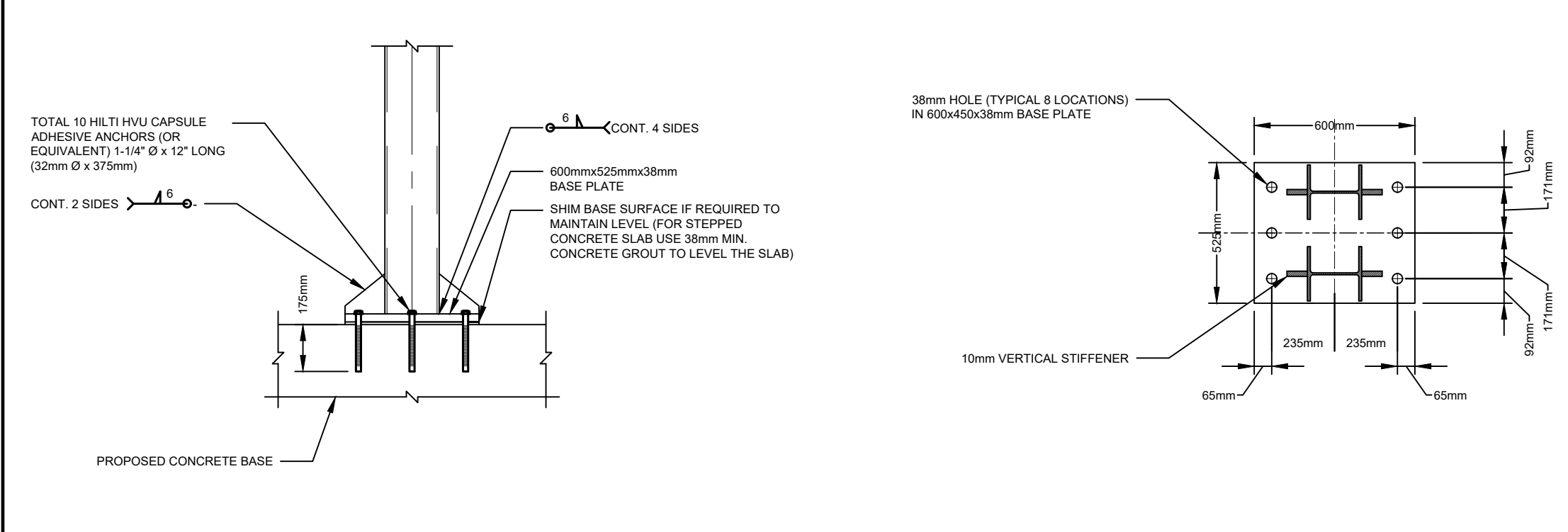
DETAIL 57: YONGE ST. TOWER 6 LEG SUPPORT - STEEL FRAME PLAN  
SCALE: 1:30



DETAIL 58: YONGE ST. TOWER 6 LEG SUPPORT - STEEL FRAME PLAN CROSS SECTION  
SCALE: 1:30



DETAIL 59: YONGE ST. TOWER 6 LEG SUPPORT - STEEL FRAME CONNECTION DETAILS  
SCALE: 1:20



DETAIL 60: YONGE ST. TOWER 6 LEG SUPPORT - STEEL FRAME BASE PLATE TO CONCRETE WALL CONNECTION  
SCALE: 1:20

**CONCRETE NOTE:**  
MINIMUM CONCRETE STRENGTH: 40 MPa  
FILTER CLOTH TO BE PLACED UNDER GRANULAR BASE (TYP)

**WELDING NOTES:**  
1. HSS WELD:  
1.1. 9mm THICK WALL  
1.2. 6mm FILLET WELD, CONTINUOUS ALL SIDES  
1.3. 7018 WELDING ROD

DO NOT SCALE DRAWINGS.  
THE CONTRACTOR SHALL CHECK AND VERIFY ALL DIMENSIONS AND OMISSIONS TO THE CONSULTANT BEFORE PROCEEDING WITH THE WORK. THIS DRAWING SHALL NOT BE REPRODUCED IN ANY MANNER, IN PART OR IN WHOLE, FOR ANY PROJECT OTHER THAN THAT FOR WHICH IT WAS PREPARED. THIS DRAWING AND ALL DESIGN CONCEPTS THEREON, ARE AN INSTRUMENT OF PROFESSIONAL SERVICE AND REMAIN THE PROPERTY OF FACET GROUP INC.  
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SECTION/DETAIL NUMBER  
DWG No. WHERE DETAILED

No.	Revision	Date
1	ISSUED FOR GENERAL REVIEW	30 MAY 2017
2	UPDATED AS PER COMMENTS	02 JUNE 2017
3	ISSUED FOR CP	04 OCT 2017
4	ISSUED FOR BUILDING PERMIT	29 SEP 2018
5	ISSUED FOR TENDER	29 JAN 2019
6	RE-ISSUED FOR BUILDING PERMIT	04 MAR 2019

**TORONTO Building**  
PERMIT REVIEWED FOR COMPLIANCE WITH THE ONTARIO BUILDING CODE

19 148484 BLD 00

ZONING	
O.B.C.	Krsmanovic, Gordana 15/May/2019
FIRE SERVICES	
O.B.C. (S)	



CHECKED BY: D.S.  
DRAWN BY: B.B.  
FIRM NO: 30361

Construction North

PROJECT LOCATION:  
YSL RESIDENCE  
385 YONGE STREET  
TORONTO, ON

PROJECT DESCRIPTION:  
EXISTING HISTORICAL  
FACADE RETENTION

**Facet Group Inc.**  
Heritage Building Consultants,  
Engineering and Project Management  
716 - 228 Queens Quay West  
Toronto, Ontario M5J 2X1  
Tel: 416-409-0772 | Fax: 416-469-2453  
www.facetgroup.ca | neil@facetgroup.ca  
David Seberras P. Eng.  
SEBERRAS PROFESSIONAL SERVICES LTD

**ENTUITIVE**  
Entuitive Corporation  
200 University Avenue, 7th Floor  
Toronto, ON M5H 3C9 Canada  
entuitive.com

DRAWING TITLE:  
TOWER SUPPORT FRAME DETAILS  
AND STEEL CONNECTION DETAILS  
YONGE STREET

PROJECT NO: 201705  
SCALE: AS NOTED  
DRAWING NO: HS-20

**MUNICIPAL INFRASTRUCTURE AGREEMENT**

THIS AGREEMENT made this 2nd day of April, 2019

**B E T W E E N:**

**YSL RESIDENCES INC**

Hereinafter called "the Owner",

OF THE FIRST PART,

- and -

**CITY OF TORONTO,**

Hereinafter called "City",

OF THE SECOND PART,

**WHEREAS** the Owner is the registered owner of certain lands municipally known as 363 to 391 Yonge Street, 3 Gerrard Street East and 357A-357½ Yonge Street in the City of Toronto, which lands are more particularly described in Schedule "A" hereto (the "Owner's Lands");

**AND WHEREAS** the Owner is proposing to redevelop the said lands and has applied to the City under Section 41 of the Planning Act and Section 114 of the City of Toronto Act, 2006, as amended from time to time, for site plan approval in respect of its development for a 85-storey mixed-use building, including a nine storey podium (the "Development");

**AND WHEREAS**, By-law No 744-2009 enacted by Council on August 6, 2009 delegates the powers and authority granted to Council to enter into Municipal Infrastructure Agreements to the Executive Director, Engineering & Construction Services or his/her designates, the Director and Managers of Development Engineering;

**AND WHEREAS** the Director of Community Planning, Toronto & East York District, (the "Director"), on February 7, 2019, received the plans and drawings submitted with the Owner's application number 19 113000 STE 13 SA subject to certain conditions including a condition with respect to provision of required municipal infrastructure and subject to entering into this Municipal Infrastructure Agreement ("Agreement");

**NOW THEREFORE** this Agreement witnesseth that for good and valuable consideration, now paid by the City to the Owner (the receipt and sufficiency of which is hereby acknowledged) and in consideration of the mutual observance by the parties of the terms, covenants and provisos hereinafter set forth, the parties hereto agree as follows:

**SECTION 1 - SCOPE OF AGREEMENT**

1.1 (a) The Owner agrees to construct and complete at its expense and in a good and workmanlike manner, all the municipal infrastructure as hereinafter set out in Schedule B (the "Municipal Infrastructure"). The Municipal Infrastructure shall be constructed in accordance with accepted engineering drawings to the satisfaction of the Executive Director, Engineering & Construction Services ("Engineering & Construction Services") and the Owner shall complete, perform or make payment for such other matters as may be provided for herein.

(b) The parties acknowledge and agree that this Agreement relates to the proposed Development on the Owners' Lands described in Schedule "A" attached hereto.

(c) The Owner acknowledges and agrees that the execution of the Agreement by the City

shall not constitute acceptance or approval of any aspect of any application made under the Planning Act, and that the Owner may be required to construct additional municipal infrastructure or reconstruct a portion or all of the municipal infrastructure described in Schedule "B" should it be determined that additional work is required to support the applications made under the Planning Act, as determined by the Executive Director, Engineering & Construction Services.

## SECTION 2 - CONSULTING ENGINEERS

2.1 The Owner agrees to retain a professional engineer, competent in the municipal engineering field (the "Consulting Engineer") to carry out all the necessary engineering requirements for the Development in accordance with the Performance Standards for Professional Engineers Providing Land Development Services, as amended from time to time, as prepared by the Professional Engineers Ontario until the work provided for in this Agreement is completed and acceptable to Engineering & Construction Services. The Consulting Engineer shall serve as the Owners representative in all matters related to the provision and installation of the Municipal Infrastructure and shall be the primary engineering contact with the City.

2.2 The Owner agrees to retain the said Consulting Engineer to perform without limiting the generality of the foregoing, the following services:

- (a) prepare designs of all works to be constructed, including overland flow routes and other storm water management concepts;
- (b) ensure soil investigation is carried out when soil conditions warrant and to submit the reports to the Owner and the City;
- (c) prepare and submit to the City all required drawings, cost estimates and reports;
- (d) prepare and administer where required all necessary contract(s);
- (e) obtain necessary approvals in conjunction with the City or any external authority having jurisdiction as may be necessary;
- (f) arrange and document a pre-construction meeting;
- (g) provide and confirm the field layout of all Municipal Infrastructure construction and reconstruction and site development;
- (h) provide full time on-site inspection and prepare/ submit daily inspection reports. Inspection reports shall be completed, to the satisfaction of Engineering & Construction Services and shall be submitted to Engineering & Construction Services on a weekly basis;
- (i) inspect compliance with the City specifications, and certify that the Municipal Infrastructure has been constructed and/or installed in accordance with standards, specifications and designs accepted by the City;
- (j) inspect all deficient construction works and prepare performance rectification lists for the Municipal Infrastructure;
- (k) follow-up to ensure that all Municipal Infrastructure rectifications are satisfactorily completed prior to said works being accepted by Engineering & Construction Services;
- (l) maintain all records of construction and upon completion, provide to Engineering & Construction Services a complete set of "as-built" drawings showing the final plan and profile locations of all Municipal Infrastructure, including connections to street line. The as-built drawings shall be in hard-copy and in digital format acceptable to Engineering & Construction Services; and

- (m) provide co-ordination and scheduling to comply with the timing provisions of this Agreement and its requirements.

2.3 The Owner agrees to provide the City with a letter in a form acceptable to Engineering & Construction Services indicating there is a hiring agreement or contract between it and the Consulting Engineer before commencement of construction. The said agreement or contract shall include the services to be provided by the Consulting Engineer, in accordance with this Section 2.

2.4 The agreement or contract referred to in subsection 2.3 shall provide that Engineering & Construction Services may inspect or cause to be inspected the construction of the Municipal Infrastructure and that Engineering & Construction Services has the authority to require the Owner to cease work in the event that:

- (a) safety is compromised;
- (b) work is not being performed in accordance with good engineering practices;
- (c) an adjustment to the design is required to suit conditions not known at the time of review of the engineering drawings; or
- (d) the work is being performed without full-time consultant inspection.

The Owner acknowledges and agrees that should circumstances warrant the City to require the Owner to cease work, any loss of profits or costs incurred, as a result of the stoppage of work, are at the Owner's expense.

### **SECTION 3 - RELEASE FOR CONSTRUCTION OF MUNICIPAL INFRASTRUCTURE**

3.1 The Owner shall not commence construction of Municipal Infrastructure until Engineering & Construction Services is satisfied that the following conditions have been met:

- (a) this Agreement has been signed by the Owner;
- (b) the engineering drawings have been accepted by Engineering & Construction Services
- (c) the Owner has deposited with the City Financial Security as set out in Section 7;
- (d) the Owner has deposited with the City proof of insurance as set out in Section 4;
- (e) the Owner has deposited with the City proof of Worker Safety and Insurance Board Clearance Certificate;
- (f) the requirements set out in Schedule "B" of this Agreement to be completed prior to release of construction of the Municipal Infrastructure have been satisfied; and,
- (g) the Owner has obtained a roadway occupancy permit for works required on roads or other permits as may be required.

3.2 Upon confirmation that all of the above conditions have been satisfied by the Owner, Engineering & Construction Services will issue written permission to commence construction of the Municipal Infrastructure.

### **SECTION 4 - LIABILITY INSURANCE**

4.1 The Owner will effect, maintain or cause to be maintained, and kept in force, a Commercial General Liability insurance policy applicable to obligations set out in this Agreement which is in a form that is satisfactory to the City's Insurance and Risk Management

Section and which is written with an insurance company licensed to transact business in the Province of Ontario. Prior to release for construction of the Municipal Infrastructure as set out in Section 3, the Owner shall submit to Engineering & Construction Services, a Certificate of Insurance using the City's current standard Certificate of Insurance Form evidencing the coverage required pursuant to this section.

4.2. The insurance policy shall provide for the following:

- a) a minimum limit of such policy shall be Five Million Dollars (\$5,000,000.00) per occurrence exclusive of interest and costs;
- b) inclusion of the City as an additional insured;
- c) coverage with respect Cross-Liability and Severability of Interests; Employer's Liability and Contingent Employer's Liability, Non-Owned Automobile Liability; and any other provisions applicable to the obligations to be carried out in connection with this Agreement; and
- d) thirty (30) days prior written notice of cancellation or material change.

4.3. The insurance policy shall be maintained in force until the completion of the applicable maintenance guarantee period and the City assumes responsibility for the Municipal Infrastructure.

4.4. The Owner shall submit a renewal certificate using the City's current standard Certificate of Insurance Form prior to the expiration of the existing policy provided pursuant to this Agreement without notice or demand by the City. If the Owner fails to pay the renewal premium, the Financial Security held by the City pursuant to this Agreement may be drawn on to cover the costs of same. In the event that the City elects to draw on the Financial Security to pay the renewal premium, the Owner will be required to resubmit the Financial Security in an amount satisfactory to the City to guarantee completion of the Municipal Infrastructure constructed under the terms of this Agreement.

4.5. The Owner further agrees to supply a Certificate of Insurance in a form and amount satisfactory to any other applicable governmental authority or to any other person whose lands or services are being worked upon, traversed or affected by the work provided for herein. The policy shall indemnify the applicable governmental authorities or person, as the case may be, from any loss arising from claims for damages, injury or otherwise in connection with the work done by or on behalf of the Owner.

## **SECTION 5 - INSPECTION WORK AND CONSTRUCTION OBLIGATIONS**

5.1 When and where determined by Engineering & Construction Services, all Municipal Infrastructure shall be constructed and installed under the observation of inspectors employed by the City. Following release for construction of Municipal Infrastructure, the Owner agrees to ensure that its Consulting Engineer notifies Engineering & Construction Services in writing of the proposed date of commencement of construction.

5.2 The Owner agrees that Engineering & Construction Services shall have the authority to stop the construction of all or part of the Municipal Infrastructure in the event City inspections determine that adjustment to the design is required to suit actual conditions not known at the time of review of the accepted engineering drawings and such changes shall be made by the Owner at no cost to the City.

5.3 The Owner shall not restrict, and shall ensure that no person working within the Owner's Lands restricts, the normal flow of traffic within or outside the Owner's Lands without the prior written consent of Engineering & Construction Services.

5.4 The Owner shall maintain the Owner's Lands and any external lands on which the Municipal Infrastructure is being constructed in a condition free from accumulation of waste products, debris, mud and dust until the City assumes responsibility of Municipal Infrastructure pursuant to this Agreement.

5.5 The City shall be entitled to designate points of access and egress to the Development from existing City streets during the period of construction of the Municipal Infrastructure and the Development. Permanent barricades shall be erected as necessary at locations designated by Engineering & Construction Services prior to construction and shall be maintained at the Owner's expense until acceptance of the Municipal Infrastructure or as required by Engineering & Construction Services.

#### **SECTION 6 - INDEMNIFICATION**

6.1 The Owner agrees to indemnify and save the City, harmless from and against any and all loss, injury or damage or claim for loss, injury or damage in connection with installation of Municipal Infrastructure done by or on behalf of the Owner or the use including design, construction, maintenance and use of the Municipal Infrastructure prior to its acceptance by the City, including any damages incurred by reason of the Owner's failure to comply with any provision of this Agreement, save and except to the extent that any such loss, injury, damage or claim arises by virtue of the negligence or willful misconduct of the City or any of their employees, agents, representatives or any other person for whom the City is responsible for at law. The said indemnity shall apply to all of the Lands including those to be dedicated or conveyed to the City.

6.2 In the event that any action, cause of action, claim or other legal document or process or other alleged claim concerning the matters governed by the indemnity provisions of this Agreement is commenced against or imposed upon the City, the City shall, forthwith, give notice to the Owner of such document, process or claim. Upon the receipt of such notice from the City, the Owner, at its own expense and to the satisfaction of the City, shall appeal, contest, defend or settle such legal document, process or claim on behalf of the City and shall reasonably notify the City on a periodic basis of the progress of the matter. The Owner acknowledges and agrees that the City reserves the right to elect at any time to conduct its own appeal, contestation, defence or settlement negotiations at the Owner's expense after giving notice of same to the Owner.

6.3 The Owner will pay to the City on demand any loss, costs, injury, damages and expenses which may be sustained, incurred or paid by the City in consequence of the matters governed by the indemnity and defence provisions of this Agreement, provided that on default of such payment all such mentioned loss, costs, injury, damages and expenses and all such moneys so paid or payable may be deducted from the Financial Security or from moneys payable by the City to the Owner on any account whatsoever or may be recovered from the Owner in a court of competent jurisdiction as moneys paid at its request.

6.4 The Owner agrees to take all precautions necessary to protect the public against injury on the Owners Lands and other lands to be developed or used for construction purposes pursuant to the terms thereof and when necessary maintain illuminated danger signals at night and at such other times and places as may be required to ensure public safety.

#### **SECTION 7 - FINANCIAL SECURITY**

7.1 Prior to the earlier of release for construction of Municipal Infrastructure and issuance of the Statement of Approval granting final Site Plan Approval, the Owner shall provide the City with financial security to guarantee the satisfactory performance and completion of all Municipal Infrastructure and obligations required pursuant to this Agreement, including:

- (a) the provision of "as-built" drawings required under Section 2 hereof;
- (b) any Construction Lien Act claims that may be claimed against holdback as provided under the Construction Lien Act, R.S.O. 1990, c. C. 30, as amended, in respect of work done or improvements made to lands dedicated as public streets, highways or made to other public lands; and,
- (c) workmanship and materials for a period of two years from the date the Municipal

Infrastructure is accepted in writing by Engineering & Construction Services.

7.2 The financial security shall be in the form of a certified cheque or an irrevocable standby letter of credit satisfactory to the City Treasurer or any combination thereof and shall be in an amount to be determined by Engineering & Construction Services, whose decision shall be final (the "Financial Security").

7.3 The irrevocable standby Letter of Credit shall be in the form and from a financial institution acceptable to the City Treasurer.

7.4 The Owner acknowledges and agrees the Financial Security submitted to the City in the form of a certified cheque will be placed in a non-interest bearing account.

7.5 The Owner agrees that the Financial Security, as may be reduced in accordance with this Section, will be maintained in full force and effect until the expiry of the maintenance guarantee period and the City assumes responsibility for the Municipal Infrastructure pursuant to subsection 8.4.

7.6 At the request of the Owner and with the approval of Engineering & Construction Services the maintenance guarantee period may be established for stages of the work rather than for the complete works.

7.7 The amount held as Financial Security may, at the discretion of Engineering & Construction Services, be reduced:

- (a) on completion of the construction/installation of all or any portion of the Municipal Infrastructure and prior to the City assuming responsibility therefore, and
- (b) upon receipt of the Owner's Consulting Engineer's certification of the cost of the outstanding Municipal Infrastructure yet to be constructed or completed pursuant to this Agreement.

7.8 The amount of the Financial Security remaining on deposit following a reduction shall be sufficient to guarantee:

- (a) 100% of the estimated cost to complete the Municipal Infrastructure outstanding at that time;
- (b) the provision of Engineering services and other professional services required by Section 2 and which are necessary to complete the Municipal Infrastructure outstanding at that time;
- (c) the value of the holdbacks required to be retained by the Owner, or any other proper payer, under Part IV of the *Construction Lien Act* with regard to the construction or installation of any portion of the Municipal Infrastructure located on a public street or highway or any lands owned by the City or in which the City has an interest. The Owner agrees to submit to the City all such documentation as is necessary to verify the amount of the holdbacks required to be retained as well as any further documentation which may be required by the City; and
- (d) ten percent (10%) of the value of workmanship and materials for a minimum period of two (2) years from the date the Municipal Infrastructure are completed and accepted in writing by Engineering & Construction Services; however,

in no event shall the amount of the reduced Financial Security be less than twenty percent (20%), of the original cost of all Municipal Infrastructure. Of that twenty percent (20%), ten percent (10%) is

to guarantee workmanship and ten percent (10%) is to guarantee performance of the Owner's construction lien obligations.

7.9 The Owner may be entitled to more than one reduction of the Financial Security prior to the City assuming responsibility for the Municipal Infrastructure provided that the provisions of this subsection are complied with, all to the satisfaction of Engineering & Construction Services.

7.10 Notwithstanding the provisions of this Section, the Owner acknowledges and agrees that no reduction in Financial Security will be considered if the Owner is in default pursuant to this Agreement.

#### **SECTION 8 - TIME LIMIT FOR WORK, ACCEPTANCE AND MAINTENANCE GUARANTEE**

8.1 The Owner shall complete the Municipal Infrastructure required under this Agreement within **two (2)** years from the date of this Agreement, except as may be specifically stated otherwise for in Schedule B.

8.2 The Owner shall, at its sole cost and expense, warrant and guarantee the workmanship and materials of all Municipal Infrastructure for a minimum period of two years from the date that the Municipal Infrastructure is accepted by Engineering & Construction Services.

8.3 Engineering & Construction Services shall consider acceptance of the Municipal Infrastructure upon receipt of "as-built" drawings in hard copy and digital form showing the final plan and profile locations of all Municipal Infrastructure work and written certification from the Owner's Consulting Engineer that the Municipal Infrastructure has been fully and finally constructed or carried out in accordance with the accepted engineering drawings, City Standards and Specifications and good engineering practices.

8.4 Following completion of the maintenance guarantee period Engineering & Construction Services, if satisfied with the Municipal Infrastructure, shall, on behalf of the City, assume responsibility for the Municipal Infrastructure. Provided that all matters related to the Municipal Infrastructure have been completed to satisfaction of the City, all outstanding payments and invoices have been made and the City is not aware of any claims against it in connection with this Agreement or matters related hereto, Engineering & Construction Services shall authorize the release of the Financial Security.

#### **SECTION 9 - INCOMPLETE OR FAULTY WORK**

9.1. If, in the opinion of Engineering & Construction Services for all Municipal Infrastructure installed pursuant to this Agreement, acting reasonably:

- (a) the Owner is not prosecuting or causing to be prosecuted the work required in connection with this Agreement within the specified time, or the Owner is improperly performing the work;
- (b) the Owner is not completing the Municipal Infrastructure in accordance with the accepted engineering drawings;
- (c) the Owner is not completing work under this Agreement within the specified time agreed upon;
- (d) the Owner is neglecting or has abandoned the work before completion;
- (e) the Owner is unreasonably delaying the work with the result that the conditions and covenants of this Agreement are being violated;
- (f) the Owner is failing to complete the work or has carried out faulty work, or is carrying out the work in a careless manner, or proceeding in bad faith with respect to



any of the work in this Agreement;

- (g) the Owner is neglecting or refusing to renew or to again perform such work as may have been rejected by Engineering & Construction Services as being defective or unsuitable; and/or
- (h) the Owner is proceeding or acting in any other manner which, in the opinion of Engineering & Construction Services, causes a default in the performance of the terms of this Agreement;

then, in any such case, Engineering & Construction Services shall notify the Owner of such default or neglect hereof and shall set out the deficiencies to be remedied.

9.2 If such notification of default is without effect, and the Owner is not proceeding to remedy or carry out the matters in default within the time specified in the notice then Engineering & Construction Services may immediately draw upon the Financial Security to purchase such materials, tools and machinery and to employ such workers as are required for the proper completion of the Municipal Infrastructure at the cost and expense of the Owner. The Owner acknowledges that the City has the right in the case of a default by the Owner to carry out the terms of this Agreement, to enter upon the Owners Lands in order to comply with the provisions of this Agreement.

9.3 Where, in the opinion of Engineering & Construction Services, a state of emergency exists concerning the Municipal Infrastructure or Development, any required work may be done by the City to rectify the situation at the Owner's expense without prior notice to the Owner. The City agrees to notify the Owner forthwith in writing of the steps being carried out. The cost and expense of such emergency work shall be calculated by Engineering & Construction Services whose decision shall be final and conclusive.

9.4 The authority of Engineering & Construction Services shall include the right of entry onto the property by the Executive Director or by any designated employees, agents or servants, to carry out the works under this section. Such entry by the City shall be as an agent for the Owner and shall not be deemed, for any purposes whatsoever, as an acceptance of the said Municipal Infrastructure or the work by the City.

9.5 It is understood and agreed that the total costs for all work done under the authority of this section exclusive of emergency work shall include a management fee of twenty per cent (20%) of all labour, material and machine time charges incurred to complete the work, and further, a fee of thirty per cent (30%) of the charges incurred for the dislocation and inconvenience caused to the City as a result of such default on the part of the Owner. It is understood and agreed that the aforementioned costs and fees as expressed in percentages are liquidated damages and are not to be deemed to be a penalty.

9.6 It is hereby declared and agreed that the assumption by the Owner of the obligations imposed by this paragraph is one of the considerations without which the City would not have executed this Agreement.

#### **SECTION 10 - GENERAL PROVISIONS**

10. The Owner acknowledges and agrees with the City that:

- (a) Qualitative or Quantitative Tests

Engineering & Construction Services may have qualitative or quantitative tests made of any materials which have been, or are proposed to be used in the construction of any Municipal Infrastructure required by this Agreement and the cost of such tests shall be paid by the Owner within 14 days of the account being rendered by the City;

- (b) Relocation of Existing Services

The Owner shall pay the cost of relocating any existing municipal infrastructure caused by the Development within 14 days of the account for same being rendered by the City;

(c) Specifications

Unless otherwise specified, any work required to be done under this Agreement by the Owner shall be according to the standards and specifications of the City as may be modified from time to time and Provincial standards as may be required by Engineering & Construction Services (the "City Standards and Specifications");

(d) Engineering Drawings

The Owner shall provide "as-built" drawings in hard copy and digital form respectively for the Municipal Infrastructure work, to the City prior to acceptance of the Municipal Infrastructure by the City. The Owner further agrees to provide a copy of the accepted engineering drawings within sixty (60) days on demand if the City requires the drawings at any time during the development of the Owner's Lands;

(e) Siltation Control

The Owner shall, at its expense, install and maintain all siltation control devices as required by Engineering & Construction Services at all times during construction of the Municipal Infrastructure and the Development;

(f) Damages to Municipal Infrastructure

The Owner shall to the satisfaction of Engineering & Construction Services and at its own expense, restore all existing municipal infrastructure that may be damaged due to activities related to the Development;

(g) Interest

Interest shall be payable by the Owner to the City on all sums of money payable herein which are not paid on the due dates. The due date of any sum of money shall be thirty (30) days after the date of the invoice. The interest rate shall be prime interest rate prevailing on the due date of the invoice and the amount of the interest shall be determined by the Treasurer for the City whose decision in this matter shall be final; and

(h) Cancellation of Agreement

In the event the development has not proceeded within **two (2) years from the date of this agreement**, the City may, at its option on one month's written notice to the Owner, declare this Agreement to be null and void;

(i) Soil Investigation Reports

The Owner shall provide soil investigation reports from a competent soils engineer if soil conditions warrant in the opinion and where recommended by the Owner's Consulting Engineer; and

(j) Right to Enter

The City may enter onto the Owner's Lands at any time, to inspect the Municipal Infrastructure but such inspection will not constitute the City's acceptance of the Municipal Infrastructure or any part of the Municipal Infrastructure.

**SECTION 11 - NOTIFICATION**

11.1 Any notice given by the City to the Owner pursuant to this Agreement will be sufficiently given if in writing and sent by prepaid registered mail, delivered personally (including by courier) or delivered by facsimile transmission to the Owner at:

YSL Residences Inc  
 c/o Ryan Millar  
 59 Hayden Street, Suite 200  
 Toronto, Ontario  
 M4Y 0E7  
 Phone (416) 230-0648  
 Fax (416) 955-9452

or such other address as the Owner has given the City in writing.

11.2 Any notice given by the Owner to the City pursuant to this Agreement will be sufficiently given if in writing and sent by prepaid registered mail delivered personally (including by courier) or delivered by facsimile transmission to the City at:

City Clerk City of Toronto City Hall, West Tower 12 <sup>th</sup> Floor, 100 Queen Street West Toronto, ON M5H 2N2 Fax: 416-392-2980	Copy to:	Director of Development Engineering City of Toronto Metro Hall, 16 <sup>th</sup> floor 55 John Street Toronto ON M5V 3C6 Fax: 416-392-4426
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or such other address as the City Solicitor has given to the Owner in writing.

11.3 Notice given pursuant to Section 9.1 and 9.2 hereof shall be deemed to have been delivered on the third business day after its mailing by prepaid registered mail or on the day of delivery if delivered personally or if delivered by facsimile transmission and for which confirmation of receipt has been received.

## SECTION 12 - CONSTRUCTION LIEN ACT

12.1 The Owner agrees to comply with the provisions of the *Construction Lien Act* including, but not limited to, ensuring that holdbacks are retained in accordance with Part IV of that Act with respect to the supply of services or materials for the Municipal Infrastructure.

12.2 If any lien is preserved or written notice of lien given pursuant to the *Construction Lien Act* for the supply of services or materials in connection with the construction, installation or maintenance of any portion of the Municipal Infrastructure located on a public street or highway or any lands owned by the City or in which the City has an interest, the Owner forthwith shall give written notice to the City of such document, process or claim.

12.3 The Owner shall indemnify, defend and save the City harmless, from and against any and all claims, actions or demands made against the City in connection with the *Construction Lien Act* and all costs incurred by the City as a result thereof. In the event that any action, cause of action, claim or other legal document or process or other alleged claim is commenced against or imposed upon the City, the City shall, forthwith, give notice to the Owner of such document, process or claim. Upon the receipt of such notice from the City, the Owner, at its own expense and to the satisfaction of the City, shall appeal, contest, defend or settle such legal document, process or claim on behalf of the City and reasonably notify the City on a periodic basis of the progress of the matter. The Owner acknowledges and agrees that the City reserves the right to elect at any time to conduct its own appeal, contestation, defence or settlement negotiations at the Owner's expense after giving notice of same to the Owner.

12.4 If any lien is preserved or written notice of lien given pursuant to the *Construction Lien Act* for the supply of services or materials in connection with the construction, installation or

maintenance of any portion of the Municipal Infrastructure located on a public street or highway or any lands owned by the City or in which the City has an interest, the Owner shall be considered to be in default in accordance with the terms of this Agreement, until all such claims for lien, together with any associated certificates of action, are discharged or vacated or such written notices of lien are withdrawn or a Court declaration is obtained that the written notices of lien are no longer binding or that the related liens have expired.

12.5 The Owner acknowledges and agrees that no reduction in Financial Security will be considered if the Owner is in default of the provisions of this Section.

**SECTION 13 - ASSIGNMENT OF AGREEMENT**

13. The Owner may assign this Agreement only with the written consent of the City.

**SECTION 14 - OWNERSHIP**

14.1 The Owner warrants and represents that it is the registered owner of the Owner's Lands.

14.2 Wherever in this Agreement the word "Owner" and the pronoun "it" is used, it shall be read and construed as "Owner or Owners" and "his", "her", or "their", respectively, as the number and gender may require and the number of the verb agreeing therewith shall be constructed accordingly.

14.3. This Agreement shall enure to the benefit of and be binding upon the parties hereto, their successors and assigns.

**SECTION 15 - PERFORMANCE**

15.1 No remedy herein conferred upon or reserved to the City shall exclude any other remedy, but each remedy shall be cumulative and in addition the every other remedy given hereunder or hereafter existing at law or in equity or by statute.

15.2 The failure of the City at any time to require, or decision not to require, performance by the Owner of any obligation under this Agreement shall not constitute a waiver by the City to require full and complete performance of such obligation, or any other obligation of the Owner under this Agreement, and shall in no way affect the City's rights thereafter to enforce such obligation.

15.3 The Owner acknowledges that any breach of this Agreement by it would not be adequately compensated by payment of damages and, accordingly, the Owner admits that specific performance is an appropriate form of remedy in the event of default by the Owner.

**SECTION 16 – MISCELLANEOUS**

16.1 Schedules "A" and "B" attached hereto form part of this Agreement.

16.2 The headings in the body of this Agreement do not form part of the Agreement and are deemed to be inserted for convenience of reference only.

16.3 This Agreement shall be construed with all changes in number and gender as may be required by the context.

16.4 Any amendment or modification to this Agreement shall be of no force and effect unless in writing and signed by all Parties.

16.5 Reference to an official shall be deemed to include a reference to the official of the City who performs the duties of such referenced person from time to time.


16.6 The Parties hereto acknowledge and agree that the City shall be deemed not to be an owner for the purposes of this Agreement despite any interest it may have in lands it presently owns or lands it may acquire and to which this Agreement applies.

16.7 Time shall be of the essence of this Agreement

**IN WITNESS WHEREOF** the parties have here unto caused their proper signing officers duly authorized in that behalf to sign this agreement as of the day and year first above written.

SIGNED, SEALED AND DELIVERED

**YSL RESIDENCES INC**

  
\_\_\_\_\_  
Name: Daniel Casey  
Title: President

\_\_\_\_\_  
Name:  
Title:

**I/We have authority to bind the corporation**

**CITY OF TORONTO**

  
\_\_\_\_\_  
Manager, Development Engineering, Toronto & East York District for the Executive Director, Engineering & Construction Services

I have authority to bind the Corporation.

Authorized by Item 26.9 of the Planning and Growth Management Committee, as adopted by the Council of City of Toronto at its regular meeting held on August 5 and 6, 2009

**SCHEDULE "A"****OWNER'S LANDS**

	<b>Municipal Address</b>	<b>Property Identifier Number</b>	<b>Legal Description</b>
1.	363-365 Yonge Street, Toronto, Ontario	PIN: 21101-0049 (LT)	PT LT 31 E/S YONGE ST PL 22A TORONTO AS IN EP126440; TORONTO, CITY OF TORONTO
2.	367 Yonge Street, Toronto, Ontario	PIN: 21101-0048 (LT)	PT LT 31 E/S YONGE ST, 32 E/S YONGE ST PL 22A TORONTO AS IN CA761626; TORONTO, CITY OF TORONTO
3.	369-371 Yonge Street, Toronto, Ontario	PIN: 21101-0047 (LT)	PT LT 32 E/S YONGE ST PL 22A TORONTO AS IN CA472341; TORONTO, CITY OF TORONTO
4.	373-375 Yonge Street, Toronto, Ontario	PIN: 21101-0046 (LT)	PT LT 33 E/S YONGE ST PL 22A TORONTO AS IN CA540937; TORONTO, CITY OF TORONTO
5.	377 Yonge Street, Toronto, Ontario	PIN: 21101-0045 (LT)	PT LT 33 E/S YONGE ST PL 22A TORONTO AS IN CA310343; TORONTO, CITY OF TORONTO
6.	379 Yonge Street, Toronto, Ontario	PIN: 21101-0044 (LT)	PT LT 34 E/S YONGE ST PL 22A TORONTO AS IN CT497024; TORONTO, CITY OF TORONTO
7.	381 Yonge Street, Toronto, Ontario	PIN: 21101-0043 (LT)	PART OF LOT 34 ON THE EAST SIDE OF YONGE STREET, PLAN 22A AS DESCRIBED IN INSTRUMENT NO. OT46105, CITY OF TORONTO
8.	385 Yonge Street, Toronto, Ontario	PIN: 21101-0042 (LT)	LT 35 E/S YONGE ST, 36 E/S YONGE ST PL 22A TORONTO; TORONTO, CITY OF TORONTO
9.	357 1/2 Yonge Street, Toronto, Ontario	PIN: 21101-0053 (LT)	PT LT 29 E/S YONGE ST PL 22A TORONTO AS IN CT853134; T/W CT853134; TORONTO, CITY OF TORONTO
10.	357A Yonge Street, Toronto, Ontario	PIN: 21101-0052 (LT)	PT LT 29 E/S YONGE ST, PL 22A TORONTO AS IN CT891553, CITY OF TORONTO

**SCHEDULE "B"**

**TO THE MUNICIPAL INFRASTRUCTURE AGREEMENT,  
MADE THE 2nd DAY OF April , 2019,  
BETWEEN YSL RESIDENCES INC AND CITY OF TORONTO**

**MUNICIPAL INFRASTRUCTURE REQUIREMENTS****SITE SPECIFIC PROVISIONS**

*The work shall consist of the following:*

- *Remove and return to the City the existing fire hydrant on the south side of Gerrard Street East, approximately 15 m east of Yonge Street;*

*and all associated work and appurtenances, including valves, etc., as identified on the approved drawings and reports listed below.*

*The work also includes all site preparation and maintenance, including dewatering activities in accordance with a Sanitary Discharge Agreement (if required) and any traffic management and control work throughout the construction period that may be necessary.*

*Section 2.2(a) notwithstanding, the works shall be constructed in accordance with the following documentation:*

- *Hydrant Removal Plan, Drawing No. 1 of 1, revision 1, dated March 20, 2019, prepared by The Odan/Detech Group Inc.;*

*The Owner agrees to construct the above noted works at no cost to the City. In accordance with Section 7 of this Agreement, the Owner shall provide a financial guarantee in the amount of \$11,700.00 to ensure the satisfactory completion of the works, submit a certified cheque in the amount of \$580.00 for engineering and inspection fees, and provide public liability insurance, as required, all to the satisfaction of the Executive Director, Engineering & Construction Services.*

*All work shall be completed in accordance with the City's Standards and Specifications and must be completed to the satisfaction of the Executive Director, Engineering & Construction Services.*

*The Owner must make a separate application to the General Manager, Transportation Services for permits to carry out any works involving the construction in, or occupancy of, the City right-of-ways, including the sidewalk and public boulevard streetscaping work.*

*All waste material, including any excess soils, shall be removed and disposed of off-site by the Owner in accordance with Ministry of the Environment, Conservation & Parks regulations and all other applicable statutory requirements.*

# Appendix 3









AGREEMENT OF PURCHASE AND SALE

The undersigned, **Ryan Millar** (collectively, the "Purchaser"), hereby agrees with **THE CLOVER ON YONGE INC.** (the "Vendor") to purchase Unit No. 10 Level No. 11, Suite No. 1210, as outlined for identification purposes on the draft plan of condominium attached hereto as Schedule "A", being a proposed unit in the Condominium to be located at 595 Yonge Street, Toronto together with an undivided interest in the common elements appurtenant to the unit and the exclusive use of those parts of the common elements attached to such unit, if any, as set out in the proposed Declaration (hereinafter collectively called the "Unit") on the following terms and conditions:

- The purchase price of the Unit (the "Purchase Price") is Four Hundred Thirty Nine Thousand Nine Hundred (\$ 439,900.00) DOLLARS (as more particularly set forth and subject to the provisions of Subsection 7(d) of this Agreement) of lawful money of Canada payable as follows:
  - to Dale & Lessmann LLP, In Trust (the "Escrow Agent" or the "Vendor's Solicitors"), in the following amounts at the following times, by cheque or bank draft, as deposits pending completion or other termination of this Agreement and to be credited on account of the Purchase Price on the Closing Date:
    - the sum of Twenty One Thousand Nine Hundred Ninety Five (\$ 21,995.00) DOLLARS accompanying this Agreement as an initial deposit;
    - the sum of Twenty One Thousand Nine Hundred Ninety Five (\$ 21,995.00) DOLLARS submitted with this Agreement and post-dated ninety (90) days after the date of execution of this Agreement by the Purchaser;
    - the sum of Twenty One Thousand Nine Hundred Ninety Five (\$ 21,995.00) DOLLARS submitted with this Agreement and post-dated one hundred and eighty (180) days after the date of execution of this Agreement by the Purchaser;
    - the sum of Twenty One Thousand Nine Hundred Ninety Five (\$ 21,995.00) DOLLARS submitted with this Agreement and post-dated four hundred and fifty (450) days after the date of execution of this Agreement by the Purchaser;
    - the sum of Twenty One Thousand Nine Hundred Ninety Five (\$ 21,995.00) DOLLARS as a further deposit by way of bank draft or certified solicitor's trust cheque on the Occupancy Closing Date (as hereinafter defined);
  - The balance of the Purchase Price subject to the adjustments hereinafter set out, by way of bank draft or certified solicitor's trust cheque payable to the Vendor's Solicitors, In Trust, on the Unit Transfer Date.
- The amounts payable pursuant to clauses 1(a)(i) to (v), both inclusive, are hereinafter referred to as the "Deposit" or "Deposits", as the case may be. All Deposits shall be credited towards the Purchase Price on the Unit Transfer Date. The Purchaser shall deliver post-dated cheques for the amounts set out in clauses 1(a)(i) to (v) upon execution of this Agreement. The Deposits may be released by the Escrow Agent to the Vendor in accordance with Section 6 of this Agreement.
- In accordance with Section 73 of the Act, any purchaser, before receiving delivery of a Transfer of his Unit, may rescind the Agreement of Purchase and Sale within ten (10) days of the later of the date of receipt by the Purchaser of the Disclosure Statement and the date of receipt by the Purchaser of a copy of the Agreement of Purchase and Sale executed by the Purchaser and the Vendor.

The Purchaser hereby acknowledges that the acceptance of this offer by the Vendor is irrevocable by the Purchaser until 6:00 p.m. on the 15th day after the date of execution by the Purchaser, after which time, if not accepted, this offer shall be null and void and the deposit referred to in paragraph 1(a) above shall be returned to the Purchaser without interest or deduction. When accepted, this offer shall constitute a binding agreement of purchase and sale wherein time shall in all respects be of the essence. The parties acknowledge and agree that acceptance of this offer shall be conclusively deemed to have been made if this Agreement is executed by the Vendor and made available for pick up by the Purchaser at the Vendor's sales office on or before the irrevocable date herein set forth, without requiring that notice of acceptance or a fully executed counterpart of this Agreement be delivered to the Purchaser.

All provisions of this Agreement, including Sections 4 to 55, both inclusive, contained on the following pages and those set out in Schedules "A", "B", "C" and "D" to this Agreement, the Tarion Addendum to Agreement of Purchase and Sale, together with the appendix thereto containing Additional Early Termination Conditions and the Tarion Statement of Critical Dates which are attached hereto are an integral part hereof. The Purchaser acknowledges that he/she has read all provisions and schedules of this Agreement, the Tarion Addendum to Agreement of Purchase and Sale together with the appendix thereto and the Tarion Statement of Critical Dates and agrees to be bound by each of them.

DATED at Toronto, this 22 day of December, 2015.

SIGNED, SEALED AND DELIVERED  
in the presence of.

Witness  
(as to all signatures if more than one Purchaser)

  
PURCHASER

Print Name: Ryan Millar  
Date of Birth: February 19, 1978 S.I.N. 506-760-990  
Driver's License: \_\_\_\_\_

PURCHASER

Print Name: \_\_\_\_\_  
Date of Birth: S.I.N. \_\_\_\_\_  
Driver's License: \_\_\_\_\_

PURCHASER'S ADDRESS

80 Brookside Drive  
Suite No. \_\_\_\_\_ Street Name \_\_\_\_\_  
Toronto ON M4E 2M1  
City. Province Postal Code  
Telephone (Bus.) \_\_\_\_\_ Telephone (Home) \_\_\_\_\_  
Facsimile \_\_\_\_\_ e-mail \_\_\_\_\_

PURCHASER'S SOLICITOR

Name \_\_\_\_\_  
Suite No. \_\_\_\_\_ Street Name \_\_\_\_\_  
City \_\_\_\_\_ Province \_\_\_\_\_ Postal Code \_\_\_\_\_  
Telephone \_\_\_\_\_ Facsimile \_\_\_\_\_

The undersigned accepts the above offer and agrees to complete this transaction in accordance with the terms hereof.

DATED at Toronto, this 22 day of December, 2015.

Vendor's Solicitors  
**DALE & LESSMANN LLP**  
Barristers and Solicitors  
Suite 2100, 181 University Avenue  
Toronto, Ontario, M5H 3M7  
Attention: Patricia E. Dunn, Solicitor  
or Jessica Boyle, Law Clerk  
Telephone: (416) 863-1010  
Facsimile: (416) 863-1009  
e-mail: [jboyle@dalelessmann.com](mailto:jboyle@dalelessmann.com)

  
Per: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Authorized Signing Officer  
I have authority to bind the Corporation.

Unit 1210	1	Floor Plan Dragonfly			
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**FOYER/KITCHEN/LIVING/DEN**

ITEM	COMPONENT - DESCRIPTION	PRICE
1	FOYER/KITCHEN/LIVING/DEN FLOORING - Standard - Laminate Flooring - Evoke: Noah Oak - 7 5/8inch x 5/16inch--10 Note:	

**KITCHEN**

ITEM	COMPONENT - DESCRIPTION	PRICE
2	KITCHEN COUNTER - Standard - Kitchen Countertop - Caesarstone Quartz- Blizzard 2141 - 3/4inch Edge -Polished--40 Note:	
3	KITCHEN CABINERY - Upgrade - Kitchen Hardware: Scav - 20309_160 - Satin --88 Note:	\$ 200.00
4	KITCHEN CABINERY - Upgrade - Scavolini Kitchen Cabinetry - Calicot SCAV 736 - 8ft Height --88 Note:	\$ 2,069.00
5	KITCHEN BACKSPLASH - Standard - Kitchen Backsplash Tile - Farrow - Dorrset White - 2inch x 10inch - Gloss with Grout - White 00--88 Note:	

**MASTER BEDROOM**

ITEM	COMPONENT - DESCRIPTION	PRICE
6	MASTER BEDROOM CLOSET SLIDERS - Upgrade - Master Bedroom Closet Slidders - to Frameless Mirror Closet Slidder - 2 Panels--88 Note:	\$ 799.00

**MASTER BATHROOM**

ITEM	COMPONENT - DESCRIPTION	PRICE
7	MASTER BATHROOM COUNTER - Standard - Master Bathroom - Bathroom Countertop - Marble-Venatino - 3/4inch Edge - Polished--40 Note:	
8	MASTER BATHROOM FLOOR TILE - Standard - Porcelain - Tile Floor/ Tub Skirt - Pietra - Dolomite - 12inch x 24inch - Gloss with Grout - White 00--88 Note:	
9	MASTER BATHROOM BATHTUB WALL TILE - Standard - Porcelain - Tub/Shower Wall Tile - Pietra - Dolomite - 12inch x 24inch - Gloss with Grout - White 00--88 Note:	
10	MASTER BATHROOM VANITY - Upgrade - Master Bathroom - Bathroom Vanity - TITANIUM GREY GLOSSY LACQUER SCAV 358 Hardware: Scav - 31610_160 - Aluminum - Standard--88 Note:	\$ 696.00

**SECOND BATHROOM**

ITEM	COMPONENT - DESCRIPTION	PRICE
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TAX#:1

Printed: 23-May-19 at 5:08 pm

PE 6,474-1

Decor

Builder

Purchaser

Unit 1210	1	Floor Plan Dragonfly			
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**SECOND BATHROOM**

ITEM	COMPONENT - DESCRIPTION	PRICE
11	SECOND BATHROOM COUNTER - Standard - Second Bathroom - Countertop - White Cultured Marble--40 Note:	
12	SECOND BATHROOM SHOWER WALL TILE - Standard - Porcelain -Shower Wall Tile - Pietra - Dolomite - 12inch x 24inch - Gloss with Grout - White 00--52 Note:	
13	SECOND BATHROOM SHOWER FLOOR - Upgrade- Bathroom - Shower Floor -Ontario Series: Snow White - Hexagon - Matte - 12" x 12" with Grout - White 00--70 Note:	\$ 375.00
14	SECOND BATHROOM FLOOR TILE - Standard - Porcelain - Tile Floor- Pietra - Dolomite - 12inch x 24inch - Gloss with Grout - White 00--88 Note:	
15	SECOND BATHROOM VANITY - Upgrade - Second Bathroom - Bathroom Vanity - TITANIUM GREY GLOSSY LACQUER SCAV 358 Hardware: Scav - 31610_160 - Aluminum - Standard--88 Note:	\$ 696.00
16	SECOND BATHROOM SHOWER THRESHOLD - Standard - Bathroom - Shower Threshold - White Quartz--88 Note:	



<b>\$4,835.00 Sub Total</b>
<b>\$628.55 HST</b>
<b>\$5,463.55 Total</b>

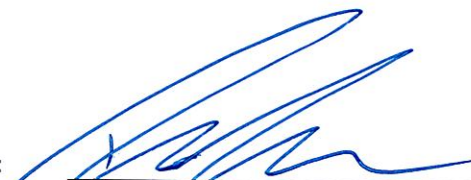
This is your direction to install the above extras in accordance with the following terms and conditions:

- In the event the work on the unit has progressed beyond the point where the items covered by this extra cannot be installed without entailing any unusual expense, then this order is to be cancelled and any deposit paid in connection with the same is to be refunded to the Purchaser.
- The Vendor will undertake to incorporate the work covered by the sales extra in the construction of the unit but will not be liable to the purchaser in any way, if for any reason the work covered by the extra is not carried out. In that event, any monies paid in connection with the same shall be returned to the Purchaser.
- It is understood and agreed that if for any reason whatsoever the transaction of Purchase and Sale is not completed, the total cost of extras ordered are not refundable to the Purchaser(s).
- Extras or changes will not be processed unless signed by the Vendor.
- These extras may not be amended without the written consent of THE CLOVER ON YONGE INC..
- The Purchaser(s) and the Vendor acknowledge and agree that this form shall not be deemed to be part of the Agreement of Purchase and Sale entered into between them, nor an addendum thereto.
- Any cancellations to this order, providing they can be cancelled, are subject to a \$500 minimum administration charge and a 10% cancellation charge for the total amount being cancelled.

<b>Payment Summary</b>		
<u>Paid By</u>	<u>Amount</u>	<u>Detail</u>
<u>Total Payment:</u>		_____

Unit 1210	1	Floor Plan Dragonfly			
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PURCHASER:

  
Ryan Millar

23-May-19  
DATE

CONSULTANT:

  
Shauna Kerr

VENDOR:

PER: THE CLOVER ON YONGE INC.

TAX#:1

PE 6.474-3

Printed: 23-May-19 at 5:08 pm

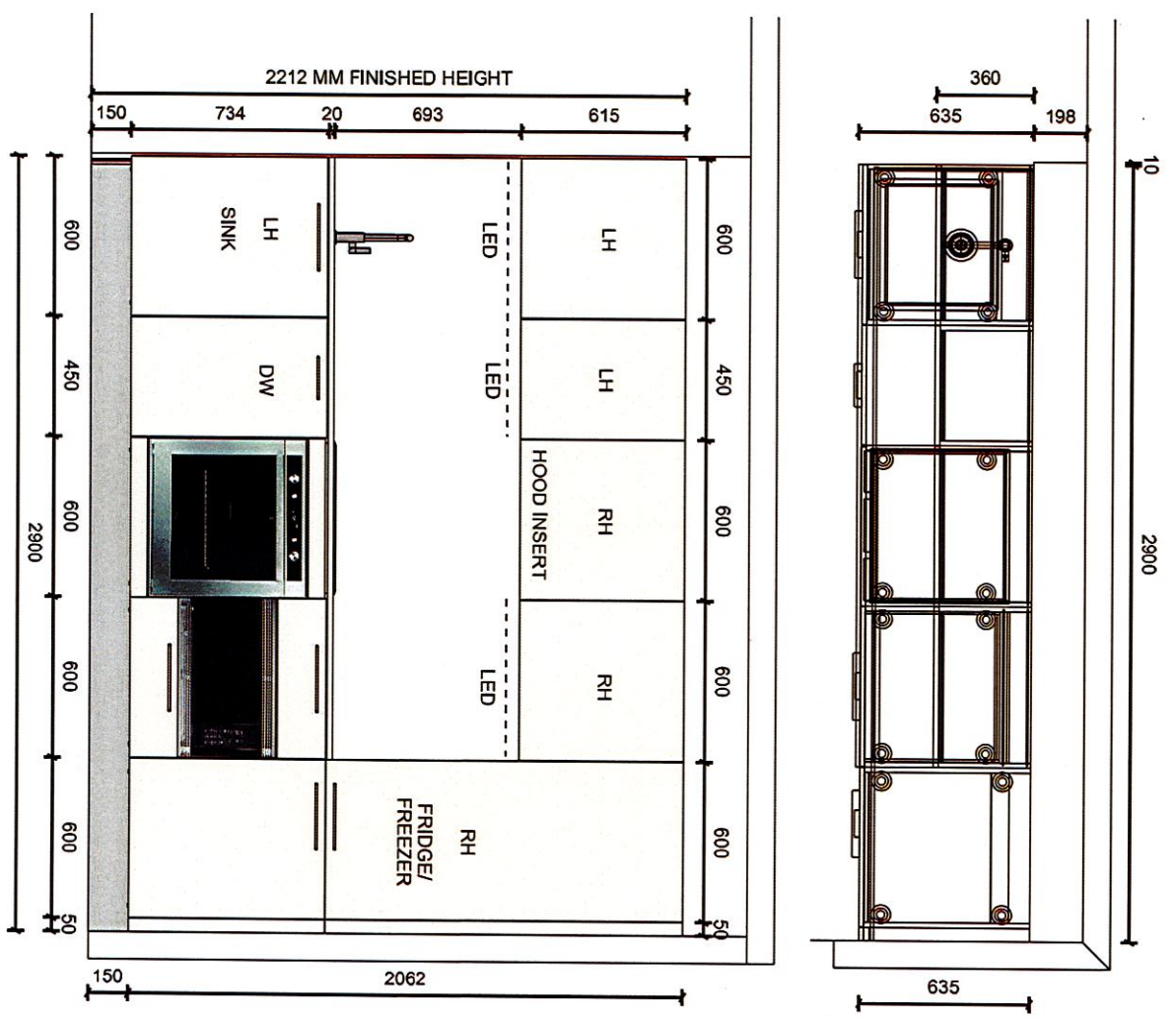
Decor

Builder

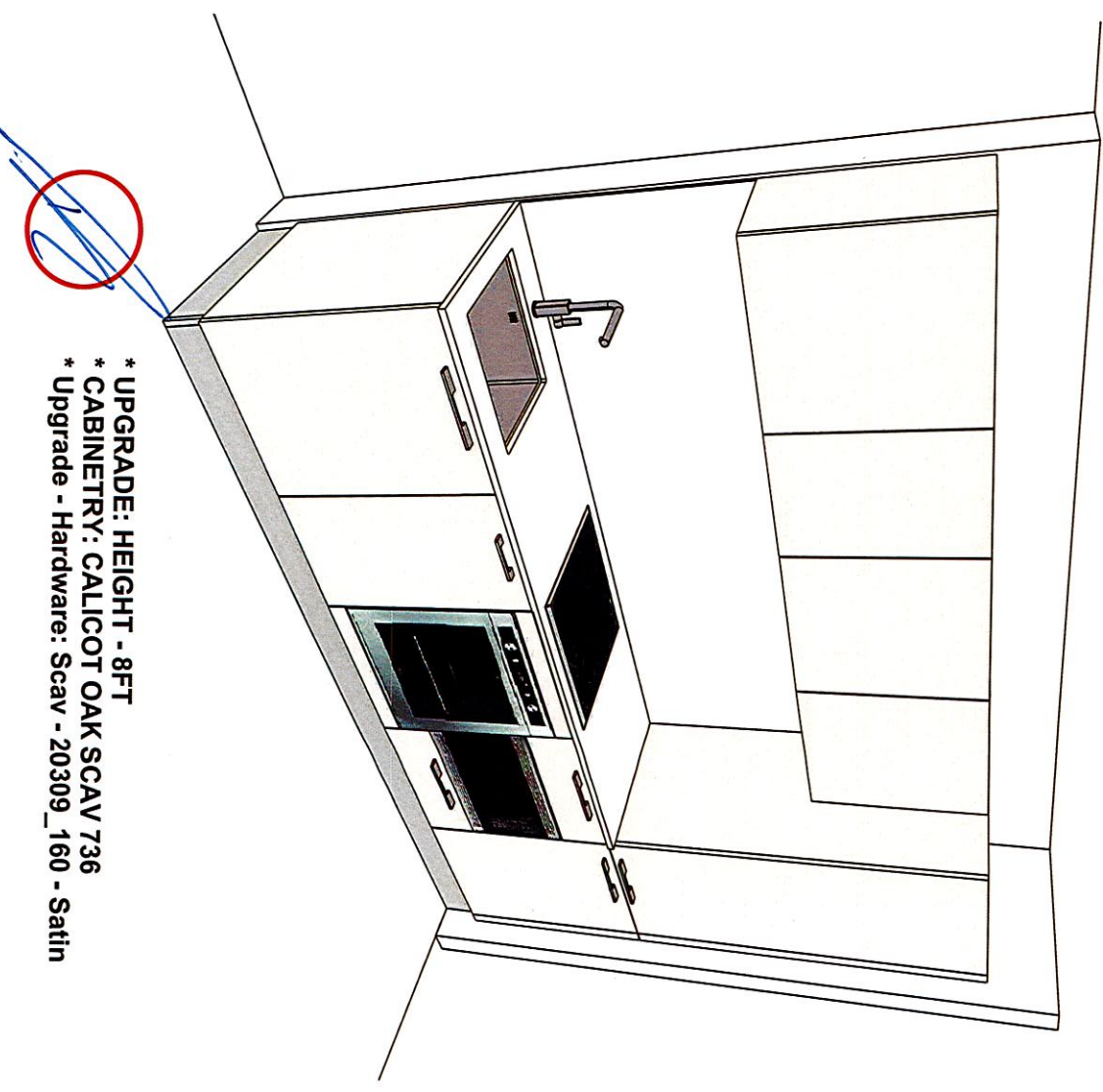
Purchaser

24" Appliance Package

**CLOVER # 1210 / 1110 (C)**



- |               |                  |                  |                  |                  |
|---------------|------------------|------------------|------------------|------------------|
| 301 (Vintage) | 610 (Dragonfly)  | 1410 (Dragonfly) | 2210 (Dragonfly) | 3010 (Dragonfly) |
| 303 (Vintage) | 710 (Dragonfly)  | 1510 (Dragonfly) | 2310 (Dragonfly) | 3110 (Dragonfly) |
| 307 (Vintage) | 810 (Dragonfly)  | 1610 (Dragonfly) | 2410 (Dragonfly) | 3210 (Dragonfly) |
| 309 (Vintage) | 910 (Dragonfly)  | 1710 (Dragonfly) | 2510 (Dragonfly) | 3310 (Dragonfly) |
| 401 (Vintage) | 1010 (Dragonfly) | 1808 (Dragonfly) | 2610 (Dragonfly) | 3410 (Dragonfly) |
| 403 (Vintage) | 1110 (Dragonfly) | 1910 (Dragonfly) | 2710 (Dragonfly) | 3510 (Dragonfly) |
| 406 (Vintage) | 1210 (Dragonfly) | 2010 (Dragonfly) | 2810 (Dragonfly) |                  |
| 408 (Vintage) | 1310 (Dragonfly) | 2110 (Dragonfly) | 2910 (Dragonfly) |                  |



- \* UPGRADE: HEIGHT - 8FT
- \* CABINETRY: CALICOT OAK SCAV 736
- \* Upgrade - Hardware: Scav - 20309\_160 - Satin



# The Clover on Yonge Inc. Cabinetry Checklist – Floors (3 - 40)

Purchaser: Ryan Millar

Suite: 1210

The following options have been discussed and I chose to:

**KITCHEN CABINETRY HEIGHT**

	Accept	Decline
STANDARD 7 FT HEIGHT	<input type="checkbox"/>	<input checked="" type="checkbox"/>
UPGRADED 8 FT HEIGHT	<input checked="" type="checkbox"/>	<input type="checkbox"/>

**STANDARD KITCHEN CABINETRY**

ASH PORE SCAV 014	<input type="checkbox"/>	<input checked="" type="checkbox"/>
ARCADE OAK SCAV 734	<input type="checkbox"/>	<input checked="" type="checkbox"/>
CALICOT OAK SCAV 736	<input checked="" type="checkbox"/>	<input type="checkbox"/>

**UPGRADE KITCHEN CABINETRY – GLOSSY LACQUER 1**

PRESTIGE WHITE LACQUER SCAV 028	<input type="checkbox"/>	<input checked="" type="checkbox"/>
DOVE LACQUER SCAV 855	<input type="checkbox"/>	<input checked="" type="checkbox"/>
MINK LACQUER SCAV 856	<input type="checkbox"/>	<input checked="" type="checkbox"/>
IRON GREY LACQUER SCAV 374	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**UPGRADE KITCHEN CABINETRY – GLOSSY LACQUER 2**

LIGHT GREY SCAV 302 / TITANIUM GREY SCAV 358	<input type="checkbox"/>	<input checked="" type="checkbox"/>
TUNDRA GREY SCAV 358 / SLATE BLACK SCAV 424	<input type="checkbox"/>	<input checked="" type="checkbox"/>
OTHER: _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**STANDARD BATHROOM VANITY CABINETRY**

MATTE WHITE SCAV 024	<input type="checkbox"/>	<input checked="" type="checkbox"/>
MATTE GREY SCAV 859	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**UPGRADE BATHROOM VANITY CABINETRY – GLOSSY LACQUER 1**

PRESTIGE WHITE LACQUER SCAV 028	<input type="checkbox"/>	<input checked="" type="checkbox"/>
DOVE LACQUER SCAV 855	<input type="checkbox"/>	<input checked="" type="checkbox"/>
MINK LACQUER SCAV 856	<input type="checkbox"/>	<input checked="" type="checkbox"/>
IRON GREY LACQUER SCAV 374	<input type="checkbox"/>	<input checked="" type="checkbox"/>
LIGHT GREY SCAV 302 / TITANIUM GREY SCAV 358	<input checked="" type="checkbox"/>	<input type="checkbox"/>
TUNDRA GREY SCAV 358 / SLATE BLACK SCAV 424	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**OTHER**

	Accept	Decline
INTERGRATED APPLIANCE PANELS	<input checked="" type="checkbox"/>	<input type="checkbox"/>
KITCHEN CABINETRY HARDWARE: <u>SCAV 20309_160 - UPGRADE</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
KITCHEN CABINETRY ACCESSORIES: _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>
BATHROOM VANITY HARDWARE: <u>SCAV 31610_160 - STANDARD</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
BATHROOM VANITY ACCESSORIES: _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>
CUSTOM REQUESTS: <u>(AS PER NOTES ON COLOUR CHART)</u>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**SIGNATURES**

Purchaser Signature: 

Date: May 23 , 2019

Purchaser Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Purchaser Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Purchaser Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Décor Consultant Signature: 

Date: May 23 , 2019

# The Clover on Yonge Inc. Colour Selection Checklist

Purchaser: Ryan Millar

Suite: 1210

The following options have been discussed and I chose to:

	Accept	Decline
Upgrade Kitchen Countertop/ Edge	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Upgrade Kitchen Backsplash	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Upgrade Kitchen Cabinetry	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Extend Kitchen Cabinetry	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Mix and Match Cabinetry	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Upgrade / Add Kitchen Island	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Upgrade Kitchen - Accessories	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Upgraded Bathroom Vanity	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Upgrade Bathroom Countertop (Master / 2 <sup>nd</sup> )	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Upgraded Bathroom Countertop Edge (Master / 2 <sup>nd</sup> )	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Upgrade Tub/Shower Wall Tile (Master / 2 <sup>nd</sup> )	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Upgrade Shower Floor Tile (Master / 2 <sup>nd</sup> ) <i>BT</i>	<input checked="" type="checkbox"/>	
Upgrade Shower Threshold (Master / 2 <sup>nd</sup> )	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Upgrade Bathroom Floor Tile (Master / 2 <sup>nd</sup> )	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Upgrade Bathroom - Accessories (Master / 2 <sup>nd</sup> )	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Upgrade Bathroom - Tub Shield (Master / 2 <sup>nd</sup> )	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Upgrade Hardwood Flooring	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Upgrade Closet Sliders (Entry / <b>Bedrooms</b> ) - MASTER	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Custom Upgrades	<input checked="" type="checkbox"/>	<input type="checkbox"/>

**\*STANDARD PACKAGE MIX & MATCH**

The following items have been discussed and I understand:

- Sketches are to show design intent only and are subject to limitations due to site conditions and industry standards. Dimensions on sketches and plans are subject to change without notice.
- Colour of wood floors may vary from sample shown.
- Maintenance of natural stone countertops & flooring (if applicable), marble and limestone is susceptible to staining.
- Natural stone countertops & tiles may vary in colour and from sample shown.
- All selections, including all upgrades, are considered final upon the signing of this agreement. Should a purchaser(s) wish to make additional changes or add upgrades at a later date, the changes will be subject to a file re-opening fee of \$500.00 and will depend on the stage of construction.
- All standard backsplash tile is laid in brick pattern.
- All standard bathroom floor tile is laid in straight-lay pattern.
- All standard tub/shower wall tile is laid in straight-lay pattern.

Purchaser Signature: 

Date: May 23 , 2019

Purchaser Signature: \_\_\_\_\_

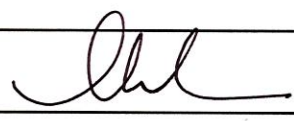
Date: \_\_\_\_\_

Purchaser Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Purchaser Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Décor Consultant Signature: 

Date: May 23 , 2019

**Addendum to Agreement of Purchase and Sale  
Regarding Upgrades**

Between:

**THE CLOVER ON YONGE INC.**  
(hereinafter called "Vendor")

-and-

**Ryan Millar**  
(hereinafter called the "Purchaser(s)")

Whereas the Purchaser(s) has agreed to purchase from the Vendor

**Suite 1210 (Level 11, Unit 10)**

In accordance with an Agreement of Purchase & Sale dated 12/22/2015 and the request to modify certain specifications ("upgrades"),

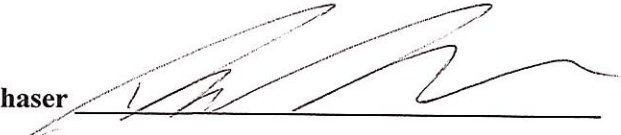

1. The Vendor's acceptance hereof hereby constitutes the Vendor's agreement to carry out the upgrades, as requested by the Purchaser and set out in the attached "Customer Invoice" and, if applicable, in any accompanying drawings.
2. Notwithstanding the Vendor's agreement to so carry out said upgrades, the Purchaser acknowledges that the Vendor's agreement hereto is subject to the following terms and conditions:
  - a) The cost(s) to the Purchaser of the upgrades will be as stated on the attached final version of the Customer Invoice, and as stated in paragraph no. 7 below. Said Customer Invoice shall be considered a final version only once it has been signed by the Vendor. In the event of a discrepancy between the Customer Invoice and this Addendum, the Vendor shall determine which is correct.
  - b) The Purchaser shall pay the cost(s) of the upgrades to the Vendor as specified in paragraph no. 8 below on or before the date specified. Failure to pay for said upgrades as agreed herein shall be deemed by the Vendor as a default under the Agreement, and in this event the Vendor shall be at liberty to complete the unit to basic project specifications as per Schedule "B" of the Agreement.
  - c) In addition to all other reasonable costs, additional charge(s) may be made for professional fees incurred by the Vendor from its architects, engineers, etc., for the purpose of incorporating the Purchaser's change(s); and
  - d) Any credit(s) issued to the Purchaser as a result of item(s) to be deleted, shall be based on credit(s) issued to the Vendor by the subcontractors/trades responsible for the item(s) so deleted, and in this regard the Purchaser acknowledges that said credit(s) are calculated on contract prices for the entire project and may be substantially less than retail prices normally charged for such items(s).
3. In the event that the purchase and sale transaction is not completed for any reason all monies paid for upgrades will not be refunded.
4. If, as a result of building, construction or site conditions within the Unit or Building, the Vendor is not able to construct an electrical or structural upgrade, then the Vendor may terminate the Vendor's obligation to construct the extra. In such event, the Vendor shall refund to the Purchaser the monies, if any, paid by the Purchaser to the Vendor in respect of such extra, without interest and in all other respects this Agreement shall continue in full force and effect.
5. If any of the upgrades ordered by the Purchaser remain incomplete in whole or in part on the Closing Date, the Vendor may provide an undertaking to complete the upgrades within a reasonable period of time which the Purchaser shall accept without any holdback; or not provide the upgrades or not complete the upgrades in its sole discretion whereupon the Vendor shall refund to the Purchaser by an adjustment on the Unit Transfer Date that portion of the amount paid by the Purchaser as allocated to the upgrades which were not provided or remain incomplete as determined by the Vendor, which credit shall be accepted by the Purchaser as full and final settlement of any claim the Purchaser may have with respect to the upgrades which were not provided or are incomplete.
6. The Purchaser acknowledges that construction and/or installation of any specified upgrades may result in delays in the completion of construction of the Unit due to availability of services, materials and/or supplies. The Purchaser covenants and agrees to complete the Agreement notwithstanding that the Unit may not be completed in accordance with the terms and provisions of the Agreement as a result of such delays.
7. The Purchaser acknowledges that natural stones and wood are subject to natural variations in colour and grain. Tile is subject to dye lot, pattern, shade and colour variations

8. The Purchaser hereby agrees to purchase upgrades outlined in the attached "Customer Invoice" as follows:

**Electrical Upgrades:**

Order Total as per Customer Invoice:	\$ <u>2,552.67</u>
Credit to Purchaser (if applicable):	\$ <u>0</u>
Amount Owing (date: _____):	\$ <u>2,552.67</u>
Total Paid:	\$ _____
Electrical Outstanding:	\$ _____

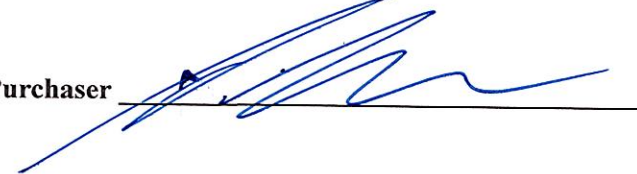
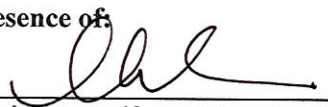
Dated at TORONTO, Ontario, this 15 day of JUNE, 2018

SIGNED, SEALED AND DELIVERED  
in the presence of: \_\_\_\_\_ )  
Purchaser  )  
Witness  )  
(as to all signatures if more than one Purchaser) )  
Purchaser \_\_\_\_\_ )

**Colour Selection Upgrades:**

Order Total as per Customer Invoice:	\$ <u>5,463.55</u>
Credit to Purchaser (if applicable):	\$ <u>0</u>
Amount Owing (date: _____):	\$ <u>5,463.55</u>
Total Paid:	\$ _____
Colours Outstanding:	\$ _____
Balance payable on Occupancy (if applicable):	\$ _____

Dated at TORONTO, Ontario, this 23 day of MAY, 2019

SIGNED, SEALED AND DELIVERED  
in the presence of: \_\_\_\_\_ )  
Purchaser  )  
Witness  )  
(as to all signatures if more than one Purchaser) )  
Purchaser \_\_\_\_\_ )

Dated at Toronto, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

**THE CLOVER ON YONGE INC.**

Per: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Authorized Signing Officer  
I have authority to bind the corporation

# Appendix 4

AGREEMENT OF PURCHASE AND SALE

The undersigned, **Ryan Miller** (collectively, the "Purchaser"), hereby agrees with **33 YORKVILLE RESIDENCES INC.** (the "Vendor") to purchase Unit No. **21** Level No. **12**, Suite No. **1211B**, as outlined for identification purposes on the draft plan of condominium attached hereto as Schedule "A", being a proposed unit in the Condominium to be located at 33 Yorkville Avenue, Toronto together with an undivided interest in the common elements appurtenant to the unit and the exclusive use of those parts of the common elements attached to such unit, if any, as set out in the proposed Declaration (hereinafter collectively called the "Unit") on the following terms and conditions:


- The purchase price of the Unit (the "Purchase Price") is **Five Hundred Ninety Two Thousand Nine Hundred (\$ 592,900.00 )** DOLLARS (as more particularly set forth and subject to the provisions of Subsection 7(d) of this Agreement) of lawful money of Canada payable as follows:
  - to Bennett Jones LLP, In Trust (the "Escrow Agent" or the "Vendor's Solicitors"), in the following amounts at the following times, by cheque or bank draft, as deposits pending completion or other termination of this Agreement and to be credited on account of the Purchase Price on the Closing Date:
    - the sum of **Twenty Five Thousand (\$25,000.00) DOLLARS** accompanying this Agreement as an initial deposit;
    - the sum of **Thirty Four Thousand Two Hundred Ninety (\$ 34,290.00 ) DOLLARS** submitted with this Agreement and post-dated sixty (60) days after the date of execution of this Agreement by the Purchaser;
    - the sum of **Twenty Nine Thousand Six Hundred Forty Five (\$ 29,645.00 ) DOLLARS** submitted with this Agreement and post-dated one hundred and eighty (180) days after the date of execution of this Agreement by the Purchaser;
    - the sum of **Twenty Nine Thousand Six Hundred Forty Five (\$ 29,645.00 ) DOLLARS** submitted with this Agreement and post-dated two hundred and forty (240) days after the date of execution of this Agreement by the Purchaser;
    - the sum of **Twenty Nine Thousand Six Hundred Forty Five (\$ 29,645.00 ) DOLLARS** as a further deposit by way of bank draft or certified solicitor's trust cheque, in either case, issued by a Schedule 1 Canadian Chartered Bank on the Occupancy Closing Date (as hereinafter defined).
  - The balance of the Purchase Price subject to the adjustments hereinafter set out, by way of bank draft or certified solicitor's trust cheque, in either case, issued by a Schedule 1 Canadian Chartered Bank payable to the Vendor's Solicitors, In Trust, on the Unit Transfer Date.
- The amounts payable pursuant to clauses 1(a)(i) to (v), both inclusive, are hereinafter referred to as the "Deposit" or "Deposits", as the case may be. All Deposits shall be credited towards the Purchase Price on the Unit Transfer Date. The Purchaser shall deliver post-dated cheques for the amounts set out in clauses 1(a)(i) to (iv) upon execution of this Agreement. The Deposits may be released by the Escrow Agent to the Vendor in accordance with Section 6 of this Agreement.
- In accordance with Section 73 of the Act, any purchaser, before receiving delivery of a Transfer of his Unit, may rescind the Agreement of Purchase and Sale within ten (10) days of the later of the date of receipt by the Purchaser of the Disclosure Statement and the date of receipt by the Purchaser of a copy of the Agreement of Purchase and Sale executed by the Purchaser and the Vendor.

The Purchaser hereby acknowledges that the acceptance of this offer by the Vendor is irrevocable by the Purchaser until 6:00 p.m. on the 15th day after the date of execution by the Purchaser, after which time, if not accepted, this offer shall be null and void and the deposit referred to in paragraph 1(a) above shall be returned to the Purchaser without interest or deduction. When accepted, this offer shall constitute a binding agreement of purchase and sale wherein time shall in all respects be of the essence. The parties acknowledge and agree that acceptance of this offer shall be conclusively deemed to have been made if this Agreement is executed by the Vendor and made available for pick up by the Purchaser at the Vendor's sales office on or before the irrevocable date herein set forth, without requiring that notice of acceptance or a fully executed counterpart of this Agreement be delivered to the Purchaser.

All provisions of this Agreement, including Sections 4 to 57, both inclusive, contained on the following pages and those set out in Schedules "A", "B", "C" and "D" to this Agreement, the Tarion Addendum to Agreement of Purchase and Sale, together with the appendix thereto containing Additional Early Termination Conditions and the Tarion Statement of Critical Dates which are attached hereto are an integral part hereof. The Purchaser acknowledges that he/she has read all provisions and schedules of this Agreement, the Tarion Addendum to Agreement of Purchase and Sale together with the appendix thereto and the Tarion Statement of Critical Dates and agrees to be bound by each of them.

DATED at Toronto, this 29 day of May, 2018.

SIGNED, SEALED AND DELIVERED  
 in the presence of

  
 Witness  
 (as to all signatures if more than one Purchaser)

  
 PURCHASER  
 Print Name: Ryan Miller  
 Date of Birth: \_\_\_\_\_ S.I.N. \_\_\_\_\_  
 Driver's License: \_\_\_\_\_

\_\_\_\_\_  
 PURCHASER  
 Print Name: \_\_\_\_\_  
 Date of Birth: \_\_\_\_\_ S.I.N. \_\_\_\_\_  
 Driver's License: \_\_\_\_\_

PURCHASER'S ADDRESS

Suite No. \_\_\_\_\_ Street Name \_\_\_\_\_  
 City \_\_\_\_\_ Province \_\_\_\_\_ Postal Code \_\_\_\_\_  
 Telephone (Bus.) \_\_\_\_\_ Telephone (Home) \_\_\_\_\_  
 Facsimile \_\_\_\_\_ e-mail \_\_\_\_\_

PURCHASER'S SOLICITOR

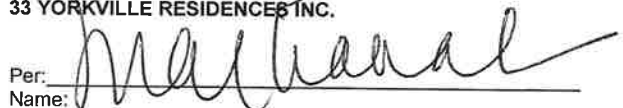
Name \_\_\_\_\_  
 Suite No. \_\_\_\_\_ Street Name \_\_\_\_\_  
 City \_\_\_\_\_ Province \_\_\_\_\_ Postal Code \_\_\_\_\_  
 Telephone \_\_\_\_\_ Facsimile \_\_\_\_\_

The undersigned accepts the above offer and agrees to complete this transaction in accordance with the terms hereof.

DATED at Toronto, this 29 day of May, 2018.

Vendor's Solicitors  
**BENNETT JONES LLP**  
 One First Canadian Place  
 Suite 3400, 100 King Street West  
 Toronto, Ontario, M5X 1A4  
 Attention: Leonard Gangbar  
 Telephone: (416) 777-7478  
 Facsimile: (416) 863-1716  
 e-mail: [gangbarl@bennettjones.com](mailto:gangbarl@bennettjones.com)

33 YORKVILLE RESIDENCES INC.

  
 Per: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Title: Authorized Signing Officer  
 I have the authority to bind the Corporation











# Appendix 5

THIS AGREEMENT, made as of the 29<sup>th</sup> day of November 2018

Between:

Cresford Developments

(the "Employer")

-and-

Ryan Millar

(the "Employee")

This agreement amends the previous employment agreement dated November 5<sup>th</sup>, 2014 governing the terms and conditions of employment. For clarity all terms and conditions outlined and agreed to in the November 5<sup>th</sup>, 2014 agreement remain unchanged with exception of the following:

*ma*

The salary of the Employee will be \$300,000.00 per annum, payable bi-weekly less applicable statutory deductions. For clarity the salary of the employee will no longer increase 3% per annum.

*ma*

The Employer will pay the Employee a monthly vehicle allowance of \$600.00 subject to the same terms as outlined in the November 5<sup>th</sup>, 2014 agreement.

*ma*

The Employee will receive a bonus on each development project based as outlined in the revised "schedule B" of this amending agreement.

*ma*

For clarity should the employee terminate his employment as outlined in the November 5<sup>th</sup>, 2014 agreement in condition #1 the employee would not be eligible for any of the bonuses outlined in the amending schedule B revised November 29<sup>th</sup>, 2018 if not yet due.

*[Handwritten signature of Ryan Millar]*

Ryan Millar

December 10<sup>th</sup>, 2018  
Date

*[Handwritten signature of Maria Athanasoulis]*

Maria Athanasoulis

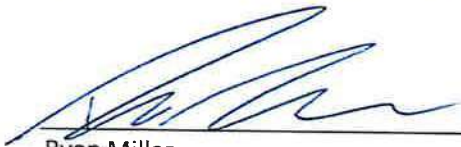
December 10, 2018  
Date

Amending Schedule B

(Revised November 29<sup>th</sup>, 2018)

The bonus earned, provided the employee is employed by the employer at the time the money is deemed due shall be;

1. The Employer agrees to a \$200,000.00 bonus to be paid within 60 days after the final registration of the declaration on any new developments announced after todays date being November 29<sup>th</sup>, 2018 (inclusive of the \$100,000.00 bonus previously agreed to on November 5<sup>th</sup>, 2014).
2. The Employer agrees to a credit of \$350,000.00 to be applied towards the purchase of a Cresford condominium unit at 33 Yorkville (In addition to the \$200,000.00 credit previously agreed to on November 5<sup>th</sup>, 2014 to go towards a unit at Clover). For clarity the total bonus payable towards the purchase of Cresford condominium unit(s) will be \$550,000.00.
3. \$100,000 due 60 days after final registration of the declaration of The Clover on Yonge Condominiums (As agreed to on November 5<sup>th</sup>, 2014).
4. \$100,000 due 60 days after final registration of the declaration of Halo Condominiums. (As agreed to on November 5<sup>th</sup>, 2014).
5. \$100,000 due 60 days after final registration of the declaration of The Yorkville condominiums (As agreed to on November 5<sup>th</sup>, 2014).
6. \$83,333.33 due 30 days after the zoning bylaw has been enacted by City Council and appeal period has expired, \$83,333.33 due 30 days after receipt of the above grade structural building permit has been issued by the Building Department and \$83,333.33 due 60 days after the final registration of the declaration of YSL Condominiums (As agreed to on July 8<sup>th</sup>, 2016).



Ryan Millar

Nov 29<sup>th</sup>, 2018

Date



Maria Athanasoulis

Dec. 10, 2018

Date

# Appendix 6

## Ryan Millar

---

**From:** Ted Dowbiggin  
**Sent:** March 24, 2020 8:37 PM  
**To:** Ryan Millar  
**Cc:** Dave Mann; Dan Casey  
**Subject:** Re: Ryan

Hi Ryan as promised when the time is right I will be speaking to concord right now everyone is busy with finalizing due diligence.

Sent from my iPhone

On Mar 24, 2020, at 8:28 PM, Ryan Millar <rmillar@cresford.com> wrote:

Hello Dave,

Appreciated and understood. Yes and update on everything would also be appreciated as are Teds efforts on the Clover unit from my agreement so any news on that front will be most welcome.

Thanks

**Ryan Millar**  
**Cresford Developments**  
**Vice President of Planning and Development**  
T: 416-971-7557 | C: 416-230-0648  
E: [rmillar@cresford.com](mailto:rmillar@cresford.com)  
59 Hayden Street, Suite 200 | Toronto, ON | M4Y 0E7  
[www.cresford.com](http://www.cresford.com)

---

**From:** Dave Mann <dmann@cresford.com>  
**Sent:** March 24, 2020 4:47 PM  
**To:** Ryan Millar <rmillar@cresford.com>  
**Cc:** Ted Dowbiggin <tdowbiggin@cresford.com>; Dan Casey <dcasey@cresford.com>  
**Subject:** RE: Ryan

Hi Ryan,

I'm speaking on behalf of all of us that we are very grateful and appreciative for all the hard work you have put in to get us through these difficult times. I have spoken to Dan and Ted and we will honour the bonuses agreed to. The \$83,333 for YSL will be included in the April 15th payroll. We will address the \$175,000 in the next few months when we get our projects sorted out with the Banks and/or prospective purchasers. Regarding your unit purchases, Ted is dealing with Concord on Clover and we hope to keep that deal alive for you. We will have to see how things work out with 33 Yorkville to see what can be done. We will keep you up to date on everything going on and ensure you are looked after.

Thanks

---

**From:** Ryan Millar

**Sent:** March 24, 2020 9:28 AM

**To:** Dave Mann <[dmann@cresford.com](mailto:dmann@cresford.com)>; Ted Dowbiggin <[tdowbiggin@cresford.com](mailto:tdowbiggin@cresford.com)>; Dan Casey <[dcasey@cresford.com](mailto:dcasey@cresford.com)>

**Subject:** Re: Ryan

Hello Everyone,

Would like a response to this and to the similar one I believe Marco and Louie had forwarded to you please.

Having replied to all of concords questions to date many which were answered during evenings and weekends in the middle of all that is going on and see they have more today and sure more in the coming days which can be expected from complex projects like these. In order to answer the ones from last night I will need to come in again to provide the attachments in an attempt to show positive results to their concerns which I am hoping will satisfy them and limit future questions.

I have been doing so against the wishes of my wife and family to date so think a response to our reasonable questions is warranted

When you have a moment please

Ryan

Sent from my iPhone

On Mar 22, 2020, at 2:51 PM, Ryan Millar <[rmillar@cresford.com](mailto:rmillar@cresford.com)> wrote:

Hello Dave, Ted and  
Dan,

I am pleased that there is news of a potential agreement that will assist you all in dealing with the issues at hand and as always I am happy to assist in satisfying requirements and conditions as I am sure you have seen me doing at all hours. I also understand and appreciate that you have all confirmed that my unit at clover, promised and secured in my employment agreement and signed



aps(s) will be honored, but based on the timing and all that is happening I am hoping for further and more specific assurances on the following additional items for peace of mind as we continue forward:

1. Past due Bonuses
2. Bonuses outlined in my employment agreements
3. Bonus Incentive of \$175,000 for staying on to help through this pivotal and stressful period.
4. 33 Yorkville Unit, Discounted Unit based on signed APS and employment agreement vs. Cash equivalent of future value of unit with credits
5. Severance Package
6. Clover unit honoring of aps with credits as further agreed to and outlined in my employment agreement with the purchase price as noted.

I have and continue to be committed in helping and assisting you throughout this transitional period; but now with a potential deal or any deal in hand i need to be reassured that my outstanding issues will be addressed and taken care of in writing

as I believe that these matters are with you.

As you all know I have been with cresford since 2001 with the exception of a period from 2012-2015 at which point I was asked to come back from a comparable position to assist and resolve issues to which I agreed based on the signed employment agreements and I believe I have done the best of my abilities to come through over the years with much success.

Please let me know if you need anything further from me in regards to this such as my two signed employment agreements, two executed aps agreements or anything further that you can think of. Thank you and please let me know.

Ryan

Sent from my iPhone

On Mar 22, 2020, at 12:05 PM, Ryan Millar <[rmillar@cresford.com](mailto:rmillar@cresford.com)> wrote:

Hello Dave,

See below. I attached the invoices for the halo and clover permits to my email last night so those should be readily available. Those are also

outstanding invoices so I wasn't sure about adding them at all but needed for site so included out of an abundance of caution.

See below, when I indicate divide by 3 I mean spread the total out across April, May and June equally. All other items I have provided the month beside each item.

Ryan

Sent from my iPhone

On Mar 22, 2020, at 11:23 AM, Dave Mann  
<[DMann@cresford.com](mailto:DMann@cresford.com)> wrote:

Hi Ryan,

Sorry to bug you but I need to put in approximate dates for these costs and only those that will be incurred after March 27<sup>th</sup> and before June 26<sup>th</sup>. Can you enter the month you think they might arise?

Also for the City permits, I think you put in the Clover numbers in Halo and vice versa.

Thx

---

**From:** Ryan Millar  
**Sent:** March 21, 2020 9:31 PM  
**To:** Dave Mann <[dmann@cresford.com](mailto:dmann@cresford.com)>  
**Cc:** Ted Dowbiggin <[tdowbiggin@cresford.com](mailto:tdowbiggin@cresford.com)>; Louie Giannakopoulos <[lgiannakopoulos@cresbuild.com](mailto:lgiannakopoulos@cresbuild.com)>; Marco Mancuso <[marco@cresbuild.com](mailto:marco@cresbuild.com)>  
**Subject:** RE: Construction

Hello Dave,

As requested below is a list of "estimated" costs associated with consultant works required and municipal fees for the Halo and Clover projects I am projecting for Halo and Clover from the end of March to end of June 2020.

Please note this is assuming A) outstanding accounts for consultants will be paid or I am not sure they will all be willing to do any further work B) that the consultants don't ask for "retainers" prior to proceeding with work as that is not taken into account for the amounts below C) the amounts below do not include already past due amounts owed to consultants:

**Marco/ Louie** to avoid you having to read all of below there are a couple areas that aren't really mine I highlighted in yellow if you could have a look.

### Halo

- Toronto Water Discharge fees to City **\$1,500.00 (Divide by 3)**
- Petra vibration control monitoring **\$10,000 (divide by 3)** as required by heritage, City and TTC
- Reprodux **\$5,000** for plans and prints (divide by 3)
- Just an estimate as I don't really need the consultants, but construction might so **\$20,000** aA, **\$20,000** Pat Lam, **\$5,000** Masong Song, **\$5,000** Ferris and Associates and would put R Avis in for **\$10,000 (divide by 3)**
- Keen Eye **\$3,000** to go into the Yonge Street subway tunnel and complete a post condition survey to confirm we did not cause any damage to the tunnel. This required to get our TTC LC back (estimated to be incurred in June)
- Guys on site are asking for a crane/ safety platform agreement with the owners to the south of the site. I have started that discussion and would earmark **\$20-\$60,000** in compensation for this. Naturally trying to get it for free, but that rarely works. (Estimated to be incurred in May)
- We still need pay the City for staging, crane swing and graphics permits for the City which have been expired since January 2020 so we are currently working without those permits. I have attached those invoices again here **\$116,611, \$21,594 and \$5,769 (estimated incurred March)**
- As per the section 37 and Section 111 agreements the payments made to the rental replacement tenants will expire June 1<sup>st</sup> (one guy claiming April 1<sup>st</sup>) and therefore as per the agreement they need to get 6 month rent gap payments until they move back in at first occupancy. I have attached the excel chart here and back of the napkin I a thinking that is around **\$40,580.00** for 6 months due to be in their hands June 1<sup>st</sup> (possibly April 1<sup>st</sup> for the one guy Robert Clem) (estimated incurred in June and one guy in April)
- I believe the guys on site had hoped to install their permanent staging hoarding and that will require a road occupancy permit to install off of

a lane on Yonge Street for a week. Estimating that will be **\$5,000 +/- (estimated to be incurred in May)**

- I believe the plan was to bring in the services to the site this summer. I had gone through the City tender process in February 2018, but the site was not ready so this price has since expired and will need to be tendered again so I would assume it will be more? Was \$177,000 so perhaps assume **\$200,000? (Estimated to be incurred in June)**
- **Isherwood monitoring devices in the TTC subway tunnel which they monitor monthly. Marco do you know this monthly cost? I don't seem to get these invoices. (Divide by 3 see Marco email for total)**
- **Not a planning thing, but I know the guys are trying to get a Toronto Hydro offer to connect to be able get power to the site on time. I have no idea what that cost will be or the LC requirement, but they are usually not cheap (estimated to be incurred in May)**

**Sub-total            \$529,054.00 (see above for month by month breakout)**

#### **Clover**

- Toronto Water Discharge fees to City **\$1,500.00 (divide by 3)**
- Reprodux **\$5,000** for plans and prints (divide by 3)
- Settle up plans examination fees with the building department prior to receiving final building permit **\$20,000 - \$60,000** (this is because we pay the permit fee to the City based on our architects calculation at application several years ago. Prior to final permit the City double checks that number and we pay the difference) (estimated to be incurred in April)
- Architect (aA) **\$20,000 - \$30,000** for work required to obtain both final building permit and work required to obtain amending site plan agreement to incorporate changes to the building made by Cresford. (Estimated to be incurred in April)
- Landscape Architect (Janet Rosenberg) **\$20,000 - \$30,000** required to complete the SPA amending agreement with the City and also to continue monitoring and processing payments from the City to complete the James Canning

Park which the Community and the Councillor will be expecting to be complete by June. They will also need to revise their streetscaping permit plans for submission to the City (divide by 3)

- Novatrend **\$5,000** to complete their works to amend the already issued but slightly out of date plumbing and HVAC permits for the building (estimated to be incurred in April)
- Underhill & Associates **\$5,000** to complete the work required to amend the site plan agreement as well as to review and approve the servicing work done by Vipe which is required for occupancy and registration as well as to get the very large LC back from the City (estimated to be incurred in April)
- I do not know the numbers owed to them and this is not a City thing, but you will also need to pay Aldershot to complete the park (divide by 3)
- I do not know the numbers for this either, but we need to finish the water proofing on the TTC pedestrian tunnel which I believe the guys on site were planning to do when the site thaws out (divide by 3)
- Jensen Hughes (OBC consultant) **\$5,000- \$10,000** for work required to obtain final building permit (estimated to be incurred in April)
- Road occupancy permit for 1 month to close Dundonald and allow the guys to finish the tunnel **\$18,000 (estimated to be incurred in May)**
- Keen Eye **\$3,000** to go into the Yonge Street subway tunnel and complete a post condition survey to confirm we did not cause any damage to the tunnel with our park or excavation work. This required to get our TTC LC back once the guys finish working on the waterproofing (estimated to be incurred in June)
- I am trying to avoid this, but the City may be looking for an SPA amendment fee of **\$20,000 +/-** once we are ready to finalize (estimated to be incurred in May)
- Dale and Lessmann **\$20,000** for work required to continue with required shared facility agreement, TTC easement agreement and Limiting Distance Agreement (estimated to be incurred in April)
- Aird and Berlis **\$5,000** to assist with the severance process at 11 Gloucester (estimated to be incurred in May)

- R Avis **\$10,000** for work required to proceed with the Limiting Distance Agreement, shared facility agreement and TTC Easement Agreement (estimated to be incurred in April)
- Please keep in mind you will need to **pay the taxes** in order for use to be able to A) complete the severance at 11 Gloucester and B) to register the Limiting Distance Agreement for 7 & 9 Gloucester on title. I do not know what will be owed by April/ May when we hope to do that, but assume you do. This is needed to get a final Building Permit (estimated to be incurred in April)
- ERA **\$5,000** to continue to complete the work required to amend our building permits for 7, 9 & 11 Gloucester to allow for the construction of the residential units as designed by Michael London (interior) (estimated to be incurred in May)
- We still need pay the City for staging, crane swing and graphics permits for the City which have been expired since January 2020 so we are currently working without those permits. I have attached those invoices again here **\$240,106** and **\$10,747 (estimated to be incurred in March)**

**Sub-total        \$478,353.00 (see above for month by month breakout)**

**69 Hayden Park** (I don't know which of the projects above to attribute these costs as the option benefits both so gave this its own section)

- City Council is currently suspended but hopefully back on before June and once they approved the term sheet for 69 Hayden they will be looking for
  - An LC for **\$8,580,000** to secure the land until it is formally turned over once the "base park" work is complete so that an LC could be April/ May/ June (most likely June due to suspended council)
  - An LC for **\$175,000** to secure the base park work until it is complete (most likely June due to suspended council)
  - Once the base park work is complete and we transfer the lands they will release the big LC above, but will then be looking for a cheque **for \$5,255,300.00** once they receive that they will clear the Halo and Clover

Building permits allowing occupancy/  
registration (most likely June due to  
suspended council)

- We will need consultants to be able to complete base park work (conservative estimates) (divide all by 3)
  - Odan Detech Civil **\$5,000**
  - JRS landscape **\$2,000**
  - Pat Lam **\$2,000**
  - R Avis **\$2,000**
  - Dale and Lessmann **\$5,000**
  - Conestoga Environmental **\$10,000**
- We will need physical construction work to complete base park (conservative estimates) assume May for all below.
  - City to bring services to site **\$50,000**
  - Hydro pole, cabinet and ESA clearance **\$20,000**
  - Hydro to bring line over **\$5,000**

**Sub-total**      **\$5,356,300 + \$8,755,000 LC (see above for month by month breakout)**

**Grand-total**    **\$6,363,707.00 + \$8,755,000 LC (see above for month by month breakout)**

Thanks,

**Ryan Millar**  
**Cresford Developments**  
**Vice President of Planning and Development**  
T: 416-971-7557 | C: 416-230-0648  
E: [rmillar@cresford.com](mailto:rmillar@cresford.com)  
59 Hayden Street, Suite 200 | Toronto, ON | M4Y 0E7  
[www.cresford.com](http://www.cresford.com)

On Mar 21, 2020, at 9:56 AM, Dave Mann <[DMann@cresford.com](mailto:DMann@cresford.com)> wrote:

Hi Ryan,

I meant to send this to you as well. See below.

Can you put together a list of consultant/planning/City costs that will be billed in the relevant period? E&Y will be getting a separate A/P list from us so ignore those costs that have already been incurred.



Let me know if you have any questions.

Thx

---

**From:** Dave Mann  
**Sent:** March 21, 2020 9:46 AM  
**To:** Louie Giannakopoulos  
<[lgiannakopoulos@cresbuild.com](mailto:lgiannakopoulos@cresbuild.com)>;  
Marco Mancuso  
<[marco@cresbuild.com](mailto:marco@cresbuild.com)>  
**Cc:** Ted Dowbiggin  
<[tdowbiggin@cresford.com](mailto:tdowbiggin@cresford.com)>; Dan  
Casey <[dcasey@cresford.com](mailto:dcasey@cresford.com)>  
**Subject:** Construction

Hi guys,

We are gearing up towards a firm deal with Concord on Clover and Halo which will involve a CCAA proceeding instead of receivership. This is good because PWC will be out of the picture and Concord in control. If you get any questions from PWC, please forward those requests to me. We will deal with them.

Concord has appointed a monitor who will be putting together a package for the courts this week. We may be putting them in touch with you so please give them everything they need.

I have to put together a cash flow for each of the two projects for a 13 week period beginning March 27<sup>th</sup>. Over the weekend, can you put together an estimate of the construction work that will be undertaken and billed for April, May and June? Please break the numbers down by Division and trades if possible.

Let me know if you have any questions.

Thanks

# Appendix 7

SENT VIA EMAIL: [dcasey@cresford.com](mailto:dcasey@cresford.com)  
[dmann@cresford.com](mailto:dmann@cresford.com)  
[tdowbiggin@cresford.com](mailto:tdowbiggin@cresford.com)  
[jbolla@cresford.com](mailto:jbolla@cresford.com)

July 16th, 2020

Dan Casey  
Cresford Developments  
59 Hayden Street, Suite 200  
Toronto, Ontario  
M4Y0E7

Re: Ryan Millar – Constructive Dismissal

Dear Dan,

As you are aware, I have not yet been paid my bonus of \$83,333.33 due November 4, 2019 in respect of the YSL project. I have also learned that Cresford does not plan to honour the credits against unit purchases to which I am contractually entitled under my employment agreements dated November 5, 2014 and November 29, 2018 (enclosed for ease of reference).

I have been given multiple assurances and personal commitments both in writing and orally that my YSL bonus would be paid and that Cresford would present me with an offer that fairly compensates any lost unit credits – which have appreciated considerably in value. Numerous promised delivery dates for such payment and offers have come and gone, including May 21<sup>st</sup>, 24<sup>th</sup>, 26<sup>th</sup>, 28<sup>th</sup> June 12<sup>th</sup> and June 22<sup>nd</sup>.

I am not prepared to wait any longer. It is clear to me that the terms of my employment agreements are not being honoured while I am being asked to continue to complete work on behalf of Cresford and its directors and agents, and that continuing to work for Cresford will only cause me to continue to incur further losses.

I will therefore consider myself constructively dismissed should my outstanding bonus not be paid, and satisfactory commitments received in respect of my unit credits (that recognize their appreciated value) by this Friday, July 24, 2020 at 5:00 pm, effective at that time.

I also require confirmation by this time that my future bonuses will be paid if and as accrued, namely:

- \$100,000 cash bonuses payable 60 days after registration of the final declarations for each of Clover, Halo, and Yorkville
- \$166,666.66 cash bonus payable on achieving the milestones on YSL
- The remaining \$175,000 of my retention bonus payable if I remain with Cresford until January 2021

I remind you of the payments to which I am entitled upon termination pursuant to my November 5, 2014 employment agreement.

Yours Truly,

Ryan Millar

A handwritten signature in black ink, appearing to read 'Ryan Millar', with a long horizontal flourish extending to the right.

# Appendix 8

File No.: 10333

July 17, 2020

**BY EMAIL**

**AIRD & BERLIS LLP**  
Barristers & Solicitors  
Brookfield Place  
181 Bay Street, Suite 1800  
Toronto, ON. M5J 2T9

Steven L. Graff  
Ian Aversa  
Jeremy Nemers  
Jonathan Yantzi

*Lawyers for the Clover CCAA Applicants*

**BENNETT JONES LLP**  
2500 Park Place, 666 Burrard Street  
Vancouver, BC V6C 2X8

David Gruber

*Co-counsel for the Clover CCAA Applicants*

Dear Counsel:

**Re: The Clover on Yonge Inc. and The Clover on Yonge Limited Partnership re  
David Ryan Millar**

We act for David Ryan Millar, Cresford's Vice President of Planning and Development.

Pursuant to his November 5, 2014 employment agreement, Mr. Millar was granted a \$200,000 credit against the purchase price of a unit in any Cresford development (the "**2014 Credit Bonus**"). Cresford and Mr. Millar negotiated the 2014 Credit Bonus as a form of signing/incentive bonus for his return to Cresford after his having left to work for a different employer years earlier. Mr. Millar and Cresford allocated that credit to his purchase of Unit 1210 in the Clover development. Because of the market appreciation of that unit since, the value of the 2014 Credit Bonus has increased significantly.

We have reviewed your client's motion record for its motion to file a plan of arrangement and for related meeting terms. While it is clear from these materials that Cresford intends to disclaim all Clover unit purchases including Mr. Millar's, it is not clear how Cresford's proposed plan of arrangement would address the 2014 Credit Bonus. As vested compensation for past services, it should not be reduced from its current value. Is Cresford prepared to provide Mr. Millar an election between (a) applying an appreciation-adjusted credit if he elects to complete his purchase on the proposed terms following

## NAYMARK LAW

disclaimer, and (b) receiving an equivalent cash payment in lieu of the credit if he elects not to purchase at the higher price? If not, what is Cresford's proposal for dealing with the 2014 Credit Bonus should its proposed plan of arrangement be approved and sanctioned?

Depending on Cresford's response, Mr. Millar may oppose Cresford's motion and/or its proposed plan. We will not be participating in this afternoon's scheduling call.

Yours truly,



Daniel Naymark

DN/sp

# Appendix 9





Bennett Jones

Bennett Jones LLP  
2500 Park Place  
666 Burrard Street  
Vancouver, British Columbia, V6C 2X8 Canada  
T: 604.891.7500  
F: 604.891.5100

**David E. Gruber**  
Partner  
Direct Line: 604.891.5150  
e-mail: gruberd@bennettjones.com

July 20, 2020

**Via Email: [dnaymark@naymarklaw.com](mailto:dnamark@naymarklaw.com)**

Naymark Law  
171 John Street, Suite 101  
Toronto, ON M5T 1X3  
Attention: Daniel Naymark

Dear Mr. Naymark

**Re: The Clover on Yonge Inc. and The Clover on Yonge Limited Partnership re David Ryan Millar**

I write in answer to your letter dated July 17, 2020. As a point of clarification, as is outlined in the materials filed in this CCAA proceeding by the Applicants, the Applicants are no longer controlled or owned by the Cresford group of companies.

I can advise that the Plan of Compromise and Arrangement (the "**Plan**") of the Applicants does not purport by its terms, nor is it intended to, compromise any claims Mr. Millar may have against his employer, Cresford, relating to the 2014 Credit Bonus or otherwise.

We understand Mr. Millar's contractual dealings with The Clover on Yonge Inc. are solely governed by the Agreement of Purchase and Sale for Unit 1210 (the "**Unit 1210 Contract**"). Pursuant to the terms of the Plan, Mr. Millar, as a Pre-Sale Purchaser (as defined in the Plan), would have the same election under the Plan as all other Pre-Sale Purchasers. To the extent that Mr. Millar may have suffered a compensable loss as a result of the disclaimer by the Applicants of the Unit 1210 Contract in respect of his contract of employment, we presume that Mr. Millar is at liberty to claim the amount of such alleged loss from his employer, Cresford.

Yours truly,

David E. Gruber

cc: Steven L. Graff, Ian Aversa, Jeremy Nemers and Jonathan Yantzi, Aird & Berlis LL

# Appendix 10



Electronically issued : 04-Aug-2020  
Délivré par voie électronique : 04-Aug-2020  
Toronto

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

**B E T W E E N:**

**DAVID RYAN MILLAR**

**Plaintiff**

- and -

**CRESFORD (ROSEDALE) DEVELOPMENTS INC., EAST DOWNTOWN  
REDEVELOPMENT PARTNERSHIP, YSL RESIDENCES INC., YG LIMITED  
PARTNERSHIP, 9615334 CANADA INC., 50 CHARLES STREET LIMITED, 69  
HAYDEN STREET LIMITED, 11 GLOUCESTER STREET INC., CRESFORD  
HOLDINGS LTD. and DANIEL C. CASEY**

**Defendants**

**STATEMENT OF CLAIM**

**TO THE DEFENDANTS:**

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the plaintiff.  
The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the Rules of Civil Procedure, serve it on the plaintiff's lawyer or, where the plaintiff does not have a lawyer, serve it on the plaintiff, and file it, with proof of service in this court office, **WITHIN TWENTY DAYS** after this statement of claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a statement of defence, you may serve and file a notice of intent to defend in Form 18B prescribed by the Rules of Civil Procedure. This will entitle you to ten more days within which to serve and file your statement of defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

IF YOU PAY THE PLAINTIFF'S CLAIM, and \$5,000 for costs, within the time for serving and filing your statement of defence you may move to have this proceeding dismissed by the court. If you believe the amount claimed for costs is excessive, you may pay the plaintiff's claim and \$400 for costs and have the costs assessed by the court.

Date: August 4, 2020

Issued by: \_\_\_\_\_  
Local Registrar  
Ontario Superior Court of Justice  
330 University Avenue, Toronto, ON, M5G 1R8

TO: CRESFORD (ROSEDALE) DEVELOPMENTS INC.  
59 Hayden Street, 2nd Floor  
Toronto, ON M4Y 0E7

EAST DOWNTOWN REDEVELOPMENT PARTNERSHIP  
59 Hayden Street  
2nd Floor  
Toronto, ON M4Y 0E7

YSL RESIDENCES INC.  
59 Hayden Street  
2nd Floor  
Toronto, ON M4Y 0E7

YG LIMITED PARTNERSHIP  
59 Hayden Street  
2nd Floor  
Toronto, ON M4Y 0E7

9615334 CANADA INC.  
59 Hayden Street  
2nd Floor  
Toronto, ON M4Y 0E7

50 CHARLES STREET LIMITED  
59 Hayden Street  
2nd Floor  
Toronto, ON M4Y 0E7

69 HAYDEN STREET LIMITED  
59 Hayden Street  
2nd Floor  
Toronto, ON M4Y 0E7

11 GLOUCESTER STREET INC.  
59 Hayden Street  
2nd Floor  
Toronto, ON M4Y 0E7

CRESFORD HOLDINGS LTD.  
59 Hayden Street  
2nd Floor  
Toronto, ON M4Y 0E7

DANIEL C. CASEY  
141 Riverview Drive  
Toronto, ON, M4N 3C3

## CLAIM

1. The plaintiff, David Ryan Millar (**Millar**), claims against the defendants (together, the **Cresford Defendants**):

(a) as against the corporate defendants (defined below as Cresford):

- (i) damages for breach of contract, oppression, and wrongful dismissal in the amount of \$3,000,000;
- (ii) a declaration that Cresford is liable for any bonuses or other employment entitlements that may accrue in the future;

(b) as against Daniel C. Casey (**Casey**):

- (i) a declaration that Casey is liable for an amount equal to six months' wages under section 131 of the *Business Corporations Act*, RSO 1990, c B.16 (**OBCA**), and damages in a corresponding amount jointly and severally with Cresford;

(c) as against each of the Cresford Defendants:

- (i) damages for oppression in the amount of \$3,000,000;
- (ii) a declaration pursuant to section 248 of the *OBCA* that the business of the corporate defendants and their affiliates was conducted, and the powers of their directors were exercised, in a manner that was oppressive, unfairly prejudicial and unfairly disregarded the interests of the plaintiff;

- (iii) an order pursuant to section 248 of the *OBCA* that this Honourable Court finds appropriate, including compensating the plaintiff for the defendants' oppressive conduct;
- (d) pre- and post-judgment interest in accordance with the *Courts of Justice Act*, RSO 1990, c C.43, as amended ("*CJA*");
- (e) costs of this action on a substantial indemnity basis; and
- (f) such further and other relief as the nature of this case may require and this Honourable Court deems just.

#### **A. Parties**

2. Millar resides in Toronto, Ontario. Millar was employed by the corporate defendants until his constructive dismissal, most recently as Vice President, Planning and Development.

3. Each of the corporate defendants (together, **Cresford**) are Ontario corporations or partnerships headquartered in Toronto. They are each part of a commonly owned group of companies and partnerships engaged in the development, construction, marketing and sale of condominiums in Toronto, Ontario under the business name Cresford.

4. Cresford (Rosedale) Developments Inc. and East Downtown Redevelopment Partnership (**EDRP**) are entities in the Cresford Group. EDRP acts as a management company for Cresford and is 99% owned by Cresford (Rosedale) Developments Inc.

5. Cresford conducts its real estate development business through a series of project companies that hold title to and carry out individual development projects. As further described below, the following projects and associated project companies are subject to a statutory stay of proceedings in connection with ongoing insolvency proceedings:

- (a) The Clover on Yonge (**Clover**), a 44-storey condominium located near Yonge and Bloor owned by Clover on Yonge Inc. in its capacity as general partner of Clover on Yonge Limited Partnership;
- (b) Halo Residences on Yonge (**Halo**), a 38-storey condominium tower located on Yonge Street between Wellesley and Carlton in Toronto owned by 480 Yonge Street Inc., the general partner of 480 Yonge Street Limited Partnership; and
- (c) The Residences of 33 Yorkville (**33 Yorkville**), a condominium with one 68-storey tower and one 42-storey tower owned by 33 Yorkville Residences Inc., in its capacity as general partner of 33 Yorkville Residences Limited Partnership.

6. Cresford remains in control of the following projects and associated project companies, which are not subject to any insolvency proceeding:

- (a) Yonge Street Living Residences (**YSL**), an 85-storey condominium tower located at the corner of Yonge and Gerrard in Toronto, which is owned by YSL Residences Inc. and 9615334 Canada Inc. in its capacity as the general partner of YG Limited Partnership;



- (b) 59 Hayden Street (**59 Hayden**), a completed 8-storey office building with retail at grade located near the corner of Hayden and Church Street in Toronto, which is owned by 50 Charles Street Limited;
- (c) 357A and 357 1/2 Yonge Street (**357 Yonge**), two low-rise commercial buildings located on Yonge Street, which are owned by YSL Residences Inc.;
- (d) 11 Gloucester Street (**11 Gloucester**), a freehold heritage building that is owned by 11 Gloucester Street Inc.; and
- (e) 69 Hayden Street (**69 Hayden**), a vacant parcel of land near the 59 Hayden building, which is owned by 69 Hayden Street Limited.

7. Cresford Holdings Ltd. owns and controls each of the Cresford project companies except for those related to the Clover project.

8. The defendant, Daniel Casey (**Casey**), is an individual resident in Ontario. At all material times, Casey was the principal of Cresford and was the beneficial owner and directing mind of Cresford. Casey is a director of the Cresford companies.

#### **B. Millar's Employment by Cresford**

9. In 2001, Cresford hired Millar as a Project Coordinator. In around July of 2017, Millar was promoted to the position of Director of Planning and Development. Millar remained with Cresford for over 10 years.

10. In February 2012, Millar accepted an offer to act as the Vice President of Planning and Development at a competing real estate developer and resigned from Cresford.

11. In 2014, Cresford approached Millar and asked him to return as Vice President of Planning and Development. Based on the compensation and bonuses that Cresford was offering, Millar accepted their offer.

12. Cresford drafted and delivered an employment agreement dated November 5, 2014 to Millar, which he signed without any amendment (the **Employment Agreement**). Millar was employed as Cresford's Vice President of Planning and Development pursuant to the Employment Agreement from February 2015 until his recent dismissal, described below.

13. Under the Employment Agreement drafted by Cresford, Millar's employer was identified as "Cresford Developments", which is not a legal entity or registered business name. Rather, it is a generic term applying to the entire Cresford group of companies. Because Millar worked for all of Cresford's developments as described below, he was employed in common by all the Cresford companies, as well as by the companies that are the subject of stays of proceedings listed at paragraph 5 above, who are not named as defendants herein because of those stays.

### **C. Millar's Duties and Compensation Entitlements**

14. As Vice President of Planning and Development, Millar was responsible for leading the planning and development of Cresford's real estate projects from inception through to completion and closing. His duties included leading: due diligence efforts; planning and municipal approvals processes to obtain zoning and official plan amendments; the negotiation and execution of complex

municipal agreements; and the process of obtaining building permits, construction-related permits, draft plan approval, occupancy and the required registration and severance for project closings.

15. Millar performed these responsibilities for each of Cresford's new condominium projects, as well as several other real estate projects. In particular, Millar was responsible for planning and development for each of the Clover, Halo, Yorkville, YSL and 59 Hayden condominium projects. Millar also performed various work on the 357 Yonge project (due diligence on the purchase, as well as the project's involvement in the YSL approvals process), the 11 Gloucester project (due diligence on the purchase) and the 69 Hayden property (dealing with municipal matters).

16. In carrying out these responsibilities, Millar acted on behalf of each of the project company defendants associated with that project. These project companies acted through a common management team, which gave directions to and exercised control over Millar on each project company's behalf. Each of the project companies were accordingly a common employer of Millar and jointly owed all of an employer's obligations to him.

17. At the time of his dismissal, Millar's annual compensation was:

- (a) a salary of \$300,000 per year;
- (b) a car allowance (\$600 per month) and car insurance allowance (\$137.41 per month);
- (c) gas for personal and business use;
- (d) 4 weeks' vacation with pay;

- (e) group benefit coverage; and
- (f) certain project-based bonuses, as described below.

18. An integral part of Millar's compensation were significant bonuses, which included both cash entitlements and credits granted on the purchase of units in Cresford condominium projects.

19. For example, as a signing bonus under the Employment Agreement, Cresford granted Millar a \$200,000 credit that could be applied towards the purchase of a Cresford condominium unit in any new development announced after his start date. The Employment Agreement also granted Millar a series of earned cash bonuses that were payable following the registration of various Cresford condominium projects.

20. As Cresford developed new projects, Millar continued to receive project-based bonuses, which increased in amount over time. These bonuses were an essential term of Millar's employment.

21. Millar also entered into agreements of purchase and sale for units in the Clover project (on December 22, 2015) and in the Yorkville project (on May 29, 2018). Millar was offered preferential terms for these purchases as bonus compensation for his work on the projects.

22. To grant these bonuses, Cresford amended the agreements of purchase and sale for the Clover unit (on December 22, 2015 and January 21, 2020) and for the Yorkville unit (on May 29, 2018 and January 21, 2020). These amendments limited the deposits that Millar was obliged to pay, fixed the maximum amounts of closing adjustments, and recorded credits to Millar against the purchase price (in amount of \$17,596 on the Clover unit and \$23,716 on the Yorkville unit).

The Clover and Yorkville units have appreciated significantly in value since Millar agreed to purchase them.

23. On November 29, 2018, Millar executed an amendment to the Employment Agreement (the **Amending Agreement**) that, among other things, confirmed the following earned bonuses (together, the **Bonuses**):

- (a) a \$200,000 cash bonus to be paid within 60 days after the final registration of the declaration of any new developments;
- (b) a credit bonus of \$350,000 to be applied to his purchase of a unit in the Yorkville project;
- (c) a credit bonus of \$200,000 to be applied to his purchase of a unit in the Clover project (being the bonus previously granted in the Employment Agreement, which was applied to a unit in the Clover project);
- (d) cash bonuses of \$100,000 payable 60 days after the final registration of the declaration for each of the Clover, Halo and Yorkville projects;
- (e) a cash bonus of \$250,000 for the YSL project, payable in three \$83,333.33 installments upon the following project milestones: the enactment of the zoning by-law and expiry of appeal period, receipt of the above grade structural building permit, and 60 days after the final registration of the declaration of the condominium.

24. In January 2020, Casey called a meeting of five senior employees including Millar and granted each of them a further bonus of \$250,000 on behalf of Cresford. He advised that the intention of this bonus was to reward these senior employees for seeing Cresford through “tough times.” By this time, as described below, Cresford had begun to experience financial distress. Casey provided Millar with a cheque for \$75,000 to satisfy part of that bonus amount. He promised that Cresford would pay the remaining bonus amount of \$175,000 one year later, in January 2021.

25. Each of the above bonuses were earned and remained in existence at the time of Millar’s dismissal. In addition, a cash bonus of \$83,333.33 became payable on November 4, 2019 in relation to the YSL project.

26. Millar’s cash compensation was paid by EDRP, which acted as a paymaster for the Cresford group, receiving fees from project companies and using those fees to pay, among other things, Cresford’s employees. To the best of Millar’s knowledge, EDRP has no material assets of its own and carries out no business other than servicing Cresford and its project companies. Bonuses in the form of credits against the purchase of units in Cresford developments were credited by the Cresford company that owned the respective developments.

#### **D. Cresford’s Financial Distress and Commitments to Honour Millar’s Bonuses**

27. Over the course of 2019, Cresford began to experience significant financial distress. In early 2020, allegations surfaced of financial irregularities within certain Cresford developments. As a result of these allegations, several of Cresford’s secured creditors arranged for an investigation of these allegations and later reported that:

- (a) Cresford had surreptitiously obtained a loan to fulfill its lenders' requirement that Cresford inject equity into the projects, and had then used lender funds to service that secret loan;
- (b) Cresford had maintained two sets of books. One set of books showed costs consistent with the construction budget provided to lenders. A second, secret set of books showed overspending above Cresford's approved construction budgets; and
- (c) Cresford had hidden increased costs by selling units to its suppliers at substantial discounts to their listing prices, without disclosing these adjustments to its lenders.

28. In early March 2020, Cresford began preparing to commence an application for relief under the *Companies' Creditors Arrangement Act*. As Cresford's finances deteriorated, Millar raised concerns with Casey on multiple occasions about whether he would receive his earned Bonuses.

29. Casey provided his personal commitment that Cresford would honour the credits granted on Millar's Clover and Yorkville unit as well as the original purchase prices in Millar's purchase and sale agreements, and that Cresford would pay the outstanding Bonuses that had by then accrued. In particular, Casey assured Millar that Cresford would soon pay a milestone Bonus of \$83,333 for the YSL project (described at subparagraph 23(e) above) that had accrued in November 2019. Millar relied on Casey's commitment, which induced him to continue to work for Cresford.

30. On March 21, 2020, David Mann (**Mann**), Cresford's CFO, advised Millar that his outstanding Bonuses would remain outside of the insolvency process, were on Cresford's account and would be paid. Millar similarly relied on Mann's assurances and continued to work for

Cresford. Three days later, Mann confirmed that the outstanding \$83,333.33 Bonus would be paid by April 15, 2020.

31. On March 27, 2020, Cresford's secured creditors obtained orders appointing receivers over the Clover and Halo project companies (in a proceeding with the court file number CV-20-00637301-00CL) and the Yorkville project companies (CV-20-00637297-00CL). After the receivership orders, Millar assisted the receiver on the insolvent projects and continued to work for Cresford on its solvent projects.

32. On March 31, 2020, after the receivership orders were issued, Mann emailed Millar and other employees and confirmed that they would remain employees of Cresford under their current contracts for at least 30 days.

#### **E. Demands for Confirmation that Millar's Employment Entitlements Would be Honoured**

33. Following the receivership orders, Millar made repeated requests for Cresford to confirm that his employment entitlements, including his unit credit Bonuses, the purchase prices in the signed purchase and sale agreements, and his cash Bonuses would continue to be honoured. Despite their past assurances, neither Casey, Mann nor Cresford provided the requested confirmation.

34. On April 10, 2020, Millar's counsel sent letters to the receiver for Clover and Yorkville, PricewaterhouseCoopers (**PwC**), requesting confirmation that his unit credit Bonuses would be honoured in the receivership. In response, PwC offered to pay drastically reduced bonuses to Millar in exchange for his continued work on the project companies in receivership.



35. On May 5, 2020, Millar emailed Casey, Mann and others to advise them that PwC was unwilling to honour his employment agreement and requested that Cresford (that is, those companies in the group not in receivership) honour his employment entitlements.

36. On May 21, 2020, Casey requested that Millar provide urgent assistance to the YSL project. Millar agreed to do so but again requested confirmation that his outstanding Bonuses and entitlements would be honoured. Casey advised that Cresford would provide an offer the next day dealing with Millar's outstanding Bonuses and unit credits.

37. Despite Millar's repeated requests afterwards, Cresford did not provide such an offer and did not confirm what Bonuses and entitlements it would honour. Instead, it made repeated promises that it would deliver offers outlining what it was prepared to pay Millar by a series of deadlines, including May 24, May 26, May 28, June 12 and June 22, 2020. Contrary to these promises, it did not deliver offers by any of these deadlines.

38. On June 22, 2020, the Clover project receivership was converted into a proceeding under the *Companies' Creditors Arrangement Act* (CV-20-00642928-00CL). As part of that process, Concord Land Developments Limited (**Concord**) purchased all of the shares of the Clover project companies.

39. By mid-July 2020, Cresford had still not paid Millar's \$83,333.33 Bonus for the YSL project that had been due since November 2019, had not confirmed it would honour his other Bonuses earned and to be earned including unit credits, and had not presented its promised offer for how and when it would pay those amounts or proposed alternative amounts. In addition, Millar learned that Cresford intended not to honour the credits or purchase prices outlined in Millar's

purchase and sale agreements against the unit purchases that it had granted him in the Amending Agreement.

40. On July 16, 2020, Millar wrote to Casey and Cresford and advised that he was not prepared to wait any longer for Cresford to honour its commitments, while being asked to continue to work for Cresford. He warned that he would consider himself constructively dismissed if by July 24, 2020, his outstanding \$83,333.33 Bonus was not paid and satisfactory commitments were not received regarding his credits for the units (which had appreciated considerably in value). He also requested confirmation that his future Bonuses would be paid if and as accrued.

41. Cresford failed to pay Millar's outstanding Bonus or to confirm that it would otherwise honour Millar's employment entitlements by July 24, 2020. Millar therefore confirmed in writing that he had been constructively dismissed and ceased working.

42. Cresford did not deny that it had constructively dismissed Millar in response to his July 16 or July 24, 2020 letters and has not denied that fact as of the date of this Statement of Claim.

#### **F. Breach of Contract**

43. Under the Employment and Amending Agreements, Cresford was contractually required to pay or credit to Millar the following accrued Bonuses:

- (a) the cash bonus of \$83,333.33 that accrued on November 4, 2019;
- (b) the credit bonus of \$350,000 on his purchase of a unit in the Yorkville project;
- (c) the adjustment of \$23,716 on the purchase of the Yorkville unit;

- (d) the credit bonus of \$200,000 on his purchase of a unit in the Clover project;
- (e) the adjustment of \$17,596 on the purchase of the Clover unit; and
- (f) the cash bonus of \$175,000 orally promised by Casey.

44. Cresford has breached its contractual obligations to Millar by failing to pay the \$83,333.33 bonus that was outstanding. As well, Cresford has repudiated its contractual obligation to honour the \$350,000 and \$200,000 credit bonuses on Millar's unit purchases, the adjustments on those units, and the additional \$175,000 cash bonus. Millar has suffered damages as a result of these breaches, which deprive him of the compensation that he earned from his past service to Cresford.

45. Millar also seeks a declaration that Cresford will be liable for the remainder of his bonus entitlements when they accrue based on the advancement of Cresford's projects. This Court has the jurisdiction to determine Cresford's contractual rights and obligations in the manner requested. The dispute is real and not theoretical, in light of Cresford's repudiation of Millar's other bonus entitlements. Millar and Cresford have genuine interests in the dispute. The requested declaration will settle a live controversy between the parties.

46. Finally, the receiver and the *CCAA* debtor have indicated that they may take steps to disclaim all agreements of purchase and sale as part of the insolvency proceedings. Such a disclaimer would include Millar's agreements to purchase the Clover and Yorkville units, which have appreciated significantly in value. Such a disclaimer would breach the existing agreements of purchase and sale with Millar and cause significant damages, including the loss of the units' significant appreciation in market value and the potential loss of Millar's unit credits.

## **G. Wrongful Dismissal**

47. By persistently refusing to honour Millar's employment entitlements, Cresford implemented significant changes to Millar's employment. The essential terms and conditions of Millar's employment substantially changed as a consequence of Cresford's actions.

48. Cresford did not consult Millar before implementing these changes. Rather, Cresford continually delayed and reneged on its promises to confirm Millar's contractual entitlements in order to induce him to continue working for Cresford, including Cresford's solvent projects.

49. The changes to Millar's employment, imposed by Cresford, amount to constructive dismissal. The changes were substantial and detrimental, and entitled Millar to terminate his contract of employment and claim damages in lieu of reasonable notice.

50. The Employment Agreement expressly provided that Cresford was entitled to terminate Millar's employment without cause only upon 10 months' notice or bi-monthly pay in lieu of such notice, subject to a 50% reduction in pay in lieu in the event Millar finds alternative employment:

### **Termination of Employment:**

The Employee's employment may be terminated as follows:

...

3. By the Employer without cause upon ten months' notice or, bi-monthly pay in lieu thereof subject to the following. In the event of the employee finding comparable alternative employment, the employee will be paid 50% of the balance owing on the remainder of the termination payment from the date of commencement of such employment to the end of the notice period herein. The Employee agrees that he will advise the Employer forthwith upon finding such comparable employment.

51. Cresford has failed to pay Millar pay in lieu of notice of termination. Accordingly, and subject to any reduction on account of future employment, Millar is entitled to the following damages for wrongful termination:

- (a) \$250,000, for ten months of salary;
- (b) \$7,374.10, for ten months of car and car insurance allowances;
- (c) \$36,538.46, for ten months of vacation entitlements plus three weeks of vacation accrued to date; and
- (d) The value of 10 months of gas allowance and benefits, in an amount to be particularized prior to trial.

#### **H. Oppression**

52. Millar reasonably expected that Cresford would manage its affairs in accordance with its legal obligations, including its commitments to lenders and to employees like Millar. Instead, Cresford carried out its affairs in a manner that was oppressive, unfairly prejudicial and unfairly disregarded Millar's interests.

53. In particular, unknown to Millar, Cresford structured its corporate and financial affairs in a manner that foreseeably defeated Millar's recovery of his employment entitlements. It also constructively dismissed Millar by failing to pay his outstanding bonus and by repudiating his earned bonus entitlements.

54. By acting and causing Cresford to act in this manner, Casey acted oppressively towards Millar.

**I. Liability under the *OBCA***

55. At the material times, Casey was a director of one or more of the Cresford companies. Under section 131 of the *OBCA*, he is liable to Millar for all debts not exceeding six months' wages that became payable while he was a director for the services performed by Millar for Cresford. A receiving order has been made with respect to the Clover, Halo and Yorkville project companies under the *Bankruptcy and Insolvency Act*.

**J. Place of Trial**

56. Millar proposes that this action be tried in Toronto.

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Lawyers for the Plaintiff,

David Ryan Millar

DAVID RYAN MILLAR  
Plaintiff

- and -

CRESFORD (ROSEDALE) DEVELOPMENTS INC. et. al.  
Defendants

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

PROCEEDING COMMENCED AT TORONTO

**STATEMENT OF CLAIM**

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Lawyer for the Plaintiff, David Ryan Millar

# Appendix 11



**ONTARIO  
SUPERIOR COURT OF JUSTICE**

BETWEEN:

**DAVID RYAN MILLAR**

Plaintiff

- and -

**CRESFORD (ROSEDALE) DEVELOPMENTS INC., EAST DOWNTOWN  
REDEVELOPMENT PARTNERSHIP, YSL RESIDENCES INC., YG  
LIMITED PARTNERSHIP, 9615334 CANADA INC., 50 CHARLES  
STREET LIMITED, 69 HAYDEN STREET LIMITED, 11 GLOUCESTER  
STREET INC., CRESFORD HOLDINGS LTD. and DANIEL C. CASEY**

Defendants

**STATEMENT OF DEFENCE OF CRESFORD (ROSEDALE)  
DEVELOPMENTS INC., EAST DOWNTOWN REDEVELOPMENT  
PARTNERSHIP, YSL RESIDENCES INC., YG LIMITED PARTNERSHIP,  
9615334 CANADA INC., 50 CHARLES STREET LIMITED, 69 HAYDEN  
STREET LIMITED, CRESFORD HOLDINGS LTD. AND DANIEL C.  
CASEY**

1. The defendants, Cresford (Rosedale) Developments Inc., East Downtown Redevelopment Partnership, YSL Residences Inc., YG Limited Partnership, 9615334 Canada Inc., 50 Charles Street Limited, 69 Hayden Street Limited, Cresford Holdings Ltd., and Daniel C. Casey (together, the “**Defendants**”) deny the allegations in the Statement of Claim except as specifically admitted herein.

**A. *The parties***

2. The plaintiff, David Ryan Miller (“**Millar**”) is an individual resident in Toronto, Ontario.

3. Each of the Defendants forms part of the Cresford group of companies (“**Cresford**”). Cresford is engaged in the development, construction, marketing, and sale of condominiums in Toronto.

4. The defendant, 11 Gloucester Street Inc., no longer forms part of Cresford. Cresford sold its interest in 11 Gloucester Street Inc. in or around June, 2020 in connection with its sale of the Clover project to a third party.

5. The majority of the Defendants are nominee project companies that hold title to individual real estate assets as bare trustees (together, the “**ProjectCo Defendants**”). None of the ProjectCo Defendants has any operations or employees. The ProjectCo Defendants consist of:

- (a) YSL Residences Inc., an Ontario corporation which owns 357A and 357 Yonge Street, Toronto and co-owns the Yonge Street Living Residences condominium tower at 383-385 Yonge Street, Toronto;
- (b) 9615334 Canada Inc., an Ontario corporation which, in its capacity as general partner of YG Limited Partnership, co-owns the Yonge Street Living Residences condominium tower at 383-385 Yonge Street, Toronto;
- (c) 50 Charles Street Limited, an Ontario corporation which owns 59 Hayden St., Toronto; and
- (d) 69 Hayden Street Limited, an Ontario corporation which owns 69 Hayden Street.

6. The defendant Cresford Holdings Ltd. (“**Cresford Holdings**”) is a holding company through which Cresford owns its interests in each of the above project companies. Cresford Holdings has no operations or employees.

7. The defendant Cresford (Rosedale) Developments Inc. (“**Cresford Rosedale**”) is an Ontario corporation which serves as a financing vehicle for Cresford projects via the provision of equity financing on a flow-through basis. It has no employees and no operations other than its provision of financing to Cresford projects.

8. The defendant YG Limited Partnership is an Ontario partnership which beneficially owns the Yonge Street Living Residences condominium tower at 383-385 Yonge Street, Toronto.

9. The defendant, East Downtown Redevelopment Partnership (“**East Downtown**”) is a partnership organized under the laws of Ontario. It provides development and construction services to each of the Cresford projects. East Downtown is the employer of Cresford’s personnel and was Millar’s employer at all material times.

10. The defendant, Daniel C. Casey (“**Casey**”), is an individual resident in Toronto, Ontario. He is the President and sole director of each of the corporate defendants. Contrary to paragraph 8 of the statement of claim, Casey is not the beneficial owner of the Cresford entities.

**B. 2012 - 2020: Millar’s employment with the Cresford group of companies**

11. The Defendants admit the summary of Millar’s employment history and compensation at paragraphs 9-12, 14-15, and 17-22 of the statement of claim, except for

its reference to Millar's alleged dismissal and except for its reference to Cresford generally as Millar's employer.

12. The Defendants deny that all of the corporate Defendants were Millar's common employer. Only East Downtown was Millar's employer as:

- (a) Millar was paid only by East Downtown and his T4s were issued only by East Downtown;
- (b) Human resources and other personnel matters were provided solely by East Downtown;
- (c) Millar never acted on behalf of any ProjectCo Defendants or Cresford Holdings, as those entities never had any operations at all. Rather, as stated above, the ProjectCo Defendants exist solely to hold title to specific real estate assets as bare trustees. In turn, Cresford Holdings exists solely to hold title to the ProjectCo Defendants. Millar always understood and agreed that the ProjectCo Defendants existed specifically for the purpose of, among other things, segregating the relevant real estate assets from the claims of Cresford's creditors generally; and
- (d) Millar never had any involvement with Cresford Rosedale or YG Limited Partnership and never performed any duties for their benefit. Cresford Rosedale and YG Limited Partnership were financing vehicles only.

**C. Millar's contractual bonus entitlements**

13. The Defendants admit Millar's summary of his compensation and bonus entitlements in paragraph 23 of the statement of claim, except for the allegation that the bonuses set out in the Amending Agreement were "earned."

14. To the contrary, each potential bonus entitlement, other than the credits to be applied to the purchase of condominium units, were expressly conditional on the occurrence of certain project milestones.

15. None of the milestones has occurred, except for the first of three milestones in respect of the YSL project, being the enactment of the zoning by-law and the expiry of the appeal period, which occurred in or around November, 2019.

16. As a result, the Defendants admit that the first \$83,333.33 bonus installment in respect of the YSL project became due and owing to Millar (the "**\$83K Bonus Installment**"). The Defendants deny that any of the other contractual bonuses referenced in paragraphs 23(a), (d), or (e) of the statement of claim (the "**Unearned Contractual Bonuses**") ever came due to Millar.

**D. January 2020: additional bonus awarded to Millar as an incentive to guide Cresford through financial difficulties**

17. In or around late 2019, Cresford began experiencing financial constraints.

18. As those constraints intensified in early 2020, Cresford had cash flow difficulties which prevented it from fulfilling all of its commitments to its creditors.

19. The Defendants admit that in January 2020, Casey called a meeting of certain employees, including Millar. At this meeting, Casey provided an update on the company's

difficult financial situation, and expressed his gratitude to each employee for their contributions during this tumultuous period.

20. By the date of this meeting, the initial \$83K Bonus Installment owing to Millar remained unpaid due to cash flow difficulties, and Millar knew it.

21. At this meeting, Casey offered Millar and others a bonus of \$250,000 on behalf of the employer (the “**Additional Bonus**”), on the following terms:

- (a) \$75,000, which was to be (and was) paid immediately; and
- (b) a further \$175,000 to be paid in early 2021, on the conditions that (i) Cresford could emerge from its financial difficulties by that time, and (ii) Millar remained with the company at that time (together with the Unearned Contractual Bonuses, the “**Unearned Bonuses**”).

22. The Additional Bonus was not required under the terms of Millar’s employment agreement.

23. It was understood and agreed by the parties that the purposes of the Additional Bonus were (i) to reward Millar for his efforts to date in seeing Cresford through difficult times, (ii) to further incent him to remain with Cresford in the following year despite the possibility of delays in satisfying bonus obligations to Millar, and (iii) to compensate Millar for accepting the risk of those delays.

24. Millar’s agreement to accept increased risk of delayed bonus payments was an essential term of the Additional Bonus.

25. Millar knew or ought to have known that it would not have been commercially reasonable for Casey to have offered a \$175,000 bonus payable a year later, regardless of Cresford's financial results during the intervening period, and regardless of whether Millar remained an employee during the intervening period.

26. Millar accepted the terms of the Additional Bonus offered by Casey at this meeting and chose to remain in his position, in full knowledge and acceptance of the risk that Cresford's financial position might never improve sufficiently to trigger any entitlement to the Unearned Bonuses, or to enable payment of the \$83K Bonus Installment.

***E. Early 2020: Cresford's ongoing cash flow difficulties and its good-faith efforts to perform its contractual commitments***

27. Cresford's cash flow difficulties continued into the spring of 2020, and the Bonus Installment remained unpaid to Millar. Millar asked Casey on certain occasions for an update regarding the company's financial position and the possible payment of the Bonus Installment. On each occasion, Casey advised Millar that the company still intended to pay the \$83K Bonus Installment (and any other Unearned Bonuses that might become earned) once the company became financially able to do so.

28. On March 2, 2020, certain of Cresford's secured creditors commenced applications seeking the appointment of receivers over multiple Cresford projects.

29. Millar was aware of the court proceedings at the time.

30. The Defendants deny the allegations at paragraph 30 of the statement of claim that David Mann ("**Mann**") told Millar on March 24, 2020 or at all that any of his bonuses would "remain outside of the insolvency process," that they "were on Cresford's account,"

that they “would be paid” regardless of Cresford’s financial condition, or that the \$83K Bonus Installment would be paid by April 15, 2020.

31. Like Casey, Mann only ever told Millar that his bonuses would be honoured as soon as the company had the financial wherewithal do so, and he made no representations as to when this would occur.

32. By March 24, 2020, the receiverships were imminent and it was known to all parties that the company would not be able to pay Millar any bonuses in the immediate future despite its desire to compensate Millar fairly.

33. Nonetheless, Millar chose to remain in his employment duties. This was a low-risk choice for him: staying with the company allowed him to continue to receive a high base salary while preserving his opportunity to eventually receive lucrative bonus payments in the event of a turnaround.

***F. The receivership prevents the Defendants from granting credits on Cresford condominium units***

34. On March 27, 2020, the Superior Court of Justice heard applications for the appointment of receivers over the project companies associated with the Halo, Clover, and Yorkville projects (none of whom are Defendants in this action).

35. The relevant Cresford project companies made best efforts to avoid receivership, including by successfully securing a three week adjournment of the receivership applications, and then by opposing the applications on the merits.

36. Nonetheless, the Court granted the applications on March 27, 2020.



37. As a result of the appointment of a receiver over the relevant project companies, those project companies no longer had the legal right to deal with any contracts respecting the projects, including Millar's agreements of purchase and sale in respect of the Clover and Yorkville units for which he was to receive purchase credits.

38. In turn, and through no fault of its own, East Downtown lost the ability to grant to Millar the purchase credits on those condominium units.

39. By virtue of the receiverships, the term of Millar's employment agreement entitling him to credits on units in Yorkville and Clover was frustrated and came to an end. The Defendants rely on the severability provisions of the *Frustrated Contracts Act*, R.S.O. 1990, c. F.34.

**G. July 2020: Millar resigns**

40. Although he had accepted the Additional Bonus in the full knowledge that there was material uncertainty as to the timing of any bonus payments, Millar changed his position by May, 2020 and began demanding immediate payment of the bonus.

41. At all times, Casey communicated to Millar that the company had every intention of honouring its obligations to Millar to the best of its ability, and still considered itself bound to Millar's employment agreement.

42. Nonetheless, and despite the significant Additional Bonus which had been granted to Millar specifically for the purpose of compensating him for the risk of payment delay, Millar unilaterally decided to treat himself as constructively dismissed. He stopped showing up for work as of July 24, 2020.

**H. No constructive dismissal**

43. Millar was not constructively dismissed. Rather, he resigned, effective July 24, 2020.

**1. The \$83K Bonus Installment: no substantial alteration by the employer**

44. The company's inability to pay the \$83K Bonus Installment to Millar when it came due was not a substantial alteration of an essential term of Millar's employment, having regard for:

- (a) the relatively minor amount of the \$83K Bonus Installment in proportion to Millar's compensation as a whole;
- (b) Millar's receipt of an *ex gratia* \$75,000 cash bonus within months of the Bonus Installment coming due, the effect of which was to put Millar in substantially the same financial position he would have been in had he received the \$83K Bonus Installment;
- (c) Millar's acceptance of an *ex gratia* \$175,000 contingent bonus, in part to compensate him for the delays in payment of the \$83K Bonus Installment; and
- (d) Millar's knowledge that the company still intended to pay the \$83K Bonus Installment as soon as it could.

**2. The credit bonuses on the condominium units: no substantial alteration by the employer**

45. With respect to the credit bonuses on Millar's purchase of Cresford condominium units, there was no conduct by the employer which substantially altered any terms of Millar's employment.

46. The company's inability to honour the credit bonuses was not attributable to the employer's conduct at all. It was attributable to the receivership of the relevant projects, which arose at the instance of secured creditors. The Defendants actively opposed the receiverships but were ultimately powerless to prevent them.

**3. No other outstanding bonuses**

47. No other bonuses were owing to Millar at the time of his resignation and there had been no other alterations to the terms of his employment.

**4. The employer always intended to remain bound by Millar's employment agreement**

48. At all material times, East Downtown (as Millar's employer) evinced an intention to remain bound by Millar's employment agreement. It was specifically and repeatedly communicated to Millar that his entitlements remained valid and would be honoured as soon as possible.

49. Millar always knew that the company was treating him the best it could under difficult financial circumstances, and he always knew that the company considered itself bound by his employment agreement.

**5. In the alternative, Millar's wrongful dismissal damages are limited**

50. In the alternative, if Millar was constructively dismissed (which is denied), then his wrongful dismissal damages are limited to ten months' compensation as particularized at paragraph 51 of the statement of claim.

51. The Defendants plead and rely on the termination clause in Millar's employment agreement. The Defendants also plead and rely on Millar's admission in the statement of claim that the termination clause is enforceable, and on his admission in the statement of claim that the termination clause limits his entitlements upon termination to the payments set out at paragraph 51 of the statement of claim.

52. The Defendants deny that any other amount in respect of bonus is owing during this ten month notice period. It was the intention of the parties that bonus entitlements and/or damages in lieu thereof would only accrue in respect of project milestones to which Millar actually contributed. In any event, no further bonus milestones will occur during the ten month notice period.

***I. No oppression***

53. The Defendants deny any liability in oppression. They have acted in good faith at all material times.

54. The Defendants deny that, unknown to Millar, they structured their corporate and financial affairs in a manner that foreseeably defeated Millar's recovery of his employment entitlements. The Defendants admit that they structured their corporate and financial affairs such that Millar understood and agreed that his only employment law recourse was against East Downtown.

**J. No valid claim against Casey**

55. There is no valid cause of action pleaded against Casey personally.

56. The personal liability provisions set out in section 131 of the *Business Corporations Act* do not apply. Millar's employer, East Downtown, is a partnership, not a corporation.

57. In any event, the conditions for personal liability set out in section 131(2) of the *Business Corporations Act* are not met with respect to any of the corporate Defendants.

58. Similarly, the conditions for imposing personal liability in oppression are also not met. Casey's conduct was in good faith and consistent with his duties as director and officer of the relevant entities at all material times. He derived no personal benefit from the matters complained of. Finally, Millar never reasonably expected that he would have recourse to Casey personally in respect of his employment law entitlements.

**K. No liability**

59. By virtue of Millar's resignation on July 24, 2020, he forfeited his entitlement to any further compensation other than what was already accrued and owing to him as of that date. For greater certainty, the Defendants admit that the \$83K Bonus Installment remains owing to Millar by East Downtown.

**L. Failure to mitigate**

60. Millar has a duty to take reasonable steps to mitigate any losses he has suffered. He is highly re-employable and has the ability to fully mitigate any losses.

61. To the extent that Millar has suffered any damages (which is denied), it is the result of his unreasonable failure to mitigate.

62. This action should be dismissed with costs.

November 6, 2020

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Lawyers for the Plaintiff

DAVID RYAN MILLAR  
Plaintiff

-and- CRESFORD (ROSEDALE) DEVELOPMENTS INC., et al.  
Defendants

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**ONTARIO  
SUPERIOR COURT OF JUSTICE**

PROCEEDING COMMENCED AT  
TORONTO

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**STATEMENT OF DEFENCE**

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Canada Inc., 50 Charles Street Limited, 69 Hayden  
Street Limited, Cresford Holdings Ltd., and Daniel C.  
Casey.

# Appendix 12



**Subject:** RE: Clover CCAA re Millar (Claim No. 1222) -- Claims Review - Notice of Dispute  
**Date:** Monday, January 11, 2021 at 2:41:03 PM Eastern Standard Time  
**From:** David Gruber <GruberD@bennettjones.com>  
**To:** James Gibson <jgibson@naymarklaw.com>, tammy.muradova@pwc.com  
<tammy.muradova@pwc.com>  
**CC:** Daniel Naymark <dnaymark@naymarklaw.com>  
**Attachments:** image008.png, image009.png, image010.png, image011.png, image012.jpg, image013.png, image001.png

Tammy,

Further to James' email below, I can confirm that the Clover CCAA Applicants have acknowledged the specified claims of Mr. Millar and do consent to the Request for Amendment in respect of them.

Best,



**David Gruber**  
*Partner, Bennett Jones LLP*

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[BennettJones.com](http://BennettJones.com)

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**From:** James Gibson <jgibson@naymarklaw.com>  
**Sent:** Monday, December 21, 2020 1:06 PM  
**To:** tammy.muradova@pwc.com; David Gruber <GruberD@bennettjones.com>  
**Cc:** Daniel Naymark <dnaymark@naymarklaw.com>  
**Subject:** FW: Clover CCAA re Millar (Claim No. 1222) -- Claims Review - Notice of Dispute

Tammy,

We understand that Concord and the Clover CCAA applicants have now acknowledged the claims asserted by Mr. Millar at paragraphs 1(a)-(c), 2(a)(i)-(iv) and 2(b) of his Request for Amendment in this matter, and consent to the Monitor's approval of those claims. I have copied their counsel who can confirm this fact if it has not already been communicated to the Monitor. In light of this acknowledgment and consent, and the points made in Mr. Millar's Notice of Dispute delivered on November 18, 2020, and which pointed out certain apparent factual misapprehensions by the Monitor with supporting records, please advise whether the Monitor will now accept Mr. Millar's claims. It is our view that that is now appropriate and that Mr. Millar should not be put to the costs of contesting these claims.

I have attached Mr. Millar's Notice of Dispute for ease of reference, which includes his Request for Amendment and the Monitor's Notice of Disallowance.

Regards,  
Jamie

--

**Jamie Gibson**  
[jgibson@naymarklaw.com](mailto:jgibson@naymarklaw.com)

**NAYMARK LAW**

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**From:** James Gibson <[jgibson@naymarklaw.com](mailto:jgibson@naymarklaw.com)>  
**Date:** Wednesday, November 18, 2020 at 3:33 PM  
**To:** "[halo.clover@pwc.com](mailto:halo.clover@pwc.com)" <[halo.clover@pwc.com](mailto:halo.clover@pwc.com)>  
**Cc:** Daniel Naymark <[dnaymark@naymarklaw.com](mailto:dnaymark@naymarklaw.com)>, "Meredith, Heather L." <[HMEREDITH@MCCARTHY.CA](mailto:HMEREDITH@MCCARTHY.CA)>, "Steele, Alexander" <[ASTEELLE@mccarthy.ca](mailto:ASTEELLE@mccarthy.ca)>, "Mica Arlette (CA)" <[mica.arlette@pwc.com](mailto:mica.arlette@pwc.com)>  
**Subject:** Re: Clover CCAA re Millar (Claim No. 1222) -- Claims Review - Notice of Dispute

Good afternoon,

Please find attached the notice of dispute filed on behalf of Mr. Millar.

Regards,  
Jamie

--

**Jamie Gibson**  
[jgibson@naymarklaw.com](mailto:jgibson@naymarklaw.com)

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**From:** Daniel Naymark <[dnaymark@naymarklaw.com](mailto:dnaymark@naymarklaw.com)>  
**Date:** Tuesday, November 17, 2020 at 11:09 AM  
**To:** "Meredith, Heather L." <[HMEREDITH@MCCARTHY.CA](mailto:HMEREDITH@MCCARTHY.CA)>  
**Cc:** James Gibson <[jgibson@naymarklaw.com](mailto:jgibson@naymarklaw.com)>, "Steele, Alexander" <[ASTEELLE@mccarthy.ca](mailto:ASTEELLE@mccarthy.ca)>, "Mica Arlette (CA)" <[mica.arlette@pwc.com](mailto:mica.arlette@pwc.com)>  
**Subject:** Re: [EXT] Re: Clover CCAA -- Claims Review - Notice of Revision or Disallowance

Thank you for this response and clarification.  
Daniel

--

Daniel Naymark  
NAYMARK LAW  
t: (416) 640-6078 | f: (647) 660-5060  
[dnaymark@naymarklaw.com](mailto:dnaymark@naymarklaw.com)

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**From:** "Meredith, Heather L." <[HMEREDITH@MCCARTHY.CA](mailto:HMEREDITH@MCCARTHY.CA)>  
**Date:** Tuesday, November 17, 2020 at 2:08 PM  
**To:** Daniel Naymark <[dnaymark@naymarklaw.com](mailto:dnaymark@naymarklaw.com)>  
**Cc:** James Gibson <[jgibson@naymarklaw.com](mailto:jgibson@naymarklaw.com)>, "Steele, Alexander" <[ASTEEL@mccarthy.ca](mailto:ASTEEL@mccarthy.ca)>, "Mica Arlette (CA)" <[mica.arlette@pwc.com](mailto:mica.arlette@pwc.com)>  
**Subject:** RE: [EXT] Re: Clover CCAA -- Claims Review - Notice of Revision or Disallowance

Hi Daniel,

I have confirmed with PWC that the \$200,000 credit was disallowed. PWC noted it was referred to a "bonus credit" and based on the employment contract with Cresford Developments so disallowed on the same basis as the other employment-related claims.

Please let me know if you have any other questions.

Best,

Heather



**Heather Meredith**

Partner | Associée

Bankruptcy and Restructuring | Faillite et restructuration

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**From:** Daniel Naymark <[dnaymark@naymarklaw.com](mailto:dnaymark@naymarklaw.com)>

**Date:** Sunday, November 15, 2020 at 5:07 PM

**To:** "Meredith, Heather L." <[HMEREDITH@MCCARTHY.CA](mailto:HMEREDITH@MCCARTHY.CA)>

**Cc:** James Gibson <[jgibson@naymarklaw.com](mailto:jgibson@naymarklaw.com)>, "Steele, Alexander" <[ASTEEL@MCCARTHY.CA](mailto:ASTEEL@MCCARTHY.CA)>

**Subject:** Re: Clover CCAA -- Claims Review - Notice of Revision or Disallowance

Hi Heather,

We have yet to receive a response to Jamie's email below. Can we please get one by no later than tomorrow, or alternatively a revised deadline to submit a notice of dispute? The current deadline is coming up this Wednesday, November 18 and as yet we still do not know what the scope of the notice of disallowance is.

I assume you are the best person to write to for assistance with this but please let me know if we should be directing this elsewhere. We are trying to avoid unnecessary cost or prejudice to Mr. Millar and require a response for obvious reasons.

Thank you,  
Daniel

--

Daniel Naymark

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[dnaymark@naymarklaw.com](mailto:dnaymark@naymarklaw.com)

---

**From:** James Gibson <[jgibson@naymarklaw.com](mailto:jgibson@naymarklaw.com)>

**Date:** Monday, November 9, 2020 at 2:22 PM

**To:** "Halo Clover (CA)" <[halo.clover@pwc.com](mailto:halo.clover@pwc.com)>, Ryan Millar <[david.ryan.millar@gmail.com](mailto:david.ryan.millar@gmail.com)>

**Cc:** Daniel Naymark <[dnaymark@naymarklaw.com](mailto:dnaymark@naymarklaw.com)>

**Subject:** Re: Clover CCAA -- Claims Review - Notice of Revision or Disallowance

Good afternoon,

We received the attached notice of revision or disallowance of claim made by our client, Mr. Millar, regarding claim number 1222. The notice refers to only three of the four claims made by Mr. Millar. We therefore write to seek clarification on the fourth claim, in order to advise Mr. Millar on how to respond.

The three claims addressed by the notice are Mr. Millar's:

1. **Claims for "constructive dismissal, bonuses and income tax payable"**, i.e., employment-related claims against the Clover corporations as employers in common. The notice disallows these claims (Reasons, second paragraph);

2. **Claims for "loss of bargain"**. The notice disallows this claim (Reasons, third paragraph); and
3. **D&O claim**. The notice advises that the Monitor is in the process of reviewing this claim and will revise or disallow it at a later date.

However, the notice does not expressly address Mr. Millar's claim in respect of credits totalling \$200,000 granted against the purchase price of his Clover unit, as described at paragraph 22(c) and 25 of Mr. Millar's claim. Please advise the Monitor's position respecting the claim for the loss of these credits as soon as possible, so that Mr. Millar can include them in a notice of dispute if necessary.

We had assumed these claims would not be controversial given that these credits were expressly granted by the Applicant, The Clover on Yonge Inc., by agreements in writing dated November 5, 2014 (enclosed as Attachment 2) and confirmed again in writing on November 29, 2018 (enclosed as Attachment 4). Indeed, as vendor of the unit, only The Clover on Yonge Inc. could have granted the credits.

Separately, we note that the Monitor appears to have misapprehended the content of Mr. Millar's employment agreement in disallowing his employment-related claims. We raise this in the hope that the Monitor will revise its position with this apparent oversight brought to its attention, and avoid the need for Mr. Millar to deliver a notice of dispute respecting this portion of his claim.

Specifically, the Monitor disallowed these claims on the basis that Mr. Millar's employment agreement (enclosed as Attachment 2, and later amended by Attachment 4) provides that "Cresford Developments" and East Downtown Redevelopment Partnership (EDRP) are his employers under his employment agreement, not the Clover CCAA Applicants. But Mr. Millar's employment agreement makes no reference to EDRP, and lists his employer only as "Cresford Developments".

As described at paragraphs 10-11 of Mr. Millar's Request for Amendment, "Cresford Developments" is not the name of a legal entity nor a registered business name of EDRP or any other person (as shown on the attached business name search). It is a generic term apparently describing the group of companies generally operating under the "Cresford" banner from time to time, including the Clover CCAA Applicants. At the very least, the employment agreement's reference to "Cresford Developments" as Mr. Millar's employer cannot reasonably be understood as contractually altering the default common law principle that Mr. Millar was employed in common by the Clover CCAA Applicants and other Cresford companies to which he provided services (as recently described in *Nortel Networks Corporation (Re)*, 2016 ONSC 6030). We understand that Mr. Millar's work for the Clover development, described in his Request for Amendment, is well known to the Monitor given his continued work with the Monitor after its appointment.

In short, it appears that the Monitor disallowed Mr. Millar's employment-related claims in the erroneous belief that the term "Cresford Developments" in Mr. Millar's employment agreement referred to a specific legal entity that is different from the Clover CCAA Applicants. That is not the case.

Regards,  
Jamie

--

**Jamie Gibson**

[jgibson@naymarklaw.com](mailto:jgibson@naymarklaw.com)

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**From:** <[ailsa.b.agnew@pwc.com](mailto:ailsa.b.agnew@pwc.com)> on behalf of "Halo Clover (CA)" <[halo.clover@pwc.com](mailto:halo.clover@pwc.com)>

**Date:** Wednesday, November 4, 2020 at 1:43 PM

**To:** "david.ryan.millar@gmail.com" <[david.ryan.millar@gmail.com](mailto:david.ryan.millar@gmail.com)>, James Gibson  
<[jgibson@naymarklaw.com](mailto:jgibson@naymarklaw.com)>

**Subject:** Clover CCAA -- Claims Review - Notice of Revision or Disallowance

Dear Ryan Millar,

The Monitor has reviewed your Claim against The Clover on Yonge Inc. and/or The Clover on Yonge Limited Partnership and has issued a Notice of Revision or Disallowance, as attached. Please be advised that the Monitor is in the process of reviewing your claim against one or more of the Directors and/or Officers of The Clover on Yonge Inc. and/or The Clover on Yonge Limited Partnership and will revise or disallow such claim at a later date.

If you dispute this Notice of Revision or Disallowance, you must, no later than 5:00 p.m. (Toronto time) on November 18, 2020, being the Business Day which is fourteen days after the Notice of Revision or Disallowance is sent by the Monitor (see paragraph 11 of the Claims Procedure Order), notify the Monitor by delivery of a Notice of Dispute in accordance with the Claims Procedure Order.

The form of Notice of Dispute is the last page in the attachment to this email.

PricewaterhouseCoopers Inc., LIT  
solely in its capacity as the Court-appointed Monitor of the  
Clover CCAA Applicants,  
and not in its personal or corporate capacity.

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<b>Claimant Name:</b> David Ryan Millar <b>Acknowledgment Number:</b> 1222
---

**August 17, 2020**

PricewaterhouseCoopers Inc., LIT  
In its capacity as the Monitor of the Clover CCAA Applicants  
PwC Tower  
18 York St, Suite 2600  
Toronto, Ontario M5J 0B2  
Attention: Tammy Muradova  
E-mail: [halo.clover@pwc.com](mailto:halo.clover@pwc.com)

**REQUEST FOR AMENDMENT OF  
DAVID RYAN MILLAR**

I, **DAVID RYAN MILLER**, of 80 Brookside Drive, Toronto, Ontario, do hereby request that the information provided in this Acknowledgement of Claim No. 1222 (attached as **Attachment 1**) be amended as follows:

1. **PARTICULARS OF CLAIM:**

(a) As against the Clover on Yonge Inc. and the Clover on Yonge Limited Partnership (together, **Clover**):

(i) damages for constructive dismissal: \$293,912.56, being:

(1) contractual pay in lieu of 10 months' notice: \$250,000.00;

(2) ten months of car and car insurance allowances: \$7,374.10;



- (3) ten months of vacation entitlements plus three weeks of vacation accrued to date: \$36,538.46; and
    - (ii) bonus accrued in November 2019: \$83,333.33;
  - (b) As against Daniel C. Casey (**Casey**):
    - (i) joint liability for the amounts described in paragraph 1(a) above, for damages caused by oppression pursuant to section 248 of the *Business Corporations Act*, RSO 1990, c B.16 (**OBCA**), in the amounts described in paragraph 1(a) above;
    - (ii) joint liability for the amounts described in paragraph 1(a)(ii) above, as a result of statutory liability for six months' wages pursuant to section 131 of the *OBCA*;
  - (c) Total value of the Claims (described above): \$377,245.89.
- 2. PARTICULARS OF POTENTIAL CLAIM, including contingent Claims:
  - (a) As against Clover:
    - (i) Value of credits received towards purchase of Clover unit: \$17,596.00;
    - (ii) Bonus unit credit for the Clover unit: \$200,000.00;

- (iii) Bonus earned and due January 2021, described in paragraph 23 below:  
\$175,000.00;
  - (iv) Bonus payable 60 days after registration of the final declaration on the Clover project: \$100,000.00;
  - (v) Contingent claim for damages on the basis that I should be compensated for the difference between the purchase price of my condo unit and the fair market value of that unit per Clover and any additional expenses that I may incur now to purchase a similar unit in the same location, in the amount of \$464,937.78; and
  - (vi) Damages arising from income tax payable on the amounts in subparagraphs 2(a)(i), (ii) and (v) above that would not otherwise have been payable: \$365,360.33; and
- (b) As against Casey:
- (i) joint liability for the amounts described in paragraph 2(a) above, for damages caused by oppression pursuant to section 248 of the *Business Corporations Act*, RSO 1990, c B.16 (**OBCA**), in the amounts described in paragraph 1(a) above;

(ii) joint liability for the amounts described in paragraph 2(a)(iii) to (vi) above, as a result of statutory liability for six months' wages pursuant to section 131 of the *OBCA*; and

(c) Total value of the Potential Claims: \$1,322,894.11.

THE FURTHER PARTICULARS of the above Claim and Potential Claim are:

#### **A. THE CRESFORD GROUP**

1. David Ryan Millar (**Millar**) was employed in common by a number of companies, including Clover, until his constructive dismissal, most recently as Vice President, Planning and Development.

2. The CCAA applicants are part of a commonly owned group of companies and partnerships (together, **Cresford**) engaged in the development, construction, marketing and sale of condominiums in Toronto, Ontario under the business name Cresford.

3. Cresford conducts its real estate development business through a series of project companies that hold title to and carry out individual development projects.

4. Millar performed work for the following Cresford companies (together, the **Cresford Employers**) as employers in common, and worked on each of the real estate projects associated with them: Clover; Cresford (Rosedale) Developments Inc.; East Downtown Redevelopment Partnership (**EDRP**); 480 Yonge Street Limited Partnership and 480 Yonge Street Inc., its general partner; 33 Yorkville Residences Limited Partnership and 33 Yorkville Residences Inc., its general

partner; YG Limited Partnership, and 9615334 Canada Inc. in its capacity as its general partner; 50 Charles Street Limited; YSL Residences Inc.; 11 Gloucester Street Inc.; and 69 Hayden Street Limited.

5. Casey is an individual resident in Ontario. At all material times, Casey was the principal of Cresford and was the beneficial owner and directing mind of Cresford. Casey is a director of each of the Cresford Employers.

## **B. MILLAR'S EMPLOYMENT BY CRESFORD**

6. In 2001, Cresford hired Millar as a Project Coordinator. Millar was promoted to the position of Director of Planning and Development and remained with Cresford for over 10 years.

7. In February 2012, Millar accepted an offer to act as the Vice President of Planning and Development at a competing real estate developer and resigned from Cresford.

8. In 2014, Cresford approached Millar and asked him to return as Vice President of Planning and Development. Based on the compensation and bonuses that Cresford was offering, Millar accepted their offer.

9. Cresford drafted and delivered an employment agreement dated November 5, 2014 to Millar, which he signed without any amendment (the **Employment Agreement**, included as **Attachment 2**). Millar was employed as Cresford's Vice President of Planning and Development pursuant to the Employment Agreement from February 2015 until his recent dismissal, described below.

10. Under the Employment Agreement drafted by Cresford, Millar's employer was identified as "Cresford Developments", which is not a legal entity or registered business name. Rather, it is a generic term applying to the entire Cresford group of companies.

11. Because Millar worked for all of the Cresford Employers, he was employed in common by them, including Clover, within the meaning set out in *Downtown Eatery (1993) Ltd. v. Ontario*, [2001 CanLII 8538](#) (Ont. C.A.) and *Nortel Networks Corporation (Re)*, [2016 ONSC 6030](#).

### **C. MILLAR'S DUTIES AND COMPENSATION ENTITLEMENTS**

12. As Vice President of Planning and Development, Millar was responsible for leading the planning and development of Cresford's real estate projects from inception through to completion and closing. His duties included leading: due diligence efforts; planning and municipal approvals processes to obtain zoning and official plan amendments; the negotiation and execution of complex municipal agreements; and the process of obtaining building permits, construction-related permits, draft plan approval, occupancy and the required registration and severance for project closings.

13. Millar performed these responsibilities for each of the Cresford Employers. In particular, Millar was responsible for planning and development for each of the Clover, Halo, Yorkville, YSL and 59 Hayden condominium projects. Millar also performed various work on the 357 Yonge project (due diligence on the purchase, as well as the project's involvement in the YSL approvals process), the 11 Gloucester project (due diligence on the purchase) and the 69 Hayden property (dealing with municipal matters).

14. In carrying out these responsibilities, Millar acted on behalf of each of the project company Cresford Employers associated with that project. These project companies acted through a

common management team, which gave directions to and exercised control over Millar on each project company's behalf. Each of the Cresford Employers were accordingly a common employer of Millar and jointly owed all of an employer's obligations to him, including Clover.

15. At the time of his dismissal, Millar's annual compensation was:

- (a) a salary of \$300,000 per year;
- (b) a car allowance (\$600 per month) and car insurance allowance (\$137.41 per month);
- (c) gas for personal and business use;
- (d) 4 weeks' vacation with pay;
- (e) group benefit coverage; and
- (f) certain project-based bonuses, as described below.

16. An integral part of Millar's compensation were significant bonuses, which included both cash entitlements and credits granted on the purchase of units in Cresford condominium projects.

17. For example, as a signing bonus under the Employment Agreement, Cresford granted Millar a \$200,000 credit that could be applied towards the purchase of a Cresford condominium unit in any new development announced after his start date. The Employment Agreement also granted Millar a series of earned cash bonuses that were payable following the registration of various Cresford condominium projects.

18. As Cresford developed new projects, Millar continued to receive project-based bonuses, which increased in amount over time. These bonuses were an essential term of Millar's employment.

19. Millar also entered into agreements of purchase and sale for units in the Clover project (on December 22, 2015) and in the Yorkville project (on May 29, 2018). Millar was offered preferential terms for these purchases as bonus compensation for his work on the projects.

20. To grant these bonuses, Cresford amended the agreements of purchase and sale for the Clover unit (on December 22, 2015 and January 21, 2020) and for the Yorkville unit (on May 29, 2018 and January 21, 2020). These amendments limited the deposits that Millar was obliged to pay, fixed the maximum amounts of closing adjustments, and recorded credits to Millar against the purchase price (in amount of \$17,596 on the Clover unit and \$23,716 on the Yorkville unit).

21. The agreements of purchase and sale for the Clover unit, together with the relevant amendment, is included as **Attachment 3**. The Clover unit has appreciated significantly in value since Millar agreed to purchase it.

22. On November 29, 2018, Millar executed an amendment to the Employment Agreement (the **Amending Agreement**, included as **Attachment 4**) that, among other things, confirmed the following earned bonuses (together, the **Bonuses**):

- (a) a \$200,000 cash bonus to be paid within 60 days after the final registration of the declaration of any new developments;

- (b) a credit bonus of \$350,000 to be applied to his purchase of a unit in the Yorkville project;
- (c) a credit bonus of \$200,000 to be applied to his purchase of a unit in the Clover project (being the bonus previously granted in the Employment Agreement, which was applied to a unit in the Clover project);
- (d) cash bonuses of \$100,000 payable 60 days after the final registration of the declaration for each of the Clover, Halo and Yorkville projects;
- (e) a cash bonus of \$250,000 for the YSL project, payable in three \$83,333.33 installments upon the following project milestones: the enactment of the zoning by-law and expiry of appeal period, receipt of the above grade structural building permit, and 60 days after the final registration of the declaration of the condominium.

23. In January 2020, Casey called a meeting of five senior employees including Millar and granted each of them a further bonus of \$250,000 on behalf of Cresford. He advised that the intention of this bonus was to reward these senior employees for seeing Cresford through “tough times.” By this time, as described below, Cresford had begun to experience financial distress. Casey provided Millar with a cheque for \$75,000 to satisfy part of that bonus amount. He promised that Cresford would pay the remaining bonus amount of \$175,000 one year later, in January 2021.

24. Each of the above bonuses were earned and remained in existence at the time of Millar’s dismissal. In addition, a cash bonus of \$83,333.33 became payable on November 4, 2019 in relation to the YSL project.



25. Millar's cash compensation was paid by EDRP, which acted as a paymaster for the Cresford group, receiving fees from project companies and using those fees to pay, among other things, Cresford's employees. To the best of Millar's knowledge, EDRP has no material assets of its own and carries out no business other than servicing Cresford and its project companies. Bonuses in the form of credits against the purchase of units in Cresford developments were credited by the Cresford company that owned the respective developments.

**D. CRESFORD'S FINANCIAL DISTRESS AND COMMITMENTS TO HONOUR  
MILLAR'S BONUSES**

26. Over the course of 2019, Cresford began to experience significant financial distress. In early 2020, allegations surfaced of financial irregularities within certain Cresford developments. As a result of these allegations, several of Cresford's secured creditors arranged for an investigation of these allegations and later reported that:

- (a) Cresford had surreptitiously obtained a loan to fulfill its lenders' requirement that Cresford inject equity into the projects, and had then used lender funds to service that secret loan;
- (b) Cresford had maintained two sets of books. One set of books showed costs consistent with the construction budget provided to lenders. A second, secret set of books showed overspending above Cresford's approved construction budgets; and
- (c) Cresford had hidden increased costs by selling units to its suppliers at substantial discounts to their listing prices, without disclosing these adjustments to its lenders.

27. In early March 2020, Cresford began preparing to commence an application for relief under the *Companies' Creditors Arrangement Act*. As Cresford's finances deteriorated, Millar raised concerns with Casey on multiple occasions about whether he would receive his earned Bonuses.

28. Casey provided his personal commitment that Cresford would honour the credits granted on Millar's Clover and Yorkville unit as well as the original purchase prices in Millar's purchase and sale agreements, and that Cresford would pay the outstanding Bonuses that had by then accrued. In particular, Casey assured Millar that Cresford would soon pay a milestone Bonus of \$83,333 for the YSL project (described at subparagraph 23(e) above) that had accrued in November 2019. Millar relied on Casey's commitment, which induced him to continue to work for Cresford.

29. On March 21, 2020, David Mann (**Mann**), Cresford's CFO, advised Millar that his outstanding Bonuses would remain outside of the insolvency process, were on Cresford's account and would be paid. Millar similarly relied on Mann's assurances and continued to work for Cresford. Three days later, Mann confirmed that the outstanding \$83,333.33 Bonus would be paid by April 15, 2020.

30. On March 27, 2020, Cresford's secured creditors obtained orders appointing receivers over the Clover and Halo project companies (in a proceeding with the court file number CV-20-00637301-00CL) and the Yorkville project companies (CV-20-00637297-00CL). After the receivership orders, Millar assisted the receiver on the insolvent projects and continued to work for Cresford on its solvent projects.

31. On March 31, 2020, after the receivership orders were issued, Mann emailed Millar and other employees and confirmed that they would remain employees of Cresford under their current contracts for at least 30 days.

**E. DEMANDS FOR CONFIRMATION THAT MILLAR'S EMPLOYMENT ENTITLEMENTS WOULD BE HONOURED**

32. Following the receivership orders, Millar made repeated requests for Cresford to confirm that his employment entitlements, including his unit credit Bonuses, the purchase prices in the signed purchase and sale agreements, and his cash Bonuses would continue to be honoured. Despite their past assurances, neither Casey, Mann nor Cresford provided the requested confirmation.

33. On April 10, 2020, Millar's counsel sent letters to the receiver for Clover and Yorkville, PricewaterhouseCoopers (**PwC**), requesting confirmation that his unit credit Bonuses would be honoured in the receivership. In response, PwC offered to pay drastically reduced bonuses to Millar in exchange for his continued work on the project companies in receivership.

34. On May 5, 2020, Millar emailed Casey, Mann and others to advise them that PwC was unwilling to honour his employment agreement and requested that Cresford (that is, those companies in the group not in receivership) honour his employment entitlements.

35. On May 21, 2020, Casey requested that Millar provide urgent assistance to the YSL project. Millar agreed to do so but again requested confirmation that his outstanding Bonuses and entitlements would be honoured. Casey advised that Cresford would provide an offer the next day dealing with Millar's outstanding Bonuses and unit credits.

36. Despite Millar's repeated requests afterwards, Cresford did not provide such an offer and did not confirm what Bonuses and entitlements it would honour. Instead, it made repeated promises that it would deliver offers outlining what it was prepared to pay Millar by a series of deadlines, including May 24, May 26, May 28, June 12 and June 22, 2020. Contrary to these promises, it did not deliver offers by any of these deadlines.

37. On June 22, 2020, the Clover project receivership was converted into a proceeding under the *Companies' Creditors Arrangement Act* (CV-20-00642928-00CL). As part of that process, Concord Land Developments Limited (**Concord**) purchased all of the shares of the Clover project companies.

38. By mid-July 2020, Cresford had still not paid Millar's \$83,333.33 Bonus for the YSL project that had been due since November 2019, had not confirmed it would honour his other Bonuses earned and to be earned including unit credits, and had not presented its promised offer for how and when it would pay those amounts or proposed alternative amounts. In addition, Millar learned that Cresford intended not to honour the credits or purchase prices outlined in Millar's purchase and sale agreements against the unit purchases that it had granted him in the Amending Agreement.

39. On July 16, 2020, Millar wrote to Casey and Cresford and advised that he was not prepared to wait any longer for Cresford to honour its commitments, while being asked to continue to work for Cresford (attached as **Attachment 5**). He warned that he would consider himself constructively dismissed if by July 24, 2020, his outstanding \$83,333.33 Bonus was not paid and satisfactory commitments were not received regarding his credits for the units (which had appreciated

considerably in value). He also requested confirmation that his future Bonuses would be paid if and as accrued.

40. On July 17, 2020, counsel for Millar sent a letter to counsel for the CCAA Applicants and requested clarification of how Millar's bonus unit credit on the Clover unit would be treated under the proposed plan of arrangement (included as **Attachment 6**).

41. On July 20, 2020, counsel for the CCAA Applicants sent a letter advising that the plan of arrangement did not compromise any claims by Millar against his employer "Cresford", against whom Millar could claim any related losses (included as **Attachment 7**). Although the CCAA Applicants did not advise which company is Millar's employer "Cresford", this response suggested that the CCAA Applicants would not honour any of the Bonuses owing to Millar, including the bonus unit credit on the Clover unit.

42. Cresford failed to pay Millar's outstanding Bonus or to confirm that it would otherwise honour Millar's employment entitlements by July 24, 2020. Millar therefore confirmed in writing that he had been constructively dismissed and ceased working.

43. Cresford did not deny that it had constructively dismissed Millar in response to his July 16 or July 24, 2020 letters and has not denied that fact as of the date of this request for amendment.

#### **F. BREACH OF CONTRACT**

44. Under the Employment and Amending Agreements, the Cresford Employers and Clover were contractually required to pay or credit to Millar the following accrued Bonuses relevant to Millar's claim in this proceeding:

- (a) the cash bonus of \$83,333.33 that accrued on November 4, 2019;
- (b) the credit bonus of \$200,000 on his purchase of a unit in the Clover project;
- (c) the adjustment of \$17,596 on the purchase of the Clover unit; and
- (d) the cash bonus of \$175,000 orally promised by Casey.

45. The Cresford Employers and Clover has breached their contractual obligations to Millar by failing to pay the \$83,333.33 bonus that was outstanding. As well, they have repudiated their contractual obligation to honour the \$200,000 credit bonus on Millar's Clover, the adjustments on that unit, and the additional \$175,000 cash bonus. Millar has suffered damages as a result of these breaches, which deprive him of the compensation that he earned from his past service to the Cresford, including Clover.

46. The Cresford Employers and Clover will also be liable for the remainder of Millar's bonus entitlements when they accrue based on the advancement of Cresford's projects. In particular, Millar is entitled to a \$100,000 cash bonus payable 60 days after the registration of the final declaration for the Clover project.

47. The CCAA Applicants also seek to disclaim the agreement of purchase and sale on the Clover unit. Such a disclaimer would include Millar's agreements to purchase the Clover unit, which have appreciated significantly in value. Such a disclaimer would breach the existing agreements of purchase and sale with Millar and cause significant damages, including the loss of the units' significant appreciation in market value and the potential loss of Millar's unit credits.

48. Millar should be compensated for the difference between the purchase price of the Clover unit and the fair market value of that unit per the CCAA Applicants and any additional expenses that may be incurred now to purchase a similar unit in the same location.

49. A detailed calculation, together with supporting documents, is attached as **Attachment 8** explaining the difference between the purchase price of the unit, parking and upgrades as per my purchase and sale agreement and the fair market value of the same unit per the CCAA Applicants and any further additional expenses that will be incurred if the purchase and sale agreement is disclaimed. According to this calculation, the value of the contingent claim for appreciation is \$464,937.78 for damages.

50. Finally, Millar will likely have to pay income tax on any distributions made on account of the bonus credits on the Clover unit, which would not otherwise have been payable. Millar is accordingly entitled to damages of \$365,360.33 related to the income tax liabilities caused by Clover's failure to honour those credits, which are calculated in **Attachment 9**.

## **G. WRONGFUL DISMISSAL**

51. By persistently refusing to honour Millar's employment entitlements, the Cresford Employers and Clover implemented significant changes to Millar's employment. The essential terms and conditions of Millar's employment substantially changed as a consequence of the Cresford Employers and Clover's actions.

52. The Cresford Employers, including Clover, did not consult Millar before implementing these changes. Rather, they continually delayed and reneged on its promises to confirm Millar's

contractual entitlements in order to induce him to continue working for the Cresford Employers and Clover.

53. The changes to Millar's employment, imposed by the Cresford Employers and Clover, amount to constructive dismissal. The changes were substantial and detrimental, and entitled Millar to terminate his contract of employment and claim damages in lieu of reasonable notice.

54. The Employment Agreement expressly provided that the Cresford Employers and Clover were entitled to terminate Millar's employment without cause only upon 10 months' notice or bi-monthly pay in lieu of such notice, subject to a 50% reduction in pay in lieu in the event Millar finds alternative employment:

**Termination of Employment:**

The Employee's employment may be terminated as follows:

. . .

3. By the Employer without cause upon ten months' notice or, bi-monthly pay in lieu thereof subject to the following. In the event of the employee finding comparable alternative employment, the employee will be paid 50% of the balance owing on the remainder of the termination payment from the date of commencement of such employment to the end of the notice period herein. The Employee agrees that he will advise the Employer forthwith upon finding such comparable employment.

55. The Cresford Employers and Clover have failed to pay Millar pay in lieu of notice of termination. Accordingly, and subject to any reduction on account of future employment, Millar is entitled to the following damages for wrongful termination:

- (a) \$250,000, for ten months of salary;



- (b) \$7,374.10, for ten months of car and car insurance allowances; and
- (c) \$36,538.46, for ten months of vacation entitlements plus three weeks of vacation accrued to date.

## **H. OPPRESSION**

56. Millar reasonably expected that the Cresford Employers and Clover would manage their affairs in accordance with its legal obligations, including its commitments to lenders and to employees like Millar. Instead, the Cresford Employers and Clover carried out its affairs in a manner that was oppressive, unfairly prejudicial and unfairly disregarded Millar's interests.

57. In particular, unknown to Millar, Cresford and Clover structured their corporate and financial affairs in a manner that foreseeably defeated Millar's recovery of his employment entitlements. They also constructively dismissed Millar by failing to pay his outstanding bonus and by repudiating his earned bonus entitlements.

58. By acting and causing the Cresford Employers and Clover to act in this manner, Casey acted oppressively towards Millar.

## **I. LIABILITY UNDER THE *OBCA***

59. At the material times, Casey was a director of the Cresford Employers and Clover Under section 131 of the *OBCA*, he is liable to Millar for all debts not exceeding six months' wages that became payable while he was a director for the services performed by Millar for Cresford and Clover. A receiving order has been made with respect to Clover pursuant to section 131(2) of the *OBCA*.

*Adelle Talbot*  
\_\_\_\_\_  
Witness

  
\_\_\_\_\_  
DAVID RYAN MILLAR  
Creditor

Witness Name: *ADELLE TALBOT*

# Appendix 13

**NOTICE OF REVISION OR DISALLOWANCE OF CLAIM  
ACKNOWLEDGEMENT NUMBER 1222**

TO: Ryan Millar

Email Address: [jgibson@naymarklaw.com](mailto:jgibson@naymarklaw.com), [david.ryan.millar@gmail.com](mailto:david.ryan.millar@gmail.com)

PricewaterhouseCoopers Inc., in its capacity as the court-appointed Monitor (in such capacity, the “**Monitor**”) of the Clover CCAA Applicants named in the Amended and Restated Initial Order of The Honourable Mr. Justice Koehnen of the Ontario Superior Court of Justice (Commercial List) made June 22, 2020, hereby gives you notice that the Monitor has reviewed your Request for Amendment or your Proof of Claim against The Clover on Yonge Inc. and/or The Clover on Yonge Limited Partnership, as the case may be, and has revised or rejected your Claim or any part thereof or any information relating thereto, as follows:

Request for Amendment as Submitted (if applicable)	The Proof of Claim as Submitted (if applicable)	The Claim/Information as Accepted
\$ 1,700,140.00	\$0.00	\$ 222,000.00

**Reasons for Revision or Disallowance:**

Based on the Monitor’s review of your proof of claim and on our discussions regarding your claim, the Monitor has revised the basis of the assessment of your claim, and has valued your claim at \$222,000.00.

If you do not agree with this Notice of Revision or Disallowance, please take notice of the following:

1. **If you dispute this Notice of Revision or Disallowance, you must, no later than 5:00 p.m. (Toronto time) on May 17, 2021, being the Business Day which is fourteen days after the Notice of Revision or Disallowance is sent by the Monitor (see paragraph 11 of the Claims Procedure Order), notify the Monitor by delivery of a Notice of Dispute in accordance with the Claims Procedures Order. The form of Notice of Dispute is enclosed.**
2. **IF YOU DO NOT DELIVER A NOTICE OF DISPUTE WITHIN THE PRESCRIBED TIME PERIOD, THIS NOTICE OF REVISION OR DISALLOWANCE WILL BE BINDING UPON YOU AND YOUR CLAIM SHALL BE DEEMED TO BE AS SET OUT IN THIS NOTICE OF REVISION OR DISALLOWANCE.**

**DATED** at Toronto, this 3rd, day of May 2021.

**PRICEWATERHOUSECOOPERS INC., LIT,**  
SOLELY IN ITS CAPACITY AS THE COURT-APPOINTED MONITOR OF THE CLOVER  
CCAA APPLICANTS, AND NOT IN ITS PERSONAL OR CORPORATE CAPACITY



Mica Arlette, LIT  
Senior Vice President

**NOTICE OF DISPUTE**

We hereby give you notice of our intention to dispute the Notice of Revision or Disallowance bearing Acknowledgement Number 1222 and dated \_\_\_\_\_ issued in respect of our claim.

**Reasons for Dispute** (attach extra sheets and copies of all supporting documentation if necessary):

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Name of Creditor: \_\_\_\_\_

\_\_\_\_\_  
(Signature of individual completing this Dispute)

\_\_\_\_\_  
Date

\_\_\_\_\_  
(Please print name)

Telephone Number: \_\_\_\_\_

Email address: \_\_\_\_\_

Facsimile Number: \_\_\_\_\_

Full Mailing Address: \_\_\_\_\_  
\_\_\_\_\_

**THIS FORM IS TO BE RETURNED BY PREPAID ORDINARY MAIL, COURIER, PERSONAL DELIVERY OR ELECTRONIC OR DIGITAL TRANSMISSION AND MUST BE RECEIVED NO LATER THAN 5:00 P.M. (TORONTO TIME) ON MAY 17, 2021, BEING THE BUSINESS DAY WHICH IS FOURTEEN DAYS AFTER THE NOTICE OF REVISION OR DISALLOWANCE IS SENT BY THE MONITOR (PURSUANT TO PARAGRAPH 11 OF THE CLAIMS PROCEDURE ORDER) TO:**

PricewaterhouseCoopers Inc.  
in its capacity as the Monitor of the Clover CCAA Applicants  
PwC Tower  
18 York Street, Suite 2600  
Toronto, ON M5J 0B2

Attention: Tammy Muradova  
E-mail: [halo.clover@pwc.com](mailto:halo.clover@pwc.com)

**NOTICE OF REVISION OR DISALLOWANCE OF CLAIM  
REFERENCE NUMBER 447**

**TO: Ryan Millar**

Email Address: [jgibson@naymarklaw.com](mailto:jgibson@naymarklaw.com), [david.ryan.millar@gmail.com](mailto:david.ryan.millar@gmail.com)

PricewaterhouseCoopers Inc., in its capacity as the court-appointed receiver (in such capacity, the “**Receiver**”) of 480 Yonge Street Inc. and 480 Yonge Street Limited Partnership (together “**Halo**”) as appointed in the Receivership Order of The Honourable Mr. Justice Koehnen of the Ontario Superior Court of Justice (Commercial List) made March 27, 2020, hereby gives you notice that the Receiver has reviewed your Request for Amendment or your Proof of Claim, as the case may be, and has revised or rejected your Claim or any part thereof or any information relating thereto, as follows:

Request for Amendment as Submitted (if applicable)	The Proof of Claim as Submitted (if applicable)	The Claim/Information as Accepted
\$0.00	\$2,484,334.97	\$205,000.00

**Reasons for Revision or Disallowance:**

Based on the Receiver’s review of your proof of claim and on our discussions regarding your claim, the Receiver has revised the basis of the assessment of your claim, and has valued your claim at \$205,000.00.

If you do not agree with this Notice of Revision or Disallowance, please take notice of the following:

1. **If you dispute this Notice of Revision or Disallowance, you must, no later than 5:00 p.m. (Toronto time) on May 17, 2021, being the Business Day which is fourteen days after the Notice of Revision or Disallowance is sent by the Receiver (see paragraph 13 of the Halo Claims Procedure Order), notify the Receiver by delivery of a Notice of Dispute in accordance with the Claims Procedure Order. The form of Notice of Dispute is enclosed.**
2. **IF YOU DO NOT DELIVER A NOTICE OF DISPUTE WITHIN THE PRESCRIBED TIME PERIOD, THIS NOTICE OF REVISION OR DISALLOWANCE WILL BE BINDING UPON YOU AND YOUR CLAIM SHALL BE DEEMED TO BE AS SET OUT IN THIS NOTICE OF REVISION OR DISALLOWANCE.**

**DATED** at Toronto, this 3rd day, of May 2021.

**PRICEWATERHOUSECOOPERS INC., LIT,**  
SOLELY IN ITS CAPACITY AS THE COURT-APPOINTED RECEIVER OF HALO  
AND NOT IN ITS PERSONAL OR CORPORATE CAPACITY



Mica Arlette, LIT  
Senior Vice President



**NOTICE OF DISPUTE**

We hereby give you notice of our intention to dispute the Notice of Revision or Disallowance bearing Reference Number 447 and dated \_\_\_\_\_ issued in respect of our claim.

**Reasons for Dispute** (attach extra sheets and copies of all supporting documentation if necessary):

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Name of Creditor: \_\_\_\_\_

\_\_\_\_\_  
(Signature of individual completing this Dispute)

\_\_\_\_\_  
Date

\_\_\_\_\_  
(Please print name)

Telephone Number: \_\_\_\_\_

Email address: \_\_\_\_\_

Facsimile Number: \_\_\_\_\_

Full Mailing Address: \_\_\_\_\_  
\_\_\_\_\_

**THIS FORM IS TO BE RETURNED BY PREPAID ORDINARY MAIL, COURIER, PERSONAL DELIVERY OR ELECTRONIC OR DIGITAL TRANSMISSION AND MUST BE RECEIVED NO LATER THAN 5:00 P.M. (TORONTO TIME) ON MAY 17, 2021, BEING THE BUSINESS DAY WHICH IS FOURTEEN DAYS AFTER THE NOTICE OF REVISION OR DISALLOWANCE IS SENT BY THE RECEIVER (PURSUANT TO PARAGRAPH 10 OF THE HALO CLAIMS PROCEDURE ORDER) TO:**

PricewaterhouseCoopers Inc.  
in its capacity as the receiver of Halo  
PwC Tower  
18 York Street, Suite 2600  
Toronto, ON M5J 0B2

Attention: Tammy Muradova  
E-mail: [halo.clover@pwc.com](mailto:halo.clover@pwc.com)

# Appendix 14

**Subject:** Fwd: Clover and Halo - discussions regarding YSL bonus  
**Date:** Monday, May 3, 2021 at 4:50:27 PM Eastern Daylight Time  
**From:** Ryan Millar <david.ryan.millar@gmail.com>  
**To:** Ryan Millar <rmillar@Emblemdevcorp.com>

Sent from my iPhone

Begin forwarded message:

**From:** "Mica Arlette (CA)" <mica.arlette@pwc.com>  
**Date:** May 3, 2021 at 4:29:54 PM EDT  
**To:** Ryan Millar <david.ryan.millar@gmail.com>  
**Cc:** "Tyler Ray (CA - ASR)" <tyler.ray@pwc.com>, "Ailsa Agnew (CA)" <ailsa.b.agnew@pwc.com>  
**Subject:** Clover and Halo - discussions regarding YSL bonus

Ryan,

Further to our separate correspondence to you regarding your claims against Halo and Clover, we note that on March 24, 2021, we were informed by Dave Mann at Cresford that they intend to pay you the bonus connected to the YSL project. In our view this remains an obligation of Cresford/YSL that would be governed by whatever agreements you have with them, and accordingly should be recovered from them.

Regards,  
M.

**Mica Arlette**

PwC | Partner, Deals | Senior Vice President, Corporate Advisory & Restructuring  
T: +1 416 814 5834 | C: +1 416 816 4273  
Email: [mica.arlette@pwc.com](mailto:mica.arlette@pwc.com)  
PricewaterhouseCoopers Inc.  
PwC Tower, 18 York Street, Suite 2600, Toronto, Ontario, M5J 0B2  
[www.pwc.com/ca](http://www.pwc.com/ca)

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# TAB B

<b>SCHEDULE "B" – PRIORITY OF CLAIM</b>
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71. As a joint employer, YSL failed to pay Millar wages, salaries, commissions or compensation for services rendered during the period beginning on the day that is six months before the date of the initial bankruptcy event. This amount exceeded \$2,000.00. Millar accordingly has a priority claim for \$2,000.00 pursuant to sections 81.3 and 136(1)(d) of the BIA.

**EXHIBIT "A" – AMENDED PARTICULARS OF PROOF OF CLAIM**

1. THE CLAIMS (together, the **Claims**) as against YG Limited Partnership and YSL Residences Inc. (together, **YSL**) are for:

- (a) \$280,000 in bonuses earned by Mancuso as employment remuneration in 2017, 2018 and 2019; and
- (b) \$62,500 in bonuses earned by Mancuso in 2020; and
- (c) \$87,500, being 50% of the \$175,000 retention bonus earned for remaining with Cresford after January 2020, reduced to reflect contingencies associated with this claim.

2. Total value of the Claims described above is \$430,000 ~~\$517,500~~.

**A. OVERVIEW**

3. Marco Mancuso (**Mancuso**) was the Director of Construction at Cresford, responsible for overseeing and carrying out the construction of its developments. He was employed in common by the various Cresford companies for which he worked, including YSL, until he left Cresford at the end of November 2020.

4. Mancuso earned significant bonuses for assisting in Cresford projects, which remained unpaid by Cresford. In September 2020, Mancuso and Cresford, including YSL, entered into a settlement agreement, in which Cresford acknowledged and agreed to pay Mancuso's outstanding

bonuses and certain other amounts owing to him. Cresford failed to perform the settlement and pay the amounts owing to Mancuso.

5. As Mancuso's common employer, YSL is jointly and severally liable for his outstanding employment entitlements. Cresford and YSL acknowledged these outstanding amounts in writing in the settlement agreement and they are beyond dispute.

#### **B. MANCUSO'S EMPLOYMENT BY CRESFORD AND DUTIES WITH YSL**

6. In March 2015, Cresford hired Mancuso as Project Manager for Construction. Mancuso was promoted to Senior Project Manager in March 2018 and to Director, Construction in July 2019. He served in that role until his departure in November 2020, described below.

7. In January 2015, Mancuso executed an employment agreement (included as **Attachment 1**). Under the employment agreement drafted by Cresford, Mancuso's employer was identified as "Cresford Developments", which is not a legal entity or registered business name. Rather, it is a generic term applying to the entire Cresford group of companies.

8. On January 6, 2020, Mancuso entered into a revised employment agreement with Cresford, which included increased compensation (included as **Attachment 2**). Under that agreement, Mancuso was entitled to:

- (a) a base salary of \$250,000;
- (b) an annual bonus of up to 10% of his base salary; and
- (c) a project bonus of up to 15% of his base salary.



9. During the course of his employment, Mancuso performed work for YSL and for other Cresford companies carrying on real estate business, including the Vox and 33 Yorkville projects (together with YSL, Cresford (Rosedale) Developments Inc. and EDRP, the **Cresford Employers**). Mancuso provided support for the construction of the YSL project and was heavily involved in the due diligence processes carried out throughout 2020 with regard to YSL.

10. Because Mancuso worked for all of the Cresford Employers, he was employed in common by them, including YSL, within the meaning set out in *Downtown Eatery (1993) Ltd. v. Ontario*, [2001 CanLII 8538](#) (Ont. C.A.) and *Nortel Networks Corporation (Re)*, [2016 ONSC 6030](#) because:

- (a) The Cresford Employers were under the common control of the same managers, who acted on behalf of each of the Cresford Employers;
- (b) YSL and each of the relevant project companies directed and exercised effective control over his activities relating to the associated real estate projects;
- (c) Cresford held Mancuso out as a representative of YSL in the course of Mancuso's employment, including during Concord's due diligence process on the YSL project; and
- (d) Some of Mancuso's bonus entitlements involved credits on units purchased from project companies. As described below, Cresford agreed to pay Mancuso's bonuses from the funds of different Cresford Employers, including YSL.

11. Each of the Cresford employers, including YSL, is jointly and severally liable for the employment obligations owed to Mancuso.

12. An integral part of Mancuso's employment compensation were significant bonuses, which included both cash bonuses and credits granted on the purchase of units in Cresford condominium projects. By July 2020, Mancuso had earned significant unpaid bonuses as a result of his employment:

- (a) 2017 earned bonus of \$200,000, which was to be received as a \$200,000 credit against Mancuso's purchase of a unit in the 33 Yorkville project;
- (b) 2018 earned bonuses of \$30,000; and
- (c) 2019 earned bonuses of \$50,000.

13. Mancuso also earned bonuses under his employment agreement for the work performed for the Cresford Employers in the course of 2020. Mancuso had been paid the full 25% bonus in each of the years that he previously worked. He earned the same 25% bonus in 2020 by carrying out extraordinary responsibilities following the financial difficulties suffered by Cresford, contributions that were recognized by Cresford.

14. On January 6, 2020, Daniel C. Casey (**Casey**), the principal of Cresford, called a meeting of five senior employees including Mancuso and granted each of them a retention bonus of \$250,000 on behalf of Cresford. He advised that the intention of this bonus was to reward these senior employees for seeing Cresford through "tough times." By this time, Cresford had begun to experience financial distress. Casey provided Mancuso with a cheque for \$75,000 to satisfy part of that bonus amount. He promised that Cresford would pay the remaining bonus amount of \$175,000 at a later date.

### C. THE SETTLEMENT AGREEMENT

15. As detailed below, Mancuso and Cresford entered into a settlement agreement for the payment of overdue amounts owing to him in September 2020.

16. In July 2020, Mancuso continued to work for Cresford, but his outstanding bonuses were unpaid and Cresford was in financial distress. Cresford's Clover, Yorkville and Halo projects were in insolvency proceedings. Cresford was in the process of negotiating the sale of Cresford's remaining real estate properties, including the sale of YSL to a third party buyer, Empire.

17. Mancuso and Cresford discussed arrangements to satisfy Mancuso's employment entitlements, but were unable to reach an agreement. Cresford asked an advisor, Joe Bolla (**Bolla**), to mediate the issue. The parties provided Bolla with information about Mancuso's outstanding entitlements.

18. On July 23, 2020, Bolla sent a without prejudice settlement proposal, for discussion purposes (included as **Attachment 3**). He described the proposal as his determination of "what was fair" in the circumstances, as a "friend of Cresford." The proposal acknowledged the extraordinary efforts made by Mancuso and other employees during this period. Bolla included as a schedule his proposal for how a portion of Mancuso's employment entitlements should be paid.

19. Bolla's settlement proposal acknowledged the outstanding 2017, 2018 and 2019 bonuses owed to Mancuso. The proposal also acknowledged Mancuso's claims for his 2020 bonus, but did not propose to pay these amounts due to financial difficulties.

20. Mancuso and Cresford exchanged without prejudice communications to resolve Mancuso's claims, including his additional claims for his 2020 bonus.

21. On September 8, 2020, Cresford and Mancuso reached a full and final settlement of Mancuso's claims (included as **Attachment 4**). Cresford agreed to pay \$280,000 to Mancuso, which would be paid from the closings of the YSL project, the Clover project, and the conveyance of 69 Hayden Street pursuant to an irrevocable direction provided to Cresford's counsel.

22. The settlement agreement was signed by Daniel Casey on behalf of "[the] Cresford Entities including Limited Partnerships", which included YSL. The settlement agreement specifically carved-out Mancuso's claims for his 2020 bonus, which were to be addressed in further negotiations after the settlement.

23. Mancuso appears never to have signed the agreement but had previously communicated his acceptance of its substantive terms by email (included as **Attachment 5**).<sup>1</sup> The parties acted in accordance with the agreement.

24. On September 14, 2020, pursuant to the settlement agreement, Daniel Casey signed an amended irrevocable direction to YSL's counsel to pay Mancuso the agreed amounts from the proceeds of sale of YSL or any other similar sale (included as **Attachment 6**).

25. As part of the settlement agreement, Cresford gave notice to Mancuso that he would be terminated effective in January 2021. Mancuso continued to work in his role with Cresford during

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<sup>1</sup> Mancuso and a colleague, Louie Giannakopoulos, were similarly situated and were jointly negotiating similar settlements with Cresford at the same time. On August 21, 2020, Mr. Giannakopoulos confirmed acceptance of the terms set out in the settlement agreement and an equivalent agreement between Cresford and Mr. Giannakopoulos "on behalf of [Mancuso] and I", in an email to Cresford's representatives and copied to Mancuso.

the intervening period. Among other responsibilities, he provided extensive information to Concord on behalf of YSL during Concord's due diligence process. He was also heavily involved in the sale of the remaining assets of Cresford's Casa 3 project.

26. On November 14, 2020, Mancuso sent an email advising Cresford that he would cease working on November 29, 2020 and claiming payment of the outstanding \$280,000 in bonuses under the settlement agreement and the unpaid 2020 bonuses. Mancuso was ultimately paid his unpaid wages and vacation time up to the date of his departure.

#### **D. FAILURE TO PERFORM THE SETTLEMENT AGREEMENT**

27. Under the settlement agreement, YSL and Cresford were required to pay the settlement payments by October 15, 2020. However, YSL and Cresford failed to pay Mancuso's outstanding 2017, 2018 and 2019 bonuses totaling \$280,000.

28. Mancuso sent a series of emails waiving Cresford's delay and extending the deadline for payment, which are included as **Attachment 7**. Despite these extensions, Cresford has failed to pay the \$280,000 in bonuses due under the settlement agreement.

#### **E. BREACH OF CONTRACT**

29. Under his Employment Agreement, Mancuso was entitled to the outstanding bonuses that had accrued since 2017 but which remained unpaid. YSL and the other Cresford Employers were contractually required to pay these bonuses, but failed to do so. There is no dispute that the 2017, 2018 and 2019 bonuses were payable and owing, as was acknowledged in the settlement agreement.

30. YSL and the other Cresford Employers have also failed to pay Mancuso's 2020 bonus of \$62,500, equal to 25% of Mancuso's base salary of \$250,000.

31. Finally, YSL and the other Cresford Employers failed to pay the \$175,000 retention bonus that Casey had promised to Mancuso in January 2020, despite Mancuso's extraordinary service to Cresford. PwC reduced by 50% a claim by another employee (Ryan Millar) also promised this bonus in the Clover and Halo proceedings, to account for contingencies associated with that claim. Mancuso's corresponding reduction of this claim by 50% to account for contingencies is without prejudice to his right to claim the full amount of the bonus in other proceedings.

32. Mancuso accordingly submits this claim for these outstanding amounts.

*Bankruptcy and Insolvency Act ("Act")*

**Proof of Claim**

(Section 50.1, 81.5, 81.6, Subsections 65.2(4), 81.2(1), 81.3(8), 81.4(8), 102(2), 124(2), 128(1), and Paragraphs 51(1)(e) and 66.14(b) of the Act)

All notices or correspondence regarding this claim must be forwarded to the following address:

Creditor Name:	<u>Marco Mancuso</u>	Telephone:	<u>(416) 768-9994</u>
Address:	<u>c/o James Gibson, Naymark Law</u>	Fax:	<u>(647) 660-5060</u>
	<u>171 John Street, Suite 101,</u>	Email:	<u>jgibson@naymarklaw.com</u>
	<u>Toronto, ON, M5T 1X3</u>		
Account No.:	<u>Nil</u>		

In the matter of the bankruptcy (or the proposal, or the receivership) of YSL Residences Inc. and YG Limited Partnership (*name of debtor*) of the City of Toronto, Ontario (*city and province*) and the claim of Marco Mancuso, creditor.

I, Marco Mancuso (*name of creditor or representative of the creditor*), of City of Toronto, Ontario (*city and province*), do hereby certify:

1. That I am a creditor of the above-named debtor (~~or that I am \_\_\_\_\_ (*state position or title*) of \_\_\_\_\_ (*name of creditor*)~~).
2. That I have knowledge of all the circumstances connected with the claim referred to below.
3. That the debtor was, at the date of bankruptcy, (or the date of the receivership, or in the case of a proposal, the date of the notice of intention or of the proposal, if no notice of intention was filed), namely the 30th day of April, 2021, and still is, indebted to the creditor in the sum of **\$517,500.00**, as specified in the statement of account (or affidavit) attached and marked **Schedule "A"**, after deducting any counterclaims to which the debtor is entitled. (The attached statement of account or affidavit must specify the vouchers or other evidence in support of the claim.)
4. (Check and complete appropriate category.)

**A. UNSECURED CLAIM (AFFECTED CLAIM) OF \$517,500.00** (other than as a customer contemplated by Section 262 of the Act)  
That in respect of this debt, I do not hold any assets of the debtor as security and  
(Check appropriate description.)

Regarding the amount of \$515,500.00, I do not claim a right to a priority.

Regarding the amount of \$2,000.00, I claim a right to a priority under Section 136 of the Act.  
(Set out on an attached sheet details to support priority claim.)  
See **Schedule "B"**.

**B. SECURED CLAIM OF \$0.00**

That in respect of this debt, I hold assets of the debtor valued at \$ \_\_\_\_\_ as security, particulars of which are as follows:

(Give full particulars of the security, including the date on which the security was given and the value at which you assess the security, and attach a copy of the security documents.)

**C. CONSTRUCTION LIEN CLAIM OF \$0.00**

That in respect of this debt I have registered a lien on title to the Debtors' real property in accordance with the *Construction Act* (Ontario), particulars of which are as follows:

(Give full particulars of the lien, including the date on which the lien was registered and the value secured by such lien, and attach a copy of any relevant documents, including any statement of claim).

1. That, to the best of my knowledge, I am (or the above-named creditor is) (or am not or is not) related to the debtor within the meaning of Section 4 of the Act, and have (or has) (or have not or has not) dealt with the debtor in a non-arm's-length manner.
2. That the following are the payments that I have received from, the credits that I have allowed to, and the transfers at undervalue within the meaning of Subsection 2(1) of the Act that I have been privy to or a party to with the debtor within the three months (or, if the creditor and the debtor are related within the meaning of Section 4 of the Act or were not dealing with each other at arm's length, within the 12 months) immediately before the date of the initial bankruptcy event within the meaning of Subsection 2(1) of the Act: (Provide details of payments, credits and transfers at undervalue.)

Dated at City of Toronto, Ontario, this 11th day of June, 2021.

**Ryan Millar**  
Digitally signed by Ryan Millar  
DN: c=US, E=rmillar@berridendercorp.com  
O=Emblem, OU=Planning and Development, CN=Ryan  
Millar  
Reason: Password  
Date: 2021.06.11 13:23:18-04'00'

Witness

**Marco Mancuso**  
Digitally signed by Marco Mancuso  
DN: C=CA, E=mancuso@hotmail.com,  
CN=Marco Mancuso  
Date: 2021.06.11 13:03:43-04'00'

Creditor Authorized Signatory  
**Marco Mancuso**

**NOTE:** If an affidavit is attached, it must have been made before a person qualified to take affidavits.

**WARNINGS:** A trustee may, pursuant to Subsection 128(3) of the Act, redeem a security on payment to the secured creditor of the debt or the value of the security as assessed, in a proof of security, by the secured creditor.

Subsection 201(1) of the Act provides severe penalties for making any false claim, proof, declaration or statement of account.

**DIRECTIONS FOR COMPLETION OF THIS FORM ARE ON THE REVERSE SIDE**

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**CONDITIONAL CLAIM ADDENDUM**

By checking the box below, you are electing for your Claim to be treated as a Conditional Claim (as defined in the Proposal). By electing for your claim to be treated as a Conditional Claim, you are recognizing that:

- a) One or more contractual conditions in your arrangements with the Company were not satisfied as at April 30, 2021 (referred to in the Proposal as "Conditional Claim Conditions");
- b) You are undertaking to complete all Conditional Claim Conditions and provide proof of such completion by no later than the Conditional Claim Completion Deadline; and
- c) You understand that the failure to complete all Conditional Claim Conditions by the Conditional Claim Completion Deadline will result in your Claim being fully, finally and irrevocably disallowed.

I hereby elect for my Claim to be treated as a Conditional Claim:

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Creditor Authorized Signatory