

**DELEGATED APPROVAL FORM
CITY MANAGER
DEPUTY CITY MANAGER & CHIEF FINANCIAL OFFICER**

TRACKING NO.: 2015-041

Approved pursuant to the Delegated Authority contained in Executive Committee Item EX43.7 entitled "Delegation of Authority in Certain Real Estate Matters" adopted by City Council on May 11 and 12, 2010. City Council confirmatory By-law No. 532-2010, enacted on May 12, 2010 as amended by GM24.9 entitled "Minor Amendments to Delegation of Authority in Certain Real Estate Matters" adopted by City Council on October 8, 9, 10 and 11, 2013, as amended by DAF 2013-307 and DAF 2014-087. City Council confirmatory By-Law No. 1234-2013.

Prepared By:	Brian Majcenic/Simona Rasanu	Division:	Parks, Forestry & Recreation/Real Estate Services
Date Prepared:	March 12, 2015	Phone No.:	416-392-1485/416-397-7682
Purpose	To obtain authority to enter into an Amended and Restated Lease Agreement (the "Agreement") between Metropolitan Toronto Condominium Corporation No. 539 and Metropolitan Toronto Condominium Corporation No. 578, (the "Lessees") and the City of Toronto (the "City") for vehicle access purposes.		
Property	Portion of the City-owned property located at 135 Cumberland Street, being <u>Firstly</u> , Part of Cumberland Park, PIN 21197-0167, designated as Parts 2 and 3 on Plan 63R-990 and Part 5 on Plan 63R-1730; and <u>Secondly</u> , Part of the Lane (known as Critchley Lane) PIN 21197-0174 as closed by By-law No.344-75, designated as Part 1 on Plan 63R-990 and Part 4 on Plan 63R-1730, collectively shown in the attached Schedule "A" (the "Leased Premises").		
Actions	<ol style="list-style-type: none"> 1. Authority be granted to enter into the Agreement with the Lessees for a thirty-three (33) year term commencing on December 31, 1999, substantially on the terms and conditions outlined herein, and any such other terms and conditions deemed appropriate by the Chief Corporate Officer, and in a form acceptable to the City Solicitor; 2. The Chief Corporate Officer or her designate, administer and manage the Agreement including the provision of any consents, approvals, waivers, notices and notices of termination provided that the Chief Corporate Officer may, at any time, refer consideration of such matters to City Council for its determination and direction; and 3. The appropriate City Officials be authorized and directed to take the necessary action to give effect thereto. 		
Financial Impact	<p>The City will receive \$2,266,856.29 net rental revenue over the course of the 33 year renewal term. The lease has been in overhold since December 30, 1999. The City billed and received the previously negotiated annual rent of \$22,122 per annum between December 31, 1999 and December 30, 2012 for a total net revenue of \$287,586.</p> <p>Negotiations between the City and the Lessees commenced in 2012, and it was decided that the renegotiated rent of \$85,595 per annum will be effective as of December 31, 2012 instead of being retroactive. Once the Agreement is executed, the remaining amount of \$1,979,270.28 net will be collected in accordance with the provisions set out below and outlined in the attached Schedule "B".</p> <p>The Parks, Forestry & Recreation division manages the leasing agreement and will receive the revenue (cost centre P10227). The Deputy City Manager & Chief Financial Officer has reviewed this DAF and agrees with the financial impact information.</p>		
Comments	(See page 4)		
Terms	<p>Lessor: City of Toronto</p> <p>Lessees: Metropolitan Toronto Condominium Corporation No. 539 and Metropolitan Toronto Condominium Corporation No. 578.</p> <p>Term: Thirty-three (33) year term commencing on December 31, 1999 and expiring on December 30, 2032.</p> <p>Extension Rights: The tenant has the option to renew the lease for another term of 33 years.</p> <p>Use: Lands designated as Parts 1, 2 and 3 on Plan 63R-990 for maintenance, alteration, replacement, operation and use of a vehicular access ramp from the Lessees' property at 110 Bloor Street West to Cumberland Street. Lands designated as Parts 4 and 5 on Plan 63R-1730 for a vehicular right-of-way between the aforementioned lands and 110 Bloor Street West and a vehicular turning basin to serve 110 Bloor Street West.</p> <p>Rent: December 31, 1999-December 30, 2012: \$22,122 per annum; December 31, 2012-December 30, 2013: \$85,595 per annum plus all applicable taxes. Effective on December 31, 2013, the rent shall increase by one and one half percent (1.5%) per annum over the 2012-2013 rent, as demonstrated on the attached Schedule "B".</p>		
Property Details	Ward:	27 – Toronto Centre-Rosedale	
	Approximate Area:	286 m ² ± (3,082 ft ² ±)	

A.	Deputy City Manager & Chief Financial Officer has approval authority for:	City Manager has approval authority for:
<p>1. Acquisitions:</p> <p>2. Expropriations:</p> <p>3. Issuance of RFPs/REOs:</p> <p>4. Permanent Highway Closures:</p> <p>5. Transfer of Operational Management to ABCDs:</p> <p>6. Limiting Distance Agreements:</p> <p>7. Disposals (including Leases of 21 years or more):</p> <p>8. Exchange of land in Green Space System & Parks & Open Space Areas of Official Plan:</p> <p>9. Leases/Licences (City as Landlord/Licensor):</p> <p>10. Leases/Licences (City as Tenant/Licensee):</p> <p>11. Easements (City as Grantor):</p> <p>12. Easements (City as Grantee):</p> <p>13. Revisions to Council Decisions in Real Estate Matters:</p> <p>14. Miscellaneous:</p> <p>(a) Approvals, Consents, Notices and Assignments under all Leases/Licences;</p> <p>(b) Releases/Discharges;</p> <p>l Surrenders/Abandonments;</p> <p>(d) Enforcements/Terminations;</p> <p>(e) Consents/Non-Disturbance Agreements/Acknowledgements/Estoppels/Certificates;</p> <p>(f) Objections/Waivers/Cautions;</p> <p>(g) Notices of Lease and Sublease;</p> <p>(h) Consent to regulatory applications by City, as owner;</p> <p>(i) Consent to assignment of Agreement of Purchase/Sale; Direction re Title;</p> <p>(j) Documentation relating to Land Titles applications;</p> <p>(k) Correcting/Quit Claim Transfer/Deeds.</p>	<p><input type="checkbox"/> Where total compensation does not exceed \$5 Million.</p> <p><input type="checkbox"/> Statutory offers, agreements and settlements where total compensation does not cumulatively exceed \$5 Million.</p> <p>Delegated to a less senior position.</p> <p>Delegated to a less senior position.</p> <p>Delegated to a less senior position.</p> <p><input type="checkbox"/> Where total compensation does not exceed \$5 Million.</p> <p><input type="checkbox"/> Where total compensation does not exceed \$5 Million.</p> <p>Delegated to a less senior position.</p> <p><input type="checkbox"/> (a) Where total compensation (including options/renewals) does not exceed \$5 Million;</p> <p><input type="checkbox"/> (b) Where compensation is less than market value, for periods not exceeding twelve (12) months, including licences for environmental assessments and/or testing, etc.</p> <p><input type="checkbox"/> Where total compensation (including options/renewals) does not exceed \$5 Million.</p> <p><input type="checkbox"/> Where total compensation does not exceed \$5 Million.</p> <p><input type="checkbox"/> Where total compensation does not exceed \$5 Million.</p> <p><input type="checkbox"/> Amendment must not be materially inconsistent with original decision (and may include increase not to exceed the amount of the original decision by the lesser of 10 per cent and \$3 Million).</p> <p>Delegated to a less senior position.</p>	<p><input type="checkbox"/> Where total compensation does not exceed \$10 Million.</p> <p><input type="checkbox"/> Statutory offers, agreements and settlements where total compensation does not cumulatively exceed \$10 Million.</p> <p>Delegated to a less senior position.</p> <p>Delegated to a less senior position.</p> <p>Delegated to a less senior position.</p> <p><input type="checkbox"/> Where total compensation does not exceed \$10 Million.</p> <p><input checked="" type="checkbox"/> Where total compensation does not exceed \$10 Million.</p> <p>Delegated to a less senior position.</p> <p><input type="checkbox"/> Where total compensation (including options/renewals) does not exceed \$10 Million;</p> <p>Delegated to a less senior position.</p> <p><input type="checkbox"/> Where total compensation (including options/renewals) does not exceed \$10 Million.</p> <p><input type="checkbox"/> Where total compensation does not exceed \$10 Million.</p> <p><input type="checkbox"/> Where total compensation does not exceed \$10 Million.</p> <p><input type="checkbox"/> Amendment must not be materially inconsistent with original decision (and may include increase not to exceed the amount of the original decision by the lesser of 10 per cent and \$5 Million).</p> <p>Delegated to a less senior position.</p>
<p>B. City Manager and Deputy Manager & Chief Financial Officer each has signing authority on behalf of the City for:</p>		
<p><input checked="" type="checkbox"/> Documents required to implement the delegated approval exercised by him.</p>		

Consultation with Councillor(s) - March 3, 2015									
Councillor:	Kristyn Wong-Tam					Councillor:			
Contact Name:	David Simor					Contact Name:			
Contacted by:		Phone	X	E-Mail		Memo		Other	
Comments:	No concerns with lease renewal					Comments:			
Consultation with ABCDs									
Division:	Parks, Forestry & Recreation					Division:	Financial Planning		
Contact Name:	Ryan Glenn					Contact Name:	Anthony Ng		
Comments:	Consent					Comments:	Concurs with Financial Impact		
Legal Division Contact									
Contact Name:	Barbara Cappell								

DAF Tracking No.: 2015-041	Date	Signature
Recommended by: Manager	March 12, 2015	Sgd.\Wayne Duong
Recommended by: Director of Real Estate Services	April 7, 2015	Sgd.\Joe Casali
Recommended by: Chief Corporate Officer	April 8, 2015	Sgd.\Josie Scioli
Approved by: Deputy City Manager & Chief Financial Officer Roberto Rossini	April 14, 2015	Sgd.\Roberto Rossini
Approved by: City Manager Joseph P. Pennachetti	April 20, 2015	X Sgd.\Joseph P. Pennachetti

General Conditions ("GC")

- (a) The local Councillor (or local Councillors if the subject property is located on a ward boundary or if the transaction involves an exchange of properties in more than one ward), will be consulted prior to the exercise of delegated Approving Authority by staff for all Acquisitions, Disposals, Land Exchanges and Leases.
- (b) Where approving power has been delegated to staff, the Chief Corporate Officer, in consultation with the applicable Deputy City Manager or the City Manager, may determine that such matter is of such special interest that same should be returned to the relevant Committee and Council for consideration and determination.
- (c) Exercise of delegated authority is subject to all applicable Council policies, statutes or other applicable law.
- (d) Authority to approve financial commitments/expenditures is subject to all amounts being available in an approved budget [or funding is available from alternative sources].
- (e) Property interests are to be based on appraised value, and no interest shall be granted at less than market value unless otherwise specifically authorized.
- (f) Authority to approve transactions at less than market value is subject to statutory anti-bonusing provisions.
- (g) Total compensation means the aggregate of all types of payments, including land value, estimated clean-up costs, potential arbitration awards, loss claims, etc, but exclusive of any applicable taxes and registration costs.
- (h) Authority to acquire property is conditional upon provision being made to bring the property into compliance with applicable MOE or other requirements such that it will be fit for its intended municipal purpose.
- (i) Authority to initiate the permanent road closure process in **A.4** is conditional upon confirmation by the GM of Transportation Services that it is feasible to permanently close the highway.
- (j) Disposal authorities in **A.7** are subject to the property having been declared surplus, and the disposal policy complied with.
- (k) Land exchanges, except for those in **A.8**, may be authorized based on the delegated Approving Authority for Disposals in **A.7**.
- (l) Approving Authority with respect to land located in the Designated Waterfront Area is conditional upon the approval of the Director, Waterfront Secretariat.
- (m) Authority to approve an exchange of land in **A.8** is conditional upon confirmation by the Chief Planner and Executive Director, and the GM of Parks, Forestry & Recreation, that the land being exchanged is (i) nearby land of equivalent or larger area, and (ii) of comparable or superior green space utility.
- (n) Approving Authority in **A.9** leases (City as Landlord) but not licenses (City as Licensor) is limited to periods (including options/renewals) of less than twenty-one (21) years, save and except for residential leasing matters and .
- (o) Total compensation in leasing matters where the City is landlord (**A.9**) includes the value of tenant improvements if factored into tenant's rental payments.
- (p) Total compensation in leasing matters where the City is the tenant (**A.10**) includes the value of any tenant improvements to be paid by the City.
- (q) Where options/renewals are included in leases, if the renewal rent is to be determined at a date later than the original approval date, total compensation is to be calculated as though all options are exercised, estimating the renewal rent based on the highest rent payable in the first term of the lease.
- (r) Total compensation in leasing matters where the City is landlord (**A.9**) or tenant (**A.10**) is to be calculated from the date of approval pursuant to this delegation (ie. first allowing for the expiry of any prior approvals, whether by Council or a delegated authority).
- (s) Approving Authority in leasing matters includes authority to approve renewals/extensions within the parameters of the delegated Approving Authority.
- (t) Approving Authority includes authority for amendments within the parameters of the delegated Approving Authority, the cumulative total of which may not exceed the delegated financial limit.
- (u) Where proposed additional amounts in **A.13** exceed 10 per cent of the original decision, even if otherwise in compliance with all other conditions, then approving authority is transferred upwards to the next more senior level of approving authority having the relevant overall financial limit.
- (v) Approving Authority includes authority for all documents necessary to implement the authority, on terms and conditions satisfactory to the Approving Authority, in consultation with the relevant operating Division(s).
- (w) Staff positions referred to in this delegation include successors from time to time.
- (x) Documents are to be in a form satisfactory to the City Solicitor (including indemnity and insurance provisions).
- (y) Delegated signing authorities in **B** are conditional upon the documents having received the City Solicitor's prior "Approval as to Form".
- (z) This delegation does not affect sales, acquisitions and leases over which the Affordable Housing Committee has responsibility.
- (aa) Authority to use land acquired by the City for parking purposes by the Toronto Parking Authority is conditional upon Council enacting a by-law designating such use.
- (bb) All residential leasing documents shall adhere to the *Residential Tenancies Act* and any successor legislation.

Comments

The City made certain lands available to facilitate access to the development at 110 Bloor Street West. At the time, some of the lands were owned by the City, and some were owned by Metro and leased to the City. By way of summary:

- On November 15, 1976, the City subleased to The R.G. Dalton Company Limited ("Dalton") the lands designated as Part 1 on Plan 63R-990, and leased Parts 2 and 3 on Plan 63R-990 (the "1976 Lease") for the construction, maintenance and operation of a vehicular access ramp from 110 Bloor Street West to Cumberland Street.
- By an assignment of lease dated June 29, 1978, Dalton assigned its interest to Priene Limited and 377806 Ontario Limited.
- In 1980, the City subleased to Priene Limited and 377806 Ontario Limited the portion of the Leased Premises designated as Parts 4 and 5 on Plan 63R-1730.
- In the early 1980s, Priene Limited and 377806 Ontario Limited created two condominiums on the property municipally known as 110 Bloor Street West. By virtue thereof, the Lessees became the successors and assigns in interest to Priene Limited and 377806 Ontario Limited.
- Upon amalgamation in 1998, the City of Toronto became the owner of all of the Leased Premises.
- The terms of 1976 Lease and each of the subleases expired on December 30, 1999. The 1976 Lease contains a renewal privilege on the part of the Lessees and the existing Lessees exercised their renewal right. The subleases had renewal rights tied to renewal of the 1976 Lease.

The administration of the leasing arrangements was assumed by PF&R in 2013. PF&R staff has reached an agreement with the Lessees on the terms and conditions outlined herein. Due to the similarities of the provisions of the 1976 Lease and the subleases, and the fact that City is now the owner of all of the Leased Premises, the parties have agreed to enter into a Agreement to give effect to the renewal, and to use this document as the one single lease governing their relationship in respect of all of the Leased Premises from now on.

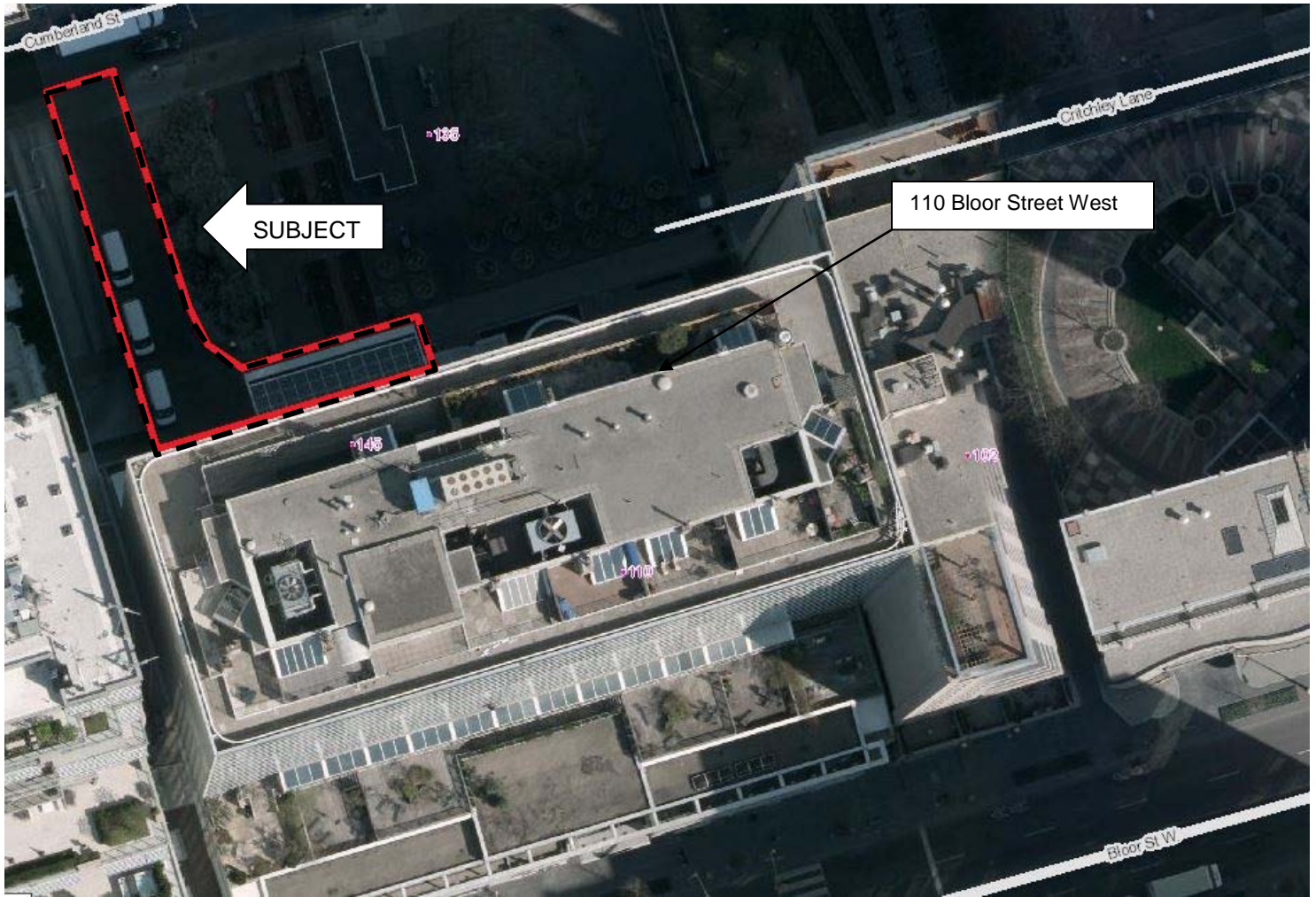
Pursuant to the City's disposal by-law, since the proposed term plus renewals is greater than 21 years, the Leased Premises would normally be required to be declared surplus. In this instance, Legal Services advised that a surplus declaration is not required as the term and renewal rights predate the enactment of the City's disposal by-law and the City does not have the right to deny the renewal term.

The tenant has the option to renew the lease for an additional 33 years upon the expiration of the proposed lease term on December 30, 2032. Should the tenant exercise the option to renew the proposed 1999-2032 lease on the same terms and conditions outlined herein, including an annual net rent increase of 1.5%, the expected total compensation owed to the City over the course of the two Agreement terms is estimated to be \$7.14 Million. City Council has delegated the approval authority for leases where total compensation owed to the City (including options/renewals) is between \$5 Million and \$10 Million to the City Manager. As such, the approval of the City Manager is being sought for this DAF.

SCHEDULE "A"

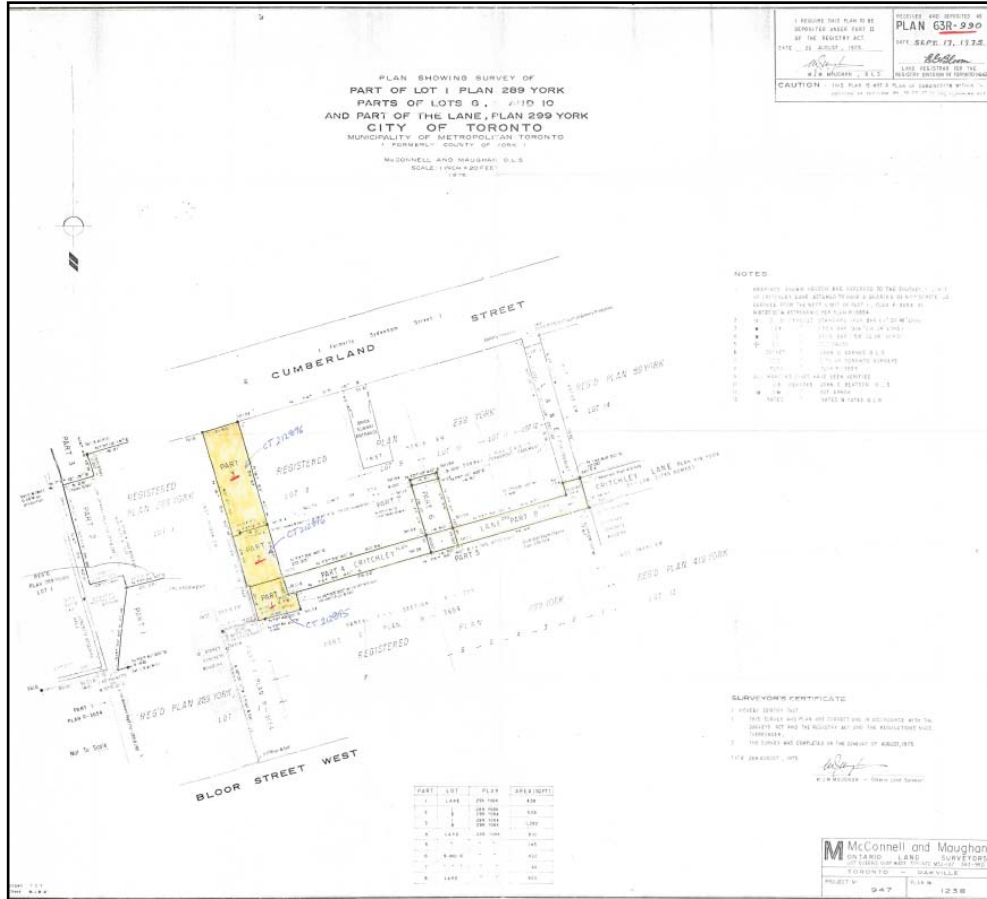
Location Map

Leased Premises

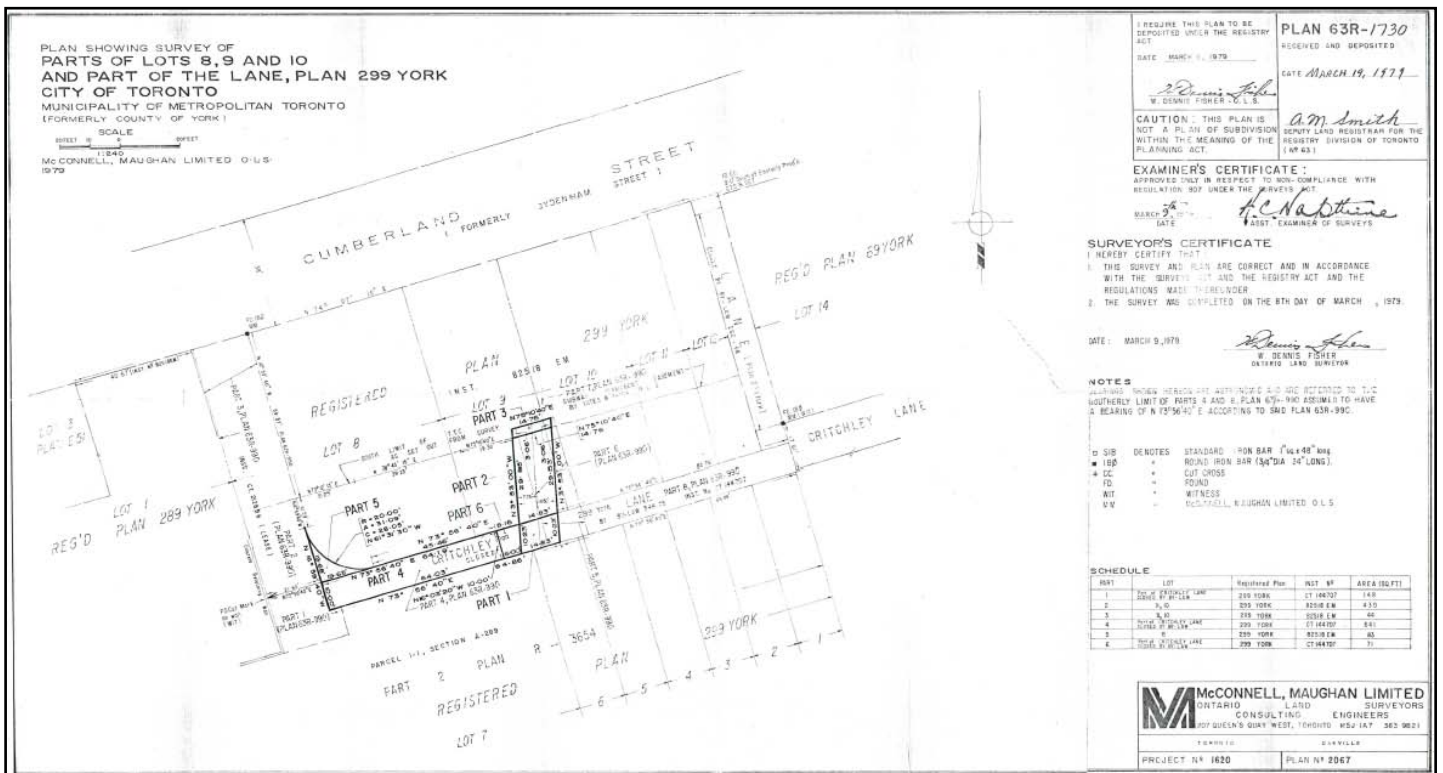


SCHEDULE "A" (cont'd)

Parts 1, 2 and 3 on Plan 63R-990



Parts 4 and 5 on Plan 63R-1730



SCHEDULE "B"

Schedule of Annual Payments

<u>Year</u>	
1	\$ 22,122.00
2	\$ 22,122.00
3	\$ 22,122.00
4	\$ 22,122.00
5	\$ 22,122.00
6	\$ 22,122.00
7	\$ 22,122.00
8	\$ 22,122.00
9	\$ 22,122.00
10	\$ 22,122.00
11	\$ 22,122.00
12	\$ 22,122.00
13	\$ 22,122.00
14	\$ 85,595.00
15	\$ 86,878.93
16	\$ 88,182.11
17	\$ 89,504.84
18	\$ 90,847.41
19	\$ 92,210.12
20	\$ 93,593.28
21	\$ 94,997.18
22	\$ 96,422.13
23	\$ 97,868.46
24	\$ 99,336.49
25	\$ 100,826.54
26	\$ 102,338.94
27	\$ 103,874.02
28	\$ 105,432.13
29	\$ 107,013.61
30	\$ 108,618.82
31	\$ 110,248.10
32	\$ 111,901.82
33	\$ 113,580.35
Total	\$2,266,856.29