

DOCUMENT 1

MUNICIPAL CAPITAL FACILITY AGREEMENT

THIS AGREEMENT dated the __ day of _____, 2014.

BETWEEN:

CITY OF OTTAWA
(hereinafter referred to as the "City")

AND:

NEW EDINBURGH COMMUNITY & ARTS CENTRE
(hereinafter referred to as the "Nectar Centre")

WHEREAS:

- A. The Nectar Centre owns the lands known municipally as 255 MacKay Street in the City of Ottawa, which lands are more particularly described in Annex "A" hereto (the "Lands");
- B. The Nectar Centre wishes, pursuant to Section 110 of the Municipal Act, 2001, to enter into an Agreement with the City for use of the Lands as a municipal capital facility;
- C. The City wishes, pursuant to Section 110 of the Municipal Act, 2001, to exempt the Lands from taxation for municipal and school purposes;
- D. The Lands are used as a municipal community centre to serve the community of New Edinburgh Community & Arts Centre, thus qualifying the Lands as a class of municipal capital facility described in subsection 2.(1)(14) of Ontario Regulation 603/06;

THEREFORE, in consideration of the making of this Agreement and the mutual covenants contained herein, the parties undertake, covenant and agree as follows:

DESIGNATION

1. The City will by by-law, substantially in the form attached as Annex “B”, designate the Lands as a municipal capital facility and exempt the Lands from taxation for municipal and school purposes.

TERM

2. The term of this Agreement and the designation of the Lands as a municipal capital facility shall be from _____, 2014 to the earliest of:

- (a) December 31, 2029;
- (b) the day Nectar Centre cease to own the Lands; and
- (c) the day the Nectar Centre ceases to use the Lands as a municipal capital facility as that term is described in Ontario Regulation 603/06 or amendments thereto.

TAX EXEMPTION

3. The City shall, pursuant to subsection 110(6) of the Municipal Act, 2001, exempt the Lands from property taxation for municipal and school purposes.

ZONING

4. For the purposes of clarity, the City acknowledges and agrees that neither this Agreement nor the by-law shall in any way affect the zoning of the Lands or the permitted uses of the Lands under applicable laws.

REGISTRATION

5. The by-law referred to in section 1 of this Agreement shall be registered by the City on title of the Lands.

OBLIGATIONS AS COVENANTS

6. Each obligation expressed in this Agreement, even though not expressed as a covenant, is considered to be a covenant for all purposes.

ENTIRE AGREEMENT

7. This Agreement contains all the covenants, Agreements and understandings between the parties concerning its subject matter.

ENUREMENT

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

PARTIAL INVALIDITY

9. If any provision of this Agreement or the application of it to any person or circumstances is held to any extent invalid or unenforceable, the remainder of this Agreement or the application of the provisions to persons or circumstances other than those as to which it is held invalid or unenforceable is not affected.

FURTHER ASSURANCES

10. The parties shall do and execute all such further acts, deeds, instruments or things as may be necessary or desirable for the purpose of carrying out the intent of this Agreement.

IN WITNESS WHEREOF the parties hereto have duly executed this Agreement.

CITY OF OTTAWA

Per: _____
Name: Marian Simulik
Title: City Treasurer

NEW EDINBURGH COMMUNITY & ARTS CENTRE

Per: _____
Name:
Title:
I have authority to bind the Corporation.

ANNEX “A”

PIN: 04220-0248(LT)

ANNEX “B”

BY-LAW NO. 2014-

A by-law of the City of Ottawa (the “City”) to designate 255 Mackay Street as a municipal capital facility.

WHEREAS Section 110 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended the “*Municipal Act, 2001*”) permits a municipality to enter into agreements for the provision of municipal capital facilities;

AND WHEREAS Section 110 of the *Municipal Act, 2001* permits a Council of a municipality to designate lands within the classes of lands described in Ontario Regulation 603/06, as amended, as a municipal capital facility and to exempt that facility from taxation for municipal and school purposes;

AND WHEREAS the lands at 255 Mackay Street, described in Schedule “A” to this by-law (“the Lands”), are used for the provision of municipal community centre services, for the purposes of the municipality and for public use, being a permitted class under Ontario Regulation 603/06 as amended;

AND WHEREAS, in accordance with the authorization of the Council on _____, the City and the New Edinburgh Community & Arts Centre, will enter into an agreement, conditional on the passage of this by-law, in the form attached as Schedule “B,” that provides for the use the Lands as a municipal capital facility for a term of fifteen years (the “Municipal Capital Facility Agreement”);

THEREFORE the Council of the City of Ottawa enacts as follows:

1. The Council hereby designates the Lands as a municipal capital facility used for and all present and future improvements thereto as a municipal capital facility for the provision of municipal community centre services, for the purposes of the municipality and for public use, and the implementation of such designation by way of a Municipal Capital Facility Agreement in the form attached hereto as Schedule “B.”

2. The Lands and all present and future related improvements thereto are hereby exempt from the payment of taxation for municipal and school purposes and shall be so exempt until the earliest of:

- (a) the termination date of the Municipal Capital Facilities Agreement between the City of Ottawa and the New Edinburgh Community & Arts Centre;
- (b) the day that the *Municipal Act, 2001* or such other applicable or successor legislation is repealed or amended such that the designation of the Lands as a municipal capital facility is no longer available to be made or applicable; and
- (c) the day the Lands cease to be used as a municipal capital facility as that term is defined in Ontario Regulation 603/06, as amended, from time to time.

3. The City shall cause its Clerk to give written notice of the by-law permitting the City to enter into this agreement to the Minister of Education as provided for in subsection 110(5) of the *Municipal Act, 2001*.

4. The City shall cause its Clerk to give written notice of the contents of this by-law to the Municipal Property Assessment Corporation and the secretary of any school board if the area of jurisdiction of any such board included the land that is exempted by this by-law, as required under section 110(8) of the *Municipal Act, 2001*.

5. This by-law shall be effective as of the date of passing.

ENACTED AND PASSED this ____ day of _____, 2014.

CITY CLERK

MAYOR

BY-LAW NO. 2014-

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A by-law of the City of Ottawa (the “City”) to designate 255 Mackay Street as a municipal Capital facility

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Enacted by City Council at its meeting of _____, 2014.

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LEGAL SERVICES
jmp – L02-02-

COUNCIL AUTHORITY
Month day, 2014
FEDCO Report , Item