

MUNICIPAL CAPITAL FACILITY AGREEMENT

THIS AGREEMENT dated the 11 day of June, 2014.

BETWEEN:

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

AND:

160 Elgin Portfolio Inc.
(hereinafter referred to as "Elgin Portfolio")

WHEREAS:

- A. Elgin Portfolio is owner of the land and building municipally described as Suite 2103 at 160 Elgin Street in the City of Ottawa, which are legally described in Schedule "A" hereto (the "Lands");
- B. By a lease agreement dated September 1, 2010 between the City and Elgin Portfolio, as amended, the Elgin Portfolio leases the Lands to the City for the general administration of the municipality (the "Lease");
- C. Elgin Portfolio wishes, pursuant to Section 110 of the Municipal Act, 2001, to enter into an Agreement with the City respecting the Lands for the provision of municipal capital facilities;
- D. The City wishes, pursuant to Section 110 of the Municipal Act, 2001, to exempt the Lands from taxation for municipal and school purposes;
- E. The Lands will be used for the general administration of the municipality, which is an eligible class of municipal capital facility described in Ontario Regulation 603/06, as amended;

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 has by by-law (substantially in the form attached as Schedule "B") designated part of the Lands as a municipal capital facility.

TERM

2. The term of this Agreement and the designation of the Lands as a municipal capital facility shall be from June 11, 2014 to the earliest of:

- a) the expiration of the term of the Lease, being August 31, 2017 or the expiration of any extension of the term as provided for in the Lease;
- b) the day the City ceases to use the Lands as a municipal capital facility as defined by Section 110 of the *Municipal Act, 2001* and Ontario Regulation 603/06, as amended; or
- c) the day the Lease is terminated.

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: Rick O'Connor
Title: City Clerk and Solicitor

160 ELGIN PORTFOLIO INC.

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

SCHEDULE "A"

Part of PIN 041150156: being ALL AND SINGULAR that certain parcel or tract of land and premises, situate, lying and being in the City of Ottawa, Regional Municipality of Ottawa - Carleton, and being Lot 50, Plan 2996, south side of Gloucester Street; Lots 50, 51, 52, 53, 54, 55, 56 and 57 Plan 2996, north side of Nepean Street; Lot A Plan 4556, west side of Elgin Street; and Lots 50, 51, 52, 53, 54, 55, 56 and 57 Plan 4556, south side of Gloucester Street, City of Ottawa, Regional Municipality of Ottawa - Carleton (save and except the lands described in Instrument No. CR571759).

SCHEDULE “B”

Municipal Capital Facility By-law

BY-LAW NO. 2014-

A by-law of the City of Ottawa to designate Suite 2103 at 160 Elgin Street as a municipal capital facility for the general administration of the municipality.

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 and buildings within the classes described in Ontario Regulation 603/06, as amended, as a municipal capital facility and to exempt the relevant portion(s) of that facility from taxation for municipal and school purposes;

AND WHEREAS Suite 2103 at 160 Elgin Street, Ottawa legally described in Schedule “A” (the “Lands”) which are owned by 160 Elgin Portfolio Inc. (“Elgin Portfolio”) and which are leased to the City of Ottawa (the “City”) are facilities used by the municipality for the general administration of the municipality, being an eligible class of municipal capital facilities under Ontario Regulation 603/06 as amended;

AND WHEREAS, in accordance with the authorization of the Council on June X, 2014 the City and Elgin Portfolio 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 of the Lands as a municipal capital facility and the exemption of the relevant portion of the facility from taxation for municipal and school purposes in relation to the municipal capital facility (the “Municipal Capital Facility Agreement”);

AND WHEREAS Section 110 of the *Municipal Act, 2001* authorizes the City to provide financial assistance to any person in relation to a municipal capital facility for which a municipal capital facility agreement has been entered into;

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

1. The Council hereby designates part of the Lands as a municipal capital facility for the general administration of the municipality, and the implementation of such designation by way of a Municipal Capital Facility Agreement in the form attached hereto as Schedule “B.”
2. The Council hereby exempts the Lands from taxation for municipal and school purposes from the period from and including June 11, 2014 to the earliest of:

- (a) the expiration of the term of the Lease, being August 31, 2017 or the expiration of any extension of the term as provided for in the Lease;
 - (b) the day the City ceases to use the Lands as a municipal capital facility as defined by Section 110 of the *Municipal Act, 2001* and Ontario Regulation 603/06, as amended; or
 - (c) the day the Lease is terminated.
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 X day of June, 2014.

CITY CLERK

MAYOR

BY-LAW NO. 2014-

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A by-law of the City of Ottawa to designate
Suite 2103 at 160 Elgin Street as municipal
capital facility for the general
administration of the municipality.

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Enacted by City Council at its meeting of
June X, 2014.

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LEGAL SERVICES
jmp – L02-27-CAPI

COUNCIL AUTHORITY
June X, 2014
FEDCO Report X, Item X