

Authority: Item 10, General Issues Committee
Report 22-006 (PED18168(h))
CM: March 30, 2022
Ward: 2

Bill No. 055

**CITY OF HAMILTON
BY-LAW NO. 22-**

To Authorize a Tax Exemption for Space Leased at 1 Summers Lane by Hamilton Urban Precinct Entertainment Group L.P. or an Associated Entity for the Purposes of the Provision of Municipal Capital Facilities as defined in Section 110 of the *Municipal Act, 2001*

WHEREAS pursuant to subsection 110(6) of the *Municipal Act, 2001*, S.O. 2001 c. 25, as amended, the council of a municipality may exempt from taxation for municipal and school purposes land or a portion of it on which municipal capital facilities are or will be located;

AND WHEREAS pursuant to subsection 110(20)(c) of the *Municipal Act, 2001*, S.O. 2001 c. 25, as amended, the Lieutenant Governor in Council may make regulations prescribing eligible municipal capital facilities for which municipalities may grant tax exemptions under subsection(6);

AND WHEREAS, pursuant to subsection 2(1) of Ontario Regulation 603/06, the council of a municipality may enter into an agreement under subsection 110(1) of the *Act* for the provision of Municipal facilities for cultural, recreational and tourist purposes;

AND WHEREAS the City of Hamilton and an Entity associated with Hamilton Urban Precinct Entertainment Group L.P. will be entering into a lease in respect of the Concert Hall located in downtown Hamilton, and, related to the foregoing lease, a Municipal Capital Facilities Agreement for the provision of facilities for cultural, recreational and tourist purposes;

AND WHEREAS the eligible portions of the Concert Hall operating and intended to be operated as a concert hall and entertainment complex are declared to be for the purposes of the municipality and for public use.

NOW THEREFORE, The Council of the City of Hamilton enacts as follows:

1. **In this By-law:**

“Agreement” meant the Municipal Capital Facilities Agreement to be entered into between the City and the HUPEG Entity with respect to the provision of municipal capital facilities at the Concert Hall;

"Clerk" means the City Clerk;

"City" means the geographical area of the City of Hamilton or the municipal corporation as the context requires;

“Concert Hall” means the lands and premises comprising the downtown concert hall as described in Schedule “A” hereto;

“Eligible Portion” or “Eligible Portions” means the portion(s) of the Concert Hall entirely occupied or used or intended to be occupied or used for cultural, recreational and tourist purposes;

“HUPEG Entity” means the entity leasing the Concert Hall pursuant to the Master Agreement;

“Landlord” means the City as Lessor under the Lease;

“Lease” means the lease to be entered into between the City and the HUPEG Entity in respect of the Concert Hall;

“Master Agreement” means the agreement between the City and Hamilton Urban Precinct Entertainment Group L.P. dated October 26, 2021;

"Person" means any individual, company, corporation, partnership, firm, trust, sole proprietorship, government or government agency, authority or entity, however designated or constituted;

“Tax Exemption” means the exemption from taxes levied for municipal and school purposes pursuant to section 110(6) of the *Municipal Act, 2001*, S.O. 2001 c. 25, as amended; and

“Tenant” means the HUPEG Landlord as Lessee under the Lease.

Municipal Capital Facility

2. This By-law exempts from taxation for municipal and school board purposes the leasehold interest of the HUPEG Entity in the Eligible Portion(s) of the Concert Hall and shall not operate in any manner whatsoever so as to exempt from taxation for municipal and school board purposes any other leasehold interest, tenancy, sub-lease, sub-tenancy, occupancy, license, user or other interest held by any other tenant, lessee, sub-tenant, sub-

lessee, occupant, licensee, user or any other Person at the Concert Hall, save and except for the interest of any sub-tenant or assignee resulting from a sub-tenancy or assignment made with Landlord consent pursuant to the Lease.

3. The Tax Exemption provided in this By-law shall not apply to any portion of the Concert Hall that is not an Eligible Portion at any given time during the term of the Lease.
4. This By-law shall be deemed repealed:
 - (a) If the City ceases to be the Landlord;
 - (b) If the HUPEG Entity ceases to be the Tenant without assigning the Lease to its successor with Landlord consent;
 - (c) If the Eligible Portion(s) of the Concert Hall permanently cease to be occupied and used or are no longer intended to be occupied and used as a Concert Hall and entertainment complex; or
 - (d) If the Lease, or any renewal or extension of the Lease expires or is terminated.
5. The City is authorized to enter into a Municipal Capital Facilities Agreement under section 110 of the *Municipal Act, 2001*, S.O. 2001 c. 25 with the HUPEG Entity for the provision of municipal capital facilities.
6. (1) Sections 1, 3, 4, 5 and 6 of this By-law shall come into force on the day that the By-law is enacted.

(2) Section 2 of this By-law shall come into force on the later of the following:
 - (a) the date this By-law is enacted;
 - (b) the commencement date of the Lease; or
 - (c) the date the Agreement is entered into.

PASSED this 30th day of March, 2022.

F. Eisenberger
Mayor

A. Holland
City Clerk

Schedule "A"

The Concert Hall

The Property municipally known as part of 1 Summers Lane, Hamilton Ontario, consisting of Part of PIN 17587-0006 LT, or as such PIN shall be replaced by a successor PIN applicable to the leasehold parcel to be created pursuant to the Lease

Excluding the lands on/in which the subterranean parking lot is located and the airspace above the upper boundary of the existing Concert Hall