

Bill No. 282
2013

By-law No. A.-_____

A By-law to authorize and approve a
Licence Agreement with the Crouch
Neighbourhood Resource Centre for the
use of the Hamilton Road Seniors' Centre

WHEREAS section 5(3) of the *Municipal Act, 2001* S.O. 2001, c.25, as amended, provides that a municipal power shall be exercised by by-law;

AND WHEREAS section 9 of the *Municipal Act, 2001* provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

AND WHEREAS section 10 of the *Municipal Act, 2001* provides that the City may provide any service or thing that the City considers necessary or desirable for the public, and may pass by-laws respecting same, and respecting economic, social and environmental well-being of the City, and the health, safety and well-being of persons;

WHEREAS section 107 of the *Municipal Act, 2001* provides that the City may make grants (including the power to provide for the use by any person of land owned or occupied by the municipality upon such terms as may be fixed by council) to any person, group or body, for any purpose that council considers to be in the interests of the municipality;

WHEREAS Council considers it to be in the interests of the municipality to provide a licence to Crouch Neighbourhood Resource Centre to use Hamilton Road Seniors' Centre & Community Centre and Hamilton Road Seniors' Centre Annex;

NOW THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

1. The Licence Agreement attached as Schedule "A" to this by-law between The Corporation of the City of London and Crouch Neighbourhood Resource Centre for the use of portions of Hamilton Road Seniors' Centre & Community Centre and Annex, is hereby authorized and approved.

The Mayor and City Clerk are authorized to execute the Agreement authorized and approved under section 1 of this by-law.

2. This by-law shall come into force and effect on the day it is passed.

PASSED in Open Council on June 25, 2013.

Joe Fontana
Mayor

Catharine Saunders
City Clerk

First reading – June 25, 2013
Second reading – June 25, 2013
Third reading – June 25, 2013

Schedule "A"

Licence Agreement – Crouch Neighbourhood Resource Centre

THIS LICENCE AGREEMENT, dated this _____, 2013 with effect as of the 1st day of July 2013.

BETWEEN:

THE CORPORATION OF THE CITY OF LONDON
("City")

and

CROUCH NEIGHBOURHOOD RESOURCE CENTRE
("Licensee")

WHEREAS the City owns the property located at 525 Hamilton Road, upon which is located the Hamilton Road Seniors' Centre and Community Centre ("Centre"), and also owns the property located at 898 Trafalgar Street, upon which is located the Hamilton Road Seniors' Centre and Community Centre Annex ("Annex"), all in the City of London ("City Facility" and "City Facilities"), and more particularly set out in Appendix "B";

AND WHEREAS the Licensee is a not-for-profit corporation that runs various recreational programs for the community;

AND WHEREAS the City considers it in the interests of the municipality to provide support to the Licensee and its programs as it provides services that benefit the community;

AND WHEREAS the Licensee has requested permission to use portions of the Centre including the **auditorium**, and the Annex including the **upper office space, storage space, and common areas including washrooms**, and more particularly outlined in red on the plan attached hereto as **Appendix "B"**, ("Premises"), for the purpose of office space, meeting room space, storage of program equipment and work documents, and access to washrooms and public spaces.

THEREFORE IN CONSIDERATION of the premises and the mutual covenants and agreements herein, the parties agree as follows:

1. Licence:

1.1 The City grants this licence to permit the Licensee to use those portions of the Premises set out below in this section, and pursuant to the terms and conditions contained in this Agreement.

- (a) **ANNEX: Office Space (Room 200)**
Each day, Monday through Sunday from July 1st to August 30th between 9:00 a.m. and 4:00 p.m. and September 1st to June 30th, between 2:00 p.m. and 6:30 p.m., the Licensee shall have the non-exclusive licence to use the designated office space, pursuant to section 3.
- (b) **ANNEX: Kitchen**
Each day, Monday through Friday from July 1st to August 30th between 9:00 a.m. and 4:00 p.m. and September 1st to June 30th, between 2:00 p.m. and 6:30 p.m., the Licensee shall have the non-exclusive licence to use the designated kitchen space, pursuant to section 3.
- (c) **ANNEX: Main Floor Common Room**
Each day, Monday through Sunday from July 1st to August 30th between 9:00 a.m. and 4:00 p.m. and September 1st to June 30th, between 2:30 p.m. and 6:00 p.m., the Licensee shall have the non-exclusive licence to use the designated office space, pursuant to section 3.
- (d) **ANNEX: Storage Space (Room 200, 001, 002)**
The Licensee shall have the non-exclusive licence to use designated Storage

Space on main floor as outlined on the plan attached hereto as Appendix "B", pursuant to section 3.

(e) **MAIN BUILDING: Auditorium**

The Licensee shall have the non-exclusive licence to use the designated auditorium for programs and special events, if available and booked with City of London staff, pursuant to section 3.

- 1.2 Notwithstanding the use granted by this licence, the Premises shall not be available to the Licensee on days during which the City has closed the Centre for any reason (including but not limited to inclement weather and holidays), or if there is an emergency requiring the use of the facility as an Emergency Reception Centre.
- 1.3 In the event that the Licensee no longer requires to licence a portion of the Premises temporarily, the Licensee shall notify the City within 72 hours.

2. Term:

- 2.1 The term of this Licence Agreement shall be for a period of three (3) years, commencing July 1st, 2013 and terminating June 30th, 2016, or terminating at such earlier date pursuant to section 10 of this agreement.

Renewal:

- 2.2 At the expiration of the initial term of this Agreement, the Agreement is automatically renewed for one year and continues in force from year to year for a maximum of five one-year renewals, unless sooner terminated pursuant to section 10 of this Agreement.

3. Use of Premises – Prior Written Approval of City:

- 3.1 Prior to entering into this agreement, and thereafter annually prior to **July 1st**, the Licensee shall obtain the written approval of the City's Managing Director of Neighbourhood, Children & Fire Services or designate for its use of all space at Hamilton Road Seniors Centre & Community Centre and Annex ("Approved Plan"). The Licensee's requests shall set out the following:
 - (1) Day, time and location of office, storage and program space required within the Centre and Annex,
 - (2) Goal and target audience of all programs, special events and services provided by agency to surrounding community.
- 3.2 Provided the specific dates, times and locations are set out in the Approved Plan, the City may at its sole discretion provide the Licensee with free program or meeting space outside the time noted in the Approved Plan.

4. Obligations of the Licensee:

Keys

- 4.1 The Licensee shall return City keys forthwith upon demand by the City. The Licensee shall forthwith provide the City with the names of any individuals who from time to time are in possession of the keys. The Licensee shall ensure that no duplicates of the keys are made. The Licensee shall ensure that only individuals for whom it is at law responsible have access to the keys. The Licensee shall notify the City forthwith of any lost keys, or if it becomes aware that duplicate keys have been made. Should the City be required to change any locks as a result of lost keys or duplicate keys being made, the cost of same shall be borne by the Licensee.
- 4.2 The Licensee shall ensure that any individual associated with the Licensee who possesses a key to the Centre shall have had a building orientation with the City's Facilities Operations Staff prior to accessing the Centre.
- 4.3 The Licensee shall ensure all required procedures for opening and closing the Centre are adhered to and shall ensure that such procedures are logged in a log book.

Access – Not Outside Program Hours

- 4.4 The Licensee and those for whom it is responsible at law shall not access the Premises except during those dates and times set out in this agreement. If the Licensee and those for whom it is responsible at law require additional time to access the building (e.g.

set up for special events, drop off of equipment or supplies), the Licensee shall obtain prior written permission from City personnel prior to such access.

- 4.5 If the Licensee charges an admission fee, the Licensee shall be responsible for collecting such fees and such fees shall be the property of the Licensee.

5. Licensee Covenants:

- 5.1 The Licensee covenants and agrees as follows:

- (a) to use the Centre and Premises only for the purpose set out in this Agreement;
- (b) to maintain the appearance of the Premises in a neat, tidy, clean and well-kept manner, free from garbage and debris;
- (c) to ensure that no rubbish, refuse or objectionable material accumulates in or about the Premises;
- (d) to promptly document all damages or repairs in a log book available for City inspection;
- (e) to reimburse the City for any excess cleaning the City is required to do;
- (f) to ensure that appropriate supervision is provided during use of the Centre;
- (g) not to bring into the Centre or store at the Centre dangerous materials, including but not limited to flammable or explosive materials;
- (h) to ensure:
 - (i) smoking is not permitted in the Centre or Premises in contravention of the City's smoking by-laws or Provincial law;
 - (ii) drinking of alcoholic beverages is not permitted in the Centre or Premises unless in compliance with an ACGO permit and City alcohol policy;
 - (iii) that there is no illegal drug possession or use;
 - (iv) that vehicles will be parked on the Centre only in designated parking areas;
- (i) to comply with all Federal and Provincial Legislation, Rules, Regulations and Municipal By-laws; and
- (j) the complete care, custody and control of the Centre and Premises, shall at all times remain with the City through its management, supervisory, custodial and maintenance employees, excluding contents owned by the Licensee or its members, invitees, or persons for whom it is at law responsible.

5.2 Asbestos - Harmful Substances - No Alterations

- (a) The Licensee acknowledges that the City Facilities may contain asbestos or other toxic or harmful substances.
- (b) The Licensee and any person affiliated with the Licensee shall not make any alterations to the City Facilities without the prior written express approval of the City's authorized representative. Alterations that shall not be made without such approval include, but are not limited to, the following: drilling holes in any walls, floors or ceilings; inserting nails into any walls, floors or ceilings; making any structural changes; painting walls.
- (c) The Licensee shall advise any person utilizing the City Facilities of subsections (a) and (b) of this agreement.

5.3 Not Use if Unsafe - Report Unsafe Conditions

The Licensee shall not use the City Facilities if it is unsafe, and shall ensure that no person affiliated with the Licensee shall use the City Facilities if it is unsafe. The Licensee shall immediately report any unsafe conditions to the City.

6. Obligations of the City:

Keys

- 6.1 The City will provide the Licensee with **TWO (2) sets of keys** to access the Premises. All other keys to the facility that are currently in the possession of the Licensee shall be handed over to the City immediately.

Orientation

- 6.2 The City, in its sole discretion, will provide any required orientation on all security systems, including emergency procedures such as fire evacuation, reporting procedures regarding injuries, property damage and theft.

Custodial Services

- 6.3 The City will be responsible for all custodial services for the Premises.

Other Services

- 6.4 The City will provide reasonable storage for all supplies, as determined by the City in its sole discretion.
- 6.6 The City agrees as follows, to a standard as determined solely in the City's discretion:
- (a) to keep the sidewalks and parking areas at the Centre clean and reasonably free of ice and snow;
 - (b) to clean and maintain the Centre and the entrance to the Centre;
 - (c) to keep the Premises in a good state of repair, except that the City's obligation to repair shall not extend to any repairs, damages, injuries or maintenance which arises from or results from the wilful or negligent act or omission of the Licensee or its agents or of those for whom it is at law responsible.
- 6.7 The City will permit the Licensee to use the Centre's amenities existing as at the date of the entering into of this agreement.

7. General Provisions:

- 7.1 The Licensee accepts the Centre and Premises in their condition as of the date of this Agreement and shall not call upon the City to do or pay for any work or call upon the City to supply any equipment to make the Centre and Premises more suitable for the proposed use by the Licensee.

OFFICE EQUIPMENT:

The Licensee is responsible for the supply, maintenance and care of their own office furniture and equipment, and internet service and support.

Donations

- 7.2 Any items donated by the Licensee to the City shall become the property of the City and the City may use such items as it sees fit.

Inspections by City

- 7.3 The City may inspect the Centre and Premises at any time to ensure compliance with the terms of this Agreement and any Federal or Provincial Legislation, Regulations or Municipal By-laws.

Not Responsible for Damage/Theft

- 7.4 The City shall not be responsible for any damage or theft to vehicles parked in the parking areas. The City shall not be responsible for any loss or damage to the Licensee's equipment or property. The City shall not be responsible for any loss or damage to the equipment or property of persons for whom the Licensee is at law responsible.

No Assignment

- 7.5 The Licensee shall not assign this agreement or sublicense any part of the Premises without first obtaining the written consent of the City.

Repairs/Construction

- 7.6 The Licensee acknowledges that the City may make repairs, additions and/or construction to the Centre and/or Premises from time to time. The Licensee agrees that at such times it may be required to vacate such location as and when directed by the City, and the City shall not be liable to pay any refund or damages to the Licensee resulting from same.

8. Insurance and Indemnification:

Insurance

- (a) Throughout the term of this agreement, the City agrees to obtain and maintain at its own expense general liability insurance for legal liability arising out of bodily injury, including death, or property damage covering its ownership, maintenance and activities on the Centre in an amount of not less than **five million (\$5,000,000.00) dollars** subject to a deductible usual to a corporation of its size.
- (b) Throughout the term of this agreement, the Licensee shall obtain and maintain the coverage shown below and shall provide that the following insurance will not be cancelled or permitted to lapse unless the insurer notifies the City in writing at least thirty (30) days prior to the date of cancellation or expiry:
 - (i) Third party general liability insurance covering all claims for negligence, nuisance,

property damage and bodily injury, including death, arising out of the use of the Centre by the Licensee. Such policy shall include the City as an additional insured with respect to this Agreement and be in an amount not less than **five million (\$5,000,000.00) dollars** including personal injury liability, broad form property damage liability, contractual liability, owners' and contractors' protective liability, non-owned automobile liability, contingent employer's liability, and shall contain a severability of interests clause and cross-liability clauses.

- (ii) Standard all-risk property insurance covering the property of the Licensee, including leasehold improvements, in an amount not less than the full replacement cost value with a deductible of no more than \$2,500.00; such policy shall include a waiver of subrogation in favour of the City;
- (c) The Licensee shall not do, omit to do, or permit to be done or omitted to be done on or at the Centre anything that may increase premiums or void coverage under the property insurance policies carried by the City on the Premises described in this agreement.
- (d) The insurance described in 8.1(b) above will not be cancelled or permitted to lapse unless the Licensee notifies the City in writing at least thirty (30) days prior to the date of cancellation or expiry. Evidence of such insurance shall be delivered to the City promptly at inception of this agreement and thereafter prior to the insurance renewal date.
- (e) Failure to satisfactorily meet these conditions relating to insurance shall be deemed a breach of this agreement.
- (f) The City reserves the right to request such higher limits of insurance or other types of policies appropriate to this agreement as the City may reasonably require from time to time.

8.2 Indemnification

The Licensee agrees to protect, defend, indemnify and save the City harmless from and against: (a) all liability, loss, claims, demands, actions, proceedings, fines or penalties, including any costs and expenses incurred by the City thereby, including reasonable legal fees, for loss, damage or injury, including death, to any person or persons and to any property arising in connection with this licence as a result of any act or omission of the Licensee or the group represented by or affiliated with the Licensee or their members, officers, employees, agents or contractors, invitees, or other persons for whom the Licensee is at law responsible; and (b) any claim or finding that any of the Licensee, the Licensee's employees or persons for whom the Licensee is at law responsible are employees of, or are in any employment relationship with, the City or are entitled to any Employment Benefits of any kind; and (c) any liability on the part of the City, under the Income Tax Act (Canada) or any other statute (including, without limitation, any Employment Benefits statute), to make contributions, withhold or remit any monies or make any deductions from payments, or to pay any related interest or penalties, by virtue of any of the following being considered to be an employee of the City, from Licensee; Licensee's employees or others for whom Licensee is at law responsible in connection with the licensing of the Premises or otherwise in connection with Licensee's operations.

9. **Status of Licensee:**

- 9.1 The Licensee acknowledges and agrees this Agreement shall in no way be deemed or construed to be an Agreement of Employment. Specifically, the parties agree that it is not intended by this Agreement that the Licensee, nor any person employed by or associated with the Licensee is an employee of, or has an employment relationship of any kind with the City or is in any way entitled to employment benefits of any kind whatsoever from the City whether under internal policies and programs of the City, the *Income Tax Act*, R.S.C. 1985 c.1 (1st Supp); the *Canada Pension Act*, R.S.C. 1985, c.C-8; the *Employment Insurance Act*, S.O. 1996,c.23; the *Workplace Safety and Insurance Act*, 1997 S.O. 1997, c.26 (Schedule "A"); the *Occupational Health and Safety Act*, R.S.O. 1990, c.o.1; the *Pay Equity Act*, R. S. O. 1990, c.P.7; the *Health Insurance Act*, R.S.O. 1990, c.H.6; or any other employment related legislation, all as may be amended from time to time, or otherwise.
- 9.2 Notwithstanding paragraph 9.1 above, it is the sole and exclusive responsibility of the Licensee to make its own determination as to its status under the Acts referred to above and, in particular, to comply with the provisions of any of the aforesaid Acts, and to make any payments required thereunder.

- 9.3 The Licensee shall operate independently of the City and is not the agent or servant of the City for any purpose.
- 9.4 Nothing in this Agreement shall entitle or enable the Licensee or any subcontractor to act on behalf of, or as agent for, or to assume or create any obligation on behalf of, or to make any representation, promise, and warranty or guarantee binding upon, or otherwise to bind the City. The Licensee and any subcontractor of the Licensee and the City is independent and not the agent, employee, partner or joint venture of any of the others.

10. Termination:

Termination by the City

- 10.1 If the Licensee defaults in performing any of its obligations under this Agreement, the City may terminate the licence granted under this Agreement immediately without liability. Any waiver by the City of any breach by the Licensee of any provisions of this Agreement shall be without prejudice to the exercise by the City of all or any of its rights or remedies in respect of any continuance or repetition of such breach.
- 10.2 The City may terminate this Agreement for any reason without liability by providing notice in writing seven (7) calendar days prior to the date of such termination.
- 10.3 In the event of termination of this agreement, the City shall have no further obligations to the Licensee.

Termination by the Licensee

- 10.4 The Licensee may terminate this Agreement without liability upon thirty (30) days' prior written notice for any reason.

11. Notice:

- 11.1 Any notice required to be given to the City or the Licensee under this Agreement shall be sufficiently given if delivered personally or by courier, transmitted by fax, or mailed postage prepaid to the addresses below. Such notice shall be deemed to have been received on the date of its delivery if delivered personally, by courier or by fax, or in the case of mailing, three (3) business days after it was delivered to the post office. In the event that the Licensee's corporate mailing address changes, it is the responsibility of the Licensee to notify the City immediately of the address change.

<u>City's Address</u>	<u>Licensee's Address</u>
City Clerk	Crouch Neighbourhood Resource
Centre	
The Corporation of the City of London	550 Hamilton Rd.
300 Dufferin Avenue	London, ON N5Z 1S4
P.O. Box 5035	
LONDON, ON N6A 4L9	

12. Circumstances Beyond the Control of Either Party

- 12.1 Neither party will be responsible for damage caused by delay or failure to perform under the terms of this Agreement resulting from matters beyond the control of the City and the Licensee including strike, lockout or any other action arising from a labour dispute, fire (other than a fire caused by the Licensee's negligence), natural flood, act of God, war, riot or other civil insurrection, lawful act of public authority, all of which cannot be reasonably foreseen or provided against.

13. Execution

- 13.1 The Licensee acknowledges that it has read this agreement, understands it and agrees to be bound by its terms and conditions. Further the Licensee agrees that it is the complete and exclusive statement of the agreement between the parties, which supersedes all proposals or prior agreement, oral or written, and all other communications between the parties relating to the subject-matter of this Agreement.

14. Independent Legal Advice

14.1 The Licensee acknowledges that it has had the opportunity to obtain independent legal advice with respect to this agreement.

IN WITNESS WHEREOF the Licensee has duly executed this Agreement, attested by the hands of its duly authorized officers.

SIGNED SEALED AND DELIVERED

CENTRE

CROUCH NEIGHBOURHOOD RESOURCE

Date

Per (Signature): _____

Print Name: _____

Print Title: _____

I Have the Authority to Bind the Corporation

Date

Per (Signature): _____

Print Name: _____

Print Title: _____

I Have the Authority to Bind the Corporation

IN WITNESS WHEREOF The Corporation of the City of London has duly executed this agreement under the hands of its Mayor and Clerk,

THE CORPORATION OF THE CITY OF LONDON

Date

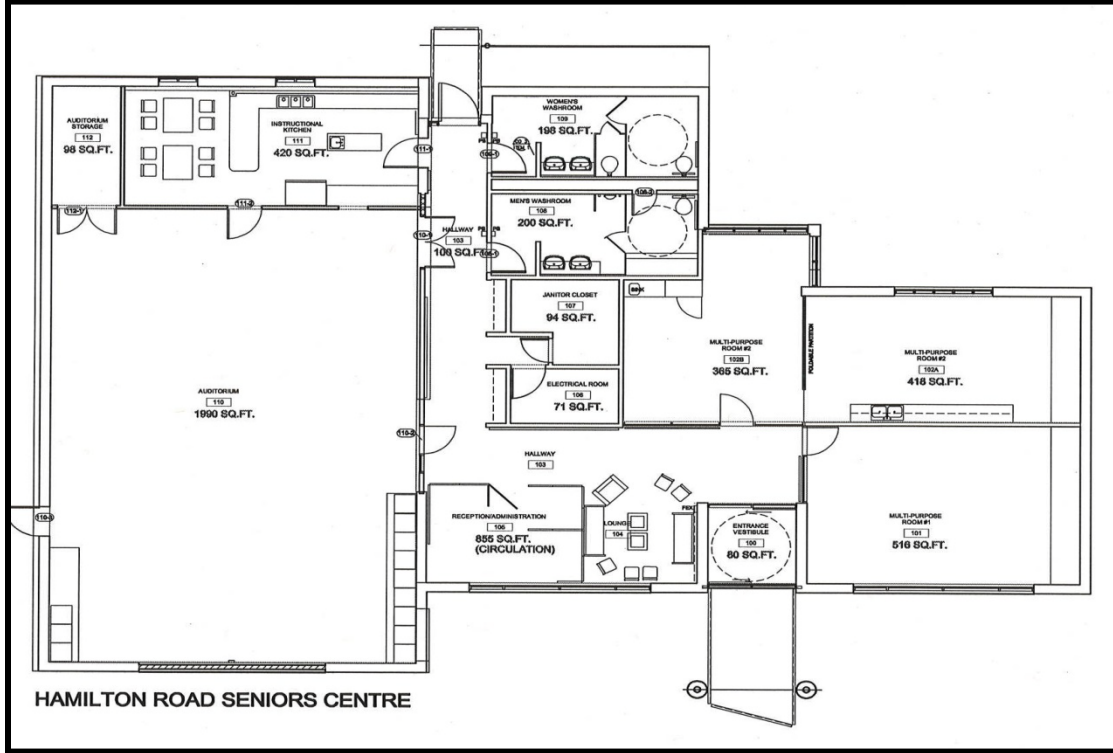
Joe Fontana, Mayor

Date

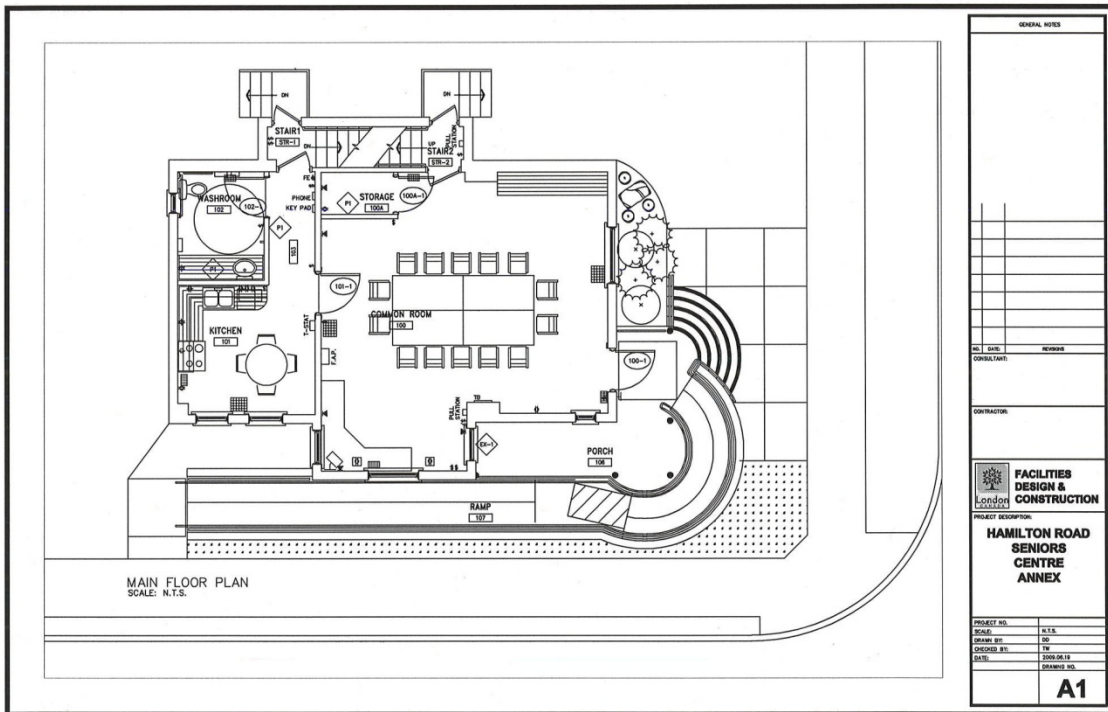
Catharine Saunders, City Clerk

APPENDIX 'B'
PLAN SHOWING PREMISES

HAMILTON ROAD SENIORS' CENTRE & COMMUNITY CENTRE



HAMILTON ROAD SENIORS' CENTRE ANNEX



GENERAL NOTES	
NO.	DATE
1	REVISION
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CONTRACTOR:

FACILITIES DESIGN & CONSTRUCTION

HAMILTON ROAD SENIORS CENTRE ANNEX

PROJECT NO. []

SCALE: []

DRAWN BY: []

CHECKED BY: []

DATE: []

DRAWING NO. **A1**

HAMILTON ROAD SENIORS' CENTRE ANNEX CONTINUED

<p>SECOND FLOOR PLAN SCALE: N.T.S.</p>	<p>BASEMENT FLOOR PLAN SCALE: N.T.S.</p>	<p>GENERAL NOTES</p> <table border="1"><tr><td>NO.</td><td>DATE</td><td>REVISION</td></tr><tr><td> </td><td> </td><td> </td></tr><tr><td> </td><td> </td><td> </td></tr></table> <p>CONSULTANT</p> <p>CONTRACTOR</p> <p>FACILITIES DESIGN & CONSTRUCTION London</p> <p>PROJECT DESCRIPTION</p> <p>HAMILTON ROAD SENIORS CENTRE ANNEX PLANS</p> <table border="1"><tr><td>PROJECT NO.</td><td> </td></tr><tr><td>DRAWN BY</td><td> </td></tr><tr><td>CHECKED BY</td><td> </td></tr><tr><td>DATE</td><td> </td></tr></table> <p>A2</p>	NO.	DATE	REVISION							PROJECT NO.		DRAWN BY		CHECKED BY		DATE	
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