

Agenda

Community and Protective Services Committee

The 4th Meeting of the Community and Protective Services Committee

February 22, 2023

4:00 PM

Council Chambers - Please check the City website for additional meeting detail information. Meetings can be viewed via live-streaming on YouTube and the City Website.

The City of London is situated on the traditional lands of the Anishinaabek (AUh-nish-in-ah-bek), Haudenosaunee (Ho-den-no-show-nee), Lūnaapéewak (Len-ah-pay-wuk) and Attawandaron (Add-a-won-da-run).

We honour and respect the history, languages and culture of the diverse Indigenous people who call this territory home. The City of London is currently home to many First Nations, Metis and Inuit people today.

As representatives of the people of the City of London, we are grateful to have the opportunity to work and live in this territory.

Members

Councillors E. Pelozza (Chair), S. Stevenson, J. Pribil, C. Rahman, D. Ferreira, Mayor J. Morgan

The City of London is committed to making every effort to provide alternate formats and communication supports for meetings upon request. To make a request specific to this meeting, please contact CPSC@london.ca or 519-661-2489 ext. 2425.

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5. **Deferred Matters/Additional Business**

6. **Adjournment**

Animal Welfare Community Advisory Committee

Report

The 3rd Meeting of the Animal Welfare Community Advisory Committee
February 2, 2023

Attendance PRESENT: W. Brown (Chair), M. Blosch, K. Coulter, G. Leckie
and M. Toplack and H. Lysynski (Acting Committee Clerk)

ABSENT: H. Duhamel and A. Hames

ALSO PRESENT: J. Adema, M. Campbell, W. Jeffery, M.
McBride and B. Westlake-Power

The meeting was called to order at 3:03 PM

1. Call to Order

1.1 Disclosures of Pecuniary Interest

That it BE NOTED that no pecuniary interests were disclosed.

2. Scheduled Items

2.1 ReThink Zoning Update

That it BE NOTED that the Animal Welfare Community Advisory
Committee received the presentation appended to the Agenda, with
respect to ReThink Zoning.

3. Consent

3.1 2nd Report of the Animal Welfare Community Advisory Committee

That it BE NOTED that the 2nd Report of the Animal Welfare Community
Advisory Committee, from its meeting held on January 5, 2023, was
received.

4. Sub-Committees and Working Groups

4.1 Future Meeting Dates and Times Confirmation

That it BE NOTED that the Animal Welfare Community Advisory
Committee held a general discussion with respect to future meeting dates
and times of the Sub-Committee.

5. Items for Discussion

5.1 Animal Welfare Community Advisory Committees Recommendation Regarding Private and Mobile Zoos

That it BE NOTED that the Animal Welfare Community Advisory
Committee (AWCAC) held a general discussion with respect to the
AWCAC recommendation regarding private and mobile zoos and the
Reptilia discussion held at the January 31, 2023 Community and
Protective Services Committee meeting.

5.2 Educational and Promotional Bird Friendly Initiatives

That Animal Welfare Community Advisory Committee (AWCAC) Members BE REQUESTED to provide information on library programs that are being undertaken with respect to bird friendly initiatives at the next meeting; it being noted that the AWCAC held a general discussion with respect to this matter.

5.3 2023 Planning of Budget Expenditures

That consideration of the 2023 Animal Welfare Community Advisory Committee (AWCAC) Budget BE DEFERRED to the next AWCAC meeting; it being noted that the AWCAC held a general discussion with respect to this matter.

6. Adjournment

The meeting adjourned at 3:54 PM

Report to Community and Protective Services Committee

To: Chair and Members
Community and Protective Services Committee
From: Kevin Dickins, Deputy City Manager, Social and Health
Development
Subject: Housing Stability Services – Contract Amendment
Date: February 22, 2023

Recommendation

That, on the recommendation of the Deputy City Manager, Social and Health Development, the following actions be taken with respect to Housing Stability Services - Contract Amendment for the Housing Stability Bank Program for homelessness prevention, that;

- a) One-time contract amendment as per the Corporation of The City of London Procurement of Goods and Services Policy Section 20.3.e **BE APPROVED** at a total estimated cost of \$465,000 to support the Salvation Army Centre of Hope, Housing Stability Bank,
- b) That Civic Administration **BE AUTHORIZED** to undertake all administrative acts which are necessary in relation to this project.
- c) That the approval given herein **BE CONDITIONAL** upon the Corporation entering into or amending a Purchase of Service Agreements with the program.

Executive Summary

To ensure the continuity of The Salvation Army Housing Stability Bank (HSB) in 2023, Housing Stability Services is seeking approval to provide additional one-time funding to support the ongoing operations of this program. The HSB has experienced ongoing impacts from the Covid-19 pandemic and have requested additional one-time funding to support ongoing operations, as outlined below:

The HSB program has requested additional funding to support a \$465,000 shortfall in their operating budget in 2022-23. The shortfall is due to an increased demand for rental arrears and a reduction in loan recoveries as the program responds to community needs to administer a greater amount of grants versus loans for those on fixed incomes who access this service.

Civic Administration recommends that funding to support these programs is provided through a contract amendment to the existing agreement. The Salvation Army Housing Stability Bank has an existing purchase of service (POS) agreement with The City of London. Pending approval, Housing Stability Services will amend The Salvation Army HSB funding agreement to provide this additional one-time funding.

Linkages to the Corporate Strategic Plan

2019-2023 Strategic Plan for the City of London

The City of London identifies 'Strengthening Our Community' and 'Building a Sustainable City' as strategic areas of focus.

Londoners have access to the supports they need to be successful.

Londoners have access to the services and supports that promote well-being, health, and safety in their neighbourhoods and across the city.

Housing Stability for All: The Housing Stability Action Plan for the City of London (2019-2024)

London's Homeless Prevention and Housing Plan, Housing Stability for All: The Housing Stability Action Plan for the City of London (Housing Stability for All Plan), is the approved guiding document for homeless prevention and housing in the City of London and was developed in consultation with Londoners.

Analysis

1.0 Background Information

1.1 Previous Reports Related to this Matter

- Housing Stability Services – Single Source Procurements (CPSC: May 31, 2022)
- Single Source Award Recommendation for Housing Stability Service Programs; Including Outreach, Emergency Shelter and Housing Stability Bank (CPSC: February 1, 2022)
- Housing Stability Services – Housing Stability Bank Single Source Procurement SS21-48 (CPSC: December 14, 2021)
- London's Homeless Prevention System – Housing Stability Bank Update (CPSC: February 21, 2018)
- London's Homeless Prevention System Housing Stability Bank (CPSC: September 22, 2015)
- London's Homeless Prevention System Housing Stability Fund (CPSC: June 16, 2014)

2.0 Discussion and Considerations

Background

The Housing Stability Bank program supports individuals and families in London who are experiencing or are at risk of homelessness to secure permanent housing, to stay housed through the provision of grants and interest free loans covering the cost of rental and utility arrears for those at risk of losing their housing due to these arrears. The program offers a range of services to low-income earners that include interest free loans for first and last months rental assistance, rental arrears and emergency utility assistance in the form of grant, or interest free loan as well as money coaching services. It has been noted by the current provider that approximately 70% of individuals who access the housing stability bank for loans are on a fixed income which has led to ongoing challenges in loan repayment efforts over the past few years. As a result of community consultations in spring/summer of 2021, the HSS team has been working with the current provider to evolve the HSB program to better support community need by transiting to more of a grant based program with a smaller loan component.

Since 2005, The Salvation Army Centre of Hope has operated various iterations of a rent bank and emergency utility assistance program in The City of London. In 2020/21 \$685,000 was allocated to the Housing Stability Bank through Ontario Social Service Relief Funding to provide COVID-19 related grants. This funding provided grants to individuals and families directly affected by COVID-19, which in turn impacted their ability to pay for rent and/or utilities.

In 2021, the City of London issued a Request for Proposal soliciting qualified proponents to provide Housing Stability Bank services. As several of the submissions from organizations did not meet all the requirements outlined in RFP 21-55, the RFP was cancelled. To maintain existing services, a single source procurement was recommended by Civic Administration and approved by City Council in February, 2022. The Salvation Army currently has a 2022-23 purchase of service agreement with the City of London.

Reasons for Shortfall -The Salvation Army Housing Stability Bank

The Salvation Army has reported an anticipated deficit of \$465,000 and have cited the following factors as contributors to the current funding shortfall:

- Increase in the number of households accessing Housing Stability Bank services (first and last months rent or rental arrears support) from 1,466 households in 2021 to 2,309 households in 2022.
- Reduction in loan repayments with 15,533 payments collected in 2021 and 9,283 collected in 2022.
- Increased rental and living costs resulting in an inability for program participants to repay loans.
- Provision of grants for period of January to March, 2022 reduced the incoming/expected loan recoveries.

The Salvation Army Housing Stability Bank currently receives \$1,300,000 annually in municipal funding.

Procurement

Civic Administration recommends that the one -time contract amendment for The Salvation Army be made under Section 20.3 e) of The Corporation of The City of London Procurement of Goods and Services Policy. As City Council must authorize contract amendments when:

- I. the total amended value of the contract will be greater than the administrative (Deputy City Manager) approval threshold; or
- II. the total amended value of the contract will exceed the Council approved source of financing by an amount greater than \$50,000 or 3% of contract value, whichever is greater, and there are funds available.

3.0 Financial Impact/Considerations

The total cost to support The Salvation Army Housing Stability Bank with one-time additional funding is estimated at \$465,000. Funding will be provided through Housing Stability Services existing 2022-23 federal and provincial funding through the Ontario Homelessness Prevention Program and/or Reaching Home: Canada's Homelessness Strategy.

Conclusion

This report seeks Council approval for contract amendments in the total amount of \$465,000 for The Salvation Army Centre of Hope Housing Stability Bank. The funding has already been contributed to low-income Londoners to support securing and maintaining housing. In 2022, 2309 unique households received support from the Housing Stability Bank which was a significant increase from the 1466 unique households who received support the previous year. Approving one-time funding to address this shortfall will ensure the Housing Stability Bank continues to address community need.

A request for one-time funding to address this shortfall was delayed due to the municipal election.

**PREPARED BY: Kate Green, Manager, Housing Stability Services
Laura Cornish, Manager, Housing Stability Services**

SUBMITTED BY: Craig Cooper, Director, Housing Stability Services

RECOMMENDED BY: Kevin Dickins, Deputy City Manager, Social and Health Development

Report to Community and Protective Services Committee

To: Chair and Members
Community and Protective Services Committee
From: Scott Mathers, MPA, P. Eng., Deputy City Manager
Planning and Economic Development
Subject: Property Standards Related Demolitions
Date: February 22, 2023

Recommendation

That, on the recommendation of the Deputy City Manager, Planning and Economic Development, the attached by-law (Appendix 'A') **BE INTRODUCED** at the Council meeting on March 7, 2023, it being noted that the effect of the by-law will be to permit the City of London to take necessary actions, including the potential demolition of the buildings and structures at the following locations: 176 Piccadilly Street and 929 Cheapside Street.

Executive Summary

Civic Administration wishes to advise Council of the Property Standards Orders issued against the subject properties, and the potential demolition of these vacant buildings. The potential actions described herein are intended to address ongoing neighbourhood nuisance, safety, and quality of life issues. All associated inspection, maintenance, and potential demolition costs are invoiced to the property owner.

Linkage to the Corporate Strategic Plan

Implement existing by-laws with a risk-based protocol focusing on the municipal the purpose(s) of public safety and neighbourhood stability.

Background Information

City Council Policy directs that when a Property Standards Order is not complied with, the Chief Municipal Law Enforcement Officer (MLEO) may cause the property to be demolished once the matter has been reported to Council, and Council has passed a by-law approving of the potential demolition.

Property Information

176 Piccadilly Street:

176 Piccadilly Street is a single detached dwelling located at the northeast corner of Piccadilly & St. George Streets. The property is within the Downtown Business Improvement Area, the Central London Planning District, and Ward 13. The vacant former residence is one storey in height and has approximately 88m² (950 ft²) of floor area.

A Property Standards Order (attached) was issued February 23, 2022, which outlined the various violations and necessary repairs to windows and doors, the roof, the foundation, and general maintenance of the building's exterior. The Order is registered on title.

The building is listed on the City's Register of Cultural Heritage Resources and therefore a "Cultural Heritage Evaluation Report" assessing the property against the criteria for heritage designation would be required prior to any demolition.

A Demolition Initiation Letter was sent September 21, 2022, indicating that due to inaction, and the ongoing concerns for public safety, Civic Administration may seek to have the building demolished, at the owner's expense.



176 Piccadilly Street – South and West side(s)



176 Piccadilly – East and South side(s)

929 Cheapside Street

929 Cheapside Street is a vacant one-storey commercial building of approximately 290m² (3120 ft²). The property rests on the south side of Cheapside, spanning the block between Barker and Sterling Streets, in Ward 4.

A Property Standards Order (attached) was issued March 4, 2022, requiring repairs be made to the exterior windows and doors. This order has not been complied with nor responded to. The Order is registered on title.

A Demolition Initiation Letter was sent February 11, 2022, indicating that due to inaction, and the ongoing concerns for public safety, Civic Administration may seek to have the building demolished, at the owner's expense.



929 Cheapside Street, looking east

Conclusion

As indicated, staff have undertaken several inspections and actions at these locations to ensure the buildings described herein are maintained and secured. Notwithstanding these efforts no actions have been taken by the landowner(s) to comply with the Property Standards Orders.

Based on the evidence herein, Civic Administration is recommending the vacant abandoned buildings be considered for demolition due to matters of public safety and neighbourhood quality of life matters.

Prepared by: Orest Katolyk, MPL, MLEO(C),
Director, Municipal Compliance

Recommended by: Scott Mathers, MPA, P. ENG., Deputy City Manager,
Planning and Economic Development

Appendix "A"

Bill No.
2023

By-law No.

A By-law to approve the potential demolition of vacant buildings at 929 Cheapside Street and 176 Piccadilly Street under the Property Standards provisions of the Building Code Act.

WHEREAS subsection 5(3) of the *Municipal Act, 2001* provides that a municipal power shall be exercised by by-law;

AND WHEREAS section 15.1(3) of the *Building Code Act* provides that the council of a municipality may pass a by-law to require property that does not conform with the standards to be repaired and maintained to conform with the standards or the site to be cleared of all buildings, structures, debris or refuse and left in graded and levelled condition;

AND WHEREAS Council has passed Property Standards By-law CP-16 that requires owners of property that does not conform to the standards of the by-law to repair and maintain the property to conform with the standards of the by-law or to clear it of all buildings, structures, debris or refuse and left in a graded and levelled condition;

AND WHEREAS section 15.2(2) of the *Building Code Act* provides that an officer who finds that a property does not conform with the standards prescribed in the Property Standards By-law may make an order giving reasonable particulars of the repairs to be made or stating that the site is to be cleared of all buildings, structures, debris or refuse and left in a graded and levelled condition;

AND WHEREAS section 15.4 of the *Building Code Act* provides that, if an order of an officer under section 15.2(2) is not complied with in accordance with the order as deemed confirmed or as confirmed or modified by the committee or a judge, the municipality may cause the property to be repaired or demolished accordingly;

AND WHEREAS section 15.4(3) of the *Building Code Act* provides that a municipal corporation or a person acting on its behalf is not liable to compensate the owner, occupant, or any other person by reason of anything done by or on behalf of the municipality in the reasonable exercise of its powers under subsection (1);

AND WHEREAS section 15.4(4) of the *Building Code Act* provides that the municipality shall have a lien on the land for the amount spent on the repair or demolition under subsection (1) and the amount shall have priority lien status as described in section 1 of the *Municipal Act, 2001*;

AND WHEREAS Council passed By-law A.-6554-211 to adopt a Policy whereby, in the event a confirmed Property Standards Order is not complied with, the City's Manager of By-law Enforcement shall not cause the property to be demolished unless he or she has reported to Council setting out the reasons for the proposed demolition and Council has passed a by-law approving of the proposed demolition;

AND WHEREAS a property standards order has not been complied with in accordance with the order as deemed confirmed or as confirmed or modified by the committee or a judge;

AND WHEREAS the City's Chief Municipal Law Enforcement Officer has reported to Council setting out the reasons for the proposed demolition;

AND WHEREAS Municipal Council wishes to cause the property to be demolished;

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

1. The potential demolition of the abandoned buildings in the City of London (listed below) is approved and the properties may be cleared of all identified buildings, structures, debris, and refuse and left in a graded and levelled condition in accordance with the *City of London Property Standards By-law* and the *Ontario Building Code Act*. The municipal addresses of the properties are:
 - 176 Piccadilly Street, London, ON
 - 929 Cheapside Street, London, ON
2. This by-law shall come into force and effect on the day it is passed.

PASSED in Open Council on _____, 2023

Josh Morgan,
Mayor

Michael Schulthess
City Clerk

First reading - _____, 2023
Second reading - _____, 2023
Third Reading - _____, 2023

Appendix "B" – Property Standards Orders and Registrations



300 Dufferin Avenue
P.O. Box 5035
London, ON
N6A 4L9

London
CANADA

REGISTERED MAIL

February 23, 2022

File No. PV 22-010230

2811568 Ontario Inc
176 Piccadilly St
LONDON ON N6A 1S1

Municipal Address: 176 Piccadilly St

As an owner or occupant including a person having an interest in the above-noted property, I hereby enclose an Order pursuant to Subsection 15.2(2) of the Ontario Building Code Act, S.O. 1992, c.23.

Please be advised that under City of London Inspection By-law No. A-30 and the Fees & Charges By-law A-56, an inspection fee will be charged at the rate of \$125.00 per hour (minimum charge: \$125.00) for any inspection conducted following the compliance date, where any of the deficiencies listed in the schedule(s) of the Property Standards Order have not been corrected. Failure to pay for any inspection costs will result in the costs being added to the property tax roll.

Failure to comply with an Order may result in enforcement actions being taken.

If you require any information concerning this matter, please contact the undersigned at this office.

Yours truly,

Mathew Rivest
Property Standards Officer

MR:sb
Attach.

cc: BF – March 14, 2022

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The Corporation of the City of London
Planning and Economic Development, Room 706
Property Standards Section
Direct: 519-661-2489 Ext. 6513
mrivest@london.ca www.london.ca

THE CORPORATION OF THE CITY OF LONDON

ORDER

Issued Pursuant to Subsection 15.2(2) of the Ontario Building Code Act, S.O. 1992, c.23

ORDER NUMBER: PV 22-010230
DATE ISSUED: February 23, 2022
ISSUED TO: 2811568 Ontario Inc
176 Piccadilly St
LONDON ON N6A 1S1
MUNICIPAL ADDRESS: 176 Piccadilly St., London ON
LEGAL DESCRIPTION: PLAN 22 PT LOT 6 PT LOT 7 E/S ST GEORGE IRREG 4849.50SF
91.50FR 53.00D

BE ADVISED that on **February 22, 2022** an inspection of the above-noted property revealed the property does not conform to the standards prescribed in The City of London Property Standards By-Law CP-24.

The particulars of the repairs to be made are set out in the "Schedule of Repairs to be Made", attached hereto, and forming part of this **ORDER**.

You are Hereby Ordered to carry out the repairs as set out in the "Schedule of Repairs to be Made" or the site is to be cleared of all buildings, structures, debris or refuse. This **ORDER** shall be complied with and the property brought into conformance with the standards prescribed in the Property Standards By-law on or before **March 14, 2022**.

Where it has been determined that the repairs or clearance as set out in this Order have not been carried out in accordance with this **ORDER** as confirmed or modified, in addition to any possible court action, The Corporation of the City of London may carry out the repairs or clearance at the owner's expense. The Corporation of the City of London shall have a lien on the land for the amount spent on the repairs or clearance and the amount shall have priority lien status as described in section 1 of the *Municipal Act, 2001*. The amount may be added to the tax roll of the property.

You are Hereby Advised that if you are not satisfied with the terms or conditions of this **ORDER**, you may appeal by sending a notice of appeal, including grounds for appeal and applicable fee, to the City Clerk's Office, Room 308, City Hall, PO Box 5035, London, Ontario, N6A 4L9. The Hearing fee is \$150.00, as set out in the Fees and Charges By-Law.

TAKE NOTICE that the final day to give notice of **APPEAL FROM THIS ORDER** shall be **March 14, 2022**.

In the event that no appeal is received within the above prescribed period, the **ORDER** shall be deemed to be confirmed and shall be final and binding. You are expected to comply with the terms and conditions of this **ORDER** to avoid any possible enforcement actions being taken.

Where a permit is required to carry out a repair required to comply with this Order, it is the responsibility of the owner to obtain any such permit.

Failure to comply with this ORDER may result in enforcement action being taken.

DATED AT LONDON, ONTARIO, this 23rd day of February, 2022.



MATHEW RIVEST
PROPERTY STANDARDS OFFICER

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"SCHEDULE OF REPAIRS TO BE MADE"

<u>Municipal Address</u>	176 Piccadilly St	File No. PV 22-010230
<u>Date of Inspection</u>	February 22, 2022	
<u>Owner</u>	2811568 Ontario Inc 176 Piccadilly St LONDON ON N6A 1S1	

1) Non-conformance: Windows and doors boarded with plywood.

By-law Section: **4.3.2 Doors, Windows – Maintained**
All doors, windows, skylights, and shutters, including storm and screen doors and windows shall be maintained.

4.3.3 Maintenance – Includes
Without restricting the generality of subsection 4.3.2, the maintenance includes:

- a) the refitting, replacing, or renewing of damaged, decaying or defective doors, windows, frames, sashes, casings, shutters, hatchways or screens.
- b) reglazing cracked, broken or missing glass.
- c) replacing or providing defective or missing hardware.
- d) re-screening or weatherstripping where such is defective or missing.
- e) painting or the applying of a similarly effective preservative.

Repair to be made: Repair and maintain above requirements in accordance with City of London Property Standards Bylaw CP-24.

2) Non-conformance: Deteriorating shingles. Damaged soffit/fascia. Damaged/missing eavestroughs and downspouts.

By-law Section: **4.4.1 Roof/Related Roof Structure – Maintained**
Every roof including related roof structures, fascia's, soffits, eavestroughs, roof gutters, downpipes, guards, and lightning arrestors shall be maintained.

Repair to be made: Repair and maintain above requirements in accordance with City of London Property Standards Bylaw CP-24.

"SCHEDULE OF REPAIRS TO BE MADE – PAGE 2"

<u>Municipal Address</u>	176 Piccadilly St	File No. PV 22-010230
<u>Date of Inspection</u>	February 22, 2022	
<u>Owner</u>	2811568 Ontario Inc 176 Piccadilly St LONDON ON N6A 1S1	

3) Non-conformance: Peeling paint and graffiti on exterior cladding.

By-law Section:

4.2.1 Foundations, Walls – Maintained

The foundations, walls, columns, beams, floor, and roof slabs of a building including ancillary structures such as parking garages shall be maintained.

4.2.2 Maintenance – Includes

Without restricting the generality of subsection 4.2.1 the maintenance may include:

- a) extension of the wall foundations below grade or regrading to provide adequate frost cover.
- b) installing subsoil drains where such would be beneficial.
- c) repairing or replacing decayed, damaged, or weakened sills, piers, posts or other supports.
- d) grouting, waterproofing, cladding or replacing as necessary so as to be weather tight.
- e) the replacement, cladding or treatment with other methods to restore the wall to its original or acceptable equivalent appearance.
- f) the applying of acceptable materials to preserve all wood, metal work or other materials not inherently resistant to weathering or wear;
- g) the restoring, or replacing of:
 - g) the foundations, walls, columns, beams, floor, and roof slabs; and
 - h) components, cladding, finishes, and trims forming a part thereof.
- i) the carrying out of such other work as may be required to overcome any existing settlement detrimental to the appearance of the building.
- j) removing or replacing loose or unsecured objects and materials.

4.6.1 Exterior Surfaces – Maintained

All exterior surfaces on a building shall be maintained.

4.6.2 Remove – Stains – Defacement

Appropriate measures shall be taken to remove any stains or other defacement occurring on the exposed finished exterior surfaces and, where necessary, to restore the surface and adjacent areas to, as near as possible, their appearance before the staining or defacement occurred.

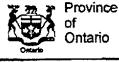
Repair to be made:

Repair and maintain above requirements in accordance with City of London Property Standards Bylaw CP-24.

For properties with Heritage designation, or that fall within a designated Heritage area, Section 2.7 of By-law CP-24 will apply and a Heritage alteration permit may be required. Please contact a Heritage Planner at 519-661-4980 for more information.

No order made under section 15.2 of the Building Code Act in respect of a Part IV heritage property or a Part V heritage property shall state that the site is to be cleared of all buildings or structures and left in a graded and levelled condition. That part of an order in respect of a Part IV heritage property or a Part V heritage property that states that a site is to be cleared of all buildings or structures and left in a graded and levelled condition is of no force or effect.

February 23, 2022
MR:sb



Document General
Form 4 - Land Registration Reform Act

D

Form fields including: (1) Registry, Land Titles, (2) Page 1 of pages, (3) Property Identifier(s), Block, Property, (4) Nature of Document, (5) Consideration, (6) Description, (7) This Document Contains, (a) Redescription, (b) Schedule for.

FOR OFFICE USE ONLY

ERISO9602
Jan. 17/22

(8) This Document provides as follows:
Application to register notice of an unregistered estate, right, interest or equity. (Section 74 of the Act)
TO: The land Registrar for the land Titles Division of Middlesex East. We, the Corporation of the City of London, have an unregistered estate, right, interest or equity in:
1. The land registered in the name of 2811568 ONTARIO INC. in respect to the land registered as Parcel as described in Box 6 above. And hereby apply under Section 74 of the Land Titles Act for the entry of an Order to Remedy Violation of Standards of Maintenance and Occupancy pursuant to the Ontario Building Code Act.
Dated: January 13, 2023
Mathew Rivest, Property Standards Officer
(I have the authority to bind the Corporation) Continued on Schedule

(9) This Document relates to instrument number(s)



300 Dufferin Avenue
P.O. Box 5035
London, ON
N6A 4L9

London
CANADA

REGISTERED MAIL

March 4, 2022

File No. PV 22-010144

929 Cheapside Inc
1065 Clarke Rd
LONDON ON N5V 3B3

Municipal Address: 929 Cheapside St

As an owner or occupant including a person having an interest in the above-noted property, I hereby enclose an Order pursuant to Subsection 15.2(2) of the Ontario Building Code Act, S.O. 1992, c.23.

Please be advised that under City of London Inspection By-law No. A-30 and the Fees & Charges By-law A-56, an inspection fee will be charged at the rate of \$125.00 per hour (minimum charge: \$125.00) for any inspection conducted following the compliance date, where any of the deficiencies listed in the schedule(s) of the Property Standards Order have not been corrected. Failure to pay for any inspection costs will result in the costs being added to the property tax roll.

Failure to comply with an Order may result in enforcement actions being taken.

If you require any information concerning this matter, please contact the undersigned at this office.

Yours truly,

Ethan Wakelin
Property Standards Officer

EW:sb
Attach.

cc: BF - March 23, 2022

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The Corporation of the City of London
Planning and Economic Development, Room 706
Property Standards Section
Direct: 519.661.CITY (2489) x 2372
ewakelin@london.ca | www.london.ca

THE CORPORATION OF THE CITY OF LONDON

ORDER

Issued Pursuant to Subsection 15.2(2) of the Ontario Building Code Act, S.O.1992, c.23

ORDER NUMBER: PV 22-010144
DATE ISSUED: March 4, 2022
ISSUED TO: 929 Cheapside Inc
1065 Clarke Rd
LONDON ON N5V 3B3
MUNICIPAL ADDRESS: 929 Cheapside St., London ON
LEGAL DESCRIPTION: PLAN 720 PT LOT 10 REG 38091.00SF 264.00FR D

BE ADVISED that on **February 22, 2022** an inspection of the above-noted property revealed the property does not conform to the standards prescribed in The City of London Property Standards By-Law CP-24.

The particulars of the repairs to be made are set out in the "Schedule of Repairs to be Made", attached hereto, and forming part of this **ORDER**.

You are Hereby Ordered to carry out the repairs as set out in the "Schedule of Repairs to be Made" or the site is to be cleared of all buildings, structures, debris or refuse. This **ORDER** shall be complied with and the property brought into conformance with the standards prescribed in the Property Standards By-law on or before **March 23, 2022**.

Where it has been determined that the repairs or clearance as set out in this Order have not been carried out in accordance with this **ORDER** as confirmed or modified, in addition to any possible court action, The Corporation of the City of London may carry out the repairs or clearance at the owner's expense. The Corporation of the City of London shall have a lien on the land for the amount spent on the repairs or clearance and the amount shall have priority lien status as described in section 1 of the *Municipal Act, 2001*. The amount may be added to the tax roll of the property.

You are Hereby Advised that if you are not satisfied with the terms or conditions of this **ORDER**, **you may appeal** by sending a notice of appeal, including grounds for appeal and applicable fee, to the City Clerk's Office, Room 308, City Hall, PO Box 5035, London, Ontario, N6A 4L9. The Hearing fee is \$150.00, as set out in the Fees and Charges By-Law.

TAKE NOTICE that the final day to give notice of **APPEAL FROM THIS ORDER** shall be **March 23, 2022**.

In the event that no appeal is received within the above prescribed period, the **ORDER** shall be deemed to be confirmed and shall be final and binding. You are expected to comply with the terms and conditions of this **ORDER** to avoid any possible enforcement actions being taken.

Where a permit is required to carry out a repair required to comply with this Order, it is the responsibility of the owner to obtain any such permit.

Failure to comply with this ORDER may result in enforcement action being taken.

DATED AT LONDON, ONTARIO, this 4th day of March, 2022.



ETHAN WAKELIN
PROPERTY STANDARDS OFFICER

"SCHEDULE OF REPAIRS TO BE MADE"

<u>Municipal Address</u>	929 Cheapside St	File No. PV 22-010144
<u>Date of Inspection</u>	February 22, 2022	
<u>Owner</u>	929 Cheapside Inc 1065 Clarke Rd LONDON ON N5V 3B3	

1) **Non-conformance:** Windows and related hardware in disrepair.

By-law Section:

4.3.2 Doors, Windows – Maintained

All doors, windows, skylights, and shutters, including storm and screen doors and windows shall be maintained.

4.3.3 Maintenance – Includes

Without restricting the generality of subsection 4.3.2, the maintenance includes:

- a) the refitting, replacing, or renewing of damaged, decaying or defective doors, windows, frames, sashes, casings, shutters, hatchways or screens.
- b) reglazing cracked, broken or missing glass.
- c) replacing or providing defective or missing hardware.
- d) re-screening or weatherstripping where such is defective or missing.
- e) painting or the applying of a similarly effective preservative.

Repair to be made:

Repair all windows and hardware to comply with the CP-24 by-law.

For properties with Heritage designation, or that fall within a designated Heritage area, Section 2.7 of By-law CP-24 will apply and a Heritage alteration permit may be required. Please contact a Heritage Planner at 519-661-4980 for more information.

No order made under section 15.2 of the Building Code Act in respect of a Part IV heritage property or a Part V heritage property shall state that the site is to be cleared of all buildings or structures and left in a graded and levelled condition. That part of an order in respect of a Part IV heritage property or a Part V heritage property that states that a site is to be cleared of all buildings or structures and left in a graded and levelled condition is of no force or effect.

March 4, 2022
EW:sb

Report to Community and Protective Services Committee

To: Chair and Members
Community and Protective Services Committee
From: Scott Mathers, MPA, P. Eng., Deputy City Manager
Planning and Economic Development
Subject: Fence By-law (PS-6) Housekeeping Amendments
Date: February 22, 2023

Recommendation

That, on the recommendation of the Deputy City Manager, Planning and Economic Development,

- a) The attached proposed by-law (Appendix “A”) **BE INTRODUCED** at the Municipal Council meeting held on March 7, 2023, to amend By-law No. PS-6, Fence By-law.

Summary

This report is an outcome of an operational review of the Fence By-law (PS-6) and contains amendments addressing housekeeping matters.

Linkage to the Corporate Strategic Plan

The 2019-2023 Strategic Plan recommends various process improvements for the City of London through the implementation of:

- Leading in Public Service; through researching and responding to emerging planning trends and issues; and
- Promote and strengthen continuous improvement practices.

The City of London Strategic Plan also provides direction to *“Improve administrative and regulatory processes and by-law requirements to enhance London’s competitiveness.”*

Background Information

The Fence By-law establishes standards for fences in London and includes regulations for fence height, materials, and structure. These vary depending on whether the fence is on residential or a non-residential property and whether the fence encloses a pool. The requirements for swimming pool fences are guided by a separate By-law: Swimming Pool Fence By-law (PS-5).

“Fence” is defined in the Fence By-law, and it includes a railing, wall, line of posts, wire, gate, boards, pickets, or other similar substances, used to enclose or divide in whole or in part a yard or other land, to establish a property boundary, or to provide privacy; and includes any hedge or grouping of shrubs used for the same purpose located in a corner visibility triangle or a driveway visibility triangle.

Staff were also approached by a private consulting firm on behalf of Amorak (an American manufacturer of electric fence technology), requesting staff to undertake a review on the possibility of amending the Fence By-law to include electric fence allowances within the commercial and industrial fence section of the regulations. A Council Resolution has not been received requesting staff to undertake this specific evaluation.

2.0 Discussion and Considerations

2.1 Minor Exemptions to the Fence By-law

Part 4 – RESIDENTIAL FENCES

Civic Administration is recommending that minor exemptions for increased fence height be formally considered and decided upon by the Director, Municipal Compliance or designate. A similar process is currently in place for minor changes to the Sign By-law – (S.-5868-183).

A minor exemption could be considered to permit relief for an existing fence that exceeds the maximum height, or to allow for increased height for properties or locations where security is a concern such as public walkways, highways, or commercial spaces. These would be evaluated by staff to ensure the proposed exemption meets the spirit and intent of the By-law.

2.2 Industrial and Commercial lots

Part 7 – INDUSTRIAL AND COMMERCIAL LOTS

Currently, the maximum fence height on industrial and commercial lots is (7 feet). Staff are recommending permitting a maximum height of 3 metres (10 feet) where the lands are zoned industrial or commercial, are used for industrial or commercial purposes, and where they do not abut lands zoned residential, nor are they used in combination with residential uses. This would be in keeping with the regulations contained with PART 6 – Salvage Yards 6.1- *be not less than 2.44 metres (8 feet) in height and not more than 3 metres (10 feet) in height* and would additionally provide for enhanced security.

2.3 Permitting electric fences outside of rural and agricultural areas

Part 9.1 - ELECTRIC FENCES of Fence By-law (PS-6) prohibits *“any fence equipped with a device for transmitting an electric current thereon or there through, except on agricultural land used for the purpose of keeping livestock”*.

As requested by a fence manufacturer, staff completed a by-law review of several municipalities and found that there are currently no comparable Canadian examples permitting electric fences for non-agricultural purposes. Several American cities have amended by-laws to allow for electric fences outside of rural and agricultural areas. Civic Administration is not recommending the addition of electric fencing the Fence By-law for purposes of health and safety and the availability of alternative private property security options.

3.0 Conclusion

Civic Administration is recommending a few housekeeping amendments including proposing an increase to the maximum fence height in industrial and commercial areas. A potential for minor exemptions for increased fence height in residential areas has also been proposed herein as an amendment to the By-law. At this time and based on research and municipal scans of several Canadian municipalities staff are not recommending amendments to Part 9 – Electric Fences.

Prepared by: Mark Hefferton, MURP, RPP, MCIP
Development Policy Coordinator, Municipal Compliance

Submitted by: Nicole Musicco
Coordinator, Municipal Compliance

**Reviewed and
Concurred by:** Orest Katolyk, MLEO (C)
Director, Municipal Compliance

**Recommended by: Scott Mathers, MPA, P.ENG.,
Deputy City Manager, Planning and Economic
Development**

APPENDIX 'A'

Bill No.
2023

By-law No. PS-6

A by-law to amend the Fence By-law PS-6 to edit and add sections to the By-law.

WHEREAS The Corporation of the City of London has applied to amend the Fence By-law PS-6, as set out below;

AND WHEREAS this rezoning conforms to the Official Plan;

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

- 1) Part 4 – RESIDENTIAL FENCES, is amended by **ADDING** the following Section:

Part 4.2 Height – exceptions

A minor exemption for increased fence height [beyond 2.13 metres (7 feet)] may be considered by the Director, Municipal Compliance or designate, in cases where:

- (a) a residential lot line abuts natural/open spaces, public walkways or trails, or other adjacent uses which may require increased security measures,
- (b) residential lands abut highways, commercial, and/or industrial zones and where concerns about noise are being attenuated by some form of soundproofing and/or noise attenuation,
- (c) or any other circumstances that may warrant consideration for minor exemption at the discretion of the Director, Municipal Compliance or designate.

- 2) Part 7 – INDUSTRIAL AND COMMERCIAL LOTS, Section 7.1 is amended by **ADDING** the following Section:

(c) Permit a maximum height of 3 metres (10 feet) where the lands are zoned industrial, or commercial, are used for industrial or commercial purposes, and where they do not abut lands zoned residential, nor are they used in combination with residential uses.

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

PASSED in Open Council on _____, 2023,

Josh Morgan
Mayor

Michael Schulthess
City Clerk

First Reading – __, 2023
Second Reading – __, 2023
Third Reading – __, 2023

Report to Community and Protective Services Committee

To: Chair and Members
Community and Protective Services Committee
From: Scott Mathers, MPA, P. Eng., Deputy City Manager,
Planning and Economic Development
Subject: Tow Truck Business and Impound Yard Provincial Regulations Update
Date: February 22, 2023

Recommendation

That, on the recommendation of the Deputy City Manager, Planning and Economic Development:

- (a) This report **BE RECEIVED** for information purposes and
- (b) The Minister of Transportation and Director of Towing **BE ADVISED** that for the purposes of prompt customer service and consumer protection principles, Municipal Law Enforcement Officers be authorized to enforce the Towing and Storage Safety and Enforcement Act using a partnered compliance protocol with the Province as determined in further consultations.

Analysis

1.0 Background Information

Due to an increased concern with tow truck solicitation and speeding to motor vehicle accident occurrences, Municipal Council directed staff to prepare an amendment to the Business Licensing By-law to include Motor Vehicle Towing as a class of licence and hold a public participation meeting. After numerous consultations with the industry, London Fire Department, London Police Service and Middlesex London Paramedic Service, staff submitted a By-law to CPSC. The purpose of the By-law was to licence tow truck operators and impound yards providing services at accident scenes. The By-law has been in force and effect since March 23, 2021.

1.1 Previous Reports Related to this Matter

- CPSC: September 10, 2019; December 3, 2019; March 2, 2021.

2.0 City of London Statistics:

Since March 2021, the City has issued:

- **24** Tow Truck Business licenses;
- **18** Impound Yard Storage licenses;
- **106** Administrative Monetary Penalties (AMP) for various by-law violations;
- **7** licence suspensions.

As part of the above statistics, in November 2022, Municipal Compliance partnered with London Police Service to undertake a Tow Truck and Impound Yard compliance blitz resulting in the issuance of 92 AMPs.

3.0 Ministry of Transportation Consultation

In June 2020, the Premier of Ontario established a task force to improve provincial oversight of the towing industry. City of London staff participated in the consultations. The task force released the findings and recommendations in March 2021 and followed up with the passing of the Towing and Storage Safety and Enforcement Act (TSSEA) (<https://www.ontario.ca/laws/statute/21t26>). The Province is in the process of developing regulations to the TSSEA.

3.1 Towing and Storage Safety and Enforcement Act - Regulation

A Regulation to the TSSEA was filed in April 2022 and is expected to come into effect July 1, 2023. [O. Reg. 417/22: GENERAL \(ontario.ca\)](#) The Regulation provides the Director of Towing (a Provincial position) with the authority to issue, renew, refuse, suspend, or revoke certificates for tow operators, tow truck drivers, and storage operators; set out certificate requirements for the industry, including driver training; and establish appeal processes.

The Province is phasing in the development of Regulations to give the industry time to prepare for the new oversight requirements. Once the TSSEA is fully in effect and Provincial certification is required to operate in Ontario, as of January 2024, municipal licencing of the towing and vehicle storage sectors will end and municipal by-laws will no longer be in effect.

4.0 Partnered Provincial Municipal Compliance

The Province has been clear in numerous consultations that enforcement of the TSSEA will be undertaken by Provincial Officers and will not include on road enforcement or attending storage yards to release vehicles. A large focus of the Provincial oversight will include the licensing of towing firms and tow operators. Over the last few years, Municipal Law Enforcement Officers, (MLEOs) have promptly and effectively responded to numerous citizen and first responder complaints and taken necessary enforcement actions to encourage compliance.

As such, Civic Administration is requesting that the Minister of Transportation and Director of Towing be advised that for the purposes of prompt customer service and consumer protection principles, Municipal Law Enforcement Officers be authorized to enforce the TSSEA as determined in further consultations. This opinion is shared among numerous municipalities involved in current ongoing consultations. Having a Provincial compliance organization solely enforce regulations pertaining to an industry which requires prompt and effective oversight is not operationally optimal. There are several examples where Provincial regulations are enforced by municipal staff in part or in whole (i.e. building inspections and property standards).

5.0 Next Steps

Since the enactment of the TSSEA, two Provincially lead consultations have taken place (November and December 2022). Civic Administration and LPS participated in the discussions. The input gathered from these two consultations will be considered in finalizing the proposed Regulations. Civic Administration will report back to Community and Protective Services Committee (CPSC) later this year, with amendments to the Business Licensing By-law removing tow truck business and impound yard categories.

Conclusion

Civic Administration deems it to be in the public interest, having regard to both public health and safety and consumer protection, to protect persons involved in motor vehicle accidents on local roads and to ensure the safety of first responders. As such, Civic Administration fully supports the concept of a partnered compliance protocol with the Province in enforcing the TSSEA.

Prepared by: Nicole Musicco, Coordinator, Municipal Compliance

Submitted by: Orest Katolyk, MLEO (C)
Director Municipal Compliance

Recommended by: Scott Mathers, MPA, P.Eng
Deputy City Manager, Planning and Economic
Development

Report to Community and Protective Services Committee

To: Chair and Members
Community and Protective Services Committee

From: Cheryl Smith, Deputy City Manager, Neighbourhood and
Community-Wide Services

Subject: Kinsmen Recreation Centre Contribution Agreement

Date: February 22, 2023

Recommendation

That, on the recommendation of the Deputy City Manager, Neighbourhood and Community-Wide Services, the attached proposed by-law (Appendix “A”) **BE INTRODUCED** at the Municipal Council meeting on March 7, 2023, to:

- a) approve the Green and Inclusive Community Buildings (GICB) Program Contribution Agreement for Kinsmen Arena Deep Energy Retrofit, attached as Schedule A to the proposed by-law, (the “Agreement”) between His Majesty the King in Right of Canada as represented by the Minister of Intergovernmental Affairs, Infrastructure and Communities for the Government of Canada and The Corporation of the City of London;
- b) authorize the Mayor and the City Clerk to execute the Agreement;
- c) delegate authority to the Deputy City Manager, Neighbourhood and Community-Wide Services, or written delegate, to approve further Amending Agreements to the above-noted Contribution Agreement; and,
- d) authorize the Deputy City Manager, Neighbourhood and Community-Wide Services, or written delegate, to execute any financial reports required under this Agreement.

Executive Summary

This report recommends that The Corporation of the City of London enter into the Green and Inclusive Community Buildings Program Contribution Agreement for the Kinsmen Arena Deep Energy Retrofit between His Majesty the King in Right of Canada as represented by the Minister of Intergovernmental Affairs, Infrastructure and Communities (“Canada”) and The Corporation of the City of London (the “Recipient”), attached as Schedule A to the proposed by-law.

Linkage to the Corporate Strategic Plan

The Green and Inclusive Community Buildings Program funding is aligned with the following strategic area of focus and outcome from the City of London Strategic Plan 2019-2023:

- Building a Sustainable City – London’s infrastructure is built, maintained, and operated to meet the long-term needs of our community.

Analysis

1.0 Discussion and Considerations

1.1 Background and Purpose

In April 2021, the Government of Canada announced the opening of the Green and Inclusive Community Buildings (GICB) Program funding as part of the Strengthened Climate Plan. The five-year \$1.5 billion Green and Inclusive Community Buildings Program supports green and accessible retrofits, repairs or upgrades of existing public community buildings and the construction of new publicly accessible community buildings that serve high-needs, and underserved communities across Canada.

The Program is also intended to advance the Government’s climate priorities by improving energy efficiency, reducing Green House Gas emissions (GHG), and enhancing the climate resilience of community buildings.

On May 12, 2022, The Corporation of the City of London was made aware that the Kinsmen Arena Deep Energy Retrofit project was successful in receiving funds through the Program, and a subsequent in-person funding announcement with federal and local leaders took place on July 28, 2022 at Kinsmen Recreation Centre.

Summary of the Kinsmen Recreation Centre Deep Energy Retrofit Project

The total projected estimated cost of the project is \$2,737,404, with the GICB contribution/federal share being \$2,189,923, or 80%. The City of London contribution is \$547,481, or 20%.

Detailed design and planning will take place throughout 2023 and 2024 with most of the construction taking place in 2025. Construction activities that will be undertaken to complete the project, include:

- Renewal of existing hydronic distribution, building automation systems and HVAC infrastructure.
- Construction of a new central heat pump plant.
- Installation of electric charging infrastructure for ice resurfer and mobility charging stations.
- Installation of a new modified bitumen roof and structural upgrades that will support for future solar PV.

A baseline energy audit was performed. This project is expected to significantly increase the energy efficiency of the facility with anticipated energy reduction of 43.1%. This project is also expected to reduce Green House Gas (GHG) emissions by 166.7 tons.

2.0 Financial Impact/Considerations

There is no financial impact to the City of London when entering into the Green and Inclusive Community Buildings (GICB) Program Contribution Agreement for the Kinsmen Recreation Centre Arena Deep Energy Retrofit as the municipal share is from existing approved capital budgets for life-cycle renewal (LCR) at this location.

Risk Management reviewed the Agreement and noted that in Section 16.2 and 16.3 Limit of Liability and Indemnity, the City is required to indemnify and hold harmless Canada from and against any loss or proceeding, except to the extent to which such actions, claims, demands, losses, costs, damages, suits or other proceedings are caused by the negligence or breach of the Agreement by an officer, servant, employee or agent of Canada in the performance of his or her duties. Although this clause exposes the City to risk, the benefits of the agreement outweighs the risks.

Conclusion

This report introduces a by-law to seek approval of the Green and Inclusive Community Buildings Program Contribution Agreement between His Majesty the King in Right of Canada as represented by the Minister of Intergovernmental Affairs, Infrastructure and Communities and authorizes the Mayor and the City Clerk to execute the agreement.

Prepared by: Jon-Paul McGonigle, Director, Recreation and Sport

Recommended by: Cheryl Smith, Deputy City Manager, Neighbourhood and Community-Wide Services

c: Lynda Stewart, Director, Fleet and Facilities, Finance Supports
Alan Dunbar, Manager III, Financial Planning and Policy, Finance Supports
Jason Davies, Manager III, Financial Planning and Policy, Finance Supports
Jason Wills, Manager III, Risk Management, Legal Services
Vanetia R., Solicitor I, Legal Services
Doug Drummond, Financial Business Administrator, Finance Supports

Bill No.
2023

By-law No.

A by-law to approve and authorize the execution of the Green and Inclusive Community Buildings Program Contribution Agreement between His Majesty the King in right of Canada, as represented by the Minister of Intergovernmental Affairs, Infrastructure and Communities and The Corporation of the City of London

WHEREAS subsection 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 subsection 10(1) of the *Municipal Act, 2001* provides that a municipality may provide any service or thing that the municipality considers necessary or desirable for the public;

AND WHEREAS subsection 10(2) of the *Municipal Act, 2001* provides that a municipality may pass by-laws respecting economic, social, and environmental well-being of the municipality, including respecting climate change; and the financial management of the municipality;

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

1. Green and Inclusive Community Buildings Program Contribution Agreement (the “Agreement”) between His Majesty the King in right of Canada, as represented by the Minister of Intergovernmental Affairs, Infrastructure and Communities and The Corporation of the City of London, substantially in the form attached as Schedule “A” to this by-law is hereby authorized and approved.
2. The Mayor and the City Clerk are hereby authorized to execute the Green and Inclusive Community Buildings Program Contribution Agreement authorized and approved under section 1 of this by-law.
3. The Deputy City Manager, Neighbourhood and Community-Wide Services or written designate is delegated the authority to approve and execute any further Amendments to the Agreement if the Amendments are substantially in the form of the Agreement, approved in section 1, above.
4. The Deputy City Manager, Neighbourhood and Community-Wide Services or written designate is delegated the authority to undertake all the administrative, financial, and reporting acts that are necessary in connection with the Agreement as approved in section 1, above
5. This by-law shall come into force and effect on the day it is passed.

PASSED in Open Council on March 7, 2023

Josh Morgan
Mayor

Michael Schulthess
City Clerk

First Reading –
Second Reading –
Third Reading –

Schedule A: Green and Inclusive Community Buildings (GICB) Program, Contribution Agreement for Kinsmen Arena Deep Energy Retrofit

**CANADA – THE CORPORATION OF THE CITY OF LONDON
GREEN AND INCLUSIVE COMMUNITY BUILDINGS PROGRAM
AGREEMENT FOR KINSMEN ARENA DEEP ENERGY RETROFIT**

This Agreement is made as of the date of last signature

BETWEEN: **HIS MAJESTY THE KING IN RIGHT OF CANADA**, as represented by the Minister of Infrastructure and Communities, hereinafter referred to as the Minister of Intergovernmental Affairs, Infrastructure and Communities (“Canada”)

AND **THE CORPORATION OF THE CITY OF LONDON**, continued or incorporated pursuant to the *Charter of the City of London* (the “Recipient”),

individually referred to as a “Party” and collectively referred to as the “Parties”.

RECITALS

WHEREAS the Minister of Intergovernmental Affairs, Infrastructure and Communities is responsible for the Program entitled the Green and Inclusive Community Buildings Program (the “Program”);

WHEREAS the Recipient has submitted to Canada an application for the funding of the Project which qualifies for support under the Program;

AND WHEREAS the Recipient is responsible for carrying out the Project and Canada wishes to provide financial support for the Project and its objectives;

NOW THEREFORE, the Parties agree as follows:

1. INTERPRETATION

1.1 DEFINITIONS

In addition to the terms defined in the recitals and elsewhere in this Agreement, a capitalized term has the meaning given to it in this Section.

“**Agreement**” means this contribution agreement and all its schedules, as may be amended from time to time.

“**Agreement End Date**” means March 31, 2026, unless terminated earlier in accordance with this Agreement.

“**Annual Report**” means the report described in Schedule C.2.

“**Asset**” means any real or personal property or immovable or movable asset acquired, purchased, constructed, rehabilitated or improved, in whole or in part, with funds

contributed by Canada under the terms and conditions of this Agreement, including but not limited to any Non-owned Asset.

“Asset Disposal Period” means the period commencing from the Effective Date and ending six (6) years after the Project Completion Date.

“Communications Activity” or **“Communications Activities”** means, but is not limited to, public or media events or ceremonies including key milestone events, news releases, reports, web and social media products or postings, blogs, news conferences, public notices, physical and digital signs, publications, success stories and vignettes, photos, videos, multi-media content, advertising campaigns, awareness campaigns, editorials, multi-media products and all related communication materials under this Agreement.

“Community Employment Benefits” means the benefits as described in Schedule B.

“Contract” means an agreement between the Recipient and a Third Party whereby the latter agrees to supply a product or service to the Project in return for financial consideration.

“Declaration of Substantial Completion” means a declaration in the form substantially prescribed in Schedule F (Declaration of Substantial Completion).

“Effective Date” means the date of last signature of this Agreement.

“Eligible Expenditures” means those costs of the Project incurred by the Recipient and eligible for reimbursement by Canada as set out in Schedule A (Eligible and Ineligible Expenditures).

“Fair Value” means the amount that would be agreed upon in an arm’s length transaction between knowledgeable, willing parties who are under no compulsion to act.

“Final Claim Date” means a date that is no later than six (6) months after the Project Completion Date and three (3) months before the Agreement End Date.

“Final Report” means the report described in Schedule C.3.

“Fiscal Year” means the period beginning April 1 of a year and ending March 31 of the following year.

“In-Kind Contributions” means non-monetary contributions of goods, services or other support provided by the Recipient, or to the Recipient by a third party for the Project, for which Fair Value is assigned, but for which no payment occurs.

“Interim Report” means the report described in Schedule C.1.

“Joint Communications” means events, news releases and signage that relate to the Agreement and are collaboratively developed and approved by the Parties and are not operational in nature.

“Non-owned Asset” means an Asset to which the Recipient does not hold the title and ownership.

“Program Application Form” means the Project’s Program funding application information provided through Infrastructure Canada’s online and accessible Program application portal using identification number AP-000000397.

“Project” means the project as described in Schedule B (The Project).

“Project Approval Date” means May 12, 2022 which is the date indicated by Canada in writing to the Recipient following Canada’s approval in principle of the Project.

“Project Completion Date” means the date as confirmed by Recipient to Canada, at which all funded activities of the Project under this Agreement have been completed and which must be no later than six (6) months before the Agreement End Date.

“RETscreen ®” means the clean energy management software that is to be used for energy efficiency savings and Green House Gas (GHG) emission reduction estimations.

“Substantial Completion Date” means the date at which the Project can be used for its intended use as described in Schedule B.1 (Project Description) as will be set out in Schedule F (Declaration of Substantial Completion).

“Third Party” means any person or legal entity, other than a Party, who participates in the implementation of the Project by means of a Contract.

“Total Financial Assistance” means total funding from all sources towards Eligible Expenditures of the Project, including funding from the Recipient and federal, provincial, territorial, and municipal governments as well as funding from all other sources, including In-Kind Contributions.

1.2 ***ENTIRE AGREEMENT***

This Agreement comprises the entire agreement between the Parties in relation to the subject of the Agreement. No prior document, negotiation, provision, undertaking or agreement has legal effect, unless incorporated by reference into this Agreement. No representation or warranty express, implied or otherwise, is made by Canada to the Recipient except as expressly set out in this Agreement.

1.3 ***DURATION OF AGREEMENT***

This Agreement will be effective as of the Effective Date and will terminate on the Agreement End Date subject to early termination in accordance with this Agreement.

1.4 ***SCHEDULES***

The following schedules are attached to, and form part of this Agreement:

Schedule A – Eligible and Ineligible Expenditures

Schedule B – The Project

B.1 Project Description

B.2 Project Budget

B.3 Claim Frequency Table

Schedule C – Reporting Requirements

Schedule D – Certificate(s) of Compliance

Schedule E – Communications Protocol

Schedule F – Declaration of Substantial Completion

2. PURPOSE OF AGREEMENT

The purpose of this Agreement is to establish the terms and conditions whereby Canada will provide funding to the Recipient for the Project.

3. OBLIGATION OF THE PARTIES

3.1 COMMITMENTS BY CANADA

- a) Canada agrees to pay a contribution to the Recipient of not more than eighty percent (80%) of the total Eligible Expenditures for the Project but only up to a maximum of two million one hundred eighty-nine thousand nine hundred and twenty-three dollars (\$2,189,923).
- b) Canada will pay the contribution in accordance with the terms and conditions of this Agreement and the Fiscal Year breakdown in Schedule B.2 (Project Budget).
- c) If Canada's total contribution towards the Project exceeds eighty percent (80%) of the Project's total Eligible Expenditures or if the Total Financial Assistance received or due in respect of the total Project costs exceeds one hundred percent (100%) thereof, Canada may recover the excess from the Recipient or reduce its contribution by an amount equal to the excess.
- d) The Parties acknowledge that Canada's role in the Project is limited to making a financial contribution to the Recipient for the Project and that Canada will have no involvement in the implementation of the Project or its operation. Canada is neither a decision-maker nor an administrator to the Project.

3.2 COMMITMENTS BY THE RECIPIENT

- a) The Recipient will ensure the Project is completed in a diligent and timely manner, as per the Project details outlined in Schedule B (The Project), within the costs and deadlines specified in this Agreement and in accordance with the terms and conditions of this Agreement.
- b) The Recipient will be responsible for all costs of the Project including cost overruns, if any.
- c) The Recipient will be responsible for any and all costs associated with the Project should the Project be withdrawn or cancelled, and the Recipient will repay to Canada any payment received for disallowed costs and all ineligible costs, surpluses, unexpended contributions, and overpayments made under and according to the terms and conditions of this Agreement.
- d) The Recipient will inform Canada promptly of the Total Financial Assistance received or due for the Project.
- e) The Recipient will ensure the ongoing operation, maintenance, and repair of any Asset in relation to the Project as per appropriate standards, during the Asset Disposal Period.
- f) Canada may request that the Recipient declare to Canada any amounts owing to the federal Crown, under legislation or contribution agreements that constitute an overdue debt. The Recipient recognizes that any such amount owing is a debt due to

the federal Crown and may be set-off by Canada in accordance with Section 18.6 (Set-off by Canada).

- g) The Recipient will inform Canada immediately of any fact or event that could compromise wholly or in part the Project.
- h) The Recipient agrees that material changes to the Project, as described in Schedule B (The Project), will require Canada's consent, which may be subject to terms and conditions, and a corresponding amendment to the Agreement. Material changes are those determined by Canada to be material, including but not limited to changes in scope or timing of the Project.
- i) During the Asset Disposal Period the Recipient will ensure:
 - i. that it acquires, secures and maintains all necessary rights, interests, permissions, permits, licences, approvals, registrations, and any other authorizations, to carry out the Project and to provide the ongoing operation, maintenance, and repair of any Asset, in accordance with this Agreement; and,
 - ii. the ongoing operation, maintenance, and repair any Asset as per appropriate standards.
- j) The Recipient will ensure that the baseline greenhouse gas emissions and energy efficiency data generated through RETScreen is established and agreed upon with Canada before the Effective Date.
- k) The Recipient may report on Community Employment Benefits and provide Canada with annual updates, in accordance with Schedule C (Reporting Requirements).

3.3 **APPROPRIATIONS AND FUNDING LEVELS**

Notwithstanding Canada's obligation to make any payment under this Agreement, this obligation does not arise if, at the time when a payment under this Agreement becomes due, the Parliament of Canada has not passed an appropriation that is sufficient and constitutes lawful authority for making the payment. Canada may reduce or terminate any payment under this Agreement in response to the reduction of appropriations or departmental funding levels in respect of transfer payments, the program under which this Agreement was made or otherwise, as evidenced by any appropriation act or the federal Crown's main or supplementary estimates expenditures. Canada will promptly advise the Recipient of any reduction or termination of funding once it becomes aware of any such situation. Canada will not be liable for any direct, indirect, consequential, exemplary or punitive damages, regardless of the form of action, whether in contract, tort or otherwise, arising from any such reduction or termination of funding.

3.4 **FISCAL YEAR BUDGETING**

- a) The amount of the contribution payable by Canada for each Fiscal Year of the Project is set out in Schedule B.2 (Project Budget).
- b) If the actual amount payable by Canada in respect of any Fiscal Year of the Project is less than the estimated amount in Schedule B.2 (Project Budget), the Recipient may request that Canada re-allocate the difference between the two amounts to a subsequent Fiscal Year. Subject to Section 3.3 (Appropriations and Funding Levels), Canada agrees to make reasonable efforts to accommodate the Recipient's request.

The Recipient acknowledges that requests for re-allocation of Project funding will require appropriation adjustments or federal Crown approvals.

- c) In the event that any requested re-allocation of Project funding is not approved, the amount of Canada's contribution payable pursuant to Section 3.1 (Commitments by Canada) may be reduced by the amount of the requested re-allocation. If the contribution payable by Canada pursuant to Section 3.1 (Commitments by Canada) is so reduced, the Parties agree to review the effects of such reduction on the overall implementation of the Project and to adjust the terms and conditions of this Agreement as appropriate.

3.5 **CHANGES DURING THE LIFE OF THE PROJECT**

- a) Where a change to this Agreement is contemplated, the Recipient will submit to Canada a request for a change.
- b) Where the change is approved by Canada, the Parties will execute the corresponding amendment to the Agreement in accordance with Section 18.14 (Amendments).

3.6 **INABILITY TO COMPLETE PROJECT**

If, at any time during the term of this Agreement, one or all of the Parties determine that it will not be possible to complete the Project for any reason, the Party will immediately notify the other Party of that determination and Canada may suspend its funding obligation. The Recipient will, within thirty (30) business days of a request from Canada, provide a summary of the measures that it proposes to remedy the situation. If Canada is not satisfied that the measures proposed will be adequate to remedy the situation, then this will constitute an Event of Default under Section 15 (Default) and Canada may declare a default pursuant to Section 15 (Default).

3.7 **CONDITION PRECEDENT**

- a) Condition

The Recipient agrees that Canada has no obligation to make payments under this Agreement unless and until:

- i. The Recipient provides Canada with a copy of the By-Law or Resolution, pursuant to section 4a)

- b) Remedy

In the event that the Recipient is unable to meet the condition set out in Section 3.7 (a) (Condition), Canada may terminate this Agreement. Canada will not be liable for any direct, indirect, consequential, exemplary or punitive damages, regardless of the form of action, whether in contract, tort or otherwise, arising from the termination of this Agreement.

4. **RECIPIENT REPRESENTATIONS AND WARRANTIES**

The Recipient represents and warrants to Canada that:

- a) the Recipient has the capacity and authority to enter into and execute this Agreement.

- b) the Recipient has the capacity and authority to carry out the Project;
- c) the Recipient has the requisite power to own the Assets or it will secure all necessary rights, interests, and permissions in respect of the Assets, during the Asset Disposal Period;
- d) the Recipient has provided Canada with GHG emissions reductions and energy efficiency savings data generated through RETscreen ®;
- e) this Agreement constitutes a legally binding obligation of the Recipient, enforceable against it in accordance with its terms and conditions;
- f) all information submitted to Canada in its Program Application Form, as described in Schedule B.1 (Project Description), and in this Agreement is true, accurate, and was prepared in good faith to the best of its ability, skill, and judgment;
- g) any individual, corporation or organization that the Recipient has hired, for payment, who undertakes to speak to or correspond with any employee or other person representing Canada on the Recipient's behalf, concerning any matter relating to the contribution under this Agreement or any benefit hereunder and who is required to be registered pursuant to the federal *Lobbying Act*, is registered pursuant to that *Act*;
- h) the Recipient has not and the Recipient will ensure that the Recipient will not make a payment or other compensation that is contingent upon or is calculated upon the contribution hereunder or the negotiation of the whole or any part of the terms and conditions of this Agreement to any individual, corporation or organization with which that individual is engaged in doing business with, who is registered pursuant to the federal *Lobbying Act*;
- i) there are no actions, suits, investigations or other proceedings pending or, to the knowledge of the Recipient, threatened and there is no order, judgment or decree of any court or governmental agency which could materially and adversely affect the Recipient's ability to carry out the activities contemplated by this Agreement. The Recipient will inform Canada immediately if any such action or proceedings are threatened or brought during the term of this Agreement;
- j) the Recipient is in good standing under the laws of the jurisdiction in which it is required to be registered; and
- k) The Recipient agrees to purchase, provide, and maintain adequate comprehensive commercial general liability insurance to cover claims for bodily injury, death, or other loss or damage resulting from the actions of the Recipient in connection with the activities funded under this Agreement.

5. INTENTIONALLY OMITTED

6. CONTRACT PROCEDURES

6.1 AWARDING OF CONTRACTS

- a) The Recipient will ensure that Contracts are awarded in a way that is fair, transparent, competitive and consistent with value-for-money principles, and if applicable, in accordance with the Canadian Free Trade Agreement and international trade agreements.

- b) If Canada becomes aware that a Contract is awarded in a manner that is not in compliance with the foregoing, upon notification to the Recipient, Canada may consider the expenditures associated with the Contract to be ineligible.
- c) In addition to any other remedy available to Canada under this Agreement, if Canada considers the expenditures associated with a Contract to be ineligible under Section 6.1(b), the Recipient shall repay to Canada any funds that have been paid for Eligible Expenditures in relation to the Contract, at Canada's discretion.

6.2 **CONTRACT PROVISIONS**

The Recipient will ensure that all Contracts are consistent with, and incorporate, the relevant provisions of this Agreement. More specifically but without limiting the generality of the foregoing, the Recipient agrees to include terms and conditions in all Contracts to ensure that:

- a) the Third Party will keep proper and accurate financial accounts and records, including but not limited to its contracts, invoices, statements, receipts, and vouchers, in respect of the Project for at least six (6) years after the Agreement End Date and that the Recipient has the contractual right to audit them;
- b) all applicable labour, environmental, and human rights legislation are respected; and
- c) Canada and its designated representatives, to the extent permitted by law, will at all times be permitted to inspect the terms and conditions of the Contract and any records and accounts respecting the Project and will have free access to the Project sites and to any documentation relevant for the purpose of audit.

7. **ENVIRONMENTAL AND IMPACT ASSESSMENT**

7.1 **REQUIREMENTS UNDER APPLICABLE FEDERAL ENVIRONMENTAL OR IMPACT ASSESSMENT LEGISLATION**

The Recipient represents and warrants that there are no requirements under applicable federal environmental or impact assessment legislation for the Project.

7.2 **CHANGES TO PROJECT OR OTHERWISE**

- a) If, as a result of changes to the Project or otherwise, Canada is of the opinion that the Project is subject to federal environmental or impact assessment legislation, the Recipient agrees that construction of the Project or any other physical activity to be carried out in relation to the Project, including site preparation or vegetation removal, will not be undertaken or will be suspended unless and until the legislative requirements are met and continue to be met. The Recipient also agrees that no funds or additional funds for any Eligible Expenditure for the Project will become or will be payable by Canada to the Recipient unless and until the legislative requirements are met and continue to be met.
- b) Canada may consent in writing that construction or any other physical activity, including site preparation or vegetation removal, be carried out for the portion of the Project not subject to federal environmental or impact assessment and that funds or additional funds for any Eligible Expenditure will be payable by Canada

for the portion of the Project not subject to federal environmental or impact assessment.

8. INDIGENOUS CONSULTATION

8.1 *INDIGENOUS CONSULTATION*

Canada agrees that a legal duty to consult does not arise for this Project.

8.2 *CHANGES TO PROJECT OR OTHERWISE*

- a) If, as a result of changes to the Project or otherwise, Canada determines that Indigenous consultation is required, the Recipient will work with Canada to satisfy its legal duty to consult and, where appropriate, accommodate Indigenous communities.

- b) The Recipient agrees that:
 - i. it will consult with Indigenous communities that might be affected by the Project. Specifically, it will
 - a. explain the Project to the Indigenous communities, including Canada's funding role, and
 - b. provide a report to Canada, which will include:
 - 1) a list of all Indigenous communities contacted;
 - 2) a summary of all communications with the Indigenous communities;
 - 3) a summary of any issues or concerns that the Indigenous communities have raised, how they were addressed, and any outstanding concerns; and
 - 4) any other information Canada may consider appropriate.
 - ii. accommodation measures, where appropriate, will be carried out by the Recipient and these costs may be considered Eligible Expenditures.
 - iii. no construction or any other physical activity, including site preparation or vegetation removal may be carried out in relation to the Project, and no funds or additional funds for any Eligible Expenditure for the Project will be payable by Canada to the Recipient, unless and until Canada is satisfied that its legal duty to consult and, where appropriate, accommodate Indigenous communities has been met and continues to be met.

9. CLAIMS AND PAYMENTS

9.1 *PAYMENT CONDITIONS*

- a) Canada will not pay interest for failing to make a payment under this Agreement.
- b) Canada will not pay any claims submitted after Final Claim Date, unless otherwise accepted by Canada.
- c) Canada will not pay any claims until the requirements under Section 3.7 (Condition

Precedent), Section 7 (Environmental and Impact Assessment) and Section 8 (Indigenous Consultation), if applicable, are, in Canada's opinion, satisfied to the extent possible at the date the claim is submitted to Canada.

- d) Canada will not pay any claims until the requirements under Schedule C (Reporting Requirements) are, in Canada's opinion, satisfied to the extent possible at the time the claim is submitted to Canada.

9.2 **PROGRESS CLAIMS**

- a) The Recipient will submit progress claims to Canada in accordance with Schedule B.3 (Claim Frequency Table) covering the Recipient's Eligible Expenditures in a form acceptable to Canada. Each progress claim must include the following:
 - i. a certification by a senior official designated in writing by the Recipient in the form set out in Schedule D.1 (Certificate of Compliance for Progress Claim) stating that the information submitted in support of the claim is accurate;
 - ii. a breakdown of Eligible Expenditures of the Project claimed, in accordance with Schedule B.2 (Project Budget) in a form set out by Canada;
 - iii. any reporting due in accordance with Schedule C (Reporting Requirements);
 - iv. upon request by Canada, any documentation in support of Eligible Expenditures claimed.
- b) Canada will make a payment upon review and acceptance of a progress claim, subject to the terms and conditions of the Agreement.

9.3 **FINAL CLAIM AND FINAL ADJUSTMENTS**

- a) The Recipient will submit a final claim to Canada by Final Claim Date covering the Recipient's Eligible Expenditures in a form acceptable to Canada. The final claim must include the following:
 - i. a certification by a senior official designated in writing by the Recipient in the form set out in Schedule D.2 (Certificate of Compliance for Final Claim) stating that the information submitted in support of the claim is accurate;
 - ii. a breakdown of Eligible Expenditures of the Project claimed, in accordance with Schedule B.2 (Project Budget) in a form set out by Canada;
 - iii. confirmation of the Total Financial Assistance in accordance with Section 3.2 d) (Commitments by the Recipient), in the form set out in Schedule D.2 (Certificate of Compliance for Final Claim);
 - iv. any reporting due in accordance with Schedule C (Reporting Requirements);
 - v. a completed Declaration of Substantial Completion in accordance with Section 9.5 (Declaration of Substantial Completion);
 - vi. upon request by Canada, any of the documents referenced in

Schedule F (Declaration of Substantial Completion); and

- vii. upon request by Canada, any documentation in support of Eligible Expenditures claimed.
- b) Upon receipt of the final claim, but before issuing the final payment, the Parties will jointly carry out a final reconciliation of all claims and payments in respect of the Project and make any adjustments required in the circumstances.

9.4 **RETENTION OF CONTRIBUTION**

Canada will retain five percent (5%) of its contribution, under this Agreement, as a holdback. The amount retained by Canada will be released by Canada upon review and acceptance of the final report described under Schedule C.3 (Final Report) and Canada being satisfied that the Recipient has fulfilled all of its obligations under this Agreement.

9.5 **DECLARATION OF SUBSTANTIAL COMPLETION**

- a) Prior to executing the Declaration of Substantial Completion, the Recipient will request confirmation in writing from Canada as to whether the Declaration of Substantial Completion lists all relevant documents.
- b) The Declaration of Substantial Completion must be signed by an authorized official of the Recipient as deemed acceptable by Canada, and it must list all relevant documents as determined by Canada.

10. **REPORTING**

Any Project and performance reporting requirements will be undertaken and completed in accordance with Schedule C (Reporting Requirements).

11. **INFORMATION MANAGEMENT**

The Recipient will use the process designated by Canada to fulfill the obligations of the Recipient under this Agreement, including section 10 (Reporting) and any other obligations of the Recipient as requested by Canada.

12. **AUDIT, EVALUATION AND MONITORING FOR COMPLIANCE**

12.1 **RECIPIENT AUDIT**

- a) Canada may, at its discretion, conduct a Recipient audit related to this Agreement during the term of this Agreement and up to three years after the Agreement End Date, in accordance with the Canadian Auditing Standards and Section 18.3 (Accounting Principles).
- b) The Recipient agrees to inform Canada of any audit that has been conducted on the use of contribution funding under this Agreement, provide Canada with all relevant audit reports, and ensure that prompt and timely corrective action is taken in response to any audit findings and recommendations.

12.2 **INTENTIONALLY OMITTED**

12.3 **EVALUATION**

The Recipient agrees to cooperate with Canada in the conduct of any evaluation of the Program during or after the term of this Agreement. The Recipient also agrees to provide Project-related information to Canada during and following the termination of the Agreement in order for Canada to conduct any evaluation of the performance of the Program. All evaluation results will be made available to the public, subject to all applicable laws and policy requirements.

12.4 **CORRECTIVE ACTION**

The Recipient will submit to Canada in writing as soon as possible, but no later than sixty (60) days following receiving it, a report on follow-up actions taken to address recommendations and results of any audit findings and recommendations.

12.5 **RECORD KEEPING**

The Recipient will keep proper and accurate financial accounts and records, including but not limited to its Contracts, invoices, statements, receipts, and vouchers, in respect of the Project, for at least six (6) years after the Agreement End Date.

12.6 **ACCESS**

The Recipient will provide Canada and its designated representatives with reasonable and timely access, at no cost, to the Project sites, facilities, and any documentation for the purposes of audit, evaluation, inspection and monitoring compliance with this Agreement.

13. COMMUNICATIONS

13.1 **COMMUNICATIONS PROTOCOL**

The Parties will comply with Schedule E (Communications Protocol).

13.2 **RECOGNITION OF CANADA'S CONTRIBUTION**

The Recipient will acknowledge Canada's contribution in all signage and public communication produced as part of the Project or Agreement, in a manner acceptable to Canada, unless Canada communicates in writing to the Recipient that this acknowledgement is not required.

13.3 **PUBLIC INFORMATION**

The Recipient acknowledges that the following may be made publicly available by Canada:

- a) its name, the amount awarded by Canada, and the general nature of the Project;

and

- b) any evaluation or audit report and other reviews related to this Agreement.

14. DISPUTE RESOLUTION

- a) The Parties will keep each other informed of any issue that could be contentious by exchanging information and will, in good faith and reasonably, attempt to resolve potential disputes.
- b) Where the Parties cannot agree on a resolution, the Parties may explore any alternative dispute resolution mechanisms available to them to resolve the issue.
- c) Any payments related to the issue in dispute will be suspended, together with the obligations related to such issue, pending resolution.
- d) The Parties agree that nothing in this section will affect, alter or modify the rights of Canada to terminate this Agreement.

15. DEFAULT

15.1 *EVENTS OF DEFAULT*

The following events constitute Events of Default under this Agreement:

- a) the Recipient has not complied with one or more of the terms and conditions of this Agreement;
- b) the Recipient has not completed the Project in accordance with the terms and conditions of this Agreement;
- c) the Recipient has submitted false or misleading information to Canada or made a false or misleading representation in respect of the Project or in this Agreement, except for an error in good faith, demonstration of which is incumbent on the Recipient, to Canada's satisfaction;
- d) the Recipient has neglected or failed to pay Canada any amount due in accordance with this Agreement.

15.2 *DECLARATION OF DEFAULT*

Canada may declare a default if:

- a) In Canada's opinion, one or more of the Events of Default occurs;
- b) Canada gave notice to the Recipient of the event which constitutes an Event of Default; and
- c) the Recipient has failed, within thirty (30) business days of receipt of the notice from Canada, either to remedy the Event of Default or to notify Canada and demonstrate, to the satisfaction of Canada, that it has taken such steps as are necessary to

remedy the Event of Default.

15.3 **REMEDIES ON DEFAULT**

In the event that Canada declares a default under Section 15.2 (Declaration of Default), Canada may exercise one or more of the following remedies, without limiting any remedy available to it at law:

- a) suspend any obligation by Canada to contribute or continue to contribute funding to the Project, including any obligation to pay an amount owing prior to the date of such suspension;
- b) terminate any obligation of Canada to contribute or continue to contribute funding to the Project, including any obligation to pay any amount owing prior to the date of such termination;
- c) require the Recipient to reimburse Canada all or part of the contribution paid by Canada to the Recipient;
- d) terminate the Agreement.

16. **LIMITATION OF LIABILITY AND INDEMNIFICATION**

16.1 **DEFINITION OF PERSON**

In this section, "Person" includes, without limitation, a person, the Recipient, a Third Party, a corporation, or any other legal entity, and their officers, servants, employees or agents.

16.2 **LIMITATION OF LIABILITY**

In no event will Canada, its officers, servants, employees or agents be held liable for any damages in contract, tort (including negligence) or otherwise, for:

- a) any injury to any Person, including, but not limited to, death, economic loss or infringement of rights;
- b) any damage to or loss or destruction of property of any Person; or
- c) any obligation of any Person, including, but not limited to, any obligation arising from a loan, capital lease or other long term obligation;

in relation to this Agreement or the Project.

16.3 **INDEMNIFICATION**

The Recipient will at all times indemnify and save harmless Canada, its officers, servants, employees or agents, from and against all actions, claims, demands, losses, costs, damages, suits or other proceedings, whether in contract, tort (including negligence) or otherwise, by whomsoever brought or prosecuted in any manner based upon or occasioned by:

- a) any injury to any Person, including, but not limited to, death, economic loss or any infringement of rights;
- b) any damage to or loss or destruction of property of any Person; or
- c) any obligation of any Person, including, but not limited to, any obligation arising from

a loan, capital lease or other long term obligation;
in relation to this Agreement or Project, except to the extent to which such actions, claims, demands, losses, costs, damages, suits or other proceedings are caused by the negligence or breach of the Agreement by an officer, servant, employee or agent of Canada in the performance of his or her duties.

17. DISPOSAL OF ASSETS

- a) The Recipient will:
- i. where the Recipient owns the Asset, retain title to and ownership of an Asset or part of an Asset for the Asset Disposal Period; or
 - ii. retain all necessary rights, interests, and permissions in Non-owned Assets for the Asset Disposal Period.
- b) The Recipient will ensure that any Asset will be preserved, maintained, and used for the purposes of the Project, and that no Asset, in whole or in part, will be sold, leased, encumbered or otherwise disposed of, directly or indirectly, during the Asset Disposal Period unless the Recipient notifies Canada in advance and in writing, and Canada consents to such disposal.
- c) Upon alternate use or disposal of any Asset, which includes selling, leasing, encumbering, or otherwise disposing of, directly or indirectly, during the Asset Disposal Period, the Recipient will reimburse Canada, at Canada's discretion, all or part of the contribution paid under this Agreement by Canada to the Recipient.

18. GENERAL

18.1 PUBLIC BENEFIT

The Parties acknowledge that their contributions to the Project are meant to accrue to the public benefit.

18.2 SURVIVAL

The Parties' rights and obligations which, by their nature, extend beyond the termination of this Agreement, will survive any termination of this Agreement.

18.3 ACCOUNTING PRINCIPLES

All accounting terms will have the meanings assigned to them, all calculations will be made and all financial data to be submitted will be prepared, in accordance with the Generally Accepted Accounting Principles (GAAP) in effect in Canada as defined in the Chartered Professional Accountants (CPA) Canada Handbook - Accounting or, where applicable, the CPA Canada Public Sector Accounting Handbook.

18.4 DEBTS DUE TO THE FEDERAL CROWN

Any amount owed to Canada under this Agreement by the Recipient will constitute a debt due to the federal Crown, which the Recipient will reimburse to Canada forthwith on demand.

18.5 **INTEREST ON DEBTS DUE TO THE FEDERAL CROWN**

Debts due to the federal Crown by the Recipient will accrue interest in accordance with the federal *Interest and Administrative Charges Regulations*.

18.6 **SET-OFF BY CANADA**

Any debt due to the federal Crown by the Recipient may be set-off against any amounts payable by Canada to the Recipient under this Agreement.

18.7 **MEMBERS OF THE HOUSE OF COMMONS AND SENATE**

No member of the House of Commons or the Senate of Canada will be admitted to any share or part of this Agreement, or to any benefit arising from it that is not otherwise available to the public. The Recipient will promptly inform Canada should it become aware of the existence of any such situation.

18.8 **CONFLICT OF INTEREST**

No current or former public servant or public office holder to whom any post-employment, ethics and conflict of interest legislation, guidelines, codes or policies of Canada applies will derive direct benefit from this Agreement unless the provision or receipt of such benefits is in compliance with such legislation, guidelines, policies or codes. The Recipient will promptly inform Canada should it become aware of the existence of any such situation.

18.9 **NO AGENCY, PARTNERSHIP, JOINT VENTURE, ETC.**

- a) No provision of this Agreement and no action by the Parties will establish or be deemed to establish a partnership, joint venture, principal-agent relationship or employer-employee relationship in any way or for any purpose whatsoever between Canada and the Recipient or between Canada and a Third Party.
- b) The Recipient will not represent itself, including in any agreement with a Third Party, as a partner, employee or agent of Canada.

18.10 **NO AUTHORITY TO REPRESENT**

Nothing in this Agreement is to be construed as authorizing any person, including a Third Party, to contract for or to incur any obligation on behalf of Canada or to act as an agent for Canada. The Recipient will take the necessary action to ensure that any Contract between the Recipient and any Third Party contains a provision to that effect.

18.11 **ASSIGNMENT**

The Recipient will not transfer or assign its rights or obligations under this Agreement without the prior written consent of Canada. Any attempt by the Recipient to assign any of the rights, duties or obligations of this Agreement without Canada's express written consent is void.

18.12 **COUNTERPART SIGNATURE**

This Agreement and all documents contemplated by or delivered under or in connection with this Agreement may be executed and delivered in any number of counterparts (including by electronic signature, facsimile or other means of electronic transmission, such as by electronic mail in "PDF" form), with the same effect as if all Parties had

signed and delivered the same document, and all counterparts shall together constitute one and the same original document.

18.13 **SEVERABILITY**

If for any reason a provision of this Agreement that is not a fundamental term of this Agreement between the Parties is found to be or becomes invalid or unenforceable, in whole or in part, and if both Parties agree, it will be deemed to be severable and will be deleted from this Agreement, but all the other terms and conditions of this Agreement will continue to be valid and enforceable.

18.14 **AMENDMENTS**

This Agreement, including its schedules, can only be amended in writing by the Parties. Reallocation of amounts within Schedule B.2 (Project Budget) which do not result in an increase to the maximum amount of Canada's contribution under section 3.1 (Commitments by Canada), do not require a formal amendment agreement between the Parties and may be agreed to by the Parties through administrative processes.

18.15 **WAIVER**

A Party may waive any of its rights under this Agreement only in writing. Any tolerance or indulgence demonstrated by the Party will not constitute a waiver.

18.16 **NOTICE**

- a) Any notice, information or required documentation provided for under this Agreement must be delivered in person or sent by mail or email, to the identified representatives of the Parties at the following coordinates, unless otherwise specified by Canada:

Canada:

DIRECTOR GENERAL, RESILIENT AND INNOVATIVE COMMUNITIES
DIRECTORATE

Infrastructure Canada
1100 - 180 Kent Street
Ottawa, Ontario
K1P 0B6
gicbp-pbcvi@infc.gc.ca

Recipient:

CHERYL SMITH, DEPUTY CITY MANAGER
The Corporation of the City of London
300 Dufferin Avenue,
London, Ontario
N6B 1Z2
csmith@london.ca

- b) Such notice will be deemed to have been received:
- i. in person, when delivered;
 - ii. if sent by mail or email, when receipt is acknowledged by the other

Party;

- iii. if sent by messenger or registered mail, when the receiving Party has signed the acknowledgment of reception.
- c) If a Party changes its representative or the coordinates for that representative, it will advise the other Party as soon as possible.

18.17 COMPLIANCE WITH LAWS

The Recipient will comply with all applicable laws and regulations and all requirements of regulatory bodies having jurisdiction over the subject matter of the Project.

18.18 GOVERNING LAW

This Agreement is governed by, and is to be interpreted in accordance with, the applicable federal laws and the laws in force in Ontario. The Parties attorn to the jurisdiction of the Courts of Ontario and all courts competent to hear appeals from the Courts of Ontario.

18.19 SUCCESSORS AND ASSIGNS

This Agreement is binding upon the Parties and their respective successors and assigns.

19. INTELLECTUAL PROPERTY

- a) All intellectual property that arises in the course of the Project will vest in the Recipient.
- b) The Recipient will obtain the necessary authorizations, as needed, for the implementation of the Project, from Third Parties who may own the intellectual property rights or other rights in respect of the Project. Canada will assume no liability in respect of claims from any third party in relation to such rights and to the Agreement.
- c) The Recipient hereby grants to Canada a free of charge, non-exclusive, royalty-free, perpetual, worldwide and irrevocable license to exercise the intellectual property rights including to collect, retain, use, reproduce, communicate, modify, disclose, translate, publish, and distribute, in whole or in part, information related to the Project including reports, photos and videos provided by the Recipient, for promotional, informational and reporting purposes, in relation to this Agreement, in any form and by any medium, for any purpose directly or indirectly related to the Program or any other future program administered by Canada.

20. SIGNATURES

This Agreement has been executed on behalf of His Majesty the King in right of Canada by the Minister of Intergovernmental Affairs, Infrastructure and Communities and on behalf of The Corporation of the City of London by the Mayor and City Clerk.

HIS MAJESTY THE KING IN RIGHT OF
CANADA

THE CORPORATION OF THE CITY OF
LONDON



Per: The Honourable Dominic LeBlanc
Minister of Intergovernmental Affairs,
Infrastructure and Communities

Per: Josh Morgan
Mayor

January 16, 2023

Date

Date

Per: Michael Schulthess
City Clerk

Date

SCHEDULE A – ELIGIBLE AND INELIGIBLE EXPENDITURES

SCHEDULE A.1: ELIGIBLE EXPENDITURES

Eligible Expenditures must:

1. be necessary and directly related to the Project, as determined by Canada;
2. be incurred between April 1, 2021 and on or before the Final Claim Date; and
3. consist of the following categories of expenditures:
 - a) costs to build, renovate, expand or improve fixed capital assets and community buildings;
 - b) fees paid to professionals, technical personnel, consultants and contractors specifically engaged for the purpose of the renovation, expansion or improvement work or new builds of eligible infrastructure, including planning and energy audit costs;
 - c) costs of environmental assessments, monitoring and follow up activities as required by the *Impact Assessment Act* or equivalent legislation;
 - d) costs associated with a public announcement and official ceremony or of required temporary or permanent signage that includes the cost of creation and posting of signage;
 - e) costs for the purpose of Indigenous consultation/engagement activities;
 - f) other costs that are considered to be direct and necessary for the successful implementation of the Project and that are approved in advance by Canada;
 - g) salaries, wages and other incremental costs (i.e. materials or equipment) of the Recipient provided that:
 - i. the Recipient confirms and substantiates that it is not economically feasible to tender a contract;
 - ii. the costs are incurred and directly in respect to the work that would have been subject of the contract;
 - iii. costs are approved in advance and are included (in a contribution agreement).

SCHEDULE A.2: INELIGIBLE EXPENDITURES

Certain expenditures are not eligible for funding and therefore will not be considered in the calculation of the total Eligible Expenditures of the Project, including:

- a) project costs incurred prior to April 1, 2021, or after the Final Claim Date;
- b) services or work that is normally provided by the Recipient or a related party;
- c) salaries and other employment benefits of any employees of the recipient except as outlined above in Eligible Expenditures;
- d) in-kind contributions (goods or services);
- e) taxes, such as GST and HST, for which the recipient is eligible for a tax rebate and all other costs eligible for rebates;
- f) cost of leasing of equipment by the recipient except for as indicated in Eligible Expenditures, above;
- g) legal fees;

- h) purchase or lease of real property (land or building), or any interest therein, and related costs;
- i) collateral on mortgage financing and payment of interest charges;
- j) structural renovations not specific to the Project;
- k) costs related to marketing activities and business promotion;
- l) costs for activities intended to directly influence/lobby governments;
- m) travel costs;
- n) operations and maintenance costs; and
- o) other costs not specifically related for the Project.

SCHEDULE B – THE PROJECT

SCHEDULE B.1: PROJECT DESCRIPTION

For clarity, the Project description includes the information that the Recipient provided to Canada in support of its request for Project funding, including the RETScreen® information and the Project's Program funding application information provided through Infrastructure Canada's online and accessible Program application portal ("Program Application Form") number AP-000000397.

The project entails retrofitting the Kinsmen Recreation Centre. This facility is centrally located in London, Ontario at 20 Granville Street and plays a key role in maintaining a healthy, strong and vibrant community, enhancing social connections and provides the community with affordable and inclusive spaces for learning, playing, and gathering. This project will include the renewal of the facility's HVAC, roof, lighting, and building automation systems. Additionally, a new electric ice resurfacer charging station will be installed. The new HVAC system will recover waste heat from the ice plant. To substantially curtail carbon emissions, waste heat from the refrigeration plant will be utilized for space heating following the expansion and renewal of the existing hydronic distribution and building automation systems. Further, there will be the installation of mobility charging stations within facility in order to allow all members of the community to enjoy the facility to the full extent.

Objective(s):

The ultimate goals of the Project are:

- Reduce the facility's energy consumption.
- Increase the facility's energy efficiency.
- Increase accessibility within the facility.

Activities:

The following activities will be undertaken in order to complete the Project:

- Renewal of the existing hydronic distribution, building automation systems and HVAC infrastructure.
- Construction of a new central heat pump plant.
- Installation of electric charging infrastructure for the use of an electric ice resurfacer.
- Installation of a new modified bitumen roof with green initiatives and structural upgrades for a future solar project.
- Installation of mobility charging stations.

Project Outcomes:

The Recipient will ensure that appropriate data collection processes are in place to enable the capture and reporting of the performance indicators used to measure the achievement of Project outcomes.

In order to illustrate how the Project will contribute to economic, green and inclusive outcomes, the Recipient will collect performance data and report on the following performance indicators that the Project will contribute to:

1. Increased quality of community buildings in high-needs communities
2. Increased energy efficiency of existing community buildings
 - Total Estimated Energy Savings: 46.5%
3. Reduced GHG emissions from community buildings
 - Estimated GHG Emission reduction: 168tCO₂
4. Employment opportunities are generated, including for underrepresented groups

Community Employment Benefits (CEB)

The Community Employment Benefit target groups that are identified by the Project are:

- Indigenous peoples
- Women
- Persons with disabilities
- Youth
- Recent Immigrants

The Community Employment Benefit indicators are:

1. Percentage (%) of total hours worked by a target population; and/or
2. Value of contracts provided to small-sized, medium-sized or social enterprises.

Benefits to Underserved and High Needs Communities

The Project aims to benefit the following communities that are underserved, including those with higher needs, and/or equity-deserving groups:

- Persons experiencing poverty
- Youth
- Persons with disabilities
- Seniors
- Racialized people
- Indigenous peoples
- Newcomers to Canada (Immigrants, Permanent Residents, Refugees)

The Project will benefit these communities by:

Community 1 (Persons experiencing poverty): The City will continue to make efforts to minimize financial barriers to recreation through a subsidy program, where applicants are eligible to receive up to \$300 per year to cover program costs. Renewed efforts will be made to offer low- and no-cost programming and to raise awareness about financial assistance programs as centers begin opening.

Community 2 (Youth): Kinsmen Recreation Centre is the home of the George Bray Sports Association which provides over 225 children and youth with learning, emotional and/or social difficulties the opportunity to play Canada's game of hockey in a structured league. Updating a well-used facility will allow the City to continue to offer a broad range of opportunities for all groups to participate.

Community 3 & 4 (Persons with disabilities, and Seniors): The trends of an aging population and increasing diversity suggest an increasing need for accessible, affordable, and age friendly spaces and services. The City offers a popular program for youth with special needs called Thursday Night Live. The central location of this facility makes it the preferred choice for specialized programs that may not be offered at other centers, providing equal access to everyone across the city.

Community 5 & 6 & 7 (Racialized people, Indigenous peoples, and Newcomers to Canada): Socio-demographic factors such as income and diversity are known to influence interest and participation in recreation and sport. Trends in recreation and sport are constantly evolving due to socio-demographic shifts, preferences, evolving lifestyles, and new outlooks regarding personal wellbeing. The facility needs to meet a wide range of community needs by being flexible, multi-functional, and multi-seasonal to the greatest degree possible.

Accessibility

The Project will remove barriers and improve accessibility for persons with disabilities by meeting the accessibility standards as defined by the requirements in the Canadian Standards Association's Technical Standard Accessible Design for the Built Environment (CAN/CSA B651-18).

An update on Project outcomes using the performance indicators should be provided in each Annual Progress Report for multi-year projects, and in the Final Report. Some outcomes can only be measured after Project completion, in which case, they would be provided in the Final Report only.

SCHEDULE B.2: PROJECT BUDGET

Table 1:

Project Budget	Amount
Total Project Cost	\$ 2,737,404
Total Eligible Cost	\$ 2,737,404

Table 2:

Total INFC Contribution	Annual Breakdown				Total
	2022-23	2023-24	2024-25	2025-26	
INFC Contribution	\$0	\$200,000	\$308,572	\$1,681,351	\$2,189,923

Table 3: Other Sources of Funding

Cash	
The Corporation of the City of London	\$547,481
Sub-total Cash	\$547,481
In-Kind Contributions	
Sub-total In-Kind Contribution	\$0
Total Other Sources of Funding	\$547,481

SCHEDULE B.3: CLAIM FREQUENCY TABLE

Payment Period	Required Documents	Frequency	Payment Date
First Claim	Interim Report (progress report, financial report including updated cashflow, Certificate of Compliance for Progress Claim).	After the Effective Date	Within thirty (30) calendar days of approval of required documents by Canada
Subsequent Claims	Interim Report (progress report, financial report including updated cashflow, Certificate of Compliance for Progress Claim)	Every twelve (12) months, not more frequently than every three (3) months	Within thirty (30) calendar days of approval of required documents by Canada
Year-end Claim	Interim Report (progress report; financial report including updated cashflow of Eligible Expenditures incurred up to March 31, along with an estimate of expenses incurred up to March 31 but not yet submitted to INFC; Certificate of Compliance for Progress Claim)	On or before two (2) business days after March 31.	Within forty-five (45) calendar days of approval of required documents by Canada.
Final Claim (and Holdback)	Final Report (as described in Schedule C)	Final Claim Date	Within thirty (30) calendar days of approval of required documents by Canada

SCHEDULE C – REPORTING REQUIREMENTS

****The Recipient should contact the Canada Program Officer, to receive the most up-to-date reporting forms, before submitting them to Canada, since they're updated by Canada, from time to time.***

Canada will collect information that may be used to analyze the progress of all projects funded by the Program and may inform Program lessons learned and/or be used for communications about the Program. For example, reports on progress toward climate-focused objectives, Community Employment Benefits, etc.

SCHEDULE C.1: INTERIM REPORT

- a) The Recipient will submit interim reports to Canada at a timing and frequency determined by Canada, which will be no less frequently than annually but not more frequently than quarterly. The frequency will remain the same, unless the Recipient is otherwise notified by Canada. Notwithstanding the foregoing, for the last Interim Report period of the Fiscal Year, the Recipient will submit an Annual Report instead of an Interim Report.
- b) The Interim Report will be attested by a senior designated official, duly authorized by the Recipient and submitted to Canada in an agreed upon format acceptable to Canada.
- c) Interim Reports will be comprised of a progress report, a financial report, and two attestations, in formats provided by Canada;
- d) The progress report must include at a minimum:
 - i. Recipient name, Project title and Project identification number;
 - ii. Reporting period dates;
 - iii. Construction dates;
 - iv. summary of Project activities and progress achieved to date;
 - v. an update on Project risks or issues affecting the progress of the Project, if any, and mitigation measures;
 - vi. planned Project activities for the upcoming period, including any variation from the workplan (if applicable);
 - vii. confirmation of the Project's installed signage, if applicable; and
 - viii. update on Communication Activities to date and future communications plans.
- e) The financial report must include at a minimum:
 - i. Recipient name, Project title and Project identification #;
 - ii. Reporting period dates; and
 - iii. Expenditures for the reporting period and updated cash flow forecast for the upcoming fiscal year(s).
- f) The Interim Report will be attested by:
 - i. a senior designated official, duly authorized by the Recipient; and
 - ii. a construction manager or other professional assigned to the project and designated by the Recipient.

SCHEDULE C.2: ANNUAL REPORT

- a) The Recipient will submit an annual report ('Annual Report') for the end of each Fiscal Year period covered by this Agreement no later than sixty (60) days following the end of the Fiscal Year. The Annual Report will be attested by a senior designated official, duly authorized by the Recipient, stating that the report is factually correct and that the Recipient and the Project continue to maintain eligibility under the Program. Notwithstanding the foregoing, for the last Fiscal Year period, the Recipient will submit a Final Report instead of an Annual Report.

- b) The Annual Report will be submitted to Canada in an agreed upon format acceptable to Canada and will include at a minimum:
- i. Recipient name;
 - ii. Project title and Project identification number;
 - iii. Reporting period dates;
 - iv. Construction dates;
 - v. Confirmation of the Project's installed signage, if applicable;
 - vi. Confirmation of Communication requirements met for the reported period year, if applicable;
 - vii. Summary of the implementation progress of the project, by project phase, including:
 - Summary of central project activities (including major construction and any delays, if applicable) for progress achieved to date;
 - Planned Project activities for the upcoming Fiscal Year;
 - viii. Summary of employment created in the community as a result of the Project, including
 - Benefits to community
 - Community Employment Benefits, if applicable; and
 - ix. Details of the funds and their management, including:
 - An updated Project budget forecast and cashflow for the next fiscal period; and
 - Summary of total actual expenditures and Eligible Expenditures by source of funding as well as federal contribution by Fiscal Year for the Project; and
 - financial statements for the period in question, if requested by Canada; and
 - x. Update on results achieved towards the Project outcomes using performance measures identified in Schedule B.1 (Project Description) and by Canada, if applicable.

SCHEDULE C.3: FINAL REPORT

- a) The Recipient will submit a Final Report to Canada with the final claim.
- b) The final report ('Final Report') will be attested by a senior designated official, duly authorized by the Recipient and submitted to Canada in an agreed upon format acceptable to Canada as substantially identified using the template identified in Schedule D: Certificate of Compliance for Final Claim.
- c) The Recipient will submit a Final Report to Canada for approval no later than:
 - i) six (6) months after the Project Completion Date; and
 - ii) three (3) months before the Agreement End Date.
- d) The content of the Final Report will include at a minimum:
 - i. A general description of the Project's major achievements, including aggregated information and data identified in Annual Reports for the period of the Project;
 - ii. A completed Schedule F – Declaration of Substantial Completion; and
 - iii. Details of the funds and their management, including:
 - a. a description of Project activities and funds expended on Project activities for the period of the Project;
 - b. an audit conducted by an independent third party for the period of the Project;
 - c. results achieved towards the Project outcomes using performance measures identified in Schedule B.1 (Project Description) and by Canada which may inform Program lessons learned and/or be used for communication about the Program; and
 - d. a reconciliation of financial reporting.

SCHEDULE D – CERTIFICATE(S) OF COMPLIANCE

SCHEDULE D.1: CERTIFICATE OF COMPLIANCE FOR PROGRESS CLAIM

In the matter of the Agreement entered into between His Majesty the King in right of Canada, as represented by the Minister of Intergovernmental Affairs, Infrastructure and Communities, and [RECIPIENT] (the "Recipient"), represented by _____(Name), concerning the [PROJECT NAME] Project (the "Agreement").

I, _____(Name), of the City/Town of _____, Province/Territory of _____, declare as follows:

1. That I hold the position of _____ with the Recipient and as such have knowledge of the matters set forth in this declaration and believe this declaration to be true.
2. I am duly authorized by the Recipient to give this Certificate under [RECIPIENT INSERTS THE COMPLETE REFERENCE TO THE BY LAW OR INTERNAL POLICY AUTHORITY THAT ALLOWS THEM TO PROVIDE THIS CERTIFICATION] dated [DATE].
3. I have read and understood the Agreement and the progress claim submitted by the Recipient thereunder dated the same date as this Certificate and have knowledge of the business and affairs of the Recipient and have made such examinations or investigations as are necessary to give this Certificate and to ensure that the information contained herein is true and accurate.
4. The expenditures claimed are Eligible Expenditures in accordance with the Agreement.
5. The Recipient, at the date of this Certificate, has performed all covenants under the Agreement that are required to be performed by it on or prior to that date.
6. All representations and warranties of the Recipient contained in the Agreement are true and accurate in all respects at the date of this Certificate as though such representations and warranties had been made at the date of this Certificate.

Dated, this _____ day of _____ 20__

Signature

SCHEDULE D.2: CERTIFICATE OF COMPLIANCE FOR FINAL CLAIM

In the matter of the Agreement entered into between His Majesty the King in right of Canada, as represented by the Minister of Intergovernmental Affairs, Infrastructure and Communities, and [RECIPIENT] (the "Recipient"), represented by _____(Name), concerning the [PROJECT NAME] Project (the "Agreement").

I, _____(Name), of the City/Town of _____, Province/Territory of _____, declare as follows:

1. That I hold the position of _____ with the Recipient and as such have knowledge of the matters set forth in this declaration and believe this declaration to be true.
2. I am duly authorized by the Recipient to give this Certificate under [RECIPIENT INSERTS THE COMPLETE REFERENCE TO THE BY LAW OR INTERNAL POLICY AUTHORITY THAT ALLOWS THEM TO PROVIDE THIS CERTIFICATION] dated [DATE].
3. I have read and understood the Agreement and the final claim submitted by the Recipient thereunder dated the same date as this Certificate and have knowledge of the business and affairs of the Recipient and have made such examinations or investigations as are necessary to give this Certificate and to ensure that the information contained herein is true and accurate.
4. The Recipient, at the date of this Certificate, has performed all covenants under the Agreement that are required to be performed by it on or prior to that date.
5. The expenditures claimed are Eligible Expenditures in accordance with the Agreement.
6. All representations and warranties of the Recipient contained in the Agreement are true and accurate in all respects at the date of this Certificate as though such representations and warranties had been made at the date of this Certificate.
7. The Project as defined in the Agreement has been completed.

[If applicable, add:]

8. The Project, to the best of my knowledge and belief, conforms to the applicable federal environmental or impact assessment legislation.

[If applicable, add:]

9. All applicable mitigation measures, accommodation measures and follow-up measures required to be performed during the Project implementation as a result of Indigenous consultations have been implemented.
10. The Total Financial Assistance received or due for the Project in accordance with Section 3.2 d) (Commitments by the Recipient) is as follows:
[INCLUDE ALL TOTAL FINANCIAL ASSISTANCE RECEIVED OR DUE]
11. This Certificate of Compliance does not preclude any rights of Canada to verify, audit or inspect as per the terms and conditions of the Agreement.
12. The Recipient is not entitled to payment of any amount under the Agreement, other than any amount requested by the Recipient in accordance with the Agreement on or prior to the date of this Certificate.

Dated, this _____ day of _____ 20__

Signature

SCHEDULE E – COMMUNICATIONS PROTOCOL

E.1 PURPOSE

This Communications Protocol outlines the roles and responsibilities of each of the Parties to this Agreement with respect to Communications Activities related to the funded Project.

This Communications Protocol will guide all communications activity planning, development and implementation to ensure clear, consistent and coordinated communications to the Canadian public.

The provisions of this Communications Protocol apply to all Communications Activities related to this Agreement including any Projects funded under this Agreement.

Communications Activities may include, but are not limited to, public or media events, news releases, reports, web and social media products or postings, blogs, project signs, digital signs, publications, success stories and vignettes, photo compilations, videos, advertising campaigns, awareness campaigns, editorials, and multi-media products.

E.2 GUIDING PRINCIPLES

The Parties recognize the importance of managing the delivery of coherent Communications Activities based on the principle of transparent and open discussion and collaboration.

Communications Activities undertaken through this Protocol should ensure that Canadians are informed of infrastructure investments made to help improve their quality of life and that they receive consistent information about the funded Project and its benefits.

The Communication Activities undertaken jointly by Canada and the Recipient should recognize the funding of all contributors to the Project.

The Recipient's public acknowledgement of financial assistance received from Canada is a condition of funding under this Agreement.

The Recipient will address any deficiencies and/or corrective actions identified by Canada.

E.3 GOVERNANCE

The Parties will designate communications contacts that will work collaboratively to prepare communications activities for the project announcement, milestones, and completion.

E.4 PROGRAM COMMUNICATIONS

Canada retains the right to meet its obligations to communicate information to Canadians about the Program and the use of funding through its own communications products and activities.

Canada and the Recipient may also include general Program messaging and an overview of this Project as an example in their own communications products and activities. The Party undertaking these activities will recognize the funding of the Parties.

Canada and the Recipient agree that they will not unreasonably restrict the other Party or other funding contributors from using, for their own purposes, public communications products related to the Project that were prepared collectively or individually by the Parties, and if web-based, from linking to them.

Canada and the Recipient will ensure that:

- a) Canada and the Recipient will work together with respect to Joint Communications about the Project.

- b) Joint Communications related to Project funded under this Agreement should not occur without the prior knowledge and agreement of each of the Parties.
- c) All Joint Communications material will be approved by Canada and the Recipient, and will recognize the funding of each of the Parties.
- d) Each of the Parties may request Joint Communications to communicate to Canadians about the progress or completion of Projects. The requestor will provide at least fifteen (15) business days' notice to the other Parties. If the Communications Activity is an event, it will take place at a mutually agreed date and location.
- e) The requestor of the Joint Communications will provide an equal opportunity for the other Parties to participate and choose their own designated representative in the case of an event.
- f) As the Government of Canada has an obligation to communicate in English and French, Communications products developed and published by Canada related to events must be bilingual and include the Canada word mark and the other Party's logo. In such cases, Canada will provide the translation services and final approval of products.
- g) The conduct of all Joint Communications will follow the *Table of Precedence for Canada* (<https://www.canada.ca/en/canadian-heritage/services/protocol-guidelines-special-event/table-precedence-canada.html>).

Media events include, but are not limited to, news conferences, public announcements, official events or ceremonies, and news releases.

The Recipient agrees to collaborate with Canada on Communications Activities and products including, but not limited to, Project success stories, vignettes, and multi-media products.

E.5 INDIVIDUAL COMMUNICATIONS

The Recipient will ensure that:

- a) Where a website or webpage is created to promote or communicate progress on a funded Project or Projects, it must recognize federal funding through the use of a digital sign or through the use of the Canada wordmark and the following wording, "This project is funded in part by the Government of Canada." The Canada wordmark or digital sign must link to Canada's website, at www.infrastructure.gc.ca. The guidelines for how this recognition is to appear and language requirements are published on Canada's website, at <http://www.infrastructure.gc.ca/pub/signage-panneaux/intro-eng.html>.
- b) The Recipient will be required to send a minimum of one photograph to each of the Parties of the construction in progress, or of the completed project, for use in social media and other digital individual Communications Activities. Sending the photos will constitute permission to use and transfer of copyright. Photographs are to be sent to photo@infcc.gc.ca along with the Project's name and location.

E.6 OPERATIONAL COMMUNICATIONS

The Recipient is solely responsible for operational communications with respect to the Project, including, but not limited to, calls for tender, construction, and public safety notices.

Operational communications will include the following statement: "This project is funded in part by the Government of Canada". Operational communications as described above are not subject to the federal official languages policy.

Canada and the Recipient will share information promptly with the other Party should significant media inquiries be received or if major stakeholder issues relating to the Project arise.

E.7 SIGNAGE

Unless otherwise agreed upon by Canada, the Recipient will produce and install

a sign to recognize contributors' funding at each Project site in accordance with current federal signage guidelines. The sign's design, content, and installation guidelines are published on Infrastructure Canada's website, at <http://www.infrastructure.gc.ca/pub/signage-panneaux/intro-eng.html>.

Where the Recipient decides to install a permanent plaque or other suitable marker with respect to the Project, it must recognize the federal contribution and be approved by Canada.

The Recipient will ensure that signs are installed at the Project site(s) at least one (1) month prior to the start of construction, be visible for the duration of the Project, and remain in place until one (1) month after construction is completed and the infrastructure is fully operational or opened for public use.

The Recipient will ensure that signs are installed in a prominent and visible location that takes into consideration pedestrian and traffic safety and visibility.

Sign installations shall be reported to Canada as per Schedule C) (Reporting Requirements).

E.8 ADVERTISING CAMPAIGNS

Recognizing that advertising can be an effective means of communicating with the public, Canada and the Recipient may, at their own cost, organize an advertising or public information campaign related to the Program or the funded Project. However, such a campaign must respect the provisions of this Agreement and the Government of Canada requirements for advertising (<https://www.canada.ca/en/treasury-board-secretariat/services/government-communications/federal-identity-program/technical-specifications/advertising.html>). In the event of such a campaign, each Party agrees to inform the other Party of its intention, no less than twenty-one (21) business days prior to the campaign launch.

SCHEDULE F – DECLARATION OF SUBSTANTIAL COMPLETION

In the matter of the Agreement entered into between His Majesty the King in right of Canada, as represented by the Minister of Intergovernmental Affairs, Infrastructure and Communities, and [RECIPIENT] (the “Recipient”), represented by _____(Name), concerning the [PROJECT NAME] Project (the “Agreement”).

I, _____(Name), of the City/Town of _____, Province/Territory of _____, declare as follows:

1. I hold the position of _____ with the Recipient and as such have knowledge of the matters set forth in this declaration and believe this declaration to be true.
- 2.
- c) I have received the following documents for the [PROJECT NAME] Project:
 - i. [LIST NAME OF RELEVANT DOCUMENT, e.g. Certificate of Completion, Certificate of Performance, Occupancy Permit, etc.] [INSERT if applicable “signed by _____ (Name), a _____ (Profession, e.g. professional engineer, professional architect or other applicable professional) for the Project.”]
 - ii. ...
- d) Based on the above documents and the representations made to me by the professionals identified in section 2(a) above, I declare to the best of my knowledge and belief that the Project has been substantially completed, in that it can be used for its intended use, as described in Schedule B.1 (Project Description), as defined in the Agreement, on the _____ day of the _____ 20__.

[Insert #3, if applicable:]

3. I have received the following documents and based on these documents and representations made to me by the professionals identified below, I declare to the best of my knowledge and belief that the Project conforms with the guidelines of the Agreement:
 - i. [LIST NAME OF RELEVANT DOCUMENT, e.g. Certificate of Completion, Certificate of Performance, Occupancy Permit, etc.] [INSERT if applicable “signed by _____ (Name), a _____ (Profession, e.g. professional engineer, professional architect or other applicable professional) for the Project.”]
 - ii. ...

[Insert #4, if applicable:]

4. I have received the following documents and based on these documents and representations made to me by the professionals identified below, I declare to the best of my knowledge and belief that the Project conforms with, as applicable, the [LIST THE APPLICABLE ENVIRONMENTAL REVIEW OR ASSESSMENT e.g., the Canadian Environmental Assessment Act, 2012, Impact Assessment Act, or Northern Regime]:
 - i. [LIST NAME OF RELEVANT DOCUMENT] signed by _____ (Name), an _____ (Profession, e.g. environmental consultant or other applicable professional).
 - ii. ...

5. All terms and conditions of the Agreement that are required to be met as of the date of this declaration have been met.

Declared at _____ (City/Town), in _____
(Province/Territory)

this _____ day of _____, 20_____.

Signature

Report to Community and Protective Services Committee

To: Chair and Members,
Community and Protective Services Committee

From: Cheryl Smith, Deputy City Manager, Neighbourhood and
Community-Wide Services

Subject: SS-2023-037 - London Fire Department Single Source
Request for Engine and Aerials

Date: February 22, 2023

Recommendation

That, on the recommendation of the Deputy City Manager, Neighbourhood and Community-Wide Services, the following actions be taken with respect to the single source procurement of fire apparatus:

- a) in accordance with Sections 14.4(d) and (k) of the Procurement of Goods and Services Policy, Fire Administration **BE AUTHORIZED** to enter into negotiations with City View Specialty Vehicles, Inc., 1213 Lorimar Drive, Mississauga, Ontario, L5S 1M9 for a one-time, single source purchase with a cost of \$7,251,653 CAD, excluding HST, for one (1) Fire Engine and two (2) Articulating Aerial Platform vehicles for the London Fire Department;
- b) the approval in a) above, **BE CONDITIONAL** upon The Corporation of the City of London negotiating satisfactory prices, terms, conditions, and entering into a one-time purchasing agreement with City View Specialty Vehicles, Inc. to provide one (1) Fire Engine and two (2) Articulating Aerial Platform vehicles to the London Fire Department;
- c) the Civic Administration **BE AUTHORIZED** to undertake all the administrative acts that are necessary in connection with the authorization set out in parts a) and b) above; and,
- d) that the funding for this procurement **BE APPROVED** as set out in the Source of Financing Report attached, hereto, as Appendix A.

Executive Summary

This report requests authorization from Council for the immediate single source purchase of one (1) Engine and two (2) Articulating Aerial Platform vehicles to help mitigate the current vehicle maintenance challenges due to an aging fleet.

Linkage to the Corporate Strategic Plan

The London Fire Department Single Source procurement for an Engine and two (2) Aerials is aligned with the following strategic area of focus and outcome from the City of London Strategic Plan 2019-2023:

- Strengthening our Community – Londoners have access to the services and supports that promote well-being, health, and safety in their neighbourhoods and across the city.

Analysis

1.0 Background Information

1.1 Context

The London Fire Department (“LFD”) relies on having spare vehicles available to replace front-line vehicles that require maintenance. The current spare fleet consists of a total of five (5) Engines, one (1) Aerial, and one (1) Tanker. Within the Council approved Fire Master Plan, there is an action to increase the number of Engines to six (6). This additional Engine ensures the LFD can maintain front-line services and training initiatives.

The LFD has experienced unexpected breakdowns, unplanned maintenance, as well as traffic accidents involving in-service vehicles that continues to put pressure on both in-service and spare fleet resources. The LFD continues to shift several other vehicles between stations to ensure available service across the city.

This pressure on fleet resources makes this expeditious purchase necessary. With the current spare Engines and spare Aerial being assigned to various stations, any further breakdowns, accidents, or other unforeseen circumstances will result in negative impacts to service levels.

With the planned addition of a fifteenth fire station in early 2025, and following actions laid out in the Fire Master Plan, an additional Engine and Aerial Platform will be required to be put into service.

The current Aerial Platform, being a 2009 model, is scheduled to be removed from the fleet in 2024. As outlined in the Fire Master Plan, front-line vehicles are generally intended to have a twelve (12) year front-line service life with a three (3) year assignment as a spare, totalling fifteen (15) years. This fifteen (15) year lifecycle is a shift from the previous twenty (20) year lifecycle and will assist in decreasing unplanned and costly maintenance in the future.

2.0 Discussion and Considerations

2.1 Severity of Issue Leading to Single Source Apparatus Procurement

There is currently a wait time of approximately 18-24 months to purchase and outfit new vehicles of this size and capacity through standard procurement processes. The LFD has worked through the Request for Proposal (“RFP”) process that would have allowed the ordering of four new vehicles before the end of 2023. However, this process was unsuccessful due to the challenges faced in the post-pandemic market, specifically the delays in the delivery of fire vehicles. There is concern of risk during this waiting period that reductions in service could occur.

At present, there is an in-production Engine and an in-production Articulating Aerial Platform, as well as a second demonstration Articulating Aerial Platform available through City View Specialty Vehicles, Inc. These units have been assessed by the LFD Mechanical Division as well as other relevant LFD personnel. This confirmed that specifications of the available vehicles meet LFD needs and are compatible with the current fleet.

Compatibility with the current fleet is essential and will ensure that the LFD Mechanical Division can maintain these vehicles efficiently and that the Training Division can ensure staff are adequately trained on their use. It is a unique opportunity for the City of London that these vehicles can be available for such timely delivery.

2.2 Procurement Process

The supplier of the available vehicles selected by the subject matter expert group at the LFD is City View Specialty Vehicles, Inc. The in-production Engine is available for

immediate purchase with an expected delivery date of Q4 2023. The price of this Engine is \$1,388,513 CAD (excluding HST) and the estimated cost for equipping the Engine is \$150,000. This delivery, outfitting, and putting into service is expected to be completed by December 2023. The total cost of this Engine purchase, including equipment, will be \$1,516,513 (excluding HST).

The in-production Articulating Aerial Platform is available for immediate purchase with an expected delivery date of Q4 2023. The price of this Aerial is \$2,970,590 CAD (excluding HST) and the estimated cost for equipping the Aerial is \$229,065. This delivery, outfitting, and putting into service is expected to be completed by December 2023. The total cost of this Engine purchase, including equipment, will be \$3,151,655 (excluding HST).

The demonstration Articulating Aerial Platform, a 2019 model, is available for immediate purchase with an expected delivery within 120 days of purchase. The price of this Aerial is \$2,281,485 CAD (excluding HST) and the estimated cost for equipping the Aerial is \$150,000. This delivery, outfitting, and putting into service is expected to be completed by August to September 2023. The total cost of this Engine purchase, including equipment, will be \$2,383,485 (excluding HST).

By purchasing all three vehicles at one time, the City of London is receiving a total discount of \$109,000 with an additional \$9,000 of already submitted deposits being utilized against the total purchase price.

The total for all three vehicles will be \$7,051,653 (excluding HST) based on the above, however, Civic Administration is seeking the approval of \$7,251,653 as indicated in the Source of Financing Report attached as Appendix A, which provides an additional \$200,000 as a contingency amount for any potential currency rate exchange increases between the time of report production and execution of the purchase. Any unused portion of the additional \$200,000 contingency would be returned to the appropriate financial accounts.

To address extended lead times on new vehicle orders, and to maintain existing service levels, it has become imperative that the LFD purchase one (1) Engine and two (2) Articulating Aerial Platforms to replace aging vehicles utilizing the single source procurement clause as outlined in sections 14.4(d) and (k) of the Procurement of Goods and Services Policy.

Sections 14.4(d) and (k) of the Procurement of Goods & Services Policy

14.4 Single Source

Single Source means that there is more than one source of supply in the open market, but only one source is recommended due to predetermined and approved specifications. The procurement may be conducted using a Single Source process if the goods and/or services are available from more than one source, but there are valid and sufficient reasons for selecting one supplier in particular, as follows:

- d. There is a need for compatibility with goods and/or services previously acquired or the required goods and/or services will be additional to similar goods and/or services being supplied under an existing contract (i.e., contract extension or renewal).
- k. Where due to abnormal market conditions, the goods, services or construction required are in short supply.

2.3 Next Steps

The LFD will continue to have all vehicles regularly inspected and serviced by its Mechanical Division. There are more front-line vehicles in the fleet expected to need

significant maintenance before their current lifecycle is complete. Plans are being made to mitigate these expenses.

The 10-year Fire Master Plan provides an overall vision, direction, and guidance for Council to make decisions about service improvements and enhancements through fire hall locations, fleet lifecycle replacement, and any other elements that affect the delivery of fire services to match the growing needs of the community. As part of the implementation of this Plan, Civic Administration is beginning the process of decreasing the current lifecycle of all front-line fire department vehicles from twenty (20) years to fifteen (15) years.

Actions to gradually reduce this lifecycle are underway that will assist in avoiding future potential fleet shortages. Considering this, a multi-year capital asset management plan is being developed to address immediate vehicle needs within the upcoming 2024-2027 Multi-Year Budget and beyond. This plan will lay out replacement years and estimated costs of emergency and non-emergency vehicles in the LFD's fleet.

The LFD, in collaboration with the City's Procurement Division, is currently exploring group buying opportunities to reduce costs, improve purchasing power, streamline the purchasing process, allow for standardization of vehicles and equipment, and ensure that the LFD's future fleet of fire vehicles will be of high quality.

3.0 Financial Impact/Considerations

The costs of these vehicles exceed the available capital budgets that have been previously approved. However, additional funding is available in the Fire Facilities, Vehicle, and Equipment Renewal Reserve Fund and Fire City Services (Development Charges) Reserve Fund for this purchase to offset the required budget increase per the Source of Financing Report attached as Appendix A.

To partially mitigate the additional funding requirement associated with the purchase of these two Articulating Aerial Platforms and one Engine, the planned replacement of one Rescue unit and one Tanker will be deferred to future years.

The operating costs associated with the new Fire Station #15 and additional aerial vehicle are being accumulated through Assessment Growth funding over the 2020-2023 period, with the last allocation anticipated to be approved in 2023.

The Fire Master Plan action to reduce the lifecycle of LFD vehicles, including impacts to the Fire Facilities, Vehicle, and Equipment Renewal Reserve Fund, will be considered during preparation of the 2024-2027 Multi-Year Budget and beyond.

Conclusion

Immediate single source procurement of one (1) fire Engine and two (2) Articulating Aerial Platform vehicles as per Sections 14.4(d) and (k) of the Procurement of Goods and Services Policy is required to minimize the impact of abnormal market conditions and to maintain compatibility with existing fleet.

Prepared by: Katerina Barton, Manager, Finance and Planning, Fire Services

Submitted by: Richard Hayes, Acting Fire Chief

Recommended by: Cheryl Smith, Deputy City Manager, Neighbourhood and Community-Wide Services

c: Jason Davies, Manager III, Financial Planning and Policy
Steve Mollon, Manager, Purchasing and Supply, Finance Supports
Vanetia R, Solicitor I, Legal Services
Jason Wills, Manager III, Risk Management, Legal Services

Source of Financing Report

Appendix "A"

#23029
February 22, 2023
(Award Contract)

Chair and Members
Community and Protective Services Committee

RE: SS-2023-037 - London Fire Department Single Source Request for Engine and Aerials
(Subledger FLT23001-23003)
Capital Project FS1043 - Aerial Company - Central London
Capital Project FS1089 - Quint - Station 15 Vehicle
Capital Project FS115222 - Emergency Fire Vehicle
Capital Project FS115223 - Emergency Fire Vehicle
City View Specialty Vehicles, Inc. - \$7,251,653 (excluding HST)

Finance Supports Report on the Sources of Financing:

Finance Supports confirms that the cost of this project cannot be accommodated within the financing available for it in the Capital Budget but can be accommodated with funding available in the Fire Facilities, Vehicle and Equipment Renewal Reserve Fund and the City Services (Development Charges) - Fire Reserve Fund, and that, subject to the adoption of the recommendations of the Deputy City Manager, Neighbourhood and Community-Wide Services, the detailed source of financing for this project is:

Estimated Expenditures	Approved Budget	Additional Funding Requirement	Revised Budget	Committed To Date	This Submission
FS1043 - Aerial Company - Central London					
Vehicle & Equipment	1,805,000	690,352	2,495,352	3,000	2,492,352
FS1089 - Quint - Station 15 Vehicle					
Vehicle & Equipment	899,900	685,870	1,585,770	3,000	1,582,770
FS115222 - Emergency Fire Vehicle					
Vehicle & Equipment	1,252,567	0	1,252,567	3,000	1,249,567
FS115223 - Emergency Fire Vehicle					
Vehicle & Equipment	165,000	1,878,839	2,043,839	0	2,043,839
Total Expenditures	\$4,122,467	\$3,255,061	\$7,377,528	\$9,000	\$7,368,528

Sources of Financing

FS1043 - Aerial Company - Central London					
Drawdown from Fire Facilities, Vehicle and Equipment Renewal Reserve Fund (Note 1)	361,000	138,070	499,070	600	498,470
Debenture Quota (Serviced through City Services - Fire Reserve Fund (Development Charges) (Note 2 and 5))	1,444,000	552,282	1,996,282	2,400	1,993,882
FS1043 Total	1,805,000	690,352	2,495,352	3,000	2,492,352
FS1089 - Quint - Station 15 Vehicle					
Debenture Quota (Note 2 and 5)	317,665	242,112	559,777	1,059	558,718
Drawdown from City Services - Fire Reserve Fund (Development Charges) (Note 4)	582,235	0	582,235	1,941	580,294
Debenture Quota (Serviced through City Services - Fire Reserve Fund (Development Charges) (Note 2,4 and 5))	0	443,758	443,758	0	443,758
FS1089 Total	899,900	685,870	1,585,770	3,000	1,582,770
FS115222 - Emergency Fire Vehicle					
Drawdown from Fire Facilities, Vehicle and Equipment Renewal Reserve Fund	1,252,567	0	1,252,567	3,000	1,249,567
FS115223 - Emergency Fire Vehicle					
Drawdown from Fire Facilities, Vehicle and Equipment Renewal Reserve Fund (Note 3)	165,000	1,878,839	2,043,839	0	2,043,839
Total Financing	\$4,122,467	\$3,255,061	\$7,377,528	\$9,000	\$7,368,528

Appendix "A"

#23029

February 22, 2023
(Award Contract)

Chair and Members
Community and Protective Services Committee

RE: SS-2023-037 - London Fire Department Single Source Request for Engine and Aerials
(Subledger FLT23001-23003)

Capital Project FS1043 - Aerial Company - Central London

Capital Project FS1089 - Quint - Station 15 Vehicle

Capital Project FS115222 - Emergency Fire Vehicle

Capital Project FS115223 - Emergency Fire Vehicle

City View Specialty Vehicles, Inc. - \$7,251,653 (excluding HST)

Financial Note:	FS1043	FS1089	FS115222	FS115223	Total
Vehicle Cost	\$2,281,485	\$1,388,513	\$962,101	\$2,008,489	\$6,640,588
Add: HST @13%	296,593	180,507	125,073	261,104	863,277
Total Contract Price Including Taxes	2,578,078	1,569,020	1,087,174	2,269,593	7,503,865
Less: HST Rebate	-256,439	-156,069	-108,140	-225,754	-746,402
Less: Deposit Paid	-3,000	-3,000	-3,000	0	-9,000
Less: Total Discount	-45,000	-19,000	-45,000	0	-109,000
Add: Internal cost to equip	150,000	150,000	229,065	0	529,065
Add: Exchange Rate Contingency	68,713	41,819	89,468	0	200,000
Net Contract Price	\$2,492,352	\$1,582,770	\$1,249,567	\$2,043,839	\$7,368,528

Note 1: The additional funding requirement for this project is available as a drawdown from Fire Facilities, Vehicle and Equipment Renewal Reserve Fund. The forecasted balance of the reserve fund will be \$3.0M with the inclusion of this project.

Note 2: The additional funding requirement for this project is available via additional debt serviced through the City Services (Development Charges) - Fire Reserve Fund.

Note 3: The additional funding requirement for this project can be accommodated by advancing a portion of the 2024 budget. Upon approval of the recommendation of the Deputy City Manager, Neighbourhood and Community-Wide Services, the 2024 forecasted budget will be adjusted.

Note 4: Development charges have been utilized in accordance with the underlying legislation and the approved 2019 Development Charges Background Study and the 2021 Development Charges Background Study Update.

Note 5: Note to City Clerk: Administration hereby certifies that the estimated amounts payable in respect of this project does not exceed the annual financial debt and obligation limit for the Municipality from the Ministry of Municipal Affairs in accordance with the provisions of Ontario Regulation 403/02 made under the Municipal Act, and accordingly the City Clerk is hereby requested to prepare and introduce the necessary by-laws.

An authorizing by-law should be drafted to secure debenture financing for project FS1043 - Aerial Company - Central London for the net amount to be debentured of \$1,996,282.00

An authorizing by-law should be drafted to secure debenture financing for project FS1089 - Quint - Station 15 Vehicle for the net amount to be debentured of \$1,003,535.00.

Kyle Murray
Director, Financial Planning & Business Support

lp

Report to Community & Protective Services Committee

To: Chair and Members
Community & Protective Services Committee

From: Kelly J. Scherr
Deputy City Manager, Environment & Infrastructure

Subject: Request for Proposal 2022-308 – Design, Supply, and
Installation of Typical Playground Equipment for Multiple
Parks

Date: February 22, 2023

Recommendation

That, on the recommendation of the Deputy City Manager, Environment & Infrastructure, the following actions **BE TAKEN** with respect to the Request for Proposal 2022-308 Design, Supply and Installation of Typical Playground Equipment for Multiple Parks:

- (a) The bid submitted by Park N Water, 9-75 First Street, Suite #253, Orangeville, ON, L9W 5B6 to Design, Supply and Installation of new playground equipment in Cayuga Park, Carriage Hill Park, Jaycee Park, St. Lawrence Park, and Upperpoint Park in accordance with RFP2022-308, at its bid price of \$181,883.52 excluding HST **BE ACCEPTED**;
- (b) The bid submitted by New World Park Solutions Incorporated, 42 Woodway Trail, Brantford, ON, N3R 6G7, Design, Supply and Installation of new playground equipment in Kiwanis Park, Thompson Ravine Park, and Pawnee Park accordance with RFP2022-308, at its bid price of \$150,000.00 excluding HST **BE ACCEPTED**;
- (c) The financing for this project **BE APPROVED** as set out in the Sources of Financing Report attached as Appendix “A”;
- (d) The Civic Administration **BE AUTHORIZED** to undertake all the administrative acts that are necessary in connection with this project; and,
- (e) The Mayor and City Clerk **BE AUTHORIZED** to execute any contract or other documents, if required, to give effect to these recommendations.

Executive Summary

The City completed a competitive Request for Proposal (RFP) process in accordance with Section 12 of the Procurement of Goods and Services Policy, seeking proposals for new playground equipment at Carriage Hill Park, Cayuga Park, Jaycee Park, St. Lawrence Park, Upperpoint Park, Kiwanis Park, Thompson Ravine Park, and Pawnee Park. Proposals were received from 6 proponents and evaluated based on the four primary criteria included in the RFP. Proposals for each park were evaluated separately by staff in Park Operations and Parks Planning and Design. Parks were grouped into two separate categories based on available budget and novelty or proposals being sought. The bid pricing for the proposals was opened following the technical review, and the successful proponent was determined using a lowest price per point methodology which factors technical scores, along with the proposed price, to determine the proposal providing the best value for the City.

Linkage to the Corporate Strategic Plan

This project builds on Council’s strategic priorities:

1. Strengthening Our Community – as two major pieces of London’s parks and recreation system, the new playgrounds throughout the community will contribute to strengthening neighbourhoods by enhancing services and

- supports that promote well-being, health, and safety in their neighbourhoods and across the city.
2. Growing Our Economy - investment in the parks and recreation system attracts growth and investment and revitalizes existing park infrastructure.

Analysis

1.0 Background Information

1.1 Previous Reports Related to this Matter

None

1.2 Condition of Existing Play Equipment

The request for proposal seeks proposals for new play equipment at eight parks. Five of the existing parks will have their equipment replaced - Carriage Hill, Cayuga, Jaycee, St. Lawrence, and Kiwanis (junior equipment only). Most of the existing play equipment in each of the five parks is over 20 years old, in generally poor condition, and is eligible for lifecycle replacement funding. Most of the of the existing playgrounds above have sand play surfacing with no accessible entrances.

Three of the parks will have new play areas constructed in 2023 - Pawnee Park, Upperpoint Park, and Thompson Ravine to accommodate the new equipment.

1.3 Other Planned Park Improvements

In addition to replacing the play equipment, Parks Design & Construction staff will be coordinating minor repairs to existing park amenities throughout including pathway replacement, bench upgrades, bike rack installations, and tree planting. All play areas will have accessible entrances added (if not already in place) and replace safety surfacing with engineered wood fiber and replace drainage infrastructure as needed.

1.4 Request for Proposal

In accordance with Section 12 of the Procurement of Goods and Policy, a request for proposal was prepared and advertised via bids and tenders. A single RFP was prepared seeking proposals for new play equipment at each of the eight parks. Proposals for each park were evaluated separately. The RFP was published on December 16, 2022, and subsequently closed on January 23, 2022. 6 proposals were received.

The terms of the RFP indicated that the eight parks have been grouped into two separate categories. A successful proponent was identified for each category. Category A parks included proposals for Cayuga Park, Carriage Hill Park, Jaycee Park, St. Lawrence Park, and Upperpoint Park as each of those five parks have typical sized play area (ranging from 15 m to 18 m diameter play circles). Category B parks include Kiwanis, Thompson Ravine, and Pawnee Park.

The scope of work for the RFP is limited to the design, supply, and installation of new play equipment in each park. Other site improvements will be completed by a separate contractor to be coordinated by Parks Design & Construction. The schedule included with the RFP requested specified installation by September 1, 2023, and all proposals received identified they could meet that deadline if awarded the project in March 2023.

2.0 Discussion and Considerations

2.1 RFP Evaluation Process

Each park proposal was reviewed and scored independently by staff from Parks Design & Construction and Park Operations with assistance from staff in Purchasing and Supply. Each submission was evaluated based only on the information provided by the proponent. The City determined the successful proponent using a lowest price per point

evaluation. Equal weighting was given to point-rated and bid price, and best value was calculated using the following formula:

$$\text{Total \$ Price} / \text{Total Technical Score} = \$ \text{ Price per Point}$$

A two-stage process was used. Stage one determined the proponent's technical score which was based on the average score of each evaluator. Stage two included the proponent's price submission. The technical proposal was evaluated first prior to opening of the price submissions for evaluation. The successful proponents were determined using the lowest price per point identified in the formula above.

2.2 General Evaluation Criteria

All proposals were evaluated based on the following four criteria. Each criteria had a specific weighting and was rated on a scale from 0 to 10. To determine a proponent's technical score, all evaluators' scores were averaged for each criteria.

- Criteria 1: Play Value
- Criteria 2: Accessibility
- Criteria 3: Aesthetics
- Criteria 4: Experience/References/Scheduling

2.3 Accessibility Criteria

In early 2020, a sub-committee of the Accessibility Advisory Committee assisted staff in Parks Planning in updating the standard accessibility criteria for new playgrounds.

Kiwanis Park is the only district park or City-wide level park included in the RFP. The other seven parks are neighbourhood level parks. Criteria F identified rubber play surfacing as the preferred surfacing for district and City-wide parks. However, in Kiwanis Park, we are only replacing the existing junior equipment within the existing play area and keeping the senior equipment (approximately half of the equipment). We will be retaining the newer play components that were installed in 2015. Most of the existing play surfacing will be reused or used to top of the nearby multi-person swing area and new engineering wood fiber will be added to the main play area. There are two existing curb depressions providing accessible entrance to the ground level and direct ramp connection to the main existing play component, all of which will be maintained.

2.4 Project Timing

Proponents included a schedule in their proposal identifying they would be able to supply and install new play equipment between July 1 and Aug 30, 2023, if a purchase order was issued from the City in March 2023. Staff from Parks Design & Construction will coordinate with the general contractors and installers to have all installations and related park improvements substantially completed by the Fall of 2023.

3.0 Financial Impact/Considerations

Sources of financing for this project are identified in Appendix A and can be accommodated within existing Parks Capital Programs.

Conclusion

The City has completed a fair and competitive Request for Proposal in accordance with Section 12.0 of the Procurement of Goods and Services Policy to purchase new playground equipment for Carriage Hill Park, Cayuga Park, Jaycee Park, St. Lawrence Park, Upperpoint Park, Kiwanis Park, Thompson Ravine Park, and Pawnee Park. With Council's approval, awarding the RFP to the successful proponents will lead to the play equipment being replaced throughout the summer of 2023.

Prepared by: Eric Conway,
Landscape Architect, Parks Design & Construction

Submitted by: **Scott Stafford**
Director, Parks and Forestry

Recommended by: **Kelly J. Scherr**
Deputy City Manager, Environment & Infrastructure

Attachments:

Source of Financing – Appendix A

Y:\Shared\parksplanning\Tenders_RFP\Tenders-2022\RFP2022-308 - Playground Equipment for Multiple Parks\Report\RFP2022-308 - Award Report - Design, Supply, and Installation of Typical Playground Equipment for Multiple Parks - February 2023.docx

Appendix "A"

#23040

February 22, 2023
(Award Contract)

Chair and Members
Community and Protective Services Committee

RE: RFP 2022-308 - Design, Supply and Installation of Typical Playground Equipment for Multiple Parks
(Subledger PK230001)

Capital Project PK102320 - Maintain District Parks
Capital Project PK138219 - Neighbourhood Parks (2019-2023)
Capital Project PK128220 - Maintain Neighbourhood Parks
Capital Project PK302020 - Maintain Urban Parks
Park N Water - \$181,883.52 (excluding HST)
New World Park Solutions Incorporated - \$150,000.00 (excluding HST)

Finance Supports Report on the Sources of Financing:

Finance Supports confirms that the cost of this project can be accommodated within the financing available for it in the Capital Budget and that, subject to the approval of the recommendation of the Deputy City Manager, Environment and Infrastructure, the detailed source of financing is:

Estimated Expenditures	Approved Budget	Committed To Date	This Submission	Balance for Future Work
PK102320 - Maintain District Parks				
Engineering	143,456	93,717	0	49,739
Construction	3,686,843	2,126,095	225,789	1,334,959
City Related Expenses	3,315	3,315	0	0
PK102320 Total	3,833,614	2,223,127	225,789	1,384,698
PK138219 - Neighbourhood Parks (2019-2023)				
Engineering	250,407	407	0	250,000
Construction	1,104,678	277,892	35,616	791,170
City Related Expenses	515	515	0	0
PK138219 Total	1,355,600	278,814	35,616	1,041,170
PK128220 - Maintain Neighbourhood Parks				
Engineering	136,850	36,850	0	100,000
Construction	2,390,031	1,959,327	20,352	410,352
City Related Expenses	309	309	0	0
PK128220 Total	2,527,190	1,996,486	20,352	510,352
PK302020 - Maintain Urban Parks				
Engineering	191,966	53,804	0	138,162
Construction	1,850,415	807,255	55,968	987,192
PK302020 Total	2,042,381	861,059	55,968	1,125,354
Total Expenditures	\$9,758,785	\$5,359,486	\$337,725	\$4,061,574

Sources of Financing

PK102320 - Maintain District Parks				
Capital Levy	3,583,614	1,973,127	225,789	1,384,698
Corporate Sponsorship	250,000	250,000	0	0
PK102320 Total	3,833,614	2,223,127	225,789	1,384,698

Appendix "A"

#23040

February 22, 2023

(Award Contract)

Chair and Members

Community and Protective Services Committee

RE: RFP 2022-308 - Design, Supply and Installation of Typical Playground Equipment for Multiple Parks

Sources of Financing Continued	Approved Budget	Committed To Date	This Submission	Balance for Future Work
PK138219 - Neighbourhood Parks (2019-2023)				
Capital Levy	41,300	35,059	4,478	1,763
Debenture Quota (Note 2)	129,157	0	0	129,157
Drawdown from City Services - Parks and Recreation Reserve Fund (Development Charges) (Note 1)	1,185,143	243,755	31,138	910,250
PK138219 Total	1,355,600	278,814	35,616	1,041,170
PK128220 - Maintain Neighbourhood Parks				
Capital Levy	2,474,598	1,992,318	20,352	461,928
Drawdown from Capital Infrastructure Gap Reserve Fund	24,212	0	0	24,212
Drawdown from Parks Renewal Reserve Fund	24,212	0	0	24,212
Other Contributions	4,168	4,168	0	0
PK128220 Total	2,527,190	1,996,486	20,352	510,352
PK302020 - Maintain Urban Parks				
Capital Levy	1,860,500	831,178	55,968	973,354
Drawdown from Capital Infrastructure Gap Reserve Fund	76,000	0	0	76,000
Drawdown from Parks Renewal Reserve Fund	76,000	0	0	76,000
Government Grant	29,881	29,881	0	0
PK302020 Total	2,042,381	861,059	55,968	1,125,354
Total Financing	\$9,758,785	\$5,359,486	\$337,725	\$4,061,574
Financial Note - Park N Water:			Park N Water Total	
Contract Price	PK102320J	PK138219E		
	146,884	35,000		181,884
Add: HST @13%	19,095	4,550		23,645
Total Contract Price Including Taxes	165,979	39,550		205,529
Less: HST Rebate	-16,510	-3,934		-20,444
Net Contract Price	\$149,469	\$35,616		\$185,085
Financial Note - New World:			New World Total	
Contract Price	PK102320L	PK128220P	PK302020H	
	75,000	20,000	55,000	150,000
Add: HST @13%	9,750	2,600	7,150	19,500
Total Contract Price Including Taxes	84,750	22,600	62,150	169,500
Less: HST Rebate	-8,430	-2,248	-6,182	-16,860
Net Contract Price	\$76,320	\$20,352	\$55,968	\$152,640
Financial Note - Total:				
Contract Price	331,884			
Add: HST @13%	43,145			
Total Contract Price Including Taxes	375,029			
Less: HST Rebate	-37,304			
Net Contract Price	\$337,725			

Note 1: Development charges have been utilized in accordance with the underlying legislation and the approved 2019 Development Charges Background Study and the 2021 Development Charges Background Study Update.

Note 2: Note to City Clerk: Administration hereby certifies that the estimated amounts payable in respect of this project does not exceed the annual financial debt and obligation limit for the Municipality from the Ministry of Municipal Affairs in accordance with the provisions of Ontario Regulation 403/02 made under the Municipal Act, and accordingly the City Clerk is hereby requested to prepare and introduce the necessary by-laws.

An authorizing by-law should be drafted to secure debenture financing for project PK138219 - Neighbourhood Parks (2019-2023) for the net amount to be debentured of \$129,157.00.

Jason Davies
Manager of Financial Planning & Policy

lp

Report to Community & Protective Services Committee

To: Chair and Members
Community & Protective Services Committee

From: Kelly J. Scherr
Deputy City Manager, Environment & Infrastructure

Subject: Request for Proposal 2022-306 – Hyde Park Village Green
Natural Playground Equipment and Rubber Safety Surfacing
– Irregular Result

Date: February 22, 2023

Recommendation

That, on the recommendation of the Deputy City Manager, Environment & Infrastructure, the following actions **BE TAKEN** with respect to the Request for Proposal 2022-306 Hyde Park Village Natural Playground Equipment and Rubber Safety Surfacing:

- (a) The bid submitted by Earthscape Play Inc., 7215 Wellington Road 86, Wallenstein, ON, N0B 2S0, for Natural Playground Equipment and Rubber Safety Surfacing at Hyde Park Village Green in accordance with RFP2022-306, at its bid price of \$149,805.92 excluding HST **BE ACCEPTED**; it being noted that the bid submitted by Earthscape Play Inc. was the only bid received that meets the City's specifications and requirements in all areas;
- (b) The financing for this project **BE APPROVED** as set out in the Sources of Financing Report attached as Appendix "A";
- (c) The Civic Administration **BE AUTHORIZED** to undertake all the administrative acts that are necessary in connection with this project; and,
- (d) The Mayor and City Clerk **BE AUTHORIZED** to execute any contract or other documents, if required, to give effect to these recommendations.

Executive Summary

The City completed a competitive Request for Proposal (RFP) process in accordance with Section 12 of the Procurement of Goods and Services Policy, seeking proposals for natural playground equipment and rubber safety surfacing at Hyde Park Village Green (1695 Hyde Park Road). Proposals were received from 2 proponents and evaluated based on the four primary criteria included in the RFP. Proposals were evaluated separately by staff in Park Operations and Parks Design and Construction. Only one of the proposals met the minimum requirements of the technical review. Only the bid pricing for the qualified proposal was opened following the technical review. Usually, the successful proponent would be determined using a lowest price per point methodology. In this case, there is only one bid, which constitutes an Irregular Result, but the bid price is still within the budget identified for this project.

Linkage to the Corporate Strategic Plan

This project builds on Council's strategic priorities:

1. Strengthening Our Community – London's neighbourhoods have a strong character and sense of place.
2. Growing Our Economy - investment in the parks and recreation system attracts growth and investment and revitalizes existing park infrastructure.

Analysis

1.0 Background Information

1.1 Previous Reports Related to this Matter

None.

1.2 Current Status of Park

Hyde Park Village Green is being upgraded to an urban park that can better support local community events, as well as area residents. This has been requested for many years by the Hyde Park Business Improvement Area (BIA), local businesses and individuals. Following a community survey in March 2022, a detailed concept plan was prepared for this project. Phase 1 of work is under construction and planned for completion by June 2023. It includes a new plaza space that can be used for events, enhanced pathways throughout the park, a garden of reflection, landscaped entrances, site furniture and more trees. This first phase is being funded mostly by a grant from the Federal Economic Development Agency for Southern Ontario.

The proposed natural playground with rubber safety surfacing is included in Phase 2 of work, along with outdoor musical instruments, a wood deck, a community table, and site furniture. Some of the work in this phase is sponsored by the Hyde Park BIA. Construction for the natural playground is scheduled to start after the first phase is finished and be completed by Fall 2023.

1.3 Proposed Natural Playground Equipment

The request for proposal seeks proposals for natural play equipment with rubber safety surfacing at Hyde Park Village Green. The park is located beside a large storm water management pond, which is visited by migrating birds and insects. The presence of native trees and shrubs planted on the edges of the pond, as well as naturally occurring herbaceous plants create a natural landscape that is enjoyed by neighbourhood residents. While the park is being enhanced as a new event park, the playground is intended to complement the natural surroundings of this outdoor environment.

The City has defined natural play equipment as: equipment that is made of natural materials (such as wood) or other elements (such as tree logs or boulders) instead of a traditional steel playground structure that includes plastic slides and climbers in vibrant colours.

1.4 Request for Proposal

In accordance with Section 12 of the Procurement of Goods and Policy, a request for proposal was prepared and advertised via bids and tenders. The RFP was seeking new natural playground equipment proposals with rubber safety surfacing for Hyde Park Village Green. Each proposal was evaluated separately. The RFP was published on December 16, 2022, and subsequently closed on January 23, 2022. 2 proposals were received.

The schedule included with the RFP requested installation between June 15 and September 15, 2023. The successful proposal identified they could meet that deadline if awarded the project in March 2023.

2.0 Discussion and Considerations

2.1 RFP Evaluation Process

Each park proposal was reviewed and scored independently by staff from Park Operations and Parks Design and Construction, with assistance from staff in

Purchasing and Supply. Each submission was evaluated based only on the information provided by the proponent.

Typically, the successful proponent would be determined using a lowest price per point methodology which factors technical scores, along with the proposed price, to determine the proposal providing the best value for the City.

As usual, a two-stage process was used. Stage one determined the proponent's technical score which was based on the average score of each evaluator, prior to opening of the price submissions for evaluation in Stage two. In this case, only one of the proponents was qualified through the technical score, so only one price submission was opened, which constitutes an Irregular Result as per section 8.10 of the Procurement of Goods and Services Policy. The successful proposal does however meet the City's specification and requirements in all areas. The bid price of the successful proponent was within the allocated budget for the project.

2.2 General Evaluation Criteria

All proposals were evaluated based on the following four criteria. Each criteria had a specific weighting and was rated on a scale from 0 to 10. To determine a proponent's technical score, all evaluators' scores were averaged for each criteria.

- Criteria 1: Play Value
- Criteria 2: Accessibility
- Criteria 3: Aesthetics
- Criteria 4: Experience/References/Scheduling

2.3 Project Timing

Proponents included a schedule in their proposal identifying they would be able to supply and install new play equipment between June 15 and September 15, 2023, if a purchase order was issued from the City in March 2023. Parks Design & Construction staff will work with the proponent, general contractor, and community representatives to schedule installation following Pond Fest.

3.0 Financial Impact/Considerations

Sources of financing for this project are identified in Appendix A and can be accommodated within existing Parks Capital Programs.

Civic Administration will follow the usual process to prepare a 2024 Assessment Growth business case to provide the necessary funding for the increased costs to maintain this new playground, estimated at \$10,000 per year.

Conclusion

The City has completed a fair and competitive Request for Proposal in accordance with Section 12.0 of the Procurement of Goods and Services Policy to purchase Natural Playground Equipment and Rubber Safety Surfacing for Hyde Park Village Green. With Council's approval, awarding the RFP to the successful proponent will lead to the new natural play equipment installed in the summer of 2023.

Prepared by: Julie Michaud,
Landscape Architect, Parks Design & Construction

Submitted by: Scott Stafford
Director, Parks and Forestry

Recommended by: Kelly J. Scherr
Deputy City Manager, Environment & Infrastructure

Attachments:

Source of Financing – Appendix A

Y:\Shared\parksplanning\Tenders_RFP\Tenders-2022\RFP- HPVGNaturalPlayground\Report\RFP2022-306 - Award Report - Hyde Park Village Green Natural Playground Equipment and Rubber Safety Surfacing - February 2023.docx

Appendix "A"

#23025

February 22, 2023

(Award Contract)

Chair and Members

Community and Protective Services Committee

RE: Request for Proposal 2022-306 - Hyde Park Village Green Natural Playground Equipment and Rubber Safety Surfacing - Irregular Result

(Subledger P4762101)

Capital Project PK302020 - Maintain Urban Parks

Earthscape Play Inc. - \$149,805.92 (excluding HST)

Finance Supports Report on the Sources of Financing:

Finance Supports confirms that the cost of this project can be accommodated within the financing available for it in the Capital Budget and that, subject to the approval of the recommendation of the Deputy City Manager, Environment and Infrastructure, the detailed source of financing is:

Estimated Expenditures	Approved Budget	Committed To Date	This Submission	Balance for Future Work
Engineering	191,966	53,804	0	138,162
Construction	1,850,415	654,812	152,443	1,043,160
Total Expenditures	\$2,042,381	\$708,616	\$152,443	\$1,181,322

Sources of Financing

Capital Levy	1,860,500	678,735	152,443	1,029,322
Drawdown from Capital Infrastructure Gap Reserve Fund	76,000	0	0	76,000
Drawdown from Parks Renewal Reserve Fund	76,000	0	0	76,000
Government Grant	29,881	29,881	0	0
Total Financing	\$2,042,381	\$708,616	\$152,443	\$1,181,322

Financial Note:

	PK302020I
Contract Price	\$149,806
Add: HST @13%	19,475
Total Contract Price Including Taxes	169,281
Less: HST Rebate	-16,838
Net Contract Price	\$152,443

Note 1: There will be annual operating costs of \$10,000.

Jason Davies

Manager of Financial Planning & Policy

jg

Report to Community & Protective Services Committee

To: Chair and Members
Community & Protective Services Committee

From: Kelly J. Scherr, P. Eng., MBA, FEC
Deputy City Manager, Environment and Infrastructure

Subject: Strategic Priorities Infrastructure Fund for Foxfield District Park – Transfer Payment Agreement

Date: February 22, 2023

Recommendation

That, on the recommendation of the Deputy City Manager, Environment and Infrastructure, the following actions be taken:

- a) The attached proposed by-law (Appendix “A”) **BE INTRODUCED** at the Municipal Council meeting on March 7, 2023, to:
 - i. Approve the Transfer Payment Agreement, attached as Schedule A to the proposed by-law, for the Strategic Priorities Infrastructure Fund (the “Agreement”) between His Majesty the King in Right of Ontario as represented by the Minister of Infrastructure and The Corporation of the City of London;
 - ii. authorize the Mayor and the City Clerk to execute the Agreement;
 - iii. delegate authority to the Deputy City Manager, Environment and Infrastructure, or their written delegate, to approve further Amending Agreements to the above-noted Transfer Payment Agreement for the Strategic Priorities Infrastructure Fund;
 - iv. authorize the Mayor and Clerk to execute any amending agreements approved by the Deputy City Manager, Environment and Infrastructure; and
 - v. authorize the Deputy City Manager, Environment and Infrastructure, or their written delegate, to execute any financial reports required under this Agreement and to undertake all administrative, financial, and reporting acts necessary in connection with the Agreement.
- b) Civic Administration **BE AUTHORIZED** to undertake all administrative acts that are necessary in connection with this matter.

Executive Summary

This report recommends that The Corporation of the City of London enter into the Transfer Payment Agreement between His Majesty the King in Right of Ontario as represented by the Minister of Infrastructure (the “Province”) and The Corporation of the City of London (the “Recipient”), attached as Schedule A to the proposed by-law, for funding of Foxfield District Park through the Strategic Priorities Infrastructure Fund.

Linkage to the Corporate Strategic Plan

Strategic Area of Focus:

- Strengthening our Community
- Building a Sustainable City

Outcome:

- Londoners have access to the services and supports that promote well-being, health, and safety in their neighbourhoods and across the city

- London’s infrastructure is built, maintained, and operated to meet the long-term needs of our community

Expected Result:

- Increase participation in recreation, sport, and leisure activities

Analysis

1.0 Background Information

1.1 Previous Reports Related to this Matter

None

1.2 Background and Purpose

The City of London acquired Foxfield District Park through the subdivision development process in 2011. Public input into the 4.5-hectare park design occurred in 2012 and the eastern 2.5 hectares of Foxfield Park was subsequently constructed in 2013. Construction of the western 2.0 hectares was supposed to be integrated with construction of the Foxhollow Storm Water Management Facility #3 in 2017. However, an addendum to the SWMF #3 project resulted in originally anticipated storm infrastructure in Foxhollow District Park not being required and the western 2.0 hectares of the park not being graded, serviced, or constructed in conjunction with SWMF #3. Since 2017, the city has been applying for various infrastructure programs to properly finance the remaining construction at Foxfield District Park, estimated at \$4.2M.

Key elements to be added include:

1. Grade and service western portion of park (storm sewers, water, sanitary, electrical)
2. New premier grass sport field with irrigation and sport field lighting
3. New spray pad and new field house/washrooms
4. Expansion/upgrades to existing multi-use courts to accommodate two (2) additional pickle ball courts
5. Upgrade existing lights on multi-use courts, from flood lights to modern LED down lights
6. Extend Park pathway system and pathway lighting
7. Addition of rubber safety surface in existing playground circles
8. Potential parking lot upgrades

Conceptual design and public engagement have been completed. The project is currently through the detailed design stage and is awaiting Site Plan approval. Tender is planned for March 2023 with a construction start date in the summer of 2023. We anticipate this project to be substantially complete in 2024.

In September of 2022, the city received confirmation that a \$3,079,860.00 (or 73.33% support) Provincial grant was approved under the Strategic Priorities Infrastructure Fund - Sport and Community Renewal sub-stream (SPIF-SCR).

On February 3, 2023, London received the Transfer Payment Agreement and high-level guidelines for this program. It is requested that the agreement must be executed and returned to the Province by March 10, 2023. Eligible expenses financed through this funding must be incurred between January 12, 2022, the project approval date, and March 31, 2027, the project substantial completion date. Municipalities are required to provide details of their project(s) in semi-annual progress reports. The final report on the use of this funding is due within 60 business days of substantial completion.

The purpose of this report is to present the Transfer Payment Agreement and introduce a by-law to seek approval for the Mayor and Clerk to execute the agreement with the Province.

2.0 Discussion and Considerations

2.1 Transfer Payment Agreement

On February 3, 2023, Civic Administration received the transfer payment agreement from the Province (Schedule A to the by-law in Appendix A).

The Transfer Payment Agreement is the same as the agreements executed for similar funding programs, other than the project specifics and the approved amount included in the Schedules to the agreement.

3.0 Financial Impact/Considerations

This project was approved for \$4.2 million (total project value). Receipt of provincial funding through the Strategic Priorities Infrastructure Fund will finance 73.33% of the eligible cost of this project, up to the approved amount of \$3,079,860.00. The City of London is responsible for contributing 26.67% of total eligible project costs or \$1,120,140.00. Sources of financing for this portion of the project are identified and can be accommodated within existing approved Parks and Recreation Capital Programs.

The provincial funding is conditional on the City entering into a comprehensive Transfer Payment Agreement (TPA) with the Province. Construction must be complete by March 2027. The City is responsible for any cost overruns that may incur throughout the course of the project.

Civic Administration will include an assessment growth request in the Parks Operations operating budget to address the increased costs of maintaining the additional growth related amenities in Foxfield District Park.

Conclusion

This report introduces a by-law to seek approval of the Transfer Payment Agreement between His Majesty the King in Right of Ontario as represented by the Minister of Infrastructure for the Province of Ontario and The Corporation of the City of London with respect to the Strategic Priorities Infrastructure Fund and authorizes the Mayor and the City Clerk to execute the agreement and any future amending agreements.

Prepared by: Julie Michaud,
Landscape Architect, Parks Long Range Planning &
Design

Submitted by: Scott Stafford
Director, Parks and Forestry

Recommended by: Kelly J. Scherr, P.Eng., MBA, FEC
Deputy City Manager, Environment and Infrastructure

Attachments:
Appendix A - By-law
Schedule A – Transfer Payment Agreement

cc: Lynne Livingstone, City Manager
Anna Lisa Barbon, Deputy City Manager, Finance Supports

Appendix “A”

Bill No.
2023

By-law No.

A by-law to approve and authorize the execution of the Transfer Payment Agreement between His Majesty the King in Right of the Province of Ontario, as represented by the Minister of Infrastructure for the Province of Ontario and The Corporation of the City of London for the provision of funding under the Strategic Priorities Infrastructure Fund

WHEREAS subsection 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 subsection 10(1) of the *Municipal Act, 2001* provides that a municipality may provide any service or thing that the municipality considers necessary or desirable for the public;

AND WHEREAS subsection 10(2) of the *Municipal Act, 2001* provides that a municipality may pass by-laws respecting the financial management of the municipality;

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

1. The Transfer Payment Agreement between His Majesty the King in Right of the Province of Ontario, as represented by the Minister of Infrastructure and The Corporation of the City of London for the provision of funding under the Strategic Priorities Infrastructure Fund (the “Agreement”) substantially in the form attached as Schedule “A” to this by-law is hereby authorized and approved.
2. The Mayor and the City Clerk are hereby authorized to execute the Transfer Payment Agreement authorized and approved under section 1 of this by-law.
3. The Deputy City Manager, Environment and Infrastructure or their written delegate is hereby authorized to approve any amending agreements to the Agreement provided the amending agreements do not increase the indebtedness or liabilities of The Corporation of the City of London under the Agreement.
4. The Mayor and Clerk are hereby authorized to execute any amending agreements approved by the Deputy City Manager, Environment and Infrastructure under section 3 of this by-law.
5. The Deputy City Manager, Environment and Infrastructure or their written delegate is delegated the authority to execute any financial reports required under the Agreement and to undertake all administrative, financial, and reporting acts necessary in connection with the Agreement as approved in section 1, above.

6. This by-law shall come into force and effect on the day it is passed.
PASSED in Open Council on March 7th, 2023

Josh Morgan
Mayor

Michael Schulthess
City Clerk

First Reading –
Second Reading –
Third Reading –

**TRANSFER PAYMENT AGREEMENT
FOR THE STRATEGIC PRIORITIES INFRASTRUCTURE FUND**

THIS TRANSFER PAYMENT AGREEMENT for a Strategic Priorities Infrastructure Fund Project (the “Agreement”) is effective as of the Effective Date.

B E T W E E N:

**His Majesty the King in right of the Province of Ontario,
as represented by the Minister of Infrastructure**

(the “Province”)

- and -

The Corporation of the City of London

(CRA# 119420883)

(the “Recipient”)

BACKGROUND

The Government of Ontario created the Strategic Priorities Infrastructure Fund to support, in part, large-scale new builds and expansions of community, culture and recreation infrastructure.

The Recipient is eligible to receive funding under the Strategic Priorities Infrastructure Fund.

CONSIDERATION

In consideration of the mutual covenants and agreements contained in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which are expressly acknowledged, the Province and the Recipient agree as follows:

1.0 ENTIRE AGREEMENT

1.1 Schedules to the Agreement. The following schedules form part of the Agreement:

Schedule “A” - General Terms and Conditions

Schedule “B” - Specific Information

Schedule “C” - Project Description, Financial Information, and Project Standards

Schedule “D” - Reports

Schedule “E” - Eligible Expenditures and Ineligible Expenditures
Schedule “F” - Evaluation
Schedule “G” - Communications Protocol
Schedule “H” - Disposal of Assets
Schedule “I” - Indigenous Consultation Protocol
Schedule “J” - Requests for Payment and Payment Procedures
Schedule “K” - Committee

1.2 **Entire Agreement.** The Agreement constitutes the entire agreement between the Parties in respect to the subject matter contained in the Agreement and supersedes all prior oral or written representations and agreements.

2.0 CONFLICT OR INCONSISTENCY

2.1 **Conflict or Inconsistency.** In the event of a conflict or inconsistency between the provisions of:

- (a) the main body of the Agreement and the provisions of a schedule, the provisions of the main body of the Agreement will prevail to the extent of the conflict or inconsistency;
- (b) Schedule “A” (General Terms and Conditions) and the provisions of another schedule, the provisions of Schedule “A” (General Terms and Conditions) will prevail to the extent of the conflict or inconsistency.

3.0 COUNTERPARTS

3.1 **One and the Same Agreement.** The Agreement may be executed in any number of counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument. Counterparts may be executed either in original or other electronic form and the Parties shall adopt any signatures received via e-mail as original signatures of the Parties.

4.0 AMENDING THE AGREEMENT

4.1 **Amending the Agreement.** The Agreement may only be amended by a further written agreement duly executed by the authorized representatives of the Parties.

5.0 ACKNOWLEDGEMENT

5.1 **Acknowledgement from Recipient.** The Recipient acknowledges that:

- (a) by receiving Funds it may become subject to legislation applicable to organizations that receive funding from the Government of Ontario, including the *Broader Public Sector Accountability Act, 2010* (Ontario), the *Public Sector Salary Disclosure Act, 1996* (Ontario), and the *Auditor General Act* (Ontario);
- (b) His Majesty the King in right of Ontario has issued expenses, perquisites, and procurement directives and guidelines pursuant to the *Broader Public Sector Accountability Act, 2010* (Ontario);
- (c) the Funds are:
 - i. to assist the Recipient to carry out the Project and not to provide goods or services to the Province;
 - ii. funding for the purposes of the *Public Sector Salary Disclosure Act, 1996* (Ontario);
- (d) the Province is not responsible for carrying out the Project;
- (e) the Province is bound by the *Freedom of Information and Protection of Privacy Act* (Ontario) and that any information provided to the Province in connection with the Agreement may be subject to disclosure in accordance with that Act; and
- (f) pursuant to the *Financial Administration Act* (Ontario), any payment of Funds is subject to an appropriation from the Ontario Legislature; if the Province does not receive the necessary appropriation, the Province is not obligated to make any such payment and the Province:
 - (i) will terminate the Agreement immediately without liability, penalty, or costs, by giving Notice to the Recipient;
 - (ii) will cancel further instalments of Funds;
 - (iii) will demand from the Recipient the payment of any Funds remaining in the possession or under the control of the Recipient; and
 - (iv) may determine the reasonable costs for the Recipient to wind down the Project and permit the Recipient to offset such costs against the amount owing pursuant to section 5.1(f)(iii).

5.2 **Acknowledgement from Province.** The Province acknowledges that the Recipient may be bound by the *Municipal Freedom of Information and Protection of Privacy Act* (Ontario) and any information provided to the Recipient in connection with any Project or otherwise in connection with the Agreement may be subject to disclosure in accordance with that Act.

[SIGNATURE PAGE FOLLOWS]

The Parties have executed the Agreement on the dates set out below.

**HIS MAJESTY THE KING IN RIGHT OF ONTARIO as
represented by the Minister of Infrastructure**

Date

p.p. Jill Vienneau, Assistant Deputy Minister
The Honourable Kinga Surma
Minister of Infrastructure

AFFIX
CORPORATE
SEAL

THE CORPORATION OF THE CITY OF LONDON

Date

Name:
Title:

I have authority to bind the Recipient.

Date

Name:
Title:

I have authority to bind the Recipient.

[SCHEDULE "A" (GENERAL TERMS AND CONDITIONS) FOLLOWS]

SCHEDULE “A” GENERAL TERMS AND CONDITIONS

A.1.0 INTERPRETATION AND DEFINITIONS

A.1.1 **Interpretation.** For the purposes of interpretation:

- (a) words in the singular include the plural and vice-versa;
- (b) words in one gender include all genders;
- (c) the headings do not form part of the Agreement; they are for information and reference only and will not affect the interpretation of the Agreement;
- (d) any reference to dollars or currency will be in Canadian dollars and currency;
- (e) “include”, “includes”, and “including” denote that the subsequent list is not exhaustive.

A.1.2 **Definitions.** In the Agreement, the following terms have the following meanings:

“Agreement” means this agreement entered into between the Province and the Recipient, all of the schedules listed in section 1.1, and any amending agreement entered into pursuant to section 4.1.

“Approval Date” means the date on which the Province has approved the Project identified in Schedule “C” (Project Description, Financial Information, and Project Standards).

“Asset” means any real or personal property, or immovable or movable asset, acquired, purchased, constructed, rehabilitated, or improved, in whole or in part, with any of the Funds.

“Authorities” means any government authority, agency, body or department having or claiming jurisdiction over the Agreement or the Project, or both.

“Business Day” means any working day the Province is open for business, Monday to Friday inclusive, excluding statutory and other holidays, namely: New Year’s Day; Family Day; Good Friday; Easter Monday; Victoria Day; Canada Day; Civic Holiday; Labour Day; Thanksgiving Day; Remembrance Day; Christmas Day; Boxing Day; and any other statutory or other holiday on which the Province is not open for business.

“Committee” refers to a Committee established pursuant to section A.28.1 (Establishment of Committee).

“Communications Activities” means, but is not limited to, public or media events or

ceremonies including key milestone events, news releases, reports, web and social media products or postings, blogs, news conferences, public notices, physical and digital signs, publications, success stories and vignettes, photos, videos, multi-media content, advertising campaigns, awareness campaigns, editorials, multi-media products, and all related communication materials under the Agreement.

“Contract” means a contract between the Recipient and a Third Party whereby the Third Party agrees to supply goods or services, or both, in respect of the Project in return for financial consideration.

“Effective Date” means the date of signature by the last signing party to the Agreement.

“Eligible Expenditures” means the costs in respect of the Project that the Recipient has incurred and paid and that are eligible for payment under the terms and conditions of the Agreement, and that are further described in Schedule “E” (Eligible Expenditures and Ineligible Expenditures).

“Environmental Laws” means all applicable governmental laws, regulations, by-laws, orders, rules, policies, or guidelines respecting the protection of the natural environment or the public, and the manufacture, importation, handling, transportation, storage, disposal, and treatment of environmental contaminants.

“Evaluation” means an evaluation in respect of the Project or the Program as described in Article F.1.0 (Project and Program Evaluations).

“Event of Default” has the meaning ascribed to it in section A.13.1 (Events of Default).

“Expiry Date” means the expiry date set out in Schedule “B” (Specific Information).

“Funding Year” means:

- (a) in the case of the first Funding Year, the period commencing on the Effective Date and ending on the following March 31; and
- (b) in the case of Funding Years subsequent to the first Funding Year, the period commencing on April 1 following the end of the previous Funding Year and ending on the following March 31 or the Expiry Date, whichever is first.

“Funds” means the money the Province provides to the Recipient pursuant to the Agreement.

“Holdback” has the meaning as set out in section A.4.12 (Retention of Contribution).

“Indemnified Parties” means His Majesty the King in right of Ontario, and includes His ministers, agents, appointees and employees.

“Indigenous Communities” has the meaning ascribed to it in section I.1.1 (Definitions).

“Indigenous Consultation Record” has the meaning ascribed to it in section I.1.1 (Definitions).

“Ineligible Expenditures” means the costs that are ineligible for payment under the terms and conditions of the Agreement and that are described in Schedule “E” (Eligible Expenditures and Ineligible Expenditures).

“Interest or Interest Earned” means the amount of money earned by the Recipient from placing the Funds in an interest bearing account as set out in section A.4.4 (Interest-Bearing Account), and includes any and all interest or other income generated from the Funds.

“Loss” means any cause of action, liability, loss, cost, damage, or expense (including legal, expert, and consultant fees) that anyone incurs or sustains as a result of or in connection with the Project or any part of the Agreement.

“Maximum Funds” means the maximum Funds amount set out in Schedule “B” (Specific Information).

“Notice” means any communication given or required to be given pursuant to the Agreement.

“Parties” means the Province and the Recipient.

“Party” means either the Province or the Recipient.

“Percentage of Provincial Support” has the meaning ascribed to it in section C.2.2.

“Person” means, without limitation, a person, the Recipient, a Third Party, a corporation, or any other legal entity, and their officers, servants, employees, or agents.

“Proceeding” means any action, claim, demand, lawsuit, or other proceeding that anyone makes, brings, or prosecutes as a result of or in connection with the Project or with any other part of the Agreement.

“Project” means the undertaking described in Schedule “C” (Project Description, Financial Information, and Project Standards).

“Records Review” means any assessment the Province conducts pursuant to

section A.7.4 (Records Review).

“Remedial Period” means the period of time within which the Recipient is required to remedy an Event of Default, pursuant to paragraph A.13.3 (b), and includes any such period or periods of time by which the Province extends that time in accordance with section A.13.4 (Recipient Not Remediating).

“Reports” means the reports described in Schedule “D” (Reports).

“Requirements of Law” means all applicable requirements, laws, statutes, codes, acts, ordinances, approvals, orders, decrees, injunctions, by-laws, rules, regulations, official plans, permits, licences, authorizations, directions, and agreements with all Authorities, and includes the Environmental Laws.

“Substantial Completion” or **“Substantially Completed”** means that the Project can be used for the purpose for which it was intended.

“Term” means the period of time described in section A.3.1 (Term).

“Third Party” means any person or legal entity, other than a Party, who participates in the implementation of the Project by means of a Contract.

“Total Eligible Expenditures” has the meaning ascribed to it in section C.2.1.

A.2.0 REPRESENTATIONS, WARRANTIES, AND COVENANTS

A.2.1 General. The Recipient represents, warrants, and covenants that:

- (a) it is, and will continue to be, a validly existing legal entity with full power to fulfill its obligations under the Agreement;
- (b) it has, and will continue to have, the experience and expertise necessary to carry out the Project;
- (c) it is in compliance with, and will continue to comply with, all Requirements of Law related to any aspect of the Project, the Funds, or both;
- (d) unless otherwise provided for in the Agreement, any information the Recipient provided to the Province in support of its request for Funds (including, without limitation, any information relating to any eligibility requirements) was true and complete at the time the Recipient provided it and will continue to be true and complete.

A.2.2 Execution of Agreement. The Recipient represents and warrants that it has:

- (a) the full power and authority to enter into the Agreement; and
- (b) taken all necessary actions to authorize the execution of the Agreement, including passing a municipal by-law or band council resolution authorizing the Recipient to enter into the Agreement.

A.2.3 **Governance.** The Recipient represents, warrants, and covenants that it has, will maintain in writing, and will follow:

- (a) a code of conduct and ethical responsibilities for all persons at all levels of the Recipient's organization;
- (b) procedures to enable the Recipient's ongoing effective functioning;
- (c) decision-making mechanisms for the Recipient;
- (d) procedures to enable the Recipient to manage Funds prudently and effectively;
- (e) procedures to enable the Recipient to complete the Project successfully;
- (f) procedures to enable the Recipient to identify risks to the completion of the Project and strategies to address the identified risks, all in a timely manner;
- (g) procedures to enable the preparation and submission of all Reports required pursuant to Article A.7.0; and
- (h) procedures to enable the Recipient to address such other matters as the Recipient considers necessary to enable the Recipient to carry out its obligations under the Agreement

A.2.4 **Supporting Proof.** Upon the request of the Province, the Recipient will provide the Province with proof of the matters referred to in this Article A.2.0 (Representations, Warranties, and Covenants).

A.3.0 TERM OF THE AGREEMENT AND SUBSTANTIAL COMPLETION

A.3.1 **Term.** The term of the Agreement will commence on the Effective Date and will expire on the Expiry Date unless terminated earlier pursuant to section 5.1(f), Article A.12.0 (Termination on Notice) or Article A.13.0 (Event of Default, Corrective Action, and Termination for Default).

A.3.2 **Substantial Completion.** The Recipient will ensure that the Project is Substantially Completed on or before March 31, 2027.

A.4.0 FUNDS AND CARRYING OUT THE PROJECT

A.4.1 Funds Provided. The Province will:

- (a) provide the Recipient funding up to the Maximum Funds for the sole purpose of carrying out the Project;
- (b) provide the Funds to the Recipient in accordance with Schedule “J” (Requests for Payment and Payment Procedures); and
- (c) deposit the Funds into an account the Recipient designates, provided that the account:
 - (i) resides at a Canadian financial institution; and
 - (ii) is in the name of the Recipient.

A.4.2 Limitation on Payment of Funds. Despite section A.4.1 (Funds Provided):

- (a) in addition to any other limitation under the Agreement on the payment of Funds, the Province is not obligated to provide:
 - (i) any Funds to the Recipient until the Recipient fulfils the special conditions listed in section A.30.1 (Special Conditions); and
 - (ii) any Funds to the Recipient until the Province is satisfied with the progress of the Project;
- (b) the Province may adjust the amount of Funds it provides to the Recipient in any Funding Year based upon the Province’s assessment of the information the Recipient provides to the Province pursuant to section A.7.2 (Preparation and Submission); and
- (c) the Province is not obligated to provide any Funds to the Recipient until it is satisfied that its duty to consult with Indigenous Communities and, if applicable, duty to accommodate any Indigenous Communities, have been met.

A.4.3 Use of Funds and Carry Out the Project. The Recipient will do all of the following:

- (a) carry out the Project in accordance with the Agreement;
- (b) use the Funds only for the purpose of carrying out the Project;
- (c) spend the Funds only on Eligible Expenditures that are necessary to carry out the Project on and after the Approval Date; and
- (d) not use the Funds to cover any Eligible Expenditure that has or will be funded or reimbursed by one or more of any third party, or ministry, department, agency, or

organization of the Government of Ontario.

- A.4.4 **Interest-Bearing Account.** If the Province provides Funds before the Recipient's immediate need for the Funds, the Recipient will place the Funds in an interest-bearing account solely in the name of the Recipient at a branch of a Canadian financial institution in Ontario.
- A.4.5 **Interest.** If the Recipient earns any interest on the Funds, the Province may do either or both of the following:
- (a) deduct an amount equal to the interest from the Funds; or
 - (b) demand from the Recipient the payment of an amount equal to the Interest Earned.
- A.4.6 **Maximum Funds and Recovery of Excesses.** The Recipient acknowledges that:
- (a) the Funds available to it pursuant to the Agreement will not exceed the Maximum Funds; and
 - (b) if the total contribution from all provincial sources in respect of the Project exceeds 73.3% of Total Eligible Expenditures, the Province may recover the excess from the Recipient or reduce the amount of Funds it provides to the Recipient under the Agreement by an amount equal to the excess.
- A.4.7 **Disclosure of Other Financial Assistance.** The Recipient will inform the Province promptly of any financial assistance received in respect of the Project.
- A.4.8 **Rebates, Credits, and Refunds.** The Province will, in respect of the Project, calculate Funds based on the actual costs to the Recipient to carry out the Project, less any costs for which the Recipient has received, will receive, or is eligible to receive, a rebate, credit, or refund.
- A.4.9 **Recipient's Acknowledgement of Responsibility for Project.** The Recipient will, in respect of the Project, assume full responsibility for the Project, including, without limitation:
- (a) complete, diligent, and timely Project implementation within the costs and timelines specified in the Agreement and in accordance with all other terms and conditions of the Agreement;
 - (b) all of the costs of the Project, including, without limitation, unapproved expenditures, Ineligible Expenditures, and cost overruns, if any;
 - (c) subsequent operation, maintenance, repair, rehabilitation, construction, demolition, or reconstruction, as required and in accordance with industry standards, and any related costs for the full lifecycle of the Project; and

(d) the engineering work being undertaken in accordance with industry standards.

A.4.10 Increase in Project Costs. If, at any time during the Term, the Recipient determines that it will not be possible to complete the Project unless it expends amounts in excess of all funding available to it (a “**Shortfall**”), the Recipient will immediately notify the Province of that determination. If the Recipient so notifies the Province, it will, within 30 days of a request from the Province, provide a summary of the measures that it proposes to remedy the Shortfall. If the Province is not satisfied that the measures proposed will be adequate to remedy the Shortfall, then the Province may exercise one or more of the remedies available to it pursuant to section A.13.4 (Recipient Not Remediating).

A.4.11 Recipient’s Request for Payment and Payment Procedures. The Recipient agrees to submit its requests for payment in accordance with the payment procedures provided for in Schedule “J” (Requests for Payment and Payment Procedures).

A.4.12 Retention of Contribution. The Province will retain a maximum of 10% of the Funds in respect of the Project (“**Holdback**”) up until the following conditions have been met:

- (a) the Recipient has fulfilled all of its obligations under the Agreement for the Project; and
- (b) the Parties have jointly carried out a final reconciliation, as set out in J.6.0 (Final Reconciliation and Adjustments), and made any adjustments required in the circumstances.

A.5.0 RECIPIENT’S ACQUISITION OF GOODS OR SERVICES, CONTRACT PROVISIONS, AND DISPOSAL OF ASSETS

A.5.1 Acquisition. If the Recipient acquires goods, services, or both with the Funds, it will:

- (a) do so through a process that is fair, transparent, competitive, and consistent with value for money principles, or in a manner otherwise acceptable to the Province; and
- (b) comply with the *Broader Public Sector Accountability Act, 2010* (Ontario), including any procurement directive issued thereunder, to the extent applicable.

A.5.2 Non-Compliance with Acquisition Requirements. If the Province determines that a Contract is awarded in a manner that is not in compliance with the requirements in section A.5.1 (Acquisition), upon giving Notice to the Recipient, the Province may consider the expenditures associated with the Contract to be an Ineligible Expenditure.

A.5.3 Exemptions to Competitive Awarding. The Province may consent to the provision of exemptions from competitive awarding of Contracts on a case-by-case basis, in its

sole and absolute discretion, if the Recipient provides a written request indicating the business case rationale for the exemption, in advance of the Contract being awarded.

A.5.4 Contract Provisions. The Recipient will ensure that all Contracts are consistent with and incorporate the relevant provisions of the Agreement, including its insurance provisions. More specifically, but without limiting the generality of the foregoing, the Recipient agrees to include provisions in all Contracts to ensure:

- (a) that proper and accurate accounts and records are kept and maintained as described in the Agreement including, but not limited to, in paragraph A.7.3(a);
- (b) that all applicable Requirements of Law including, without limitation, labour and human rights legislation, are complied with; and
- (c) that the Contract secures the respective rights of the Province, and any authorized representative or independent auditor identified by the Province, and the Auditor General of Ontario to:
 - (i) inspect and audit the terms of any Contract, record or account in respect of the Project; and
 - (ii) have free and timely access to the Project sites and facilities, and any records, documentation or information, as contemplated pursuant to section A.7.5 (Inspection and Removal).

A.5.5 Disposal of Assets. The Recipient will not, unless in accordance with the terms and conditions set out in Schedule “H” (Disposal of Assets), sell, lease, encumber, or otherwise dispose, directly or indirectly, of any Asset.

A.6.0 CONFLICT OF INTEREST

A.6.1 Conflict of Interest Includes. For the purposes of this Article A.6.0 (Conflict of Interest), a conflict of interest includes any circumstances where:

- (a) the Recipient or any person who has the capacity to influence the Recipient’s decisions has outside commitments, relationships, or financial interests that could, or could be seen by a reasonable person to interfere with the Recipient’s objective, unbiased, and impartial judgment in respect of the Project or the use of the Funds, or both; or
- (b) a former public servant or public office holder to whom any post-employment, ethics and conflict of interest legislation, guidelines, codes, or policies apply will derive a direct benefit from the Agreement, unless the provision or receipt of such benefits complies with such legislation, guidelines, policies, or codes.

A.6.2 **No Conflict of Interest.** The Recipient will carry out the Project and use the Funds without an actual, potential, or perceived conflict of interest unless:

- (a) the Recipient:
 - (i) provides Notice to the Province disclosing the details of the actual, potential, or perceived conflict of interest; and
 - (ii) requests the consent of the Province to carry out the Project with an actual, potential, or perceived conflict of interest;
- (b) the Province consents in writing to the Recipient carrying out the Project with an actual, potential, or perceived conflict of interest; and
- (c) the Recipient complies with any terms and conditions the Province may prescribe in its consent.

A.7.0 REPORTING, ACCOUNTING, AND REVIEW

A.7.1 **Province Includes.** For the purpose of sections A.7.4 (Records Review), A.7.5 (Inspection and Removal) and A.7.6 (Cooperation), “Province” includes any auditor or representative that the Province may identify.

A.7.2 **Preparation and Submission.** The Recipient will:

- (a) submit to the Province at the address referred to in section A.16.1 (Notice in Writing and Addressed):
 - (i) all Reports in accordance with the timelines and content requirements provided for in Schedule “D” (Reports); and
 - (ii) any other reports in accordance with any timelines and content requirements the Province may specify from time to time; and
- (b) ensure that all Reports and other reports are:
 - (i) completed to the satisfaction of the Province; and
 - (ii) signed by an authorized signing officer of the Recipient.

A.7.3 **Record Maintenance.** The Recipient will keep and maintain for a period of seven years after the Expiry Date:

- (a) proper and accurate financial accounts and records, kept in a manner consistent with generally accepted accounting principles, including but not limited to its

contracts, invoices, statements, receipts, and vouchers and any other evidence of payment relating to the Funds or otherwise to the Project; and

- (b) all non-financial records and documents relating to the Funds or otherwise to the Project.

A.7.4 **Records Review.** The Province may, at its own expense, upon 24 hours' Notice to the Recipient and during normal business hours, enter upon the Recipient's premises to conduct an audit or investigation of the Recipient regarding the Recipient's compliance with the Agreement, including assessing any of the following:

- (a) the truth of any of the Recipient's representations and warranties;
- (b) the progress of the Project;
- (c) the Recipient's allocation and expenditure of the Funds.

A.7.5 **Inspection and Removal.** For the purposes of any Records Review, the Province may take one or more of the following actions:

- (a) inspect and copy any records or documents referred to in section A.7.3 (Record Maintenance); and
- (b) remove any copies the Province makes pursuant to section A.7.5(a).

A.7.6 **Cooperation.** To assist the Province in respect of its rights provided for in section A.7.5 (Inspection and Removal), the Recipient will cooperate with the Province by:

- (a) ensuring that the Province has access to the records and documents wherever they are located;
- (b) coordinating access with any Third Party;
- (c) assisting the Province to copy the records and documents;
- (d) providing to the Province, in the form the Province specifies, any information the Province identifies; and
- (e) carrying out any other activities the Province requests.

A.7.7 **No Control of Records.** No provision of the Agreement will be construed so as to give the Province any control whatsoever over the Recipient's records.

A.7.8 **Auditor General.** The Province's rights under this Article A.7.0 (Reporting, Accounting, and Review) are in addition to any rights provided to the Auditor General of Ontario pursuant to section 9.1 of the *Auditor General Act* (Ontario).

- A.7.9 **Evaluation.** The Recipient agrees to participate in any Evaluation and comply with the requirements for such Evaluation that are set out in Schedule “F” (Evaluation).
- A.7.10 **Calculations.** The Recipient will make all calculations and prepare all financial data to be submitted in accordance with the generally accepted accounting principles in effect in Canada. These will include, without limitation, those principles and standards approved or recommended from time to time by the Chartered Professional Accountants of Canada or the Public Sector Accounting Board, as applicable, or any successor institute, applied on a consistent basis.
- A.7.11 **Adverse Fact or Event.** The Recipient will inform the Province immediately of any fact or event of which it is aware that has or will compromise, wholly or in part, the Project.

A.8.0 COMMUNICATIONS REQUIREMENTS

- A.8.1 **Communications Protocol.** The Parties agree to be bound by the terms and conditions of the communications protocol provided for in Schedule “G” (Communications Protocol).

A.9.0 INDIGENOUS CONSULTATION

- A.9.1 **Indigenous Consultation Protocol.** The Parties agree to be bound by the terms and conditions of the Indigenous Consultation Protocol provided for in Schedule “I” (Indigenous Consultation Protocol).
- A.9.2 **Legal Duty to Consult.** Until the Province is satisfied that any legal duty to consult and, where appropriate, to accommodate Indigenous Communities has been, and continues to be met:
- (a) no site preparation, removal of vegetation or construction will occur in respect of the Project; and
 - (b) the Province has no obligation to pay any Eligible Expenditures that are capital costs, as determined by the Province; and, for any Project requiring consultation, the Province must be satisfied that:
 - (i) Indigenous Communities have been notified and, if applicable, consulted;
 - (ii) where consultation has occurred, the Recipient has provided a summary of consultation or engagement activities, including a list of Indigenous Communities consulted, concerns raised, and how each of the concerns have been addressed or, if not addressed, an explanation as to why not;
 - (iii) the Recipient is carrying out accommodation measures, where appropriate;

and

- (iv) any other information has been provided which the Province may deem appropriate.

A.9.3 **Archaeological Assessments.** The Recipient will undertake archaeological assessments on the sites upon which the Project will occur where ground disturbance is proposed.

A.10.0 INDEMNIFY

A.10.1 **Indemnify.** The Recipient will indemnify and hold harmless the Indemnified Parties from and against any Loss and any Proceeding, unless solely caused by the negligence or wilful misconduct of the Indemnified Parties.

A.10.2 **Recipient's Participation.** The Recipient will, at its expense, to the extent requested by the Province participate in or conduct the defence of any Proceedings against any of the Indemnified Parties and any negotiations for their settlement.

A.10.3 **Province's Election.** The Province may elect to participate in, or conduct the defence of, any Proceeding by providing Notice to the Recipient of such election, without prejudice to any other rights or remedies of the Province under the Agreement, at law or in equity. If the Province or the Recipient, as applicable, participates in the defence, it will do so by actively participating with the other's counsel.

A.10.4 **Settlement Authority.** The Recipient will not enter into a settlement of any Proceeding against any of the Indemnified Parties unless the Recipient has obtained from the Province prior written approval or a waiver of this requirement. If the Recipient is requested by the Province to participate in or conduct the defence of any Proceeding, the Province will cooperate with and assist the Recipient to the fullest extent possible in the Proceeding and any related settlement negotiations.

A.10.5 **Recipient's Cooperation.** If the Province conducts the defence of any Proceeding, the Recipient will cooperate with and assist the Province to the fullest extent possible in the Proceeding and any related settlement negotiations.

A.11.0 INSURANCE

A.11.1 **Recipient's Insurance.** The Recipient represents, warrants, and covenants that it has, and will maintain, at its own cost and expense, with insurers having a secure A.M. Best rating of B+ or greater, or the equivalent, all the necessary and appropriate insurance that a prudent person carrying out a project similar to the Project would maintain, including commercial general liability insurance on an occurrence basis for third party bodily injury, personal injury, and property damage, to an inclusive limit of

not less than \$2,000,000.00 per occurrence, which commercial general liability insurance policy will include the following:

- (a) the Indemnified Parties as additional insureds in respect of liability arising in the course of performance of the Recipient's obligations under, or otherwise in connection with, the Agreement;
- (b) a cross-liability clause;
- (c) contractual liability coverage; and
- (d) a 30-day written notice of cancellation.

A.11.2 Proof of Insurance. The Recipient will:

- (a) provide to the Province, either:
 - (i) annually, certificates of insurance that confirm the insurance coverage as provided in section A.11.1 (Recipient's Insurance); or
 - (ii) other proof that confirms the insurance coverage as provided for in section A.11.1 (Recipient's Insurance); and
- (b) at the Province's request, the Recipient will provide to the Province a copy of any of the Recipient's insurance policies that relate to the Project or otherwise to the Agreement or both.

A.12.0 TERMINATION ON NOTICE

A.12.1 Termination on Notice. The Province may terminate the Agreement at any time without liability, penalty, or costs upon giving at least 30 days' Notice to the Recipient.

A.12.2 Consequences of Termination on Notice by the Province. If the Province terminates the Agreement pursuant to section A.12.1 (Termination on Notice), the Province may take one or more of the following actions:

- (a) direct the Recipient not to incur any costs for the Project without the Province's prior written consent;
- (b) cancel further instalments of Funds;
- (c) demand from the Recipient the payment of any Funds plus Interest Earned remaining in the possession or under the control of the Recipient; and
- (d) determine the reasonable costs for the Recipient to wind down the Project and do either or both of the following:

- (i) permit the Recipient to offset such costs against the amount the Recipient owes pursuant to paragraph A.12.2(c); and
- (ii) subject to paragraph A.4.1(a), provide Funds to the Recipient to cover such costs.

A.13.0 EVENT OF DEFAULT, CORRECTIVE ACTION, AND TERMINATION FOR DEFAULT

A.13.1 Events of Default. Each of the following events will constitute an Event of Default:

- (a) in the opinion of the Province, the Recipient breaches any representation, warranty, covenant, or other material term of the Agreement, including failing to do any of the following in accordance with the terms and conditions of the Agreement:
 - (i) carry out the Project;
 - (ii) use or spend Funds; or
 - (iii) provide, in accordance with section A.7.2 (Preparation and Submission), Reports or such other reports as the Province may have requested pursuant to paragraph A.7.2(b);
- (b) the Recipient's operations, its financial condition, or its organizational structure or its control, changes such that it no longer meets one or more of the eligibility requirements of the program under which the Province provides the Funds;
- (c) the Recipient makes an assignment, proposal, compromise, or arrangement for the benefit of creditors, or a creditor makes an application for an order adjudging the Recipient bankrupt, or applies for the appointment of a receiver;
- (d) the Recipient ceases to operate.

A.13.2 Consequences of Events of Default and Corrective Action. If an Event of Default occurs, the Province may, at any time, take one or more of the following actions:

- (a) initiate any action the Province considers necessary in order to facilitate the successful continuation or completion of the Project;
- (b) provide the Recipient with an opportunity to remedy the Event of Default;
- (c) suspend the payment of Funds for such period as the Province determines appropriate;

- (d) reduce the amount of the Funds;
- (e) cancel all further instalments of Funds;
- (f) demand from the Recipient the payment of any Funds remaining in the possession or under the control of the Recipient plus Interest Earned;
- (g) demand from the Recipient the payment of an amount equal to any Funds the Recipient used plus Interest Earned, but did not use in accordance with the Agreement;
- (h) demand from the Recipient the repayment of an amount equal to any Funds the Province provided to the Recipient plus Interest Earned;
- (i) demand from the Recipient the payment of an amount equal to the costs the Province incurred or incurs to enforce its rights under the Agreement, including the costs of any Records Review and the costs it incurs to collect any amounts the Recipient owes to the Province; and
- (j) upon giving Notice to the Recipient, terminate the Agreement at any time, including immediately, without liability, penalty, or costs to the Province.

A.13.3 **Opportunity to Remedy.** If, pursuant to section A.13.2(b), the Province provides the Recipient with an opportunity to remedy the Event of Default, the Province will provide Notice to the Recipient of:

- (a) the particulars of the Event of Default; and
- (b) the Remedial Period.

A.13.4 **Recipient Not Remediating.** If the Province provides the Recipient with an opportunity to remedy the Event of Default pursuant to paragraph A.13.2(b), and:

- (a) the Recipient does not remedy the Event of Default within the Remedial Period;
- (b) it becomes apparent to the Province that the Recipient cannot completely remedy the Event of Default within the Remedial Period; or
- (c) the Recipient is not proceeding to remedy the Event of Default in a way that is satisfactory to the Province,

the Province may extend the Remedial Period or initiate any one or more of the actions provided for in sections A.13.2(a), (c), (d), (e), (f), (g), (h), (i) and (j).

A.13.5 **When Termination Effective.** Termination under this Article A.13.0 (Event of Default,

Corrective Action, and Termination for Default) will take effect as provided for in the Notice.

A.14.0 FUNDS UPON EXPIRY

A.14.1 **Funds Upon Expiry.** Upon expiry of the Agreement, the Recipient will pay to the Province any Funds plus Interest Earned remaining in its possession, under its control, or both.

A.15.0 DEBT DUE AND PAYMENT

A.15.1 **Payment of Overpayment.** If at any time the Province provides Funds in excess of the amount to which the Recipient is entitled under the Agreement, the Province may:

- (a) deduct an amount equal to the excess Funds plus Interest Earned from any further instalments of Funds; or
- (b) demand that the Recipient pay to the Province an amount equal to the excess Funds plus Interest Earned.

A.15.2 **Debt Due.** If, pursuant to the Agreement:

- (a) the Province demands from the Recipient the payment of any Funds, an amount equal to any Funds, or any other amounts under the Agreement; or
- (b) the Recipient owes to the Province any Funds, an amount equal to any Funds, or any other amounts under the Agreement, whether or not the Province has demanded their payment,

such amounts will be deemed to be debts due and owing to the Province by the Recipient, and the Recipient will pay the amounts to the Province immediately, unless the Province directs otherwise.

A.15.3 **Interest Rate.** The Province may charge the Recipient interest on any money owing to the Province by the Recipient under the Agreement at the then-current interest rate charged by the Province of Ontario on accounts receivable.

A.15.4 **Payment of Money to Province.** The Recipient will pay any money owing to the Province by cheque payable to the “Ontario Minister of Finance” and delivered to the Province at the address set out in Schedule “B” (Specific Information).

A.15.5 **Failure to Repay.** Without limiting the application of section 43 of the *Financial Administration Act* (Ontario), if the Recipient fails to pay any amount owing under the Agreement, His Majesty the King in right of Ontario may deduct any unpaid amount from any money payable to the Recipient by His Majesty the King in right of Ontario.

A.16.0 NOTICE

A.16.1 **Notice in Writing and Addressed.** Notice will be:

- (a) in writing;
- (b) delivered by email, postage-prepaid mail, personal delivery, or courier; and
- (c) addressed to the Province and the Recipient as set out in Schedule “B” (Specific Information), or as either Party later designates to the other by Notice.

A.16.2 **Notice Given.** Notice will be deemed to have been given:

- (a) in the case of postage-prepaid mail, five Business Days after the Notice is delivered; and
- (b) in the case of email, personal delivery, or courier, on the date on which the Notice is delivered.

A.16.3 **Postal Disruption.** Despite paragraph A.16.2(a), in the event of a postal disruption:

- (a) Notice by postage-prepaid mail will not be deemed to be given; and
- (b) the Party giving Notice will provide Notice by email, personal delivery, or courier.

A.17.0 CONSENT BY PROVINCE AND COMPLIANCE BY RECIPIENT

A.17.1 **Consent.** When the Province provides its consent pursuant to the Agreement:

- (a) it will do so by Notice;
- (b) it may attach any terms and conditions to the consent; and
- (c) the Recipient may rely on the consent only if the Recipient complies with any terms and conditions the Province may have attached to the consent.

A.18.0 SEVERABILITY OF PROVISIONS

A.18.1 **Invalidity or Unenforceability of Any Provision.** The invalidity or unenforceability of any provision of the Agreement will not affect the validity or enforceability of any other provision of the Agreement.

A.19.0 WAIVER

A.19.1 **Waiver Request.** Either Party may, by Notice, ask the other Party to waive an obligation under the Agreement.

A.19.2 **Waiver Applies.** If in response to a request made pursuant to section A.19.1 (Waiver Request) a Party consents to a waiver, the waiver will:

- (a) be valid only if the Party that consents to the waiver provides the consent by Notice; and
- (b) apply only to the specific obligation referred to in the waiver.

A.20.0 INDEPENDENT PARTIES

A.20.1 **Parties Independent.** The Recipient is not an agent, joint venturer, partner, or employee of the Province, and the Recipient will not represent itself in any way that might be taken by a reasonable person to suggest that it is, or take any actions that could establish or imply such a relationship.

A.20.2 **No Authority to Represent.** Nothing in the Agreement is to be construed as authorizing any Person, including a Third Party, to contract for or to incur any obligation on behalf of the Province, or to act as an agent for the Province. The Recipient will take the necessary action to ensure that any Contract between the Recipient and a Third Party contains a provision to that effect.

A.21.0 ASSIGNMENT OF AGREEMENT OR FUNDS

A.21.1 **No Assignment.** The Recipient will not, without the prior written consent of the Province, assign any of its rights or obligations under the Agreement.

A.21.2 **Agreement Binding.** All rights and obligations contained in the Agreement will extend to and be binding on:

- (a) the Recipient's successors and permitted assigns; and
- (b) the successors to His Majesty the King in right of Ontario.

A.22.0 GOVERNING LAW

A.22.1 **Governing Law.** The Agreement and the rights, obligations, and relations of the Parties will be governed by and construed in accordance with the laws of the Province of Ontario and the applicable federal laws of Canada. Any actions or proceedings arising in connection with the Agreement will be conducted in the courts of Ontario,

which will have exclusive jurisdiction over such proceedings.

A.23.0 FURTHER ASSURANCES

A.23.1 **Agreement into Effect.** The Recipient will:

- (a) provide such further assurances as the Province may request from time to time in respect to any matter to which the Agreement pertains; and
- (b) do or cause to be done all acts or things necessary to implement and carry into effect the terms and conditions of the Agreement to their full extent.

A.24.0 JOINT AND SEVERAL LIABILITY

A.24.1 **Joint and Several Liability.** Where the Recipient is comprised of more than one entity, each entity will be jointly and severally liable to the Province for the fulfillment of the obligations of the Recipient under the Agreement.

A.25.0 RIGHTS AND REMEDIES CUMULATIVE & JOINT AUTHORSHIP

A.25.1 **Rights and Remedies Cumulative.** The rights and remedies of the Province under the Agreement are cumulative and are in addition to, and not in substitution for, any of its rights and remedies provided by law or in equity.

A.25.2 **Joint Authorship Of Agreement.** The Parties will be considered joint authors of this Agreement and no provision herein will be interpreted against one Party by the other Party because of authorship. No Party will seek to avoid a provision herein because of its authorship through recourse to a third-party, court, tribunal or arbitrator.

A.26.0 FAILURE TO COMPLY WITH OTHER AGREEMENTS

A.26.1 **Other Agreements.** If the Recipient:

- (a) has failed to comply with any term, condition, or obligation under any other agreement with His Majesty the King in right of Ontario or one of His agencies (a "**Failure**");
- (b) has been provided with notice of such Failure in accordance with the requirements of such other agreement;
- (c) has, if applicable, failed to rectify such Failure in accordance with the requirements of such other agreement; and

(d) such Failure is continuing,

the Province may suspend the payment of Funds for such period as the Province determines appropriate and may deduct amounts owing as a result of such Failure from the Funds owing under this Agreement.

A.27.0 ENVIRONMENTAL REQUIREMENTS AND ASSESSMENTS

A.27.1 Environmental Requirements. Without limitation to the Recipient's obligations to comply with Environmental Laws and for greater clarity:

- (a) no form of site preparation, removal of vegetation or construction shall occur in respect of the Project; and
- (b) the Province will have no obligation to pay any Eligible Expenditures that are capital costs, as determined by the Province,

until it is satisfied that all applicable environmental assessment legislation that is or may come into force during the term of the Agreement has been met and continues to be met.

A.28.0 COMMITTEE

A.28.1 Establishment of Committee. The Province may, at its sole discretion, require the establishment of a committee to oversee the Agreement (the "Committee").

A.28.2 Notice of Establishment of Committee. Upon Notice from the Province, the Parties will hold an initial meeting to establish, in accordance with Schedule "K" (Committee), the Committee described in section A.28.1 (Establishment of Committee).

A.29.0 DISPUTE RESOLUTION

A.29.1 Contentious Issues. The Parties will keep each other informed of any issues that could be contentious.

A.29.2 Examination by the Committee and Parties. If a contentious issue arises and a Committee has been established under section A.28.1 (Establishment of Committee), the Parties will refer the contentious issue that may arise to the Committee for examination. In the absence of a Committee, the Parties will examine the contentious issue.

A.29.3 Potential Dispute Resolution by Committee. The Committee or the Parties, as the case may be, will attempt, reasonably and in good faith, to resolve disputes as soon

as possible and, in any event, within, for the Committee, 30 days, or, for the Parties, 90 days of receiving Notice of a contentious issue.

- A.29.4 **Dispute Resolution by the Parties.** If the Committee cannot agree on a resolution, the matter will be referred to the Parties for resolution. The Parties will provide a decision within 60 Business Days of the Notice.
- A.29.5 **Alternative Mechanisms for Dispute Resolutions.** Where the Parties cannot agree on a resolution, the Parties may use any alternative dispute resolution mechanisms available to them to resolve the issue.
- A.29.6 **Suspension of Payments.** The Province may suspend any payments related to any contentious issue or dispute raised by either Party, together with the obligations related to such issue, pending resolution.

A.30.0 SPECIAL CONDITIONS

- A.30.1 **Special Conditions.** The Province's funding under the Agreement is conditional upon,
- (a) on or before the Effective Date, the Recipient having provided the Province with:
 - (i) a copy of the by-law(s), council resolution(s) or both or any other necessary instrument applicable to the Recipient authorizing its entry into the Agreement;
 - (ii) the certificates of insurance or any other proof the Province may request pursuant to section A.11.2 (Proof of Insurance);
 - (iii) banking information, such as a void cheque or a bank letter, for an interest-bearing account in the name of the Recipient at a Canadian financial institution, into which the Province may transfer Funds electronically; and
 - (iv) any other Reports requested by the Province in the format specified.
 - (b) prior to submitting a request for payment in respect of the Project under the Agreement, the Recipient having provided the Province with written confirmation that:
 - a. the Recipient is in compliance with all Environmental Laws, including the Recipient's obligations under section A.27.1 (Environmental Requirements), and has obtained all necessary approvals and permits;
 - b. the Recipient has met any requirements under Article A.9.0 (Indigenous Consultation) that may apply to the Project; and

- c. the Recipient has title to and ownership of any real property necessary for the completion of the Project.
- (c) the Recipient having submitted, in a format and with such content as may be requested by the Province, to the Province, at the address referred to in section A.16.1 (Notice in Writing and Addressed), an asset management planning questionnaire on or before the Effective Date, and, thereafter, on or before February 1 in each of the years 2024 and 2025, unless the Project has reached Substantial Completion before such date.
- (d) on or before December 31, 2022, the Recipient having submitted to the Province, at the address referred to in section A.16.1 (Notice in Writing and Addressed):
 - (i) a weblink to the publicly available website where the Recipient's strategic asset management policy has been posted, pursuant to Ontario Regulation 588/17 (Asset Management Planning for Municipal Infrastructure), as may be amended from time to time.
 - (ii) a weblink to the publicly available website where the Recipient's asset management plan has been posted, pursuant to Ontario Regulation 588/17 (Asset Management Planning for Municipal Infrastructure), as may be amended from time to time.

For greater certainty, if the Province provides any Funds to the Recipient before the conditions set out in this Article A.30.0 (Special Conditions) have been met, and unless the Province has waived compliance with such condition in writing, the Province may exercise one or more of the remedies available to it pursuant to section A.13.2 (Consequences of Event of Default and Corrective Action).

A.31.0 SURVIVAL

A.31.1 Survival. Any rights and obligations of the Parties that, by their nature, extend beyond the termination of the Agreement will continue in full force and effect for a period of seven years from the date of expiry or termination of the Agreement. Surviving provisions include, without limitation, the following Articles, sections and paragraphs, and all applicable cross-referenced Articles, sections, paragraphs, schedules, and sub-schedules: Articles 1.0 (Entire Agreement), 2.0 (Conflict or Inconsistency), 5.1 (Acknowledgement from Recipient), A.1.0 (Interpretation and Definitions) and any other applicable definitions, paragraphs A.2.1(a), A.4.2(c), sections A.4.4 (Interest-Bearing Account), A.4.5 (Interest), A.4.6 (Maximum Funds and Recovery of Excesses), A.4.8 (Rebates, Credits, and Refunds), A.4.9 (Recipient's Acknowledgement of Responsibility for Project), A.5.5 (Disposal of Assets), A.7.1 (Province Includes), A.7.2 (Preparation and Submission) (to the extent that the Recipient has not provided the Reports or other reports as may have been requested to the satisfaction of the Province), A.7.3 (Record Maintenance), A.7.4 (Records Review), A.7.5 (Inspection and

Removal), A.7.6 (Cooperation), A.7.7 (No Control of Records), A.7.8 (Auditor General), A.7.9 (Evaluation), A.7.10 (Calculations), Articles A.8.0 (Communications Requirements), A.10.0 (Indemnify), sections A.12.2 (Consequences of Termination on Notice by the Province), A.13.1 (Events of Default), paragraphs A.13.2(d), (e), (f), (g), (h) and (i), A.14.0 (Funds Upon Expiry), A.15.0 (Debt Due and Payment), A.16.0 (Notice), and A.18.0 (Severability of Provisions), section A.21.2 (Agreement Binding), and Articles A.22.0 (Governing Law), A.24.0 (Joint and Several Liability), A.25.0 (Rights and Remedies Cumulative), A.27.0 (Environmental Requirements and Assessments), A.30.0 (Special Conditions) and A.31.0 (Survival).

[SCHEDULE “B” (SPECIFIC INFORMATION) FOLLOWS]

**SCHEDULE “B”
SPECIFIC INFORMATION**

B.1.0 EXPIRY DATE

B.1.1 **Expiry Date.** The Expiry Date is March 31, 2028.

B.2.0 MAXIMUM FUNDS

B.2.1 **Maximum Funds.** Maximum Funds means \$3,079,860.00, rounded to two decimal places.

B.3.0 ADDRESSEES

B.3.1 **Addressees.** All Reports and Notices under the Agreement will be submitted to the Province at the address listed below:

Contact information for the purposes of Notice to the Province	<p>Address: Ministry of Infrastructure Infrastructure Program Delivery Branch 777 Bay Street, Floor 4, Suite 425 Toronto, Ontario, M7A 2J3</p> <p style="text-align: center;">Attention: Manager, Program Delivery Unit</p> <p>Email: ICIPculture@ontario.ca</p>
Contact information for the purposes of Notice to the Recipient	<p>Address: The City of London City Hall 300 Dufferin Avenue London, Ontario N6A 4L9</p> <p style="text-align: center;">Attention: Jeff Bruin, Manager Parks and Open Space</p> <p>Email: Jbruin@london.ca</p>

[SCHEDULE “C” (PROJECT DESCRIPTION, FINANCIAL INFORMATION, AND PROJECT STANDARDS) FOLLOWS]

SCHEDULE “C”
PROJECT DESCRIPTION, FINANCIAL INFORMATION, AND PROJECT STANDARDS

C.1.0 PROJECT DESCRIPTION

This project, Foxfield Park Upgrades, will redevelop an existing 4.6 hectare "District Park" to better serve the growing community in the north end of the City. This includes improving on the current amenity mix at this location, including a new spray pad, a premier grass soccer field with lights, additional pickleball courts, adding rubber safety surfaces to existing playground equipment and upgrading park lights and park pathways and a field-house with accessible washrooms.

C.2.0 FINANCIAL INFORMATION

C.2.1 Total Eligible Expenditures. “Total Eligible Expenditures” means \$4,200,000.00, rounded to two decimal places.

C.2.2 Percentage of Provincial Support. “Percentage of Provincial Support” means 73.33%, rounded to two decimal places.

C.3.0 TIMELINES

C.3.1 Approval Date. Approval Date means January 12th 2022.

C.4.0 PROJECT STANDARDS

C.4.1 Energy and Accessibility Standards. In addition to any other standards that the Recipient must meet or exceed for the Project, the Recipient will ensure the Project meets or exceeds the following:

- (a) any applicable energy efficiency standards for buildings outlined in Canada’s *Pan-Canadian Framework on Clean Growth and Climate Change* provided by Canada at www.canada.ca/en/services/environment/weather/climatechange/pan-canadian-framework.html, or at any other location the Province may provide; and
- (b) the accessibility requirements of the highest accessibility standards published in Ontario, in addition to accessibility requirements in applicable provincial building codes and relevant municipal by-laws.

C.5.0 CHANGES TO THE PROJECT DESCRIPTION, FINANCIAL INFORMATION, AND PROJECT STANDARDS

C.5.1 Province’s Consent. Any change to the Project will require the Province’s prior written

consent. When seeking to make a change in respect of the Project, the Recipient will submit updated Project information and any other information that the Province may require to the satisfaction of the Province.

[SCHEDULE “D” (REPORTS) FOLLOWS]

SCHEDULE “D” REPORTS

D.1.0 REPORTS

D.1.1 **Reports.** The Recipient shall submit the Reports set out in Article D.2.0 (Reporting Requirements) to the Province in a format and with such content requirements as may be specified by the Province, and in accordance with the timelines set out in Article D.2.0 (Reporting Requirements) in respect of the Project.

D.2.0 REPORTING REQUIREMENTS

D.2.1 **Reporting Requirements.** The Recipient will submit to the Province the following Reports:

- (a) on or before the Effective Date, an Initial Report that will include:
 - i. the Recipient’s forecast of the timelines and costs (expenditure forecast) to the completion of the Project;
 - ii. the sources of Recipient funds; and
 - iii. other pertinent information regarding the Project.

- (b) for the period from the Effective Date to the date the Project is Substantially Completed, semi-annual Progress Reports to be submitted on or before dates to be prescribed by the Province that will include, without limitation and at the sole discretion of the Province, the following information in respect of the Project:
 - i. The Province’s and the Recipient’s respective forecasted contributions to the Project by Funding Year;
 - ii. the construction start date and the construction end date (forecasted and actual where applicable);
 - iii. the percentage of the Project that has been completed;
 - iv. risks and mitigation strategies;
 - v. confirmation that the Project is on track to achieve expected results; and
 - vi. confirmation that all required signage for the Project has been installed.

- (c) within 60 Business Days of Substantial Completion, a Final Report that will include:

- i. a summary of the Project's final timelines, costs, and outcomes; and
- ii. if requested by the Province, a declaration of Substantial Completion and a declaration of completion.

D.2.2 **Attestation.** The Recipient will include in each Report an attestation that confirms that the information in the Report is accurate.

D.3.0 INDIGENOUS CONSULTATION RECORD

D.3.1 **Inclusion of Indigenous Consultation Record.** The Recipient will include an updated Indigenous Consultation Record, if consultation with any Indigenous Community is required, in a format and in accordance with timelines to be provided by the Province.

D.4.0 COMPLIANCE AUDIT(S)

D.4.1 **Compliance Audit(s).** Without limiting the generality of section A.7.4 (Records Review), if requested by the Province, the Recipient will, at its own expense, retain an independent third-party auditor to conduct one or more compliance audits of the Recipient. The audit will be conducted in accordance with Canadian Generally Accepted Auditing Standards, as adopted by the Canadian Institute of Chartered Accountants, applicable as of the date on which a record is kept or required to be kept under such standards. The audit will assess the Recipient's compliance with the terms of the Agreement and will address, without limitation, the following:

- (a) whether the Funds were spent in accordance with the Agreement and with due regard to economy, efficiency, and effectiveness;
- (b) the Project's progress or state of completion;
- (c) whether the financial information the Recipient provided is complete, accurate, and timely, and in accordance with the Agreement;
- (d) whether the Recipient's information and monitoring processes and systems are adequate to identify, capture, validate, and monitor the achievement of intended benefits of the Project;
- (e) the overall management and administration of the Project;
- (f) recommendations for improvement or redress; and
- (g) whether prompt and timely corrective action is taken on prior audit findings.

D.4.2 **Submission of Compliance Audit(s).** The Recipient will submit a copy of the report for the compliance audit carried out in accordance with section D.4.1 (Compliance Audit(s)) to the Province within 30 days of the report's completion.

**[Schedule "E" (ELIGIBLE EXPENDITURES AND INELIGIBLE EXPENDITURES)
FOLLOWS]**

SCHEDULE “E”
ELIGIBLE EXPENDITURES AND INELIGIBLE EXPENDITURES

E.1.0 ELIGIBLE EXPENDITURES

E.1.1 Scope of Eligible Expenditures. Eligible Expenditures are the direct costs that are, in the Province’s sole and absolute discretion, properly and reasonably incurred and paid to an arm’s length party. Eligible Expenditures only include the following costs:

- (a) costs incurred on or after the Approval Date and paid on or before March 31, 2027;
- (b) all costs considered by the Province to be directly necessary for the successful completion of the Project, which may include, unless excluded under Article E.2.0 (Ineligible Expenditures), acquisition, planning, environmental assessment, design and engineering, project management, material, construction or renovation costs;
- (c) costs evidenced by invoices, receipts or other records that are satisfactory to the Province, in its sole and absolute discretion;
- (d) the incremental costs of the Recipient’s staff or employees provided that:
 - (i) the Recipient is able to demonstrate that it is not economically feasible to tender a Contract that ensures the acquisition of the required goods or services at the best value for money; and
 - (ii) the arrangement is approved in advance in writing by the Province.
- (e) any other cost that is determined by the Province, in its sole and absolute discretion, to be an Eligible Expenditure.

E.2.0 INELIGIBLE EXPENDITURES

E.2.1 Scope of Ineligible Expenditures. Unless a cost is considered an Eligible Expenditure pursuant to section E.1.1 (Scope of Eligible Expenditures), such cost will be considered an Ineligible Expenditure. Without limitation, the following costs are Ineligible Expenditures:

- (a) Costs incurred prior to the Approval Date;
- (b) Costs incurred and paid after March 31, 2027;
- (c) All expenditures related to Contracts awarded or executed prior to the Approval Date;

- (d) Costs incurred for terminated or cancelled Projects;
- (e) Costs related to developing a business case or proposal or application for funding;
- (f) Costs associated with the acquisition, expropriation or leasing of:
 - (i) Land,
 - (ii) Buildings, or
 - (iii) Other facilities
- (g) Costs associated with the acquisition or leasing of equipment other than equipment directly related to the construction, improvement, repair, rehabilitation or reconstruction of the Project where the Province has not provided its prior written approval;
- (h) Costs that have not been claimed for reimbursement by March 31st of the year following the year in which the costs were incurred;
- (i) Costs that have not been submitted for reimbursement on or before the date that is 60 Business Days following Substantial Completion of the Project;
- (j) Capital costs, including site preparation and construction costs, until the Province has confirmed in writing that Indigenous consultation obligations have been fully met and continue to be fully met, if applicable;
- (k) Costs related to any component of the Project other than its approved scope;
- (l) Real estate fees and related costs;
- (m) Costs incurred for the general operation, repair and regularly scheduled maintenance of the Project;
- (n) Services or works normally provided by the Recipient, incurred in the course of implementation of the Project, except those specified as Eligible Expenditures;
- (o) Expenditures related to any goods and services which are received through donations or in-kind contributions;
- (p) Any overhead costs, including salaries and other employment benefits of any employees of the Recipient, its direct or indirect operating or administrative costs, and more specifically its costs related to planning, engineering, architecture, supervision, management and other activities normally carried out by its staff, except in accordance with the list of Eligible Expenditures above;
- (q) Unreasonable meal, hospitality or incidental costs or expenses of any Third Party;
- (r) Any amount for which the Recipient has received, will receive or is eligible to receive, a rebate, credit or refund, in full or in part;
- (s) Taxes of any kind;
- (t) Costs of relocating entire communities;
- (u) In the Province's sole discretion, the costs of communication activities undertaken by the Recipient that did not conform with the requirements of the Communications Protocol in Schedule "G";

- (v) Any amounts incurred or paid by the Recipient to an entity that is not at arm's length from the Recipient;
- (w) Costs incurred contrary to Article A.5.0 (Recipient's Acquisition of Goods or Services, and Disposal of Assets) of Schedule "A" (General Terms and Conditions) of this Agreement;
- (x) Costs, charges, penalties or fees incurred or paid by the Recipient in the process of having a cost determined to be an Ineligible Expenditure.
- (y) Costs, charges, penalties or fees incurred or paid by the Recipient that are a result of late or non-payment, rush requests, or Contract termination or non-compliance;
- (z) Legal fees, financing charges and loan interest payments, including those related to easements (e.g., surveys);
- (aa) Costs of furnishings and non-fixed assets which are not essential for the operation of the funded Asset or Project, as well as all costs associated with moveable assets or rolling stock;
- (bb) Any other cost which is not specifically listed as an Eligible Expenditure under Article E.1.0 (Eligible Expenditures) and which, in the opinion of the Province, is considered to be ineligible.

[SCHEDULE "F" (EVALUATION) FOLLOWS]

SCHEDULE “F” EVALUATION

F.1.0 PROJECT AND PROGRAM EVALUATIONS

- F.1.1 **Recipient’s Participation in Project and Program Evaluations.** The Recipient understands that the Province may ask the Recipient to participate in one or more evaluations in respect of the Project for a period of up to six years after March 31, 2028. The Recipient agrees, if asked and at its own expense, to provide Project-related information to the Province for any evaluation.
- F.1.2 **Results of Project and Program Evaluations.** The result of any evaluation carried under section F.1.1 (Recipient’s Participation in Project and Program Evaluations) will be made available to the public, subject to all applicable laws and policy requirements.

[SCHEDULE “G” (COMMUNICATIONS PROTOCOL) FOLLOWS]

SCHEDULE “G” COMMUNICATIONS PROTOCOL

G.1.0 DEFINITIONS

G.1.1 **Definitions.** For the purposes of this Schedule “G” (Communications Protocol):

“Joint Communications” means events, news releases, and signage that relate to the Agreement that are not operational in nature, and that are collaboratively developed and approved by the Province and the Recipient.

G.2.0 PURPOSE

G.2.1 **Purpose.** This communications protocol outlines the roles and responsibilities of each of the Parties to the Agreement in respect of Communications Activities related to the Project.

G.2.2 **Guidance.** This communications protocol will guide all planning, development and implementation of Communications Activities with a view to ensuring efficient, structured, continuous, consistent, and coordinated communications to the public.

G.2.3 **Application to Communications Activities.** The provisions of this communications protocol apply to all Communications Activities related to the Agreement and the Project.

G.3.0 GUIDING PRINCIPLES

G.3.1 **Information to public.** Communications Activities undertaken through this communications protocol should ensure that the public is informed about the Project’s benefits, including the ways in which the Project helps improve their quality of life.

G.3.2 **Factors to Consider.** The scale and scope of Communications Activities undertaken for any Project will take into consideration the financial value, scope and duration of the Project and the feasibility of Joint Communications for such Communications Activities.

G.3.3 **Deficiencies and Corrective Actions.** The Province will communicate to the Recipient any deficiencies or corrective actions, or both, identified by the Province or, as applicable, the Committee.

G.3.4 **Approval of Communications Material.** The announcement or publication of the Project must be approved by the Parties prior to being carried out.

G.3.5 **Costs of Communication Activities.** With the exception of advertising campaigns outlined in Article G.9.0 (Advertising Campaigns), the costs of

Communication Activities and signage will follow the eligibility rules established in Schedule “E” (Eligible Expenditures and Ineligible Expenditures).

G.4.0 JOINT COMMUNICATIONS

- G.4.1 **Subject Matter.** The Parties may have Joint Communications about the funding and status of the Project.
- G.4.2 **Prior Knowledge and Agreement.** Joint Communications in respect of the Project should not occur without the prior knowledge and agreement of the Parties.
- G.4.3 **Recognition of the Province’s Contributions.** All Joint Communications material must be approved by the Province and will recognize the Province’s contribution received in respect of the Project.
- G.4.4 **Notice and Timing.** The Recipient and the Province may request Joint Communications. The Party requesting the Joint Communications will provide at least 15 Business Days’ Notice to the other Party. If the Communications Activity is an event, it will take place at a date and location mutually agreed to by the Parties.
- G.4.5 **Participation and Representatives.** The Party requesting a Joint Communications will provide the opportunity for the other Party to choose to participate and, if they do so choose, their own designated representative (in the case of an event).
- G.4.6 **English and French.** The Province has an obligation to communicate in English and French. Communications products related to events must be bilingual in many instances. In such cases, the Province will provide the translation services and final approval on products.

G.5.0 INDIVIDUAL COMMUNICATIONS

- G.5.1 **The Province’s Obligations.** Notwithstanding Article G.4.0 (Joint Communications), the Parties agree that the Province has the right to communicate information to Ontarians about the Agreement and the use of Funds to meet its legislated and regulatory obligations through their respective own Communications Activities.
- G.5.2 **Restrictions.** Each Party may include an overview in respect of the Project in their own Communications Activities. The Province and the Recipient will not unreasonably restrict the use of, for their own purposes, Communications Activities related to the Project and, if the communications are web- or social-media based, the ability to link to it.

- G.5.3 **Publication.** The Recipient will indicate, in respect of the Project-related publications, whether written, oral, or visual, that the views expressed in the publication are the views of the Recipient and do not necessarily reflect those of the Province.
- G.5.4 **Recognition in Documents.** In respect of the Project where the deliverable is a document, such as but not limited to plans, reports, studies, strategies, training material, webinars, and workshops, the Recipient will clearly recognize the Province's financial contribution for the Project.
- G.5.5 **Acknowledgement of Support.** Unless the Province directs the Recipient to do otherwise, the Recipient will, in respect of the Project-related publications, whether written, oral, or visual, acknowledge the Province's support for the Project.

G.6.0 OPERATIONAL COMMUNICATIONS

- G.6.1 **Responsibility of Recipient.** The Recipient is solely responsible for operational communications in respect of the Project, including but not limited to calls for tender, Contract awards, and construction and public safety notices.

G.7.0 MEDIA RELATIONS

- G.7.1 **Significant Media Inquiry.** The Province and the Recipient will share information promptly with the other Party if significant media inquiries are received or emerging media or stakeholder issues arise in respect of a Project.

G.8.0 SIGNAGE

- G.8.1 **Recognition of Funding Contribution.** The Parties agree that the Province and the Recipient may each have signage recognizing their funding contribution in respect of the Project.
- G.8.2 **Funding Recognition.** Unless otherwise agreed by the Province the Recipient will produce and install a sign to recognize the funding contributed by the Province at the Project site in accordance with the Province's current respective signage guidelines. Provincial sign design, content, and installation guidelines will be provided by the Province.
- G.8.3 **Permanent Plaque.** Where the Recipient decides to install a permanent plaque or another suitable marker in respect of the Project, the Recipient will:
- (a) on the marker, recognize the Province's contribution; and
 - (b) prior to installing the marker, seek the prior written approval of the Province for its content and installation.

- G.8.4 **Notice of Sign Installation.** The Recipient will inform the Province of sign installations, including providing the Province with photographs of the sign, once the sign has been installed.
- G.8.5 **Timing for Erection of Sign.** If erected, signage recognizing the Province's contribution will be installed at the Project site(s) 30 days prior to the start of construction, be visible for the duration of the Project, and remain in place until 30 days after construction is completed and the infrastructure is fully operational or opened for public use.
- G.8.6 **Size of Sign.** If erected, signage recognizing the Province's contribution will be at least equivalent in size and prominence to Project signage for contributions by other orders of government and will be installed in a prominent and visible location that takes into consideration pedestrian and traffic safety and visibility.
- G.8.7 **Responsibility of Recipient.** The Recipient is responsible for the production and installation of Project signage, or as otherwise agreed upon.

G.9.0 ADVERTISING CAMPAIGNS

- G.9.1 **Notice of Advertising Campaigns.** Recognizing that advertising can be an effective means of communicating with the public, the Recipient agrees that the Province may, at its own cost, organize an advertising or public information campaign in respect of the Project or the Agreement. However, such a campaign will respect the provisions of the Agreement. In the event of such a campaign, the Province will inform the Recipient of its intention no less than 21 Business Days prior to the campaign launch.

[SCHEDULE "H" (DISPOSAL OF ASSETS) FOLLOWS]

SCHEDULE “H” DISPOSAL OF ASSETS

H.1.0 DEFINITIONS

H.1.1 **Definitions.** For the purposes of this Schedule “H” (Disposal of Assets):

“**Asset Disposal Period**” means the period commencing on the Effective Date and ending five (5) years after the Expiry Date.

H.2.0 DISPOSAL OF ASSETS

H.2.1 **Asset Disposal Period.** Unless otherwise agreed to by the Province, the Recipient will maintain the ongoing operations and retain title to and ownership of any Asset acquired in respect of the Project for the Asset Disposal Period.

H.2.2 **Disposal of Asset and Payment.** If, at any time within the Asset Disposal Period, the Recipient sells, leases, encumbers, or otherwise disposes, directly or indirectly, of any Asset other than to the Province, or a municipal or regional government established by or under provincial statute, the Province may require the Recipient to reimburse the Province for any Funds received for the Project

[SCHEDULE “I” (INDIGENOUS CONSULTATION PROTOCOL) FOLLOWS]

SCHEDULE “I” INDIGENOUS CONSULTATION PROTOCOL

I.1.0 DEFINITIONS

I.1.1 **Definitions.** For the purposes of this Schedule “I” (Indigenous Consultation Protocol):

“**Indigenous Communities**” include First Nation, Métis, and Inuit communities or peoples of Canada.

“**Indigenous Consultation Plan**” means the Indigenous Consultation Plan described in section I.2.1 (Development of Plan).

“**Indigenous Consultation Record**” means a document that records and describes, as the Province may require, the consultation activities carried out during the Project and the results of that consultation.

I.2.0 INDIGENOUS CONSULTATION PLAN

I.2.1 **Development of Plan.** The Province, based on the scope and nature of the Project, may require the Recipient, in consultation with the Province, to develop and comply with an Indigenous consultation plan (“Indigenous Consultation Plan”).

I.2.2 **Procedural Aspects of Consultation.** If consultation with Indigenous Communities is required, the Recipient agrees that:

- (a) the Province may delegate certain procedural aspects of the consultation to the Recipient; and
- (b) the Province will provide the Recipient with an initial list of the Indigenous Communities the Recipient will consult with.

I.2.3 **Provision of Plan to Province.** If, pursuant to section I.2.1 (Development of Plan), the Province provides Notice to the Recipient that an Indigenous Consultation Plan is required, the Recipient will, within the timelines provided in the Notice, provide the Province with a copy of the Indigenous Consultation Plan.

I.2.4 **Changes to Plan.** The Recipient agrees that the Province, in the sole discretion of the Province and from time to time, may require the Recipient to make changes to the Indigenous Consultation Plan.

I.3.0 INDIGENOUS CONSULTATION RECORD

I.3.1 **Requirements for Indigenous Consultation Record.** If consultation with an Indigenous Community is required, the Recipient will maintain an Indigenous Consultation Record and provide such record to the Province, and any update to it,

as part of its reporting to the Province pursuant to section D.3.1 (Inclusion of Indigenous Consultation Record).

I.4.0 RESPONSIBILITIES OF THE RECIPIENT

I.4.1 Notification to and Direction from the Province. The Recipient will immediately notify the Province:

- (a) of contact by Indigenous Communities regarding the Project;
- (b) of the outcomes of any archaeological assessments undertaken on the sites upon which the Project will occur; or
- (c) of any Indigenous archaeological resources that are discovered in relation to the Project,

and the Recipient agrees that the Province may direct the Recipient to take such actions as the Province may require. The Recipient will comply with the Province's direction.

I.4.2 Direction from the Province and Contracts. In any Contract, the Recipient will provide for the Recipient's right and ability to respond to direction from the Province as the Province may provide in accordance with section I.4.1 (Notification to and Direction from the Province).

**[SCHEDULE "J" (REQUESTS FOR PAYMENT AND PAYMENT PROCEDURES)
FOLLOWS]**

**SCHEDULE “J”
REQUESTS FOR PAYMENT AND PAYMENT PROCEDURES**

J.1.0 DEFINITION

J.1.1 **Definition.** For the purposes of this Schedule “J” (Requests for Payment and Payment Procedures):

“**Final Payment**” means the final payment by the Province to the Recipient in respect of the Project as described in and to be paid in accordance with Article J.7.0 (Final Payment).

J.2.0 PROCEDURES AND TIMING FOR REQUESTS FOR PAYMENT

J.2.1 **Procedures.** The procedures provided for in Article J.3.0 (Procedures for Requests for Payment for Eligible Expenditures) of this Schedule “J” will apply to requests for payment that the Recipient submits to the Province under the Agreement.

J.2.2 **Diligent and Timely Manner.** The Recipient will submit its requests for payment to the Province in a diligent and timely manner.

J.3.0 PROCEDURES FOR REQUESTS FOR PAYMENT FOR ELIGIBLE EXPENDITURES

J.3.1 **Timing, Reports and Documents.** The Recipient will submit a request for payment for Eligible Expenditures in respect of the Project to the Province no more than quarterly and no less than twice a year, unless an alternative request for payment schedule has been requested in advance by the Recipient and the Province has agreed to the request in writing, if costs have been incurred, and, if the Province so requested pursuant to paragraph K.4.1(f), after review by the Committee. If no costs have been incurred within the previous six months, the Recipient will notify the Province that no claim is being submitted for that period. The Recipient agrees to submit, for each of the circumstances listed below, the following reports and documents:

- (a) for each request for payment, including the Final Payment:
 - i. a report in a format prescribed by the Province;
 - ii. a detailed breakdown of invoices that are being claimed for reimbursement;
 - iii. copies of invoices and associated documentation that may be required to validate the eligibility of expenditures, including but not limited to proof of payment;

- iv. an attestation by an authorized representative in a format acceptable to the Province that confirms that the Eligible Expenditures claimed in the request for payment have been paid and incurred in accordance with the terms and conditions of the Agreement;
 - v. such other information as the Province may request.
- (b) for each request for Final Payment, a Final Report, acceptable to the Province; and
- (c) such other information as the Province may request.

J.4.0 PAYMENTS

- J.4.1 **Payment by the Province.** Subject to the terms and conditions of the Agreement, upon receipt of a request for payment fully completed in accordance with this Schedule “J” (Requests for Payment and Payment Procedures), the Province will use its reasonable efforts to pay Funds to the Recipient based on the Recipient’s Eligible Expenditures up to the Maximum Funds. Claims will be reimbursed based on the Percentage of Provincial Support as set out in Schedule “C”.
- J.4.2 For greater certainty and without limitation, before the Province makes a payment to the Recipient, the following terms and conditions of the Agreement must be met, in the opinion of the Province:
- (a) the conditions set out in paragraph A.4.2(c) of Schedule “A”;
 - (b) the special conditions listed in section A.30.1 (Special Conditions);
 - (c) receipt and acceptance by the Province of all required Reports and other reports, as applicable;
 - (d) compliance with all applicable audit requirements under the Agreement; and
 - (e) applicable communications requirements, as set out Schedule “G” (Communications Protocol).
- J.4.3 The Province will under no circumstances be liable for interest for failure to make a payment within the time limit provided for in this Article J.4.0 (Payments).

J.5.0 TIME LIMITS FOR REQUESTS FOR PAYMENTS

- J.5.1 **Timing.** The Recipient will submit all requests for payment on or before the date that is 60 Business Days following Substantial Completion.
- J.5.2 **No Obligation for Payment.** The Province will have no obligation to make any

payment for a request for payment submitted after the date that is 60 Business Days following Substantial Completion.

J.6.0 FINAL RECONCILIATION AND ADJUSTMENTS

J.6.1 **Final Reconciliation and Adjustments.** For the Project, following the submission of the Final Report and any other requested Reports, the Province may carry out a final reconciliation of all requests for payments and payments in respect of the Project and make any adjustments required in the circumstances.

J.7.0 HOLDBACK

J.7.1 **Holdback.** The Province may hold back funding in accordance with section A.4.12 (Retention of Contribution).

J.7.0 FINAL PAYMENT

J.7.1 **Final Payment.** Subject to paragraph 5.1(f), the Province will pay to the Recipient the remainder of its contribution under the Agreement, including the Holdback, after all of the conditions under section A.4.12 (Retention of Contribution) of Schedule “A” (General Terms and Conditions) have been met.

[SCHEDULE “K” (COMMITTEE) FOLLOWS]

SCHEDULE “K” COMMITTEE

K.1.0 ESTABLISHMENT OF COMMITTEE

K.1.1 Establishment and Term of Committee. If the Province requires the establishment of a Committee to oversee the Agreement, pursuant to section A.28.1 (Establishment of Committee), the Parties will, within 60 days of the Province providing Notice, hold an initial meeting to establish the Committee. The Committee’s mandate will expire on the Expiry Date of the Agreement.

K.2.0 COMMITTEE MEMBERS, CO-CHAIRS, AND OBSERVERS

K.2.1 Appointments by the Province. The Province will appoint two persons as members of the Committee.

K.2.2 Appointments by the Recipient. The Recipient will appoint two persons as members of the Committee.

K.2.3 Chairs of the Committee. The Committee will be headed by co-chairs chosen from its members, one appointed by the Province and one appointed by the Recipient. If a co-chair is absent or otherwise unable to act, the member of the Committee duly authorized in writing by the Province or the Recipient, as applicable, will replace him or her and will act as co-chair in his or her place.

K.2.4 Non-committee Member Staff. The Parties may invite any of their staff to participate in Committee meetings.

K.3.0 MEETINGS AND ADMINISTRATIVE MATTERS

K.3.1 Rules of Committee. The Committee will:

- (a) meet at least two times a year, and at other times at the request of a co-chair;
and
- (b) keep minutes of meetings approved and signed by the co-chairs as a true record of the Committee meetings.

K.3.2 Quorum. A quorum for a meeting of the Committee will exist only when both co-chairs are present.

K.4.0 COMMITTEE MANDATE

K.4.1 Mandate. Provided that no action taken by the Committee will conflict with the rights of the Parties under the Agreement, the mandate of the Committee will include, but not be limited to:

- (a) monitoring the implementation of the Agreement including, without limitation, the implementation of Schedule “G” (Communications Protocol), for compliance with the terms and conditions of the Agreement;
- (b) acting as a forum to resolve potential issues or disputes and address concerns;
- (c) reviewing and, as necessary, recommending to the Parties amendments to the Agreement;
- (d) approving and ensuring audit plans are carried out as per the Agreement;
- (e) establishing sub-committees as needed;
- (f) at the request of the Province, reviewing requests for payments; and
- (g) attending to any other function required by the Agreement, including monitoring Project risk and mitigation measures, or as mutually directed by the Parties.

K.4.2 Committee Decisions. Decisions of the Committee will be made as follows:

- (a) the co-chairs will be the only voting members on the Committee; and
- (b) decisions of the Committee must be unanimous and recorded in writing.

K.5.0 ROLE OF THE RECIPIENT

K.5.1 Requirements. The Recipient undertakes to fulfill, in addition to any other requirements provided for in this Schedule “K” (Committee), the following:

- (a) establish a fixed location where the Agreement will be managed, and maintain it until the expiry of the Committee’s mandate and, if relocation is required, establish a new location;
- (b) prepare and retain, at the location described in paragraph K.5.1(a), and make available to the Committee, all documents needed for the work of the Committee, including payment request forms, approval documents, Contracts, and agendas and minutes of meetings of the Committee and its subcommittees;
- (c) ensure that any audit required of the Recipient pursuant to the Agreement is carried out and the results are reported to the Committee;

- (d) ensure that administrative and financial systems are developed and implemented for the Project and the work of the Committee;
- (e) promptly inform the Committee of all proposed changes in respect of the Project; and
- (f) provide the Committee, as requested and within the timelines set by the Committee, and to the Committee's satisfaction, Project status information related to Schedule "D" (Reports).