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TO:	CHAIR AND MEMBERS CORPORATE SERVICES COMMITTEE MEETING ON NOVEMBER 26, 2013
FROM:	MARTIN HAYWARD MANAGING DIRECTOR, CORPORATE SERVICES AND CITY TREASURER, CHIEF FINANCIAL OFFICER
SUBJECT:	LEASE AGREEMENT LONDON POLICE SERVICES BOARD 42 ST JULIEN STREET

RECOMMENDATION

That, on the recommendation of the Managing Director, Corporate Services and City Treasurer, Chief Financial Officer, on the advice of the Manager of Realty Services, with respect to the City owned property municipally known as 42 St. Julien Street, St. Julien Street Operations Centre, the following actions be taken:

- a) **APPROVE** the Lease Agreement between the City and the London Police Services Board (LPS) attached as Appendix "A"; and
- b) the attached proposed By-law (Appendix "B") **BE INTRODUCED** at the Municipal Council meeting to be held on December 3, 2013 to approve the Lease Agreement and **TO AUTHORIZE** the Mayor and the City Clerk to execute the Agreement.

PREVIOUS REPORTS PERTINENT TO THIS MATTER
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Board of Control meeting June 3, 2009

Board of Control meeting December 9, 2009

BACKGROUND

Purpose

The purpose of this report is to seek approval of the by-law authorizing the Mayor and City Clerk to execute a long term lease agreement with the London Police Services Board (LPS) for the existing operations facility known as 42 St. Julien Street.

The Operations Master Plan declared the Operations Centre (the Centre) as surplus in June of 2009. During the process of surplus declaration a need was identified by the LPS. This facility has been utilized by the LPS since January 1, 2010 and is subject to a short term lease that expires December 31, 2013.

The LPS have requested a long term lease arrangement for the continued use of the Centre use as a storage compound and a potential future use as a training facility.

An internal liaison process was completed soliciting feedback from other Civic Departments on the continuing use by the LPS for the extended term. There were no identified municipal needs for the Centre.

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A portion of the parking surrounding the Centre will be retained by Parks Planning for use by the public in support of surrounding park lands.

The area surrounding the Centre is subject to a lease agreement with Infrastructure Ontario for Air Monitoring.

In consideration of the extended term of the proposed lease agreement, the LPS have agreed to assume both the operating and capital costs of maintaining the Centre for use by the LPS. There are current indications of repairs required for the roof that the LPS will address in the context of the long term lease agreement.

Terms of the Lease



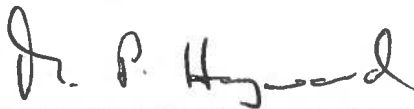
- 10 year lease – January 1, 2014 through December 31, 2023
- Nominal Base Rent
- Prescribed Use – Storage and Training
- 2 three year renewal periods
- Repairs, Capital, and Operating Costs the responsibility of the LPS
- Termination without cause available prior to expiry with one hundred eighty (180) days written notice

Property Details

Official Plan: Open Space
 Zoning: OS1
 Site Description: The Centre is located in the south East Quadrant of the intersection of Tommy Hunter Way and St. Julien Street
 Building Area: 12,420 square feet (approximate)

The form of agreement is attached as Appendix "A" and has been approved by the City Solicitor's Office.

A location map is attached for the Committee's information.

PREPARED BY:	SUBMITTED BY:
	
BRYAN BAAR MANAGER, REALTY OPERATIONS	BILL WARNER MANAGER, REALTY SERVICES
RECOMMENDED BY:	
	
MARTIN HAYWARD MANAGING DIRECTOR, CORPORATE SERVICES AND CITY TREASURER, CHIEF FINANCIAL OFFICER	

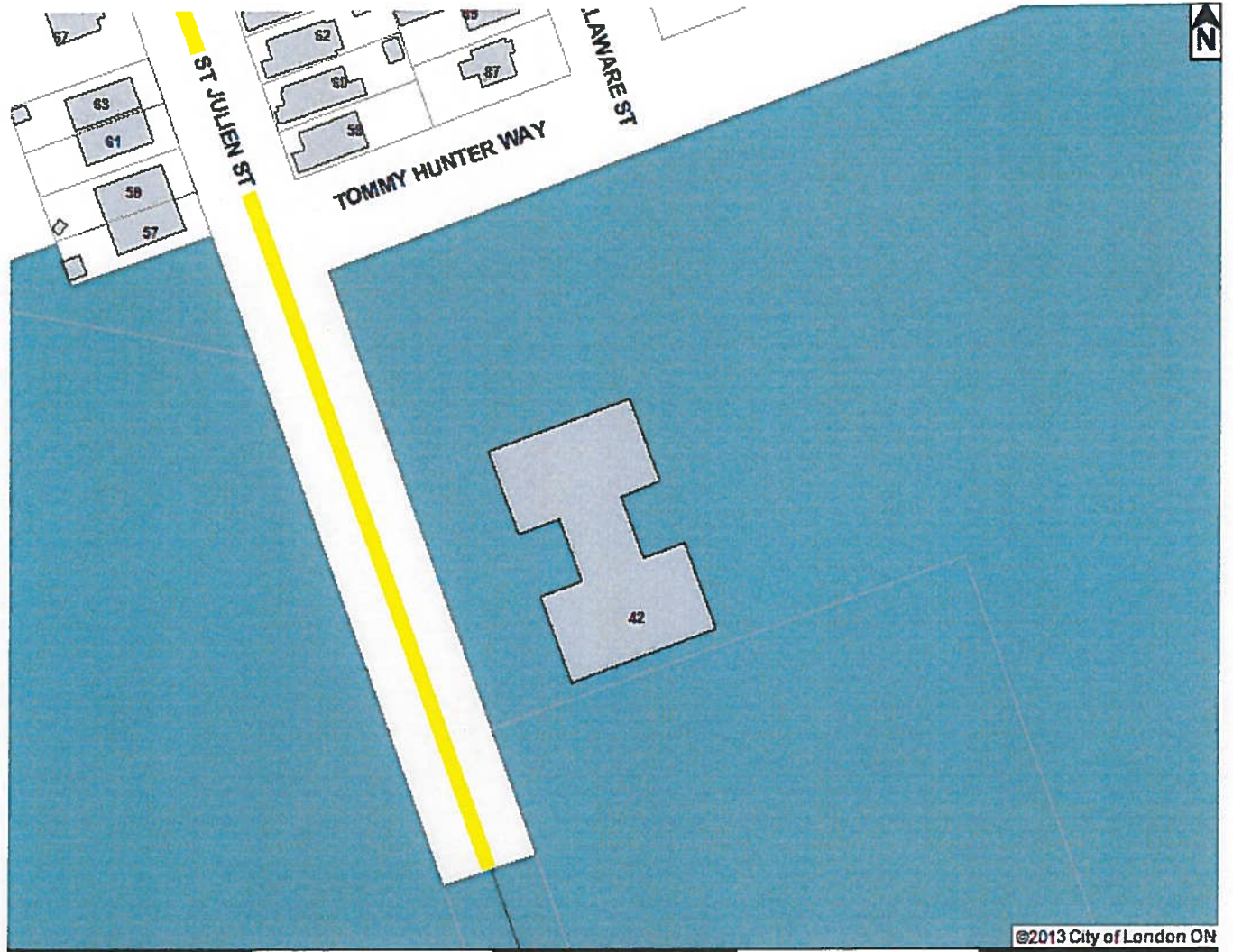
October 30, 2013
 Attach.

File No. P-2286

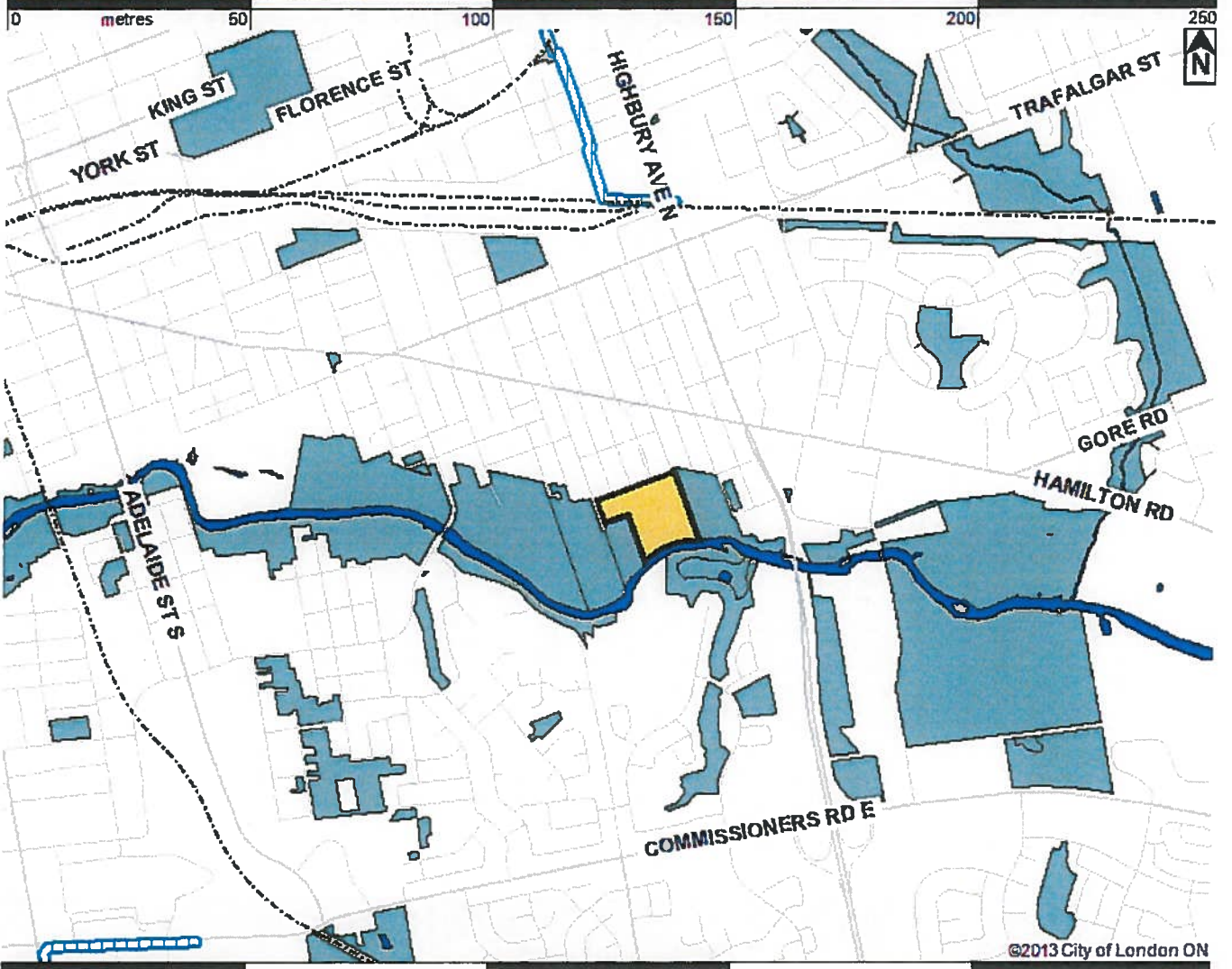
cc: Art Zuidema, City Manager
 David G. Mounteer, Solicitor II

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Location Map



©2013 City of London ON



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THIS LEASE made this 17th day of October, 2013.

BETWEEN:

THE CORPORATION OF THE CITY OF LONDON

(the "Landlord")

- AND -

LONDON POLICE SERVICES BOARD

(the "Tenant")

ARTICLE 1 – PREMISES AND TERM

1.01 Premises:

In consideration of the covenants of the Tenant herein provided for, the Landlord hereby demises and leases to the Tenant and its successors that portion of the Landlord's property located at 42 St. Julien Street, London, Ontario, being part of the property more particularly described in Schedule "A" attached and with the precise location and dimensions of the Leased Area being shown on Schedule "B" attached (the "Leased Area") and with the location and dimensions of the Leased Area being shown on Schedule "B" attached, for the purpose of the Tenant storing motor vehicles in the manner contemplated herein and subject to the terms and conditions hereof.

1.02 Term:

The rights of the Tenant to use, occupy and hold the Leased Area, pursuant to the terms hereof, shall be for a term (the "Term") of ten (10) years, starting from the 1st of January, 2014 (the "Commencement Date") and ending on the 31st day of December, 2023, subject to the extensions provided for herein.

ARTICLE 2 – RENT

2.01 Gross Rent:

The Tenant shall pay to the Landlord, at the place designated for payment by the Landlord, a nominal base rent in the amount of \$2.00 per annum in advance on the 1st day of each year of the term. In addition to such gross rent, the Tenant shall be responsible for the payment of all operating and maintenance costs associated with maintaining the Leased Area and access driveways and sidewalks to the Leased Area for the term of the lease.

ARTICLE 3 – TENANT COVENANTS

3.01 Repairs and Refuse Removal:

The Tenant will repair and maintain the Leased Area in good condition at the Tenant's expense.

3.02 Capital and Operating Costs:

The Tenant will be responsible for paying for all costs associated with any capital/operating expenses associated with the building/property as a result of this lease in order to maintain the Leased Area in good condition.

ARTICLE 4 – USE OF LEASED AREA AND ACCESS

4.01 Permitted Use of Leased Area:

The Tenant shall be entitled to use the Leased Area for the purpose of storage of motor vehicles and training activities only.

ARTICLE 5 – LANDLORD COVENANTS

5.01 Quiet Possession:

If the Tenant pays the gross rent hereby provided for and substantially performs the covenants and obligations on its part to be performed and observed pursuant to the provisions hereof, the Tenant may peaceably possess and enjoy the Leased Area for the Term and any extension thereof, without any interruption or disturbance from the Landlord or any other person or persons lawfully claiming by, from or under it.

5.02 Representations and Warranties:

The Landlord hereby covenants, warrants and represents to the Tenant that:

- (a) The Landlord is the registered owner of the Property and has the authority to enter into the Lease;
- (b) The Tenant's permitted use of the Leased Area is allowable under all applicable zoning and municipal regulations.

ARTICLE 6 – ALTERATIONS AND RENOVATIONS

6.01 Removal and Restoration by Tenant:

The Tenant shall within ninety (90) days after the expiration of the Term take, remove and carry away from the Leased Area all property of any kind brought in or installed on the Leased Area by it or at its expense and shall make good any damage that may be caused thereby, and shall restore the Leased Area to approximately its condition prior to the installation of the Tenant's improvements, which obligation shall survive the expiration or sooner termination of the Term.

6.02 Tenant to Discharge All Liens:

The Tenant shall not suffer or permit any construction or other liens to be filed or placed or exist against the title of the Property, nor against the Tenant's leasehold interest in the Leased Area by reason of work, labour, services or materials supplied or claimed to have been supplied to the Tenant. If any such construction lien shall at any time be filed against the Leased Area, the Tenant shall cause the same to be discharged within thirty (30) days of its becoming aware of same or such greater period of as is necessary in the circumstances. If the Tenant shall fail to discharge such construction lien within such period, then, in addition to any other right or remedy of the Landlord, the Landlord may, after prior written notice to the Tenant, but shall not be obligated to, discharge such lien by a deposit into court. Any amount paid by the Landlord for any of the aforesaid purposes or for the satisfaction of any other lien, not caused or claimed to be caused by the Landlord, and all reasonable legal and other expenses of the Landlord, including reasonable counsel fees, in obtaining the discharge of such lien, with all necessary disbursements in connection therewith, shall be repaid by the Tenant to the Landlord on demand.

ARTICLE 7 – INSURANCE

7.01 Insurance on Leasehold Improvements:

The Landlord covenants and agrees that the Tenant shall have an insurable interest in the improvements to the Leased Area which may be made by it or at its expense, whether before or after the Commencement Date, and that the Tenant shall have the right to insure such improvements up to the full value thereof, notwithstanding that the same may be affixed to or incorporated into the Property. In the event of a partial or total destruction of such improvements by fire or any other cause, the Tenant shall be entitled to receive and retain monies payable under such insurance to the extent of its insurable interest.

The Tenant shall indemnify and hold the Landlord harmless from and against any losses, claims, demands, costs and expenses, including reasonable legal fees, occasioned by any negligence, acts or omissions by the Tenant, its officers, agents, employees, volunteers or others for whom it is responsible at law, arising out of or as a result of its use of and/or operations and undertakings on the Property, in connection with the arrangements contemplated hereby.

7.02 Public Liability Insurance:

The Tenant shall obtain and maintain, for the duration of the Term, commercial general liability insurance, with a limit of no less than \$5,000,000.00 on a per occurrence basis. The Tenant will add

the Landlord as an additional insured on any policy for such insurance coverage for purposes of and with respect to the Tenant's obligations to the Landlord under this Agreement. Any such policy shall include non-owned automobile liability, personal injury, broad form property damage, contractual liability, owner's and contractor's protective, products and completed operations, contingent employers liability, cross liability and severability of interest clauses and tenants legal liability insurance to a limit of \$2,500,000.00 and shall further provide that it may not be cancelled on less than thirty (30) days prior written notice to the Landlord.

7.03 Risk of Personal Injury:

Except to the extent contributed to or caused by the act, omission or negligence of the Landlord, its servants or agents, or those for whom the Landlord is at law responsible, the Landlord shall not be responsible for any personal injury which shall be sustained by the Tenant or any employee, agent, or other person who may be upon or attending the Leased Area, all risks of any such injury being assumed by the Tenant who shall hold the Landlord harmless and indemnified therefrom.

7.04 Risk of Property Damage:

Except to the extent contributed to or caused by the act, omission or negligence of the Landlord, its servants or agents, or those for whom the Landlord is at law responsible, the Landlord shall not be liable for any damage to any property at any time on the Leased Area.

7.05 Landlord's Insurance

The Landlord shall insure the Property as would a prudent landlord of a property of similar size and nature, including, without limitation, appropriate liability insurance.

ARTICLE 8 – ASSIGNMENT OR TRANSFER

8.01 Assignment:

If the Landlord sells or transfers its interest in the Property or in this Lease, the Landlord will be relieved from liability under its covenants and obligations hereunder to the extent that the purchaser or assignee covenants in writing with the Tenant to perform such covenants and obligations.

8.02 Assignment by Tenant:

The Tenant shall not assign, sublease or transfer its interest in this Lease, in whole or in part, without first obtaining the written consent of the Landlord which consent shall not be unreasonably withheld.

ARTICLE 9 – REMEDIES AND TERMINATION

9.01 Re-Entry:

In the case of non-payment of rent or non-performance of covenants or forfeiture of the Term for any of the causes set forth in this Lease, the Landlord shall have the right of re-entry, subject to the provisions of this Article.

9.02 Default:

In the event of any default by the Tenant in the performance of its obligations hereunder, the Landlord shall have the right to demand the termination of the Lease; provided that, the Tenant shall be entitled to a delay during which it may remedy the default. Such delay shall be ten (10) days in the case of non-payment of rent and thirty (30) days in other cases, said delays to commence upon receipt of a written notice from the Landlord specifying the default

9.03 General Termination:

Either party may terminate this Agreement, without cause, prior to the expiry of the term upon providing ninety (180) days written notice to the other party.

9.04 Holding Over:

If at the expiration of the Lease or of any extension thereof the Tenant shall hold over for any reason, the occupancy of the Tenant thereafter shall be from month to month only and shall be subject to all the terms and conditions of the Lease, except as to duration, in the absence of any written agreement to the contrary.

ARTICLE 10 – SPECIAL PROVISIONS**10.01 Option to Extend:**

(a) Provided that the Tenant is not then under a continuing default pursuant to the terms of this Lease, the Tenant shall be entitled to up to two three (3) year extensions of the Term, on giving written notice to the Landlord of the exercise of such extensions at least three (3) months prior to the expiration of the original Term hereof.

(b) Such extension shall be on the same terms and conditions as were in effect for the original Term hereof, save and except for any further right of extension.

ARTICLE 11 – GENERAL PROVISIONS**11.01 Waiver:**

Failure of the Landlord or the Tenant, as the case may be, to insist upon strict performance of any of the covenants and conditions of the Lease or to exercise any right or option herein contained shall not be construed as a waiver or relinquishment of any such covenant, condition, right or option, but the same shall remain in full force and effect.

11.02 Entire Agreement:

The Lease and the Schedules attached (which form a part hereof), set forth all of the covenants, promises, agreements, conditions and understandings between the Landlord and the Tenant concerning the Leased Area and there are no covenants, promises, agreements, conditions or representations, either oral or written, between them other than are herein and in the said Schedules. Except as herein otherwise provided, no subsequent alteration, amendment, change or addition to this Lease shall be binding upon the Landlord or the Tenant, unless in writing and signed by them. Each obligation expressed in this Lease, even though not expressed as a covenant, is considered to be a covenant for all purposes. This Lease shall be governed and construed in accordance with the laws of the Province of Ontario.

11.03 Validity of Lease:

If any term, covenant or condition of this Lease or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term, covenant or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term, covenant or condition of this Lease shall be valid and enforceable to the fullest extent permitted by law.

11.04 Notices:

Any notice required or permitted by any provision of the Lease shall be given in writing, and delivered by hand or by courier or mailed, by prepaid registered post, or sent by facsimile addressed:

If to the Landlord at:

300 Dufferin Avenue
London, Ontario N6A 4L9

Attention: Mr. Bill Warner
Manager of Realty Services

If to the Tenant at:

London Police Headquarters
601 Dundas Street
London, Ontario N5Z 3M7

Attention: Joe Amaral, Director, Fleet and Facilities Branch
London Police Service

Any notice shall be deemed to have been given on the fifth business day after it is mailed, on the day of delivery, or facsimile transmission if received before 5:00 p.m. local time on a business day, otherwise on the next following business day. The Landlord or the Tenant may from time to time, by notice in writing, designate a change in address to which notices are to be mailed.

11.05 Notice of Lease:

The Tenant shall not be entitled to register a Notice of this Lease on title to the Property.

IN WITNESS WHEREOF the parties hereto have executed this Lease as of the date first above written.

THE CORPORATION OF THE CITY OF LONDON
(Landlord)

Joe Fontana, Mayor

Catharine Saunders, City Clerk

LONDON POLICE SERVICES BOARD (Tenant)

X _____
Name: Michael Deeb
Title: Chair, LPSB

X _____
Name: Jeannette Eberhard
Title: Vice Chair, LPSB

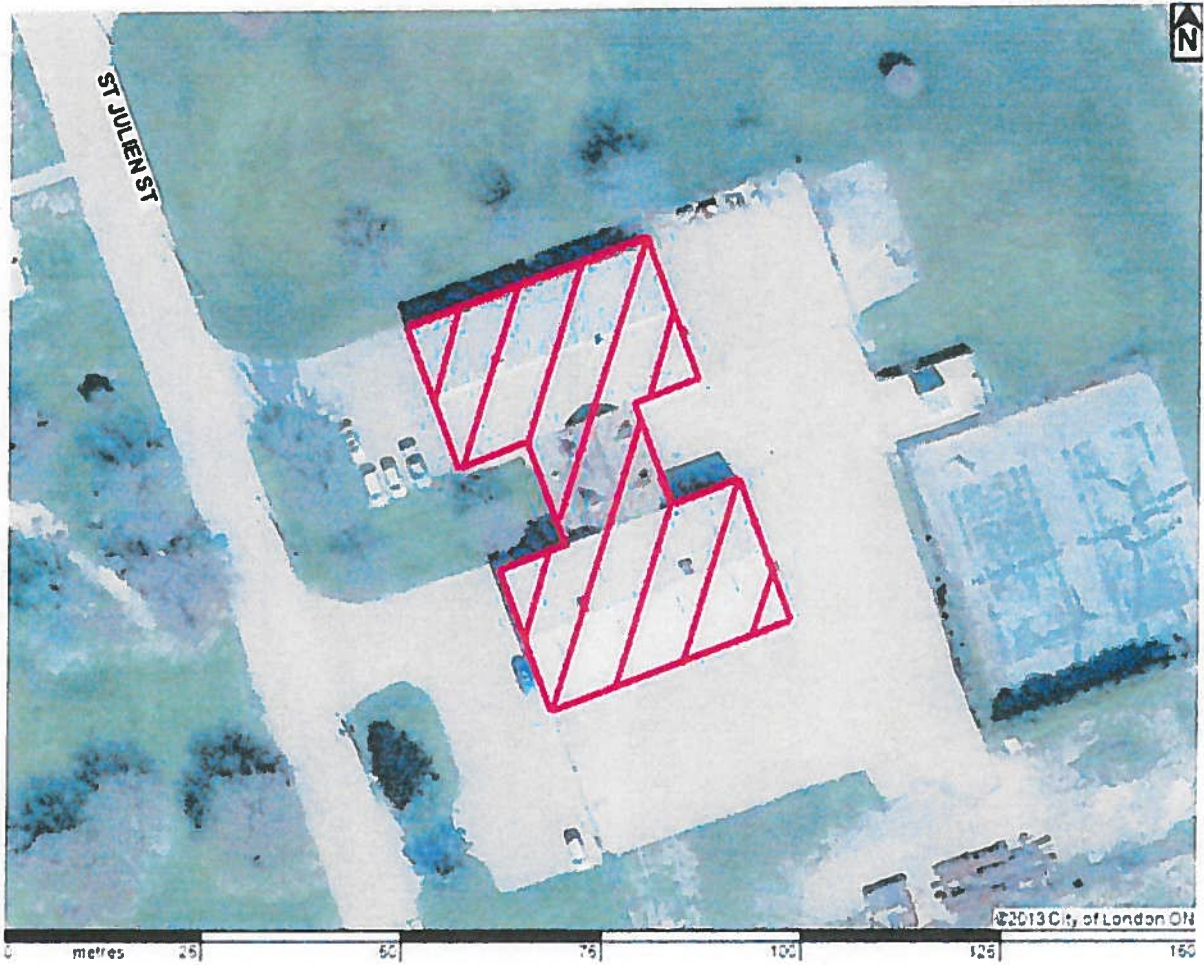
I/We Have the Authority to Bind the Corporation

Schedule "A"

Legal Description:

Part of Lot 4 east of West Street on Registered Plan 266(C) in the City of London, County of Middlesex.

Schedule "B"



 = Leased Area

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APPENDIX "B"

Bill No.

By-law No.

A By-law to authorize a Lease Agreement between The Corporation of the City of London and the London Police Services Board, covering the use of the City owned property at 42 St. Julien Street, and to authorize the Mayor and the City Clerk to execute the Agreement.

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

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

AND WHEREAS it is deemed expedient for The Corporation of the City of London (the "City") to enter into a Lease Agreement with the London Police Services Board (the "Agreement");

AND WHEREAS it is appropriate to authorize the Mayor and the City Clerk to execute the Agreement on behalf of the City;

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

1. The Agreement attached as Appendix "A" to this by-law, being a Lease Agreement between the City and the London Police Services Board is hereby AUTHORIZED AND APPROVED.
2. The Mayor and the City Clerk are authorized to execute the Agreement authorized and approved under Section 1 of this by-law.
3. This by-law shall come into force and effect on the day it is passed.

PASSED in Open Council

Joe Fontana
Mayor

Catharine Saunders
City Clerk

First reading - December 3, 2013
Second reading - December 3, 2013
Third reading - December 3, 2013