

<b>TO:</b>	<b>CHAIR AND MEMBERS FINANCE AND ADMINISTRATION COMMITTEE  MEETING ON OCTOBER 19, 2011</b>
<b>FROM:</b>	<b>TOM JOHNSON MANAGING DIRECTOR – CORPORATE ASSETS</b>
<b>SUBJECT:</b>	<b>LEASE AGREEMENT BETWEEN THE CITY AND THAMES VALLEY DISTRICT SCHOOL BOARD LONDON ENVIRONMENTAL EDUCATION CENTRE AT THE WELLINGTON ROAD TOURIST INFORMATION CENTRE LOCATION</b>

<b>RECOMMENDATION</b>
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That, on the recommendation of the Managing Director - Corporate Assets, on the advice of the Manager Realty Services, the following actions **BE TAKEN**:

- a) the City enter into a five (5) year land lease with the Thames Valley District School Board (TVDSB) covering the use of an area behind the City's Wellington Road Tourist Information Centre building where two portable classrooms are currently located at 696 Wellington Road, subject to the following conditions:
  - i) the subject lands to be used as a London Environmental Education Centre;
  - ii) the TVDSB agreeing to pay to the City a rental rate of \$6,600.00 per annum plus utilities;
  - iii) the TVDSB having the use of the washrooms in the Wellington Road Tourist Information Centre; and
  - iv) the TVDSB having periodic use of the meeting room in the Wellington Road Tourist Information Centre at an additional charge of \$100.00 per half day.
  
- b) the attached proposed By-law **BE INTRODUCED** at the Municipal Council meeting on October 24, 2011, to approve the lease of lands to the Thames Valley District School Board and **TO AUTHORIZE** the Mayor and City Clerk to execute the Lease Agreement.

<b>PREVIOUS REPORTS PERTINENT TO THIS MATTER</b>
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November 12, 2008 - Board of Control Report (TVDSB three (3) year lease agreement)

<b>BACKGROUND</b>
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**Purpose**

To seek approval to enter into a five (5) year land lease agreement with the TVDSB for the continuation of their London Environmental Education Centre at the current location.

**Context**

The program as operated by the TVDSB at the current location at the Wellington Road Tourist Information Centre, 696 Wellington Road South, has proved to be very successful in this location due to the access to the Westminster Ponds property. The joint use of the site has been facilitated with the co-operation between Tourism London and the School Board. Following the installation of the classrooms three (3) years ago and the additional site improvements, the program has been successfully operating at this location without any issues arising from the joint use of the property.



**Lease Particulars**

1. The lease will permit the TVDSB to utilize the existing structures on the current site for a further term of five (5) years.
2. The use of the washrooms in the Wellington Road Tourist Information Centre will be accessible to students using the portable classrooms.
3. The periodic use of the meeting room in the Tourist Centre;
4. The use of the public trails at Westminster Ponds.
5. The lease adequately addresses the renovations that will be taking place at the Tourist Centre, which during this time period the TVDSB will be permitted to install a portable classroom at its expense.

The TVDSB, when they moved onto the site three (3) years ago had upset costs of approximately \$50,000.00 for the installation of a walkway, planting of trees, connection of a separate hydro line and meter and placing the portable classrooms on site.

The City of London incurs minimal additional costs in the use of the property and therefore the base rent is increased from \$6,000.00 per annum to \$6,600.00 per annum , plus utilities and additional cleaning/ washrooms supplies (if applicable).

A plan is attached for the Committee's information.

<b>PREPARED BY:</b>	<b>RECOMMENDED BY:</b>
	
<b>BILL WARNER MANAGER , REALTY SERVICES</b>	<b>TOM JOHNSON MANAGING DIRECTOR-CORPORATE ASSETS</b>

October 4, 2011  
Attach.

Doc. P-1378 (23)

cc: David G. Mounteer, Solicitor II

# Thames Valley District School Board Outdoor Education Centre



Bill No.

By-law No.

A By-law to authorize a Lease Agreement between The Corporation of the City of London and the Thames Valley District School Board, for the London Environmental Education Centre, for the use of the City owned property at 696 Wellington Road and to authorize the Mayor and City Clerk to execute the Lease 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 an Lease Agreement with Thames Valley District School Board (the "Agreement");

AND WHEREAS it is appropriate to authorize the Mayor and 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 Thames Valley District School Board is hereby AUTHORIZED AND APPROVED.
2. The Mayor and 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

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Joe Fontana  
Mayor

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Catharine Saunders  
City Clerk

First reading -  
Second reading -  
Third reading -

THIS LEASE made this                      day of                                              , 2011.

**BETWEEN:**

**THE CORPORATION OF THE CITY OF LONDON**

(the "Landlord")

- AND -

**THAMES VALLEY DISTRICT SCHOOL 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 (the "Leased Area") of the Landlord's property located at 696 Wellington Road, London, Ontario (the "Property"), 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, for the purpose of the Tenant conducting outdoor education programs for its students in the manner contemplated herein and subject to the terms and conditions hereof, which include: (a) a ground lease for the placement of two (2) portable classrooms in the manner described in Article 3 hereof; (b) the usage of the washroom facilities located at the Wellington Road Tourist Information Centre on the Property in the manner described in subparagraph 4.01(d) hereof; (c) the right to access the Property in the manner described in subparagraph 4.01(a) hereof; and, (d) the usage of the wooded area adjacent to the Property in the manner described in subparagraph 4.01(b) and section 4.02 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 five (5) years, starting from the 1<sup>st</sup> of November, 2011 (the "Commencement Date") and ending on the 31<sup>st</sup> day of October, 2016, subject to the single extension 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, gross rent in the amount of \$6,600.00 per annum. In addition to such gross rent, the Tenant shall be responsible for the payment of its own electricity (only as pertaining to the portable classrooms), as well as the cost of any installation and usage by it of data and telephone lines.

**ARTICLE 3 – TENANT COVENANTS**

**3.01 Tenant Construction:**

The two (2) portable structures owned by the Tenant and all the Tenant's furniture, equipment, and machines contained therein shall remain the personal property of the Tenant, regardless of the manner in which they are affixed.

**3.02 Repairs and Refuse Removal:**

The Tenant will repair and maintain in good condition the portables and related installations on the Leased Area (reasonable wear and tear excepted). The Tenant shall arrange for its custodians to place refuse accumulated in the portables at the road side for collection in accordance with the scheduling for the normal road side garbage collection services provided to the Property.

### 3.03 Washrooms:

The Tenant acknowledges that the washrooms as located in the Wellington Road Tourist Information Centre will not be accessible for the time period of up to six (6) months, commencing in the Fall of 2011. The Tenant will be responsible for providing, at its sole expense, a portable washroom facility. The location of the portable washroom and placement thereof requires written permission from the Landlord. All costs related to such approval shall be at the Tenant's sole expense.

## 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 purposes of conducting outdoor education programs for its students, in connection therewith:

- (a) buses carrying the Tenant's students and teachers overseeing the programs (together, "Program Participants") shall be entitled to access the Leased Area via the entrance to the Property shown on Schedule "B" attached and for purposes of dropping off and picking up Program Participants. No more than one (1) school bus, per day, shall be permitted to park in the parking lot shown on Schedule "B" at any given time;
- (b) Program Participants will be entitled to access the wooded area adjacent to the Property known as Westminster Ponds, via the two (2) locations shown on Schedule "B" attached;
- (c) Subject to availability, the Tenant shall be permitted to book usage of the conference room located at the Wellington Road Tourist Information Centre on the Property at a half day rate of \$100.00. The Board will be required to make direct booking arrangements with Tourism London staff not less than one week in advance of any desired time period; and
- (d) Program Participants shall be entitled to use the washroom facilities located at the Wellington Road Tourist Information Centre on the Property and shown on Schedule "B" hereto; provided that, the Tenant shall be required to use reasonable efforts to ensure that Program Participants exercise decorum and reasonable hygienic practices while utilizing said washroom facilities. To the extent that the Landlord determines that the usage of such washroom facilities by Program Participants is resulting in significant additional costs for the cleaning thereof, the Landlord shall notify the Tenant of same and the parties shall negotiate a mutually satisfactory arrangement for purposes of addressing such circumstances.

### 4.02 Hours for Program Operation

The Tenant and Program Participants shall be entitled to access and utilize the Leased Area and the Property in the manner described in Section 4.01 above Monday through Friday (excluding holidays) during the Term, from 8:30 a.m. to 4:30 p.m. The Tenant, its employees and agents shall be allowed access to the Property and the Leased Area on a 24 hour per day, 7 day per week basis, during the Term, for purposes of keeping the portables and related installations in good condition, as required by Section 3.02 above. Notwithstanding the foregoing, during the months of July and August, the Tenant shall only be entitled to use the portable classrooms and washroom facilities for program purposes with permission of the Landlord, which shall not be unreasonably withheld.

## 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 Services of Landlord:

The Landlord will, at its expense, maintain in good repair the entrance(s), driveway(s), parking areas, and landscaped areas on the Property. The Landlord will provide snow removal in the areas required for access to the portables and the above referenced parking lot. The Landlord shall also ensure that the sidewalks leading to the portables (as shown on Schedule "B" hereto), and the steps thereof are free from snow. The Landlord will invoice the Tenant, from time to time, for the Landlord's out-of-pocket expenses in connection with the snow removal services for such sidewalks and steps

only, and the Tenant will promptly pay such invoices. The aforementioned snow removal services shall be provided Monday through Friday, excluding holidays, with snow removal to be completed by 7:00 a.m. each day or at any time when snow fall exceeds two (2) inches in accumulated depth.

### **5.03 Signage:**

The Tenant shall be entitled to erect signage on the portables provided the Tenant obtains applicable municipal approvals and the Landlord otherwise consents to the placement thereof, which consent shall not be unreasonably withheld.

### **5.04 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; and
- (c) The Property currently contains no Contamination, as hereinafter defined, exceeding current guidelines for the act or omission of the Tenant, the Landlord will indemnify and save harmless the Tenant from and against all losses, damages, costs or expenses directly, indirectly or consequentially suffered by the Tenant or its employees, agents or invitees, including, Program Participants, in connection with or as a result of any environmental contaminants, hazardous or toxic substances, other contamination or the remediation thereof (the "**Contamination**") in, on or under the Leased Area or the Property.

### **5.05 Portable Washroom:**

- (a) The Tenant placement of a portable washroom will require site plan approval from the Landlord.
- (b) The Landlord will give sixty (60) days prior notice to Tenant when the existing washrooms in the Wellington Road Tourist Information Centre are no longer accessible to the Tenant.

## **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, including, without limitation, the portables, 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 portables and 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 portables and 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 the portables and 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 the portables and 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 contain a cross liability provision 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, Program Participant 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, including the portables.

### **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; provided that, no consent shall be required for a transfer, whether by operation of law or otherwise, to another school board that is in the nature of a successor to the Tenant.



## 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 prior to the expiry of the term upon providing 90 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 a single one (1) year extension of the Term, on giving written notice to the Landlord of the exercise of such extension 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 and save and except for the gross rent, which gross rent shall be \$7,200.00 per annum, provided that, in the event the Tenant notifies the Landlord of its desire to extend the Term, the Tenant shall not be obligated to proceed with such extension unless it agrees to any increase in the gross rent proposed by the Landlord.

### 10.02 Discussions re: Permanent Facility

The parties acknowledge that, during the Term, they shall entertain discussions regarding the possibility of the Tenant erecting a permanent structure on the Property for purposes of accommodating outdoor education programs.

## 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

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:

951 Leathorne Street  
London, Ontario N5Z 3M7

Attention: K. Bushell, Executive Officer – Capital Planning  
Projects and Maintenance, Facility Services

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**







By: \_\_\_\_\_

**THAMES VALLEY DISTRICT SCHOOL BOARD**

By:  \_\_\_\_\_



**MAP LEGEND**

-  Parks
-  Major Pipelines
-  Assessment Parcels
-  Buildings
-  Address Numbers
- 

Roll number: 050550019000000  
 Owner: LONDON CITY  
 Mailing address: PO BOX 5035 STN CTR CSC LONDON ON N6A 4L9  
 Legal description: CON 1 PT LOT 23 PT LOT 24 REG  
 Assessment land use description: Nursing homes, all types


Electoral ward: 14 [Click here for ward info](#)  
 GIS ID#: 74066  
 Municipal addresses on this parcel: 746 WELLINGTON RD, 710 SOUTHDALE RD E, 696 WELLINGTON RD, 740 WELLINGTON RD




Thames Valley  
District School Board

NOTES:  
ALL DIMENSIONS MUST BE VERIFIED ON SITE AND ANY DISCREPANCIES REPORTED TO TVDSB BEFORE PROCEEDING WITH WORK.  
ALL DRAWINGS AND SPECIFICATIONS ARE INSTRUMENTS OF SERVICE AND THE PROPERTY OF TVDSB AND MUST BE RETURNED AT THE COMPLETION OF THE WORK.  
DO NOT SCALE FROM DRAWING

**SCHEDULE 'B' INFORMATION**

-  EXISTING SIDEWALK
-  NEW SIDEWALK
-  SIDEWALK TO HAVE SNOW REMOVAL - APPROX 2800 sq ft

**SCHEDULE 'C' INFORMATION**

-  4-10' BLUE SPRUCE TO BE LOCATED ON SITE AS DIRECTED BY TOURISM LONDON

PROJECT TITLE:  
**VISITOR CENTRE**  
WELLINGTON ROAD  
LONDON, ON

DRAWING TITLE:  
**SITE PLAN - OPTION 2**

DATE: 02/09/08	SCALE: N.T.S.	SHEET NO.:
DRAWN BY: ADP	CHECKED BY:	<b>P2.1</b>
FILE NAME: VISITOR CENTRE \ SITE		



Schedule "B"