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| <b>TO:</b>      | <b>CHAIR AND MEMBERS<br/>CORPORATE SERVICES COMMITTEE<br/><br/>MEETING ON APRIL 9, 2013</b>                                    |
| <b>FROM:</b>    | <b>MARTIN HAYWARD<br/>MANAGING DIRECTOR, CORPORATE SERVICES<br/>AND CITY TREASURER, CHIEF FINANCIAL OFFICER</b>                |
| <b>SUBJECT:</b> | <b>295 RECTORY STREET<br/>LONDON OPTIMIST SOCCER CENTRE (BMO CENTRE)<br/>BUILDING AND BROWNFIELD SITE REMEDIATION - UPDATE</b> |

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| <b>RECOMMENDATION</b> |
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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, the budget for the building and brownfield site remediation, project RC2401-RINC, **BE INCREASED** by \$200,000.00 as identified in the attached Source of Financing Report (Appendix "A"), noting that the Council resolution providing payment authorization is attached as Appendix "B".

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| <b>PREVIOUS REPORTS PERTINENT TO THIS MATTER</b> |
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| March 31, 2009   | Infrastructure Stimulus Fund — 2 <sup>nd</sup> Report (Committee of the Whole)<br><a href="http://council.london.ca/meetings/Archives/Agendas/City%20Council%20Agendas/Council%20Agendas%202009/2009-03-27%20Committee%20of%20the%20Whole/Item%201.pdf">http://council.london.ca/meetings/Archives/Agendas/City%20Council%20Agendas/Council%20Agendas%202009/2009-03-27%20Committee%20of%20the%20Whole/Item%201.pdf</a> |
| October 5, 2009  | In Camera report to Committee of the Whole – with respect to property acquisition   |
| January 18, 2010 | Council Resolution (attached as Appendix B)   |
| July 20, 2011    | Finance and Administrative Services Committee meeting   |
| July 25, 2011    | Council Resolution  |

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| <b>BACKGROUND</b> |
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The London Optimist Soccer Centre (LOSC), now called the BMO Centre, is a project initiated by the Optimist Club of London where the City has assisted in funding the project under the economic stimulus program. The City requested that the Optimist Club consider moving their business/operation from the North East reach of the City to a central location in the City, recognizing its unique recreational opportunities as a city wide facility. As a result, the City conducted a search, identified the property on Rectory Street, a vacant brownfield site and facilitated a move from the former Soccer Dome site on Cuddy Boulevard to its new home on Rectory Street in central London.

The terms of the City agreement with the Optimist Club regarding the move to Rectory Street in general require the City to pay for all costs associated with the move that would not have been borne had the Optimists stayed on their site at Cuddy Boulevard. In addition, the City recognized that the Rectory Street site is a "brownfield" site and agreed to pay for all costs responsible for environmental study and mitigation of the site as necessary to allow for the construction of the facility.

This commitment was made by Council as resolved at the Council meeting on January 18, 2010 (attached as Appendix "B").

### **The Risk Assessment**

Golder Associates Limited (Golder) was retained by the City of London in partnership with the London Optimist Club to conduct a risk assessment (RA) for the property to manage risks to human health associated with the potential for environmental concerns related to the property or adjacent properties. The findings of the RA are intended to support the filing of a Record of Site Condition (RSC) for the property.

The RA was submitted to the Ontario Ministry of the Environment (MOE) on December 9, 2010. At the time of the December 2010 submission of the RA report, the site was vacant and undeveloped, although construction of the indoor sports facility was underway. Construction has since been completed with a 110,000 square foot indoor sports facility owned by the LOSC.

MOE comments on the RA were received on April 28, 2011 and these comments were addressed by an addendum to the RA report, dated March 2012, and submitted March 27, 2012.

On June 14, 2012, additional comments were received from the MOE on the addendum of the RA. MOE insisted on two additional monitoring wells which were installed and samples taken.

On November 8, 2012, a second addendum to the RA was submitted to MOE. MOE accepted the RA on November 30, 2012.

As a result of the change in reporting requirements in the MOE regulation (O. Reg. 153/04) in July 2011, it was necessary to update and re-submit the Environmental Site Assessment Phase 1 and Phase 2 reports. This was additional unforeseen costs.

### **Record of Site Condition**

On December 18, 2012, the Record of Site Condition (RSC) number 206446 was filed in the Environmental Site Registry, Ministry of the Environment pursuant to paragraph 3 of subsection 168.4(3.1) of the *Environmental Protection Act*.

### **Certificate of Property Use**

A certificate of property use (CPU) is a control document that is issued by the Ministry of the Environment to a property owner in relation to an accepted risk assessment (RA) that is required to implement risk management measures (RMMs). RMMs are implemented on a site to ensure there is no adverse effect associated with the contaminants present on site.

The MOE is requesting a CPU for the BMO Centre. This document is being developed and further consultation with MOE is required.

### **Financial Implications**

Additional financing is required as outlined in the attached source of financing (Appendix "A").

At this time, authorization to increase the budget by \$200,000.00 is sought to cover the costs associated with additional tasks required by MOE's responses to the Risk Assessment, additional third year of post-construction monitoring, additional groundwater monitoring requested by MOE, final costs for acid tar removal and decommissioning of existing monitoring wells.

On-going operating and capital costs of the centre are the responsibility of the Optimists.

**Summary**

The City has made a commitment to make the Optimists whole in the development of a brownfield site for recreational purposes, centrally located in the City on a site that otherwise would not have been developed leaving this land vacant indefinitely. The City has engaged an environmental consultant to conduct review of prior mitigation efforts and assessments by previous owners, carried out further investigations and provided updated assessments based on what was known. Recent findings, building permit and site requirements and additional requirements from the Ministry of the Environment have resulted additional costs that were not originally anticipated. The project is now complete and no further costs are expected.

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| <b>PREPARED BY:</b>                               | <b>RECOMMENDED BY:</b>  |
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| <b>BILL WARNER<br/>MANAGER OF REALTY SERVICES</b> | <b>MARTIN HAYWARD<br/>MANAGING DIRECTOR, CORPORATE<br/>SERVICES AND CITY TREASURER, CHIEF<br/>FINANCIAL OFFICER</b> |

March 22, 2013

cc: John Braam, Managing Director, EES and City Engineer  
Bill Coxhead, Managing Director, Parks and Recreation  
David G. Mounter, Solicitor

## APPENDIX "B"

Council Resolution from their meeting on January 18, 2010

1. (19) That, as a procedural matter pursuant to section 239(6) of the *Municipal Act, 2001*, the following recommendation be forwarded to the Committee of the Whole for the purpose of considering whether the recommendation should be forwarded to City Council for deliberation and a vote in public session:

That, on the recommendation of the General Manager of Finance and Corporate Services and Acting City Treasurer, on the advice of the Manager of Realty Services, with the concurrence of the General Manager of Community Services and Director of Parks and Recreation, the Mayor and the City Clerk **BE AUTHORIZED** to execute an Agreement of Purchase and Sale submitted by the London Optimist Sports Centre to sell to the City property municipally addressed as 6 Cuddy Boulevard, described as Part of Block 1, Plan 33M-179, designated as Parts 1, 2, 3 and 4, Plan 33R-16368 (the "Property"), for the sum of \$525,000, subject to the following conditions:

- (a) the London Optimist Sports Centre confirming in writing to the City that all conditions in the Agreement of Purchase and Sale between the London Optimist and Western Fair Association in respect of 295 Rectory Street, London (the "Rectory Lands") dated January 2010 (the "Rectory Agreement") have been fulfilled or waived by the London Optimist;
- (b) the City being satisfied regarding the environmental and other conditions of the Property;
- (c) the purchase price for the Property shall be satisfied by the City funding, on behalf of the London Optimist, the full amount of the purchase price, together with land transfer tax and registration fees, for the Rectory Lands pursuant to the Rectory Agreement;
- (d) the City agreeing to instruct Golder Associates, at the City's cost, to conduct a full risk assessment in respect of the Rectory Lands pursuant to the provisions of the *Environmental Protection Act* (the "EPA");
- (e) the City agreeing to pay the cost of any remedial measures or any extraordinary construction procedures or materials or processes in respect of the construction of the London Optimist's proposed building on the Rectory Lands (the "Proposed Building") as referenced in the risk assessment by Golder Associates, noting that Golder Associates have not identified any significant impacts with the proposed use/facility, excepting additional costs associated with foundations as set in (f) below;
- (f) the City agreeing to pay the London Optimist additional costs of deeper foundations in respect of the Proposed Building, noting that Golder Associates has estimated this amount to be a maximum of \$500,000;
- (g) the City agreeing to pay the London Optimist additional costs of arranging for and connecting to municipal services on the Rectory Lands, based upon the understanding that such services are already available on the property;
- (h) the City agreeing, at the City's cost, to direct Golder Associates to file in the Environmental Site Registry (as defined in the EPA) a Record of Site Condition in respect of the Rectory Lands in accordance with Section 168.4 of the EPA;
- (i) the City agreeing to indemnify the London Optimist in respect of all existing environmental contamination associated with the Rectory Lands;
- (j) the City agreeing to lease back the Cuddy Property to the London Optimist for a term not to exceed 5 years at a nominal annual rent of \$1.00. The London Optimist shall be responsible for all costs related to the Property during the lease-back period, provided that the City shall pay to the London Optimist, an annual grant in lieu of the realty taxes

payable by the London Optimist for the Property during the term of the lease-back. Following termination of the lease-back the London Optimist shall immediately remove all structures, buildings and fixtures from the property at no cost to the City; and

- (k) the London Optimist Sports Centre providing an undertaking that they will not object to the potential application to develop a biogas facility on the property adjacent to their existing facility at 6 Cuddy Boulevard or object to any other potential applications for use permitted within the existing zoning;

and that the financing for this acquisition **BE APPROVED** as set out in the Sources of Financing Reports attached hereto as Appendix "A" and Appendix "B";

it being noted that through this acquisition the City acquires an 8.8 acre parcel of land with a current market value of approximately \$525,000 which has the potential for opportunities through the City's Industrial Land Strategy and the normal policies with respect to the payment of development charges will apply.