ACTION REQUIRED

November 1, 2007

To:

Board of Governors of Exhibition Place

From:

Dianne Young

Chief Executive Officer

Subject:

Sustainable Condominium Display - Agreement with EcoSmart Foundation

Incorporated

Summary:

This report recommends entering into an agreement with EcoSmart Foundation Incorporated ("EFI") to lease to the Board the Sustainable Condominium Exhibit ("SCE") for use by the Board in a permanent display within the Music Building (the "Permanent SCE Initiative"). The agreement proposes to allow EFI to act as an agent for the Board in entering into sponsorship agreements that have a value of \$25,000 or less and are directly related to the Permanent SCE Initiative. In addition, the agreement would appoint EFI as the Board's trustee for the deposit of any sponsorship fees from these agreements along with any funds that were previously held by EFI in trust for Canada Mortgage & Housing Company (CMHC) and to hold these funds within a separate bank account set up in the name of the Sustainable Condo Exhibit Toronto (SCET Account) and to disburse these funds on the direction and approval of the Board to pay for expenses directly related to the Permanent SCE Initiative.

Recommendation:

It is recommended that the Board enter into an agreement with EFI substantially on the terms and conditions outlined in this report along with such other terms as may be satisfactory to the CEO and City Solicitor.

Financial Implications:

The value of the services to be provided by EFI to the Board is \$60,000 calculated as follows: 14 months at \$3,928.60 per month for the rental of the SCE plus a maximum of \$5,000 of accounting services. EFI has agreed to provide this to the Board as an in-kind contribution.



Decision History:

At its meeting on May 4, 2007, the Board approved in principle the use of two pods of the Music Building as a display of the SCE and various other displays of energy efficiency information.

Issue Background:

The SCE display was designed and built by a leading architect in Vancouver for the EFI and was displayed in various trade shows and other venues in that Province. In 2006, in partnership with CMHC, the exhibit was brought to Toronto and was successfully displayed in many trade and consumer shows in the GTA, including the Green Living Show at Direct Energy Centre and the At Home Pavilion for the 2007 CNE.

Throughout the time of its display in Ontario, CMHC has had an agreement with EFI which allowed CHMC to display the SCE and EFI, as agent for CMHC, entered into sponsorship agreements related to SCE; was the trustee of a bank account held for the benefit of CMHC in which was deposited all sponsorship dollars received and from which all disbursements were made as directed by CMHC and related to expenses for the SCE. The agreement being proposed between the Board and EFI generally continues the same arrangement that has been in place since 2006 between CMHC and EFI.

Comments:

Exhibition Place staff propose that the Board enter into an agreement with EFI on the following terms and conditions and such other terms and conditions as may be satisfactory to the CEO and City Solicitor:

- a) Term: Period of 14 months commencing November 1, 2007 to December 31, 2008;
- b) Rental: EFI will allow the Board to use the Sustainable Condominium Exhibit ("SCE") at no cost for the Term of the Agreement;
- c) Agency: EFI may, with the consent of the Board and on behalf of the Board, enter into agreements with sponsors of the Permanent SCE Initiative (the "SCE Sponsorship Agreements") with a value of up to \$25,000 as directed by the Board;
- d) Services: EFI will provide ongoing support to the Permanent SCE Initiative at no cost to the Board representing an in-kind contribution of up to \$5,000 to:
 - i) Undertake the role of SCET Account manager;
 - ii) Provide technical guidance in relation to all communications; and
 - iii) Have responsibility for accounting and management of disbursements from the SCET Account for the shipping/set-up/take-down logistics;
- d) Trustee: EFI will undertake the role of Trustee and manage the SCET Account in keeping with the following:
 - i) All amounts received or to be received or provided to EFI under an SCE Sponsorship Agreement or contributions by CMHC or the Board shall be placed in a separate SCET Account and shall be applied solely in respect of costs relating to marketing, maintenance, operation and removal of the SCE Exhibit;
 - ii) EFI shall provide its accounting services with respect to the SCET Account; shall provide logistical support for the Permanent SCE Initiative, shall be the Trustee for the SCET

- Account, and shall be responsible for engaging and paying the service providers required for the operation of the Permanent SCE Initiative.
- iii) EFI will monitor and control the disbursement of the funds in the SCET Account and will receive all invoices from the Board or third party service providers, and upon review and sign-off by the Board, will make timely payments of such invoices;
- iv) EFI shall maintain an accounting of all funds received and all invoices received from service providers. EFI shall provide the Board with monthly account. EFI shall provide all accounting and management of the disbursements of funds from the SCET Account for the purpose of the operation of the Permanent SCE Initiative.
- v) EFI acknowledges and agrees that it has no beneficial interest in the funds in the SCET Account.
- vi) The Parties agree that the SCET Account shall not be overdrawn.
- e) Board's Contribution: The Board will provide the venue for the SCE at no rental cost and oversee the operation and management of the Permanent SCE Initiative at no cost to EFI, save and except for the cost of out-of-pocket expenses related to the operation of the venue, including the cost of utilities.
- f) Disposal: Both EFI and the Board shall set aside an amount of \$15,000 from any amounts received by EFI or the Board from the SCE Sponsorship Agreements and from CMHC in order to provide for the disposal of the Permanent SCE in such fashion as may be agreed to by the parties upon the expiry of the Term of this Agreement. Despite the foregoing, the Board may, at its sole option, choose to dispose of the Permanent SCE in such manner as it sees fit, including putting it on permanent display on the grounds, provided that EFI shall in such circumstances no longer be required to contribute to the cost of disposal.
- f) Indemnification/Insurance: The Board and EFI shall each provide appropriate insurance and indemnities in respect of their participation in the project. The indemnity provisions shall survive termination of the Agreement.
- (g) Other Commercial Terms: Other commercial terms (e.g. assignment, notice, termination, copyright use, confidentiality, etc.) shall be included where satisfactory to the CEO and City Solicitor.

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