SUBJECT: Remediation of 76 John Street North (PED10004) (Ward 2)

RECOMMENDATION:

(a) That the actual cost to remediate the property for City parkland use at 76 John Street North, Hamilton, currently estimated at $171,500 be approved for funding and charged to Brownfield Capital Account No. 3620553100 – Brownfield Hazardous Sites Decommissioning Fund.

(b) That a contingency allowance of 25% of the actual costs referred to in subsection (a) be authorized, if required, for any overages on the actual cost of the remediation project approved by the General Manager of Planning and Economic Development, such contingency allowance to be charged to Brownfield Capital Account No. 3620553100 – Brownfield Hazardous Sites Decommissioning Fund.

EXECUTIVE SUMMARY:

Report PED10004 recommends the approval of funding under the Brownfield Hazardous Sites Decommissioning Fund for the remediation of City owned lands located at 76 John Street North. As per the Downtown Secondary Plan, the lands are designated Parks/Open Space and intended to be redeveloped as a downtown urban open space.
Accordingly, funding from the Brownfield Hazardous Sites Decommissioning Fund will allow the land to be remediated to the Ministry of Environment’s (MOE) standard for parkland. The funding will also allow a contingency allowance of up to 25% of the actual remediation costs currently estimated at $171,500 to be authorized where approved by the General Manager of the Planning and Economic Development Department.

**BACKGROUND:**

The Downtown Secondary Plan recognizes parks, squares and open-spaces as valuable assets for Downtown regeneration and designates the block bounded by Rebecca, King William, John and Catharine Streets as parkland. The development of a park in this area of the Downtown will enhance the lifestyle of area residents and add to the value of potential residential development within the vicinity. The park will be constructed in two phases; the first phase being the existing municipally owned parking lot fronting on John and Rebecca Streets; the second phase being the land that fronts on Catharine and King William Streets that currently has two privately-operated businesses located on the property. The second phase of the urban park will be implemented in the future when/if considered economically viable. Report PED10004 deals with the municipally owned land currently operating as a parking lot at John and Rebecca Streets and as identified in Appendix ‘A’ to Report PED10004.

The Downtown and Community Renewal Division has been planning for the implementation of the urban park for a number of years and, since 2007 has allocated monies for the preparation of a Phase I, Phase II and Supplemental Phase II Environmental Site Assessment (ESA) and, a Remediation Action Plan (RAP). Monies have also been allocated towards the preparation of a Master Plan for the urban park in 2010 with completion in 2011 and, the 2010 Downtown Block Funding includes monies for the acquisition of the parking lot from Parking Operations and Maintenance. The Downtown/West Harbourfront Co-ordinating Committee’s 10 Year Capital Budget Plan includes monies for the construction of the urban park.

The RAP will be implemented in 2010 and the surface re-asphalted allowing the continued use of the property for parking purposes until construction of the urban park commences, currently anticipated to be in 2013. The parking spaces at 76 John Street North will be replaced at the new parking structure planned by the Hamilton Realty Capital Inc. (HRCI) as part of their proposed development at 140 King William Street in keeping with the conditions set-out in City Council’s approval of Report PED09226 at its meeting held August 13, 2009.

The ESAs conducted on the property were compared to the Ministry of Environment’s (MOE) Table 3 standards for residential/parkland/institutional land use. As a result of the findings of the Phase II and Supplemental Phase II ESAs, it is estimated that there are approximately between 600 m3 and 1000 m3 of Petroleum Hydrocarbon (PHC) impacted soil (most likely a result of former industrial activities and former presence of Underground Storage Tanks (UST’s)) that will require removal in order to produce a Record of Site Condition (RSC). The impacted soil is primarily concentrated in the north/north-eastern portion of the property.
The Downtown and Community Renewal Division approached the Economic Development Division in January 2009 prior to a RAP being prepared for the property at 76 John St. North inquiring on potential funding sources for remediation, including the City’s Environmental Remediation and Site Enhancement (ERASE) Program. Since the ERASE Redevelopment Grant and the ERASE Tax Assistance Program are Tax Increment Financing tools aimed at leveraging private sector remediation costs for redevelopment of Brownfield properties, they cannot be applied to a Brownfield property that is owned by the City of Hamilton. Furthermore, the ERASE Municipal Acquisition and Partnership Program (MAPP) is also aimed at leveraging private dollars through municipal partnership and it was felt this project could not be supported through such means. Notwithstanding, staff felt that remediation of 76 John St. North for parkland use is a strategic Brownfield redevelopment project that provides significant benefits to the community and demonstrates the City of Hamilton’s continued leadership in the Province of Ontario in terms of Brownfield Redevelopment and therefore should be considered for remediation costs through the Brownfield Hazardous Sites Decommissioning Fund.

The Downtown and Community Renewal Division has proposed that the actual cost of the remediation, currently estimated at $171,500, plus a 25% contingency allowance, for the property at 76 John St. North, be charged to Brownfield Capital Account No. 3620553100 – Brownfield Hazardous Sites Decommissioning Fund. The proposal has merit and can be supported as the eventual redevelopment of a strategic municipally-owned Brownfield in Downtown Hamilton to parkland will help serve the community and is essential to ensure public health and safety of future park users.

Upon approval of the recommendations set-out in Report PED10004, AECOM will be retained under the City’s professional services roster to project manage the remediation work and, the remediation work itself will be awarded through a Request for Tenders process.

History:

The site is located at 76 John Street North in Hamilton and is approximately 1.5 acres in size. The Site is located on the east side of John Street North, south side of Rebecca Street and west side of Catharine Street North. The Site is surrounded by commercial (to the west), residential (to the east) and commercial (to the south and north) land-uses. The property is currently in use as a municipal parking lot and is predominantly paved.

The Downtown and Community Renewal Division retained Earth Tech Canada Inc (ETC) in June 2007, to conduct a Phase I ESA on the property. The Phase I ESA concluded that it is possible that petroleum hydrocarbons or solvents could have been stored in underground storage tanks (UST’s). Due to the former presence of UST’s, a Phase II ESA was recommended to investigate potential contaminants of concern including metals, petroleum hydrocarbons or solvents.

The Downtown and Community Renewal Division retained Earth Tech Canada Inc, (now carrying on business as AECOM) in May 2008 to conduct a Phase II ESA of the property. A Supplemental Phase II ESA was subsequently also prepared. As a result, it was concluded that there was petroleum hydrocarbon contamination in exceedance of
Ministry of the Environment, Table 3 Standards for soil. The vertical and horizontal extent of the contamination was delineated and it was recommended that a Remediation Action Plan (RAP) be implemented to provide an assessment of various remediation options and their related costs.

In February, 2009 the Downtown and Community Renewal Division retained AECOM to conduct a RAP for the property. The RAP identified the most cost effective and logical remediation option was the removal of approximately 600 m³ – 1000 m³ of impacted soil to a registered land-fill (dig and dump). The cost estimate for such activities came in at $171,500.00 for remediation, the preparation of a Record of Site Condition (RSC) and project management. AECOM will be hired to project manage the implementation of the RAP in accordance with the roster for environmental consultants. Downtown and Community Renewal Division staff will tender the hiring of contractors to undertake the remediation of the property in accordance with the Purchasing Policy.

Brownfield Hazardous Sites Decommissioning Fund:

In 2005, City Council established a $500,000 Brownfield Hazardous Sites Decommissioning Fund to assess and potentially rehabilitate failed tax sale sites that may have environmental challenges as well as other city-owned sites that are applicant/proposal driven by the City and/or private initiatives. To date, the decommissioning fund has seen little activity. On two occasions the City has retained Environmental Consultants to conduct Environmental Site Assessments of properties that have failed tax sale: 245 Catharine Street North, Hamilton and 2471 Guyatt Road, Hamilton. Other than the environmental site assessments and appraisals, City projects that would merit or fit the criteria of the Decommissioning Fund have been scarce or other sources of funding has been available.

When staff from Downtown and Community Renewal Division approached staff from Economic Development & Real Estate about possible sources of funding, it was questioned whether or not this project could fall under the ERASE Municipal Acquisition and Partnership Program (MAPP). The MAPP is a general program of municipal leadership in property acquisition, investment and municipal financial involvement, through the Brownfield Pilot Project Account, in pilot projects with the private sector to clean up and redevelop Brownfield sites in the project area. Due to the lack of private sector involvement, it was felt that this project would be better suited and fit the criteria of the Brownfield Hazardous Sites Decommissioning Fund.

Initially, the Brownfield Hazardous Sites Decommissioning Fund was established to react to failed tax sale sites and other municipal properties with real or perceived environmental challenges. Through funding of environmental site assessments and remedial activities on such properties, it helps to characterise and deal with the environmental challenges in the preparation of the site for additional or alternative uses. In an effort to continue to utilize these funds for municipal interests and the safety of public health, the proposal from the Downtown and Community Renewal Division for remediation of a strategically located municipal owned property, will prepare the site for a new, more beneficial community use. To utilize these funds for remediation and
redevelopment of a municipally owned parking lot to parkland creates the opportunity to showcase another successful Brownfield redevelopment. The proposal fits Council’s establishment of the fund to encourage and assist the redevelopment of strategic Brownfield’s in Hamilton.

**ANALYSIS/RATIONALE:**

The reasons for supporting this Brownfield Hazardous Sites Decommission Fund request are as follows:

- This approval will allow financing so that the site can be remediated for parkland use and will free up monies in other capital accounts for future projects.
- The City will be able to market and promote another successful brownfield redevelopment and demonstrate municipal leadership in brownfield redevelopment.
- The remediation of this site will allow for the development of an urban park and support the implementation of the Downtown Secondary Plan.
- The development of an urban park in the Downtown Core will enrich the lifestyle of the area residents and add value to proposed residential development within the district.

**ALTERNATIVES FOR CONSIDERATION:**

There are no alternatives for financing the remediation of 76 John Street North at this time. If funding under the Brownfield Hazardous Sites Decommissioning Fund is not approved, staff will have to investigate other potential funding sources that will delay the implementation of the remediation and ultimately the development of an urban park in the Downtown Core.

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**

**Financial** - Currently there are funds available in the Brownfields Hazardous Sites Decommissioning Fund Capital Project ID 3620553100 to fund the *estimated* $171,500.00 together with a 25% contingency if required.

The financial implications of 76 John Street North no longer being operated as a parking lot will only be fully known when the revenue and expenditures of the new parking structure proposed at 140 King William Street are known. This information will be reported on at the appropriate time under a separate report. Parking and By-law Services advised that there will however, be a net loss of approximately $90,000.00 to the Hamilton Municipal Parking System (HMPS) when their parking lot at 76 John Street North is no longer in operation. The revenue the City receives for payment-in-lieu of taxes for the parking lot in the amount of $26,000.00 will also be lost. However, HMPS will be compensated fair market value for the ‘sale’ of the lands for public parks purpose. This value is estimated to be $1,350,000 under the assumption the site had no
environmental impacts. Since this report indicates an estimated remediation cost of approximately $171,500, the net market value would be $1,178,500. The value after remediation would be in the order of $1,350,000 (in 2009 dollars).

**Staffing** – Staff from the Economic Development and Real Estate and Downtown and the Community Renewal Divisions can co-ordinate the implementation of the RAP.

**Legal** – Staff from Legal Services provided legal counsel throughout the development of the ESAs and RAP and will continue to do so during the implementation of the RAP.

**POLICIES AFFECTING PROPOSAL:**

The Downtown Secondary Plan, Schedule L-7 identifies the land bounded by Rebecca, John, Catharine and King William Streets as Parks/Open Space. Section 6.2.7.2.2 of the Plan titled ‘Public Open Spaces’ describes parks as being intended for passive recreational use and special public activities and events. A high standard of design of all public open spaces is to be achieved to promote comfort, safety, enjoyment, accessibility, a sense of nature and usability. The remediation of the property located at 76 John Street North is required in moving forward with the development of a park in this location.

**RELEVANT CONSULTATION:**

Budgets and Finance Division, Corporate Services Department
Legal Services Division, Corporate Services Department
Parking and By-law Services, Planning and Economic Development Department

**CITY STRATEGIC COMMITMENT:**

By evaluating the “Triple Bottom Line”, (community, environment, economic implications) we can make choices that create value across all three bottom lines, moving us closer to our vision for a sustainable community, and Provincial interests.

**Community Well-Being is enhanced.** ☑ Yes □ No
Public services and programs are delivered in an equitable manner, coordinated, efficient, effective and easily accessible to all citizens.

**Environmental Well-Being is enhanced.** ☑ Yes □ No
Human health and safety are protected.

**Economic Well-Being is enhanced.** ☑ Yes □ No
Investment in Hamilton is enhanced and supported.

**Does the option you are recommending create value across all three bottom lines?**

☑ Yes □ No

**Do the options you are recommending make Hamilton a City of choice for high performance public servants?**

☑ Yes □ No
Hamilton continues to lead initiatives related to brownfield redevelopment. Such initiatives are professionally stimulating and result in Hamilton being a choice for employment to those interested in bettering community life.

BM:HM:db

Attach. (1)