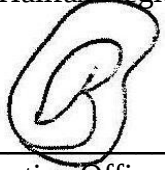
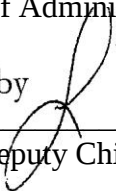


Item No. 11.1.9
Halifax Regional Council
July 10, 2012

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY: Original signed by 

Richard Butts, Chief Administrative Officer

Original Signed by 

Mike Labrecque, Deputy Chief Administrative Officer

DATE: June 18, 2012

SUBJECT: Convention Centre Memorandum of Agreement

ORIGIN

December 13, 2010 Council motion to support the development of a new convention centre in downtown Halifax, as per the terms negotiated with the Province of Nova Scotia. MOVED by Councillor Walker, SECONDED by Councillor McCluskey.

RECOMMENDATION

It is recommended that Halifax Regional Council:

- 1) Authorize the Mayor and Municipal Clerk to execute the attached Memorandum of Agreement outlining the construction, operational and financial agreements surrounding the new downtown convention centre;
- 2) Direct staff to consider the possible municipal uses of the existing World Trade & Convention Centre and report back to Council before the first option set out in the agreement; and
- 3) Approve up to \$40,000 to support a Provincial marketing campaign that promotes the new convention centre.

BACKGROUND

Halifax Regional Council December 13, 2010 Motion

On December 13, 2010, Halifax Regional Council approved the motion, restated below, finalizing the Nova Scotia-HRM agreement around the construction of a new convention center. The agreement stipulated that the project would only go forward if the Government of Canada agreed to provide funding in the amount of one-third of the project's capital costs (approx. \$46.8 million). The motion directed staff to come back to Council for approval of the final agreement. This report includes that final agreement submitted for Council's approval.

December 13, 2010 Council motion re: Proposed Convention Centre:

1. Support the development of a new convention centre pursuant to the following terms with the Province of Nova Scotia:

The project will go forward only if the Government of Canada agrees to provide funding in the amount of one-third of the project's eligible capital costs (estimated to be approx. \$46.8 mil). The Federal contribution will take the form of a lump sum payment to the developer upon substantial completion of the project's construction.

That HRM and the Province will be equal partners in funding of the balance of the project's capital costs and all other annual developer-related costs and in underwriting any annual deficit which might be incurred by the entity responsible for the operation of the new facility.

Property taxes will be treated as a shareable annual cost of the entity responsible for operating the convention centre, with the understanding that:

- a) Actual property-related taxes paid per sq. ft. on the existing convention centre would be used to determine taxes payable on the new convention centre.
- b) Property taxes will be applied beginning in the year that construction of the new convention centre is completed, (Provincial share only) and
- c) Beginning in 2015-2016 the amount payable would increase at the lesser of the actual rate of inflation (i.e. CPI) or 2% per annum.

The new convention centre will be leased by the government for a period of 25 years and the lease agreement will contain provisions for two 5-year extensions and an option for public buy out at an agreed-upon-formula at the 22 year point and at the 30 year point for \$1.00 (one dollar).

That HRM will purchase the existing WTCC for its book value effective the opening date of the new convention centre if the province is unable to sell it for more than its book value before the same time.

Responsibility for the promotion, marketing and hosting of events in the new facility will rest with the public sector entity whose primary role would be running the convention centre.

The aforementioned entity will be governed by a competency-based Board of Directors appointed jointly by the Province and the HRM.

The parties will collaborate in an overall economic development governance review that will consider the optimal structure of the convention centre operating agency to support the long-term economic development of the region.

Negotiations with the developer will be led by the Province and the HRM will be an active participant on the negotiating team.

That the developer agrees to construct the entire project to be at substantial completion at the time of the opening of the convention centre.

2. Authorize the Mayor to execute a letter of agreement with the Province of Nova Scotia based on the terms outlined above.
3. Direct staff to return to Council for approval of the formal agreement.
4. It is further recommended that this presentation be released to the public upon a public announcement with respect to the recommendations outlined above.

Federal Funding Confirmation

Immediately following Council's approval of the terms of the agreement on December 13, 2010, the Province of Nova Scotia and HRM jointly approached the Federal government to request its participation in the construction of a convention centre for downtown Halifax. Before making a decision, the Federal government requested extensive background information on the business case and economic impact assessments.

Federal political circumstances, however, meant that the April 15, 2011 deadline was extended. On March 22, 2011 the Federal government introduced a budget which was voted down by the three opposition parties. Parliament was dissolved on March 26 and an election was called for May 2. Following the election, Parliament met for 14 days in order to pass a new budget before the summer recess. New cabinet posts were also assigned, which included new Ministers for Infrastructure and for ACOA. Both these ministries were involved in the convention centre file, and more time was needed for the new Ministers to become familiar with the file.

On August 15, 2011 the Federal Government announced its contribution of \$51.4 million for the new convention centre. This satisfied a key condition in the December 13, 2010 council motion. At this point, with government participation and funding contributions confirmed, the developer began finalizing negotiations with potential tenants for the office building portion of the

convention centre.

DISCUSSION

The proposed Memorandum of Agreement between HRM and the Province formalizes the terms between the Province of Nova Scotia and HRM. This report confirms that the memorandum of agreement conforms to Council's motion of December 10th, 2010, and outlines due diligence undertaken by HRM staff to manage potential risks inherent in constructing a major public facility. The approval of the attached Memorandum of Agreement between HRM and the province of Nova Scotia is a necessary step toward the construction of the new convention center.

Memorandum of Agreement Highlights

The attached Memorandum of Agreement meets all of Council's key terms and conditions. These include:

- Federal funding for eligible construction costs;
- Ongoing operating costs not covered by revenue generated by convention centre operations, are shared equally with the Province;
- Property taxes on the convention site are to be a shareable cost;
- A lease agreement cost-shared by HRM and the Province for 25 years with provisions for two 5-year extensions, and with an option for a one-dollar public buyout to be triggered at year 22 for the end of the 25 year term, and an option for a one-dollar public buyout at the end of any first 5-year extension for year 30; and
- HRM's purchase of the existing WTCC at book value, should the Province be unable to sell the WTCC prior to the opening date of the new convention centre.

Due Diligence and Risk Mitigation

While there has been considerable change in the economic environment since December 2010, the business case for a new convention centre remains strong. The funding strategy for the Municipality's share of the costs is to direct taxes from the entire convention centre site to a reserve, and to pay for HRM's share of the lease and operating costs from this reserve. As HRM is committed to its share of the costs, this strategy is dependent on the projections for tax revenue from the site.

Financially, there is expected to be solid potential for the property tax streams from the site to pay for the annual lease costs of the facility. There is also potential growth in assessed values for surrounding properties. From staff's analysis, the project can likely be financed without impacting existing programs and tax rates. However, as with any major project of this size and scope, there are risks. This is inevitable when considering that the facility will not be fully built for several years to come. Accordingly, HRM staff have undertaken due diligence and included a number of points in the Memorandum of Agreement to ensure those risks are mitigated:

- **Tax Revenue.** The assessed value of the convention centre site, as set by the PVSC, will not be established until after the building is complete and operational. It will also be partially dependent on the occupancy rate. To be conservative, HRM staff has based the projected assessment on existing similar commercial space, and used a 70% occupancy rate in the early years growing to 85% over time. Assessment growth was projected at 75% of the trend for the past 5 years.
- **Payment Deferral.** To address the risk that the entire project is not substantially completed by the time the convention centre opens, the agreement with the province allows HRM to defer up to 25% of its annual payment for up to 10 years.
- **Alternate Funding Reserve.** The projected revenue from the site over the life of the project greatly exceeds the convention centre cost to HRM, even using conservative assumptions. However, since revenues grow over time, there is a cash flow risk in the early years, as costs are relatively constant over the life of the agreement. In the unlikely event that there is a period where the accumulated revenues are not sufficient to cover accumulated costs, HRM could use funds from another reserve, such as the Strategic Growth Reserve.
- **Letters of Credit.** The developer has provided two letters of credit for \$2.5m each that may be drawn upon should the timing of the commercial space construction or the hotel not coincide with the convention centre construction.

Further details on these points are outlined in the Budget Implications section below.

Since the tri-partite government funding agreement was confirmed last August, the developer has focused on recruiting financial institutions and other companies from around the world. HRM staff has met with the developer several times and confirmed an occupancy level that will allow the project to commence. The entire project is expected to be substantially completed by the time the convention centre opens in January 2016.

Marketing

The Provincial government is planning a marketing campaign to promote the new convention centre. An HRM contribution to the Provincial campaign would be appropriate given that the new convention centre will be a partly HRM-owned asset, and the marketing campaign will support economic development work to promote Halifax's downtown for business and tourism purposes. Marketing the convention centre supports Economic Strategy objectives to build a vibrant and attractive Regional Centre, strengthen the business climate, and create awareness of Halifax's unique brand. The proposed project supports the rejuvenation of the Downtown core, providing a vote of confidence for the future of the downtown and for HRM's business community. Staff is therefore recommending an amount of up to 40 K be contributed to this effort.

The Old World Trade and Convention Centre

The terms of agreement provide HRM three opportunities to acquire the old convention center. The first of which can be exercised before March 2013. In order for Council to consider this

option staff needs to investigate the possible municipal uses of the old trade center and advance recommendations to Council as necessary. Therefore, a recommendation is included to initiate that work.

BUDGET IMPLICATIONS

As per the December 2010 agreement, the Province of Nova Scotia will enter into a long-term lease with the developer for 25 years that covers the construction costs of the convention centre. HRM will enter into a Memorandum of Agreement with the Province to share 50% of those costs. This commits HRM to a substantial annual cost of just over \$6 million to pay for the construction, operation and maintenance of the new Convention Centre. This cost is an operating cost for HRM. There is no capital cost or debt being acquired by the Municipality. The developer will acquire its own financing in the markets and the planned completion of the facility is set for January 1st, 2016.

Based on these assumptions, HRM Finance designed the funding strategy outlined in the section above to pay for the Municipality's share of the convention centre lease. That strategy focuses on using the new property taxes from the entire site (convention centre, office tower, hotel, retail and parking) to offset the lease costs for the convention centre. To develop the funding strategy, future property tax streams from that site were projected based on existing comparable-type properties. As part of its analysis, Finance identified a number of risks which need to be considered:

- Exact figures for the assessed value of the site cannot be determined until such time as the site is constructed and operating. That assessed value will be determined by the Property Valuation Services Corporation (PVSC) under the Provincial Assessment Act. The values will be subject to economic and financial conditions that exist at that time and will be subject to the assessing practices of PVSC.
- The lease being entered into includes many components, a number of which are fixed in nature. This reduces the risk of cost increases in the lease. However, it also means that the lease cost is higher in the earlier years than it might otherwise be. This introduces an element of "cash flow" risk into the decision. Property taxes are expected to start off modestly (during the construction phase) and gradually increase to be greater than those lease costs. However, in the first few years of operations the annual property tax revenues will likely be less than the annual lease costs. This issue has been mitigated by using funds from the construction phase to build up a sizeable reserve balance before the first payment (expected in 2015-2016) is due. Ideally, this approach means there will be no negative cash flow during the life of the project.
- There is always some level of risk around the timing of the office tower completion. This could impact HRM's tax revenue income. HRM staff has managed this risk by projecting the assessment and tax revenue based on a conservative 70% occupancy level.

- The developer has provided letters of credit (\$2.5m each) on the construction of the office tower and hotel. Further, HRM staff has negotiated a payment deferral with the Province that would allow as much as 25% of HRM's annual payment to be deferred for up to 10 years, with interest. This deferral should offset any difficulties with the annual cash flow.
- The commercial tax rate was decreased in the 2012-2013 budget. As the tax rate declines it lowers the amount of revenues raised to pay for the lease. Depending on the final assessed values of the Nova Centre, continued reductions in the rate could affect the funding strategy.

The Provincial contract with the developer is now to construct the convention centre only, as opposed to construct and operate it. This may reduce some of the cost pressure on the contract in the early years of the facility's operations and produce a cash flow stream more closely linked to the property tax revenues. The eventual body/organization charged with the management of the facility will be responsible for operating costs.

The \$40,000 to support the Provincial Marketing campaign will be charged to A620 Marketing and Promotion and will be funded by operational savings.

FINANCIAL MANAGEMENT POLICIES/BUSINESS PLAN

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Project and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Project and Operating reserves, as well as any relevant legislation.

COMMUNITY ENGAGEMENT

Community consultation and public hearings were undertaken in the original discussions around the convention centre development in 2009 and 2010. As well, the developers will undertake a public consultation process in regards to design once the agreement is finalized and construction is ready to begin.

ENVIRONMENTAL IMPLICATIONS

N/A

ALTERNATIVES

Council could choose to alter the proposed Memorandum of Agreement. This is not recommended because the MOA as drafted represents, in the view of HRM Legal Services, an accurate interpretation of the December 13, 2010 Council motion and the terms of the agreement negotiated with the Province at that time. The proposed MOA before Council has been shared with Provincial staff and their approval secured.

ATTACHMENTS

Appendix A: Memorandum of Understanding between the Province of Nova Scotia and Halifax Regional Municipality in regards to the downtown Convention Centre complex

A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/cagenda.html> then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by: Anne Totten, Corporate Policy Analyst, 490-5623
Bruce Fisher, Manager, Fiscal Policy & Financial Planning, 490-4493

Report Approved by: _____
Chris Bryant, A/Managing Director, Government Relations & External Affairs, 490-3677

Financial Approval by: _____
Greg Keefe, Director of Finance & Information Technology/CFO, 490-6308

Report Approved by: _____
Marian Tyson, A/Director, Legal Services 490-4219

APPENDIX A

THIS AGREEMENT made the ____ day of July, 2012

BETWEEN:

**HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF
NOVA SCOTIA, as Represented by the Premier of Nova Scotia**

(the "Province")

AND:

**HALIFAX REGIONAL MUNICIPALITY, a body corporate,
incorporated pursuant to the laws of Nova Scotia, as
Represented by the Mayor and the Clerk**

("HRM")

WHEREAS the Province and HRM agree that the construction of a new Convention Centre ("Facility") in downtown Halifax would have a significant and positive economic and social impact on Halifax and Nova Scotia;

AND WHEREAS Argyle Developments Inc. ("Developer") a wholly owned subsidiary of Rank Incorporated has agreed to design, finance and construct a Facility in downtown Halifax and to lease the Facility to the Province;

AND WHEREAS the Developer has also agreed to construct a hotel, an office tower and a parking garage on the site ("Site") where the Facility will be constructed;

AND WHEREAS the agreement of the Developer hereinabove referred to is subject to the Province and the Developer finalizing the terms and conditions of agreements applicable to the foregoing matters;

AND WHEREAS it is the intent of HRM and the Province that to fully achieve the purpose of HRM and the Province entering into this Agreement, the Facility property taxes attributable to the Facility which are to be cost shared by HRM and the Province hereunder, shall exclude property taxes attributable to the office tower and hotel, and any other buildings to be constructed on the Site notwithstanding that the Facility may be physically integrated with the office tower and/or the hotel or other buildings on the Site;

NOW THEREFORE THIS AGREEMENT WITNESSES THAT in consideration of the mutual covenants and agreements herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Province and HRM covenant and agree as follows:

1. Equal Cost Sharing by Province and HRM

- (a) Subject to the Government of Canada agreeing to contribute 1/3 of the eligible capital construction costs of the Facility, the Province and HRM shall each contribute equally, on a 50/50 basis, to:
 - (i) the capital construction costs of the Facility, net of the Government of Canada's 1/3 contribution referred to above, in the amount of \$164.2 million which amount is based on the Developer's indicative financing costs as of the date of this Agreement, and based on the foregoing the contribution by each of HRM and the Province will be \$56.4 million;
 - (ii) all lease capital costs;
 - (iii) Facility maintenance costs, property taxes, operating costs and lifecycle costs during the term of the lease agreement for the Facility and any extensions thereof; and
 - (iv) the payment of the annual operating deficit of the public sector entity that will operate the Facility ("Facility Operator").
- (b) The HRM contributions referred to in clause 1 (a) shall commence effective on the date that the first payment under the lease agreement for the Facility is to be made by the Province.
- (c) If on the date that is two (2) years from the date that the first payment under the lease agreement is made (the "Deferral Determination Date"), the aggregate tax revenue to HRM from the Facility and the proposed hotel, office tower, parking garage or other buildings located on the Site does not then exceed the amount of the contributions that HRM is required to make pursuant to clause 1 (a) of this Agreement (the "Shortfall"), HRM may, upon giving prior written notice to the Province and such supporting documentation as may be required by the Province, defer for a maximum period of ten (10) years from the Deferral Determination Date (the "Deferral Period"), either the amount of the Shortfall or an amount equal to twenty-five percent (25%) of the contributions HRM is required to pay pursuant to clause 1(a) hereof, whichever is less (the lesser amount being hereinafter referred to as the "Deferred Amount"), subject to the following conditions:
 - (i) interest shall accrue during the Deferral Period on both the Deferred Amount and on the accrued interest thereon at an annual rate of interest equal to the

Government of Nova Scotia's ten (10) year cost of borrowing rate in effect on the date that the Deferral Period commences, plus one percent (1%);

- (ii) the entire Deferred Amount, together with interest accrued on both the Deferred Amount and on the interest accrued thereon, shall be due and payable and remitted by HRM to the Province immediately upon the expiration of the Deferral Period; and
- (iii) if at any time during the Deferral Period the aggregate tax revenue to HRM from the Facility and the proposed hotel, office tower, parking garage and other buildings on the Site meets or exceeds the amount of the contributions to be made by HRM in accordance with clause 1 (a) hereof (the "Revenue Balance Date"), HRM's right to defer any portion of the contributions it is to make pursuant to clause 1 (a) shall terminate on the Revenue Balance Date, and HRM shall be required to immediately resume payment to the Province, effective as and from the Revenue Balance Date, of the full amount of HRM's contributions as provided under clause 1(a).
- (d) Notwithstanding the provisions of clause 1 (c) (iii), HRM shall not be required to remit payment to the Province, until the expiration of the Deferral Period, of any portion of the Deferred Amount that has been deferred up to the Revenue Balance Date, or any accrued interest determined pursuant to clause 1(c) (i), provided however that interest shall continue to accrue on both the outstanding Deferred Amount and all accrued interest in accordance with the provisions of clause 1 (c) (i) up to the date that payment of all such amounts are remitted by HRM to the Province.
- (e) If there is not a Shortfall on the Deferral Determination Date, HRM shall not be entitled to defer any contributions that it is required to make to the Province pursuant to clause 1 (a) hereof.

2. Facility Operator

- (a) The Facility Operator, a public sector entity, whose primary purpose will be managing the operations of the Facility, will be responsible for the promotion, marketing and hosting of events in the Facility, and will also be responsible for the maintenance of the Facility either directly or through a third party.
- (b) The Facility Operator will be governed by a competency based Board of Directors, appointed jointly by the Province and HRM.
- (c) The Province and HRM will participate in an overall economic development governance review that will consider the optimal structure of the Facility Operator in order to support economic development in the Halifax region.

3. Negotiations

- (a) Although negotiations with the Developer will be led by the Province, HRM will be permitted to have up to three active representatives participating in such negotiations.
- (b) The Facility will be leased by the Province for a period of 25 years, with two 5 year extension options.
- (c) Negotiations with the Developer will include a requirement that there be an option to purchase provision in the lease agreement. The option to purchase provision will include an initial option, exercisable in year 22 of the initial lease period, to purchase the Facility at the expiration of the initial lease period on terms to be negotiated with the Developer, and an option to purchase the Facility for \$1.00, exercisable at the end of year 30 of the lease. The exercise of the initial option, including the time at which it would be exercised, and the purchase option terms to be negotiated with the Developer will be subject to the mutual agreement of the Province and HRM. The exercise of the second purchase option will also be subject to the mutual agreement of the Province and HRM.
- (d) Negotiations with the Developer will include a requirement that the hotel and the office tower will each be substantially completed to core and shell on the date the Facility is substantially completed.
- (e) The design construction agreement for the Facility between the Developer and the Province ("Design Construction Agreement") will contain provisions that require the Developer to remit to the Province prior to receipt of the amount otherwise payable to the Developer upon substantial completion of the Facility:
 - (i) a letter of credit in the amount of \$2.5 million, as security for the requirement to achieve substantial completion of the office tower to core and shell (as defined in the Design Construction Agreement), if it has not been achieved by that date; and
 - (ii) a letter of credit in the amount of \$2.5 million as security for the requirement to achieve substantial completion of the hotel to core and shell (as defined in the Design Construction Agreement), if it has not been achieved by that date.

4. Property Taxes

- (a) HRM property taxes payable in respect of the Facility throughout the lease term and any extensions thereof will be treated as a shareable annual cost between HRM and the Province, determined and calculated as follows:
 - (i) the HRM property taxes to be shared on a 50/50 basis by HRM and the Province in respect of the Facility throughout the lease term and any extensions , will be

calculated by multiplying the number of gross square feet in the Facility by the sum of \$3.62;

- (ii) HRM property taxes in respect of the Facility that are to be shared by HRM and the Province pursuant to clause 4 (a) (i) will commence effective on the date that the Facility is ready for occupancy by the Facility Operator; and
- (iii) commencing in fiscal year 2016, and throughout the term of the lease and any extensions thereof, the amount of the HRM property taxes referred to in clause 4 (a) (ii) that are to be equally cost shared by HRM and the Province in respect of the Facility will increase annually by an amount that is equal to the lesser of: A) the annual Nova Scotia Consumer Price Index ("CPI") in the preceding fiscal year; and B) 2% per annum.
- (b) Clause 4 (a) applies only to the property taxes to be cost shared by HRM and the Province for purposes of this Agreement and does not alter the calculation of the full property tax liability, including any property taxes payable by the Developer, in respect of the development proposed by the Developer (including the Facility) prior to the date that the Facility is ready for occupancy by the Facility Operator.

5. Disposition of Current WTCC

- (a) HRM will have an option to purchase the existing World Trade and Convention Centre ("Current WTCC") on the date the Facility is ready for occupancy by the Facility Operator for an amount that is equal to the greater of the December 31, 2012 market value of the Current WTCC (as jointly established prior to December 31, 2012 by the Province and HRM through their joint retention of a qualified, independent commercial real estate appraiser) and the anticipated book value of the Current WTCC at January 1, 2015. The HRM option referred to in this clause 5 (a) is to be exercised prior to March 31, 2013, and shall expire on that date if it has not been exercised.
- (b) If HRM does not exercise the option set out in clause 5 (a) by March 31, 2013, the Province will place the Current WTCC for sale on the open market within ninety (90) days thereafter, with an anticipated closing date to coincide with the date the Facility will be ready for occupancy by the Facility Operator. If the Province receives a qualified offer from a third party to purchase the Current WTCC for an amount greater than the anticipated book value of the Current WTCC at January 1, 2015, which it is prepared to accept, the Province shall first offer the Current WTCC for sale to HRM at the same price and under the same terms and conditions as the qualified offer that was received, and HRM shall have thirty (30) days from such date to accept the Province's offer and to purchase the Current WTCC under those terms, such purchase by HRM to be effective on the date the Facility is ready for occupancy by the Facility Operator. If HRM does not exercise its right to match the qualified third party offer and to submit an offer to the Province within such thirty (30) day period, HRM's

entitlement to purchase the Current WTCC on the terms set out in this clause 5 (b) shall thereupon expire, and the Province shall be entitled to accept the qualified third party offer.

- (c) In the event that a sale of the Current WTCC does not take place pursuant to clause 5 (a) or clause 5 (b) within the time prescribed therein, HRM will purchase the Current WTCC effective on the date that the Facility is ready for occupancy by the Facility Operator, at its book value on that date.

6. Binding Obligation

- (a) HRM represents and warrants to the Province that the execution and delivery to the Province of this Agreement has been duly and validly authorized by HRM and constitutes a legal, valid and binding obligation of HRM, enforceable against HRM in accordance with its terms.
- (b) The Province represents and warrants to HRM that the execution and delivery to HRM of this Agreement has been duly and validly authorized by the Province and constitutes a legal, valid and binding obligation of the Province, enforceable against the Province in accordance with its terms.

7. Term of Agreement

- (a) Subject to the terms and conditions set out herein, this Agreement shall remain in effect for a period of one hundred and eighty (180) days from the date that the lease agreement for the Facility expires or is otherwise terminated in accordance with the terms and conditions set out therein.

8. Conditions Precedent

- (a) Notwithstanding anything to the contrary set out in this Agreement, the obligations of the Province and HRM hereunder are conditional upon and subject to each of the following conditions precedent being met:
 - (i) the Government of Canada agreeing to fund 1/3 of the eligible capital construction costs of the Facility; and
 - (ii) the successful negotiation by the Province and HRM with the Developer of all agreements to be entered into for the design, construction and leasing of the Facility, which lease shall include an option to purchase provision substantially in conformance with clause 3 (c) of this Agreement.

9. Office Tower and Hotel Construction

- (a) The Design Construction Agreement will require that the Developer submit:
 - (i) a construction schedule for the office tower and the hotel; and

- (ii) a monthly update on the status of the construction schedule referred to in clause 9 (a) (i) to the works committee established under the Design Construction Agreement, setting out the actions being taken by the Developer to achieve construction of the office tower and the hotel to core and shell substantial completion (as defined in the Design Construction Agreement) contemporaneously with the build of the Facility.
- (b) HRM will have one representative on the works committee referred to in clause 9 (a) (ii), who will provide updated reports to HRM Council on the status of the construction of the Facility, hotel and office tower.

10. Entire Agreement

- (a) This Agreement constitutes the entire agreement between the Province and HRM with respect to the matters described herein, and supersedes and replaces all prior representations, negotiations, agreements and understandings between them, whether oral or written, express or implied, regarding such matters.

11. Notices

- (a) All notices and communications between the Province and HRM in connection with this Agreement shall be in writing and addressed as follows:

To the Province:

Jane Fraser, Executive Director
Transportation and Infrastructure Renewal
Johnston Building
1672 Granville Street
Halifax, Nova Scotia B3J 2N2
Facsimile: 902 424-2014

To HRM:

Richard Butts, Chief Administrative Officer
Halifax Regional Municipality
1841 Argyle Street Halifax
Nova Scotia B3J 3A6
Facsimile: 902 490-4012

or to such other address or person as the parties may advise each other in writing from time to time. Such notices and communication shall be deemed to have been received on the date of delivery, if delivered by hand, and on the date of transmittal, if delivered by facsimile transmission. If any notice is delivered by hand or transmitted by facsimile on a day that is not a business day, or after

4:30 p.m. on a business day, it shall be deemed to have been received by the other party on the next business day following such delivery or transmission, as the case may be.

12. Time of the Essence

- (a) Time shall be of the essence in this Agreement.

13. Amendments

- (a) Any amendment to this Agreement must be in writing and signed by a duly authorized representative of each of the Province and HRM.

14. Enurement

- (a) This Agreement shall enure to the benefit of and be binding on the Province and HRM and their respective successors and permitted assigns.

15. Further Assurances

- (a) The Province and HRM each agree, at their own cost and expense, to do all such things and execute all such further documents and instruments as may be necessary or desirable to give full effect to this Agreement and the intention of the parties in entering into this Agreement.

16. Governing Law

- (a) This Agreement shall be governed by and construed in accordance with the laws of Nova Scotia and the laws of Canada applicable therein.

17. Headings

- (a) The headings in this Agreement have been inserted for convenience of reference only and are not to be relied upon in its interpretation.

IN WITNESS WHEREOF the Province and HRM have executed this Agreement the day and year first above written.

**Her Majesty the Queen in Right of
the Province of Nova Scotia, as
Represented by the Premier**

**Halifax Regional Municipality
as Represented by the Mayor and Clerk**

Darrell Dexter, Premier

Peter Kelly, Mayor

Cathy Mellet, Clerk