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Item No.
Community Planning & Economic Development
June 14, 2012

TO: Chair and Members of the Community Planning & Economic
Development Standing Committee

SUBMITTED BY: Original Signed by
Peter Stickings, Acting Director, Planning and Infrastructure

DATE: April 14, 2012

SUBJECT: Kearney Lake Connector Construction Agreement

ORIGIN

This report originates with the 2010/11 Project Budget.

RECOMMENDATION

It is recommended that the Community Planning and Economic Development Standing Committee recommend that Regional Council authorize the Mayor and Municipal Clerk to execute a construction agreement based on the Key Terms and Conditions outlined in Attachment "1" to this report, with West Bedford Holdings Limited and Cresco Holdings Limited for the construction of the Kearney Lake Connector.

BACKGROUND

The Capital Cost Contribution (CCC) policy adopted by Council in 2003, provided a framework for Council to support growth in priority areas by contributing to the cost of new infrastructure, assessing risks, apportioning costs between benefitting parties, and recovering growth related costs from future developers. Bedford West was subsequently identified in the Regional Plan as a priority growth area, based primarily on the low cost of providing municipal services. Pursuant to the Regional Plan, the CCC Policy was applied to Bedford West and a transportation master infrastructure plan was developed and approved by Council in 2009.

The extension of Larry Uteck Boulevard from Highway 102 to Kearney Lake Road, also known as the Kearney Lake Connector, is included in the Bedford West transportation master plan and Capital Cost Contribution (CCC) program. The Kearney Lake Connector is a new minor collector roadway which will connect the Kearney Lake Road to the Highway 102/Larry Uteck Boulevard Interchange (refer to Attachment "2"). Access to the connector will be limited to signalized intersections.

In the transportation master plan approved by Regional Council, the connector is funded by the CCC program and developers are required to construct the roadway. Funding for a portion of the project is included in the approved Project Budgets, and HRM's share of the project is limited to 33% of the total project cost, as described in the Budget Implications section of this report.

DISCUSSION

The Kearney Lake Connector passes through Bedford West Sub-Areas 5 and 9 and both development agreements for these areas require the developers to construct the roadway. The two development agreements contemplated that the Kearney Lake Connector would be constructed as two separate projects since sub-areas 5 and 9 have different land owners. For example, the development agreement for Sub-Area 9 contains provisions for alternate arrangements to be made for construction at the sole discretion of the Municipality.

Construction costs could be reduced by 10-15% if the project was constructed as one single project. To realize these cost savings, HRM would need to enter into a joint construction agreement with West Bedford Holdings Limited and Cresco Holdings Limited for the construction of the Kearney Lake Connector which crosses developer's lands.

West Bedford Holdings, as the developer for Sub-Area 5, has agreed to obtain three competitive bids for the project and will construct the roadway as per the terms of the development agreements.

The project will be constructed in three phases. The first phase will consist of clearing and grubbing, wetland alteration, culvert extensions, and roadway subgrade construction. The second phase will be the construction of the roadway from the Larry Uteck Interchange to the Kearney Lake Road right-of-way boundary. It will include the installation of storm sewer,

roadway gravels, concrete curb and gutter, trail construction, and asphalt pavement. The Key Terms and Conditions outlined in Attachment 1 to this report deals only with Phases 1 and 2.

The third phase will be the construction of the intersection at Kearney Lake Road, and includes the realignment of Kearney Lake Road, traffic signals, and private property reinstatement. It is proposed that HRM complete this portion of the work in 2013/2014, similar to the widening of Hammonds Plains Road. Phase three will be cost shared on the same basis as phases 1 and 2.

In addition, the developer will install water and wastewater services in the right-of-way, but these are the sole responsibility of the developer and beyond the scope of the proposed construction agreement.

Project Costs

Construction of the first phase is anticipated to be completed this year at an estimated cost of \$1.9 million. Construction of phases 2 and 3 is expected to be completed by the end of 2013/2014 at a cost of \$1.3 million and \$1.1 million respectively. The total project cost is estimated at \$4.3 million, and HRM's share is limited to 33% of the total project costs.

In addition to the construction costs, the developers in sub-areas 5 and 9 are contributing the land needed for the road right-of-way.

The developer in sub-area 5 will also pay for turning lanes that are for the sole benefit of the development.

The cost sharing described in the preceding paragraphs is summarized as follows:

Kearney Lake Connector – Project Cost Sharing				
	Phase 1	Phase 2	Phase 3	Total
HRM Share (33%)	\$ 627,000	\$ 396,000	\$ 363,000	\$ 1,386,000
Developer Share - CCC Program	1,273,000	\$ 804,000	737,000	2,814,000
Developer Share - Turning Lanes	-	100,000	-	100,000
Total Project Cost	\$ 1,900,000	\$ 1,300,000	\$ 1,100,000	\$ 4,300,000

Implementation Plan Update

A master infrastructure plan and implementation schedule for Bedford West was approved by Regional Council in 2009 when the Bedford West CCC was adopted. This plan provides for \$45 million worth of transportation related infrastructure to be constructed between 2008 and 2020, funded between all three levels of government and capital cost contributions paid by developers. Although the final road improvement project is scheduled for 2020, it is expected that development will continue until 2027.

As indicated in Attachment "1" of a report entitled "Wastewater Oversizing for Future Development of Sandy Lake Lands" tabled with this committee, development and the subsequent payment of capital cost contributions by developers in Bedford West, is behind schedule. The Kearney Lake Connector was scheduled to begin in 2010. Construction has been delayed for two reasons:

- It has taken longer than expected for the developers and Halifax Water to negotiate a CCC for water and wastewater services; and
- It has taken longer than expected to acquire a section of a transmission corridor from NS Power Inc., which is needed for the public street right-of-way.

Both sub-areas 5 and 9 which rely on the Connector were expected to begin developing in 2011. In addition, Phase 1 of the connector is required to accommodate the installation of water and wastewater services that are necessary for the continued development of Bedford West.

The risk of development proceeding slower than planned was identified when Council adopted the CCC for Bedford West. Mitigation measures that were implemented included building carrying costs and construction escalation into the amount of the charge, annually indexing the charge to account for inflation, postponing financial commitments until development agreements are in place, as well as formally reviewing the implementation plan every five years. A review is planned for 2014, although it is not anticipated that a significant adjustment to the amount of the charge will be necessary.

BUDGET IMPLICATIONS

Funding is available in Project No. CTU01006, Roadway Oversizing - Bedford West CCC, to complete Phase 1 of the Kearney Lake Connector. Additional funding is identified for 2013/14 in the five-year Project Plan to complete Phases 2 and 3, and **the attached Key Terms and Agreement acknowledges that construction of Phase 2 is conditional upon the availability of funding.**

Budget Summary:	Project No. CTU01006, Roadway Oversizing – Bedford West CCC
	Cumulative Unspent Budget \$ 2,943,687.00
	Less: Cost for KLC Phase 1 <u>\$ 1,900,000.00</u>
	Balance \$ 1,043,687.00

The remaining budget (\$1,043,687.00) will be used for future phases of the Kearney Lake Connector project.

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.

ENVIRONMENTAL IMPLICATIONS

The Regional Plan identifies Bedford West as a sustainable growth area designed for mixed use transit oriented development.

The project will require three environmental approvals from the Nova Scotia Department of the Environment (NSDOE): a wetland alteration permit, a watercourse alteration permit, and a permit to install storm sewers. This project is included in the wetland alteration permit issued for the Larry Uteck Interchange project and there are no known obstacles to receiving the remaining permits, upon completion of the detailed design drawings and specifications.

COMMUNITY ENGAGEMENT

Community engagement was carried out during the Regional Planning Project, as well as during the secondary planning process that created the master infrastructure and CCC plan for Bedford West.

ALTERNATIVES

1. The Committee could recommend that HRM fund the construction of the Kearney lake Connector and recover the developer's share (67%) from Capital Cost Contributions paid by developers at the time of sub-division approval.

This approach is consistent with past practise in Bedford West and is the recommended alternative.

2. The Committee could request more up-front payments from developers. The CCC Policy adopted in 2003, recognizes that Council may determine the risk too high in consideration of up-front payments for infrastructure and require the developers to pay more of the up-front cost.

In this case, developers would be given Capital Cost credits to future contributions, or may be re-paid when future Capital Cost Contributions are collected.

This alternative is contrary to past practise in Bedford West and if this alternative is chosen, staff would need to return with a supplementary report.

3. The Committee could recommend not proceeding with the project at this time. This alternative is not recommended because the Kearney Lake Connector is an integral part of the approved transportation master plan for Bedford West, which is required for continued growth and is a key connection to the Larry Uteck Blvd./Highway 102 interchange.

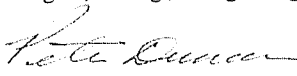
ATTACHMENTS


Attachment 1 - Kearney Lake Connector Construction Agreement

Attachment 2 – Bedford West Development Transportation Upgrades

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: Paul V. Burgess, M.Eng., P.Eng., Program Engineer, 490-5578

Report Approved by: 
Peter Duncan, P.Eng., Manager, Infrastructure Services, 490-5449

Financial Approval by: 
Greg Keefe, Acting Director of Finance and Information Technology Services/CFO, 490-6308

Key Terms and Conditions
Kearney Lake Connector Construction Agreement

1 – DESIGN

HRM will provide detailed design plans of the Kearney Lake Connector within three (3) months from the date of execution of this agreement. The project limits and the detailed design plans shall generally reflect the routing as shown on Schedule B.

HRM shall obtain all environmental approvals required to complete the project.

HRM shall obtain written confirmation from the Nova Scotia Department of Transportation and Infrastructure Renewal of acceptance of the design prior to construction commencing.

HRM shall acquire land parcel KLC-3 prior to the opening of the road.

West Bedford shall acquire land parcel KLC-4 prior to the opening of the road.

2 – PROCUREMENT

West Bedford shall obtain competitive bids from three contractors that are mutually agreed upon by the parties hereto.

West Bedford covenants with the HRM that the procurement process employed by West Bedford shall comply with Subsection 8(3) Request for Tender contained in Administrative Order Number 35, HRM Procurement Administrative Order; in a manner that is transparent, competitive and consistent with value for money principles.

The Parties acknowledge and agree that the Tender will state that the latest versions of HRM's standard specifications and details, as well as the latest version of HRM's Municipal Design Guidelines (the "Red Book") shall be followed.

3 – CONSTRUCTION

West Bedford shall be responsible for construction of the Project, all construction oversight and management of the Project, including ensuring that all contractors are in, and remain in, compliance with all applicable Nova Scotia laws.

HRM shall have the right, at its discretion, to have a supervisor and/or inspector of its choice on site for all phases of construction of the Project.

West Bedford shall provide HRM and Cresco with regular updates on the progress of the Project, including any change orders, delays, or anticipated cost overruns.

If any of the Parties request a change to the Design after the Project has been tendered, such Party shall notify each of the other Parties and shall confirm in writing that such Party shall take responsibility for any increase in the cost of the Project associated with the requested change.

4 – CONVEYANCES OF PROPERTY

Prior to the opening of the roadway, Cresco shall convey to HRM lot KLC-2 as shown on Schedule “A” for the purpose of the connector road right-of-way at a purchase price of One Dollar (\$1.00).

Prior to the opening of the roadway, West Bedford shall convey to HRM lots KLC-4 and KLC-5 as shown on Schedule “A” for the purpose of the connector road right-of-way at a purchase price of One Dollar (\$1.00).

5 – CONTRIBUTIONS TO THE PROJECT

Estimates

The parties agree that the estimated cost of Phase 1 of the Project is \$1,900,000, and the estimated cost of Phase 2 is \$1,300,000. The Parties acknowledge and agree that the Estimated Project Cost of either Phase 1 or Phase 2 is subject to change. West Bedford covenants not to award a tender for either Phase 1 or Phase 2 if the Tender price of a particular phase exceeds the estimated cost of that phase by more than ten percent (10%), without the prior written consent of the other Parties.

“Phase 1” means clearing and grubbing, wetland alteration, culvert extensions, and roadway subgrade construction from the Larry Uteck Blvd./Highway 102 Interchange to the Kearney Lake Road right-of-way boundary.

“Phase 2” means the completion of the roadway from the Larry Uteck Blvd/Highway 102 Interchange to the Kearney Lake Road right-of-way boundary, including the installation of storm sewer, roadway gravels, concrete curb and gutter, trail construction, and asphalt pavement.

Contributions

In accordance with the terms set out herein, HRM's estimated contribution to Phase 1 of the Project is \$1,900,000. Sixty-Seven percent (67%) of the actual costs incurred will be collected through the Bedford West capital cost contribution program. This amount is estimated at \$1,273,000.

Further, in accordance with the terms set out herein, West Bedford will be responsible for the cost of the turning lanes and other design features that are for the sole benefit of West Bedford. This amount is estimated at \$100,000.

HRM's estimated contribution to Phase 2 of the Project is \$1,200,000. Sixty-seven percent (67%) of the actual costs incurred will be collected through the Bedford West capital cost contribution program. This amount is estimated at \$804,000.

Approval

The Parties acknowledge that funding for this project is subject to appropriation of funds through the budget approval process by Halifax Regional Council.

Cost Overruns

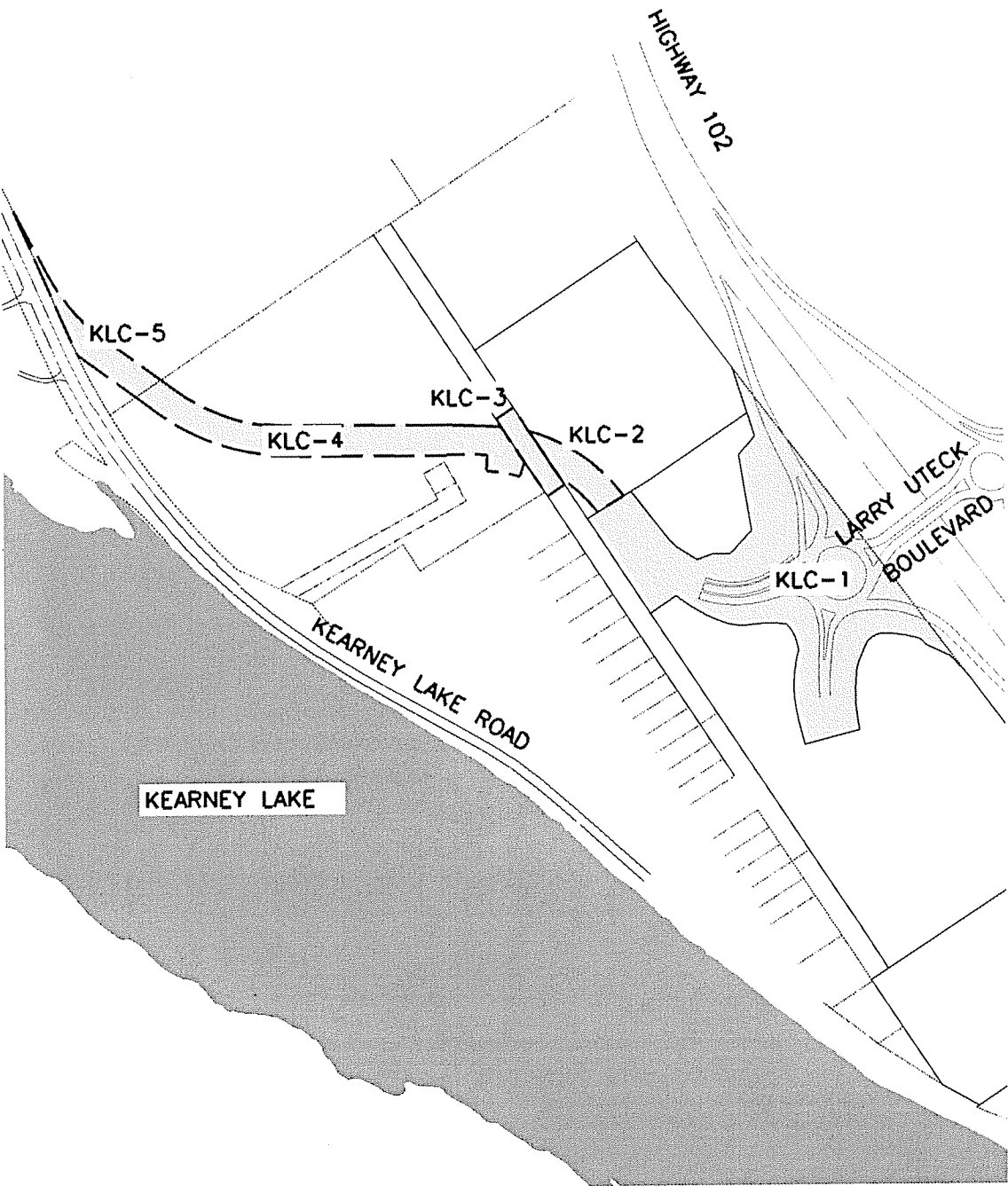
The Parties agree that should the actual project cost exceed the estimated project cost by ten percent (10 %) or more, each Party will have the opportunity to re-evaluate whether the project should continue at this time.

Cost overruns shall be funded on the same basis as prescribed in part 5 –Contributions to the Project.

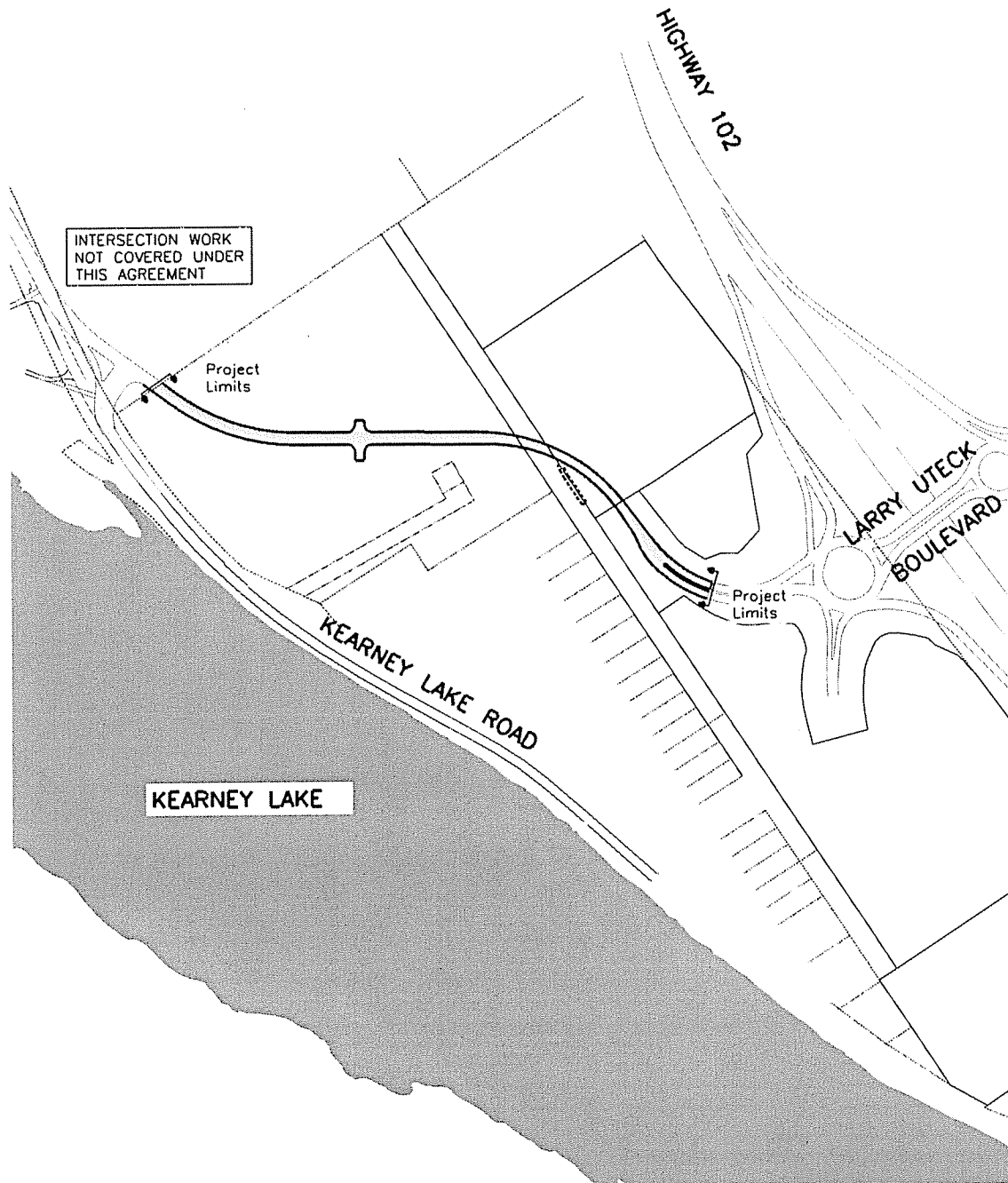
Request for Payment

Upon completion of construction of the Project, West Bedford shall provide HRM with a request for payment for HRM's share of the actual project cost, including copies of invoices, payment schedules, and other reasonable supporting information and documentation to HRM's satisfaction. HRM shall forward payment to West Bedford Holdings Limited within 30 days of receipt of the request for payment, in form and substance satisfactory to HRM.

Schedule A



Schedule B



Bedford West Development Transportation Upgrades

