

**Item No. 11.1.4**  
**Halifax Regional Council**  
**November 2, 2010**

**TO:** Mayor Kelly and Members of Halifax Regional Council

Original Signed by 

**SUBMITTED BY:**

\_\_\_\_\_  
Wayne Anstey, Acting Chief Administrative Officer

Original Signed by 

\_\_\_\_\_  
Mike Labrecque, Deputy Chief Administrative Officer

**DATE:** August 16, 2010

**SUBJECT:** Construction and Subdivision Agreements – Mount Hope Avenue  
Extension

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**ORIGIN**

On July 6, 2010, Regional Council approved Agenda Item 10.1.4 which outlined a revised funding plan for the Mount Hope Avenue Extension project.

**RECOMMENDATION**

It is recommended that Halifax Regional Council:

1. Authorize the Mayor and the Municipal Clerk, by resolution of Regional Council, to enter into a Construction Agreement 2010-004 between HRM, the Nova Scotia Department of Transportation and Infrastructure Renewal (NSTIR), and the Nova Scotia Innovation Corporation (Innovacorp) for the Mount Hope Avenue Extension project.
2. Authorize the Mayor and the Municipal Clerk, by resolution of Regional Council, to enter into a Subdivision Agreement between HRM, Halifax Regional Water Commission (HRWC), and the Nova Scotia Innovation Corporation (Innovacorp) for the Mount Hope Avenue Extension project.

## **BACKGROUND**

This project will connect Mount Hope Avenue in the Woodside Industrial Park to the Mount Hope Avenue/Highway 111 interchange. The scope of work includes subgrade construction, installation of water, sanitary, stormwater services, roadway construction, street lighting, and a multi use trail. The road will be constructed over lands owned by Innovacorp, the provincial crown corporation responsible for future development of the Woodside Industrial Park.

In December 2008, the Province announced that the project would receive funding for the road construction in the amount of \$640,000, approved through the Building Canada Plan. In addition, Innovacorp has agreed to contribute \$915,745. The balance of the project is being funded by HRM, as approved by Council on July 6, 2010 (Attachment 3).

The tender for construction has been awarded, under Council's interim award policy, to Dexter Construction Ltd.

## **DISCUSSION**

### **Cost Sharing Agreement**

Contributions from Innovacorp and the Province are subject to a cost sharing agreement which outlines responsibilities and the procedures for payments to HRM from both parties. For example, Innovacorp has prepared detailed design documents and HRM is responsible for tendering and contract administration. A draft cost sharing agreement is attached to this report which reflects the funding program approved by Council (See Attachment 1).

### **Sub-division Agreement**

After the roadway is constructed and accepted as a HRM street, Innovacorp will have the ability to develop their remaining lands inside the Woodside Industrial Park. With the exception of one small lot, Halifax Water has indicated that there is insufficient water pressure to service the Innovacorp Lands. Because of this, Innovacorp is not eligible for subdivision approval until the water distribution system is extended across Highway 111 to Russel Lake West (Baker Drive). Innovacorp has insufficient funding to complete the connection of the water main, and it is not included in the project as approved by Council.

For greater certainty, Halifax Water has asked that all parties sign an agreement acknowledging Innovacorp's obligation to complete the water main, and that the agreement is registered so that subsequent purchasers of the land are aware of the obligation (See Attachment 2).

When the lands are developed, staff intends to collect capital cost contributions.

## **BUDGET IMPLICATIONS**

There are no additional budget implications at this time. The budget implications for this project were included in the previously approved reports on the issue (please see appendix C and D of this report).

## **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**

N/A

## **ALTERNATIVES**

There are no recommended alternatives to this course of action.

## **ATTACHMENTS**

Attachment 1 - Cost Sharing Agreement Innovacorp

Attachment 2 - Subdivision Agreement

Attachment 3 - July 6, 2010 Council Report Item No. 10.1.4 Mount Hope Avenue Extension  
Funding

Attachment 4 - CAO Interim award report 10-264 Mount Hope Avenue Extension

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A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/agenda.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 Burgess, M.Eng., P.Eng., Program Engineer, Infrastructure Planning Office, 490-5578

Report Approved by: \_\_\_\_\_  
Peter Duncan, Manager, Infrastructure Planning Office, 490-5449

Financial Approval by: \_\_\_\_\_  
Cathie O'Toole, CGA, Director of Finance, 490-6308

Report Approved by: \_\_\_\_\_  
Phillip Townsend, Director Infrastructure & Asset Management, 490-7166

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Attachment 1

**CONTRIBUTION AGREEMENT 2010-004**

THIS CONTRIBUTION AGREEMENT made this       day of       , 2010.

**BETWEEN:**

**HALIFAX REGIONAL MUNICIPALITY, a body corporate, hereinafter called "HRM".**

**OF THE 1<sup>ST</sup> PART**

-and-

**NOVA SCOTIA INNOVATION CORPORATION** hereinafter called "**Innovacorp**", a body corporate, incorporated pursuant to the *Innovation Corporation Act*, 1994-95, c. 5, with its head office in Halifax Regional Municipality, Province of Nova Scotia.

**OF THE 2<sup>ND</sup> PART**

-and-

**HER MAJESTY THE QUEEN** in Right of the Province of Nova Scotia, represented in this behalf by the Minister of Transportation and Infrastructure Renewal for the Province of Nova Scotia, hereinafter called the "**Minister**".

**OF THE 3<sup>RD</sup> PART**

Each a "**Party**" and collectively referred to as the "**Parties**".

**WHEREAS** Innovacorp is established to promote, stimulate, and encourage the successful development and commercialization of technology products and services;

**AND WHEREAS** Innovacorp is the owner of certain lands north of Highway 111 as more particularly set out in Schedule "A" attached hereto (the "**Innovacorp Lands**");

**AND WHEREAS** HRM is responsible for Mount Hope Avenue and the construction of streets within its boundaries;

**AND WHEREAS** the Minister is responsible for Highway 111;

**AND WHEREAS** the Parties have agreed that there is a need for a safe and efficient connection between Highway 111 and Mount Hope Avenue;

NOW THIS AGREEMENT WITNESSETH that for and in consideration of the sum of One Dollar (\$1.00) paid by each of the parties hereto to the other, the receipt and sufficiency of which are hereby acknowledged by the parties, and of the covenants, promises and agreements hereinafter contained, the parties agree as follows:

## ARTICLE 1 - INTERPRETATION

1.1 **Definition of Terms** In this Agreement, unless something in the subject matter or context is in consistent therewith, the following terms shall have the meanings set forth below:

- A. **"Agreement"** means this Agreement and all instruments supplemental hereto or in amendment or confirmation hereof;
- B. **"Funds"** means the funds made available by Canada and more particularly described in the Provincial-Territorial Base Funding Agreement;
- C. **"MSSDG"** means HRM's Municipal Service System Design Guidelines;
- D. **"Parties"** means HRM, the Minister and Innovacorp and **"Party"** means any of HRM, Minister or Innovacorp;
- E. **"Project"** means the construction of a street connecting Mount Hope Avenue and Highway 111 on a portion of the Innovacorp Lands, as more particularly set out in Schedule "B" attached hereto;
- F. **"Provincial-Territorial Base Funding Agreement"** means the agreement between the Minister and the federal government ("**Canada**") dated March 28, 2008, as amended from time to time, respecting the Building Canada infrastructure Plan, a copy of which is attached hereto as Schedule "C";
- G. **"Standard Specification"** means the most recent version of TIR's Standard and Specification for Highway Construction and Maintenance; and
- H. **"TIR"** means the Nova Scotia Department of Transportation and Infrastructure Renewal.

1.2 **Headings** The division of this Agreement into Articles, Sections and subsections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement. The terms "this Agreement", "hereof", "hereunder" and similar expressions refer to this Agreement in its entirety and not to any particular Article, Section, subsection other portion hereof and include any agreement supplemental hereto.

1.3 **Extended Meanings** In this Agreement, unless something in the subject matter or context is inconsistent therewith, words importing the singular number shall include the plural and *vice versa*; words importing a gender shall include the masculine, feminine and neuter genders; and words importing persons shall include individuals, partnerships, companies, associations, trusts, government agencies and any other form of organization or entity whatsoever.

- 1.4 **Governing Law** This Agreement shall be governed by and construed in accordance with the laws of the Province of Nova Scotia.
- 1.5 **Severability** Each provision of this Agreement is intended to be severable. If any provision hereof is invalid or unenforceable, such provision shall be deemed to be severed and deleted herefrom and such invalidity or unenforceability shall not affect the validity or enforceability of the remainder hereof.
- 1.6 **Currency** All references to dollars in this Agreement shall be to Canadian dollars.
- 1.7 **Entire Agreement** This Agreement constitutes the entire Agreement among the Parties with regard to the subject matter hereof and supersedes all prior construction agreements, understandings, representations or warranties, negotiations and discussions, whether oral or written, among the parties hereto with respect thereto, entered into prior to the date hereof, which are hereby terminated.
- 1.8 **Schedules** The following Schedules are attached to, and form part of, this Agreement:
- a) Schedule "A" – Plan entitled "Plan of Survey of Lots R-QB, R-00A-1, Q-BA and Parcels MH-3 & MH-4 a Subdivision and Consolidation of Lot Q-B and Lot C-100A Lands of Nova Scotia Innovation Corporation Mount Hope Avenue & Circumferential Highway", showing the Innovacorp Lands to be conveyed to HRM & TIR;
  - b) Schedule "B" – Plan entitled "Exit 8 Highway 111 Mount Hope Avenue", showing the work to be constructed under the Project;
  - c) Schedule "C" – Provincial-Territorial Base Funding Agreement between the Minister and Canada dated March 28, 2008, as amended from time to time.
- 1.9 **Amendment** No amendment of this Agreement shall be binding unless in writing and signed by all of the parties hereto.
- 1.10 **Waiver** No waiver by any party hereto of any breach of any of the provisions of this Agreement shall take effect or be binding upon such party unless in writing and signed by such party. Unless otherwise provided therein, such waiver shall not limit or affect the rights of such party with respect to any other breach.
- 1.11 **Time of Essence** Time shall in all respects be of the essence of this Agreement.

## ARTICLE 2 - DESIGN

- 2.1 **Design** Innovacorp undertakes to design a connector road connecting Mount Hope Avenue and Highway 111, which design shall include:
- (a) pedestrian and bicyclist accommodations with a three (3) metre asphalt trail on the west side of the Project (the “**Trail**”); and
  - (b) one access point for proposed Lot R-100A-1 as identified in Schedule “A”.

## ARTICLE 3 - TENDERING

- 3.1 **Issuance** Upon receipt of written confirmation of the Minister’s acceptance of the design, HRM shall prepare a public tender for the construction of the Project (the “**Tender**”).
- 3.2 **Approval** Prior to issuing the Tender, HRM shall provide the Minister and Innovacorp with a copy of the draft Tender documents and obtain both the Minister’s and Innovacorp’s consent to issue the Tender in such form.
- 3.3 **Award of Tender** Prior to awarding of the Tender, HRM shall provide the Minister with details of the bid submitted by the party, including all costs, to whom HRM proposes to award the tender. The Minister shall acknowledge within five (5) business days of receipt thereof, its consent to award the tender as proposed by HRM, which consent shall not be unreasonably withheld.
- 3.4 **Competitive Tendering** HRM covenants with the Minister that the tendering process employed by HRM shall be consistent, in principal, with Government of Nova Scotia procurement policies and that it shall be undertaken in a manner that is transparent, competitive and consistent with value for money principles.
- 3.5 **Tender Components** The Parties acknowledge and agree that the Tender will state that the latest versions of HRM’s standard specifications and details, as well as TIR’s Standard Specification shall be followed. In the event of a conflict, TIR’s Standard Specification shall prevail.

#### ARTICLE 4 - CONSTRUCTION

- 4.1 HRM shall be responsible for 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.
- 4.2 HRM agrees that no asphalt concrete paving shall be placed between October 31 and May 1 of any given year without the prior written consent of TIR.
- 4.3 TIR 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.
- 4.3 HRM shall provide Innovacorp and the Minister with regular updates on the progress of the Project, including any change orders, delays, or anticipated cost overruns.
- 4.4 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.

#### ARTICLE 5 - CONVEYANCES OF PROPERTY

- 5.1 **Conveyance to HRM** Following the awarding of the Tender, Innovacorp shall convey to HRM that portion of the Innovacorp Lands that is necessary to complete the Project, as identified as Parcels MH-3 and MH-4 and as more particularly set set out in Schedule "A". Such conveyance shall be by way of Warranty Deed in a form acceptable to HRM and Innovacorp agrees to effect such conveyance in a timely manner in accordance with its usual policies and procedures for such conveyance, which includes obtaining the consent of the holder of the Principal Share in Innovacorp.
- 5.2 **Licenses** Innovacorp and the Minister agree to provide all reasonably necessary licenses to HRM and its contractors to access lands owned or controlled by each of them to facilitate the construction of the Project.
- 5.3 **Conveyance to TIR** HRM covenants and agrees that the portion of the land within the ROW and Control of Access Limits, identified as Parcel MH-4 as set out in Schedule "A", shall be conveyed to TIR six (6) months after completion of the Project and the connector road has been opened to the public. Such conveyance shall be by way of Warranty Deed for an amount of one dollar (\$1.00).



- 5.4 **Ownership of Assets** Save and except the portion of land to be conveyed to TIR in accordance with Section 5.3, and unless otherwise agreed to by the Minister, HRM agrees to retain title to, and ownership of the infrastructure resulting from the Project and to assume responsibility for the ongoing maintenance associated therewith for at least ten (10) years after completion of the Project.
- 5.5 **Disposal of Assets** If, at any time within ten (10) years from the date of completion of the Project, HRM sells, leases, encumbers or otherwise disposes of, directly or indirectly, any asset constructed, rehabilitated or improved, in whole or in part, with Funds contributed by Canada under the terms of this Contribution Agreement, other than to Canada, the Government of Nova Scotia, a Local Government or a Crown Corporation of Nova Scotia, HRM hereby undertakes to repay the Minister, on demand, a proportionate amount of the Funds contributed by Canada in accordance with the table below:

Where asset(s) are sold, leased, encumbered or disposed of:	Repayment of contribution (in current dollars)
Within 2 Years after completion of the Project	100%
Between 2 and 5 Years after completion of the Project	55%
Between 5 and 10 Years after completion of the Project	10%

## ARTICLE 6 - CONTRIBUTIONS TO THE PROJECT

- 6.1 **Estimates** HRM estimates the total cost of the Project to be Two Million Eight Hundred Thousand Dollars (\$2,800,000.00) ("**Estimated Project Cost**"). The Parties acknowledge and agree that the Estimated Project Cost is subject to change ("**Actual Project Cost**").
- 6.2 **Contributions** In accordance with the terms set out herein, the Funds to be contributed by Canada under the Provincial-Territorial Base Funding Agreement amounts to a total of Six Hundred and Thirty Thousand Dollars (\$630,000.00). Innovacorp agrees to contribute a fixed amount of Nine Hundred and Fifteen Thousand Seven Hundred and Forty-Five Dollars (\$915,745.00) of the Actual Project Cost. HRM agrees to contribute the remaining Actual Project Cost. For greater certainty, the Parties' contributions to the Project are as set forth in the table below:

Mount Hope Avenue Extension – Cost Sharing			
	Buried Utilities	Road Construction	Total
Innovacorp's Share	\$ 556,000	\$ 359,745	\$ 915,745
Minister's Share	\$ 0	\$ 630,000	\$ 630,000
HRM's Share	\$ 40,000	\$ 1,214,255	\$ 1,254,255
<b>Total</b>	<b>\$ 596,000</b>	<b>\$ 2,204,000</b>	<b>\$ 2,800,000</b>

- 6.3 **Approval** The Parties acknowledge that the Minister is a party to the Provincial-Territorial Base Funding Agreement with Canada and that the Minister's obligations pursuant to this Agreement are conditional upon Canada approving the Project and that if the Project and the Agreement are not approved by Canada, the Parties shall have no obligations under this Agreement of any kind or nature whatsoever and shall not be responsible to any other Party for any costs that may have been incurred in respect of this Agreement.
- 6.4 **Cost Overruns** The Parties each agree that should the Actual Project Cost exceed the Estimated Project Cost by ten percent (10%), or more, each Party will have an opportunity to re-evaluate whether the project should continue at this time.
- 6.5 **Request for Payment** Upon completion of construction of the subgrade earth work and underground piping, and upon the completion of the Project, HRM shall provide the Minister with a request for payment for the Minister's share of the Actual Project Cost and provide Innovacorp with a request for payment for their share of the Actual Project Cost and Additional Costs, including reasonable supporting information and documentation to the satisfaction of the Minister and Innovacorp. Within ninety (90) days of receipt of the request for payment, in form and substance satisfactory to the Minister and Innovacorp respectively, the Minister and Innovacorp shall forward payments to HRM, in accordance with the commitments identified in paragraph 6.2 of this Agreement.

## ARTICLE 7 – DISCLOSURE OF INFORMATION

7.1 HRM and Innovacorp covenant and agree with the Minister that:

- (a) **Accounts and Records** Proper and accurate accounts and records, including invoices, statements, receipts and vouchers in respect of all aspects the Project that receive Funds, are kept for at least six (6) years following the termination of the Provincial-Territorial Base Funding Agreement and shall, upon reasonable notice, be made available to the Minister and to Canada for inspection or audit.
- (b) **Audit** The Minister may complete, at is expense, and provide to Canada an audit of any one or more aspects of the Project (the “Audit Report”). The objective of this audit would be to assess whether the Project complies with the Terms and Conditions of the Provincial-Territorial Base Funding Agreement.
- (c) **Disclosure to Canada** The Minister shall share with Canada the results of any compliance or performance audit that they may carry out beyond the Audit Report that examines the use of Funds to a specific extent.
- (d) **Auditor General** The Auditor General of Canada may, at the Auditor General’s cost, after consultation with the Minister conduct an inquiry under the authority of subsection 7.1(1) of the *Auditor General Act* with respect to the use of the Minister’s contribution to the Project.
- (e) **Documents** For the purposes of any such inquiry undertaken by the Auditor General, HRM shall provide, upon request and in a timely manner, to the Auditor General or anyone acting on behalf of the Auditor General,
  - (i) all records held by agents or contractors relating to the Project and the use of the Minister’s contribution; and,
  - (ii) such further information and explanations as the Auditor General, or anyone acting on behalf of the Auditor General, may request relating to the Project or the use of the Province’s contribution.

## ARTICLE 8 – COVENANTS

- 8.1 HRM and Innovacorp acknowledge and agree that a breach of any covenant given by either Party to the Minister in this Agreement may result in the Minister being in default of the Provincial-Territorial Base Funding Agreement. HRM agrees it shall be liable to the Minister for any damage or liability the Minister may incur directly or indirectly to Canada under the Provincial-Territorial Base Funding Agreement as a result of a breach by HRM. Innovacorp agrees that it shall be liable to the Minister for any damage or liability the Minister may incur directly or indirectly to Canada under the Provincial-Territorial Base Funding Agreement as a result of a breach by Innovacorp.
- 8.2 HRM agrees to indemnify and save harmless the Minister, Innovacorp and their officers, employees and agents from all liabilities, fines, suits, claims, demands and actions, of any kind and nature for which the Minister or his officers, employees or agents shall or may become liable or suffer by reason of any breach, violation or non-performance by HRM of any covenant, term or provision hereof or by reason of any death or injury of any person or any damage or destruction of any property resulting from any act, neglect or default on the part of HRM or any of its servants, employees, agents, invitees or licensees whatsoever.

## ARTICLE 9 – GENERAL MATTERS

- 9.1 **Public Announcements** The Parties shall not make news releases concerning any part of this Agreement without the prior written consent of the other Parties.
- 9.2 **Counterpart Signature** This Agreement may be signed in counterpart, and the signed copies will, when attached constitute an original agreement. This agreement shall be effective as of the date it is signed by the last party.

9.3 **Notices** All notice, demand or other communication to be given in connection with this Agreement shall be in writing and shall be given by personal delivery, registered mail or by electronic means of communication addressed to the recipient as follows:

(a) to HRM at

Attention: Julia Horncastle  
Municipal Clerk  
Halifax Regional Municipality  
PO Box 1749  
Halifax, NS B3J 3A5

(b) to Innovacorp at

Attention: C. J. Baxter  
Director, Finance  
Innovacorp  
1801 Hollis Street, Suite 1400  
Halifax, NS  
Fax (902) 424-4679

(c) to the Minister at

Attention: Shelley Winters  
Capital Program Administration Officer  
Johnston Building  
1672 Granville St.  
Halifax, NS  
Fax (902) 424-0532

or to such other address, individual or electronic communication number as may designated by notice given by either party to the other in accordance herewith. Any demand, notice or other communication given by personal delivery shall be conclusively deemed to be given on the day of actual delivery thereof and, if given by registered mail, on the fifth business day following the deposit thereof in the mail and if given by electronic communication, on the day of transmittal thereof if given during normal business hours of the recipient and on the business day during which such normal business hours next occur if not given during such hours on any day. If the party giving any demand, notice or other communication knows or ought reasonable to know of any difficulties with the postal system which might affect the delivery of mail, any such demand, notice or communication shall not be mailed but shall be given by personal delivery or by electronic communication.

IN WITNESS WHEREOF this Agreement has been executed by the Minister, HRM and Innovacorp as of the date first above written.

**SIGNED, SEALED AND DELIVERED**

in the presence of:

\_\_\_\_\_  
Witness

\_\_\_\_\_  
**Halifax Regional Municipality**, as represented by the Mayor

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Date

\_\_\_\_\_  
Witness

\_\_\_\_\_  
**Nova Scotia Innovation Corporation**, as represented by

-----  
Date

\_\_\_\_\_  
Witness

\_\_\_\_\_  
**Her Majesty the Queen**, in Right of the Province of Nova Scotia as represented by the Minister of Transportation and Infrastructure Renewal

-----  
Date

**Attachment 2**

**THIS AGREEMENT** dated the                      day of                      , 2010.

BETWEEN:

**HALIFAX REGIONAL MUNICIPALITY**  
(hereinafter called “HRM”)

OF THE FIRST PART

-and-

**NOVA SCOTIA INNOVATION CORPORATION,**  
a Crown corporation of the Province of Nova Scotia  
(hereinafter called “Innovacorp”)

OF THE SECOND PART

-and-

**HALIFAX REGIONAL WATER COMMISSION,**  
(hereinafter called “Halifax Water”)

OF THE THIRD PART

**WHEREAS:**

- a. HRM intends to enter into an agreement with Innovacorp and the Province of Nova Scotia with respect to cost sharing, construction and ownership of a road connector between Highway 111 and Mount Hope Avenue in Dartmouth, Nova Scotia.
- b. Innovacorp is the owner of lands consisting of several adjoining parcels described as Lot MH-3, Lot MH-4 , Lot R-100-A-1, Lot Q-BR, Lot C-100A in a plan dated July 2009 of “Mount Hope Extension, prepared by HRM at Mount Hope Avenue, Dartmouth, Nova Scotia (the “Mount Hope Lands”), attached hereto as Schedule “A”.
- c. The roadbed shall include installation of the sewage and water (mains) infrastructure, which however will not be connected to the Halifax Water existing infrastructure until a later date at which time a retesting certificate will be required.



- d. The parties wish to set out the terms under which the Mount Hope Lands may be developed and the water system connected in these circumstances.

**NOW THIS AGREEMENT WITNESSETH:**

1. This Agreement is conditional upon delivery to the parties of an executed cost sharing, construction and ownership agreement on funding the total cost of road construction from among Innovacorp, HRM, and Her Majesty the Queen in right of the Province of Nova Scotia as represented by the Minister of Transportation and Infrastructure Renewal ("TIR") [the "Cost Sharing Agreement"]. For greater certainty, the parties confirm that, among other things, the Cost Sharing Agreement on funding is not expected to include the cost of connecting the water main to the existing HRM system, and that individual elements of the road construction funding may be shared on an other than equal basis.
2. Innovacorp shall deliver to Halifax Regional Water Commission, subject to the approval of Executive Council of the Province, an easement over the Mount Hope Lands in such form and to the extent reasonably required to enable the proposed connecting water main to be built and located under the Circumferential Highway near Baker Drive, Dartmouth as indicated on Schedule "B" attached hereto, the said easements to be a minimum of six (6) metres wide and located generally as indicated on Schedule "B".
3. Innovacorp shall request TIR to provide such easement or permit to Halifax Regional Water Commission as may be reasonably necessary and in a form and extent acceptable to the parties to enable the connecting water main to be built and located as set out in clause 2 of this Agreement.
4. Innovacorp will provide to HRM a detailed design showing the plan and profile of the connecting water main from Baker Drive to Lot R100-A-1 acceptable to Halifax Water within two (2) years from the date of execution of this Agreement. The detailed design sketch shall reflect the routing and specifications of the connecting water main as show in the sketch attached hereto as Schedule "B".
5. Upon securing the permit for the construction of the road from TIR, Innovacorp shall convey to HRM Lots MH-3 and MH-4 shown on Schedule "A" for the purpose of the connector road right of way at a purchase price of One Dollar (\$1.00).
6. Under the terms of the Cost Sharing Agreement, HRM agrees that after receipt of the necessary permit from TIR for the road and conveyance of Lots MH-3 and MH-4, it will call a tender for the construction of the road connector under the terms of the Cost Sharing Agreement.

7. It is an irrevocable condition of this Agreement, and one which shall not be varied except with the prior written consent of all parties, that before Innovacorp subdivides or develops, in whole or in part, the Mount Hope Lands, it shall install at the sole cost of Innovacorp the connecting water main on the Mount Hope Lands between Baker Drive and Lot R-100-A-1 as shown on Schedule “B” and the detailed design to be provided. “Subdivides” shall have the meaning set out and described in the *Halifax Regional Municipality Charter* or similar legislation, and “develops” shall mean any improvement of Innovacorp’s lands.
8. Innovacorp shall complete and pay for the cost of the connecting water main set out and described in clause 7 in this Agreement within ten (10) years of the date of this Agreement. This covenant is conditional upon Innovacorp obtaining approval of the Executive Council of the Province of Nova Scotia , which it will apply its best efforts to obtain. All other obligations of Innovacorp under this agreement are not conditional of this approval of funding.
9. Innovacorp agrees to provide a retesting certificate suitable to Halifax Water after installation of the water main by Innovacorp and before use.
10. All notice, demand or other communication to be given in connection with this Agreement shall be in writing and shall be given by personal delivery, registered mail or by electronic means of communication addressed to the recipients as follows:

Halifax Regional Municipality  
Municipal Clerk’s Office  
Halifax City Hall  
1841 Argyle Street  
PO Box 1749  
Halifax, NS B3J 3A5

Innovacorp  
Suite 1400  
1801 Hollis Street  
Halifax, NS B3J 3N4

Halifax Water  
450 Cowie Hill  
PO Box 8388, RPO CSC  
Halifax, NS B3K 5M1

11. Innovacorp agrees that HRM may register notice of this Agreement under the *Land Titles Act* in such form as reasonably required for such purpose of burdening the Innovacorp lands with the covenants herein.

- SIGNED, SEALED & DELIVERED  
in the presence of
- )  
)  
)  
)  
) Mayor \_\_\_\_\_  
)  
)  
)  
) Municipal Clerk \_\_\_\_\_  
)  
)  
)  
) INNOVACORP  
)  
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) \_\_\_\_\_  
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) \_\_\_\_\_  
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)  
)  
) HALIFAX REGIONAL WATER COMMISSION  
)  
)  
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)  
)  
)



PO Box 1749  
Halifax, Nova Scotia  
B3J 3A5 Canada

Attachment 3

**Halifax Regional Council  
July 6, 2010**

**TO:** Mayor Kelly and Members of Halifax Regional Council

**SUBMITTED BY:** original signed  
\_\_\_\_\_  
Dan English, Chief Administrative Officer

original signed  
\_\_\_\_\_  
Phil Townsend, Acting Deputy Chief Administrative Officer - Operations

**DATE:** June 8, 2010

**SUBJECT:** **Mount Hope Avenue Extension Funding**

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### **ORIGIN**

This report originates with the 2008/2009 Capital Budget.

### **RECOMMENDATION**

It is recommended that Council:

1. Approve an increase to Capital Account No. CTX01112, Mount Hope Avenue Extension, by \$564,255 by transferring \$114,255 from Capital Account CQU01223 - Access Road and Extension of Ragged Lake Boulevard and \$450,000 from Capital Account CTX01113 - Downtown Street Network Changes.
2. Approve an increase to Capital Account No. CTX01112, Mount Hope Avenue Extension by \$315,745 to reflect cost sharing in the amount of \$275,745 from Innovacorp and \$40,000 from Heritage Gas as outlined in the budget implications of this report.

## **BACKGROUND**

This project will connect Mount Hope Avenue in the Woodside Industrial Park to the Mount Hope Avenue/Highway 111 interchange. This connection will have the following benefits to HRM:

- improve access to the Woodside Industrial Park and relieve traffic congestion on Pleasant Street;
- improve transit routing between Portland Estates/Russell Lake West, the Woodside Industrial Park, and the Woodside Ferry Terminal; and
- provide regional trail connections in the area.

The scope of work includes subgrade construction, installation of water, sanitary, and stormwater services, roadway construction, street lighting, and a multi use trail.

The road will be constructed over lands owned by Innovacorp, the provincial crown corporation responsible for future development of the Woodside Industrial Park.

In December 2008, the Province announced that the project would receive two-thirds cost sharing through the Base Funding Component of the Building Canada Plan which is administered by the Nova Scotia Department of Transportation and Infrastructure Renewal (NSTIR). Under the proposed terms of the cost sharing agreement, HRM will tender and administer construction of the project.

The original project budget of \$1.9 million was developed in 2008. It did not include the installation of underground services (water and wastewater infrastructure), which are typically the responsibility of the land owner. When the detailed design was completed and a revised cost estimate was developed, Innovacorp informed HRM that they did not have the budget for the cost of the underground services including a major looped connection to the water distribution system in Russell Lake West.

## **DISCUSSION**

The revised project budget, including the cost of providing underground services within the proposed road right of way is \$2.8 million, broken down as follows:

<b>Mount Hope Avenue Extension - Revised Project Estimate</b>	
Road Construction	\$1,780,000
Water and Wastewater Services	\$500,000
Natural Gas Services	\$40,000

Subtotal Construction	\$2,320,000
Contingency and Taxes	\$200,000
Engineering Fees - Design, Inspection, and Testing	\$280,000
<b>TOTAL PROJECT COST</b>	<b>\$2,800,000</b>

The cost presented above for water and wastewater services does NOT include the cost of connecting the water distribution system to Russell Lake West. The lands cannot be developed until this connection is made, and for greater certainty Innovacorp has agreed to execute a Legal Agreement to this effect. The cost of making the connection to the water distribution system in Russell Lake West is solely the responsibility of Innovacorp.

Innovacorp has informed HRM that they are only able to contribute \$915,745, which is not enough to fund 1/3 of the road construction as well as the cost to provide the underground services within the right of way. As a result, Innovacorp has asked HRM and the Province of NS to consider an increased level of cost sharing on the road, so more of the Innovacorp funds can be directed to completing the underground services within the road right of way.

The Province of NS has indicated that cost sharing from the Build Canada fund is fixed at \$640,000. A letter has been sent to the Provincial Government, asking them to share in this funding shortfall. Pending receipt of their response, staff are proposing funding the project as indicated in the table below.

In order to complete the project, the level of funding from HRM would need to be increased to \$1,204,255, broken down as follows:

<b>Mount Hope Avenue Extension - Revised Cost Sharing</b>			
	Buried Utilities	Road Construction	Total
Innovacorp/Provincial Share	\$556,000	\$359,745	\$915,745
Federal (NSTIR) Share		\$640,000	\$640,000
HRM Share		\$1,204,255	\$1,204,255
Heritage Gas	\$40,000		\$40,000
<b>TOTALS</b>	<b>\$596,000</b>	<b>\$2,204,000</b>	<b>\$2,800,000</b>

Both the Innovacorp and Federal funds need to be spent prior to March 31, 2011 otherwise the funding will lapse.

Funding in the amount of \$2,700,000 is included in Capital Account CQU01223 for the construction of an access road and the extension of Ragged Lake Boulevard. The project is linked to the new transit operations centre in the Ragged Lake Business Park. The extension of Ragged Lake Boulevard has been completed. The construction of the transit access road onto Highway 103 has been delayed pending approval by the Nova Scotia Department of Transportation and Infrastructure Renewal. Staff do not anticipate tendering this project until next year, and \$114,255 could be taken from this account to tender the Mount Hope Avenue Extension project with the understanding that funding would be re-instated in the 2011/12 Capital Budget.

Funding in the amount of \$450,000 is included in Capital Account CTX01113 - Downtown Street Network Changes which was intended to be used for re-alignment of Water Street. Staff do not anticipate tendering this project until next year. Funds could be taken from this account to tender the Mount Hope Avenue Extension project with the understanding that funding would be reinstated in the 2011/12 Capital Budget.

Notwithstanding, the additional HRM funding in the amount of \$564,255. is not currently included in the 5 year capital plan, and will need to be accommodated in the 2011/12 Capital Budget, subject to budget availability and Council approval.

The Department of National Defence is no longer planning to develop approximately 500 acres of land within the Morris Russell Lake Master Plan Area that was originally slated for development. As a result developer Capital Cost Contributions cannot be collected and the Mount Hope Interchange currently has a budget shortfall. A report will come to Council to identify a funding source for this shortfall. It is anticipated this will occur in early August.

A portion of the funding shortfall of the Mount Hope Interchange may be recovered through a Development Charge when the Innovacorp land is developed, and staff will begin the process to formally adopt a development charge on the adjacent land.

### **BUDGET IMPLICATIONS**

HRM's share of the total project cost is \$1,204,255. Budget of \$640,000 was previously approved in Capital Account CTX01112, Mount Hope Avenue Extension. The additional \$564,255 budget can be funded through withdrawals from Capital Account CQU01223 - Access Road and Extension of Ragged Lake Boulevard in the amount of \$114,255, and from Capital Account CTX01113 - Downtown Street Network Changes in the amount of \$450,000. These amounts will need to be replaced in the 2011/12 Capital Budget. The budget availability has been confirmed by Financial Services.

**Budget Summary:**      **Capital Account No. CQU01223, Access Road and Extension of Ragged Lake Blvd.**

Cumulative Unspent Budget	\$	130,598
Less: Transfer to Account CTX01112	\$	114,255
Balance	\$	16,343

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**Capital Account No. CTX01113, Downtown Street Network Changes**

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Cumulative Unspent Budget	\$ 450,692
Less: Transfer to Account CTX01112	\$ 450,000
Balance	\$ 692

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**Capital Account No. CTX01112, Mount Hope Avenue Extension**

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Cumulative Unspent Budget	\$ 1,920,000
Add: Transfer from Account CQU01223	\$ 114,255
Add: Transfer from Account CTX01113	\$ 450,000
Add: Cost sharing Heritage Gas	\$ 40,000
Add: Cost sharing Innovacorp	\$ 275,745
Net Balance	\$ 2,800,000

**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. This report represents an increase to the gross capital budget with no change to the net.

**ALTERNATIVES**

Council can choose not to approve the additional cost sharing for the project. The project will not be carried out at this time and Federal cost sharing will be lost. The project will be deferred to future years when funding can be assembled from other levels of Government. If the project is deferred opportunities will be lost for relief of traffic congestion on Portland Street, and the improved transit and trail connections described in this report will not be possible.

**ATTACHMENTS**

Attachment A - Letter from Innovacorp

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 at 490-4208.

Report Prepared by: Paul Burgess, M.Eng., P.Eng., Program Engineer at 490-5578

Report Approved by: original signed

Peter Duncan, P. Eng., Manager, Infrastructure Planning Office at 490-5449

Financial Approval by: original signed

Cathie O'Toole, CGA, Director of Finance, 490-6308



June 16, 2010

Mr. Paul Burgess M. Eng. P. Eng.  
Capital Transportation Project Engineer  
Halifax Regional Municipality  
PO Box 1749  
Halifax, NS B3J 3A5

**Re: Construction of Road Connector between Highway 111 and Mount Hope Avenue in Dartmouth, Nova Scotia**



1801 Holus Street  
Suite 1400  
Halifax, NS Canada  
B3J 3N4

T 902.424.8670  
F 902.424.4673  
www.innovacorp.ca

Dear Mr. Burgess

I understand that a request for approval to proceed with the above referenced project ("Mount Hope Extension") is planned to be brought to HRM Council at the June 29 meeting. In connection with this matter you have requested a letter confirming Innovacorp's planned contribution to this project.

By this letter I confirm that:

- Innovacorp has capital grant funding of \$765,000 in the 2010-2011 fiscal year for the Mount Hope Extension; and
- Innovacorp has incurred \$150,745 in engineering consulting costs associated with detailed design services for the Mount Hope Extension.

Therefore, Innovacorp would contribute a total of \$915,745 to the Mount Hope Extension project if it is approved by Council, subject to:

- Negotiation of a cost-sharing agreement satisfactory to the Government of Canada, the Province, Innovacorp, and HRM; and
- Negotiation of an agreement among HRM, the Halifax Regional Water Commission and Innovacorp regarding terms under which the subdivision of Innovacorp's lands adjacent to the Mount Hope Extension may occur.

Please note that the \$765,000 in capital grant funding must be spent by March 31, 2011. The unexpended balance of this funding on that date will expire.

Hoping this meets with your satisfaction and wishing you success with your submission to Council. We believe the Mount Hope Extension creates opportunity for the development of a knowledge cluster in the Woodside Industrial Park.

Yours truly,

C.J. (Charley) Baxter, CA  
Director, Finance & IT

cc Stephen Hartlen, CEO (Interim) Innovacorp  
David McNamara, VP Incubation Innovacorp

**CAO Interim Award Report**

**TO:** Wayne Anstey, Acting Chief Administrative Officer  
original signed

**SUBMITTED BY:** \_\_\_\_\_  
Peter Bigelow, Acting Director, Infrastructure and Asset Management

**DATE:** August 12, 2010

**SUBJECT:** Award - Tender No. 10-264, Mount Hope Avenue Extension

**ORIGIN**

On July 6, 2010, Regional Council approved Agenda Item 10.1.4 which outlined a revised funding plan for the Mount Hope Avenue extension project.

**RECOMMENDATION**

Under the interim award provisions of Administrative Order #35 - Procurement Policy (Section 9 (5) approved by Council on September 22, 2009, it is recommended that the Acting Chief Administrative Officer:

1. Award Tender No. 10-264 to Dexter Construction Company Limited, for a Total Tender Price of \$2,055,315 (net HST included) with funding from Project No. CTX01112, Mount Hope Avenue Extension, as outlined in the Budget Implications section of this report.
2. Authorize, as per the Budget Implications section of this report, the appointment of CBCL Ltd. for construction inspection services, for a total fee of \$126,353; payment to Nova Scotia Power Inc., for the extension of electrical transmission lines, for a total cost of \$41,714; and payment to Halifax Water (HW) for municipal services inspection, for a total fee of \$11,066. All items include net HST.

**APPROVED:**  
original signed

\_\_\_\_\_  
Cathie O'Toole Acting Deputy CAO  
August 25, 2010

Date: \_\_\_\_\_

original signed

\_\_\_\_\_  
Wayne Anstey, Acting CAO  
August 25, 2010

Date: \_\_\_\_\_

## **BACKGROUND**

This project will connect Mount Hope Avenue in the Woodside Industrial Park to the Mount Hope Avenue/Highway 111 interchange. The scope of work includes subgrade construction, installation of water, sanitary and stormwater services, roadway construction, street lighting, and a multi use trail. The road will be constructed over lands owned by Innovacorp, the provincial crown corporation responsible for future development of the Woodside Industrial Park.

In December 2008, the Province announced that the project would receive two-thirds cost sharing through the Base Funding Component of the Building Canada Plan which is administered by the Nova Scotia Department of Transportation and Infrastructure Renewal (NSTIR). Under the proposed terms of the cost sharing agreement, Innovacorp was responsible for the preparation of detailed design documents and HRM was responsible for tendering and contract administration.

Cost sharing through the Building Canada Plan is fixed at \$640,000 and does not include the installation of underground services (water and wastewater infrastructure), which are typically the responsibility of the land owner. Cost sharing from Innovacorp is fixed at \$915,745.

On July 6, 2010, Regional Council approved a revised funding plan for this project.

## **DISCUSSION**

Tenders were called on July 16<sup>th</sup>, 2010 and closed on July 30<sup>th</sup>, 2010. Bids were received from the following companies:

<b><u>Name of Company</u></b>	<b><u>Bid Price (net HST included)</u></b>
Dexter Construction Company Limited	\$2,055,315 *
J.R. Eisener Contracting Limited	\$2,264,998
Harbour Construction Company Limited	\$2,411,697
Allterrain Contracting Inc.	\$2,486,341
Ocean Contractors Limited	\$2,704,230

### **\*recommended bidder**

The scope of work for this tender generally includes subgrade construction, installation of water, sanitary and stormwater services, roadway construction, street lighting, natural gas and an active transportation trail. It is anticipated that work will commence within three weeks of the tender award and be completed by June 30, 2011.

The project was designed by CBCL Limited, through a separate contract with Innovacorp. Since staff does not have the resources to provide full time inspection on a project of this magnitude at this time, and CBCL Limited is on a pre-qualified list of engineering consultants, it is recommended that CBCL Limited be retained to provide these services. The estimated fee for this service is \$126,353 (net HST included). If approved, payment to the consultant will be based on the amount of actual time spent on the project in accordance with hourly fees quoted.

This is a **UNIT PRICE** contract and the cost will be dependent upon the actual quantities measured and approved by the HRM Project Manager.

There are no Local Improvement Charges associated with this work. Staff intend to collect capital cost contribution charges for the Mount Hope Interchange project in the range of \$200- \$300,000, when the adjacent lands are developed.

### **BUDGET IMPLICATIONS**

Based on the lowest tendered price of \$2,055,315 (net HST included), funding is available in the Approved 2010/11 Project Budget from Project No. CTX01112 - Mount Hope Avenue Extension. The budget availability has been confirmed by Financial Services.

**Budget Summary:      Project No. CTX01112, Mount Hope Avenue Extension**

<b>Cumulative Unspent Budget</b>	<b>\$ 2,758,286</b>
<b>Less: Tender No. 10-264 *</b>	<b>\$ 2,055,315</b>
<b>Less: Halifax Water Inspection Fees</b>	<b>\$ 11,066</b>
<b>Less: CBCL Inspection Services</b>	<b>\$ 126,353</b>
<b>Less: Nova Scotia Power Fees</b>	<b>\$ 41,714</b>
<b>Balance</b>	<b>\$ 523,838</b>

\* This project was estimated at \$2,300,000.

The balance of funds will be used to complete other components of this 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.

## **ALTERNATIVES**

There are no recommended alternatives to this course of action.

## **ATTACHMENTS**

- A1- Funding Letter from Innovacorp
- A2- Funding Letter from Nova Scotia Department of Transportation and Infrastructure  
Renewal
- A3- Funding Letter to Heritage Gas

A copy of this report and information on its status, can be obtained by contacting the Procurement Office at 490-4170, or Fax 490-6425.

Report Prepared by: Paul Burgess, M.Eng., P.Eng., Program Engineer at 490-5578

**original signed**

Business Unit Review:

Peter Duncan, P.Eng., Manager, Infrastructure Planning Office

**original signed**

Procurement Review:

for Anne Feist, Operations Manager, Procurement (490-4200)