

Item No. 10.2.1 (ii)
Halifax Regional Council
July 3, 2012

TO: Mayor Kelly and Members of Halifax Regional Council

Original Signed by Director

SUBMITTED BY: _____
Peter Stickings, Acting Director, Planning & Infrastructure

DATE: June 19, 2012

SUBJECT: Wastewater Oversizing for Future Development of Sandy Lake Lands

INFORMATION REPORT

ORIGIN

- Report from Community Planning & Economic Development Standing Committee
- Financial Proposal received from Armco Capital Inc.

BACKGROUND

At the May 10, 2012, meeting, the Community Planning & Economic Development Standing Committee approved a motion recommending to Regional Council that the Municipality agree in principle to participate in funding the oversizing of wastewater infrastructure through Bedford West to service the future development of Sandy Lake through this year's and future year's budgets, and direct staff to provide Regional Council with details on how this will be accomplished in this year's budget.

DISCUSSION

Subsequent to the deliberations of the Standing Committee, Armco Capital Inc., the major property owner in the Sandy Lake area, proposed that it would provide HRWC with a contribution of \$1 million towards the financing of the oversizing costs. The terms and conditions, negotiated between Armco and Halifax Water, are presented as Attachment A to this report. The agreement does not provide Armco with any legal rights but raises concerns of a perception of entitlement when Council must decide issues related to development of this area.

Staff supports HRM funding of the Sandy Lake oversizing under the conditions:

- HRM is not a party to the proposed Armco-HRWC contract. As such, the terms and conditions do not commit a future council to any planning approvals in either Bedford West or the Sandy Lake lands.
- In the event that a future council decides not to support development of the Sandy Lake lands or the property owners decide not to seek approval, the Municipality will forego only \$2 million rather than the \$3 million cost, should the Municipality accept full responsibility to fund the oversizing. It is possible that HRM's risk can be mitigated with supplying the \$2 million should they decide to re-allocate the capacity to an alternate development area as described in Clause 10 of the agreement.
- The developer's contribution makes the remaining costs more manageable for HRM. The developer's contribution is a first contribution, and decreases the largest single expenditure which is required in 2013/2014. Furthermore, the remaining two-thirds of the costs are spread over the last eight years of the implementation schedule.

BUDGET IMPLICATIONS

The estimated cost of oversizing wastewater infrastructure through Bedford West, adjusted for anticipated inflation, over the next ten years is \$3.1 million. With the Armco contribution, the estimated expenditures for the Municipality are broken down as follows:

2012/13 - \$0.00
2013/14 - \$52,487
2014/15 - \$669,676
2015/16 - \$93,093
2016/17 - \$484,735
2017/18 - \$0
2018/19 - \$37,507
2019/20 - \$195,300
2021/22 - \$98,024
<u>2022/23 - \$510,410</u>
Total: \$2,141,232

No funding from the Municipality would be required from this year's budget.

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

The request to initiate secondary planning on the Sandy Lake land was discussed by RPAC at numerous meetings and the issue of financing oversized wastewater infrastructure as an issue that would have to be brought back before Regional Council, was specifically identified in the staff report. These meetings were open to the public and, on several occasions, the Committee agreed to receive presentations from the proponents, non-government organization groups and members of the public.

ENVIRONMENTAL IMPLICATIONS

The Regional Plan identifies the Sandy Lake lands as a future growth area which is to be planned and designed for mixed use transit oriented development. In the event that funding for oversizing of the wastewater system is not provided with the build out through Bedford West, it is unlikely that development of the Sandy Lake lands will be achievable.

ATTACHMENTS

- Attachment A: Terms and Conditions of Financial Agreement between Halifax Water and Armco Capital Inc.
- Attachment B: Map of Sandy Lake referenced as Schedule A in Clause 10 of the MOU

**Wastewater Oversizing for Sandy Lake - 4 -
Council Report**

July 3, 2012

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 Morgan, Planner, 490-4482

Report Approved by: _____
Austin French, Manager, Planning, 490-6717

Report Approved by: _____
Peter Duncan, Manager, Infrastructure, 490-5449

Report Approved by: _____
Bruce Fisher, Manager, Financial Policy & Planning, 490-4493

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

Report Approved by: _____
Peter Stickings, Acting Director, Planning & Infrastructure, 490-7129

Original Signed

MEMORANDUM OF UNDERSTANDING (MOU)

THIS MEMORANDUM OF UNDERSTANDING made this day of ,
2012.

BETWEEN:

ARMCO CAPITAL, a body corporate, ("Armco")

OF THE 1ST PART

-and-

HALIFAX REGIONAL WATER COMMISSION (Halifax Water") , a body corporate

OF THE 2nd PART

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

WHEREAS Armco is seeking the oversizing of certain wastewater infrastructure in the Bedford West Master Plan area to facilitate a potential future servicing to Armco's lands in Sandy Lake (the "SL oversizing");

AND WHEREAS the estimated cost of such oversizing is approximately \$3.1 million;

AND WHEREAS Armco proposes to make an upfront contribution of \$1,000,000 towards the SL oversizing cost in advance of HRM Regional Council considering approval of a secondary planning strategy for the Sandy Lake lands;

AND WHEREAS Armco's proposed upfront contribution is conditional on the balance of the SL oversizing cost, namely \$2,000,000.00 being contributed by HRM;

AND WHEREAS Halifax Water is prepared to facilitate construction of the SL oversizing without any capital contribution by Halifax Water;

AND WHEREAS the parties wish to set out the terms and conditions under which the SL oversizing can occur;

NOW THEREFORE Armco proposes to make the upfront capital contributions to fund the SL oversizing as follows:

1. The estimated total cost of the SL oversizing is approximately \$3.1 million. The parties acknowledge and agree that the estimated project cost is subject to change;

2. Armco's land holdings in Sandy Lake are shown and better described in Schedule A attached hereto (the "Sandy Lake lands");
3. Halifax Water shall facilitate the completion of the Sandy Lake oversizing project through implementation of the Bedford West Master Plan. Construction is expected to commence in 2013 and be completed by 2024;
4. Armco shall contribute funds in the amount of \$1,000,000.00 to the Sandy Lake oversizing costs, with such funds to offset the initial costs of the SL oversizing (Armco's contribution). Halifax Water will provide Armco with an invoice for Armco's contribution, including reasonable supporting information and documentation. Within sixty (60) days of receipt of the request for payment, Armco shall forward payment to Halifax Water;
5. Armco shall make the above-noted upfront payment recognizing and accepting that the decision to approve a secondary planning strategy for all or a portion of the Sandy Lake lands is ultimately in the sole discretion of HRM Regional Council ("Council");
6. Should Council decide not to grant approval for the Sandy Lake lands, then Armco's contribution is non-refundable and Armco shall have no claim for recovery of such funds except as hereinafter provided;
7. Should Council decide not to grant approval for the Sandy Lake lands or, alternatively, grant approval in a form that does not utilize the full capacity of the SL oversizing, Armco acknowledges and agrees that any re-allocation of capacity from the SL oversizing (to other Armco owned lands or other landowners) shall be in the sole discretion of HRM in consultation with Halifax Water;
8. Should Council grant approval for the Sandy Lake lands in whole or in part, then Armco's contribution with interest thereon shall be credited towards any future CCC charges owing in respect of the Sandy Lake lands at such time as they are approved for development in accordance with Halifax Water's CCC policy. Any unused portion of Armco's contribution shall remain to the credit of Halifax Water subject to the terms hereinafter provided;
9. Should Council grant approval for the Sandy Lake lands in whole or in part, HRM's contribution shall be reimbursed by Halifax Water from recovery of CCC charges as and when approved for Sandy Lake;
10. In the event that lands outside Sandy Lake (as defined in Schedule "A") are approved by HRM for (i) an increase in density within existing service boundaries or (ii) an extension to existing service boundaries based on servicing capacity from the SL oversizing, then HRM and Armco shall be reimbursed their proportionate contribution of the upfront payments from payment of any funds resulting from the allocation of such additional density;
11. With regard to the repayment methods described in paragraphs 9, 10 and 11 above, Armco shall receive its \$1,000,000.00 upfront payment in full before any repayment of HRM's contribution;

12. To mitigate risk to Halifax Water, Armco shall provide Halifax Water with acceptable mortgage security in respect of the \$1,000,000.00 payment by Armco to be held pending full and final payment of Armco's share of the SL oversizing cost;

13. The payment of Armco's share is to facilitate timely completion of the SL oversizing as part of the Bedford West Master Plan. The parties acknowledge and agree that any future CCC charge for the Sandy Lake lands is subject to NSUARB review and approval;

14. Armco shall have the right to assign all of its rights and obligations under this memorandum only with the prior written approval of HRM and Halifax Water;

15. The parties shall bear their own costs in connection with the up-front payments including, without limitation, all legal, accounting and other professional fees;

16. It is understood that this memorandum is not a binding agreement, but is intended to set forth the intentions of the parties to conclude, as soon as possible, arrangements for the execution of a contribution agreement consistent with the general terms and conditions set forth herein and containing such further matters as may be agreed upon by the parties.

IN WITNESS WHEREOF this Memorandum has been signed by the parties as of the date first written above.

SIGNED, SEALED AND DELIVERED

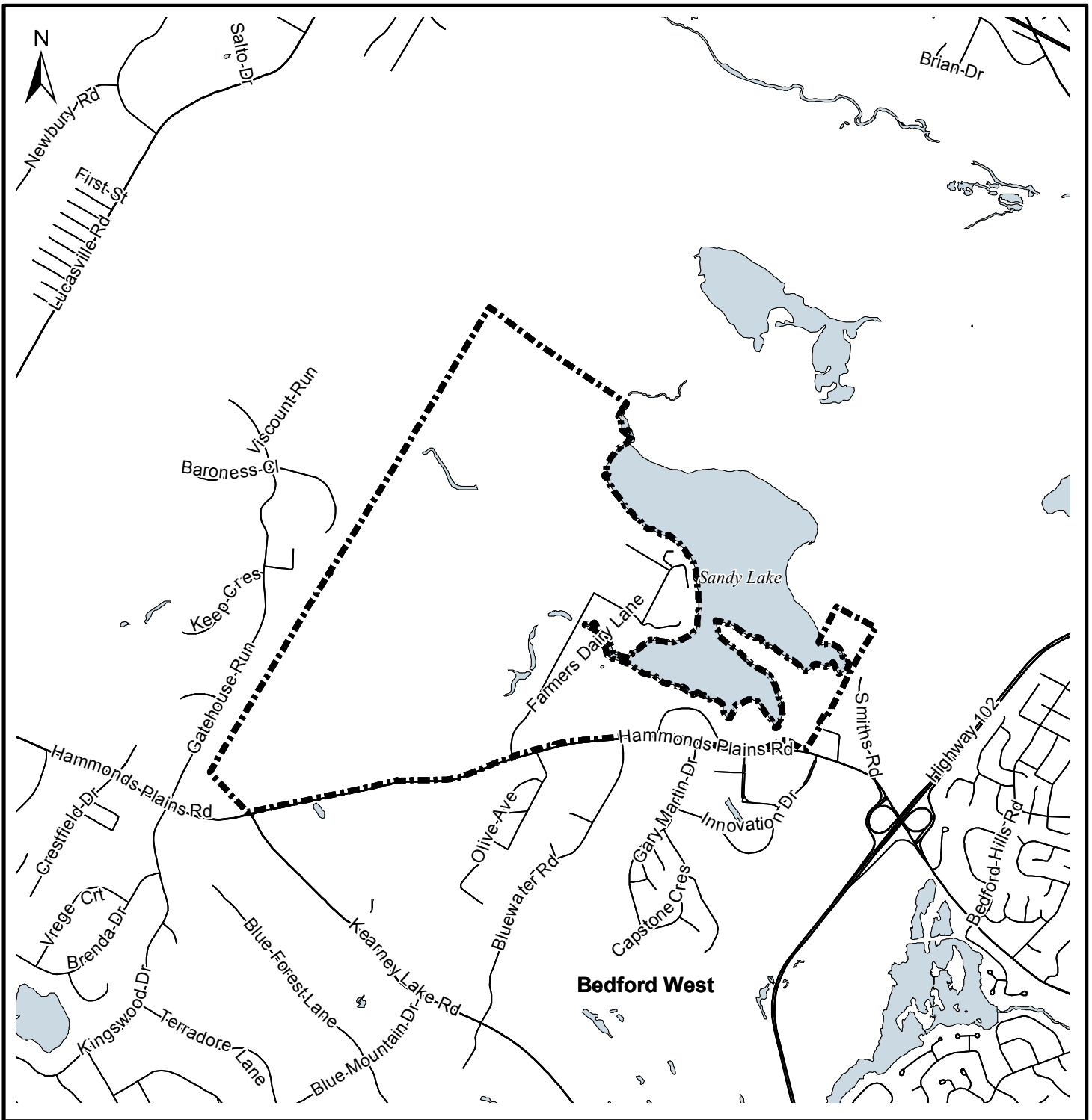
In the presence of:

Witness ARMCO CAPITAL, as represented by


Date

Witness Halifax Regional Water Commission, as represented by

Date



Map 1:
Sandy Lake

 CBCL Study Area Boundary for Sandy Lake

HALIFAX
REGIONAL MUNICIPALITY
PLANNING AND INFRASTRUCTURE
REGIONAL AND COMMUNITY PLANNING



Bedford and Beaver Bank/Hammonds Plains/Upper Sackville Plan Areas

HRM does not guarantee the accuracy of any representation on this plan.