



P.O. Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Item No. 3
Halifax Regional Council
July 23, 2013.

TO: Mayor Savage and Members of Halifax Regional Council

SUBMITTED BY: Original Signed
Richard Butts, Chief Administrative Officer
Original Signed
Mike Labrecque, Deputy Chief Administrative Officer

DATE: July 11, 2013

SUBJECT: New Convention Centre – General Progress Report

INFORMATION REPORT

ORIGIN

On December 13, 2010 Regional Council MOVED by Councillor Walker, Seconded by Councillor McCluskey that Council support the development of a new convention centre in downtown Halifax, as per the terms negotiated with the Province of Nova Scotia. MOTION PUT AND PASSED.

On July 10, 2012 Regional Council MOVED by Councillor Sloane, Seconded by Councillor Blumenthal that Council 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. MOTION PUT AND PASSED.

On July 10, 2012 Regional Council MOVED by Councillor Sloane, Seconded by Councillor Blumenthal that Council direct staff to consider the possible municipal uses of the existing World Trade and Convention Centre and report back to council before the first option set out in the agreement. MOTION PUT AND PASSED.

On July 10, 2012, Regional Council MOVED by Councillor Sloane, seconded by Councillor Blumenthal that Council approve up to \$40,000 to support a Provincial marketing campaign that promotes the new convention centre and that funds be allocated from the Hotel Marketing Levy Reserve. MOTION PUT AND PASSED

BACKGROUND

On December 13, 2010, Halifax Regional Council approved a motion 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). Other terms of the agreement included:

- HRM and the Province would share 50/50 in the operating costs and 1/3 and 1/3 of the capital costs,
- HRM would have up to three members on the negotiating team with the developer and the Province,
- the full complex (Nova Center) to be built all at the same time, and
- if a purchaser for the existing convention center cannot be found HRM will purchase the facility.

The motion directed staff to come back to Council for approval of the final agreement.

On July 10, 2012, Council approved three motions related to the construction of the convention centre. The first authorized the Mayor and the Municipal Clerk to sign the final version of the Memorandum of Agreement between the municipality and the Province of Nova Scotia. The second asked staff to consider possible uses of the existing World Trade and Convention Centre. The third authorized funds to support a provincial marketing campaign to promote the new centre.

Over the last year, HRM officials have been working with Argyle Developments/Rank Incorporated (the developer), the Province of Nova Scotia (PNS) and others to implement the Council motions.

The convention centre will be part of the Nova Centre development project. The entire development project will include a convention centre, retail space, office space, potentially residential development, a parking garage and a hotel. It is estimated that the total development will be in the range of one million square feet when fully constructed.

The developer is responsible for the design and construction of the convention center. Once the convention center is completed the Province will enter into a 25 year lease. The three orders of government are only contributing to the convention center. All other components of the Nova Centre are being financed and constructed by the developer. No public funds will flow to the developer until the convention center is substantially complete. At that time, the federal contribution will be advanced to the developer. PNS and HRM will pay their portions of the capital contribution over the life of the 25 year lease. As part of the design phase, the developer undertook province wide consultations. They led to alterations to the initial design concept for the building. These design revisions will require amendments to the Downtown Halifax Municipal Planning Strategy (MPS) and Land Use By-law (LUB). The developer has incorporated the design alterations into project plans. When completed, the revised design

concept will be reflected in the planning application which will form the basis for the MPS and LUB amendment process. To maintain a schedule that has the convention centre open in January 2016, site preparation activity has been underway for several months. It should be complete around the end of July 2013.

DISCUSSION

On July 10, 2012, Regional Council authorized the signing of a municipal/provincial Memorandum of Agreement (MOA) (Attachment A) with respect to the new convention centre.

This report gives an update on implementation of the MOA to date.

1. Planning

2. Construction

An update on Planning and Construction work is included in a separate report to Council entitled “Nova Centre – Construction Timing.”

3. Works Committee/Negotiations

PNS, with HRM, are continuing negotiations with the developer on both the design construction agreement and the lease agreement.

Once construction begins, HRM will be represented on the Works Committee. This is a technical committee that will meet monthly (as a minimum) to ensure that the project is progressing on time and that the construction of the facility represents the quality and the aspects that were agreed to as part of the RFP process.

4. Governance

HRM and PNS have agreed that the most effective way to set up the “Facility Operator” described in the MOA would be to establish it under an Act of the Provincial Legislature. Draft legislation has been developed for discussion. Officials of the two governments believe the draft legislation covers the requirements for managing the operations of the facility and for a competency based board. The draft legislation also enshrines the principle of an equal partnership between the two governments in the funding and decision-making with respect to the facility.

The draft legislation should come before the Legislative Assembly during its fall sitting.

5. Sales & Marketing

While legislation is developed for the new Facility Operator, active sales and marketing of the new convention centre must continue so that the centre will have a full slate of business when it opens. Trade Centre Limited (TCL) currently leads the sales and marketing effort

Work has begun, in conjunction with HRM's own branding efforts, to establish a brand for the new convention centre. This will be used to support the ongoing sales and marketing efforts.

A Working Group made up of the HRM CAO, the Deputy Minister of Economic and Rural Development and Tourism and staff from HRM and ERDT meets regularly to oversee TCL's work.

TCL has announced several events already secured. There are others close to finalizing dates for events at the new convention centre. TCL leadership is confident it will meet its 2013-14 target of booking 29 or more events, 20% of its three year projection. These events will be in the National Corporate, National Association or International markets. As per industry standards when opening a new convention facility, the first events are being booked approximately six months following completion date for construction.

Secured events include:

- Canada's Venture Capital & Private Equity Association Annual Conference (May 24-27, 2016)
- Canadian Library Association National Conference & Tradeshow (May 31-June 4, 2016)
- Canadian Orthopaedic Association Annual Meeting (June 15-19, 2016)
- Canadian Association of General Surgeons Canadian Forum (September 6-11, 2016)
- Co-operative Housing Federation of Canada AGM (May 26-30, 2020)

HRM and the province are sharing the costs of the sales and marketing efforts for the new convention centre. Expenses to date are on budget for 2013-14.

6. Other

- No decisions have been made about use of the existing World Trade and Convention Centre after the new facility opens. PNS and HRM agreed to change the timetable for such decisions. (Attachment A)
- PNS covered the costs of the province-wide consultation around the new convention centre. The \$40,000 put aside for the HRM share has been used for sales & marketing work.
- There have been no changes to the federal funding agreement.

FINANCIAL IMPLICATIONS

There have been no changes to the financial implications described in the MOA.

COMMUNITY ENGAGEMENT

The developer did extensive consultations around the design of the new building. Localized consultations have taken place around issues like daily blasting at the site.

ATTACHMENTS

A – Memorandum of Understanding

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: Chris Bryant, Senior Advisor, GREA – 490-3729

Report Approved by: _____
Jennifer Church, Managing Director, GREA – 490-3677

Report Approved by: _____
Jane Fraser, Director, Planning & Infrastructure – 490-7166

Approved as to Form
and Authority

Solicitor

THIS AMENDING AGREEMENT made as of the 28th day of March, 2013

BETWEEN:

**HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF
NOVA SCOTIA, as Represented by the Minister of
Transportation and Infrastructure Renewal**

(the "Province")

AND:

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

("HRM")

WHEREAS the Province and HRM entered into an agreement dated July 11, 2012 (the
"Agreement"), a copy of which is attached hereto as Schedule "A";

AND WHEREAS the Province and HRM wish to amend the Agreement as hereinafter set out;

NOW THEREFORE THIS AMENDING AGREEMENT WITNESSES THAT for good and
valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the
Province and HRM agree as follows:

1. Clause 5 of the Agreement is hereby amended:

- (a) by deleting the last sentence in clause 5 (a) thereof and substituting therefor the
following:

"The HRM option referred to in this clause 5 (a) is to be exercised by HRM within
ninety (90) days from the date on which the Design Construction Agreement and
lease agreement are signed by the Developer and the Province, and if it has not
been exercised within such time, the HRM option shall expire.";

- (b) by deleting the first sentence in clause 5 (b) thereof and substituting therefor the
following:

"If HRM does not exercise the option set out in clause 5 (a) within the time set
out therein, the Province will place the Current WTCC for sale on the open
market within ninety (90) days following the date on which the HRM option

expired, with an anticipated closing date to coincide with the date the Facility will be ready for occupancy by the Facility Operator."

2. Except as expressly amended pursuant to clause 1 hereof, the terms and conditions of the Agreement remain in full force and effect and unamended.

IN WITNESS WHEREOF the Province and HRM have duly executed this Amending Agreement as of the date set out above.

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

original signed


Honourable Maurice Smith

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

original signed


Michael Savage, Mayor

SCHEDULE 'A'

APPROVED
AS TO FORM
Municipal Solicitor

THIS AGREEMENT made the 11th 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 3A5
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,

original signed

Witness

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

original signed

Darrell Dexter, Premier

original signed

Witness

Halifax Regional Municipality as
represented by the Mayor and Clerk

original signed

Peter Kelly, Mayor

original signed

Cathy Mellett, Clerk