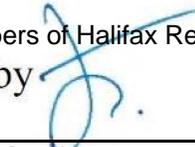


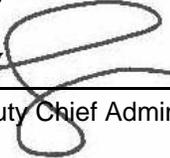
HALIFAX

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

Item No. 14.1.6
Halifax Regional Council
July 19, 2016

TO: Mayor Savage and Members of Halifax Regional Council
Original Signed by 

SUBMITTED BY: _____
John Traves, Q.C. Acting Chief Administrative Officer

Original Signed by 

Jane Fraser, Acting Deputy Chief Administrative Officer

DATE: June 10, 2016

SUBJECT: Bus Replacement Project Contribution Agreement – Building Canada Fund

ORIGIN

August 5, 2014 – Council approval for the Building Canada Fund project submissions

LEGISLATIVE AUTHORITY

HRM Charter Section 74 – permits HRM to enter into agreements with the Province or Government of Canada to provide or administer municipal services.

Administrative Order #58, section 16(1) provides that revenue generating agreements for the municipality must be approved by Council when HRM is receiving more than \$500,000.

RECOMMENDATION

It is recommended that Halifax Regional Council authorize the Mayor and Municipal Clerk to sign the attached Contribution Agreement with the Federal Minister of Infrastructure, Communities and Intergovernmental Affairs, to receive funding for a number of bus replacements under the Building Canada Fund.

BACKGROUND

The 2013 federal budget announced a Building Canada Fund that would deliver \$53 billion over 10 years for public infrastructure that supported federal priorities of productivity, economic growth and job creation. Nova Scotia was scheduled to receive \$426 million over ten years under the Provincial/Territorial Infrastructure Component (PTIC). In August 2014 Council approved a number of projects for Building Canada applications under three categories: water and wastewater, transit, and urban core investment. Staff prepared applications for each of the projects under each category and shared them with the Provincial Department of Municipal Affairs. To date funding approval has been secured for:

- Aerotech Wastewater Treatment Facility - \$14 million in federal and provincial funding
- Upgraded Water Transmission Mains in Bedford, Port Wallace and Lucasville - \$10.1 million in federal and provincial funding

As these two projects belong to Halifax Water, federal and provincial Contribution Agreements were signed by the chair of the Halifax Water board.

DISCUSSION

On May 24, 2016 HRM staff were informed that funding was approved for a number of conventional and Access-A-Bus replacements. HRM will receive \$3.67 million over 2 years from federal and provincial sources, to be used to replace 10 conventional buses and 6 Access-A-Buses. These new buses help support Halifax Transit's goal of replacing buses every 14 years, up from 18 years, and meet higher emission standards while reducing maintenance costs.

The attached Contribution Agreement formalizes this federal funding commitment. The purpose of the Agreement is to establish the terms and conditions whereby Canada will pay one-third of eligible costs, up to a maximum of \$1,833,333. The Agreement has been reviewed by HRM Legal Services. There will be a separate Contribution Agreement with the Province to be signed by Mayor and Council at a future date.

The funding received through this agreement flows from the Building Canada Fund. The Building Canada Fund could be used to offset municipal funding for already-approved capital projects, such as the bus purchases covered in the attached agreement. The Building Canada agreement is separate from the new Public Transit Infrastructure Fund (PTIF) announced in the federal 2016 budget. PTIF requires municipalities to match federal funds on new or expanded projects. Council approved a number of incremental projects for funding consideration under PTIF on June 21, 2016.

FINANCIAL IMPLICATIONS

The federal funds supplement Halifax Transit's capital budget for 2016-17 and 2017-18.

RISK CONSIDERATION

There are no significant risks associated with the recommendations in this report as the noted funding does not require HRM to expend additional or unbudgeted funds related to this agreement. Staff are currently working on ensuring Transit's long run capital plan aligns with phase 2 of the federal infrastructure plan given HRM's fiscal constraints.

COMMUNITY ENGAGEMENT

N/A

ENVIRONMENTAL IMPLICATIONS

N/A

ALTERNATIVES

Council could choose not to approve the acceptance of the federal Contribution Agreement. This is not recommended as the funds will support additional bus replacements for Halifax Transit, which helps to reduce average life of the fleet and subsequent repair and maintenance costs.

ATTACHMENTS

Appendix A: Canada – Halifax Regional Municipality- New Building Canada Fund: Agreement for the Halifax Regional Municipality Transit Bus Replacement Project

A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/cagenda.php> then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 902.490.4210, or Fax 902.490.4208.

Report Prepared by: Anne Totten, Intergovernmental Affairs Advisor, 902-490-5623

Report Approved by: _____
Maggie Macdonald, Managing Director, Government Relations & External Affairs
902-490-1742

Financial Approval by: _____
Jerry Blackwood, A Director of Finance and Information Technology/CFO, 902.490.6470

Report Approved by: _____
Dave Reage, MCIP, LPP, Director, Halifax Transit, 902-490-5138

**CANADA – HALIFAX REGIONAL MUNICIPALITY
NEW BUILDING CANADA FUND – PROVINCIAL/TERRITORIAL INFRASTRUCTURE
COMPONENT – NATIONAL AND REGIONAL PROJECTS**

**AGREEMENT FOR THE HALIFAX REGIONAL MUNICIPALITY TRANSIT BUS
REPLACEMENT PROJECT**

This Agreement is made as of the date of last signature

BETWEEN: **HER MAJESTY THE QUEEN IN RIGHT OF CANADA**, as represented by the Minister of Infrastructure, Communities and Intergovernmental Affairs (“Canada”)

AND **HALIFAX REGIONAL MUNICIPALITY**, continued or incorporated pursuant to the **HRM Charter**, as represented by the Mayor on behalf of Halifax Regional Council (the “Recipient”),

individually referred to as a “Party” and collectively referred to as the “Parties”.

RECITALS

The Government of Canada established the \$53-billion New Building Canada Plan under Budget 2013 that includes a comprehensive and integrated suite of infrastructure initiatives.

The Minister of Infrastructure, Communities and Intergovernmental Affairs is responsible for the Program entitled the New Building Canada Fund – Provincial-Territorial Infrastructure Component-National Regional Projects (the “Program”).

The Recipient has submitted to Canada a proposal for the funding of the Project which qualifies for support under the Program.

The Recipient is responsible to carry out the Project and Canada wishes to provide financial support for the Project and its objectives.

NOW THEREFORE, in accordance with the mutual covenants and agreements herein, the Parties hereby agree as follows:

1. INTERPRETATION

1.1 DEFINITIONS

In addition to the terms and conditions defined in the recitals and elsewhere in this Agreement, a capitalized term has the meaning given to it in this Subsection.

“**Agreement**” means this contribution agreement and all its schedules, as may be amended from time to time.

“**Agreement End Date**” means March 31, 2024.

“Asset” means any real or personal property or immovable or movable asset acquired, purchased, constructed, rehabilitated or improved, in whole or in part, with funds contributed by Canada under the terms and conditions of this Agreement.

“Asset Disposal Period” means the period commencing from the Effective Date and ending five (5) years after the Project Closure Date.

“Committee” means the Oversight Committee established pursuant to Section 5 (Oversight Committee).

“Contract” means an agreement between the Recipient and a Third Party whereby the latter agrees to supply a product or service to the Project in return for financial consideration.

“Declaration of Completion” means a declaration in the form substantially prescribed in Schedule D (Declaration of Completion).

“Effective Date” means the date of last signature of this Agreement.

“Eligible Expenditures” means those costs of the Project incurred and paid by the Recipient and eligible for reimbursement by Canada as set out in Schedule A (Eligible and Ineligible Expenditures).

“Fiscal Year” means the period beginning April 1 of a year and ending March 31 of the following year.

“In-Kind Contribution” means non-monetary goods and services for which fair value is assigned but for which no payment occurs.

“Project” means the project as described in Schedule B (The Project).

“Project Approval Date” means MAY 24, 2016 which is the date indicated by Canada in writing to the Recipient following Canada’s approval in principle of the Project.

“Project Closure Date” means up to eighteen (18) months after the Substantial Completion Date but no later than three months prior to the Agreement End Date.

“Substantial Completion Date” means the date as shown on the executed Declaration of Completion submitted by the Recipient marking the date on which the Project can be used for the purpose for which it was intended as described in Schedule B.1 (Project Description).

Third Party means any person or legal entity, other than a Party, who participates in the implementation of the Project by means of a Contract.

“Total Financial Assistance” means total Project funding from all sources, including funding from federal, provincial, territorial, and municipal sources, private sources and In-Kind Contributions.

1.2 ENTIRE AGREEMENT

This Agreement comprises the entire agreement between the Parties in relation to the subject of the Agreement. No prior document, negotiation, provision, undertaking or agreement has legal effect, unless incorporated by reference into this Agreement. No representation or warranty express, implied or otherwise, is made by Canada to the Recipient except as expressly set out in this Agreement.

1.3 DURATION OF AGREEMENT

This Agreement will be effective as of the Effective Date and will terminate on the Agreement End Date subject to early termination in accordance with this Agreement.

1.4 SCHEDULES

The following schedules are attached to, and form part of this Agreement:

Schedule A – Eligible and Ineligible Expenditures

Schedule B – The Project

Schedule C – Communications Protocol

Schedule D - Declaration of Completion

2. PURPOSE OF AGREEMENT

The purpose of this Agreement is to establish the terms and conditions whereby Canada will contribute funding to the Recipient for the Project.

3. OBLIGATION OF THE PARTIES

3.1 CONTRIBUTION BY CANADA

- a) Canada agrees to pay a contribution to the Recipient of not more than thirty-three and one-third percent (33.33%) of the total Eligible Expenditures for the Project but only up to a maximum of one-million, eight hundred thirty three thousand, three hundred thirty three dollars (\$1,833,333).
- b) Canada will pay the contribution in accordance with the terms and conditions of this Agreement and the Fiscal Year breakdown in Schedule B.2 (Project Cashflow).
- c) If the federal Crown's total contribution towards the Project exceeds thirty-three and one-third percent (33.33%) of the Project's total Eligible Expenditures or if the Total Financial Assistance received or due in respect of the total Project costs exceeds one hundred per cent (100%) thereof, Canada may recover the excess from the Recipient or reduce its contribution by an amount equal to the excess.
- d) The Parties acknowledge that Canada's role in the Project is limited to making a financial contribution to the Recipient for the Project and that Canada will have no involvement in the implementation of the Project or its operation. Canada is neither a decision-maker nor an administrator to the Project.

3.2 COMMITMENTS BY THE RECIPIENT

- a) The Recipient will complete the Project in a diligent and timely manner as per applicable standards and within the costs and deadlines specified in this Agreement and in accordance with the terms and conditions of this Agreement.
- b) The Recipient will be responsible for all costs of the Project including cost overruns, if any.
- c) The Recipient will inform Canada promptly of the Total Financial Assistance received or due for the Project.

- d) The Recipient will repay to Canada any and all disallowed costs, surpluses, unexpended contributions, and overpayments made under and according to the terms and conditions of this Agreement.
- e) The Recipient will ensure the ongoing operation, maintenance, and repair of any Asset, as per appropriate standards, during the Asset Disposal Period.
- f) Canada may request that the Recipient declare to Canada any amounts owing to the federal Crown, under legislation or contribution agreements, which constitute an overdue debt. The Recipient recognizes that any such amount owing is a debt due to the federal Crown and may be set-off by Canada in accordance with Subsection 17.5 (Set-off by Canada).
- g) The Recipient will inform Canada immediately of any fact or event that could compromise wholly or in part the Project.
- h) The Recipient will inform Canada promptly of any planned changes to the Project. The Recipient agrees that any changes to the Project will require Canada's consent, which may be subject to terms and conditions, and a corresponding amendment to the Agreement.

3.3 APPROPRIATIONS AND FUNDING LEVELS

Notwithstanding Canada's obligation to make any payment under this Agreement, this obligation does not arise if, at the time when a payment under this Agreement becomes due, the Parliament of Canada has not passed an appropriation that is sufficient and constitutes lawful authority for making the payment. Canada may reduce or terminate any payment under this Agreement in response to the reduction of appropriations or departmental funding levels in respect of transfer payments, the program under which this Agreement was made or otherwise, as evidenced by any appropriation act or the federal Crown's main or supplementary estimates expenditures. Canada will not be liable for any direct, indirect, consequential, exemplary or punitive damages, regardless of the form of action, whether in contract, tort or otherwise, arising from any such reduction or termination of funding.

3.4 FISCAL YEAR BUDGETING

- a) The amount of the contribution payable by Canada for each Fiscal Year of the Project is set out in Schedule B.2 (Project Cashflow).
- b) If the actual amount payable by Canada in respect of any Fiscal Year of the Project is less than the estimated amount in Schedule B.2 (Project Cashflow), the Recipient may request that Canada re-allocate the difference between the two amounts to a subsequent Fiscal Year. Subject to Subsection 3.3 (Appropriations and Funding Levels), Canada agrees to make reasonable efforts to accommodate the Recipient's request. The Recipient acknowledges that requests for re-allocation of Project funding will require appropriation adjustments or federal Crown approvals.
- c) In the event that any requested re-allocation of Project funding is not approved, the amount of Canada's contribution payable pursuant to Subsection 3.1 (Contribution by Canada) may be reduced by the amount of the requested re-allocation. If the contribution payable by Canada pursuant to Subsection 3.1 (Contribution by Canada) is so reduced, the Parties agree to review the effects of such reduction on the overall implementation of the Project and to adjust the terms and conditions of this Agreement as appropriate.

3.5 CHANGES IN PROJECT COSTS AND FUNDING

If, at any time during the term of this Agreement, one or all of the Parties determine that it will not be possible to complete the Project unless the Recipient expends amounts in excess of the estimated total expenditures for the Project reflected in Schedule B.2 (Project Cashflow), the Party will immediately notify the other Party of that determination and Canada may suspend its funding obligation. The Recipient will, within thirty (30) business days of a request from Canada, provide a summary of the measures that it proposes to remedy the shortfall. If Canada is not satisfied that the measures proposed will be adequate to remedy the shortfall, then Canada may exercise one of the remedies listed at Subsection 14.3 (Remedies on Default).

4. RECIPIENT REPRESENTATIONS AND WARRANTIES

The Recipient represents and warrants to Canada that:

- a) The Recipient has the capacity and authority to enter into and execute this Agreement pursuant to the HRM Charter Section 74 permitting HRM to enter into agreements with the Province or Government of Canada to provide or administer municipal services;
- b) The Recipient has the capacity and authority to carry out the Project;
- c) The Recipient has the requisite power to own the Assets;
- d) this Agreement constitutes a legally binding obligation of the Recipient, enforceable against it in accordance with its terms and conditions;
- e) all information submitted to Canada as set out in this Agreement is true, accurate, and was prepared in good faith to the best of its ability, skill, and judgment;
- f) any individual, corporation or organization that the Recipient has hired, for payment, who undertakes to speak to or correspond with any employee or other person representing Canada on the Recipient's behalf, concerning any matter relating to the contribution under this Agreement or any benefit hereunder and who is required to be registered pursuant to the federal *Lobbying Act*, is registered pursuant to that *Act*;
- g) the Recipient has not and will not make a payment or other compensation that is contingent upon or is calculated upon the contribution hereunder or the negotiation of the whole or any part of the terms and conditions of this Agreement to any individual, or corporation or organization with which that individual is engaged in doing business with, who is registered pursuant to the federal *Lobbying Act*;
- h) there are no actions, suits, investigations or other proceedings pending or, to the knowledge of the Recipient, threatened and there is no order, judgment or decree of any court or governmental agency which could materially and adversely affect the Recipient's ability to carry out the activities contemplated by this Agreement. The Recipient will inform Canada immediately if any such action or proceedings are threatened or brought during the term of this Agreement; and
- i) the Recipient is in good standing under the laws of the jurisdiction in which it is required to be registered.

5. OVERSIGHT COMMITTEE

The Parties will establish a Committee comprising a federal co-chair and a co-chair from

the Recipient or use an already existing Committee established between the Parties for the Program, to monitor this Agreement. The Committee will:

- a) monitor the progress of the Project;
- b) act as a forum to resolve potential issues and address concerns;
- c) monitor compliance with the terms and conditions of this Agreement;
- d) review and as necessary, recommend to the Parties amendments to the Agreement; and
- e) attend to any other function required by this Agreement, or as mutually agreed to by the Parties.

6. CONTRACT PROCEDURES

6.1 AWARDING OF CONTRACTS

- a) The Recipient will ensure that Contracts will be awarded in a way that is fair, transparent, competitive, consistent with value for money principles or in a manner otherwise acceptable to Canada, and if applicable, in accordance with the Agreement on Internal Trade and international trade agreements.
- b) If Canada determines that the Recipient has awarded a Contract in a manner that is not in compliance with the foregoing, upon notification to the Recipient, Canada may consider the expenditures associated with the Contract to be ineligible.

6.2 CONTRACT PROVISIONS

The Recipient will ensure that all Contracts are consistent with, and incorporate, the relevant provisions of this Agreement. More specifically but without limiting the generality of the foregoing, the Recipient agrees to include terms and conditions in all Contracts to ensure that:

- a) the Third Party will keep proper and accurate financial accounts and records, including but not limited to its contracts, invoices, statements, receipts, and vouchers, in respect of the Project it participates in for at least six (6) years after the Project Closure Date and that the Recipient has the contractual right to audit them;
- b) all applicable labour, environmental, and human rights legislation is respected; and
- c) Canada, the Auditor General of Canada, and their designated representatives, to the extent permitted by law, will at all times be permitted to inspect the terms and conditions of the Contract and any records and accounts respecting the Project and will have free access to the Project sites and to any documentation relevant for the purpose of audit.

7. CLAIMS AND PAYMENTS

7.1 PAYMENT CONDITIONS

Canada will not:

- a) make a payment, other than the first Fiscal Year in which claims are submitted, unless Canada has received and approved reports as required under Section 8 (Reporting) and any audit requirements as required in Section 9 (Audit);
- b) pay any claims submitted after the Project Closure Date, unless otherwise accepted by Canada;
- c) pay interest for failing to make a payment under this Agreement.

7.2 PROGRESS CLAIMS AND PAYMENTS

- a) The Recipient will submit progress claims to Canada covering the Recipient's Eligible Expenditures, in a form acceptable to Canada. Each progress claim must include the following:
 - i. an attestation by a senior official, designated in writing by the Recipient, that the information submitted in support of the claim is accurate and that Eligible Expenditures have been incurred and paid;
 - ii. an invoice with the breakdown of Eligible Expenditures claimed by Project component in accordance with Schedule B.2 (Project Cashflow); and
 - iii. for each Eligible Expenditure, a copy of the corresponding invoice and identification of: the date on which the Eligible Expenditure was incurred, the date on which the Eligible Expenditure was paid, and the category of Eligible Expenditures in Schedule A (Eligible and Ineligible Expenditures) to which each Eligible Expenditure corresponds.
- b) Canada will make a payment upon review and acceptance of a progress claim, subject to the terms and conditions of this Agreement.

7.3 DECLARATION OF COMPLETION

- a) Prior to executing the Declaration of Completion, the Recipient will request confirmation from Canada as to whether the Declaration of Completion lists all relevant documents.
- b) The Declaration of Completion must be signed by an authorized official as deemed acceptable by Canada, and it must list all relevant documents as agreed to by Canada.
- c) The Declaration of Completion must be submitted to Canada when the Project can be used for the purpose for which it was intended but no later than the Project Closure Date.

7.4 RETENTION OF CONTRIBUTION

Canada may retain up to ten percent (10%) of its contribution under this Agreement. Any amount retained by Canada will be released by Canada when the Recipient fulfills all of its obligations under this Agreement.

7.5 FINAL CLAIM

The Recipient will submit a final claim to Canada no later than the Project Closure Date. The final claim must include all information required under Subsection 7.2 (Progress Claims and Payments).

7.6 FINAL ADJUSTMENTS

Upon Canada's receipt of the final claim, but before issuing the final payment, the Parties will jointly carry out a final reconciliation of all claims and payments in respect of the Project and make any adjustments required in the circumstances.

7.7 FINAL PAYMENT

Canada will make a final payment upon review and acceptance of the final claim, subject to the terms and conditions of this Agreement.

8. REPORTING

8.1 PROGRESS REPORT

- a) The Recipient will submit progress reports to Canada at a timing and frequency determined by Canada but no less than twice a year. The first progress report under this Agreement must cover the period from the Project Approval Date.
- b) Each progress report will include, at a minimum, the following information:
 - i. A summary of the Project's progress and an update of Schedule B.2 (Project Cashflow);
 - ii. An update on Project issues/risks, if any, and mitigation measures; and
 - iii. Highlights of communication activities of the Project.

8.2 FINAL REPORT

The Recipient will submit a final report to Canada for approval no later than the Project Closure Date. The final report will include:

- a) All information required under paragraph 8.1. b) (Progress Report), covering the period from the last progress report to the Project Closure Date; and
- b) A cumulative summary of the Project, which will include the following information:
 - i. the Project's completed results compared to the baseline established prior to the start of the Project as listed under Schedule B.1 (Project Description);
 - ii. total expenditures for the Project;
 - iii. total Eligible Expenditures for the Project; and
 - iv. confirmation of the Total Financial Assistance in accordance with paragraph 3.2 (c) (Commitments by the Recipient).

9. AUDIT

- a) The Recipient will submit its annual audited financial statements to Canada by July 31 of each year. The audit will be conducted by an accredited and independent auditor in accordance with the Canadian Auditing Standards.
- b) Canada may require the Recipient to submit to Canada additional assurances in the form of an independent audit opinion, carried out at the Recipient's expense but recognized as an Eligible Expenditure, conducted by an accredited and independent

auditor in accordance with the Canadian Auditing Standards to confirm that expenditures claimed to Canada for reimbursement were eligible.

- c) Canada reserves the right to undertake, at any time, any other audit in relation to the Project at its expense.
- d) The Recipient agrees to ensure that prompt and timely corrective action is taken in response to any audit findings and recommendations conducted in accordance with this Agreement. The Recipient will submit to Canada in a timely manner, a report on follow-up actions taken to address recommendations and results of the audit.
- e) The Recipient will keep proper and accurate financial accounts and records, including but not limited to its Contracts, invoices, statements, receipts, and vouchers, in respect of the Project for at least six (6) years after the Project Closure Date.

10. EVALUATION

The Recipient agrees to provide Project-related information to Canada during and following the termination of the Agreement in order for Canada to conduct an evaluation of the performance of the Program.

11. ACCESS

The Recipient will provide Canada and its designated representatives with reasonable and timely access to the Project sites, facilities, and any documentation for the purposes of audit, inspection, monitoring, evaluation, and ensuring compliance with this Agreement.

12. COMMUNICATIONS

- a) The Parties will comply with Schedule C (Communications Protocol).
- b) The Recipient acknowledges that the following may be made publicly available by Canada:
 - i. its name, the amount awarded by Canada, and the general nature of the Project; and
 - ii. any evaluation or audit report and other reviews related to this Agreement.

13. DISPUTE RESOLUTION

The Parties will keep each other informed of any issue that could be contentious by exchanging information:

- a) If a contentious issue arises, it will be referred to the Committee. The Committee will, within thirty (30) business days, examine it and, in good faith, attempt to resolve it.
- b) Where the Committee cannot agree on a resolution, the issue will be referred to the Parties for resolution. The Parties will provide a decision within ninety (90) business days.

- c) Where the Parties cannot agree on a resolution, the Parties may explore any alternative dispute resolution mechanisms available to them to resolve the issue.
- d) Any payments related to the issue will be suspended, together with the obligations related to such issue, pending resolution.

The Parties agree that nothing in this Section will affect, alter or modify the rights of Canada to terminate this Agreement.

14. DEFAULT

14.1 EVENTS OF DEFAULT

The following events constitute Events of Default under this Agreement:

- a) the Recipient has not complied with one or more of the terms and conditions of this Agreement;
- b) the Recipient has not completed the Project in accordance with the terms and conditions of this Agreement;
- c) the Recipient has submitted false or misleading information to Canada or made a false or misleading representation in respect of the Project or in this Agreement, except for an error in good faith, demonstration of which is incumbent on the Recipient, to Canada's satisfaction;
- d) the Recipient has neglected or failed to pay Canada any amount due in accordance with this Agreement.

14.2 DECLARATION OF DEFAULT

- a) Canada may declare a default if:
 - i. one or more of the Events of Default occurs;
 - ii. Canada gave notice to the Recipient of the event which in Canada's opinion constitutes an Event of Default; and
 - iii. the Recipient has failed, within thirty (30) business days of receipt of the notice, either to remedy the Event of Default or to notify and demonstrate, to the satisfaction of Canada, that it has taken such steps as are necessary to remedy the Event of Default.

14.3 REMEDIES ON DEFAULT

In the event Canada declares a default under Subsection 14.2 (Declaration of Default), Canada may exercise one or more of the following remedies, without limiting any remedy available to it at law:

- a) suspend any obligation by Canada to contribute or continue to contribute funding to the Project, including any obligation to pay an amount owing prior to the date of such suspension;

- b) terminate any obligation of Canada to contribute or continue to contribute funding to the Project, including any obligation to pay any amount owing prior to the date of such termination;
- c) require the Recipient to reimburse Canada all or part of the contribution paid by Canada to the Recipient;
- d) terminate the Agreement

15. LIMITATION OF LIABILITY AND INDEMNIFICATION

15.1 DEFINITION OF PERSON

In this section, "Person" includes, without limitation, a person, Recipient, Third Party, corporation, or any other legal entity, and their officers, servants, employees or agents.

15.2 LIMITATION OF LIABILITY

In no event will Canada, its officers, servants, employees or agents be held liable for any damages in contract, tort (including negligence) or otherwise, for:

- a) any injury to any Person, including, but not limited to, death, economic loss or infringement of rights;
- b) any damage to or loss or destruction of property of any Person; or
- c) any obligation of any Person, including, but not limited to, any obligation arising from a loan, capital lease or other long term obligation;

in relation to this Agreement or the Project.

15.3 INDEMNIFICATION

The Recipient will at all times indemnify and save harmless Canada, its officers, servants, employees or agents, from and against all actions, claims, demands, losses, costs, damages, suits or other proceedings, whether in contract, tort (including negligence) or otherwise, by whomsoever brought or prosecuted in any manner based upon or occasioned by:

- a) any injury to any Person, including, but not limited to, death, economic loss or any infringement of rights;
- b) any damage to or loss or destruction of property of any Person; or
- c) any obligation of any Person, including, but not limited to, any obligation arising from a loan, capital lease or other long term obligation

in relation to this Agreement or Project, except to the extent to which such actions, claims, demands, losses, costs, damages, suits or other proceedings are caused by the negligence or breach of the Agreement by an officer, servant, employee or agent of

Canada in the performance of his or her duties.

16. ASSETS

16.1 DISPOSAL OF ASSETS

- a) Unless otherwise agreed to by the Parties, the Recipient will retain title to and ownership of an Asset for the Asset Disposal Period.
- b) The Recipient undertakes to notify Canada in writing, one hundred eighty (180) business days in advance if, at any time during the Asset Disposal Period, the Recipient proposes to sell, lease, encumber, use in a manner other than as described in their request for funding under the Program or in the Agreement, or otherwise dispose of, directly or indirectly, any Asset, other than to Canada, Nova Scotia, or a Crown Corporation, upon disposition, undertakes to reimburse Canada, at Canada's discretion, any funds received from Canada for the Project.

17. GENERAL

17.1 SURVIVAL

The Parties' rights and obligations which, by their nature, extend beyond the termination of this Agreement, will survive any termination of this Agreement.

17.2 ACCOUNTING PRINCIPLES

All accounting terms will have the meanings assigned to them, all calculations will be made and all financial data to be submitted will be prepared, in accordance with the Canadian Auditing Standards in effect in Canada.

17.3 DEBTS DUE TO THE FEDERAL CROWN

Any amount owed to Canada under this Agreement by the Recipient will constitute a debt due to the federal Crown, which the Recipient will reimburse Canada forthwith on demand.

17.4 INTEREST ON DEBTS DUE TO THE FEDERAL CROWN

Debts due to the federal Crown by the Recipient will accrue interest in accordance with the federal *Interest and Administrative Charges Regulations*.

17.5 SET-OFF BY CANADA

Any debt due to the federal Crown by the Recipient may be set-off against any amounts payable by Canada to the Recipient under this Agreement.

17.6 MEMBERS OF THE HOUSE OF COMMONS AND SENATE

No member of the House of Commons or the Senate of Canada will be admitted to any share or part of this Agreement, or to any benefit arising from it, that is not otherwise available to the general public. The Recipient will promptly inform Canada should it become aware of the existence of any such situation.

17.7 CONFLICT OF INTEREST

No current or former public servant or public office holder to whom any post-employment, ethics and conflict of interest legislation, guidelines, codes or policies of Canada applies will derive direct benefit from this Agreement unless the provision or receipt of such benefits is in compliance with such legislation, guidelines, policies or codes. The Recipient will promptly inform Canada should it become aware of the existence of any such situation.

17.8 NO AGENCY, PARTNERSHIP, JOINT VENTURE, ETC.

- a) No provision of this Agreement and no action by the Parties will establish or be deemed to establish a partnership, joint venture, principal-agent relationship or employer-employee relationship in any way or for any purpose whatsoever between Canada and the Recipient or between Canada and a Third Party.
- b) The Recipient will not represent itself, including in any agreement with a Third Party, as a partner, employee or agent of Canada.

17.9 NO AUTHORITY TO REPRESENT

Nothing in this Agreement is to be construed as authorizing any person, including a Third Party, to contract for or to incur any obligation on behalf of Canada or to act as an agent for Canada. The Recipient will take the necessary action to ensure that any Contract between the Recipient and any Third Party contains a provision to that effect.

17.10 ASSIGNMENT

The Recipient will not transfer or assign its rights or obligations under this Agreement without the prior written consent of Canada. Any attempt by the Recipient to assign any of the rights, duties or obligations of this Agreement without Canada's express written consent is void.

17.11 COUNTERPART SIGNATURE

This Agreement may be signed in counterpart, and the signed copies will, when attached, constitute an original agreement.

17.12 SEVERABILITY

If for any reason a provision of this Agreement that is not a fundamental term of this Agreement between the Parties is found to be or becomes invalid or unenforceable, in whole or in part, and if both Parties agree, it will be deemed to be severable and will be deleted from this Agreement, but all the other terms and conditions of this Agreement will continue to be valid and enforceable.

17.13 AMENDMENTS

This Agreement, including its schedules, can only be amended in writing by the Parties.

17.14 WAIVER

A Party may waive any of its rights under this Agreement only in writing. Any tolerance or indulgence demonstrated by the Party will not constitute a waiver.

17.15 NOTICE

Any notice provided for under this Agreement may be delivered in person, sent by mail or facsimile, addressed to:

for Canada:

ASSISTANT DEPUTY MINISTER PROGRAM OPERATIONS BRANCH
1100 - 180 Kent Street
Ottawa, Ontario K1P 0B6
Canada

or to such other address or facsimile number or addressed to such other person as Canada may, from time to time, designate in writing to the Recipient; and

for the Recipient:

DIRECTOR'S OFFICE
HALIFAX TRANSIT
200 Ilsley Ave
Dartmouth, NS B3B 1V1
Canada

or such other address or facsimile number or addressed to such other person as the Recipient may, from time to time, designate in writing to Canada.

Such notice will be deemed to have been received, if sent by mail, when receipt is acknowledged by the other Party; by facsimile, when transmitted and receipt is confirmed; and in person, when delivered.

17.16 COMPLIANCE WITH LAWS

The Recipient will comply with all applicable laws and regulations and all requirements of regulatory bodies having jurisdiction over the subject matter of the Project.

17.17 GOVERNING LAW

This Agreement is governed by the laws applicable in the Province of Nova Scotia.

17.18 SUCCESSORS AND ASSIGNS

This Agreement is binding upon the Parties and their respective successors and assigns.

17.19 INTELLECTUAL PROPERTY

All intellectual property that arises in the course of the Project will vest in the Recipient.

SIGNATURES

The Parties have executed this Agreement through authorized representatives on the date stated opposite each respective Party's signature.

HER MAJESTY THE QUEEN IN RIGHT OF CANADA

Date: _____

The Honourable Amarjeet Sohi
Minister of Infrastructure, Communities and
Intergovernmental Affairs

HALIFAX REGIONAL MUNICIPALITY

Date: _____

By: _____
Name:
Title:

SCHEDULE A – ELIGIBLE AND INELIGIBLE EXPENDITURES

A.1. ELIGIBLE EXPENDITURES

Eligible Expenditures will include only the following:

- a) the capital costs of acquiring, constructing or renovating a tangible asset, as defined and determined according to generally accepted accounting principles in Canada;
- b) expenditures directly associated with joint federal communication activities (press releases, press conferences, translation, etc.) and with Project signage related to funding recognition as set out in Schedule C (Communications Protocol);
- c) all planning (including plans and specifications) and assessment costs specified in the agreement such as the costs of environmental planning, surveying, engineering, architectural supervision, testing and management consulting services. Canada will contribute no more than fifteen percent (15%) of its contribution to this cost;
- d) the costs of engineering and environmental reviews, including environmental assessments *Canadian Environmental Assessment Act 2012* and the costs of remedial activities, mitigation measures and follow-up identified in any environmental assessment;
- e) costs of Project-related signage, lighting, project markings and utility adjustments;
- f) costs of Aboriginal consultation;
- g) the Recipient audit and evaluation costs as specified in the Agreement;
- h) the incremental costs of the Recipient's employees may be included as Eligible Expenditures under the following conditions:
 - the Recipient is able to demonstrate that it is not economically feasible to tender a Contract and clearly demonstrate that there is value for money in using internal employees;
 - the employee or equipment is engaged directly in respect of the work that would have been the subject of the Contract; and
 - the arrangement is approved in advance and in writing by Canada.
- i) leasing of equipment related to the construction of the Project; and
- j) other costs that, in the opinion of Canada, are considered to be direct and necessary for the successful implementation of the Project and have been approved by Canada in writing prior to being incurred.

Eligible Expenditures can begin to accrue effective as of the Project Approval Date. However, all Eligible Expenditures outlined above can be reimbursed to the Recipient only following the Effective Date of the Agreement.

A.2 INELIGIBLE EXPENDITURES

The following are deemed ineligible expenditures:

- a) expenditures incurred prior to the Project Approval Date, as well as any and all expenditures related to Contracts signed prior to the Project Approval Date;

- b) expenditures incurred after the Project Closure Date with the exception of expenditures related to audit and evaluation requirements pursuant to the Agreement and as agreed to by Canada;
- c) the expenditures related to developing a business case or proposal for funding;
- d) the expenditures related to purchasing land, buildings and associated real estate and other fees;
- e) financing charges and interest payments on loans;
- f) leasing land, buildings, equipment and other facilities except those specified as Eligible Expenditures in A.1.i) above;
- g) furnishing and moveable assets which are not deemed essential for the operation of the Project;
- h) general repairs and maintenance of the Project and related structures, unless they are part of a larger capital expansion project;
- i) services or works normally provided by the Recipient, incurred in the course of implementation of the Project, except those specified as Eligible Expenditures;
- j) the expenditures related to any goods and services which are received through donations or In-Kind Contributions;
- k) any overhead costs, including salaries and other employment benefits of any employees of the Recipient, direct or indirect operating or administrative costs of the Recipient, and more specifically the costs related to planning, engineering, architecture, supervision, management and other activities normally carried out by its staff, except in accordance with paragraph A.1c) and h) above;
- l) taxes for which the Recipient is eligible for a tax rebate and all other costs eligible for rebates; and
- m) legal fees.

SCHEDULE B - THE PROJECT

B1. Project Description:

The project involves the renewal of the Halifax Transit Fleet through the purchase of ten conventional 40-Foot accessible low floor buses as replacements for older buses and six Access A Bus vehicles. The conventional buses to be replaced are those with high floor and non-accessible buses. The new accessibility features included are low floor with kneeling, wheel chair ramp, flip seats and wheelchair positions and bicycle racks.

B1.1 Project Objective:

The project aims to:

- Increase service reliability and accessibility

B1.2 Expected Results:

Outputs	Indicators	Initial State	Target State	Actual Results
Increased Service Reliability	Number of New Buses	16 old to replace	16 (new)	
Increase Accessible Buses	Number of accessible buses	334/360	344/360*	
Outcome(s)	Indicators	Baseline	Target	Actual Results
Compliance with accessibility standards for persons with disability	Compliance	Non-compliant	Compliant	
Minimum Federal Requirements	<ul style="list-style-type: none"> • Proponents must demonstrate the economic advantages and the broader public benefits of the project. • Projects must be part of an official, integrated land-use and transportation development plan or strategy. Where applicable, projects must be consistent with the approved plans of regional transportation bodies. • Proponents must demonstrate that their proposal is based on current or projected demand and the intended results must be substantiated. • If the project includes an ITS component or system, that the ITS component or system is compliant with the ITS Architecture for Canada. 			

* The 16 new buses are all accessible, but only 10 buses are replacing non-accessible buses.

B.1.3 Boundaries:

The location(s) of the Project can be defined as bus routes throughout the Halifax Regional Municipality.

B2. Project Cashflow

Project Components	Estimated Expenditures			Forecast		Total (\$)
	Estimated Total Expenditures	Estimated Eligible Expenditures	Estimated Contribution by Canada	Forecast of Estimated Contribution by Canada by Fiscal Year		
				2016/17	2017/18	
Purchase Cost	\$5,592,000	\$5,500,000	\$1,833,333	\$750,000	\$1,083,333	\$1,833,333
Totals	\$5,592,000	\$5,500,000	\$1,833,333	\$750,000	\$1,083,333	\$1,833,333

SCHEDULE C – COMMUNICATIONS PROTOCOL

C.1 PURPOSE

This Communications Protocol outlines the roles and responsibilities of each of the Parties to this Agreement with respect to communications activities related to the funded Project.

This Communications Protocol will guide all communications activity planning, development and implementation with a view to ensuring efficient, structured, continuous and coordinated communications to the Canadian public.

The provisions of this Communications Protocol apply to all communications activities related to any Program funding, including allocations; and the Project funded under this Agreement. Such communications activities may include, but are not limited to, public or media events, news releases, reports, web and social media products or postings, blogs, project signs, digital signs, publications, success stories and vignettes, photo compilations, videos, advertising campaigns, awareness campaigns, editorials, and multi-media products.

C.2 GUIDING PRINCIPLES

The Parties recognize the importance of managing the delivery of coherent communications activities based on the principle of transparent and open discussion and collaboration.

Communications activities undertaken through this Protocol should ensure that Canadians are informed of infrastructure investments made to help improve their quality of life and that they receive consistent information about the funded Project and its benefits from each Party.

The communication activities undertaken jointly by Canada and the Recipient should recognize the funding of all contributors to the Project.

C.3 GOVERNANCE

At Canada's request, the Parties will form a communications subcommittee that will be responsible for preparing the Project's communications plan and overseeing its implementation.

C.4 PROGRAM COMMUNICATIONS

Canada retains the right to meet its obligations to communicate information to Canadians about the Program and the use of funding through its own communications products and activities.

Canada and the Recipient may also include general program messaging and an overview of this Project as an example in their own communications products and activities. The Party undertaking these activities will recognize the funding of the Parties.

Canada and the Recipient agree that they will not unreasonably restrict the other Party or

other funding contributors from using, for their own purposes, public communications products related to the Project that were prepared collectively or individually by the Parties, and if web-based, from linking to them.

C.5 OPERATIONAL COMMUNICATIONS

The Recipient is solely responsible for operational communications with respect to the Project, including, but not limited to, calls for tender, construction, and public safety notices. Operational communications as described above are not subject to the federal official language policy.

Canada and the Recipient will share information promptly with the other Party should significant media inquiries be received or if major stakeholder issues relating to the Project arise.

C.6 MEDIA EVENTS AND ANNOUNCEMENT FOR THE PROJECT

Media events include, but are not limited to, news conferences, public announcements, official events or ceremonies, and news releases.

The Parties agree to have regular media events about the funding and status of the Project. Key milestones may be marked by public events, news releases and/or other mechanisms.

Either of the Parties or other funding contributors may request a media event.

Media events related to the Project will not occur without the prior knowledge and agreement of both Parties.

The requestor of a media event will provide at least fifteen (15) business days' notice to the other Party of their intention to undertake such an event. Both Parties will agree on the event location and date.

The Party undertaking these activities will provide the opportunity for the other Party to participate through a designated representative and will recognize the funding of all contributors. Canada and the Recipient will choose their own designated representative.

The conduct of all joint media events and products will follow the *Table of Precedence for Canada* as outlined at <http://www.pch.gc.ca/eng/1359384273319/1359384663213>.

All joint communications material related to media events must be approved by Canada and recognize the funding of the Parties (Canada, Provinces/Territories, Recipient and others as appropriate).

All joint communications material must reflect Canada's *Policy on Official Languages* and the Federal Identity Program.

C.7 SIGNAGE

Canada, the Recipient and other funding contributors may each have a sign recognizing their funding contribution to the Project.

Unless otherwise agreed upon by Canada, the Recipient will produce and install a federal sign to recognize federal funding at each Project site in accordance with current federal signage guidelines. Federal signage will be at least equivalent in size and prominence to Project signage for contributions made by other orders of government. The current federal sign design, content, and installation guidelines will be provided by Canada.

Where the Recipient decides to install a permanent plaque or other suitable marker with respect to the Project, it must recognize the federal contribution and be approved by Canada.

The Recipient agrees to inform Canada of federal sign installations.

Federal signage should be installed at the Project site(s) one (1) month prior to the start of construction, be visible for the duration of the Project, and remain in place until one (1) month after construction is completed and the infrastructure is fully operational or opened for public use.

Signage should be installed in a prominent and visible location that takes into consideration pedestrian and traffic safety and visibility.

C.8 COMMUNICATIONS COSTS

The eligibility of costs related to communication activities will be subject to *Schedule A* (Eligible and Ineligible Expenditures).

C.9 DISPUTES, MONITORING AND COMPLIANCE

The Committee will monitor the Parties' compliance with this Schedule, and may, at its discretion, advise the Parties of issues and required adjustments. Should there be any disagreement or contentious issues, Section 13 (Dispute Resolution) of the Agreement will be followed.

C.10 COMMUNICATING SUCCESS STORIES

The Recipient agrees to collaborate with Canada on communication activities and products including, but not limited to, Project success stories, vignettes, and multi-media products.

C.11 ADVERTISING CAMPAIGNS

Recognizing that advertising can be an effective means of communicating with the public, Canada and the Recipient may, at their own cost, organize an advertising or public information campaign related to the Program or the Project. However, such a campaign must respect the provisions of this Agreement. In the event of such a campaign, each Party agrees to inform the other Party of its intention, no less than twenty-one (21) business days prior to the campaign launch.

SCHEDULE D – DECLARATION OF COMPLETION

In the matter of the Agreement entered into between Her Majesty the Queen in right of Canada, as represented by the Minister of Infrastructure, Communities and Intergovernmental Affairs and the Halifax Regional Municipality, represented by _____(Name), concerning the Halifax Regional Municipality Transit Bus Replacement Project.

I, _____(Name), of the City of _____,
Province/Territory of _____, declare as follows:

1. I hold the position of _____with the Recipient and as such have knowledge of the matters set forth in this declaration and believe this declaration to be true.

2.
 - a) I have received the following documents for the Halifax Regional Municipality Transit Bus Replacement Project:
 - i. [LIST NAME OF RELEVANT DOCUMENT(S), E.G. CERTIFICATE OF COMPLETION, CERTIFICATE OF PERFORMANCE, OCCUPANCY PERMIT, ETC.] signed by _____ (Name), a _____ (Profession, e.g. professional engineer) for the Project.
 - ii. [ADD SAME TEXT AS IN i FOR EACH DOCUMENT]

 - b) Based on the above documents and the representations made to me by the professionals identified in Section 2(a) above, I declare to the best of my knowledge and belief that the Project:
 - i. has been substantially completed, as described in Schedule B.1 (Project Description) of the Agreement, dated on the _____ day of _____ 20__;
 - ii. was carried out between the dates _____ (start date) and _____ (Substantial Completion Date).

[Insert #3, if applicable:]

3. I have received the following documents and based on these documents and representations made to me by the professionals identified below, I declare to the best of my knowledge and belief that the Project conforms with the [List the applicable environmental review or assessment e.g., the *Canadian Environmental Assessment Act, 2012* or Northern Regime],
 - i. [LIST NAME OF RELEVANT DOCUMENT(S)] signed by _____ (Name), an _____ .

ii. [ADD SAME TEXT AS IN i FOR EACH DOCUMENT]

4. All terms and conditions of the Agreement that are required to be met as of the date of this declaration have been met.

Declared at _____ (City), in _____ (Province/Territory)
this _____ day of _____, 20_____.

(Signature)