



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

Item No.
Audit & Finance Standing Committee
March 21, 2018

TO: Chair and Members of Audit & Finance Standing Committee

SUBMITTED BY: Original signed
Jacques Dubé, Chief Administrative Officer

DATE: March 6, 2018

SUBJECT: Payments for Halifax Convention Centre & Reserve Update

ORIGIN

December 13, 2010 Council motion to support the development of a new convention centre in downtown Halifax, as per the terms negotiated with the Province of Nova Scotia.

July 10, 2012 Council motion that Halifax Regional 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.

May 26, 2015 Information Report - Halifax Convention Centre Update

LEGISLATIVE AUTHORITY

Halifax Regional Municipality Council approved, Dec 11, 2012, that all budget increases are to be presented to the Audit and Finance Standing Committee, prior to submission to Council.

Halifax Charter, section 93(1) - The Council shall make estimates of the sums that are required by the Municipality for the fiscal year.

Halifax Charter, section 35(2)(d)(i) -

(2) The Chief Administrative Officer may

(d) subject to policies adopted by the Council,

(i) make or authorize expenditures, and enter into contracts on behalf of the Municipality, for anything required for the Municipality where the amount of the expenditure is budgeted or within the amount determined by the Council by policy, and may delegate this authority to employees of the Municipality,

RECOMMENDATION

The Audit and Finance Standing Committee recommends that Regional Council approve:

- (1) A payment of \$301,500 in respect of costs incurred for the Halifax Convention Centre for the period 2016-17;
- (2) Subject to confirmation of the final 2017-18 year end, payment of up to 50% of Halifax Convention Centre costs incurred prior to substantial completion of the facility from the 2017-18 projected surplus; and,
- (3) That staff return with additional updates and recommendations on the Halifax Convention Centre including an updated Business Case for the Halifax Convention Centre Reserve that includes Deed Transfer Taxes related to the Nova Centre.

BACKGROUND

The Halifax Convention Centre (HCC) reached substantial completion on March 1, 2018. The HCC is part of a much larger private complex, the Nova Centre. The Nova Centre includes an office tower, hotel, retail, underground parking and the Convention Centre. The Convention Centre is leased by the Province of Nova Scotia with the capital costs, debt and interest included in the lease payment. Events East has taken over the operations of the HCC from the Joint Steering Committee.

HRM is not a party to the lease agreement but is a 50/50 partner with the Province on the Convention Centre. Through a series of negotiations, HRM Regional Council signed a Memorandum of Understanding (MOU) agreeing to equally share in the costs of the new convention centre with the Province. That sharing of costs includes all operating and capital costs. The total cost of the convention centre also includes the cost of supporting conventions at the Convention Centre through Events East, as well as those lifecycle costs not covered by the Province's lease arrangement. HRM is obligated to begin paying its share of the costs upon substantial completion of the convention centre.

As part of its funding strategy, HRM established a Convention Centre Reserve (Q521). All commercial property taxes from the Nova Centre including the office tower, hotel, retail, underground parking and the Convention Centre itself are placed within the reserve. Those revenues (and the funds for the existing World Trade and Convention Centre) are used to offset the annual costs under the MOU.

DISCUSSION

When the MOU was approved by Council in 2010 there was no other office construction underway in the downtown core. It was anticipated at the time of the MOU that the full build-out and occupancy of the Nova Centre would not occur for several years after the completion of the convention centre. As such, the annual taxes from the Nova Centre were not expected to fully offset the HCC payments until Year 6. For instance, in Year 1 of the HCC opening, taxes were expected to be \$1.8m short, with the shortfall covered by funds built up in the reserve prior to the opening of the HCC.

Currently the convention centre has reached substantial completion. The office tower is finished and is approximately 30% occupied. An operator for the hotel has just been selected. At present, the Property Valuation Services Corporation (PVSC) assesses the Nova centre as one assessment account with a value of \$200m. As such, separate values for the office tower and hotel are not available but may become apparent through the assessment appeal process.

Since 2010 there has been considerable office construction in downtown Halifax leading to higher vacancies than expected and downward pressure on office leases. Hence, rather than assessments growing as expected, assessments in the downtown office market have declined. Along with declines in the commercial tax rates this has increased the shortfall by \$900,000, from the anticipated \$1.8m to \$2.7m. Combined with higher operating costs (\$600,000) and other items (\$200,000) this means a total shortfall of \$3.5m (not \$1.8m) in 2018-19. As planned, the shortfall is still to be funded through the HCC Reserve with no impact upon the 2018-19 general tax rates.

Summary of Original and Revised Estimates

	Tax and Other Revenues	Payment for HCC	Excess/ (Shortfall)	Reserve Balance
Original Estimate	5,071,000	-6,922,574	-1,851,574	5,923,074
Revised Estimate	3,941,000	-7,490,000	-3,549,000	2,020,000

Tax revenues for the Nova Centre will increase as the office tower is leased up and as the hotel is finished and occupied. However, there is considerably more office space downtown than in past years, leading to lower office rents and hence lower assessed values than would exist otherwise. While the economy remains strong, it is extremely difficult to ascertain when assessments for the downtown office market will again start to rise. This broader downtown trend will continue to affect the HCC reserve with the reserve balance being negative into the medium term (See Attachment Two). In the next two to four years there may be a reserve shortfall of between \$5m to \$8m. Staff intend to return to Council with additional updates and possible revisions to the Business Case for the HCC reserve. In particular, any Deed Transfer Tax revenues related to the Nova Centre could be deposited into the reserve. In addition, a portion of the 2017-18 projected surplus may need to be directed into the HCC reserve.

Interim Period Costs

In 2014-15 the Province approached HRM on cost sharing interim period costs such as marketing and other costs with the Province prior to substantial completion. Staff budgeted funds for 2014-15 for marketing and other costs on a 50/50 shared basis. Regional Council was provided with an information report (May 26, 2015) and funds were budgeted in fiscal services (see attachment 3). As per the Information Report, these funds were again budgeted in 2015-16 and 2016-17. The 2016-17 budget for these costs was \$1,219,000. In the Winter of 2016 a payment of \$890,500 was made to Events East. In 2016, the Province approached HRM and asked to be reimbursed for \$301,500 in payments the Province made to Events East. The request includes two items that had not appeared in the information report (ICT Peripherals and Governance) and one that exceeded the amounts in the Information Report (Sales and Marketing). The amounts requested are legitimate expenditures that were made by Events East. Staff could not pay these amounts as they were not within the MOU or the Information Report; and, had not otherwise been authorized by Regional Council.

The Information Report anticipated the Convention facility opening in 2016 and provided for additional funds in 2014-15 through 2016-17. In 2017 HRM budgeted for costs following substantial completion but no additional interim period costs were budgeted for sales and marketing or other transition costs. As such, there is no authority from Council to pay any 2017-18 amounts prior to substantial completion.

Cost Sharing under the HCC MOU for 2017-18

	Lease Costs	Events East			Total
	P&I	Before March 1st	After March 1st	Incentives	
Provincial Share	456,956	4,053,570	188,115	1,010,000	5,708,641
Municipal Share	456,956	-	188,115	-	645,071
Total	913,911	4,053,570	376,230	1,010,000	6,353,711

Note: Events East costs are estimates and are subject to audit. All amounts are prorated based on 31 days for 2017-18. Excludes costs for the former WTCC building which end with substantial completion of the HCC.

In 2017-18 the estimated operating costs for the HCC are projected at \$6.4m. Of the \$6.4m, Council is obligated to pay an estimated \$645,000 under the MOU (ie, the period starting after substantial completion on March 1, 2018). This would come out of the Convention Centre Reserve (Q521). The remaining funds include \$1m in incentives for conference participants disadvantaged by the delayed opening of the facility plus just over \$4m in ongoing operating costs. These amounts would be fully borne by the Province and not shared 50/50 with HRM. Should Regional Council agree, HRM's 50% share of the ongoing operating costs would be approximately \$2,027,000.

In addition to the above \$6.4m total costs, there could be as much as \$1.5m in capital and smallware costs to be paid by HRM once final information becomes available.

Summary:

The new Halifax Convention Centre is currently exceeding expectations for convention bookings. The facility shows every sign of being extremely successful and contributing to the economic and cultural life of the Province. As a long-term partner in its success, HRM should also be a full partner in its costs. It has paid interim period costs from 2014-15 through to 2016-17. In good faith and as a full partner it should contribute to the remaining interim period costs. If Regional Council agreed to share in the remaining costs for 2017-18 (other than the incentives due to construction delay), it would cost an estimated \$2,027,000.

FINANCIAL IMPLICATIONS

In 2016-17, \$301,500 was accrued but not paid pending Council Approval. If Council agreed to authorize this payment there would be no additional financial impact to the organization. If Council does not authorize the payment, the accrual would be reversed and the organization would have an additional savings of \$301,500.

If Regional Council agreed to pay out the anticipated \$2,027,000, this amount would be funded in M250 and would lower the projected surplus for 2017-18 by \$2,027,000. The exact amount would need to be confirmed once the 2017-18 fiscal year end for Events East is concluded. Regional Council will be updated on amounts required from the surplus as final information becomes available.

In addition, funding of \$1.5m for capital and other items may be required once final information becomes available. Funding may also be required for other transition purposes including cash flow. Staff will return with additional information and updates as necessary.

RISK CONSIDERATION

There are no risks specifically associated with this report.

COMMUNITY ENGAGEMENT

No community engagement was necessary.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications.

ALTERNATIVES

Regional Council could decline to pay out additional amounts for the period prior to substantial completion.

Regional Council could pay the \$2,027,000 from the Convention Centre reserve. This is not recommended as it would leave the reserve in a deficit for 2019-20.

ATTACHMENTS

- Attachment 1 - Amounts Requested Under the May 26, 2015 Information Report
 - Attachment 2 - Summary of Original vs revised Funding
 - Attachment 3 - Halifax Convention Centre Update, Information Report, May 26, 2015
 - Attachment 4 - Memorandum of Agreement – Halifax Convention Centre, July 11, 2012
-

A copy of this report can be obtained online at halifax.ca or by contacting the Office of the Municipal Clerk at 902.490.4210.

Report Prepared by: Bruce Fisher, MPA, CPA CMA, Manager of Financial Policy and Planning, Finance and Asset Management, 902.490.4493

Report Approved by: Original signed

John Traves, Q.C., Director of Legal Services, 902.490.4219

Financial Approval by: Original signed

Jerry Blackwood, Acting Director of Finance and Asset Management/CFO, 902.490.6308

Amounts Requested Under the May 26, 2015 Information Report

	Information Report - May 26, 2015	HRM Budget 2016-17	Feb 17/17 - Paid to TCL	Invoiced by PNS - April 2017	Total
	2016-17	2016-17	2016-17	2016-17	2016-17
HCC Operations					
HCC Sales and Marketing	663,000		633,000	156,000	789,000
Event Management System					0
Operational Readiness – Carried from 14/15					0
Operational Readiness	315,500		257,500	-500	257,000
Time and Attendance System (TCA)	272,500				0
ICT Peripherals				38,000	38,000
Governance				108,000	108,000
Total	1,251,000	1,219,000	890,500	301,500	1,192,000

Summary of Original vs Revised Funding

Year	Expected Shortfall	Revised Shortfall	Expected Reserve Balance	Revised Reserve Balance
	(December 2010)	(March 2018)	(December 2010)	(March 2018)
1	-1,852,000	-3,549,000	5,923,000	2,020,000
2	-1,284,000	-3,709,000	4,846,000	-1,689,000
3	-1,047,000	-3,235,000	3,968,000	-4,924,000
4	-897,000	-2,868,000	3,210,000	-7,792,000
5	-739,000	-2,263,000	2,583,000	-10,055,000
6	-305,000	-1,951,000	2,368,000	-12,006,000
7	156,000	-1,758,000	2,607,000	-13,764,000
8	654,000	-1,555,000	3,352,000	-15,319,000
9	840,000	-1,342,000	4,309,000	-16,661,000
10	1,430,000	-1,119,000	5,890,000	-17,780,000

Note: Assumes assessed values start to recover in Year 5 through 7.

HALIFAX

P.O. Box 1749
Halifax, Nova Scotia
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Item No. 6
Halifax Regional Council
May 26, 2015

TO: Mayor Savage and Members of Halifax Regional Council

Original Signed

SUBMITTED BY:

Greg Keefe, Director Finance and ICT

DATE: May 05, 2015

SUBJECT: Halifax Convention Centre Update

INFORMATION REPORT

ORIGIN

December 13, 2010 Council motion to support the development of a new convention centre in downtown Halifax, as per the terms negotiated with the Province of Nova Scotia.

July 10, 2012 Council motion that Halifax Regional 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.

LEGISLATIVE AUTHORITY

Not Applicable

BACKGROUND

The Memorandum of Agreement approved by Council on July 10, 2012 provided for:

- Equal cost sharing by the Federal Government, Province and HRM for a fixed price construction contract
- Equal cost sharing between the Province and HRM on the ongoing operations of the facility for the term of the lease
- The Facility Operator will be a public sector entity, governed by a competency based Board of Directors, appointed jointly by the Province and HRM

DISCUSSION

Governance

Joint Steering Committee

To provide oversight during the period between the signing of the MOU between the Province and Halifax and the creation of the Halifax Convention Centre Corporation (HCC), staff established a Joint Steering Committee. This has been co-chaired by the Deputy Minister (DM) of Economic and Rural Development

and Tourism (ERDT) for the Province and the Chief Administrative Officer (CAO) for Halifax. The Provincial co-chair will transition to the DM of the Department of Business. It meets monthly and provides guidance to staff of the Province, Halifax and Trade Centre Limited on issues related to the HCC.

Legislation

In the Spring 2014 session, the Province passed the Halifax Convention Centre Act. This legislation:

- creates the public sector corporation, Halifax Convention Centre Corporation (HCC);
- defines the objects of the corporation as;
 - “to operate, maintain and manage the activities of the Halifax Convention Centre in a manner that will promote and develop economic development, tourism and industry in the Province generally, and the Municipality in particular, in accordance with strategic directions established by the Board and approved by the Chief Administrative Officer and the Minister” and
 - “includes other activities as approved by the Chief Administrative Officer and the Minister.”
- provides for a Board of Directors, their qualifications, the appointment process and their authority;
- provides for the issuance of capital stock. Two shares, to be known as the "Principal Shares", one of each to be issued to HRM and one to the Minister on behalf of the Province;
- provides for the transition of staff from Trade Centre Limited to HCC

The Board of Directors will consist of 8 persons, four appointed by the Province and four by HRM. In appointing the Board, Regional Council and the Minister shall take into consideration expertise, competency, and other factors as may be set out in the by-laws of the Corporation. The Board will elect the Chair.

The following persons are disqualified from being a member of the Board:

- (a) a person who is less than nineteen (19) years of age;
- (b) a person who is of unsound mind and has been so found by a Court in Canada or elsewhere;
- (c) a person who is not an individual;
- (d) a person who has the status of bankrupt;
- (e) a person who does, or did in the prior ten (10) calendar years, hold the position of a member of a federal or provincial legislature in Canada or a member of a municipal council in Canada

The Board will appoint a person to be President and Chief Executive Officer.

Upon proclamation of the legislation, planned for fall 2015, the CAO of Halifax and the DM of the Department of Business will become the Interim Board of HCC. They will deal with transition activities such as staffing and the initial budget. Recruitment for the Board will take place during winter 2015/16, with the appointment of the Board effective April 1, 2016.

Design Construction and Lease Agreements

As per the MOU with the Province, the Province is the lead in negotiating the agreements with the developer. HRM has observer status. The Design Construction Agreement is the construction agreement that sets out the building specifications (square footage, number of rooms, ceiling heights, fit and finish and equipment as an example). The lease will be between the Province and the developer, with HRM reimbursing the Province. The lease lays out the responsibilities for each party, what the developer will pay to repair and maintain as well the tenant's (Halifax Convention Centre) obligations. The lease also speaks to the integration of the other units in the complex.

The lease costs are broken out into a number of components:

- The first cost is the base rent, or the cost of design, construction and land. This amount is fixed for the 25 year term of the lease. The base rent is the principal and interest costs to design and build the facility (less the Federal payment paid at substantial completion) amortized over the 25 years plus a rent payment for land. The design and construction costs are fixed and the interest rate will be fixed when the agreement is signed so there will be certainty in the cost to be shared. The land rent payment is also fixed.
- The second cost is the operating cost of the facility that will be supplied by the owner such as cleaning, security, pest control, waste removal etc.
- The third costs are costs that are paid directly by the Halifax Convention Centre. These are separately metered utilities, property taxes (if taxes are assigned to individual condo units), insurance, operating and maintenance of the interior of the Convention Centre spaces, etc.
- The final category of costs are CAM or common area costs. These are the costs for cleaning and maintaining areas of the complex that are shared by all tenants in the complex. As an example operating and maintenance of common systems, cleaning of shared spaces or snow removal.

These costs will be shared on a 50% basis with the exception of property taxes. The MOU sets out the allocation for the payment of property taxes.

The negotiation process between the Province and the developer also involves validation that the final convention centre plans align with the RFP details and commitments. The plans for the full complex will also be reviewed by the Province to ensure the cost allocation of the common areas is equitable. When this process is final, the Province and the developer will sign the lease. HRM will not be a signatory.

The lease will contain a commitment for the substantial completion date. The working date for substantial completion is September 2016, which will allow an opening date of January 2017. No funds will flow to the developer until the substantial completion date. At that time the federal commitment to the project will be paid to the developer (\$51.4 m). The balance of the capital costs will then be amortized over the 25 year term of the lease and shared equally between the Province and HRM. In order to ensure that the interest rate received for financing the convention centre is attractive, the ability for the Province to terminate the lease is very limited. The Province is looking at a number of options, such as purchasing insurance, and provisions in the lease to mitigate the risk.

Interim Period

Marketing and Sales

The number of national and international clients choosing Nova Scotia's new Halifax Convention Centre to host their events continues to grow. TCL is on track to achieve the public market projections. While the change in opening date to 2017 did impact some clients, TCL has successfully rebooked 14 of the 17 impacted clients in the existing facility or moved them to a future year.

As of May 4, 2015, 27 national and international events were secured for the new convention centre resulting in 23,150 delegates. Fourteen of those events (4 international, 9 national associations, 1 national corporate) are for the first year of operations, resulting in 14,000 delegates which is 80% of the delegate goal for year 1.

Operational Readiness

Recruit Operational Manager

TCL is currently resourced to manage and operate the existing WTCC, with its operations team focused on the delivery of events in the existing facility. Preparing to operate and open a new facility that will offer a more complex mix of events with new technology and processes requires a specialized skill set. Ensuring excellence in service delivery and operational processes is critical to the success of the new convention centre.

TCL has hired a Senior Director of Operations to support operational, event management and food and beverage teams in the planning transition to the new convention centre. This senior manager brings extensive convention centre expertise, and is responsible for developing and executing an operational readiness plan that ensures the effective operations of the new convention centre.

This position is a short-term contract with a primary deliverable to ensure the successful opening of the new Halifax Convention Centre.

Software – Event Management System

A critical component of the new convention centre is the ability to host and support multiple, simultaneous events. This will result in an increased volume of attendees and increase the complexity of event programming and event delivery. TCL's current Event Management System (Delphi v9.5.2) was implemented in 1984 with an upgrade in 2005 and is currently end-of-life. The current system has had no significant upgrades or investments and it is not sufficient to meet the needs of the volume of business expected in the new convention centre.

New functionality and system-supported processes will be required to provide seamless coordination of event operations and sales and allow the organization to implement tighter operating and preventative controls in the new convention centre. Implementation of a new Event Management System, which automates processes, is a critical component of attaining AIPC Quality Standards Certification, which has become a standard in Canada.

Interim Period Costs

In addition to covering part of the operating costs of TCL, \$632,000 in 15/16, HRM is covering 50% the Sales and Marketing for the HCC and 50% of the interim period costs. HRM's portion of these costs are:

Item	14/15	15/16	16/17
HCC Sales and Marketing	\$640,000	\$547,000	\$663,000
Event Management System		\$332,000	
Operational Readiness – Carried from 14/15		\$127,500	
Operational Readiness		\$151,600	\$315,500
Time and Attendance System			\$272,500
Total	\$640,000	\$1,158,100	\$1,250,000

Other operating costs will begin in the 16/17 year, but these will be covered by the Halifax Convention Centre.

Other Issues

Tunnel

TCL has expressed that a tunnel is needed between the existing World Trade and Convention Centre (WTCC) building and the Halifax Convention Centre. This will link the complex to four hotels (Prince George, Barrington Halifax, Delta Barrington, Halifax Marriott Harbourfront) without requiring guests to go outside. TCL maintains that ease of connectivity is important to clients and integral to sales activity for the new centre. One of the requirements of the RFP for the convention centre was that the developer accommodate an entrance to a tunnel for connectivity to the hotel network downtown.

Concept design for the tunnel connection along Grafton Street between the existing enclosed pedestrian system and the new convention center is expensive (\$7-10 million). While HRM staff do not agree that a tunnel is a necessary feature, we do acknowledge that the concept of a convenient, weather protected pedestrian connection at street level is a desirable outcome. This issue has a direct connection to the overall issue of streetscaping and the ultimate dispensation of the Nova Centre events plaza. Staff are working on practical and effective alternatives to create weather protected access without the expense and disruption of tunnel.

That being said, a tunnel, with its associated price tag, may end up the preferred solution. HRM would be responsible for some of the cost, but we would be looking for partners, such as the Province, to share this cost.

Argyle St. Streetscaping Efforts

There are two main issues at hand on this topic:

1. The above referenced tunnel and the integration of municipal streetscaping efforts.
2. The timing of streetscaping improvements on Argyle Street relative to the completion of the frontage of the Nova Centre.

Actions on the tunnel are outlined in the section above. The plan for Argyle Street to date is for staff to complete the design and implementation of a pilot project for this summer (2015) followed by the design, funding and implementation of a permanent solution to be completed in spring or fall of 2016 concurrent with the completion of the Nova Centre.

Scotiabank Centre

The current agreement with TCL for the operations of Scotiabank Centre (SBC) is an interim agreement. This was done deliberately knowing there would be a change to TCL, and the ownership of the WTCC building. The current agreement has two parts: 1. for the operation of SBC; and 2. for the allocation of the costs of shared infrastructure (primarily HVAC).

This agreement will need to be replaced with two agreements. One will be with HCC for the operations of SBC. The other will be for the allocation of the costs of shared infrastructure with whoever the eventual owner of the WTCC building is. Staff are currently working on a service agreement for this that the Province can use when they put the property on the market. The agreement will indicate access areas that are critical for the successful operation of SBC as well as recognizing areas where HRM has made significant investments in areas that are part of the WTCC such as the Budweiser King Club.

Ticket Atlantic

TCL operates Ticket Atlantic, which in addition to offering ticket sales for a number of venues, is the box office for Scotiabank Centre. In July 2012, the Auditor General recommended, as a result of an audit, a change to the billing model between Ticket Atlantic and Scotiabank Centre. A subsequent review by Grant Thornton showed that the issue the Auditor General brought to light occurred when there was a year with very high attendance numbers. It is planned that Ticket Atlantic become a part of HCC, and that any change in the billing model be considered in that context. As a part of HCC, any Ticket Atlantic surpluses will contribute to the operations of HCC.

WTCC Building

Under the MOU with the Province, there is a process for determining the eventual disposition of the WTCC.

The Province will advertise it for sale. If a buyer is found, Halifax can match the price and acquire the building. If Halifax does not choose to acquire the building at that time, the purchaser would need to enter into an agreement regarding the infrastructure shared between WTCC and SBC.

If no buyer is found, Halifax will purchase the WTCC on the date the HCC opens for the book value on that date. The book value is expected to be below \$1 million.

Exhibition Park

TCL also operates Exhibition Park. Before the windup of TCL, the Province will assess the options for managing this asset.

FINANCIAL IMPLICATIONS

There are no financial implications specific to this report. The financial implications of the project are:

Halifax currently pays \$630,000 towards the operation of TCL. This amount increases by inflation each year. It will become a part of the support for HCC when it opens.

Council approved \$640,000 for the sales and marketing of HCC in the 14/15 budget. This will decrease to \$547,000 in 15/16, but there will be transitional costs of \$611,100, for a total increase of \$518,100.

The funding model for HCC is that all taxes from Nova Centre are placed in the Convention Centre Reserve, Q326 and this reserve be used to fund Halifax's costs. The reserve has a balance of \$1,764,307 at March 31, 2015 and is budgeted to increase by \$1,010,243 in 15/16. Although commercial property tax rates have dropped since the decision in 2012, the model remains sound.

COMMUNITY ENGAGEMENT

Not Applicable

ATTACHMENTS


None

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 and
Approved by:

Greg Keefe, Director of Finance & ICT/CFO, 902.490.6308

Original Signed

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**

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

Original Signed

Honourable Maurice Smith

Original Signed

Michael Savage, Mayor

SCHEDULE 'A'

APPROVED
AS TO FORM.
Municipal Solicitor

THIS AGREEMENT made the 10th 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.

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

Original Signed

Original Signed

Witness

Darrell Dexter, Premier

Original Signed

Halifax Regional Municipality as
represented by the Mayor and Clerk

Original signed

Witness

Peter Kelly, Mayor

Original Signed

Cathy Mellett, Clerk

