



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

Item No. 13.1.1
Halifax and West Community Council
July 30, 2018

TO: Chair and Members of Halifax and West Community Council

-Original Signed-

SUBMITTED BY:

Kelly Denty, Acting Director, Planning and Development

-Original Signed-

Jacques Dubé, Chief Administrative Officer

DATE: June 18, 2018

SUBJECT: **Case 21706: Non-substantive amendments to an existing development agreement on lands at Lovett Lake (5 PIDs), Beechville.**

ORIGIN

Application by Armco Capital Inc. requesting non-substantive amendments to an existing development agreement on lands at Lovett Lake along St Margaret's Bay Rd, to extend the date of commencement for construction.

LEGISLATIVE AUTHORITY

Halifax Regional Municipality Charter (HRM Charter), Part VIII, Planning & Development.

RECOMMENDATION

It is recommended that Halifax and West Community Council:

1. Approve, by resolution, the proposed amending development agreement, which shall be substantially of the same form as set out in Attachment A of this report, to extend the development commencement date for the proposed development at Lovett Lake (5 PIDs), Beechville; and
2. Require the amending development agreement be signed by the property owners within 120 days, or any extension thereof granted by Council on request of the property owner, from the date of final approval by Council and any other bodies as necessary, including applicable appeal periods, whichever is later; otherwise this approval will be void and obligations arising hereunder shall be at an end.

BACKGROUND

Armco Capital Inc. has applied for a non-substantive amendment to an existing development agreement to allow for a time extension to the development commencement date for a proposed residential/commercial development at Lovett Lake, along the St Margaret's Bay Road (5 PIDs).

Subject Site	Portions of PIDs 40049694, 40049884, 40049728, and the entirety of PIDs 40160582 and 41375940.
Location	Lovett Lake fronting along St Margaret's Bay Road.
Regional Plan Designation	Urban Settlement
Community Plan Designation (Map 1)	Urban Residential under the Timberlea/Lakeside/Beechville MPS
Zoning (Map 2)	Comprehensive Development District (CDD) Zone, General Business (C-2) Zone under the Timberlea/Lakeside/Beechville LUB
Size of Site	Approximately 17.48 hectares (43.2 acres)
Street Frontage	Approximately 192 meters (630 feet)
Current Land Use(s)	Vacant
Surrounding Use(s)	Beechville Baptist Church (a municipally registered heritage property), undeveloped lands to the east, a gas station, and Beechville Estates (a mixed residential development opposite the St. Margaret's Bay Rd.

Proposal Details

On June 26, 2014, Halifax and West Community Council approved a development agreement to allow for the development of a mixed use residential and commercial development to be located at Lovett Lake, Beechville.

The agreement allows for a maximum of 253 dwelling units made up of single-unit dwellings, two-unit dwellings, and townhouse dwellings. The agreement also allows for open space uses, as well as commercial uses permitted in the C-1 Zone of the Land Use By-law for Timberlea/ Lakeside/ Beechville, as amended from time to time. Section 7.3 of the agreement stipulates that the development must commence within four (4) years from the date of registration, establishing a commencement date of August 20, 2018.

The applicant proposes to amend the existing development agreement to allow for a time extension to the construction commencement date for the project. The request is to extend the commencement date by four (4) years resulting in a commencement date in 2022, or eight (8) years from the date of registration of the existing agreement.

On November 28th, 2017, Regional Council initiated a process to develop new planning policies in Beechville (Case 20226). That process includes consideration of a request by Armco Capital Inc. to develop the same lands that are subject to the current development agreement (approximately 59 acres near Lovett Lake). The proposal includes new public streets and public parks, sidewalks, multi-use trails and a mix of residential and commercial uses. This is a municipal Plan Amendment process that includes a public participation program that incorporates an African Nova Scotian Community Liason Group and several rounds of public meetings for the entire Beechville Community. In the event this Plan Amendment process does not result in revised development approvals for the subject property, the applicant would like the existing development agreement to remain in effect. The proposed time extension would allow the plan amendment process to be completed prior to the expiry of the existing development agreement.

Enabling Policy and LUB Context

Policies UR-11, UR-12, UR-19, and IM-12 of the Timberlea/Lakeside/Beechville MPS and Section 3.6 of the Timberlea/Lakeside/Beechville LUB allows for the development of uses within any CDD (Comprehensive Development District) Zone, including mixed use residential and commercial development. This is the policy framework under which the agreement was considered and approved in 2014, and which continues to apply to the request for an amendment to the existing agreement.

COMMUNITY ENGAGEMENT

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy. The level of community engagement was information sharing, achieved through providing information through the HRM website and signage posted on the subject site. A public information meeting and public hearing are not required for a non-substantive amendment to a development agreement. The decision on the amendments is made by resolution of Council.

DISCUSSION

The proposed change relates only to the development commencement date; the nature of the development as defined in the current agreement will be unchanged. This extension can be permitted as a non-substantive amendment pursuant to section 6.1.1(a) of the original development agreement. It is recommended that the date for development commencement be extended by four (4) years as outlined in the proposed amending development agreement (Attachment A).

As noted above, the applicant has also proposed a plan amendment application for the same project area that could result in the implementation of a development that is substantially different from the one prescribed in the existing development agreement. If that application is approved as proposed, the existing development agreement would become redundant and would be discharged. If that application is not approved, the proposed time extension will allow the existing development agreement to be implemented within the proposed amended time frame.

Staff have reviewed the proposal in terms of all relevant policy criteria and advise those policies are unchanged from the time of original approval and the proposal remains reasonably consistent with the intent of the MPS. Therefore, staff recommend that the Halifax and West Community Council approve the proposed amending development agreement.

FINANCIAL IMPLICATIONS

There are no budget implications. The applicant will be responsible for all costs, expenses, liabilities and obligations imposed under or incurred in order to satisfy the terms of this proposed development agreement. The administration of the proposed development agreement can be carried out within the approved 2018-2019 budget and with existing resources.

RISK CONSIDERATION

There are no significant risks associated with the recommendations contained within this report. This application may be considered under existing MPS policies. Community Council has the discretion to make decisions that are consistent with the MPS, and such decisions may be appealed to the N.S. Utility and Review Board. Information concerning risks and other implications of adopting the proposed amending development agreement are contained within the Discussion section of this report.

ENVIRONMENTAL IMPLICATIONS

No environmental implications are identified.

ALTERNATIVES

1. Halifax and West Community Council may choose to approve the proposed amending agreement subject to modifications. Such modifications may require further negotiation with the applicant and may require a supplementary report or a public hearing. A decision of Council to approve this amending agreement is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.
2. Halifax and West Community Council may choose to refuse the proposed amending agreement, and in doing so, must provide reasons why the proposed agreement does not reasonably carry out the intent of the MPS. A decision of Council to refuse the proposed amending agreement is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.

ATTACHMENTS

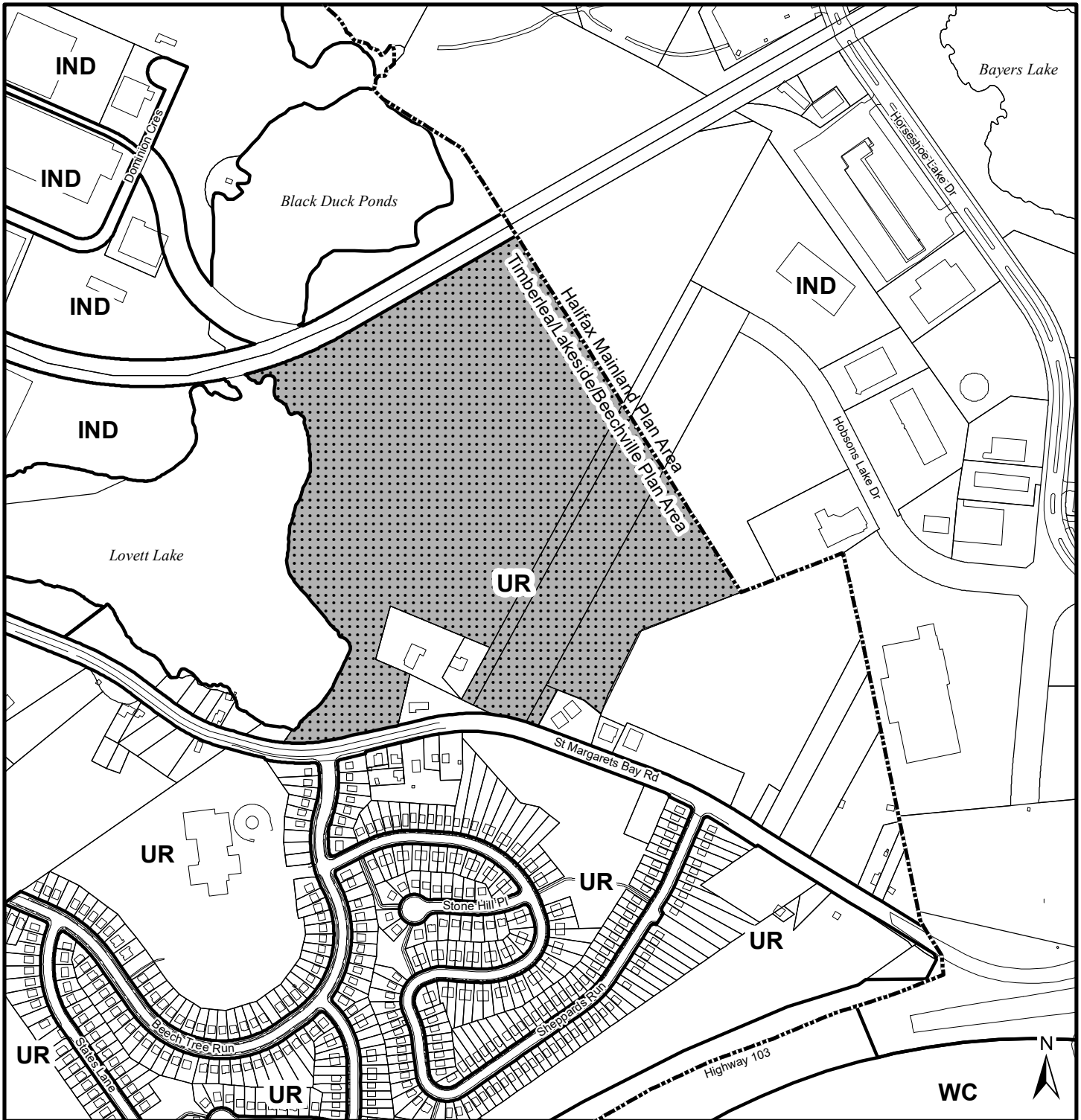
Map 1: Generalized Future Land Use
Map 2: Zoning
Attachment A: Proposed Amending Development Agreement

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: Brittney MacLean, Planner II, Current Planning, 902.490.7175

Report Approved by: **-Original Signed-**


Steven Higgins, Manager Current Planning, 902.490.4382



Map 1 - Generalized Future Land Use

Lovett Lake
Beechville

HALIFAX

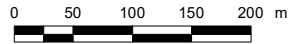
 Subject Properties

Timberlea/Lakeside/Beechville Designations

UR Urban Residential
IND Industrial

Halifax Designations

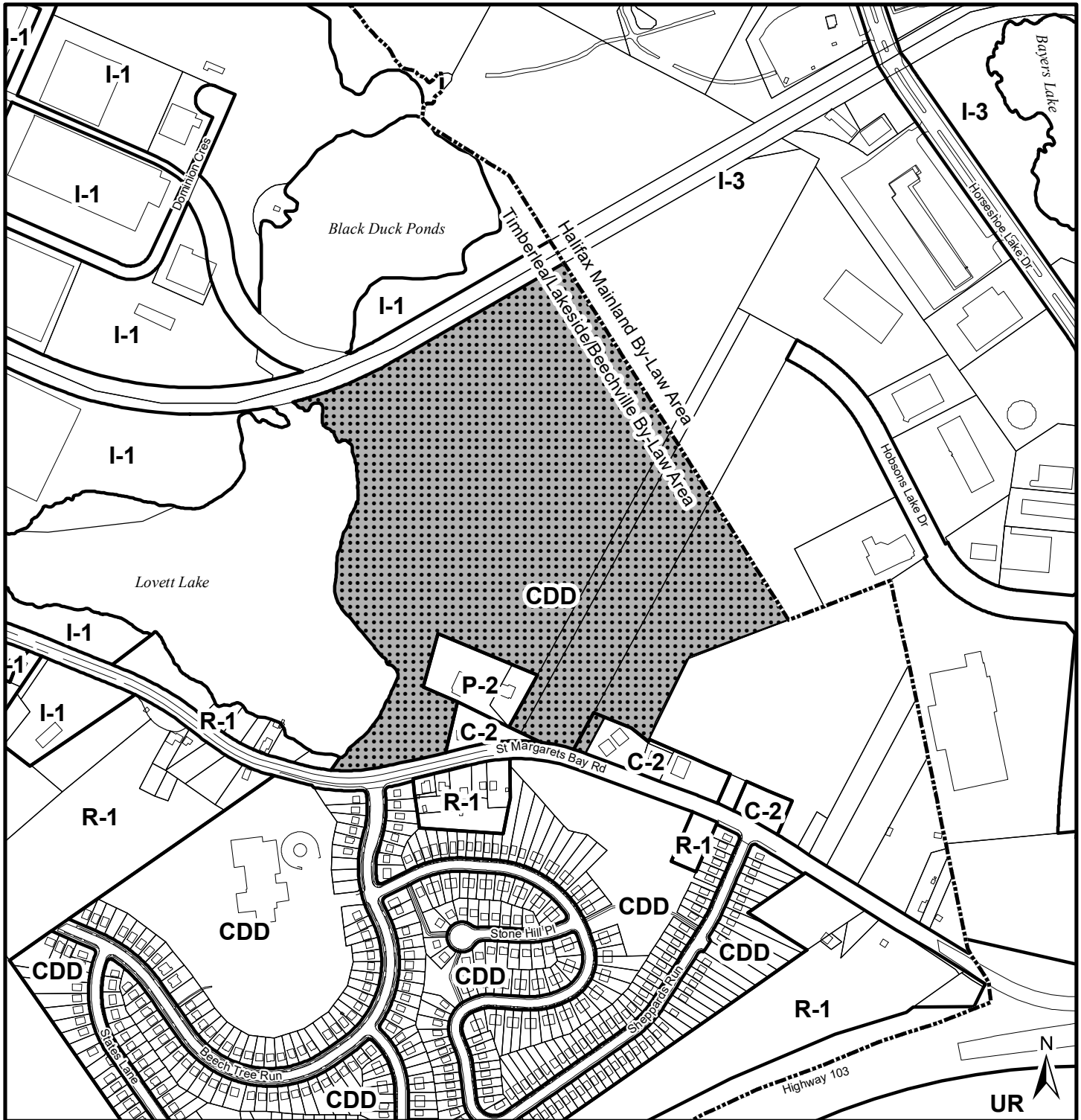
IND Industrial
WC Western Common



Timberlea/Lakeside/Beechville
Plan Area

This map is an unofficial reproduction of a portion of the Generalized Future Land Use Map for the plan area indicated.


The accuracy of any representation on this plan is not guaranteed.



Map 2 - Zoning

Lovett Lake
Beechville

HALIFAX

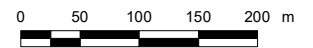
 Subject Area

Timberlea/Lakeside/Beechville Zones

- R-1 Single Unit Dwelling
- C-2 General Business
- I-1 Light Industry
- P-2 Community Facility
- CDD Comprehensive Development District

Halifax Mainland Zones

- I-3 General Industrial
- UR Urban Reserve



This map is an unofficial reproduction of a portion of the Zoning Map for the plan area indicated.

The accuracy of any representation on this plan is not guaranteed.

Timberlea/Lakeside/Beechville
By-Law Area

Attachment A
Proposed Amending Development Agreement

THIS FIRST AMENDING DEVELOPMENT AGREEMENT made this day of **[Insert Month]**, 20___,

BETWEEN:

ARMCO CAPITAL INC.

A body corporate, in the Halifax Regional Municipality in the Province of Nova Scotia (hereinafter called the "Developer")

OF THE FIRST PART

- and -

HALIFAX REGIONAL MUNICIPALITY

a municipal body corporate, in the Province of Nova Scotia (hereinafter called the "Municipality")

OF THE SECOND PART

WHEREAS the Developer is the registered owner of certain lands located at PIDs 40049694, 40049884, 40049728, 40160582 and 41375940, on St. Margaret's Bay Road in Beechville, and which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

AND WHEREAS the Halifax and West Community Council of the Halifax Regional Municipality approved an application to enter into a development agreement to allow for a mixed use residential and commercial development on the Lands on June 26, 2014 (Municipal Case 18078), which said Agreement was registered at the Land Registration Office on August 20, 2014 as Document Number 105633672 (hereinafter called the "Original Agreement");

AND WHEREAS the Developer has requested to amend the Original Agreement to allow for a four (4) year extension to the Commencement of Development dates for development on the Lands pursuant to the provisions of the *Halifax Regional Municipality Charter* and pursuant to Part 6 of the Original Agreement;

AND WHEREAS the Halifax and West Community Council for the Municipality approved this request at a meeting held on **[Insert - Date]**, referenced as Municipal Case Number **21706**;

THEREFORE, in consideration of the benefits accrued to each party from the covenants herein contained, the Parties agree as follows:

1. Except where specifically varied by this First Amending Development Agreement, all other terms, conditions and provisions of the Original Agreement shall remain in effect.
2. The Developer agrees that the Lands shall be developed and used only in accordance with and subject to the terms and conditions of this First Amending Development Agreement, and the Original Agreement.
3. Subsection 7.3.1 of the Original Agreement shall be amended by inserting the text shown in bold as follows:

7.3.1 In the event that development on the Lands has not commenced within 4 years from the date of registration of the **First Amending Development** Agreement at the Registry of Deeds or Land Registry Office, as indicated herein, the Agreement shall have

no further force or effect and henceforth the development of the Lands shall conform with the provisions of the Land Use By-law.

IN WITNESS WHEREAS the said parties to these presents have hereunto set their hands and affixed their seals the day and year first above written.

SIGNED, SEALED AND DELIVERED in the presence of:

ARMCO CAPITAL INC.

Witness

Per: _____

SIGNED, DELIVERED AND ATTESTED to by the proper signing officers of Halifax Regional Municipality, duly authorized in that behalf, in the presence of:

HALIFAX REGIONAL MUNICIPALITY

Witness

Per: _____
MAYOR

Witness

Per: _____
MUNICIPAL CLERK

PROVINCE OF NOVA SCOTIA
COUNTY OF HALIFAX

On this _____ day of _____, A.D. 20____, before me, the subscriber personally came and appeared _____ a subscribing witness to the foregoing indenture who having been by me duly sworn, made oath and said that _____, _____ of the parties thereto, signed, sealed and delivered the same in his/her presence.

A Commissioner of the Supreme Court
of Nova Scotia

PROVINCE OF NOVA SCOTIA
COUNTY OF HALIFAX

On this _____ day of _____, A.D. 20____, before me, the subscriber personally came and appeared _____ the subscribing witness to the foregoing indenture who being by me sworn, made oath, and said that Mike Savage, Mayor and Kevin Arjoon, Clerk of the Halifax Regional Municipality, signed the same and affixed the seal of the said Municipality thereto in his/her presence.

A Commissioner of the Supreme Court
of Nova Scotia