



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

Item No. 12.4.1
Heritage Advisory Committee
September 26, 2018
Audit & Finance Standing Committee
October 17, 2018

TO: Chair and Members of Heritage Advisory Committee

SUBMITTED BY: *-Original Signed-*

Kelly Denty, Director Planning & Development

-Original Signed-

Jane Fraser, Director Corporate & Customer Services

-Original Signed-

Jacques Dubé, Chief Administrative Officer

DATE: August 23, 2018

SUBJECT: **Case #H00464 - Request for additional financial assistance for St. Paul's Church, 1749 Argyle Street, Halifax**

ORIGIN

Request by the Parish of St. Paul's Church, authorized by Dr. Peter Secord, Senior Warden and the Reverend Dr. Paul Friesen, Rector made May of 2016.

Request for financial assistance and to enter into a Heritage Agreement with St. Paul's Church, 1749 Argyle Street, Halifax, Heritage Advisory Committee, September 12, 2017

LEGISLATIVE AUTHORITY

The *Heritage Property Act*, R.S.N.S. 1989, c.199

Section 20

(1) The Minister may enter into an agreement with the owner of a provincial heritage property, and the council may enter into an agreement with the owner of a municipal heritage property or property located in a heritage conservation district, whereby the owner grants to the Minister or the council a right or incurs an obligation respecting the use, preservation or protection of the heritage property or property located in a heritage conservation district.

(2) An agreement entered into pursuant to subsection (1) shall be deposited in the registry of deeds for the registration district within which the heritage property or property located in a heritage conservation district is situated.

(3) Where an agreement is deposited in the registry of deeds, the right or obligation given by the owner becomes an encumbrance upon and runs with the property, and the Minister, in respect of provincial heritage property, and the municipality, in respect of municipal heritage property or property located in a heritage conservation district, may enforce the right or obligation against the property and against the owner or any subsequent owners of the property.

(4) A right or obligation created by an agreement made pursuant to subsection (1) may be waived or discharged by the Governor in Council in respect of provincial heritage property and by the municipality in respect of municipal heritage property or property located in a heritage conservation district.

Section 22

(1) The Minister, subject to the approval of the Governor in Council, may provide financial assistance in respect of provincial heritage property and the Council may provide financial assistance in respect of municipal heritage property or property located in a heritage conservation district to any person to assist in the restoration or renovation of such property upon such terms and conditions as the Minister or the Council, as the case may be, deems fit.

In accordance with Administrative Order 2016-005-ADM, The Procurement Administrative Order, Appendix B, Contract Amendment Guidelines, Council can approve cumulative contract amendments of any amount;

RECOMMENDATION

Heritage Advisory Committee

It is recommended that the **Heritage Advisory Committee** recommend that Regional Council:

1. Approve the provision of in-kind financial assistance of a value up to but not exceeding \$150,000, with a net municipal project cost up to but not exceeding \$75,000, to the Parish of St. Paul's for the continued restoration of a portion of the perimeter ironstone wall and cast iron fencing surrounding St. Paul's Church in accordance with the Heritage Agreement dated November 24, 2017 and the proposed amendments thereto, with funding as outlined in the Financial implications section of this report, conditional on:
 - a. The execution of an amendment to the Heritage Agreement dated November 24, 2017, and its registration at the Land Registry Office; and
 - b. the execution of a Contribution Agreement with the Government of Canada;
2. Authorize the CAO to negotiate, and the Mayor and Clerk to execute, an amending agreement to the November 24, 2017 Heritage Agreement between HRM and the Parish of St. Paul's, to include:
 - a. the provision of in-kind financial assistance of a value up to but not exceeding \$150,000, with a net municipal project cost up to but not exceeding \$75,000, for the continued restoration of a portion of the perimeter ironstone wall and cast iron fencing surrounding St. Paul's Church, subject to the execution of a Contribution Agreement between HRM and the Government of Canada;
 - b. the identification of the new area to be restored in accordance with Map 1; and
 - c. the completion date of the new work, being no later than March 31, 2019.

Audit and Finance Standing Committee

It is recommended that the **Audit and Finance Standing Committee** recommend that Regional Council approve the following, conditional upon i) the execution of an amendment to the Heritage Agreement with the Parish of St. Paul's dated November 24, 2017 and its registration at the Land Registry Office, and ii) the execution of a Contribution Agreement with the Government of Canada:

1. the provision of in-kind financial assistance of a value up to but not exceeding \$150,000, with a net municipal project cost up to but not exceeding \$75,000, to the Parish of St. Paul's for the continued restoration of a portion of the perimeter ironstone wall and cast iron fencing surrounding St. Paul's Church in accordance with the Heritage Agreement dated November 24, 2017 and the proposed amendments thereto, with funding as outlined in the Financial Implications section of this report;
2. a budget increase of \$150,000 to Project Account No. CR000008 – St. Paul's Church Wall Restoration, funded 50% by cost sharing with the Parks Canada National Cost Sharing Program for Heritage Places and 50% by funding from the General Contingency Reserve (Q421);
3. an unbudgeted withdrawal of \$75,000 from the General Contingency Reserve (Q421) to the project budget to fund the net municipal cost of the financial assistance;
4. the expansion of the scope of work, in the 2018/19 fiscal year to allow for the restoration of additional portions of the ironstone wall and cast iron fencing, providing that the net municipal project cost does not exceed \$75,000, and to authorize any necessary amendments to the Heritage Agreement to reflect the expanded scope of work; and
5. Increase Purchase Order #2070780659 for Schooner Excavation Limited in the amount of \$112,229 (net HST included) for the replacement of 25 feet of additional wall. This is a cumulative increase of 41.50% of the original Purchase Order Value.

Regional Council

It is recommended that **Regional Council** direct the CAO to direct staff to negotiate, and authorize the CAO to execute, a Contribution Agreement with the Government of Canada for the restoration of a portion of the perimeter ironstone wall and cast iron fencing surrounding St. Paul's Church, for a contribution by HRM not to exceed \$75,000, subject to Regional Council's approval of the provision of financial assistance and amendments to the November 24, 2017 heritage agreement registered on the property.

BACKGROUND

Halifax Regional Municipality (HRM) is committed to providing cost effective, high quality services to its residents. Inherent in this goal is the effective conservation of its historical assets, and the City Hall and the Grand Parade are its most prominent historic assets. In recognition of its historic value, Halifax City Hall was designated a National Historic Site in 1987 by the Historic Sites and Monuments Board of Canada. St. Paul's Church, located on Grand Parade, is registered as a municipal heritage property.

HRM is in the middle of a multi-phase, multi-year project to return the exterior of City Hall and the Grand Parade to their former elegance. The Grand Parade Conservation Report, Grand Parade Survey and the Grand Parade – Cultural Asset Study have guided staff in a recapitalization plan that is of high quality, cost effective and is focused on accessibility, program flexibility and service excellence with minimal design impact to the existing elements and layout.

In 2017, Halifax Regional Council entered into a heritage agreement with the Parish of St. Paul's in response to a request from the church for funding to repair the 170 year old stone retaining wall surrounding the church and a portion of Grand Parade. The agreement allowed the Municipality to provide \$250,000 in matching funds together with Parks Canada in support of repairing the wall. In return, the church agreed to allow limited public access to the grounds around the church, it waived its rights to demolish or substantially alter the property without municipal consent, and it agreed to provide a right of first refusal to the Municipality should the parish ever sell the property.

Together with the Parish of St. Paul's, HRM has been offered additional funding for 2018 under the National Cost-Sharing Program for Heritage Places administered by Parks Canada in the amount of \$75,000. This

funding would be available on the condition that it is met with matching funds from the Municipality. Should Council agree to fund the continuation of this project in 2018, it would allow for additional portions of the wall to be repaired as a second phase to the project.

Heritage Value

St. Paul's Church is the oldest building in Halifax, and is the oldest existing Protestant (Anglican) church in Canada. Founded by proclamation of King George II in 1749, the building was erected in the summer of 1750 based on architectural plans of James Gibb's Marybone Chapel (now known as St. Peter's) in London, England. The resemblance of the two churches is remarkable despite additions to St. Paul's including a vestibule and steeple in 1812, two side wings in 1868, and the chancel in 1872.

The Grand Parade was laid out in 1749 as part of the original town plan, making it the oldest open civic space in Halifax. In 1796 the Duke of Kent ordered improvements to the Grand Parade to better allow for marching of his troops. Due to the natural slope of the ground the first fundamental and lasting intervention on the site was changing the grades of the land. The grade changes necessitated the creation of the stacked ironstone walls which were then topped with a wood rail fence. The Church petitioned the Duke to include the Church property in these improvements to the Parade. In 1843 a 'stone and iron' wall was erected around St. Paul's church yard, and slight modifications were made in 1868. These are the same ironstone walls and wrought iron fencing which still stand around St. Paul's today. The sections of the wall surrounding St. Paul's are the oldest sections around the Parade, as the granite walls around City Hall were erected in 1888-90 with the completion of City Hall. The heritage integrity of the Grand Parade includes the curb to curb area bounded by Argyle, Barrington, Prince and Duke Streets.

The Grand Parade has evolved from being primarily a military parade ground to a public gathering place and park where concerts and civic ceremonies are held. The Grand Parade is 'bookended' by two National Historic Sites - City Hall at the northern end, and St. Paul's Church at the southern end. The Parade has undergone significant changes, however its purpose and significance to Halifax has remained consistent for over 265 years.

DISCUSSION

On September 19, 2017, Council approved the provision of in-kind financial assistance to the Parish of St. Paul's Church for the restoration of the ironstone perimeter wall, in the amount of \$250,000.00. This was conditional on a matching amount received from the Government of Canada under the National Cost-Sharing Program for Heritage Places, and subject to the execution of a Heritage Agreement between the Parish and HRM (Attachment A), both of which were subsequently executed. The National Cost-Sharing program for Heritage Places enables properties designated as National Historic Sites to apply for conservation projects to conserve threatened components of a historic place to ensure its physical integrity.

The work was carried out over the winter. The Council report had estimated that approximately 50 feet of wall could be restored, but ultimately work was completed on 75 feet of wall. The sandstone block corner gate pillar at the corner of Prince and Argyle Streets was also rebuilt. Photographs showing the wall before and after are included at Attachment C.

Funding Availability

HRM applied, on behalf of the Church, for funding under the 2018/19 Parks Canada National Cost-Sharing Program for Heritage Places for additional funding toward the continued restoration of the perimeter wall. This application was successful. The funding will allow for a \$150,000 project split between HRM and Parks Canada. This funding is subject to the execution of a cost-sharing contribution agreement with the federal government. The program reimburses up to 50% of eligible costs that are identified and approved in the cost-sharing contribution agreement, and the work must be undertaken before March 31, 2019.

The Church will also continue to seek out additional funding from other agencies and levels of government. Any additional funds will be used to expand the scope of the work, but no additional costs will be incurred by HRM without Council's approval.

Project Costs

The total cost of the project is estimated to be \$150,000. This includes wall and fence restoration, drainage improvements, architectural design services, project management services, archeologist services, site protection, and a contingency for unknowns.

Purchase Order No. 2070780659 in the amount of \$371,555.38 (net HST included) was issued to Schooner Excavation Limited on November 10, 2017 for the initial 75 feet of wall. Work on this section was Substantially Complete on March 31, 2018 for a total price of \$413,530.50 (net HST included). At the time of tendering, unit pricing was requested for the entire wall section along Argyle Street. Schooner's contract will be revised by change order to accommodate the additional cost for the next 25 feet in the amount of \$112,228.71 based on the unit pricing.

Restoration Project

HRM intends to continue to repair and restore an additional portion of the ironstone wall and cast iron fencing located along the Argyle Street side starting at the corner of Argyle Street and Prince Street running north. To date, 75 feet have been completed. Approval of this request will result in approximately an additional 25 feet being restored.

All the restoration work will be conducted in accordance with the *Standards and Guidelines for the Conservation of Historic Places in Canada* and the *Special Places Protection Act*. Excavation around the wall will be completed under the supervision of an archaeologist, and Heritage Research Permits will be applied for if needed. HRM will engage additional consultants to undertake the restoration of the ironstone wall and iron fencing including qualified architects and engineers. All information and reports will be provided to designated representative of St. Paul's Church.

The conservation work will require documentation and removal of the existing iron fencing, and the installation of temporary fencing to protect the church and public. The ironstone wall must be dismantled, after similar documentation and numbering. New foundation and drainage system will be installed. The ironstone walls will be reconstructed using the same stones in their original approximate location, and the iron cap and fencing will be repaired and re-installed. The brick top course, located under the metal cap, will likely require new bricks given the degree of deterioration.

Heritage Agreement

The Heritage Agreement entered into by HRM and the Parish of St. Paul's Church in 2017 has been registered on title to the property and continues to be in effect. Staff is recommending that no additional obligations be required of the Parish with respect to the property as a result of the additional in-kind financial assistance provided. However, amendments to the Heritage Agreement will be required to reflect the area of additional work being undertaken as phase II of the restoration project, as well as the additional funding being provided. As such, staff recommend that Council direct the CAO to negotiate the necessary amendments to the Heritage Agreement dated November 24, 2017 to enable the provision of the additional financial assistance as set out in the financial implications section of this report.

Conclusions

Given the local, provincial and national significance of the St. Paul's Church and its walls, and the contribution of the walls to the overall integrity of the Grand Parade, is it reasonable for HRM to consider that this restoration project falls within its mandate. With the success of the previous work, as well as HRM's long-term commitment to the restoration of Grand Parade, staff are recommending that the additional in-kind financial assistance be provided for the continued restoration of the wall.

2019 marks the 270th anniversary of the founding of Halifax and the construction of St. Paul's church. Given the significance of St. Paul's Church to the municipality, supporting the restoration of the historic walls surrounding the Church will provide a meaningful and long-lasting legacy.

FINANCIAL IMPLICATIONS

The HRM costs associated with developing the Heritage Agreement can be accommodated within the approved 2018/19 operating budget for C002 Urban Design. The HRM costs related to project management can be accommodated within the 2018/19 operating budget for W953 Facility Development.

The incremental restoration project cost of \$150,000 will be funded from the two following sources:

| | |
|---|-----------------|
| General Contingency Reserve (Q421) | \$75,000 |
| National Cost-Sharing Program for Heritage Places | <u>\$75,000</u> |
| Total Funding for Wall & Fence Restoration | \$150,000 |

Project Budget Summary: Project Account No. CR000008 – St. Paul's Church Wall Restoration

| | |
|---------------------------------|------------------|
| Cumulative Unspent Budget | \$ 2,043 |
| Plus: Parks Canada Cost Sharing | \$ 75,000 |
| Plus: Reserve Funding (Q241) | \$ 75,000 |
| Less: Inc. to PO No. 2070780659 | <u>\$112,229</u> |
| Balance | \$ 38,814 |

The balance of funds will be used to complete the project.

Although funds are currently available in the General Contingency Reserve, this project was not a budgeted use of reserve funds. If the reserve were to be replenished by \$75,000 from the general tax rates, the rate impact would be approximately 0.0125 cent for one year. There are no on-going (future fiscal year) cost implications of this project to the Municipality.

Budget Summary, General Contingency Reserve, Q421

| | |
|---|----------------------|
| Balance in Reserve August 31, 2018 | \$11,967,584 |
| Projected revenue to March 31, 2019 | \$ 114,021 |
| Commitments to March 31, 2019 | <u>\$(2,316,734)</u> |
| Projected net available balance, March 31, 2019 | \$ 9,764,871 |
| Withdrawal, per recommendation | <u>\$ (75,000)</u> |
| Revised Projected Balance, March 31, 2019 | \$ 9,689,871 |

Risk Reserve – General Contingency Reserve, Q421 is to receive the annual operating surplus of the Municipality as prescribed by the Provincial Financial Accounting and Reporting Manual, and can be used to fund operating costs, offset deficits, or fund new operating and/or capital expenditures. This is an unbudgeted withdrawal from the reserve but does not negatively affect the anticipated planned usage of the reserve for the next 5 years. (excluding any unknown deficits that may occur)

RISK CONSIDERATION

1. Risk (low) that work is not complete by March 31, 2019 and only partial funding is received. Work completed after March 31st, 2019 will not be eligible for federal cost-sharing, however, HRM staff have planned that the work be completed well before then and, if necessary, can carry out work in winter weather conditions. If further funding be required from HRM, a report to Audit & Finance Standing

Committee and Council would be required to approve budget increases, and / or approve funding sources such as further withdrawals from reserves.

2. Risk (low) that the agreements are not signed and the project is cancelled. HRM has been working closely with Parks Canada and the Parish of St. Paul's on the agreement.

COMMUNITY ENGAGEMENT

The Heritage Property Act provides an appeal of Council's decision to the Nova Scotia Utility and Review Board when entering into, or waiving/discharging a right or condition in, a heritage agreement. This level of community engagement is consistent with the intent of the HRM Community Engagement Strategy.

ALTERNATIVES

1. Council could choose to provide funding for the project directly to the Church so that they may directly undertake the restoration project. The Church would then be responsible to enter into a contribution agreement with the federal government, subject to agreement by the federal government. This is not the recommended action. HRM has a long, proven record of undertaking substantial restoration projects on National Historic Sites and, as project manager for the restoration project, can ensure a high-quality project and protection for the abutting HRM sidewalk asset.
2. Council could refuse to provide the financial assistance. However, this is not the recommended action. The Church does not have the financial capacity to undertake the restoration project. Without matching funds from HRM, the federal money would not be available to the Church.

ATTACHMENTS

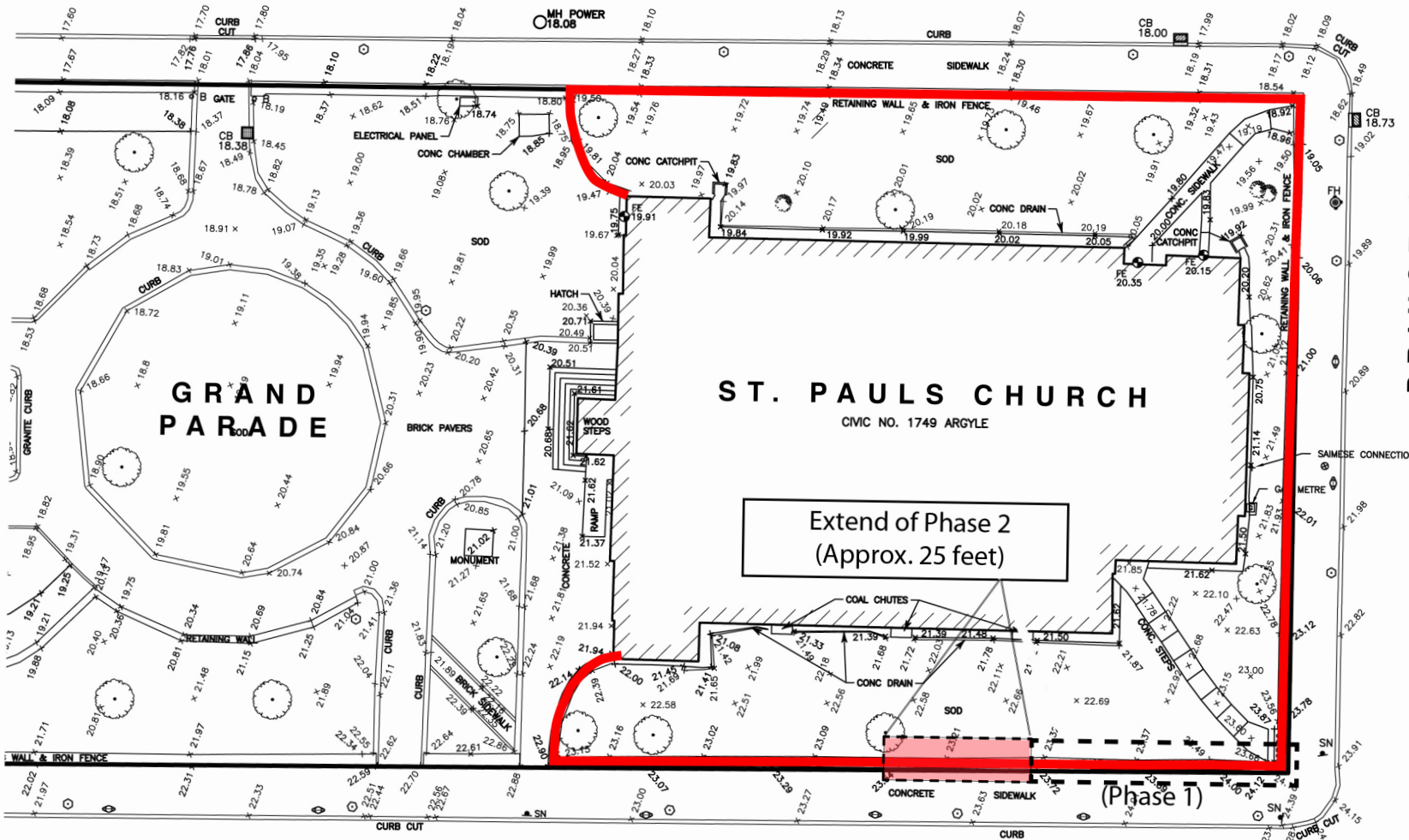
Map 1: Location Map
Attachment A: Heritage Agreement
Attachment B: Letter of request from the Parish of St. Paul's Church
Attachment C: Photographs of the Church walls

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: Aaron Murnaghan, Principal Planner, Heritage, Planning & Development, 902-292-2470
John MacPherson, Manager, Corporate Facility Design & Construction, 902-209-0763



BARRINTON ST.



PRINCE ST.

ARGYLE ST.



ST PAUL'S ANGLICAN CHURCH
NATIONAL HISTORIC SITE OF CANADA

AUGUST 27, 2018



Form 24

Purpose: to change the registered interest, benefits or burdens

(Instrument code: 450)

(If change(s) requested relate(s) to one or more of the following and no other interests are being added or removed on this form: manner of tenure, description of manner of tenure, non-resident status, parcel access or NSFLB occupant. Note: This form cannot be used to correct an error in a parcel register).

(Instrument code: 451)

(Change to existing servient or dominant tenement PID number in a parcel register as a result of subdivision or consolidation. Note: This form cannot be used to correct an error in a parcel register)

For Office Use

Registration district: Halifax
 Submitter's user number: 14231
 Submitter's name: [REDACTED]

HALIFAX COUNTY LAND REGISTRATION OFFICE
 certify that this document was registered or recorded
 as shown here.
 Kim MacKay, Registrar
111819034
 Document #
NOV 30 2017
 MM DD YYYY
 LRI/ROD
 15:29
 Time [REDACTED]

In the matter of Parcel Identification Number (PID)

| | |
|-----|----------|
| PID | 00002790 |
| PID | |

(Expand box for additional PIDs, maximum 9 PIDs per form)

The following additional forms are being submitted simultaneously with this form and relate to the attached document (check appropriate boxes, if applicable):

- Form 24(s)
- Form 8A(s)

Additional information (check appropriate boxes, if applicable):

- This Form 24 creates or is part of a subdivision or consolidation.
- This Form 24 is a municipal or provincial street or road transfer.
- This Form 24 is adding a corresponding benefit or burden as a result of an AFR of another parcel.
- This Form 24 is adding a benefit or burden where the corresponding benefit/burden in the "flip-side" parcel is already identified in the LR parcel register and no further forms are required.

Power of attorney (Note: completion of this section is mandatory)

- The attached document is signed by attorney for a person under a power of attorney, and the power of attorney is:
 - recorded in the attorney roll
 - recorded in the parcel register
 - incorporated in the document

OR

- No power of attorney applies to this document

May 4, 2009

This form is submitted to make the changes to the registered interests, or benefits or burdens, and other related information, in the above-noted parcel register(s), as set out below.

The registered interests and related information are to be changed as follows:

| | |
|--|--|
| Instrument type | |
| Interest holder and type to be removed (if applicable) | |
| Interest holder and type to be added (if applicable) <i>Note: include qualifier (e.g., estate of, executor, trustee, personal representative) if applicable</i> | |
| Mailing address of interest holder to be added (if applicable) | |
| Manner of tenure to be removed (if applicable) | |
| Manner of tenure to be added (if applicable) | |
| Description of mixture of tenants in common and joint tenancy (if applicable) | |
| Access type to be removed (if applicable) | |
| Access type to be added (if applicable) | |
| Percentage or share of interest held (for use with tenant in common interests) | |
| Non-resident (to qualified solicitor's information and belief) (Yes/No?) | |
| Reference to related instrument in parcel register (if applicable) | |
| Reason for removal of interest (for use only when interest is being removed by operation of law and no document is attached) <i>Instrument code: 443</i> | |

The following tenant in common interests that appear in the section of the parcel register(s) labelled "Tenants in Common not registered pursuant to the *Land Registration Act*" are to be removed because the interests are being registered (*insert names to be removed*):

May 4, 2009

I have searched the judgment roll with respect to this revision of the registered interest and have determined that it is appropriate to add the following judgment(s) or judgment-related documents to the parcel register, in accordance with the *Land Registration Act* and *Land Registration Administration Regulations*:

| | |
|--|--|
| Instrument type | |
| Interest holder name and type to be added | |
| Interest holder mailing address | |
| Judgment Roll reference | |

The following benefits are to be added and/or removed in the parcel register(s):
(Note: An amending PDCA is required if the changes being made to the benefit section are not currently reflected in the description in the parcel register).

| | |
|---|--|
| Instrument type | |
| Interest holder and type to be removed (if applicable) | |
| Interest holder and type to be added (if applicable) <i>Note: include qualifier (e.g., estate of, executor, trustee, personal representative) (if applicable)</i> | |
| Mailing address of interest holder to be added (if applicable) | |
| Servient tenement parcel(s) (list all affected PIDs): | |
| Reference to related instrument in names-based roll/parcel register (if applicable) | |
| Reason for removal of interest (for use only when interest is being removed by operation of law) Instrument code: 443 | |

The following burdens are to be added and/or removed in the parcel register(s):
(Note: An amending PDCA is required if the changes being made to the burden section are not currently reflected in the description in the parcel register).

| | |
|---|--|
| Instrument type | |
| Interest holder and type to be removed (if applicable) | |
| Interest holder and type to be added (if applicable) <i>Note: include qualifier (e.g., estate of, executor, trustee, personal representative) (if applicable)</i> | |
| Mailing address of interest holder to be added (if applicable) | |
| Reference to related instrument in names-based roll/parcel register (if applicable) | |

May 4, 2009

| | |
|--|--|
| Reason for removal of interest (for use only when interest is being removed by operation of law) Instrument code: 443 | |
|--|--|

The following recorded interests are to be added and/or removed in the parcel register:

| | |
|---|---|
| Instrument type | AGREEMENT |
| Interest holder and type to be removed (if applicable) | N/A |
| Interest holder and type to be added (if applicable) <i>Note: include qualifier (e.g., estate of, executor, trustee, personal representative) (if applicable)</i> | Halifax Regional Municipality Party to Agreement |
| Mailing address of interest holder to be added (if applicable) | PO Box 1749, Halifax, NS B3J 3A5 |
| Reference to related instrument in names-based roll/parcel register (if applicable) | N/A |
| Reason for removal of interest (for use only when interest is being removed by operation of law) Instrument code: 443 | N/A |

The textual qualifications are to be changed as follows:

| | |
|---|--|
| Textual qualification on title to be removed (insert any existing textual description being changed, added to or altered in any way) | |
| Textual qualification on title to be added (insert replacement textual qualification) | |

| | |
|---|--|
| Reason for change to textual qualification (for use only when no document is attached) Instrument code: 838 | |
|---|--|

The following information about the occupier of the parcel, which is owned by the Nova Scotia Farm Loan Board, is to be changed:

| | |
|---|--|
| Name and mailing address of occupier to be removed | |
| Name and mailing address of occupier to be added | |

May 4, 2009

Certificate of Legal Effect:

I certify that, in my professional opinion, it is appropriate to make the changes to the parcel register(s) as instructed on this form.

Dated at Dartmouth, in the County of Halifax, Province of Nova Scotia, on
November 30, 2017.

[Redacted Signature]

Signature of authorized lawyer

Name: [Redacted]

Address: [Redacted]

Phone: [Redacted]

E-mail: [Redacted]

Fax: [Redacted]

- This document also affects non-land registration parcels. The original will be registered under the *Registry Act* and a certified true copy for recording under the *Land Registration Act* is attached.

May 4, 2009

THIS AGREEMENT made this 29 day of November, 2017

BETWEEN:

Approved as to Form
and Authority
Solicitor

PARISH OF ST. PAUL'S (HALIFAX)
(hereinafter called the "Owner")

OF THE FIRST PART

- and -

HALIFAX REGIONAL MUNICIPALITY a
municipal body corporate,
(hereinafter called the "Municipality")

OF THE SECOND PART

WHEREAS the Owner is the registered owner of a lot of land located in the Halifax Regional Municipality at civic number 1749 Argyle Street, Halifax, represented by PID 00002790, including St. Paul's Church (hereinafter called the "Property"), more fully and particularly described in Schedule "A" attached hereto;

AND WHEREAS the Property is a municipal heritage property, registered in the Halifax Regional Municipality Registry of Heritage Property pursuant to the Nova Scotia *Heritage Property Act*, R.S.N.S. 1989, c. 199, and Halifax Regional Municipality Bylaw H-200, the Heritage Property Bylaw;

AND WHEREAS the Property is located in the Barrington Street Heritage Conservation District, which is established pursuant to the Nova Scotia *Heritage Property Act*, R.S.N.S. 1989, c. 199, and Halifax Regional Municipality Bylaw H-500, the Heritage Conservation District (Barrington Street) Bylaw;

AND WHEREAS the Property is a provincial heritage property, registered in the Province of Nova Scotia Provincial Registry of Heritage Property pursuant to the Nova Scotia *Heritage Property Act*, R.S.N.S. 1989, c. 199;

AND WHEREAS the Property is a National Historic Site of Canada pursuant to the *Historic Sites and Monuments Act*, R.S.C. 1985, c. H-4;

AND WHEREAS Section 17 of the *Heritage Property Act* states that municipal heritage property shall not be substantially altered in exterior appearance or demolished without the approval of the Municipality;

AND WHEREAS pursuant to section 22 of the *Heritage Property Act* the Municipality may provide financial assistance to owners of municipal heritage properties or properties located in a heritage conservation district upon such terms and conditions as the council deems fit;

AND WHEREAS pursuant to section 20 of the *Heritage Property Act* the Council of the Municipality may enter into Agreements with the owner of a registered municipal heritage property or properties located in a heritage conservation district whereby the owner grants to the Council of the Municipality a right or incurs an obligation respecting the use, preservation or protection of the heritage property or property located in a heritage conservation district;

AND WHEREAS the Owner has requested financial assistance from for the Property from the Municipality;

AND WHEREAS the parties involved recognize the historical and cultural significance of the Property and St. Paul's Church to the Municipality, the Province, and the Country of Canada;

AND WHEREAS the parties involved recognize the necessity of the restoration of the 1843 ironstone and cast iron perimeter wall and fence surrounding the Property as shown in red on the drawing prepared by Dumaresq Architect Ltd. and attached at Schedule "B" hereto;

AND WHEREAS by resolution of Council dated September 19, 2017, the Municipality approved a request from the Owner for financial assistance for the restoration of a portion of the 1843 ironstone and cast iron perimeter wall and fence in the amount of five hundred thousand dollars (\$500,000.00), with a net municipal project cost of two hundred fifty thousand dollars (\$250,000.00) subject to the execution of a Heritage Agreement with the Owner, and a Contribution Agreement between the Municipality and the Government of Canada.

NOW THEREFORE THIS AGREEMENT WITNESSETH THAT in consideration of the sum of One Dollar (\$1.00) of lawful money of Canada now paid by the Municipality to the Owner (the receipt and sufficiency of which is hereby acknowledged), and for other good and valuable consideration, the Owner and the Municipality agree to the following terms and conditions:

Restoration Project

1. The parties agree that the portion of the stone and cast iron wall located on the perimeter of the Property, on Argyle Street, as identified by the dotted line on the perimeter wall as shown on Schedule "B" hereto (hereinafter called the "Perimeter Wall"), is to be restored.
 2. The terms and conditions of the restoration are as follows:
 - (a) The details of the Restoration Project to be undertaken to restore the Perimeter Wall is as set out in Schedule "C" (hereinafter the "Restoration Project").
 - (b) The Municipality will provide in kind financial assistance to the Owner for this Restoration Project, of a value up to but not exceeding five hundred thousand dollars (\$500,000.00), with a net municipal project cost of a value up to but not exceeding two hundred fifty thousand dollars (\$250,000.00), subject to the execution of a Contribution Agreement between the Municipality and the Government of Canada for the remaining two hundred fifty thousand dollars (\$250,000.00).
-

- (c) The Municipality will be responsible for the delivery of the Restoration Project.
 - (d) The parties agree to cooperate with each other on any applications to programs identified by either the Owner or the Municipality as potential sources of additional funding for the Restoration Project.
 - (e) The parties agree that any additional funding obtained for the Restoration Project, whether from public or private sources, shall be assigned to the Municipality to expand the scope of the Restoration Project.
3. The Owner hereby grants to the Municipality, its heirs and assigns, servants and agents, a Temporary Construction Easement over the lands described in Schedule "A", excepting the St. Paul's Church building, for the purpose of ingress and egress of vehicular and pedestrian traffic, excavation, installation, construction, removal, revision, alteration, maintenance, inspection and any other items as required by the Municipality, its assigns, servants or agents that are deemed appropriate for the Restoration Project, including generally to do all acts necessary or incidental to the Restoration Project.
- (a) The Municipality will indemnify and hold harmless the Owner from all liabilities, damages, claims, suits and actions arising out of its activities within the easement, other than liabilities, damages, claims, suits and actions resulting from the negligence of the Owner.
4. Should the cost of the Restoration Project exceed the amount approved by Halifax Regional Council by resolution dated September 19, 2017, and set out in clause 2(b) of this Agreement, the scope of the project may be reduced or additional funding may be requested by the Owner, and such request shall be considered by Regional Council in its sole discretion. Should additional funding not be approved, the Restoration Project shall be considered complete, and the Municipality's obligations under clause 2(c) complete. The Municipality shall ensure that the Restoration Project is left in a safe and secure condition.

Owner's use of the Property

5. The Owner agrees that following the completion of the Restoration Project, it will expand public access during daylight hours to the gardens within the churchyard bounded by the Perimeter Wall.
6. The Owner, for itself, its successors and assigns, agrees that it shall, at all times, maintain the Perimeter Wall in as good and sound a state of repair as a prudent owner would normally do, to ensure that no deterioration of the basic structural elements, external condition or appearance of the Perimeter Wall shall take place.
- (a) The Municipality may assess the Perimeter Wall from time to time for the purpose of determining compliance with the terms and conditions of this Agreement, and may require the Owner to make any repairs or restoration of the Perimeter Wall for the purpose of conforming to this provision.
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7. The Owner shall, at all times, keep the Property, including the Perimeter Wall and St. Paul's Church, insured against normal perils that are coverable on an all risk policy basis, including fire, in an amount equal to its replacement cost. The Owner shall provide evidence of insurance, completed and certified by its insurance company and deliver to the Municipality on execution of this Agreement, and thereafter evidence satisfactory to the Municipality of the renewal of insurance shall be delivered to the Municipality from time to time upon request by the Municipality.
8. The Owner covenants and agrees that it shall not make application to demolish, nor shall it demolish, the Property, including the Perimeter Wall and St. Paul's Church located on the Property described in Schedule "A" attached hereto, or alter its exterior appearance in any manner without the written consent of the Halifax Regional Municipality. The Owner further expressly waives any rights it may have under Section 18 of the said *Heritage Property Act* to make any alteration or carry out demolition as provided therein.

Right of First Refusal

9. The Owner grants to the Municipality a right of first refusal on any sale of the Property as shown in Schedule "A", which includes St. Paul's Church, and covenants and agrees with the Municipality as follows:
 - (a) Where the Owner receives a bona fide offer to purchase the Property shown in Schedule "A", or any part thereof, (hereinafter referred to as the "Purchase Offer") which it is prepared to accept, before accepting the Purchase Offer, the Owner shall provide written notice to the Municipality offering to sell the Property to the Municipality for the price set out in the Purchase Offer and on the other terms and conditions contained in the Purchase Offer, providing a copy of the Purchase Offer and indicating that the Purchase Offer is acceptable to the Owner.
 - (b) If the Municipality desires to purchase the Property, it shall, within sixty (60) days after receipt of the Purchase Offer, give written notice (the "Notice of Acceptance") to the Owner of such desire to purchase on the terms and conditions set out in the Purchase Offer.
 - (c) If the Municipality delivers a Notice of Acceptance within the time period set forth in clause (b) above, the Owner shall be bound to sell, and the Municipality shall be bound to purchase, the Property in accordance with the terms set forth in the Purchase Offer.
 - (d) If the Owner does not receive a Notice of Acceptance within the time period set forth in clause (b) above, the Owner shall be at liberty to accept the Purchase Offer and sell the Property in accordance with the terms and conditions thereof. If the Purchase Offer is not complete by the Owner within 180 days following the delivery of the Purchase Offer to the Municipality, the Seller shall not complete any sale, transfer or conveyance of the Property without again complying with the provisions of this Agreement.
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- (e) Notwithstanding the foregoing, the Owner may convey the Property or any part thereof to any entity governed by the *Anglican Church Act*, S.N.S. 1967, c. 130, without complying with this provision, provided that the transferee shall continue to be bound by this Agreement in its entirety, including the provisions of this clause 9.
 - (f) The conveyance of the Property or any part thereof by the Owner is subject to the consent of the Bishop of Nova Scotia and Prince Edward Island.
10. This right of first refusal shall terminate and be of no further force and effect on the date where, in accordance with this Agreement, the Property, or part thereof, is transferred to a third party, but only in respect of that portion of the Property transferred to the third party.

General

11. The Owner and the Municipality agree that all covenants, warranties and conditions contained in this Agreement shall be severable, and that should any covenant, warranty or condition in this Agreement be declared invalid or unenforceable, the remaining covenants, warranties and conditions shall not terminate thereby.
12. Any notices which may be given under the provisions of this Agreement shall be sufficiently given if mailed by registered, or certified, mail postage prepaid:

- (a) in the case of the Municipality, addressed to:

Municipal Clerk
P.O. Box 1749
Halifax, Nova Scotia
B3J3A5

- (b) in the case of the Owner, addressed to:

The Parish of St. Paul's Church
1749 Argyle Street,
Halifax, Nova Scotia
B3J 3K4

or to such other address as either party may notify the other in writing and shall be deemed to be received on the second business day following which the notice was sent.

13. The failure of the Municipality at any time to require performance by the Owner of any obligation under this Agreement shall in no way affect its right thereafter to enforce such obligation, nor shall the waiver by the Municipality of performance of any obligation hereunder be taken or be held to be a waiver of performance of the same or any other obligation hereunder at any later time.
-

14. The Municipality acknowledges that the Owner or a subsequent owner may, from time to time, apply to the Municipality to have this Agreement or any provision hereof altered or waived as many be reasonable in the circumstances, and the Municipality shall give reasonable consideration to such application.
15. The parties herein agree that the Owner shall record this Agreement in the Land Registration Office in and for the Municipality of the County of Halifax, and it shall remain in full force and effect until discharged by the Municipality.
16. It is expressly understood that pursuant to and in accordance with section 20 of the *Heritage Property Act*, this Agreement shall be registered on title to the Property and that the rights granted by the Owner to the Municipality herein, and the obligations incurred by the Owner herein, shall bind the Owner and subsequent owners and successors in title to the Owner and may be enforced by the Municipality against the Property and against the Owner or any subsequent owners of the Property.
17. This Agreement enures to the benefit of, and binds the parties and their respective executors, administrators, successors and assigns.
18. This Agreement shall be governed by the laws of the Province of Nova Scotia.

IN WITNESS WHEREOF each of the parties hereto have caused this Agreement to be executed by its duly authorized officers on its behalf on the day and year first above written.

SIGNED, SEALED AND DELIVERED
in the presence of:

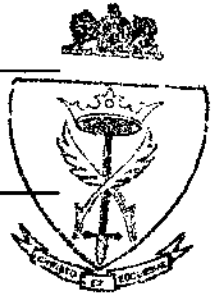
Witness

Witness

PARISH OF ST. PAUL'S

Per: _____
RECTOR

Per: _____
SENIOR WARDEN



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

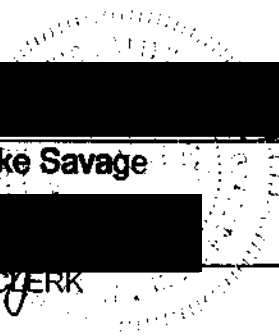
Witness

Witness

HALIFAX REGIONAL MUNICIPALITY

Per: _____
MAYOR **Mike Savage**

Per: _____
MUNICIPAL CLERK



PROVINCE OF NOVA SCOTIA
COUNTY OF HALIFAX

On this 19 day of November A.D. 20 17, before me, the subscriber personally came and appeared John Matthew Newton a subscribing witness to the foregoing indenture who having been by me duly sworn, made oath and said that Dr. Peter Paul Friesen, Peter Seard of the parties thereto, signed, sealed and delivered the same in his/her presence.


A Commissioner of the Supreme Court of Nova Scotia

A Barrister of the Supreme Court of Nova Scotia

Shelley Hounsell-Lavery

PROVINCE OF NOVA SCOTIA
COUNTY OF HALIFAX

On this 24th day of November A.D. 20 17, before me, the subscriber personally came and appeared Ken Benoit and Sena Ghose 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

PHOEBE RAI
A Commissioner of the
Supreme Court of Nova Scotia

Schedule A

St. Paul's Anglican Church, 1749 Halifax, Nova Scotia PID: 00002790

Parcel Description

All that certain lot or piece of land situate in the Town of Halifax which is abutted and bounded as follows, to wit:

On the east by Barrington Street there running 180 feet;

On the south by Prince Street and there running 158 feet;

On the west by Argyle Street and there running 188 feet;

On the north by the present parade and there measuring 158 feet more or less containing one-half of an acre and 34 rods of land according to the plan annexed.

Subject to the notice of Heritage Property recorded on July 11, 1983 in Book 3719 at Page 600 as Document no. 35791.

Being the same land granted by Crown Grant from King George the Third to the Reverend Robert Stanson et al, dated the 2 day of September, 1799, recorded in Old Book 21 at Page 52 of the records of the Crown Lands Office for the Province of Nova Scotia on September 2, 1799.

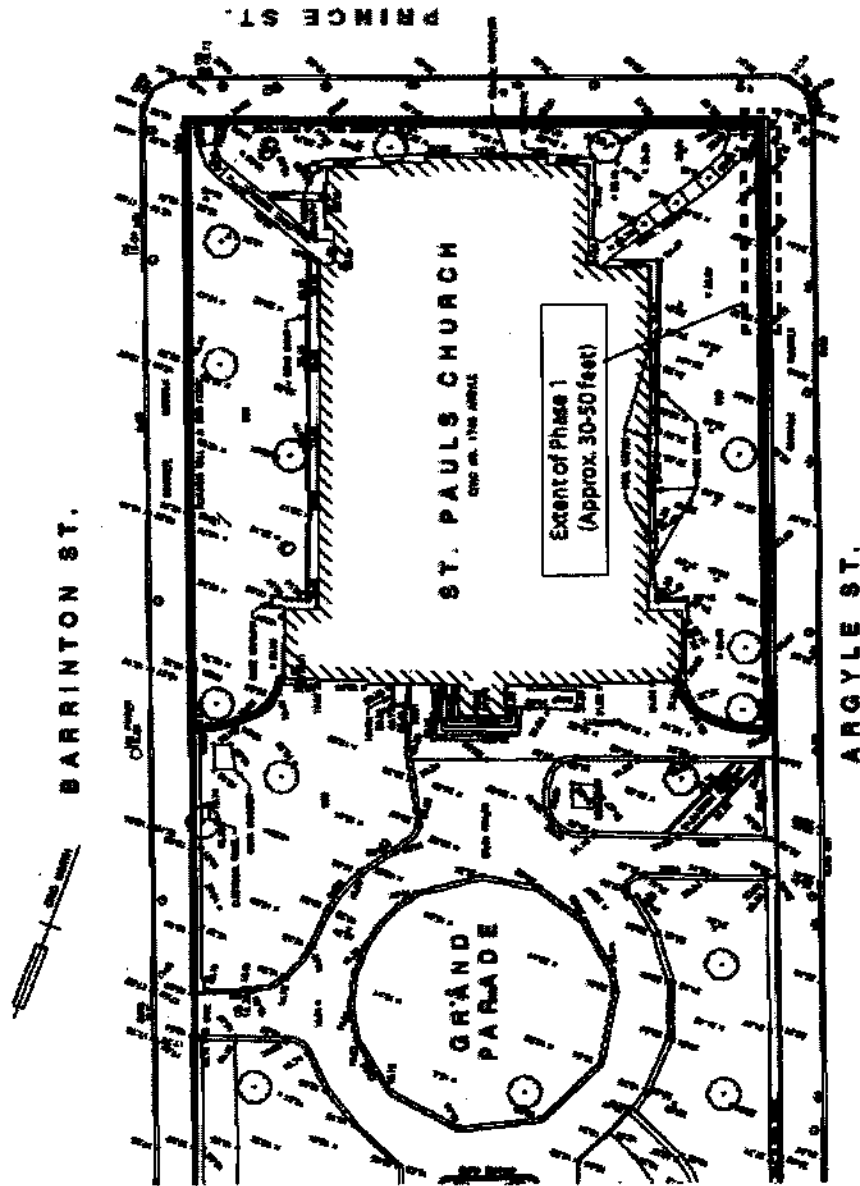
The parcel is exempt from the requirement for subdivision approval under the Municipal Government Act because it predates the requirement for subdivision approval.

Textual Qualifications on Title

Qualifications Text

THE ENABLING INSTRUMENT IS A CROWN GRANT DATED SEPTEMBER 2, 1799, RECORDED AT THE CROWN LANDS RECORD OFFICE ON SEPTEMBER 2, 1799 IN OLD BOOK 21 AT PAGE 52. THE GRANT IS NOT RECORDED AT THE REGISTRY OFFICE FOR THE REGISTRATION DISTRICT OF HALIFAX. THE CROWN GRANT WAS MADE TO THE REVEREND ROBERT STANSON AND OTHERS AS THE RECTOR CHURCH WARDENS AND VESTRY MEN OF THE SAID PARISH OF ST. PAULS, WHICH BY VIRTUE OF THE ANGLICAN CHURCH ACT IS NOW KNOWN AS THE PARISH OF ST. PAUL'S CHURCH, HALIFAX.

Schedule B



ST PAUL'S ANGLICAN CHURCH
NATIONAL HISTORIC SITE OF CANADA
JULY 31, 2017

HALIFAX

Schedule C

Scope of the Restoration Project

Restoration Project Description

The St. Paul's Anglican Church's historical perimeter boundary ironstone wall and cast iron fence has fallen in disrepair due to the exposure of time, weather and street and sidewalk maintenance. Portions of the wall have shown significant signs of deterioration and partial collapse. It is critical the ironstone wall and fencing receive immediate stabilization actions to prevent further deterioration which could pose a hazard. HRM intends to undertake the Restoration Project to repair and restore a portion (estimated 50 feet, actual length dependent on budget) of the ironstone wall and cast iron fencing located along the Argyle Street side starting at the corner of Argyle Street and Prince Street running north as identified by the dotted line on the perimeter wall as shown on Schedule B hereto.

HRM shall act as the project manager for the Restoration Project, and manage the consultants and construction process. The Restoration Project consists of the following Scope of Work:

1. Engage a restoration architect experienced in conservation projects to research, design and administer the restoration and conservation of a portion of the ironstone wall and cast iron fence as noted above. The architect will complete a wall design that replicates the existing. The architect will prepare tender/contract documents and provide contract administration for the construction.
2. Engage an archaeological consultant to monitor and observe the excavation of an exploratory trench, ensuring that the excavation proceeds with sufficient care to allow observation and identification of potentially significant archaeological resources; the work will include the application for a Heritage Research Permit, background research of the site, archaeological monitoring and a report. The same consultant will be engaged to provide on going archaeological monitoring of the excavation and wall restoration during construction and provide a final report.
3. Complete an exploratory trench by excavation of the existing wall's foundation within the proposed section of the wall area noted above. The purpose of the exploratory work is to investigate the existing conditions of the wall's foundation. The information is critical for the architect to design the new wall's foundation and possibly drainage system if required.
4. HRM to issue tender document for the repair and restoration of the ironstone wall to be completed by March 31, 2018.

The restored wall will match the existing by using the existing wall materials (ironstone and cast iron cap and fence) where applicable and if replacement material is required it will be of a standard consistent with a building of this historic significance with an emphasis on conservation. The restoration will be conducted in accordance with *Standards and Guidelines for the Conservation of Historic Places in Canada*, 2nd Edition, and the *Special Places Protection Act*, R.S.N.S. 1989, c. 438.

The work will entail the repair and restoration of the ironstone wall which will include the full or partial dismantlement of the wall. The restoration will include a new adequate foundation and drainage system which will have a stabilizing effect and make future conservation and preventive maintenance more efficient and manageable. All attempts will be made to retain, stabilize and re-use the original ironstones. A suitable method of securing the metal cap and iron fence, compatible with the original design.



St Paul's Church

1749 Argyle Street, Halifax, Nova Scotia B3J 3K4

Telephone: (902) 429-2240

Facsimile: (902) 429-8230

E-mail: office@stpaulshalifax.org

June 10, 2016

To Whom it may concern,

The Rector and Wardens of the corporation of St. Paul's Anglican Church, Halifax, Nova Scotia hereby authorise the City of Halifax to act as an agent on behalf of the church for the purposes of applying to Parks Canada for project funding to support the Heritage Agreement initiative undertaken between the City and St. Paul's. This Heritage Agreement is specifically to restore the stone walls and fence structures surrounding the church building that form an integral part of the historic Grand Parade area of Halifax City.

Sincerely,

Dr. Peter Secord, FCPA
Senior Warden

The Rev'd Dr. Paul Friesen
Rector

ATTACHMENT C – PHOTOGRAPHS OF THE CHURCH WALLS

The following are before and after photographs of the restoration of the ironstone and cast-iron perimeter wall and fence at St. Paul's Anglican Church National Historic Site:



Photo A

Before photo of wall at corner of Argyle and Prince Street.



Photo B

After photo of wall at corner of Argyle and Prince Street.



Photo C

Before photo of wall along Argyle Street.



Photo D

After photo of wall along Argyle Street.