

HALIFAX

P.O. Box 1749
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Item No. 6.1

Halifax Regional Council
July 7, 2020

TO: Mayor Savage and Members of Halifax Regional Council

SUBMITTED BY: Original Signed by 
Jacques Dubé, Chief Administrative Officer

DATE: June 2, 2020

SUBJECT: YMCA – Request to amend Contribution Agreement

ORIGIN

March 27, 2018 Motion of Halifax Regional Council:

THAT Halifax Regional Council direct staff to provide a staff report to consider the YMCA of Greater Halifax/Dartmouth request for funding, in the amount of \$1,500,000, towards the new John W. Lindsay YMCA as outlined in the presentation to the Audit & Finance Standing Committee meeting of February 21, 2018.

December 11, 2018 Motion of Halifax Regional Council:

THAT Halifax Regional Council:

1. Refer a one-time capital contribution in the amount of \$1,000,000 to the YMCA of Greater Halifax/Dartmouth towards the purchase of a replacement YMCA facility located at the intersection of South Park and Sackville Street, Halifax, for consideration in the 2019-2020 budget deliberations during the Budget Adjustment List (BAL) review; and
2. Subject to Council's decision as applicable, Authorize the Chief Administrative Officer to negotiate, enter into an execute a Contribution Agreement on behalf of the Municipality with the YMCA of Greater Halifax/Dartmouth based on the terms and conditions outlined in Table 1 of the staff report dated June 18, 2018, in addition authorize staff to further negotiate on the following:
 - a) Programming collaboration
 - b) Meeting space access
 - c) Negotiate a Service agreement to better identify Public benefit/community collaboration
3. Direct staff to obtain further clarification on the stated "childcare services" from the staff report dated November 10, 2011.

February 28, 2019 Motion of Budget Committee:

THAT the Budget Committee direct staff to prepare the 2019/2020 budget with the addition of \$1,000,000 for a one-time capital contribution to the YMCA of Greater Halifax/Dartmouth for the purchase of a replacement YMCA facility.

Letter dated April 30, 2020 from the YMCA of Greater Halifax/Dartmouth requesting an amendment to the Contribution Agreement terms and conditions directed by Council.

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LEGISLATIVE AUTHORITY

Halifax Regional Municipality Charter (“HRM Charter”), S.N.S. 2008, c.39

7A The purposes of the Municipality are to

- (a) provide good government;
- (b) provide services, facilities and other things that, in the opinion of the Council, are necessary or desirable for all or part of the Municipality; and
- (c) develop and maintain safe and viable communities.

79A (1) Subject to subsections (2) to (4), the Municipality may only spend money for municipal purposes if

- (a) the expenditure is included in the Municipality’s operating budget or capital budget or is otherwise authorized by the Municipality;
- (b) the expenditure is in respect of an emergency under the Emergency Management Act; or
- (c) the expenditure is legally required to be paid.

RECOMMENDATION

It is recommended that Halifax Regional Council:

1. Rescind the Contribution Agreement terms and conditions outlined in Table 1 of the staff report dated June 18, 2018 and incorporated by reference in part 2 of the motion passed for item 14.2.3 from the December 11, 2018 meeting of Halifax Regional Council; and
2. Authorize the Chief Administrative Officer to negotiate, enter into and execute the Contribution Agreement on behalf of the Municipality with the YMCA of Greater Halifax/Dartmouth based on the terms and conditions outlined in Table A of the staff report dated June 2, 2020.

A motion of rescission shall be passed by a vote of two-thirds (2/3 rds) of the Members present and voting.

BACKGROUND

This report originated with a letter dated April 30, 2020 from the YMCA of Greater Halifax/Dartmouth requesting an amendment to the Contribution Agreement terms and conditions that were directed by Council when it approved a contribution to the John W. Lindsay YMCA (Attachment 1).

On December 11, 2018 Regional Council referred a one-time capital contribution in the amount of \$1,000,000 to the YMCA of Greater Halifax/Dartmouth towards the purchase of a replacement YMCA facility, for consideration in the 2019-2020 budget deliberations; and subject to Council’s decision as applicable, authorized the Chief Administrative Officer to negotiate, enter into an execute a Contribution Agreement on behalf of the Municipality with the YMCA of Greater Halifax/Dartmouth based on the terms and conditions outlined in Table 1 of the staff report dated June 18, 2018.

Table 1 included a requirement that HRM’s contribution would be contingent upon the execution of a signed Contribution Agreement, the completion of construction of the YMCA facility, YMCA’s ownership of the facility (as evidenced by the registration of the YMCA’s condominium interest) and possession of the facility by the YMCA. Table 1 also required that payment of the contribution be on or after closing of the acquisition of the facility by the YMCA. During the Budget Adjustment List (BAL) review in December 2018, Regional Council incorporated additional terms to the original list of terms and conditions which were also added to Table 1.

DISCUSSION

The YMCA of Greater Halifax/Dartmouth is requesting an amendment to the contribution agreement terms and conditions that would allow the dedicated funds to be released prior to the registration of the YMCA’s condominium interest in the property, which may not occur until well after the substantial completion of the facility and its occupation by the YMCA. Therefore, it is proposed to change the term to a milestone related to the completion of the facility, rather than the condominium registration which will happen at a later date.

To enable that change, Table A now proposes that the Municipality’s contribution to the YMCA be contingent on the execution of a signed Contribution Agreement, the substantial completion of construction of the YMCA facility and the issuance of the occupancy permit for the YMCA facility. Table A also clarifies the public benefits secured through the agreement consistent with Council’s December 2018 direction and maintains other previously approved requirements, including that funding shall be used by the YMCA solely for the acquisition of the facility and shall be contingent on Regional Council’s approval of the expenditure in the applicable fiscal year budget process.

Table A – Contribution Agreement: Key Terms and Conditions

Table A. Contribution Agreement: Key Terms and Conditions
HRM’s contribution to the YMCA will be one million dollars (\$1,000,000.00), to be used by the YMCA of Greater Halifax/Dartmouth (“YMCA”) solely for the acquisition of the <i>John W. Lindsay YMCA</i> facility (the “Facility”) at South Park and Sackville Streets, Halifax*.
The contribution amount is a fixed contribution made directly to the YMCA, and HRM is not liable for any of the YMCA’s costs for the acquisition of the Facility, nor is it a guarantor of the YMCA or the Facility
The contribution amount represents HRM’s complete financial commitment to the YMCA for the acquisition of the Facility
The YMCA will indemnify HRM.
In acknowledgement of HRM’s contribution, the YMCA will provide the following <i>annual</i> public benefits to HRM, for a term of five (5) years from the date of the Facility’s opening: <ul style="list-style-type: none"> a. The YMCA will partner with HRM Recreation in a <i>Membership Access Lending Program</i> through the provision of 100 1-week passes per week x 52 weeks to the program that will provide access to Facility amenities (but not to YMCA registered programming) b. The YMCA shall host two (2) non-recurring <i>Open House</i> events (each event is for one week) c. The YMCA shall host a free <i>Youth Night</i> one day per month x 12 months; d. The YMCA shall host a free <i>Seniors’ Day</i> one day per month x 12 months; e. An annual account to HRM Recreation of the number of YMCA membership discounts provided by the YMCA, including the source of referrals. f. The YMCA shall provide an annual reporting to HRM Recreation with respect to the profile of <i>Membership Access Lending Program</i> participants including the source of referrals, participation rates for the Open House events, <i>Youth Night</i> and <i>Seniors’ Day</i>, and any related collaborative initiative undertaken under the auspices of this 5-year agreement. g. The YMCA shall provide access to facility meeting space including a 15-person board room and a community room at a below market/not-for-profit rate.
HRM’s contribution shall be contingent upon: <ul style="list-style-type: none"> a. the execution of a signed Contribution Agreement; b. the substantial completion of construction of the YMCA facility; and c. issuance of the occupancy permit for the YMCA facility
Funding shall be contingent on Regional Council’s approval of the expenditure in the applicable fiscal year budget process.

In return for HRM's contribution, the YMCA shall provide recognition commensurate with the level of investment at the *John W. Lindsay YMCA*.

HRM shall:

- a. Provide evidence-based data with respect to any identified programming gaps or capacity issues;
- b. Initiate referrals to YMCA youth programming opportunities;
- c. Promote referrals from non-profit community organizations; and
- d. Work with YMCA representation to foster communication and program/service coordination.

*Southwest Properties is constructing the facility and upon completion the YMCA will assume ownership through a condominium interest. As such, funds cannot be awarded to the YMCA for construction. Hence, funding is directed towards the acquisition of the facility (a capital purchase).

FINANCIAL IMPLICATIONS

Funding of \$1M was approved in the 2019/20 operating budget from Q421 – General Contingency Reserve. However, the recipient had not met the requirements for the contribution to be paid as of the end of 2019/20. As a result of this, the grant will be paid out from the reserve in the 2020/21 fiscal year.

RISK CONSIDERATION

There are no significant risks associated with the recommendations in this report. The risks considered rate Low.

To reach this conclusion, consideration was given to operational and financial risks. These are mitigated by the fact the contribution agreement is a legal contract that ensures the grant funding is used only for the purpose outlined by Regional Council to achieve the public benefits as outlined therein.

COMMUNITY ENGAGEMENT

Not applicable.

ENVIRONMENTAL IMPLICATIONS

None.

ALTERNATIVES

Alternative 1: Regional Council could choose not to approve the revised Contribution Agreement terms and conditions proposed in Table A and proceed with the previously approved Contribution Agreement terms and conditions.

ATTACHMENTS

Attachment 1: Letter of Request YMCA of Greater Halifax/Dartmouth

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: Angela Green, Manager Recreation Programming 902-293-8473



Attachment 1

YMCA of Greater Halifax/Dartmouth

5670 Spring Garden Road, Suite 306

Halifax, NS B3J 1H6

Phone: (902) 423-9709

www.ymcahfx.ca

Halifax Regional Municipality
Parks & Recreation
PO Box 1749
Halifax, NS B3J 3A5
Attn: Denise Schofield, Director of Parks & Recreation
schofid@halifax.ca

Thursday, April 30, 2020

Dear Ms. Schofield,

I trust this letter finds you well during these very challenging times. I would first like to thank you and your team for the work they have put into developing the Contribution Agreement for funding of the John W Lindsay YMCA, as well as the efforts to strengthen our working relationship around the opportunities for the delivery of health and recreation services to our community. We are excited to work more closely with you your team in the future as we open the new YMCA.

As you are aware these are unprecedented times and the YMCA, like HRM, is experiencing significant program and facility closures which include a variety of delays to the new YMCA project due to the COVID-19 pandemic. These unforeseen delays complicate our Contribution Agreement with HRM, particularly around the release of the dedicated funds to the YMCA. Our construction partner has identified that there will be further delay in registering the YMCA as a condominium.

The following clause in the contribution agreement outlines the challenge we face to receive the contribution by HRM, and we would like HRM to amend this clause and release the dedicated funds to the YMCA in advance of the condominium registry.

Contribution by HRM (3.1)

(ii) ownership of the Facility has been transferred to the YMCA, as evidenced by registration of YMCA's condominium interest in the Facility at the applicable Land Registration Office;

(iii) YMCA is possession of the Facility

The YMCA expects to take possession of the John W Lindsay YMCA from Southwest Properties upon substantial completion of the facility in the next 12-16 weeks, as indicated in the latest construction schedule. We are requesting that achieving substantial completion become the



trigger for release of HRM's contribution. This change would provide much needed funds to support the YMCA to begin to operate as soon as possible, under the guidance from Public Health and are own National operational standards, after receiving possession of the facility.

We appreciate your consideration in amending the agreement and our valued partnership in opening the new centre through these challenging times. Please feel free to contact me if you have any further questions about the project or our request.

Best regards,



Brian Posavad
President and CEO
YMCA of Greater Halifax/Dartmouth