

HALIFAX

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Item No. 11.1.13
Halifax Regional Council
September 1, 2020

TO: Mayor Savage and Members of Halifax Regional Council

SUBMITTED BY:

Original Signed by 

Jacques Dubé, Chief Administrative Officer

DATE: June 4, 2020

SUBJECT: Public Transportation Assistance Program Contribution Agreement 2020-21

ORIGIN

June 9, 2020 - Halifax Regional Council approval of 2020/21 Multi-year Halifax Transit Budget and Business Plan.

July 10, 2020 - Provincial announcement for 2020-21 funding under the Public Transportation Assistance Program.

LEGISLATIVE AUTHORITY

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

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

RECOMMENDATION

It is recommended that Halifax Regional Council authorize the Mayor and Municipal Clerk to sign the attached Contribution Agreement with the Minister of Communities, Culture and Heritage, to receive \$2,000,000 in funding under the Public Transportation Assistance Program for Capital Investments for Halifax Transit.

BACKGROUND

The Public Transportation Assistance Program (“PTAP”) is a provincial grants program developed as part of an action plan to expand and improve access to community transportation across the Province. Under the program, eligible municipalities and community organizations can apply to receive funding for capital investments that support the long-term sustainability of public transit services through enhancing existing community transit programs and assisting with new community transit initiatives. To be eligible, a municipality or community organization must be providing or plan to use the funding to provide fixed or fixed-flex transit route services within the Province. The funding may only be used for capital investments, rather than for off-setting the costs of operating transit services. However, funding received under the program may be placed in a capital reserve until it is required for approved capital purchases.

Since the program’s inception in 2014, the Province has been providing grant funding in the amount of \$2.9 million annually to seven (7) transit providers in the Province. These include Halifax Transit, Kings Transit, Transit Cape Breton, Strait Area Transit, Antigonish Community Transit Society, Town of Yarmouth Transit Service and Bridgewater Transit. PTAP is currently administered through the Department of Communities, Culture, and Heritage (“DCCH”) by way of contribution agreements with recipient transit providers.

Since 2014, HRM has submitted applications annually to receive PTAP funding for various capital projects undertaken by Halifax Transit. These applications have been approved on each occasion, with HRM receiving \$2 million in each year. Historically, these funds have been utilized for capital expenditures, often fleet asset purchases to ensure improved service delivery for residents.

Below is an overview of the capital projects that Halifax Transit has utilized PTAP funding for in past years:

- **2014-2015:** The construction of the Lacewood Transit Terminal;
- **2015-2016:** The procurement of Automated Vehicle Location (“AVL”) technology for the conventional fleet of buses;
- **2016-2017:** The purchase of nine (9) conventional buses with accessible low-floor service to replace MetroX buses at the end of their asset life cycle;
- **2017-2018:** The replacement of one (1) ferry vessel, with PTAP funding allocated to the design, construction fit out, and certification of the replacement ferry;
- **2018-2019:** The procurement of a variety of technology solutions designed to enhance transit service and increase the efficiency of the network. The multi-faceted project work included Para transit - Phase 1, Fixed Route Planning and development of the Fare Strategy and related technology; and
- **2019-2020:** The purchase of 12 additional buses as part of the Moving Forward Together Plan (“MFTP”).

DISCUSSION

For 2020-2021, HRM has again applied to receive PTAP funding to be utilized for the ongoing implementation of the MFTP. The MFTP is a multi-year project which implements a redesigned transit network across HRM. In 2020-2021, as part of year 5 of the MFTP, an additional five (5) buses will be added to the transit fleet utilizing the PTAP funding.

Contribution Agreement

On May 29, 2020, HRM’s application for PTAP funding for 2020-2021 was approved by the Minister of Communities, Culture, and Heritage. In accordance with the DCCH’s procedures, the attached Contribution Agreement was forwarded to HRM for execution.

The Contribution Agreement formalizes the Province's funding share for the approved capital projects submitted for 2020-2021 and establishes all terms and conditions. Under the agreement, HRM will again receive \$2,000,000 to undertake fleet expansion in accordance with Halifax Transit's ongoing implementation of the MFTP, as noted above. The term of the agreement expires on March 31, 2021.

FINANCIAL IMPLICATIONS

As HRM has received consistent PTAP funding annually since 2014, PTAP funds in the amount of \$2,000,000 were incorporated and accounted for in Halifax Transit's approved capital budget for 2020-2021.

RISK CONSIDERATION

There are no significant risks associated with the recommendation in this report as the noted funding does not require HRM to expend additional or unbudgeted funds related to this agreement.

COMMUNITY ENGAGEMENT

N/A.

ENVIRONMENTAL IMPLICATIONS

N/A.

ALTERNATIVES

Council could choose not to approve the Contribution Agreement. This is not recommended as the funds are required to balance the budget and will support capital projects for Halifax Transit. Declining the agreement would necessitate finding funds within the existing budget envelope, or not moving forward with the planned capital investments for Halifax Transit at this time.

ATTACHMENTS

Attachment A - Public Transit Assistance Program Contribution Agreement 2020-21

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: David Perusse, Intergovernmental Affairs Advisor, GREA, 902.490.7420

PUBLIC TRANSIT ASSISTANCE PROGRAM GRANT AGREEMENT,
effective as of April 1, 2020

BETWEEN:

HER MAJESTY THE QUEEN in right of the Province of Nova Scotia, as represented by the Minister of Communities, Culture and Heritage (the "Department")

- AND -

Halifax Regional Municipality (the "Recipient")

WHEREAS the Recipient aims to improve public transit in **Halifax Regional Municipality** ;

AND WHEREAS the Department has agreed to make a financial contribution to the Recipient through the Public Transit Assistance Program;

THEREFORE, the parties agree as follows:

1.0 PROJECT GRANT

- 1.1 The Recipient will undertake the project outlined in the attached **Schedule A – Project Description**, which forms part of this Agreement (the "Project").
- 1.2 The Recipient shall not alter the scope of the Project without prior written approval of the Province. All requests for changes to Schedule A must be requested in writing by the Recipient, and responded to in writing by the Department. The Department may refuse to approve changes for any reason.
- 1.3 Unless the parties otherwise arrange, the Recipient shall supply and pay for all labour, materials, facilities and approvals necessary or advisable in connection with the Project.

2.0 TERM

- 2.1 The term of this Agreement will commence as if this Agreement was fully executed on April 1, 2020, and shall be for a period of 1 year, expiring on March 31, 2021,

or on such earlier date as the Agreement may be terminated under section 4 (the "Term").

3.0 PAYMENT

- 3.1 The Department will make available, subject to the terms of this Agreement, a financial contribution **\$ 2,000,000** for the Project (the "Grant"), to be transferred to the Recipient within 30 business days of the execution of this Agreement
- 3.2 The Recipient shall use the Grant directly and solely for the Project as permitted by this Agreement and within the scope of Schedule A.
- 3.3 The Recipient shall not commit or purport to commit the Department to pay any money except as authorized by this Agreement. Any Project costs in excess of the Grant are the sole responsibility of the Recipient.
- 3.4 The Recipient agrees that it is financially liable for the appropriate expenditures and reporting of the Grant and without limiting the generality of the foregoing, spending the Grant in any manner other than the agreed upon may lead to legal action against the Recipient.

4.0 TERMINATION FOR DEFAULT

- 4.1 The following constitute "Events of Default":
 - (a) the Recipient is no longer able to complete the Project;
 - (b) the Recipient has made materially false or misleading declarations, representations or statements, or provided materially false or misleading information to the Department with respect to this Agreement; and
 - (c) the Recipient is in breach of the performance of, or compliance with, any terms, conditions or obligations on its part to be observed or performed pursuant to this Agreement.
- 4.2 If an Event of Default specified in subsection 4.1 has occurred and
 - (a) has not been remedied within 30 days of receipt by the Recipient of written notice of default or within such longer period as the Department may allow; or
 - (b) a plan satisfactory to the Department to remedy such Event of Default has not been put into place within such time period,

the Department may, in addition to any remedies otherwise available, immediately terminate the Agreement by written notice. Upon providing such notice of

termination, the Department shall have no obligation to make any further contribution to the Recipient.

4.3 In the event of a termination notice being given under subsection 4.2,

(i) the Recipient shall make no further commitments in relation to the use of the Grant to be advanced in accordance with section 3 and shall cancel or otherwise reduce, to the extent possible in accordance with any applicable agreements, the amount of any outstanding commitments in relation thereto;

(ii) all eligible costs incurred by the Recipient up to the date of termination of this Agreement, not exceeding the maximum amount of the Department's contribution payable under this Agreement, will be paid by the Department, including the Recipient's costs of, and incidental to, the cancellation of obligations incurred by it as a consequence of the termination of the Agreement, provided that, payment and reimbursement under this subparagraph 4.3(ii) shall only be made to the extent that it is established to the reasonable satisfaction of the Department that the costs are reasonable, were actually incurred by the Recipient and do not exceed the maximum amount of the Department's contribution payable under this Agreement.

5.0 OBLIGATIONS FOLLOWING EXPIRY/TERMINATION

5.1 Where the Agreement is terminated, or has expired, the Recipient shall immediately repay to the Department any amount by which the contribution paid to the Recipient exceeds the amount to which the Recipient is entitled under the Agreement. Without limiting the generality of the foregoing, amounts to which the Recipient is not entitled include:

- (a) the amount of any unspent or unwanted advances of the Grant in the hands of the Recipient;
- (b) any amount paid in error or in excess of the amount of costs actually incurred by the Recipient;
- (c) amounts paid in respect of costs which are determined by the Department to be ineligible in accordance with this Agreement; and
- (d) any amount in excess of the Grant.

5.2 Amounts outlined in subsection 5.1 are debts to the Province.

6.0 FINANCIAL ACCOUNTING AND RECORDS RETENTION

- 6.1 The Recipient agrees to maintain accurate financial records for the Project during the Term and for a period of seven years following expiry or termination of this Agreement. During this time, the Recipient agrees to permit the Department, upon reasonable notice, full access to all financial records, accounts, correspondence and cash flow statements related to this Agreement or the Project.
- 6.2 The Recipient agrees to permit the Province to meet with staff and agents of the Recipient to discuss any records or information required under this Agreement. Meetings shall be at mutually agreeable times within 60 days of written request by the Province.

7.0 PUBLIC ACKNOWLEDGEMENT OF FUNDING

- 7.1 The Recipient must acknowledge the Department's contribution to the Project in all public communication, announcements and documents as required by the Department's Funding Acknowledgement Guidelines, attached as Schedule B and forming part of this Agreement.

8.0 INSURANCE

- 8.1 The Recipient agrees to purchase and maintain commercial general liability insurance and all other insurances necessary for an operation similar in nature, in an amount reasonable for the Project, against claims for personal injury, death and damage to property of others arising out of all operations of the Recipient or any of its officers, employees or agents who are involved in the Project. Where possible, the Recipient agrees to have the Province named as an additional insured on these policies.

9.0 LIABILITY AND INDEMNITY

- 9.1 The Department, its Ministers, Ministers' officers, employees, independent contractors, subcontractors, agents and assigns shall not be liable to the Recipient for any losses, expenses, costs, claims, suits, damages and liabilities arising out of or by reason of or attributable to the Project or performance of the Recipient's obligations under this Agreement.
- 9.2 The Recipient shall, both during and following the expiry or termination of this Agreement, indemnify and save harmless the Department, the Province, its Ministers, the Minister's officers, employees, independent contractors, subcontractors, agents and assigns from all costs, losses damages, judgments claims, demands, suits, actions, causes of action, contracts or other proceedings of any kind or nature made or threatened to be brought or prosecuted, in any manner based upon or that arise out of any wilful or negligent act, misconduct, omission or delay on the part of the Recipient or its employees, officers, contractors or agents

in connection with anything purported to be or required to be provided by or done by the Recipient under this Agreement.

10.0 COMPLIANCE WITH LAW

10.1 The Recipient shall comply with all applicable laws, regulations, by-laws that apply to the Project, including ensuring that all necessary permits are obtained.

11.0 NOTICE

11.1 All communications related to this Agreement shall be sent to:

**Department of Communities,
Culture and Heritage**

ATTN: Greg Sewell, Director
Accessibility & Community
Transportation
1741 Brunswick Street, 3rd Floor
PO Box 456, STN Central
Halifax, NS B3J 2R5

Halifax Regional Municipality

ATTN: Alana Buchanan, Service
Delivery Analyst, Halifax Transit
1841 Argyle St, PO Box 1749
Halifax, NS B3J 3A5

12.0 FOIPOP

12.1 The Recipient acknowledges that the Department is subject to Nova Scotia's *Freedom of Information and Protection of Privacy Act* and that this Agreement or portions of it are subject to disclosure in accordance with the provisions of that Act.

13.0 ENTIRE AGREEMENT

13.1 This Agreement, including attached Schedule A, constitute the entire agreement between the Recipient and the Department with respect to the Project and supersede all previous understandings, written or oral correspondence, agreements and collateral documents between them relating to the Project.

14.0 WAIVER

14.1 The Province refraining from exercising a remedy it is entitled to exercise under this Agreement will not constitute a waiver of such right, and any partial exercise of a right will not prevent the Province from exercising any other right or remedy under this Agreement or applicable law.

15.0 AMENDMENT AND ASSIGNMENT

15.1 This Agreement may be amended by agreement of the parties in writing.

15.2 The Recipient shall not assign or sub-contract this Agreement or any part of it without obtaining prior written consent of the Department, whose consent may be withheld for any reason.

16.0 INDEPENDENT CONTRACTOR

16.1 The Recipient is acting as an independent contractor in the performance of this Agreement and shall not be deemed to be an employee, agent or in a joint venture with the Department. This Agreement shall not be interpreted or construed to create an association, agency, joint venture or legal partnership between the parties, or to impose any liability attributable to such a relationship upon either party.

17.0 SIGNING AUTHORITY

17.1 The signatories to this Agreement personally warrant that they have the full power and authority to enter into this Agreement on behalf of their respective parties and that the person signing this Agreement on behalf of each has been properly authorized and empowered.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be properly executed, and this Agreement shall take effect as if fully executed on April 1, 2020.

**SIGNED, SEALED AND
DELIVERED** in the presence of)

HER MAJESTY THE QUEEN in right of the Province of Nova Scotia as represented in this behalf by the Minister of Communities, Culture and Heritage)

Witness)

Honourable Leo Glavine)

Date _____)

Halifax Regional Municipality)

Witness)

Name:)

Title:)

Date _____)

SCHEDULE A

Project Description

Halifax Transit plans to improve public transit in the **Halifax Regional Municipality** by undertaking fleet replacement in that location.

Funding provided under this Agreement shall be used only to support the following:

1. fleet replacement;
2. bus shelters;
3. bus terminals;
4. addition to a capital reserve for future capital purchases

SCHEDULE B

Requirements for Acknowledging Project Funding

The Department of Communities, Culture & Heritage requires that the Recipient adhere to the following communications guidelines:

(A) Public Announcements: Please contact the Department to obtain approval prior to releasing funding information or making public announcements and allow two weeks for this process. The Department of Communities, Culture & Heritage may make an initial public announcement of the project. All funding information is considered confidential until such time as a public announcement has been made.

(B) Acknowledgment and Logo: Support for this project must be acknowledged through the inclusion of the Nova Scotia Department of Communities, Culture & Heritage's logo in all electronic and print communications material, i.e., brochures and advertising. The logo can be downloaded from: <https://cch.novascotia.ca/investing-in-our-future/acknowledgement-guidelines>

The following is an example of text which may be used in press releases or anywhere a written acknowledgment of funding partners is used:

" Halifax Regional Municipality recognizes the support of the Province of Nova Scotia. We are pleased to work in partnership with the Department of Communities, Culture and Heritage to develop and promote our cultural resources for all Nova Scotians."

(C) Public Events: Should you be planning a public event where funding announcements will be made, it is required that the Minister of Communities, Culture & Heritage or his/her designate be contacted for potential participation and a mutually agreed upon time be arranged. In order to make necessary arrangements, 30 days' notice is recommended.