

# HALIFAX

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

**Item No. 15.1.6**  
**Halifax Regional Council**  
**July 12, 2022**

**TO:** Mayor Savage and Members of Halifax Regional Council

Original Signed by 

**SUBMITTED BY:** \_\_\_\_\_  
Jacques Dubé, Chief Administrative Officer

**DATE:** June 22, 2022

**SUBJECT:** Award – Tender 22-224 Burnside Phase 13-1A Lift Station

## **ORIGIN**

This report originates with:

1. October 19, 2021 Regional Council Award - Unit Price Tender No. 21-237, Burnside Business Park – Phase 13-1
2. Regional Council's priority outcomes on economic prosperity and Corporate Real Estate's program delivery plan for the continued supply of new industrial park lot inventory.

## **LEGISLATIVE AUTHORITY**

*Halifax Regional Municipality Charter:*

71 (1) The Municipality may

- (a) solicit and encourage the establishment and development of new, and the establishment, development and expansion of existing institutions, industries and businesses in and around the Municipality;

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.

(2) The Municipality may expend money provided for in an operating budget or capital budget for a purpose other than that set out in the operating budget or capital budget for that fiscal year if the expenditure does not affect the total of the amounts estimated for the operating budget and the capital budget.

**RECOMMENDATION ON PAGE 2**

(3) The Municipality may authorize expenditures from its operating budget or transfer money from the operating budget to its capital budget if the total amount of such expenditures and transfers for the fiscal year does not exceed the total amount of estimated revenue from all sources in excess of the amount estimated for those sources in the operating budget for that fiscal year.

(4) The Municipality may authorize capital expenditures that are not provided for in its capital budget if the total of such expenditures does not exceed the greater of

(a) the amount authorized to be transferred from the operating budget to the capital budget under subsection (3);

(b) the borrowing limits established for the Municipality under Section 109; or

(c) the amount withdrawn from a capital reserve fund under subsection 120(4).

The recommended contract award complies with all of the pre-requisites for awarding contracts as set out in section 26 of Administrative Order 2020-004-ADM, the *Procurement Policy*. Section 28 of the *Procurement Policy* provides that Halifax Regional Council may approve contract awards of any amount.

## **RECOMMENDATION**

It is recommended that Halifax Regional Council:

1. Award Tender 22-224 Burnside Phase 13-1A Lift Station to the highest scoring bidder meeting the specifications, Brycon Construction Limited, for a Total Tender Price of \$3,147,000 (No HST, 100% recoverable) with funding from Project Account No. CQ220002 – Burnside and City of Lakes Industrial Park as outlined in the Discussion and Financial Implications sections of this report;
2. Authorize the CAO to enter into agreements with and authorize payment to Ducks Unlimited Canada for the compensation of altering wetlands in Phase 13-2 and 13-3 for the amount of \$480,350 (No HST Included, 100% recoverable); and payment to Halifax Water (HW) for inspection and review of the lift station infrastructure, in the amount of \$15,735 (no HST Included, 100% recoverable) with funding from Project Account No. CQ220002 – Burnside and City of Lakes Industrial Park, as per the Background section of this report.

## **BACKGROUND**

The development of Phase 13 Burnside Park is being constructed in response to market demand and is planned to be developed in three sub-phases with Phases 13-2 and 13-3 to be subject of future tenders. Phase 13-1 is the largest and most expensive of the three Phase 13 phases and includes key infrastructure that will service all three phases as well as proposed Phase 14 Burnside expansion lands. The October 19, 2021 Regional Council Phase 13-1 Tender award report identified additional infrastructure costs that would be required further to the original tender. One of these additional infrastructure requirements was for a Lift Station (sanitary sewer pumping station) which is recommended award of Tender 22-224 as per this report.

The requirement for wetland alteration compensation was also outlined in the October 2021 Phase 13-1 tender award report with Council approving the wetland compensation for Phase 13-1 to Ducks Unlimited Canada. With HRM in advanced design stage for Phase 13-2 Burnside, and also considering economic development opportunities that may involve lands within Phases 13-2 and Phase 13-3 earlier than anticipated, it is recommended that Regional Council approve the remaining wetland alteration compensation agreements with and payment to Ducks Unlimited Canada.

With feedback from Regional Council at its October 19, 2019 session, Property, Fleet and Environment staff will be working with Ducks Unlimited Canada to allocate the wetland compensation to be applied to projects within HRM where opportunities may exist.

Ownership of the lift station will be transferred to Halifax Water at the completion of this project. Therefore, Halifax Water will undertake audit inspections of the lift station and such audit fee being equal to 0.5% of the estimate of the construction cost as per item 24 (3) of Halifax Water Regulations dated April 22, 2022.

## **DISCUSSION**

Tender No. 22-224 Burnside Phase 13-1A Lift Station was publicly advertised on the Province of Nova Scotia's Procurement website on April 20, 2022 and closed on May 10, 2022. Two bids were received and evaluated based on price and social procurement:

<b><u>Name of Company</u></b>	<b>Bid Price (No HST included, 100% recoverable)</b>	<b>Bid Score</b>	<b>Social Procurement Score</b>	<b>Total</b>
Brycon Construction Limited	\$3,147,000.00	90.00	8	98.00*
Dexter Construction Company Limited	\$3,322,300.00	84.99	8	92.99

**Social Value:** Bids were evaluated using a scorecard process including evaluation of Social Value (10%) and Cost (90%).

### **\*recommended bidder is the highest scoring bidder**

The scope of work for this tender consists of the construction of a wastewater lift station and associated reinstatement.

Contingent on the approval of award, it is anticipated work will commence in July 2022 and be completed by December 23, 2022.

## **FINANCIAL IMPLICATIONS**

HRM's industrial land development is a self-funded model whereby the Business Parks Reserve Q616 fully funds the construction of new industrial lot inventory. As the municipal lot inventory is sold, it in turn funds the next phase of development.

Based on the highest scoring bid, the price for Tender No. 22-224 of \$3,147,000 (no HST included, 100% recoverable), funding is available in the Approved 2022/23 Capital Budget from Project Account No. CQ220002 – Burnside and City of Lakes Industrial Park.

The budget availability has been confirmed by Finance.

Budget Summary:	<u>Project Account No. CQ220002</u>	
	Cumulative Uncommitted Budget	\$26,249,982
	<b>Less: Tender No. 22-224</b>	<b>\$ 3,147,000</b>
	<b>Less: HRWC Inspection Fees</b>	<b>\$ 15,735</b>
	<b>Less: Ducks Unlimited Compensation</b>	<b>\$ 480,350</b>
	Balance	\$22,606,897

**Budget Summary: Business Industrial Parks Expansion Q616**

Projected net available balances as of April/22	\$7,815,347
Unbudgeted withdrawals as per recommendation	<u>\$3,642,725</u>
Projected available balances from reserve	\$4,172,622

**RISK CONSIDERATION**

There are no significant risks associated with the recommendations of this report.

**ENVIRONMENTAL IMPLICATIONS**

There are no substantial environmental implications associated with the recommendations in this report. Environmental permits for wetland alteration and the extension of sanitary services have been approved by Nova Scotia Environment (NSE).

HRM will be working with Ducks Unlimited, or other compensation agents, in an attempt to allocate the wetland compensation to be applied to projects within HRM where opportunities may exist.

**COMMUNITY ENGAGEMENT**

The development of Phase 13 is a Council priority Outcome under economic prosperity.

**ALTERNATIVES**

Regional Council could choose not to approve the award of Tender 22-224. This is not recommended as HRM is currently not meeting market demand for new industrial employment land inventory available for purchase and development.

**ATTACHMENTS**

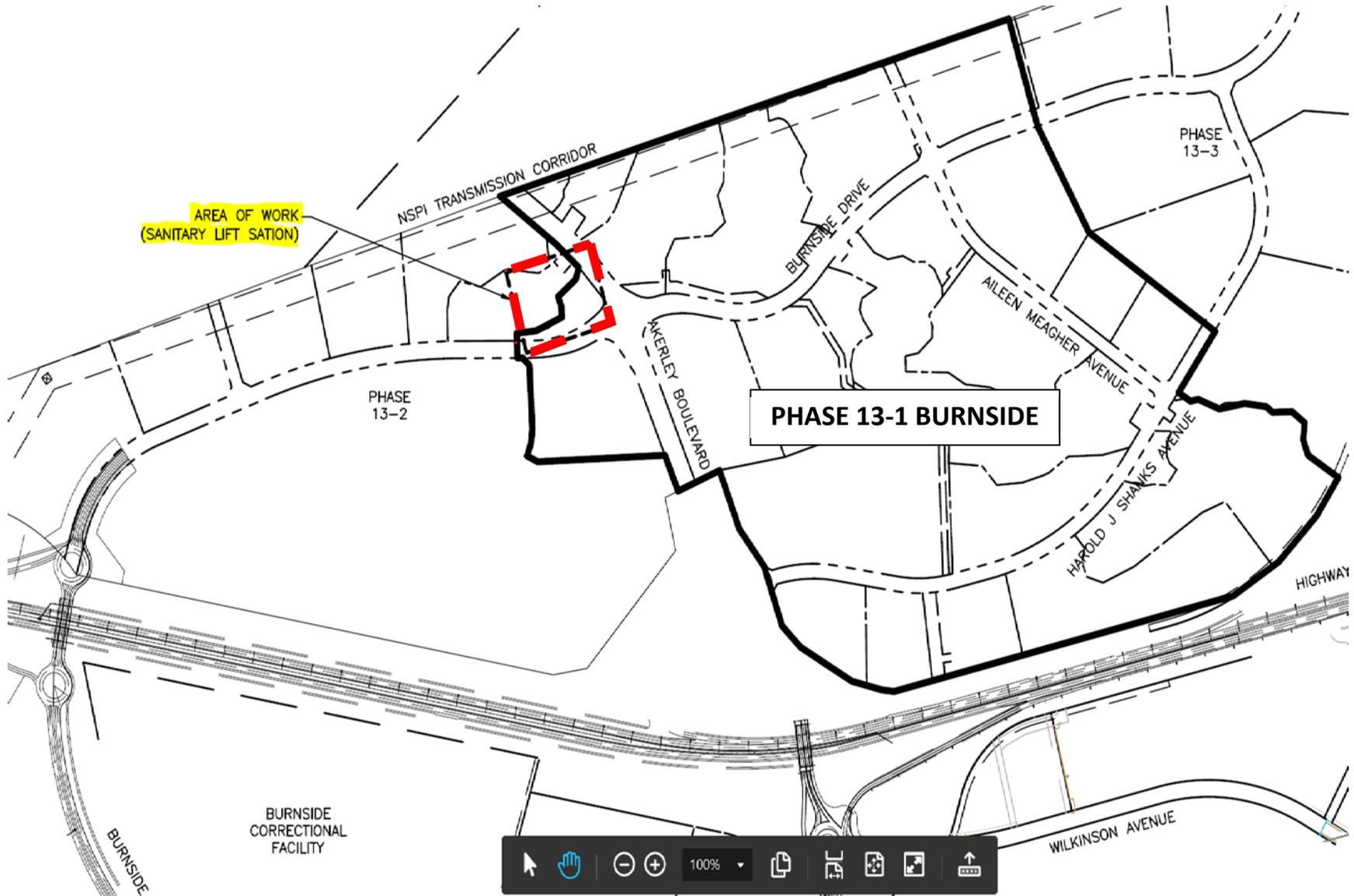
- Attachment 1 Location Map
  - Attachment 2 Ducks Unlimited Wetland Letter of Understanding
  - Attachment 3 Ducks Unlimited Agreement
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A copy of this report can be obtained online at [halifax.ca](http://halifax.ca) or by contacting the Office of the Municipal Clerk at 902.490.4210.

Report Prepared by:      John Fawcett, P.Eng., Design, Public Works 902.943.2603  
                                 Michael Wile, Manager, Acquisitions, Disposals and Industrial Lands, Corporate Real  
                                 Estate, Property, Fleet and Environment 902.476.9162

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ATTACHMENT 1 – Location Map



## Letter of Understanding

**Re: Wetland Compensation requirement for Halifax Regional Municipality, 1841 Argyle St., Halifax, NS, Nova Scotia (herein referred to as “Proponent”), for development of Phase 13-2 and 13-3, Burnside Business Park, Dartmouth, Nova Scotia**

***Nova Scotia Environment File number: 2020-2666662-00.***

This document represents a *letter of understanding* between Ducks Unlimited Canada, P.O. Box 430, Amherst, Nova Scotia, B4H 3Z5 and PROPONENT. Upon signing this Letter of Understanding, **Halifax Regional Municipality** intends to satisfy its compensation requirement for the site stated above.

Ducks Unlimited Canada (DUC) is a private, non-profit, organization that conserves, restores and manages wetlands and associated habitats for waterfowl. These habitats also benefit other wildlife and people. DUC has been delivering conservation programs in Nova Scotia since the 1960’s. During this time DUC has had a positive influence on a landscape level by constructing 376 wetland projects across the province resulting in over 45,000 acres of wetland habitat under our management. These wetland projects exist on 961 parcels of public and privately owned lands.

Ducks Unlimited Canada offers a service to clients who need to restore wetlands as a result of an approved wetland alteration applications through the Nova Scotia Environment. Based on the Wetland Alteration Approval of the Department of Environment and Climate Change, the Proponent intends to enter into a contract with Ducks Unlimited Canada which will develop and implement a plan to restore a wetland, deemed appropriate by the Nova Scotia Department of Environment and Climate Change.

### **The Proponent and DUC shall negotiate an agreement for the Project that DUC intends to:**

1. Construct a 14.78 ha of wetland habitat for a total cost of \$480,350.00, in a location within Nova Scotia as deemed appropriate by the Nova Scotia Technical Review Committee.
2. Project will be completed by November 30, 2025.
3. This Project will be completed as part of a larger wetland compensation project within the area noted above.
4. Obtain all necessary permission from landowners and Provincial or Federal Government Departments as required by regulation.
5. Provide a detailed site plan of the Project to Nova Scotia Environment by October 31, 2024.
6. Maintain and manage the Project for a period of 30 years following its completion.

7. Perform monitoring requirements for the Project, based upon the Memorandum of Understanding signed by Nova Scotia Environment and Ducks Unlimited Canada's on 28<sup>th</sup> of October, 2011.
8. Payment, in full, is required within 30 days of the invoice date. Upon receiving payment in full of the amount noted above, DUC will send a Letter of Confirmation of Payment to Nova Scotia Environment and Proponent.

**DUC and the Proponent understand that the Nova Scotia Department of Environment and Climate Change intends to:**

1. Permit Ducks Unlimited Canada to restore 14.78 hectares of wetland habitat to compensate for the altered or lost wetland for Nova Scotia Environment File # 2020-2666662-00, at a site deemed appropriate by the Nova Scotia Technical Review Committee.
2. Include a condition in the Wetland Alteration Approval of Nova Scotia that PROPONENT or client thereof enters into a contract with Ducks Unlimited Canada to restore a wetland approved by the Nova Scotia Environment.
3. Issue the Environmental permit to *Halifax Regional Municipality* or client thereof, based on the deliverables of this Letter of Understanding and upon DUC receiving full payment for the restoration project.

**Date:**

**Signed:**

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Pat Kehoe,  
National Director of Conservation,  
Ducks Unlimited Canada

**Proponent:**

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Jacques Dube  
Chief Administrative Officer  
Halifax Regional Municipality



**THIS AGREEMENT** made in duplicate as of the \_\_\_\_\_ day of \_\_\_\_\_ 2022.

**BETWEEN:**                   **HALIFAX REGIONAL MUNICIPALITY,**  
a municipal body corporate  
  
(Hereinafter referred to as "Proponent")

-AND-

**DUCKS UNLIMITED CANADA,**  
a corporation having its head office  
at Oak Hammock Marsh, in the province of Manitoba  
  
(Hereinafter referred to as "DUC")

**WHEREAS** DUC on the \_\_\_\_\_ day of \_\_\_\_\_ 2022 made a proposal to PROPONENT to perform certain work and provide certain services required to provide a site(s) for a wetland restoration project segment(s) ("Project Segments") as approved by the Nova Scotia Wetland Compensation Technical Review Committee through a letter of determination, hereinafter referred to in total as "the Project". In this case the Project will consist of providing 14.78 hectares of wetland compensation for NSE approval # 2020-2666662-00, located in Burnside Phase 13-2 / 13-3, Dartmouth, Nova Scotia identified as current PID 41072539.

**AND WHEREAS** PROPONENT has accepted said proposal and wishes DUC to perform the work and provide the services referred to therein;

**The parties in further consideration of the terms, covenants and obligations contained herein agree as follows:**

## **I. SCOPE OF WORK AND SERVICES**

- i. DUC shall, with diligence and in accordance with generally accepted professional standards and practices, execute the following work within the time herein limited:

Provide the necessary equipment, material, staff and labour to identify, design, plan, execute, monitor and maintain the Project as more particularly described in the proposal, attached hereto as Schedule "A", at the place and in the manner therein set out.

## **II. TERMS, METHOD AND TIME OF PAYMENT**

- i. Unless otherwise stated, all prices quoted herein are exclusive of applicable taxes but inclusive of all expenses, disbursements, duties and charges.
- ii. DUC will provide the necessary equipment, materials, staff and labour to deliver and monitor the Project.
  - a. PROPONENT will pay DUC the funds necessary to cover the costs associated with the Project up to a maximum rate of thirty-two thousand five hundred dollars (\$32,500) per hectare of restored wetland. Payment will be based on the total hectares of wetland restoration required by Nova Scotia Department of Environment and Climate Change identified in the "Letter of Understanding" between DUC and the PROPONENT.
- iii. Prior to the release of any funding, details will be forwarded to PROPONENT by DUC identifying all potential Project Segments specifications and estimated costs.
- iv. The payments described include all costs for future management and maintenance of the completed Project Segments as described in Schedule "A".
- v. This agreement commences on the day of execution and shall terminate on March 31, 2026. The agreement may be renewed upon mutual consent of both parties.

## **III. COMPLIANCE WITH LAWS**

The rights and obligations of the parties under the agreement shall be governed by the laws in force in the Province of Nova Scotia and the laws of Canada in force therein.

DUC shall give all the notices and obtain all the licenses and permits required to perform the Project. DUC shall comply with all the laws applicable to the work and the performance of this agreement.

#### **IV. ASSIGNMENT**

This agreement shall not be assigned by either party hereto without the prior written approval of the other, except that DUC may utilize without the prior written approval of PROPONENT, personnel or services or related and affiliated companies and groups in the performance of this agreement, as if they were an integral part of DUC with notice to PROPONENT provided always that DUC is and shall remain fully responsible for the due performance of this agreement and liable to PROPONENT under this agreement.

#### **V. INDEMNITY**

DUC will indemnify and save harmless PROPONENT from and against all claims, demands, losses, damages, costs and expenses made against or suffered or sustained by PROPONENT at any time or times (either before or after the expiration or sooner termination of this contract) where the same or any of them are based upon or arise out of or from anything done or omitted to be done, or by any negligence or breach of this agreement or breach of the Memorandum of Understanding by DUC or by any servant, employee, officer, director or permitted sub-contractor of DUC.

#### **VI. CONFIDENTIALITY**

DUC shall not at any time, except where required by law, divulge any matters relating to the business of PROPONENT which may become known to it by reason of its services under this agreement, or otherwise. Furthermore, DUC shall not use at any time (whether during the continuance of this agreement or after its termination) for its own benefit or purposes or for the benefit or purposes of any other person, firm, corporation, association or other business entity, any trade secrets, business development programs or plans belonging to or relating to the affairs of PROPONENT.

#### **VII. DUC's LIABILITY**

DUC shall indemnify PROPONENT from and against any losses, damages, claims, actions and liability arising from claims against PROPONENT or for personal injury or property damage caused by the fault, omission or negligence of DUC, its employees or agents in the performance or non-performance of any of their obligations under the terms of this agreement.

Without limiting the generality of the foregoing, DUC shall also be liable and shall indemnify PROPONENT for any loss suffered by PROPONENT as a result of the commission of any dishonest or fraudulent act by any of DUC's employees or agents during the currency of this agreement or at any time after the termination or expiration of this agreement.

## **VIII. INSURANCE**

- i. DUC shall at its own expense procure and maintain liability insurance in accordance with the following requirements:
  - a. A limit of not less than \$2,000,000.00 per policy, per occurrence;
  - b. Comprehensive General Liability Insurance including Employers' Liability and Liability for work performed by sub-contractors;
  - c. Automobile Liability on all vehicles whether owned or not by DUC and used in furtherance of this agreement;
  - d. All policies to include a Cross Liability clause;
  - e. Worker's Compensation coverage on all DUC's employees;
  - f. Property Insurance and Builders' Risk and Wrap Up Liability insurance
  - g. Such other insurance as may be reasonably required in accordance with prudent Canadian commercial insurance practices.

## **IX. TERMINATION**

PROPONENT shall have the right at any time to terminate, with or without cause, the services of DUC and to cancel this agreement by giving DUC fourteen (14) days prior written notice of termination. In the event of termination of this agreement PROPONENT shall reimburse DUC for all reimbursable costs, approved in advance by the Proponent as a result of the termination of the Project, provided however, that DUC shall not have the right to include as a cost of termination any profit or earnings that may have been realized by DUC had the Project not been terminated.

## **X. INDEPENDENT CONTRACTOR**

It is understood, covenanted and agreed by and between the parties hereto, that the relationship between PROPONENT and DUC existing and to exist from and after the execution of this agreement and at all times during the term of same, is that of independent contractors.

## **XI. EXECUTION AND COUNTERPART**

This agreement may be executed in one or more counterparts, each of which when so executed and all of which together shall constitute the same agreement.

## **XII. NOTICES**

All notices and reports provided for in this agreement shall be in writing and delivered to the parties at the following address unless changed by written instrument.

To: Ducks Unlimited Canada  
Suite 201, 420 University Ave.  
Charlottetown, PE, C1A 7Z5  
Attention: Mr. Wade Lewis

And To: Halifax Regional Municipality  
1841 Argyle Street,  
P.O. Box 1749  
Halifax, Nova Scotia, B3J 3A5  
Attention: Chief Administrative Officer

Such notices, reports and payments shall be effective when they are actually delivered.

## **XIII. TIME**

Time shall be of the essence hereof.

## **XIV. INCORPORATION**

The preamble hereto is incorporated into and forms part of this agreement.

## **XVI DUC'S REPRESENTATIONS AND WARRANTIES**

DUC hereby warrants and represents to the Municipality that DUC:

- a) is a corporation duly organized, validly existing, and in good standing under the laws of its jurisdiction of incorporation, and is registered to carry on business in Nova Scotia;
- b) has the full right, corporate power, and authority to enter into this agreement and to perform its obligations hereunder; and
- c) has or will have obtained all requisite corporate consents and approvals to enter into, execute and deliver this agreement and perform its obligations under this agreement.

THIS AGREEMENT shall be binding upon and enure to the benefit of the parties hereto and their respective executors, administrators, successors and assigns.

IN WITNESS WHEREOF the parties have executed and delivered this agreement on the day and year first above written.

**SIGNED AND DELIVERED**

**Halifax Regional Municipality**

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Jacques Dube  
Chief Administrative Officer

**Ducks Unlimited Canada**

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Pat Kehoe  
National Director of Conservation

***SCHEDULE "A"***

**This is Schedule "A" referred to in the attached agreement between the PROPONENT and Ducks Unlimited Canada, dated the            day of            , 2022.**

***1. SCOPE OF THE PROJECT***

Ducks Unlimited Canada shall:

1. Identify suitable site(s) for wetland compensation Project Segments and provide completed sketch plans and design details for each location. Suitable sites will be those approved by the Nova Scotia Wetland Compensation Technical Review Committee.
2. Obtain all necessary provincial and federal regulatory approvals prior to any work commencing on the identified Project Segments.
3. Provide construction supervision for the delivery of the Project Segments, including maintenance of appropriate records such as monthly progress updates, photos and invoices.
4. Complete the construction of the identified hectares of wetland restoration Project Segments between the period of April 01, 2022 and March 31, 2026. PROPONENT shall be notified, in writing, upon completion of the Project.
5. In consultation with Nova Scotia Department of Environment, conduct Project Segments assessment visits and provide a report to Nova Scotia Department of Environment.
6. Provide future management and maintenance for the completed Project Segments for a period of 30 years commencing on April 1<sup>st</sup> of the year following Project completion.
7. Notify Nova Scotia Department of Environment upon project completion.