

October 7, 2022

VIA EMAIL (crystal.henwood@novascotia.ca)

Ms. Crystal Henwood, Regulatory Affairs Officer/Clerk of the Board
N.S. Utility and Review Board
3rd Floor, Summit Place, 1601 Lower Water Street
P. O. Box 1692, Postal Unit M
Halifax, NS B3J 3S3

Re: Cogswell District Project Water, Wastewater and Stormwater Infrastructure

Dear Ms. Henwood:

Halifax Water is currently seeking funding for the Cogswell District Project Water, Wastewater and Stormwater Infrastructure for an estimated total project cost of \$19,500,000, which includes:

1. Execution of a cost sharing agreement with the Halifax Regional Municipality wherein \$15,496,782 is the net Halifax Water share of the overall \$95,663,634 construction costs,
2. Halifax Water staff time for supervision and management of the project in the amount of \$1,000,000,
3. Contingency allowance costs related to unknown conditions and conflicts that may arise during construction in the amount of \$3,000,000, and

The Cogswell District Project is an initiative of Halifax Regional Municipality intended to transform the Cogswell interchange located in downtown Halifax. The Cogswell District Project will involve the restructuring and relocation of several downtown streets. A significant amount of utility infrastructure (i.e., power, gas, telecommunications, water, sewer, storm) will therefore need to be removed, relocated or added to support this development. The completion of the Cogswell project is expected to span fiscal years 2021-22 to 2024-25 and cost approximately \$122.6 million (gross).

Halifax Water was engaged in the concept design pertaining to two distinct areas. First, Halifax Water is proposing the design, construction and operation of a District Energy System (DES); and second, Halifax Water has a significant volume of existing and proposed water, wastewater and stormwater infrastructure to be relocated or constructed within the project limits.

Halifax Water provided design review comments to the Municipality in May, August and November 2019. The Municipality tendered and awarded a lump sum contract to Dexter

Construction Limited at \$95,663,634 (net HST included) to complete this work on September 14th, 2021. Construction has been underway for approximately ten months.

A map of the Cogswell District Project is provided below.



The tender award of the Cogswell District Project includes the demolition and removal of the existing roads, structures, and utility infrastructure, which includes power, telecoms, gas, water, wastewater and stormwater systems. The tender award also includes the construction of the district energy piping system for Halifax Water's Cogswell District Ambient Temperature District Energy System (ATDES). Halifax Water cost sharing with the municipality regarding the ATDES was approved at the March 24, 2022 Halifax Water Board meeting (Item 5.2) and the application to the NSUARB to approve this project is in progress (NSUARB Matter M10525).

The Municipality began the demolition/construction in the fall of 2021. To date, demolition/construction has started on Phase 1 to install 3 detour sections (Barrington to Upper Water Street, Upper Water Street to Hollis Street, and Cogswell Street). The latest construction schedule includes the milestones shown in Table 1.

Table 1 - Cogswell Redevelopment Project Milestone Schedule

Phase and Location Description	Start Date	Completion
Ph 1 – Detour 1 – Barrington	October 2021	December 2022
Ph 1 – Detour 2 – Hollis Street	January 2022	December 2022
Ph 1 – Detour 3 – Cogswell Street	February 2022	December 2022
Ph 1 – Demolitions & Underground	January 2022	August 2023

Ph 2 – Cogswell, Upper Water & Hollis	July 2023	July 2024
Ph 3 – Barrington, Poplar, Lower Water	August 2024	August 2025

The Municipality had a desire to begin construction of the project in late 2021. In August 2021, Halifax Water and the Municipality began discussions about what portions of the construction cost would be the responsibility of Halifax Water. Once these discussions started, it became clear that, due to the complexity of the project, it would take some time to arrive at an agreement on the cost of Halifax Water's responsibilities. Halifax Water also advised the municipality that the expenditures would require approval of both the Halifax Water board and the Nova Scotia Utility and Review Board, and it was unlikely that such approval would be achieved prior to the desired start of construction. The municipality chose to proceed with the project on the understanding that project costs they hoped to recover from Halifax Water could not be finalized until approved by the Halifax Water board and the NSUARB.

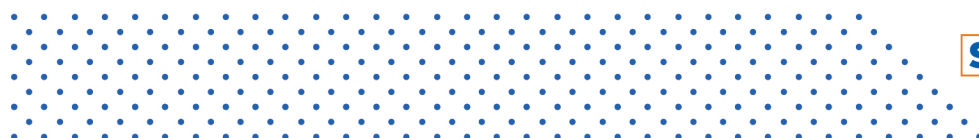
Infrastructure Work

The Cogswell District Project will result in a significant amount of water, wastewater and stormwater work. As a public utility, Halifax Water must comply with the requirements of the Public Utilities Act as well as Rules and Regulations, Orders and Decisions issued to Halifax Water by the Nova Scotia Utility and Review Board under the authority of the Public Utilities Act. Halifax Water must also operate in compliance with the by-laws of Halifax Regional Municipality, specifically By-Law S-300, the Streets By-Law, which establishes requirements for utilities with infrastructure in the public right-of-way. The Order of the Engineer pursuant to By-Law S-300 is provided as Attachment A.

In general terms, Halifax Water is only permitted to expend rate base funds towards maintaining or replacing its existing infrastructure for the benefit of its current ratepayers. Infrastructure work that benefits a party other than existing ratepayers must be funded by another party. This typically includes work such as systems expansion.

Further, in 2007, Halifax Water assumed responsibility for Halifax Regional Municipality's wastewater and stormwater when the assets were transferred to Halifax Water. A transfer agreement dated June 12, 2007, was approved by HRM Council, the Halifax Water Board, and the NSUARB. The transfer agreement established a basis to ensure there was no cross subsidization between the two organizations and provided specific direction related to combined sewer and storm sewer work to deal with legacy issues related to systems that were substandard at the time of transfer.

Through its tendering process for the Cogswell District Project, HRM has identified Approximately \$33.5 million of the project cost is related to infrastructure work. This infrastructure work can be classified as follows:



1. Infrastructure that is being replaced for asset renewal purposes or which is being upgraded to ensure required capacity or resilience. This work is the responsibility of Halifax Water.
2. Existing infrastructure that HRM has required to be relocated under By-law S-300 which requires any utility with infrastructure on HRM property to relocate it at its expense when relocation is required by the municipality for municipal purposes. This work is the responsibility of Halifax Water.
3. Infrastructure that is detailed in the project design but is net new infrastructure. This work is the responsibility of HRM.
4. Combined sewer and storm sewer work which is specifically attributed to either HRM or Halifax Water under the terms of the transfer agreement.

The following table summarizes the total infrastructure under each category:

Table 2 – Cogswell Halifax Water Infrastructure Summary (metres)

Infrastructure Category	Water Transmission	Water Distribution	Wastewater Collection	Combined Wastewater	Stormwater Collection
Existing	676	739	1212	894	1472
Abandoned	-	81	574	561	442
Design	854	1034	1250	-	1936
Renewed	676	658	638	-	1030
Net New	178	376	612	-	906

HRM procured construction services for the Cogswell District project as a lump sum public tender. As such, the contractor's costs for various categories of infrastructure are not available in as detailed a form as for a unit price contract. As the design was developed, however, Halifax Water staff reviewed and tracked the various components of the infrastructure work. Based on Halifax Water knowledge of how the design was developing and experience in conducting similar work in similar environments, Halifax Water made provision for this work in its 5-year capital budget, consistent with the regulatory framework under which Halifax Water operates.

Halifax Water has budgeted \$15 million over the next three years in its 5-year capital budget to cover Halifax Water's responsibilities for infrastructure construction and replacement. As the project has evolved and considering such factors as the recent construction market, the complexity of the project, and the final tender price of \$95.6 million compared to HRM pre-tender estimate of \$84 million, it is probable that the true contractor cost of Halifax Water infrastructure work exceeds the budgeted amount of \$15 million and may be as high as \$20 million.

The Municipality has proposed a 50/50 approach to the costs associated with the installation of water, wastewater, and stormwater (Attachment B – Cost Sharing Proposal) which is summarized in Table 3.

Table 3 – Municipality Cost Sharing Proposal

Category	Halifax Water	Municipality	Total Cost
Water	\$ 4,197,196	\$ 4,197,196	\$ 8,394,393
Wastewater	\$ 4,284,075	\$ 4,284,075	\$ 8,568,150
Stormwater	\$ 4,568,217	\$ 4,568,217	\$ 9,136,434
Surface Runoff	\$ -	\$ 2,627,776	\$ 2,627,776
Reinstatement	\$ 1,590,795	\$ 1,590,795	\$ 3,181,590
Subtotal	\$ 14,640,283	\$ 17,268,060	\$ 31,908,343
Overhead 1.5%	\$ 219,604	\$ -	\$ 219,604
Net HST 4.286%	\$ 636,895	\$ 740,109	\$ 1,377,004
Total	\$ 15,496,782	\$ 18,008,169	\$ 33,504,951

Halifax Water staff believe that the proposal by HRM represents fair value to Halifax Water ratepayers, is consistent with Halifax Water's responsibilities as a public utility and is as true an estimate as can reasonably be obtained under a lump sum tender arrangement. As such it is recommended that the HRM proposal be accepted as the basis for Halifax Water's responsibility for its infrastructure under this project.

During construction, situations in the field have arisen that required repair to existing Halifax Water systems that were outside the scope of the Cogswell District Project. These repairs would meet Halifax Water's "No Regrets, Un-Avoidable Needs" criteria. The Municipality proceeded with the repairs to the systems with technical approval from Halifax Water and understanding that the costs would be reimbursed to the municipality subject to Halifax Water Board and NSUARB approval. Halifax Water is proposing the costs of the repairs be reimbursed to the Municipality as part of the cost sharing agreement. The costs of these repairs to date are:

Table 4 – Work Extra to the Contract

Change Order	Description	Category	Total
9	MH 3051 Replacement	Wastewater	\$ 155,705
10	Outfall Abandonment	Stormwater	\$ 44,065
11	Water Main Renewal	Water	\$ 67,350
Subtotal			\$ 267,120
Overhead 1.5%			\$ 4,007
Net HST 4.286%			\$ 11,620
Total			\$ 282,747

As this represents less than one year of a four-year construction project Halifax Water staff recommend that a contingency of \$3,000,000 be included in the project.

The complexities of multiple construction sites within the Cogswell District Project running concurrently coupled with the required redesign to overcome unknown subterranean conditions warrants the assignment of a full time Halifax Water project engineer and a project technologist

conducting field inspections. Unique situations involving maintaining a large transmission main's water supply to the downtown core often require lengthy consultation with operations. Staff costs incurred to date suggest annual Halifax Water staff time to support the project going forward is projected to be approximately \$250,000 per year. The water system complexities are such it is estimated to require more staff time than the wastewater and stormwater systems (\$100,000/year water, \$75,000/year wastewater and \$75,000/year stormwater).

From a risk perspective, one of the higher project risks is associated with unknown conditions beneath the surface which would be outside the scope of the Cogswell District Project. As these situations arise, the extra work must be assessed from a funding perspective, identifying the party responsible to pay for the extra work. The extra work cost causer may be one of, or a combination of, the following stakeholders:

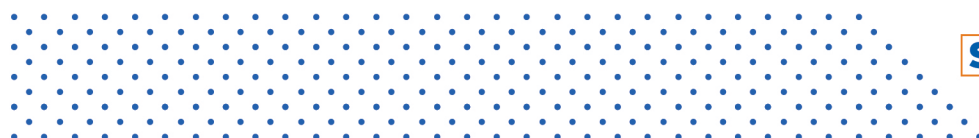
1. Halifax Water as infrastructure owner (deteriorated infrastructure requiring replacement, record information produced by owner where there wasn't a reasonable expectation of the Design Engineer in their due diligence to properly locate the infrastructure during design.)
2. Design Engineer (due diligence in locating existing infrastructure in design and constructability of proposed designed infrastructure)
3. Municipality as project owner (due diligence in locating existing infrastructure design and constructability of proposed designed infrastructure)
4. Contractor (ease of construction phasing)

It is anticipated Halifax Water will incur unprojected costs to the project where connection to the existing Halifax Water systems have been proposed to be made to infrastructure in need of repair to facilitate the connection. Considering the extra to scope work to date, Halifax Water can project approximately \$250,000/year/system over the next four years for work associated with repairing existing systems, for a total proposed contingency of \$3,000,000

Table 5 – Projected Capital Spending (includes projected staff time & extras)

Category	2022/23	2023/24	2024/25	2025/26	Total
Water	\$ 1,450,000	\$ 2,560,000	\$ 1,830,000	\$ 490,000	\$ 6,330,000
Wastewater	\$ 1,540,000	\$ 2,580,000	\$ 1,840,000	\$ 470,000	\$ 6,430,000
Stormwater	\$ 1,490,000	\$ 2,710,000	\$ 1,930,000	\$ 470,000	\$ 6,600,000
Total	\$ 4,480,000	\$ 7,850,000	\$ 5,600,000	\$ 1,430,000	\$ 19,360,000

The cost sharing proposed by the municipality does not include any provision for extra costs associated with rock-breaking or transportation of contaminated fill. These sorts of extra costs would be dealt with between the municipality and their contractor under the provisions of the lumpsum contract arrangement.



Funding in the amount of \$2,530,000 (3.399 Cogswell Interchange – Water Transmission Main Realignments), \$1,070,000 (2.692 Cogswell Redevelopment – Sewer Relocation), and \$900,000 (1.188 Cogswell Redevelopment – Stormwater Sewer Relocation) are available from the 2022/23 Capital Budget. The balance of the funding required will be included in the 2023/24, 2024/25 and 2025/26 capital budgets.

The proposed expenditure meets the “NO REGRETS- UNAVOIDABLE NEEDS” approach of the 2012 Integrated Resource Plan. The proposed work meets the NR-UN criteria of “Required to ensure infrastructure system integrity and safety”, and/or “Directly supports the implementation of the Asset Management program”. The project meets these criteria based on the following: The current equipment is failing due to age and end of life (Asset Management), causing treatment performance/operational issues (Infrastructure System Integrity), and regulatory compliance failures (Firm Regulatory Requirement).

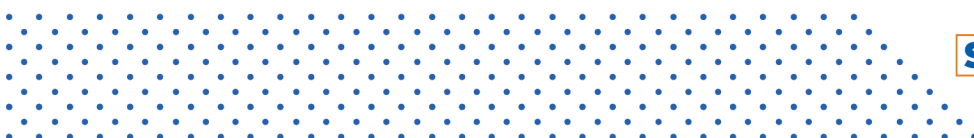
Accordingly, we are now requesting approval from the Nova Scotia Utility and Review Board for the Cogswell District Project Water, Wastewater and Stormwater Infrastructure. If you have any questions with regard to this submission, or any aspect of the Commission’s operation, please do not hesitate to contact me at 902-490-4840.

Respectfully submitted,

Cathie O’Toole, MBA, FCPA, FCGA, ICD.D
General Manager

Attachments:

1. S-300 Order of the Engineer
2. Cost Sharing Agreement Proposal



March 2, 2022

Halifax Water
PO Box 8388, RPO CSC
Halifax, Nova Scotia B3K 5M1
Attn: Kevin Gray, P.Eng., Manager, Engineering Approvals, Halifax Water

Re: Cogswell District Project – Removal & Relocation of Halifax Water Infrastructure

Dear Kevin,

As Halifax Water (HW) is aware, Halifax Regional Municipality (HRM) is undertaking a redevelopment of the Cogswell District over the next 4-5 years. This is a major civil infrastructure project for the Municipality that will involve a full reconfiguration of the streets in the area. By necessity, the project requires the removal and/or relocation of existing utility infrastructure from the affected streets, including infrastructure owned by HW.

Therefore, HW is hereby formally ordered and required to remove or relocate its facilities from the affected streets in the Cogswell District project area, and to facilitate the removal or relocation of any third-party infrastructure that is currently attached to HW's. These instructions are provided in accordance with section 17 of HRM's *Streets By-Law*.

HRM Streets By-Law (S-300)

17. Where in the opinion of the Engineer the location of any facility shall interfere with any works or undertakings of the Municipality, the facility shall be changed or altered and, wherever necessary removed; whenever the Engineer orders such changes of location or removal, it shall be done by the utility without unnecessary delay and at its expense, or it may be done by the Engineer at the expense of the utility.

HW's use of HRM streets or other property for temporary servicing requirements during the project, and HW's installation of new or relocated facilities in the newly created streets are subject

to the terms and conditions of applicable legislation, by-laws and municipal access agreements. HW will be responsible for all costs associated with its facilities including any removal, relocation or “workaround” costs incurred by HRM or HRM’s contractor.

Please contact HRM Cogswell District Project Director, John Spinelli (902-293-8567 or spinelj@halifax.ca) to coordinate HW’s works with those of the Municipality. It is anticipated that some HW facilities will need to be removed or relocated as early as May 31, 2022. Other HW facilities may not need to be relocated until months or years later, as the project progresses.

HRM appreciates your diligent attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to be 'CD' or similar initials, enclosed within a simple, hand-drawn oval shape.

Christopher Davis, P.Eng.,
Manager, Right of Way Services
Traffic Management, Transportation & Public Works
Halifax Regional Municipality

Tel 902.490.7462

Email davisc@halifax.ca

cc. John Spinelli, Cogswell District Project Director
Donna Davis, Cogswell District Project Manager
Sandy McClearn, Cogswell District Project Manager
Jen Richardson, Project Engineer, Cogswell District Project, Halifax Water

September 8, 2022

BY EMAIL

WITHOUT PREJUDICE

Cathie O'Toole, MBA, FCPA, FCGA, ICD.D
General Manager
Halifax Regional Water Commission
PO Box 8388, RPO CSC
Halifax, NS B3K 5M1

Dear Cathie:

RE: Cogswell District Project – HRM/HRWC Cost Sharing Agreement

This letter is in reply to various conversations, work sessions and meetings between HRM and HRWC related to proposed cost sharing options for utility infrastructure within the Cogswell District Project. While it is critical that HRM and HRWC finalize a cost sharing agreement (especially now that the project is well underway), for the reasons set out herein, HRM cannot support several of the interpretations and assumptions upon which we understand HRWC's most recent proposal to be based.

HRM calculates the total cost of all water, wastewater and stormwater infrastructure for the project to be approximately **\$28,726,752.86** plus road reinstatement and contract administration fees. While HRM believes there is a compelling argument that HRWC should be responsible for most of these costs, HRM also appreciates that the Cogswell District Project is unique, and that Halifax Water has constraints as a public utility and needs to reach an agreement that can ultimately be supported by the Utility and Review Board.

To that end, HRM attaches a revised proposal that is predicated on HRM assuming all surface water costs (i.e. catch basins and leads), and splitting the remaining water, wastewater and stormwater costs with HRWC 50/50. This would ultimately result in HRWC contributing approximately **\$15,496,782.31** as set out below:

	Total Infrastructure	Municipality	Halifax Water
Water	8,394,392.54	4,197,196.27	4,197,196.27
Wastewater	8,568,149.97	4,284,074.99	4,284,074.99
Stormwater	9,136,434.05	4,568,217.03	4,568,217.03
Surface Water	2,627,776.30	2,627,776.30	
Reinstatement		1,590,795.00	1,590,795.00
Subtotal	28,726,752.86	17,268,059.58	14,640,283.28
Overhead (1.5%)			219,604.25
Net HST (4.286%)		740,109.03	636,894.78
Total		18,008,168.61	15,496,782.31

HRM feels this revised proposal is a principled one that HRWC can justify to the UARB and which fairly allocates costs to the taxpayers of HRM and ratepayers of HRWC.

HRWC's Previous Commitments

This proposed cost sharing arrangement is closely aligned with HRWC's own [Five-Year Business Plan](#) which projected that HRWC's portion of water, wastewater and stormwater costs for the Cogswell Project would be approximately **\$15 million**. The Five-Year Business Plan was approved by HRWC's Board on January 30, 2020. In each year since, HRWC has presented an Annual Business Plan to Halifax Regional Council for endorsement and specifically assured Regional Council through that process that the Annual Business Plans reflect the strategic direction in the Five-Year Business Plan. Halifax Regional Council continues to rely in good faith upon HRWC's assurances and projected contributions.

The approved Five-Year Business Plan describes HRWC's projected contributions to the Cogswell Project as follows:

Project: HRM Cogswell Redevelopment

Asset Class: Water, Wastewater, and Stormwater

Description: The municipality is currently finalizing the design phase of the Cogswell Redevelopment Project. The municipality plans to proceed to the tender phase of the project in late 2019 or early 2020 with approximate three year construction phase. There will be many impacts to the utility's water, wastewater and stormwater infrastructure. All net new infrastructure required to provide service to new buildings

would be part of the municipal project cost. However, the relocation of existing infrastructure, required due to road alignment changes would be the responsibility of Halifax Water, based on the municipal Streets By-law. The estimated infrastructure investment for Halifax Water is \$15 M.

Applicable Prices

As set out in the attached spreadsheet, the actual cost of all water, wastewater and stormwater infrastructure for the project is approximately **\$28,726,752.86** plus road reinstatement fees. It is imperative that a cost sharing agreement between HRM and HRWC addresses these actual project costs, not theoretical unit price costs.

The project was tendered as a stipulated price CCDC 18 contract, which is an appropriate project delivery method for a complex civil infrastructure project of this nature. Applying HRWC's proposed unit rates instead of the actual pricing provided by the contractor would result in HRM taxpayers subsidizing HRWC ratepayers, which contravenes the principle of cost neutrality described in section 4(c) of the June 12, 2007 Transfer of Assets Agreement between HRM and HRWC:

4. This Agreement shall be interpreted and implemented in accordance with its purposes which are:

... (c) to evolve the operation and administration of municipal waste water services and municipal storm-water services towards a system whereby the general taxpayer of HRM does not subsidize the utility rate payer of HRWC and the utility rate payer of HRWC does not subsidize the general taxpayer of HRM ...

HRM acknowledges that the initial cost breakdown provided by the contractor does not provide the degree of granularity that HRWC is accustomed to when tendering its own projects using a Unit Price Tender format. It is, however, possible to extrapolate and/or estimate reasonable cost allocations in order to develop a cost sharing agreement that will withstand scrutiny at the UARB. HRM's revised cost summary is set out in the attached spreadsheet.

Legislative Framework

It is not sufficient to only consider HRWC's financial obligations for this project through the lens of HRWC's *Schedule of Rates, Rules and Regulations for Water, Wastewater and Stormwater Services* as approved by the UARB. HRWC is also subject to section 78 of the *Public Utilities Act* which allows HRM to set the terms upon which the municipality is willing to consent to HRWC's use of its streets:

78. No public utility shall, in any city or town, erect or place in, upon, along, under or across any street, road or highway, any pole, wire, conduit or pipe, without first obtaining the consent of the council of such city or town, and the council may give such consent on such terms, including the rate or amount of taxation to be paid by such public utility, or may refuse its consent, as it deems fit, and if the council refuses or neglects to give such consent within one month after such application has been received by the mayor or clerk of such city or town or agrees to give it only on terms which the company will not accept, the matter shall be referred to the Board, and the Board may make an order directing on what terms any such work shall be undertaken, or may refuse to make any order.

The terms upon which HRM consents to HRWC making use of the realigned streets for HRWC's water, wastewater and stormwater infrastructure include HRWC assuming the costs associated therewith. HRM's consent is also subject to the application of HRM's Streets By-Law, S-300. This is acknowledged by the parties in section 8 of the June 12, 2007 Transfer of Assets Agreement between HRM and HRWC:

8. HRM agrees HRWC may make reasonable use of municipal road rights-of-way for municipal waste water services or municipal storm water services purposes. After April 1, 2008, HRWC's use shall be subject to the Streets By-law as amended from time to time.

HRM has ordered HRWC, in accordance with section 17 of By-Law S-300, to remove or relocate its facilities from the existing streets in the Cogswell District project area and relocate them to the to-be-created streets:

17. Where in the opinion of the Engineer the location of any facility shall interfere with any works or undertakings of the Municipality, the facility shall be changed or altered and, wherever necessary removed; whenever the Engineer orders such changes of location or removal, it shall be done

by the utility without unnecessary delay and at its expense, or it may be done by the Engineer at the expense of the utility.

HRM is not a Developer

HRM disagrees with HRWC's characterization that the Cogswell District Project "should be treated similar to any other large-scale development where the developer incurs costs which are ultimately recovered through the land sales." HRM is not a developer, nor is it acting as one. HRM is exercising its legislative authority over the use of its streets pursuant to the *HRM Charter* and the *Public Utilities Act*. In this context, the distinction between asset renewal and new infrastructure within the street right-of-way is moot.

The creation and sale of development lots is a potential *by-product* of the project, not the purpose. The primary *purpose* of the project is to renew aging civil infrastructure and to realign the streets in order to improve traffic and pedestrian flows. While the sale of some adjacent properties may help HRM pay for its portion of the project costs, there is no guarantee that Halifax Regional Council will in fact choose to sell any/all of the parcels for highest value revenues.

Additionally, unlike street construction in Burnside, HRM is not expanding the service boundary. With the Cogswell District Project, HRM is simply realigning its streets within the existing serviced area to be more similar to the manner in which they existed prior to the construction of the interchange in the 1960s.

Notwithstanding the above, in its previous proposal HRM had identified and offered to pay for certain infrastructure that would significantly (but not exclusively) benefit potential development lots. HRM believes this offer was generous, as in some instances this infrastructure would also have an ancillary benefit for existing HRWC ratepayers. HRM's previous proposal was, however, predicated on HRWC assuming 100% of all other water, wastewater and stormwater infrastructure costs (which HRWC has declined). HRM's new proposal therefore abandons the concept of trying to identify which party will benefit most from a specific piece of infrastructure – and is instead based on HRM and HRWC splitting *all* infrastructure costs 50/50 regardless of the primary beneficiary.

Stormwater Infrastructure

HRM will not agree with any proposal in which HRWC does not significantly contribute towards the cost of installing any new or renewed stormwater infrastructure. HRWC has

always contributed to stormwater costs on joint civil infrastructure projects. Additionally, HRWC specifically projected in its Five-Year Business Plan that it would be contributing approximately \$3.655 million towards stormwater costs on the Cogswell Project.

HRM has agreed that it will assume all \$2.6 million of surface water infrastructure throughout the project area required to channel water to HRWC's stormwater system. There is, however, no reasonable basis upon which HRM should be required to pay for the relocation or construction of HRWC's entire stormwater infrastructure within the project area. To do so would be inconsistent with the legislative principles referenced above, HRWC's previously stated intentions, as well as the past practice of the parties.

Schedule E, section 1.1 of the January 20, 2016 Service Level Agreement between HRM and HRWC does not indicate or imply that HRM will assume *all* of HRWC's stormwater costs when realigning streets. It only states that "*HRWC will not be charged for catch basin adjustments or relocation of catch basins as a result of a change in road right-of-way alignment.*" As stated above, HRM agrees to absorb the cost of catch basins – but the storm sewer system as a whole remains HRWC's responsibility and HRM will continue to pay the associated "HRM ROW Charge" to HRWC for collecting and managing stormwater from the street right of way.

Reinstatement Costs

All utilities, including HRWC, are required to contribute to road reinstatement costs. HRM calculates HRWC's proportionate share of reinstatement costs to be \$1,590,795.

Conclusion

HRM anticipates that HRWC will uphold its previous assurances to Halifax Regional Council that it will make significant contributions towards the water, wastewater, and stormwater costs of the Cogswell Project. In 2020 HRWC projected its portion of the costs would be approximately \$15 million. Since that time construction costs have increased substantially and many public sector entities have had to upwardly adjust their estimates.

As set out above, there is a strong argument that HRWC should be responsible to contribute at least \$22 million and assume all water, wastewater & stormwater costs (other than surface water costs to be paid for by HRM). In an effort to find a mutually agreeable solution and given the unique nature of the project, HRM is willing to split the costs. While this proposal is not intended to form a precedent for future cost-shared projects, HRM believes it would be a fair outcome for both parties in this instance and should be supported by the UARB.

Please advise if Halifax Water intends to advance this proposal to the UARB, or if you would like to set up a meeting to discuss.

Yours truly,



John Spinelli, CET, PQS, C.Mgr., PMP, LEED-AP
Director Cogswell District Project
Halifax Regional Municipality

Cell (902) 293-8567
Email spinellj@halifax.ca

c.c.: Brad Anguish, P.Eng., Executive Director, Public Works
Donna Davis, Project Manager, Cogswell District Project
Colin Taylor, Solicitor, HRM Legal Services