

TO: Mayor Savage and Members of Halifax Regional Council

SUBMITTED BY: Original Signed
Jane Fraser, CFO/Director of Finance, Asset Management & ICT

Original Signed by 
Jacques Dubé, Chief Administrative Officer

DATE: July 30, 2019

SUBJECT: **Proposed Administrative Order 2019-006-ADM Respecting Grants to Business Improvement Districts**

ORIGIN

April 1, 2012 – HRM BID Contributions Fund policy and procedures effective date.

October 2, 2012 – Regional Council approval of HRM By-law B-700 Respecting the Regulation of Business Improvement Districts.

October 2, 2012 – Regional Council approval of HRM Administrative Order Number 47 Respecting the Creation of Business Improvement Districts.

August 13, 2019 – Regional Council approved the establishment of the Porters Lake Business Improvement District and the following motions in regard to amending the Business Improvement Service Agreement:

...

3. Direct the Chief Administrative Officer (CAO) to amend the Business Improvement District Service Agreement as adopted by Regional Council on August 9, 2012 to reflect the two-tiered approach to year-end financial reporting as set out in Table 1 of the Discussion section of the staff report dated July 5, 2019 and adopt this as the standard agreement for new Business Improvement District Service Agreements.

4. Authorize the Mayor and Municipal Clerk to execute amended Business Improvement Districts Service Agreements with all Districts currently listed in Administrative Order Number 47.

5. Authorize the Mayor and Municipal Clerk to execute the amended Business Improvement District Service Agreement with the Porters Lake Business Improvement District.

November 26, 2019 – Regional Council approved the following motion:

...

2. Request a supplemental report regarding Business Improvement District contribution fund policy and restoring funding to previous levels.

RECOMMENDATION ON PAGE 2 and 3

LEGISLATIVE AUTHORITY

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

79C (1) The Council shall adopt a policy that requires the Municipality to disclose to the public a list of the recipients of grants made by the municipality and the amounts of those grants.

(2) A policy adopted under subsection (1) must include the

- (a) frequency and timing of disclosure;
- (b) content to be included in a disclosure; and
- (c) form in which the disclosure must be made.

(3) A policy adopted under subsection (1) may include any other matter that the Council considers necessary or advisable to carry out effectively the intent and purpose of this policy.

Area Improvement and Promotion

70 (1) The Municipality may

- (a) beautify, improve and maintain property owned or leased by the Municipality;
- (b) pay grants to a body corporate for the purpose of beautifying a business district...;
- (c) identify and promote a business district as a place for retail and commercial activity;
- (d) establish or maintain parking facilities.

(2) The Municipality may levy an area rate applicable only to commercial property and business occupancy assessments in the area benefited by the expenditures in order to recover them.

(3) In setting such an area rate, the Council may set

- (a) different rates for business occupancy assessments and commercial property assessments; and
- (b) a minimum and maximum amount to be paid by a person assessed,

or may provide that payments be made on another basis established by the Council.

Business and Industrial Development

71 (1) The Municipality may

...

- (c) pay grants to a body corporate for the purpose of promoting the Municipality or any part of the Municipality and surrounding areas as a location for institutions, industries and businesses;

Power to Expend Money

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;

...

By-law B-700, the Business Improvement District By-Law

Administrative Order 47, the Business Improvement District Administrative Order

Administrative Order 54, the Procedures for the Development of Administrative Orders

5. All Administrative Orders, amendments to Administrative Orders, and repeals of Administrative Orders require at least seven (7) days notice to all the Council Members in accordance with subsection 59(1) of the Halifax Regional Municipality Charter.

RECOMMENDATION

It is recommended that Halifax Regional Council

1. Adopt Administrative Order 2019-006-ADM, the *Business Improvement District Grants Program Administrative Order* effective on April 1, 2020, as set out in Attachment 3 of this report, including

- repealing the BID Contribution Fund Policy.
2. Adopt the revised Business Improvement District Service Agreement as set out in Attachment 2, which incorporates
 - (a) the two-tiered approach to year-end financial reporting as directed by Council on August 19, 2019;
 - (b) the requirement that municipal funding be identified as a separate line item in the BID's statement of revenues, with a corresponding list of funded projects included in the Notes to Financial Statements;
 - (c) the requirement to disburse the installments three times per year;
 3. Authorize the Mayor and Municipal Clerk to execute the amended Business Improvement Districts Service Agreements on behalf of the Municipality with all Districts currently listed in *Administrative Order Number 47*.
 4. Refer consideration of an increase to the *Business Improvement Grants Program* in the amount of \$50,000 to Council's 2020/2021 budget deliberations.

BACKGROUND

The Municipality provides for the creation of Business Improvement Districts (a "BID") to help identify business development opportunities, resolve service delivery issues, and make business districts more attractive to investors, developers and clientele. These organizations and their members play a role in HRM's overall economic development strategy. Legislation also permits municipalities to levy an area rate in support of a business district, and to pay grants for beautification or the promotion of a business district. HRM has enabled the establishment of BIDs under By-law B-700 and the Business Improvement District Administrative Order. Each year, individual BIDs submit their proposed area rate for Council's approval, which is applied to the assessed value of all properties within the district assessed as Commercial (ie. non-residential uses)¹.

Purpose of Review and Proposed Administrative Order

Since the inception of the BID Contribution Fund policy (effective April 1, 2012²), HRM has moved towards the use of Administrative Orders for program policy. This approach aids consistency in format and HRM's Administrative Orders are available to the public on the HRM web site. HRM has also entered into separate funding agreements with urban BIDs in regard to social services for homeless and street-involved individuals: funding towards the Navigator Program had been included in submissions to the Fund. Municipal funding to the Navigator Program from an alternate source enabled recipient BIDs to access the BID Contribution Fund for other projects.

A review of municipal funding to BIDs is an opportunity to:

- reduce "red tape" by managing risk in relation to the scale of HRM's financial exposure;
- achieve administrative efficiencies for both HRM and the BIDs; and
- enhance customer service standards through revisions to policy and processes, including the consolidation of enhanced maintenance funding under the Administrative Order to create a 'single-point-of-entry'.

¹ The application of the levy must be uniformly applied and therefore property owned by a non-profit or charity used for a non-residential purpose is also assessed this levy.

² Recommendation Report to Regional Council meeting of October 4, 2011, 2011-12 Discretionary Funding for Business Improvement Districts, dated September 19, 2011.

Current BID Grant Program

Application to the BID Contribution Fund is restricted to areas designated as business improvement districts under the *Business Improvement District Administrative Order*. Under the current Fund, individual applications are submitted within 30 days following Council's approval of the area rate levies. These grants are project-specific awards, not operating funds, and are "matching" meaning that the applicant's cash contribution to a project is equal to or greater than HRM's. However, grants are not awarded using a merit-based evaluation process; the review process simply confirms that projects are in accordance with the program's policy. The value of an award is based on each BID's proportional share of the total levy collected in the current fiscal year³, excluding federal and provincial payments in lieu of tax ("PILT") or any year-end reconciliation of accounts. The rationale supporting the continuation of precedence was that each BID's proportional share of the levy, and by extension their allocation from the Fund, was largely self-determined when setting their rate and the minimum/maximum payment thresholds.

Staff of Financial Services review the applications to confirm that a project is eligible for consideration and forward a recommendation report to the HRM Grants Committee who in turn submit a recommendation for Regional Council's approval. Funds are then issued in one payment to the BIDs. Grant recipients are required to submit a final report on or before March 31st to confirm HRM's grant was spent as proposed.

Because grants have been awarded in relation to annual area rates an overview of levy revenues over the past four (4) years (2015-2018) is included in Tables 1, 2 and 3 in Attachment 1 of this report. The data confirms there is a significant range in levy revenues, from over \$1 million to under \$100,000, and therefore the range in value of grant varies accordingly. To date, the largest grant has been in the range of \$43,000 to \$45,000 (40% to 43% of the Fund) whereas most BIDs received grants in the range of \$4,000 to \$10,000 (4% to 10%). However, this variance is not simply a function of the rates proposed by the BID and approved by Regional Council. Rather, a concentration of non-residential properties, their assessed market value, and the maximum levy threshold (or no maximum levy) also impact area rate revenues. To date, awards have primarily supported beautification and promotional projects including hanging flower baskets and planters, seasonal decorations, graffiti removal, marketing, and public events.

Other Municipal Assistance

In addition to an area rate and the BID Contribution Fund, BIDs have received annual funding for enhanced maintenance under a "letter of agreement" with HRM Transportation and Public Works. In effect, these are a form of quasi service agreement whereby a BID undertakes maintenance work on primarily HRM-owned assets located in the public realm. For example, benches, litter bins, sidewalk cleaning, poster kiosk upkeep, signage or utility poles⁴. The distribution of this funding is shown in Table 4 in Attachment 1. It is important to note that the allocation of enhanced maintenance funding follows the same formula as the BID Contribution Fund in that payments are based on a percentage of the combined total levy, excluding PILT.

Because the former BID Contribution Fund and the replacement Administrative Order include provision to fund certain types of events, data on grants issued under the HRM Regional Special Events Grants Program is included in Tables 5 and 6 in Attachment 1. The aim is to avoid any duplication or funding overlap, as applicable. Additional funding outside an established municipal grant program has also been provided to BIDs for the Navigator Street Outreach Program under a Contribution Agreement thus expanding the use of funds received under the Contribution Fund on other projects. Smaller project grants have been issued under the District Activity and District Capital Funds.

³ The government payment in lieu of tax is not included because it is billed and collected outside the regular property tax system. Also, given the concentration of government offices in the urban core smaller BIDs would see a reduction in their proportional share of the BID Contribution Fund.

⁴ Nova Scotia Power owns most electrical transmission poles but HRM may own lamp posts in public parks or municipal parking lots, traffic signals, traffic signs, and light standard fixtures for banners.

In fiscal year 2018 the eight (8) BIDs received a combined total of \$2,965,721.41. As shown below, most operating revenue was through the area rate. HRM's combined discretionary funding totaled almost \$300,000.

BID Area Rate	\$2,538,919.60
PILT	134,685.81
BID Fund	107,000.00
Navigator Program	70,000.00
Enhanced Maintenance	50,000.00
Municipal Grant Programs ⁵	<u>65,116.00</u>
Total	\$2,965,721.41

In addition to municipal funding BIDs may receive federal and provincial grants and generate revenues through, for example, membership dues, sponsorship, and events. In general, the area rate pays for staff salaries/ wages and office operations whereas grants tend to be project-specific.

If approved, the new Administrative Order would come into effect in fiscal year 2020/2021 (April 1, 2020). In accordance with Administrative Order 54 and the *HRM Charter* the introduction of a new Administrative Order requires a minimum of seven (7) days' notice to Regional Council.

DISCUSSION

The changes proposed to the current BID grant program are substantive. For ease of reference a synopsis of the major changes is provided in point form followed by a narrative with the rationale for change and its implications.

- The payment of grants and enhanced maintenance funding to BIDs is expedited by using the *prior fiscal year's actual net combined area rate* revenues. Payments can be processed once Council has approved the grant program's annual operating budget. The intent is to issue payment in the first quarter of the fiscal year and assist cash-flow particularly for BIDs with modest revenues. This means BIDs will receive their funding in the Spring rather than the Fall.
- The disbursement of enhanced maintenance funding is integrated into the program to create a single-point-of-entry for BIDs and realize administrative efficiencies for both HRM and BIDs.
- Grants no longer require a matching contribution: this change could ease financial pressure on BIDs with modest revenues.
- The annual application and reporting requirements are discontinued. Amendments to the BID Service Agreement provide sufficient oversight if funds received under this grant program are identified as an individual line item in a BID's financial statement as a revenue and expense with corresponding notes listing the nature of the actual projects funded.
- Because access to this grant program is restricted to only BIDs recognized under *Administrative Order 47* and the value of funding is by formula, an annual recommendation report to the HRM Grants Committee and Regional Council would be discontinued. Amendments to the *HRM Charter* now require adoption of a formal policy to disclose to the public grants made by the municipality and the amounts⁶. This change realizes an administrative efficiency for HRM and also expedites payment timelines.

⁵ Funding from other municipal grant programs will vary year-to-year. In 2018, \$53,516 was received under the District Activity/Capital Fund and \$11,600 from the Regional Special Events Grants Program.

⁶ A proposed Administrative Order 2019-007-ADM is under development. It is anticipated that this new policy will be in effect in fiscal year 2020.

- The program's budget is not indexed. The addition of a new BID can be addressed through the annual budget process.
- The number of funding categories is reduced to align the program with sections 70(1) and 71(1) of the *HRM Charter*. These changes also reflect the recurring nature of most projects funded to date.
- A new funding category has been added for Business Development Events. This change permits grants for events ineligible for funding under HRM's Marketing Levy Special Events Reserve and the Regional Special Events Grants Program. For example, a conference, trade show, or symposia that serves local business, commerce or industry. This addition reflects the intent in establishing BIDs in relation to attracting and retaining retail and commercial activity.
- A minimum allocation per BID is proposed to enable all BIDs, regardless of their gross annual revenues, to complete a beautification or promotional project.

It is important to note that these are not "unconditional funds": municipal funding issued under this program must be spent in accordance with subsections 70(1)(a) and 71(1)(c) of the *HRM Charter* and, as proposed, recipient organizations must identify these funds and their use in their annual financial statement. For additional guidance, ineligible expenditures are listed in the Administrative Order.

Proposed Change in Funding Formula to Prior Year's Actual Levy Revenue

The current approval process delays the distribution of funds while awaiting annual area rate approvals: applications are received within 30 days of Council's approval of area rates (typically in mid-Summer or early Fall) by which time many of the funded projects, such as decorative flower baskets or containers, have already commenced or concluded. To expedite the timing of grant payments it is proposed that the value of HRM's discretionary awards be based on the total levy, excluding PILT, in the *previous* fiscal year. By amending the funding formula to the *prior year's actual levy* revenues, funds would be issued earlier in the fiscal year which could alleviate some pressure on smaller BIDs with limited cash-flow. This approach also eliminates any potential impact of an increase or decrease to a BID's revenues resulting from a property owner's appeal to Property Valuation Services Corporation or the Nova Scotia Assessment Appeal Tribunal. The aim would be to issue grants in the first quarter of the fiscal year.

Although the proportional share allocation of funds remains unchanged the pressure on smaller BIDs has been reduced by removing the cost-share requirement. Except for grants to private property owners issued under the Heritage Incentives Program, matching funds or a specified cost-share (expressed as a dollar value or percentage) has typically not been included in municipal grant programs. It is important to note that the allocation of grants using an applicant's proportional share of the combined total levy, excluding the PILT is not a merit-based evaluation – there are no stated evaluation criteria.

Except for discretionary tax relief to non-profit and charitable organizations, indexing has typically not been included in municipal grant programs. However, the proposed Administrative Order does make provision for the addition of a new BID during a fiscal year wherein the program's budget allocation has already been set by suspending the new BID's eligibility to the following fiscal year⁷. This approach allows time for consideration of the program's budget within HRM's regular budget process and establishes the financial standing and priority projects of the new BID.

⁷ This restriction may not apply to other municipal funding sources/programs.

Proposed Centralized Distribution of Grants and Enhanced Maintenance Funding

Financial assistance to BIDs was initially delivered through departmental operating budgets⁸, including enhanced maintenance funds expended primarily on municipal property issued by Transportation & Public Works..

It is recommended that the \$50,000 in enhanced maintenance funding provided through HRM Transportation & Public Works be merged into the BID Grants Program. The rationale for this change is that these funds are issued using the same funding formula. The aim is to enhance administrative efficiencies for both HRM and the BIDs by creating a 'single-point-of-entry'. Public Works staff would still provide oversight in terms of municipal standards and/or meetings to identify priority issues.

Grant Applications and Reporting

Under the current BID Contribution Fund each BID submits a standard application form which simply describes the project(s) for which funds will be used and the estimated total cost of the project. An application form is required for each project. On or before March 31 the grant recipient submits a final report to confirm that municipal funds were spent in accordance with the purpose of the award. If approved, individual grant applications and reporting would be discontinued.

In preference to individual reporting for funds received under the proposed Administrative Order, it is proposed that BIDs would be required to identify this funding as a separate line item in the statement of revenues with a corresponding list of funded projects included in the Notes to Financial Statements. As with the area rate, HRM has the right (at its own expense and with reasonable notice) to audit or examine the books of accounts and records maintained by a BID. By listing the funded project/category in the Notes to Financial Statements or the Financial Review of each BID, the purpose of the current program's staff review will be met; does the project comply with legislation and policy in terms of eligible funding categories? Amendments to the Service Agreement are recommended to include this alternate reporting requirement.

In terms of relative risk, the BID Contribution Fund is significantly lower than, for example, the Community Grants Program or the Tax Relief for Non-Profit Organizations Program. Unlike most municipal grant programs, the BID program is 'closed' insofar as eligible applicants must be recognized under *Administrative Order 47*. Most BIDs are well established organizations with paid staff, all have contractual Service Agreements with HRM and are required to submit comprehensive year-end financial statements or reviews. A reduction in the number of funding categories to comply with Subsection 70 (1) and 71 (1) of the *HRM Charter* also reduces risk in terms of permitted expenditures. A copy of the Service Agreement template with proposed amendments is included as Attachment 2 of this report.

The elimination of an annual application and separate project reporting realizes an efficiency for both HRM and the BIDs. The Service Agreement, once amended as per Council's direction, provides financial accountability.

Proposed Changes to Funding Categories

The number of funding categories has been reduced⁹ to strengthen compliance with legislation. The review of funding indicates that there is a relatively high degree of repetition among funded projects— most awards have been for beautification and marketing as per the intent of legislation. Although there would be five (5)

⁸ The former Capital District office, a project-specific unit under the Chief Administrative Officer, may have issued streetscaping or enhanced maintenance funding to those BIDs located within the area described as the "Capital District" but tracing these funds is confounded by re-organization.

⁹ Deleted categories: Advocacy; Other & Sundry; Heritage Conservation & Cultural Districts; Safety & Security (primarily used for Navigator Program); Business Recruitment & Retention (could be addressed through the Promotion or Business Development Events categories or self-funded).

funding categories under the new Administrative Order, the itemized list of expenditures and descriptive qualifiers are proposed to be removed. Instead, guidance is provided in policy in identifying ineligible expenditures.

The five (5) funding categories align with Section 70 (1) and 71 (1) of the *HRM Charter*:

District Beautification	Beautification Section 70 (1) (a)
Enhanced Maintenance	Beautification Section 70 (1) (a)
Business Development Events	Promotion Section 71 (1) (c)
Public Events	Promotion Section 71 (1) (c)
Marketing Projects	Promotion Section 71 (1) (c)

The “special projects” category is proposed to be removed. This element of the Fund proved largely redundant and has not been used since its inception.

Funding for advocacy is also proposed to be removed. Expenditures aimed at influencing government policy or decision-making to benefit members can be funded from non-municipal sources including a BIDs levy or membership dues.

Proposed Change to Funding Formula

It is recommended that the proportional share formula used to determine the value of a BID grant be amended to provide a uniform allocation (a defined, fixed dollar amount to each eligible BID) with the balance of funding disbursed based on each BID’s proportional share of the combined total levy in the prior fiscal year excluding PILT. Using this approach, there is a guaranteed minimum grant to enable a beautification or promotional project irrespective of a BID’s size or location which provides an element of predictability.

The impact of this alternative funding formula is illustrated below in Table A using the 2018 combined area rate, excluding PILT. A minimum grant allocation of \$5,000 has been used for illustration purposes only: this value corresponds to the maximum project grant threshold under the current Community Grants Program. A lower minimum threshold could be established but \$5,000 could reasonably complete a project of modest scale. Because the enhanced maintenance funding of \$50,000 is allocated using the proportional share formula, this amount has been merged with the BID Contribution Fund’s \$107,000 budget for a total of \$157,000.

In practice, each eligible BID would receive a baseline grant that is a fixed amount (for illustration purposes we are using \$5,000). The eight (8) BIDs listed in Table A would collectively receive a combined total of \$40,000 leaving \$117,000 to be distributed according to each BIDs proportional share (expressed as a percentage) of the prior year’s actual combined levy. Using this approach and the combined total levy Spryfield, for example, would receive the \$5,000 baseline plus \$4,502 which is higher as compared to using only the current proportional share formula.

Table A: Comparison of Current and Alternative Funding Methods: Current Budget \$157,000

Business District	Levy	Percent	Current	Alternative ¹	Change +/- (Dollars)	Change +/- (Percent)
Downtown Dartmouth	\$295,468	12%	\$18,271	\$18,616	\$345	0.12%
Downtown Halifax	\$1,084,449	43%	\$67,059	\$54,974	-\$12,085	-1.11%
Mainstreet Dartmouth	\$119,800	5%	\$7,408	\$10,521	\$3,113	2.60%
North End Halifax	\$185,218	7%	\$11,453	\$13,535	\$2,082	1.12%
Quinpool	\$125,991	5%	\$7,791	\$10,806	\$3,015	2.39%
Sackville	\$196,200	8%	\$12,132	\$14,041	\$1,909	0.97%
Spring Garden	\$434,094	17%	\$26,843	\$25,004	-\$1,839	-0.42%
Spryfield	\$97,700	4%	\$6,042	\$9,502	\$3,461	3.54%
Totals	\$2,538,920	100.00%	\$157,000	\$157,000	\$0	9.21%

¹ Calculation uses a baseline/minimum of \$5,000 (each)

² Calculation compares dollar value of change to BID's levy (i.e. change +/- (dollars) divided by levy)

The inclusion of all BIDs in a minimum allocation recognizes the concession voluntarily made by those BIDs in receipt of PILT levy revenues (over \$134,000 in 2018) from the proportional share formula that if included would have reduced the value of grant/enhanced maintenance funding to other BIDs. However, a challenge with this approach is that By-law B-700 does not establish a minimum scale of business improvement district: either by the number of commercial accounts and/or the value of the area rate generated. For example, in 2019, with only 14 commercial accounts included within the BID boundary and an area rate of \$0.10 (minimum \$300 and maximum \$3,000) the Porters Lake BID would generate an estimated \$10,455. In 2019, their proportional share of the BID Contribution Fund would have been in the range of \$500.

FINANCIAL IMPLICATIONS

If approved, \$50,000 from the enhanced maintenance funding (R723 – 6906) within Transportation and Public Works will be added to the total BID contribution (C771 – 6919) for a total of \$157,000 in the 2020/2021 fiscal year. This is an inter-departmental budget transfer, there are no financial implications to the change.

Regional Council had asked that the total funding for the BID's be increased by \$50,000, from \$107,000 to \$157,000 (pre TPW funding). Staff is recommending that the requested increase be considered as part of the 2020/21 operating budget process.

RISK CONSIDERATION

Low.

COMMUNITY ENGAGEMENT

A courtesy advisory notification dated September 30, 2019 was issued to those BIDs in receipt of funding under the BID Contribution Fund. The proposed re-design of the program was discussed at a meeting with BID representatives October 3, 2019. In general, BID representatives present support the changes. With respect to any change in the current proportional share funding formula attendees were advised that they could either collectively or individually submit comments through the Office of the Municipal Clerk. BIDs have access to the report in its entirety when Council's meeting agenda is posted online. During engagement, the BIDs collectively requested that area rate levy disbursements be remitted three times per year. Staff are in support of this administrative change and have, therefore recommend that the Service

Agreement be amended as reflected in recommendation 2 of this report.

ENVIRONMENTAL IMPLICATIONS

Not applicable.

ALTERNATIVES

1. Regional Council could limit a minimum grant allocation to only those BIDs whose prior year's gross annual revenues fall under a prescribed dollar-value threshold. For example, actual gross annual revenues of \$100,000 or less in the *prior* fiscal year.

This option is not recommended: attaching the value of a minimum grant allocation to the prior year's actual gross revenues could create volatility and diminish predictability.

ATTACHMENTS

1. Overview of Municipal Funding to Business Improvement Districts:
 - I. Area Rate Revenues
 - Table 1. Annual BID Levy and Proportional Distribution of BID Contribution Fund Grants: Fiscal Year 2015 to 2018.
 - Table 2. Rank Order of Area Rate Revenues by BID: Fiscal Year 2018.
 - Table 3. Rank Order of PILT Area Rate by BID: Fiscal Year 2018.
 - II. Enhanced Maintenance Funding
 - Table 4. Rank Order Distribution of Enhanced Maintenance Funds: Fiscal Year 2019.
 - III. HRM Festivals & Events Funding
 - Table 5. HRM Festivals and Events Grants: Fiscal Year 2015 to 2019
 - Table 6. Distribution of Festivals & Events Grants: Fiscal Year 2015-2019
 - IV. Other Municipal Funding
 - (a) Contribution Agreements: Navigator Street Outreach Program
 - (b) District Activity/Capital Fund:
 - Table 7. District Activity/Capital Fund: Fiscal Year 2015 to 2018
 - Table 8. Distribution of District Activity/Capital Fund: Fiscal Year 2015 to 2018
 - (c) Other
2. Service Agreement Template¹⁰.
3. Draft Administrative Order 2019-006-ADM Respecting Grants to Business Improvement Districts.

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: Peta-Jane Temple, Team Lead Grants & Contributions, Finance, Asset Management & ICT 902.490.5469

¹⁰ Amendments include a two-tiered approach to year-end financial reporting as described in the Recommendation report to Regional Council's meeting of August 13, 2019, Porters Lake Business Improvement District Formation, dated July 5, 2019, pp.4-5.

Overview of Municipal Funding to Business Improvement Districts

I. Area Rates Revenues

Table 1. Rank Order by Annual BID Levy: Proportional Distribution of BID Contribution Fund Grants Fiscal Year 2015 to 2018¹					
Fiscal Year	Rate	Min/Max	Total \$ value of Levy²	Value of Grant	% of Fund³
Downtown Halifax Business Commission					
2015	0.0863	\$250/\$36,000	\$834,911	\$43,581.25 ¹	41%
2016	0.0821	\$250/\$50,000	\$993,632	\$46,101.81	43%
2017	0.0821	\$250/\$65,000	\$928,145	\$43,103.11	40%
2018	0.0821	\$250/no max	\$1,084,449	\$45,702.91	43%
Spring Garden Area Business Association					
2015	0.3400	\$250/\$12,000	\$ 367,102	\$19,162.25	18%
2016	0.3400	\$250/\$12,000	\$380,000	\$17,630.95	16%
2017	0.3400	\$250/\$12,000	\$379,100	\$17,605.43	16%
2018	0.3400	\$250/\$16,000	\$434,094	\$18,294.44	17%
Downtown Dartmouth Business Commission					
2015	0.3600	\$300/\$15,000	\$ 250,941	\$13,098.79	12%
2016	0.3600	\$300/\$17,500	\$277,800	\$12,889.15	12%
2017	0.3600	\$300/\$22,500	\$310,700	\$14,010.97	14%
2018	0.3600	\$300/\$22,500	\$295,467	\$12,452.15	12%
Sackville Drive Business Association					
2015	0.1400	\$200/\$7,000	\$172,807.	\$9,020.30	8%
2016	0.1400	\$200/\$7,000	\$181,881	\$8,438.78	8%
2017	0.1400	\$200/\$7,000	\$199,800	\$9,278.72	9%
2018	0.1400	\$200/\$7,000	\$196,200	\$8,268.63	8%

¹ \$12,210 of this award was used to support the Navigator Street Outreach Project. In 2014, the Spring Garden BID ceased funding the Navigator Program in 2014 and initiated their own security project.

North End Business Commission					
2015	0.1500	\$50/\$2,500	\$124,311	\$6,488.88	6%
2016	0.1600	\$350/\$3,000	\$165,500	\$7,678.74	7%
2017	0.1600	\$350/\$3,000	\$168,900	\$7,843.73	7%
2018	0.1600	\$350/\$5,000	\$185,218	\$7,805.82	7%
Quinpool Road Mainstreet District Association Limited					
2015	0.1900	\$250/\$7,000	\$113,982	\$5,949.71	6%
2016	0.1900	\$250/\$8,000	\$109,200	\$5,066.58	5%
2017	0.2200	\$300/\$9,000	\$123,500	\$5,735.35	5%
2018	0.2200	\$300/\$10,000	\$125,991	\$5,309.75	5%
Main Street Dartmouth Business Improvement Association					
2015	0.1600	\$250/\$17,000	\$ 93,700	\$4,891.02	5%
2016	0.1600	\$250/\$25,000	\$105,530	\$4,896.30	5%
2017	0.1600	\$250/\$32,500	\$106,900	\$4,964.44	5%
2018	0.1800	\$250/no max	\$119,800	\$5,048.84	4%
Spryfield and District Business Commission					
2015	0.2700	\$125/\$10,000	\$92,106	\$4,807.81	4%
2016	0.2700	\$125/\$10,000	\$92,628	\$4,297.68	4%
2017	0.2800	\$300/\$10,000	\$96,000	\$4,458.25	4%
2018	0.2800	\$300/\$10,000	\$97,700	\$4,117.46	4%

Notes to Table 1.

1. Value excludes any payment in lieu of tax (PILT) by the federal and provincial government.
2. Levy totals and percentages rounded.

Overall, the minimum payable has remained fairly stable: this threshold falls within a modest range of \$125-\$300 but maximum payment thresholds vary significantly and two (2) BIDs do not have a limit.

The revenues generated from the levy can be categorized as shown below in Table 2. However, the revenue generated is not solely a function of the rate and payment thresholds: revenue potential is also a function of the concentration of commercial properties within a BID catchment area, a property's size, age and condition, and/or land scarcity and desirability which impact assessment values.

Table 2. Rank Order by Area Rate Revenues: Fiscal Year 2018 Excluding Federal and Provincial Government PILT		
Range	Organization	2018 Levy
Over \$1,000,000	Downtown Halifax Business Commission	\$1,084,449
Over \$300,000	Spring Garden Area Business Association	\$434,094
\$100,000 to \$300,000	Downtown Dartmouth Business Commission	\$295,467
	Sackville Drive Business Association	\$196,200
	North End Business Commission	\$185,218
	Quinpool Road Mainstreet District Association Limited	\$125,991
	Main Street Dartmouth Business Improvement Association	\$119,800
Under \$100,000	Spryfield and District Business Commission	\$97,700
Total		\$2,538,919

Notes to Table 2. All values rounded.

Table 3. Rank Order of PILT Area Rate by BID: Fiscal Year 2018	
Organization	PILT Revenue
Downtown Halifax Business Commission	\$87,405
Downtown Dartmouth Business Commission	\$26,231
Spring Garden Area Business Association	\$18,000
Sackville Drive Business Association	\$3,048
Total	\$134,684

II. Enhanced Maintenance Funding

Presently, \$50,000 in enhanced maintenance funding is made available to all eligible BIDs and is issued through HRM Transportation & Public Works under a “Letter of Understanding”. Funds are allocated using a proportional share of all levies, excluding PILT. Within the municipality’s defined enhanced maintenance service area (downtown Dartmouth and Halifax) HRM Transportation & Public Works may also provide services above the baseline standard, for example, sidewalk cleaning.

Table 4. Rank Order in Distribution of Enhanced Maintenance Funds: Fiscal Year 2019¹ Excluding Federal and Provincial Government PILT		
Organization	Grant Value	% of Total Levy²
Downtown Halifax Business Commission	\$20,509.93	41%
Spring Garden Area Business Association	\$8,158.60	16%
Downtown Dartmouth Business Commission	\$6,359.40	13%
North End Business Commission	\$3,989.57	8%
Sackville Drive Business Association	\$3,773.88	8%
Quinpool Road Mainstreet District Association Limited	\$2,756.40	5%
Main Street Dartmouth Business Improvement Association	\$2,489.36	5%
Spryfield and District Business Commission	\$1,962.86	4%
Total	\$50,000	100%

Notes to Table 4.

1. Projected values pending Regional Council's approval of area rates.
2. Percentages rounded.

Expenditures are to be made exclusively on HRM assets within the public realm such as but not limited to litter receptacles, street furnishings, vegetation, horticultural displays, utility poles, and signage. The agreements require an accounting of expenditures and meetings are convened to review service standards.

This funding is not considered a duplication of funding provided under Administrative Order 2019-006-ADM insofar as enhanced maintenance from Transportation & Public Works tends to be used primarily for improving streetscape cleanliness whereas discretionary grants under the BID Fund tend to be used more for beautification (annual flower baskets, seasonal decorations etc) and could be used, for example, to address illegal dumping or to supplement the TPW allocation.

III. HRM Festivals & Events Funding

HRM has two designated events funding programs: Administrative Order 2014-020-GOV distributes funds collected through a Marketing Levy Special Events Reserve and focuses on large-scale events that promote tourism and business development while Administrative Order 2014-021-GOV funds smaller community and cultural events. These grants programs are managed by HRM Parks & Recreation and applications are

considered through an open call with a merit-based evaluation of submissions. Multi-year funding (up to 3 years) may be considered for the Established Community Events category.

The data shown in Table 5 is for awards granted under the Regional Special Events Grants Program; most awards were issued under the Community Celebrations and Established Community Events categories as shown in Table 6.

Table 5. Annual HRM Festival & Events Grants: Fiscal Year 2015 to 2019		
Year	Combined Value of Awards	Number of Awards
2015	\$8,750	8
2016	\$9,250	6
2017	\$11,250	8
2018	\$10,250	7
2019	\$11,600	8
TOTAL	\$50,850	37

Table 6. Rank Order of Festival & Events Grants by BID: Fiscal Year 2015 to 2019		
Organization	Combined Value of Grant(s)	Description
Spryfield and District Business Commission	\$17,500 (5)	Spryfield Santa Clause Parade
North End Business Commission	\$16,100 (14)	North End Winter Holiday Festival, Gottingen Festival, North by Night Market, North End Holiday Market, Agricola Street Holiday Market
Quinpool Road Mainstreet District Association Limited	\$7,000 (5)	Quinfest: Family Fun Day
Sackville Drive Business Association	\$6,500 (8)	Sackville Christmas Tree Lighting, Sackville Snow Days
Spring Garden Area Business Association	\$3,250 (4)	Spring Garden Children's Festival
Downtown Dartmouth Business Commission	\$500 (1)	Portland Street Party
Total	\$50,850 (37)	

Notes to Table 6. The following events are funded under the Established Community Festivals category: Gottingen Festival, Quinfest: Family Fun Day, Sackville Snow Days, Spryfield Santa Clause Parade and the Spryfield Day Festival.

IV. Other Municipal Funding

(a) Contribution Agreements: Navigator Street Outreach Program

With introduction of the BID Contribution Fund in 2011 matching funds were awarded to the Downtown Halifax Business Commission and Spring Garden Area Business Commission towards a “Navigator Street Outreach Program”: the program was intended as a constructive approach to reducing panhandling by homeless or street-involved persons. From 2011 to 2014 HRM provided between \$34,000 to \$39,000 per annum in funding².

In 2017, funding in the amount of \$45,000 was awarded outside an established grant program towards the Navigator Program³ thus reducing the funding commitment previously made by the Halifax Business Commission and Spring Garden Area Business Commission under the BID contribution Fund. The award was for a 3-year term 2017 to 2019. In 2018, a request for \$25,000 from the Downtown Dartmouth Business Commission and the North End Business Commission expanded the program⁴.

(b) District Activity/Capital Fund

Table 7. Annual District Activity/Capital Fund Grants: Fiscal Year 2015 to 2018¹		
Year	Combined Value of Awards	Number of Awards
2015	\$45,839	9
2016	\$24,087	4
2017	\$58,570	5
2018	\$53,516	5
TOTAL	\$182,012	23

² Annual disbursements over the 4-year period were: \$34,000 (2011 and 2012), \$37,000 (2013) and \$39,000 (2014).

³ Report to October 17, 2017 meeting of Regional Council, Navigator Street Outreach Program Funding 2017-2020, dated October 4, 2017.

⁴ Report to July 31, 2018 meeting of Regional Council, Navigator Street Outreach Program, dated July 20, 2018. The Downtown Dartmouth Business Commission contributed \$10,000 and the North End Business Commission contributed \$5,000. Funding in the amount of \$50,000 was secured from the Nova Scotia Department of Communities, Culture & Heritage: Building Vibrant Communities Grant Program (poverty reduction). By way of a letter dated July 30, 2019, the Downtown Dartmouth Business Commission and the North End Business Commission requested a municipal contribution of sixty thousand dollars (\$60,000) per year over three fiscal years (2019-2022). Decision pending.

Notes to Table 7. In the absence of an application deadline awards may be issued throughout the fiscal year, consequently 2019 data unavailable.

Table 8. Rank Order of Combined Value of District Activity/Capital Fund Grants: Fiscal Year 2015 to 2018		
Organization	Combined Value of Grant(s)	Description
Spryfield and District Business Commission	\$76,452 (6)	Assorted signage, streetscaping, horticultural materials, equipment, seasonal decorations, community float.
Quinpool Road Mainstreet District Association Limited	\$38,569 (4)	Benches, street banners, planters and plant material, Quinfest: Family Fun Day event.
Spring Garden Area Business Association	\$21,746	Planters, bike rack, water fountain.
Downtown Halifax Business Commission	\$16,150	Seasonal lighting.
Downtown Dartmouth Business Commission	\$14,945 (4)	Event banners, signage, lighting.
Sackville Drive Business Association	\$11,300 (3)	Pride crosswalk painting, seasonal decorations and associated electrical upgrade.
Main Street Dartmouth Business Improvement Association	\$1,500 (2)	Web camera, signage.
North End Business Commission	\$1,350 (2)	Gottingen Festival.
Total	\$182,012 (23)	

Most purchases made with discretionary funding are located on public or private property and would be ineligible under the Community Grants Program.

(c) Other

- **Community Grants Program:** This program has only received one (1) application for an outdoor art installation (declined). This program's focus on social development/volunteerism does not align with the BID's role in local economic development.
- **Halifax Explosion 100th Anniversary Grant Program:** This 2-year designated grant program was initiated to commemorate the 100th Anniversary of the Halifax Explosion. In 2016, the North End Business Commission received a grant of \$7,750 for an interpretive photographic exhibition.

- **Heritage Incentives Program:** Matching grants of up to \$10,000 to eligible owners of a registered heritage property for exterior heritage conservation work. Some BID members have qualified for funding under this program and special initiatives such as the Barrington Street Heritage Conservation District.

Services Agreement

Between:

Halifax Regional Municipality

And

INSERT

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This **Service Agreement** made this _____ day of _____, 2012.

BETWEEN:

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

OF THE FIRST PART

- and -

INSERT,
a body corporate,
(hereinafter called the "Business Improvement Association")

OF THE SECOND PART

WHEREAS Halifax Regional Council has endorsed an Economic Strategy to guide economic development within the Municipality;

AND WHEREAS the Municipality seeks to support implementation of the Economic Strategy and realize economic growth;

AND WHEREAS the Municipality deems it appropriate to contract with a body corporate to undertake economic development programs and activities that support implementation of its Economic Strategy;

AND WHEREAS the Business Improvement Association is a body corporate established for the purpose of carrying out economic development within the Municipality;

AND WHEREAS the Council of the Municipality enacted By-law B-700, the Business Improvement District By-law;

AND WHEREAS the Council of the Municipality passed Administrative Order 47, creating the Business Improvement District known as **INSERT**;

AND WHEREAS Halifax Regional Municipality wishes to support the attraction, retention and promotion of institutions, industries and businesses, to encourage tourism and to facilitate the stabilization and expansion of employment opportunities;

AND WHEREAS Business Improvement Districts' outreach, advocacy, promotion and beautification activities help Halifax Regional Municipality to identify business development priorities, resolve service delivery issues, make business districts more attractive to investors, developers and clientele and otherwise assist the Municipality in achieving its economic development mandate;

NOW, THEREFORE, in consideration of the mutual promises hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto promise and agree as follows:

ARTICLE ONE DEFINITIONS

Section 1.01 **Definitions**

- (a) **“Area Rate Levy”** means a levy imposed by Council pursuant to section 70 of the Halifax Regional Municipality Charter, S.N.S. 2008. c. 39;
- (b) **“Business Improvement District”** means an area designated as a business improvement district pursuant to by-law B-700;
- (c) **“Chief Administrative Officer”** means the Chief Administrative Officer of Halifax Regional Municipality or his designate;
- (d) **“Council”** means the Halifax Regional Council;
- (e) **"Economic Development"** means the development and implementation of strategies that support an environment for businesses to start and expand in the Municipality and includes community-based economic development as defined under Section 2 and subsection 3 (b) of the *"Regional Community Development Act"*, 1996, c.29. s.1;
- (f) **"Economic Strategy"** means a 5-year Strategy for Economic Development endorsed by Council on March 22, 2011 including any amendments made subsequent to Council's endorsement;
- (g) **“Employee”** includes agents, officers, servants, assigns and heirs;
- (h) **"Fiscal Year"** means the annual period ending on March 31 of each year, or such other period as the Municipality may establish upon notice to the Business Improvement Association; and
- (i) **“Municipality”** means Halifax Regional Municipality.

expressly provided to the contrary, and subject to responsibilities hereunder in a competent and professional manner.

- (i) The Business Improvement Association shall collaborate with HRM to advance HRM's Corporate directions relating to, but not limited to, Regional Planning, Urban Design, Economic Development, Culture, Youth, Safety, Graffiti, Fiscal and Tax Policy.

ARTICLE THREE DUTIES AND RESPONSIBILITIES OF THE BUSINESS IMPROVEMENT ASSOCIATION

Section 3.01 Indemnification by the Business Improvement Association

The Business Improvement Association agrees to indemnify and hold harmless the Municipality and each employee of the Municipality, against any loss, expense, damage, claim, liability including negligence, obligation, judgment or injury suffered or sustained, including bodily injury or death, by the Municipality as a result of any act or omission or alleged act or omission of the Business Improvement Association on or any employee acting under the supervision of the Business Improvement Association.

Section 3.02 Business Improvement Services

The Business Improvement Association agrees to provide HRM with business improvement services as follows:

- (a) Enhanced maintenance services to augment municipal litter and graffiti abatement programs through means such as community cleanups, graffiti removal and/or sidewalk sweeping programs;
- (b) Beautification programs to improve the image of business districts through local improvements such as plantings, banners, lighting, window displays and/or seasonal decorations as appropriate;
- (c) Communications, advocacy and outreach programs which provide a conduit to HRM's business community through dissemination of information, advocacy, and facilitating change in support of local business district and related municipal matters;
- (d) Assistance to HRM in facilitating solutions to service delivery issues in partnership with the business community, and assists HRM in responding to municipal service requests through reporting and/or provide assistance with local inventories of municipal service issues;
- (e) Local area business area marketing and promotion services through such means as business directories, websites, tourism and retail promotions, marketing collateral and/or hosting community festivals and events as appropriate;
- (f) Collectively identifying priorities for HRM's annual business planning and budget process; and

- (g) Regular communications to the Chief Administrative Officer on status of activity plans and provide an annual report to Council on year end achievements.

Section 3.03 Preparation of Activity Plan and Budget

- (a) Each Fiscal Year the Business Improvement Association shall prepare, and submit to the Municipality for approval, a proposed Area Rate Levy, activity plan and budget.
- (b) The proposed Area Rate Levy shall include a recommended minimum and maximum amount to be levied upon each commercial property located in the Business Improvement District.
- (c) The proposed budget shall be consistent with a recommended Area Rate Levy and activity plan.
- (d) The proposed activity plan shall outline the Business Improvement Association's activities for the upcoming fiscal year, be consistent with the submitted budget and be consistent with section 3.02 of this Agreement.

Section 3.04 Accounting Records

The Business Improvement Association shall maintain a complete and proper set of accounting records following the Generally Accepted Accounting Principles as established from time to time by the Canadian Institute of Chartered Accountants.

Section 3.05 Municipal Audit

The Municipality shall have the right, at its own expense, and with reasonable notice, to audit or examine the books of account and records maintained by the Business Improvement Association pursuant to this agreement.

Section 3.06 Financial Reports

- (a) The Business Improvement Association shall provide to the municipality within ninety (90) calendar days of year end, a Balance Sheet, an Income Statement and a Statement of Sources and Uses of Funds based on one of the following:
 - (i) if the gross annual revenues of the Business Improvement Association are less than two hundred and fifty thousand dollars (\$250,000), on a review basis; or
 - (ii) if the gross annual revenues of the Business Improvement Association are two hundred and fifty thousand dollars (\$250,000) or more, on an audited basis.

- (b) The Statement of Sources and Uses of Funds must identify all municipal funding as a separate line item, with a corresponding list of funded projects in the Notes to the Financial Statements.

Section 3.07 **Other Reports**

The Business Improvement Association shall, when requested, prepare and furnish to the Municipality, such other reports, board minutes, articles of incorporation, by-laws or statements as the Municipality may reasonably require.

**ARTICLE FOUR
DUTIES AND RESPONSIBILITIES OF THE MUNICIPALITY**

Section 4.01 **Assessment Information**

The Municipality shall provide annually to the Business Improvement Association, assessment roll data for the next fiscal year, as soon as practicable, after receiving it from the Province of Nova Scotia.

Section 4.02 **Approval of Business Plan & Budget**

The Municipality shall approve such business plan and final budget, as the Municipality considers appropriate.

Section 4.03 **Disbursements**

Subject to 5.05,

- (a) the Municipality shall remit a first installment, equal to 40 per cent of the previous year's levy rates, including minimum and maximum levies, applied to the current year's assessment values, no later than April 15th of each year;
- (b) the Municipality shall remit a second installment, equal to 40 per cent of the previous year's levy rates, including minimum and maximum levies, applied to the current year's assessment values, no later than August 15th of each year; and
- (c) the Municipality shall remit a third installment, equal to the current year levy rate, including any change to minimum and maximum levies, applied to the current year's assessment values, less the combined amounts of the first and second installment, no later than November 15th of each year.

Section 4.04 **Shortfalls and Surpluses**

Subject to 5.05,

- (a) If, in any fiscal year, the Municipality receives, in respect of an Area Rate Levy, a lesser amount in aggregate than the amount payable, the Municipality shall, when it remits the third installment to the Business Improvement District the

following year, reduce the amount of that remittal by the amount of the shortfall;
and

- (b) If, in any fiscal year, the Municipality receives, in respect of an Area Rate Levy, a greater amount in aggregate than the amount that the Area Rate Levy was calculated to raise, the Municipality shall remit the surplus to the Business Improvement District with the third installment the following fiscal year.

ARTICLE FIVE TERM/TERMINATION

Section 5.01 Commencement and Initial Term

- (a) The initial term of this agreement shall be for a maximum of 12 months, commencing on the later date of the execution of this Agreement by the Municipal Clerk or Mayor, and continue in force until March 31st.
- (b) This agreement may be renewed for a period of 12 months, commencing on April 1st of the calendar year in which the initial term expires and may continue to be renewed for further renewal periods of twelve months.
- (c) The renewals periods will continue until either:
 - (i) one party notifies the other party that it elects not to renew this Agreement and such notification shall be at least six (6) months prior to the end of the initial term or any renewal term; or
 - (ii) this Agreement is otherwise terminated pursuant to any other section of Article 5 of this Agreement.

Section 5.02 Termination without Notice

Notwithstanding the initial term or any renewal term in section 5.01, this agreement may be terminated immediately and without notice if:

- (a) the enabling statutory authority or the required approvals under which the Municipality has entered into this agreement are repealed, rescinded, or amended by the Province of Nova Scotia;
- (b) the Municipality and the Business Improvement Association agree in writing to terminate this Agreement; or
- (c) an event of default specified in subsection 5.04 occurs.

Section 5.03 Termination with Notice

Either party may terminate this agreement by providing six (6) months written notice to the other party.

Section 5.04 Events of Default

The following constitute events of default, the proof of which to the contrary lies upon the Business Improvement Association:

- (a) The Business Improvement Association becomes bankrupt or insolvent, goes into receivership, or takes the benefit of any statute from time to time being enforced relating to bankrupt or insolvent debtors;
- (b) An order is made or resolution passed, by the Board of the Business Improvement Association, for winding up or for the dissolution of the Business Improvement Association or it is dissolved;
- (c) The Municipality is in receipt of a petition to disestablish the Business Improvement District signed by a majority of the Business Improvement Association's members;
- (d) The Business Improvement Association ceases actual bona fide operation for a period of ninety (90) consecutive calendar days, as determined solely by the Municipality;
- (e) The Business Improvement Association has knowingly submitted false or misleading information to the Municipality, which shall be determined solely by Municipality;
- (f) The Business Improvement Association is in breach of the performance of, or compliance with, any term, condition, or obligation on its part to be observed or performed hereunder, as determined solely by the Municipality, and
 - (i) notice of default has been given to the Business Improvement Association; and
 - (ii) the default is not remedied within fifteen (15) business days after receipt by the Business Improvement Association of notice of default, or
 - (iii) a plan satisfactory to the Municipality to remedy such an event of default is not implemented within ninety (90) calendar days and fully and diligently carried out.

Section 5.05 Remedies on Default

If an event of default specified in subsection 5.04 occurs, the municipality may, in addition to any other remedies otherwise available at law, exercise either or both of the following remedies:

- (a) Terminate forthwith any obligation by the Municipality to disburse area rate levies pursuant to section 4.03, including any unpaid installment outstanding prior to the date of such termination; and

- (b) Require the Business Improvement Association to pay to the Municipality an amount equal to the area rate levies disbursed by the Municipality to the Business Improvement Association, less the sum of all amounts previously paid out in accordance with this Agreement and such additional amounts as the Business Improvement Association may be obliged to pay pursuant to the terms of this Agreement.

ARTICLE SIX INSURANCE

Section 6.01 Insurance

The Business Improvement Association shall be responsible for obtaining and maintaining at its sole cost and expense:

- (a) insurance on all real property including, but not limited to, contents, buildings, leasehold improvements, fixtures and equipment, whether owned, leased or rented, or for which the Business Improvement Association may otherwise be responsible, in amounts, and against such risks, as the Business Improvement Association may deem advisable;
- (b) Commercial General Liability Insurance in amounts, and against such risks, as the Business Improvement Association may deem advisable, but in any event, no less than \$2,000,000 (Two Million Dollars) in limits;
- (c) Commercial General Liability Insurance coverage for any event where alcohol is served outside of a licensed establishment and for which the Business Improvement Association might be held liable (in whole or in part) and in amounts, and against such risks, as the Business Improvement Association may deem advisable, but in any event, no less than \$5,000,000 (Five Million Dollars) in limits with no exclusion for liquor liability;
- (d) Directors and Officers Liability Insurance for Board and Directors of the Business Improvement Association in amounts, and against such risks, as the Business Improvement Association may deem advisable, but in any event, no less than \$2,000,000 (Two Million Dollars) in limits;
- (e) such other insurance coverage as the Business Improvement Association may deem advisable.

Section 6.02 Commercial General Liability Insurance

Commercial General Liability Insurance obtained and maintained by the Business Improvement Association pursuant to section 6.01 shall:

- (a) contain a cross liability clause, with respect to operations and activities of the Business Improvement Association, under which the Municipality shall be included as an Additional Named Insured;

- (b) include legal liability, contractual obligations, bodily injury, death and property damage as insured perils; and
- (c) comply with insurance coverage standards as established from time to time by the Insurance Bureau of Canada.

Section 6.03 Proof of Coverage

- (a) The Business Improvement Association shall provide HRM with an executed Certificate of Insurance within 21 calendar days of its execution.
- (b) The executed Certificate of Insurance, provided pursuant to section 6.03 (a), shall evidence insurance coverage and limits consistent with sections 6.01 and 6.02.

Section 6.04 Suits and Claims

- (a) The Business Improvement Association shall notify the Municipality, in writing, as soon as possible after the Business Improvement Association becomes aware of any claim or possible claim against the Municipality and/or the Business Improvement Association which involves the Business Improvement Association.
- (b) The Business Improvement Association shall notify the Municipality in writing as soon as possible after it becomes aware of any injury occurring in, on or about the Business Improvement Association, which could reasonably be expected to result in a claim being made against the Municipality or the Business Improvement Association and of all claims against the Municipality and/or the Business Improvement Association which involve the Business Improvement Association.
- (c) The Business Improvement Association shall take no steps (such as the admission of liability) which would operate to bar the Municipality from obtaining any protection afforded by any policies of insurance it may hold or which will operate to prejudice the defence in any legal proceedings involving the Municipality or the Business Improvement Association, or otherwise prevent the Municipality from protecting itself against any such claim, demand or legal proceeding.
- (d) The Business Improvement Association shall fully cooperate with the Municipality in the defence of any claim, demand, or legal proceeding.

**ARTICLE SEVEN
EMPLOYEES**

Section 7.01 **Personnel**

All personnel involved in the management, administration and operations of the Business Improvement Association including, without limitation to the foregoing the Executive Director, will be employees of the Business Improvement Association. The wages, salaries and benefits of such employees shall be paid solely and directly by the Business Improvement Association, unless otherwise stated and agreed upon in writing. The Business Improvement Association shall be responsible for the supervision, instruction, and training of such employees.

**ARTICLE EIGHT
GENERAL PROVISIONS**

Section 8.01 **Notices**

- (a) All notices, demands, requests, approvals or other communication of any kind which a party hereto may be required or may desire to serve on the other party in connection with this Agreement shall be served personally or sent by registered mail. Any such notice or demand so served by registered mail shall be deposited in the Canadian mail with postage thereon fully prepaid, registered and addressed to the party so to be served as follows:

Any notices intended for the Municipality shall be delivered and addressed to:

**Municipal Clerk
Halifax Regional Municipality
1841 Argyle Street
P.O. Box 1749
Halifax, NS B3J 3A5**

Any notices intended for the Business Improvement Association shall be delivered and addressed to:

INSERT

- (b) Except in the event of a postal service strike or lockout (in which event the parties hereto agree to temporarily utilize other reasonable methods of communicating any notices), service of any notice or demand so made by registered mail shall be deemed complete on the date of actual delivery as shown by the registry receipt or at the expiration of the seventh business day after the date of mailing, whichever is earlier in time. Either party may from time to time, by notice in writing served upon the other party as aforesaid, designate a different mailing address or different or additional persons to which all such notices or demands are thereafter to be addressed.

Section 8.02 **Validity of Provisions**

In the event anyone or more of the provisions contained in this agreement shall be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this agreement and this agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein and this agreement shall be enforceable to the fullest extent permitted by law.

Section 8.03 **Waiver and Modification**

No consent or waiver, express or implied, by a party of any breach or default by the other party in the performance by such other party of its obligations hereunder shall be deemed or construed to be a consent or waiver of any other breach or default hereunder. Failure on the part of a party to complain of any act, or failure to act, on the part of the other party or to declare the other party in default, irrespective of how long such failure continues, shall not constitute a waiver by such party of its rights hereunder. Neither this agreement nor any provision hereof may be amended; waived, modified or discharged except by an instrument in writing executed by the party against whom enforcement of such amendment, waiver, modification or discharge is sought.

Section 8.04 **Successors**

The provisions of this Agreement shall, subject to the terms and conditions hereof, be binding upon and ensure to the benefit of the successors and assigns of each of the parties hereto; provided however, this Agreement shall at all times remain personal to the Society and may not be assigned by the Business Improvement Association without the prior written consent of the Municipality.

Section 8.05 **Remedies**

Both parties shall, in addition to all rights provided herein or as may be provided by law, be entitled to the remedies of specific performance to enforce their rights hereunder.

Section 8.06 **Headings**

The headings used are inserted solely for convenience of reference and are not a part of and are not intended to govern, limit or aid in the construction of any term or provision of this agreement.

Section 8.07 **Interpretation**

Where the context so requires, words used in the singular shall include the plural and vice versa.

Section 8.08 **Entire Agreement**

This agreement, together with any written agreements executed in connection herewith or modifications or amendments to this agreement entered into by the parties hereto shall constitute the entire agreement between the parties hereto relative to the subject matter hereof and shall supersede any prior agreement or understanding, if any, whether written or oral, which either party may have had relating to the subject matter hereof.

Section 8.09 **Confidentiality**

It is agreed by the parties this agreement is a public document for the purposes of Part XX of the Municipal Government Act (“Freedom of Information and Protection of Privacy”) and that any information, document, or record, in any form, provided to the Municipality by the Business Improvement Association is subject to FOIPOP.

Section 8.10 **Governing Law**

This Agreement shall be governed by and construed in accordance with the laws of Nova Scotia.

Section 8.11 **Time of Essence**

Time is of the essence in the performance of the obligations of this agreement and of each provision hereof.

THE REST OF THIS PAGE IS BLANK

IN WITNESS HEREOF the parties hereto have properly executed this Agreement as of the day and year first above written.

SIGNED, SEALED and DELIVERED:

INSERT

Witness

Executive Director

Witness

Chair of the Board
(I have authority to bind the Business
Improvement Association)

HALIFAX REGIONAL MUNICIPALITY

Witness

Mayor

Date:

Witness

Municipal Clerk

Date:

**ADMINISTRATIVE ORDER NUMBER 2019-006-ADM
RESPECTING GRANTS TO BUSINESS IMPROVEMENT DISTRICTS**

BE IT RESOLVED AS AN ADMINISTRATIVE ORDER of the Council of the Halifax Regional Municipality under the authority of the *Halifax Regional Municipality Charter*, including sections 70, 71 and 79A, as follows:

Short Title

1. This Administrative Order may be known as the *Business Improvement District Grants Program Administrative Order*.

Interpretation

2. In this Administrative Order,

- (a) “*Charter*” means the *Halifax Regional Municipality Charter*, 2008, C. 39, as amended;
- (b) “*Council*” means the Council of the Municipality;
- (c) “*cumulative levy*” means the total dollar amount collected by the Municipality for the prior fiscal year for all the districts based on the area rates set by Council for those districts, and the levy shall
 - (i) include any changes to the assessed value of the commercial property within the district resulting from a revised assessment, such as a change resulting from an appeal to the Nova Scotia Assessment Appeal Tribunal, or a change to the assessed value by the Property Valuation Service Corporation, and
 - (ii) exclude federal payment in lieu of taxes and provincial grants in lieu of taxes;
- (d) “*district*” means a business improvement district that is listed and has boundaries identified under the *Business Improvement District Administrative Order*;
- (e) “*district levy*” means the actual net dollar amount collected by the Municipality for the prior fiscal year for a particular district based on the area rate set by Council for that district, and the levy shall
 - (i) include any changes in the assessed value of the commercial property within the district resulting from revised assessments, such as a change resulting from an appeal to the Nova Scotia Assessment Appeal Tribunal, or a change to the assessed value by the Property Valuation Service Corporation, and
 - (ii) exclude federal payment in lieu of taxes and provincial grants in lieu of taxes;
- (f) “*Municipality*” means the Halifax Regional Municipality;
- (g) “*registered non-profit organization*” includes:
 - (i) a society incorporated pursuant to the *Societies Act*, R.S. N.S 1989, c.435 as amended,
 - (ii) a not-for-profit corporation incorporated pursuant to the *Canada Not-for-Profit Corporations Act*, S.C 2009, c.23, or
 - (iii) a non-profit organization incorporated pursuant to an Act of the Nova Scotia Legislature which is described as a non-profit in the articles of incorporation; and

(j) “program budget” means the budget amount allocated to the grant program for a particular fiscal year for all the districts through the annual municipal budget process.

Purposes

3. The purposes of this Administrative Order are to:

- (a) provide for grants to eligible districts located within the geographic boundary of the Municipality;
- (b) promote and improve the economic vitality and attractiveness of the district; and
- (c) leverage private sector, philanthropic, or government investment, to contribute to the revitalization and growth of the district.

Eligibility

4. Subject to section 5, to be eligible for consideration for a grant pursuant to this Administrative Order, the district shall:

- (a) be a registered non-profit organization;
- (b) be listed as a business improvement district under the *Business Improvement District Administrative Order*;
- (c) have been listed as a business improvement district under the *Business Improvement District Administrative Order* by September 30th of the prior fiscal year of the Municipality, or such later date as may be set by the Chief Administrative Officer, or designate;
- (d) be located within the geographic boundary of the Municipality; and
- (e) apply for a grant under this Administrative Order.

Ineligibility

5. (1) Council may determine that a district is ineligible for consideration of a grant under this Administration Order:

- (a) if the district owes taxes, or any other sums, to the Municipality;
 - (b) if the district is in default of a contractual obligation to the Municipality;
 - (c) if the district is a party to a legal proceeding or claim against the Municipality; or
 - (d) for any other reasons Council considers appropriate.
- (2) In consideration whether a district is ineligible under subsection 1, Council may consider:
- (a) if the district is complying with a payment plan that has been entered into between the district and the Municipality respecting the taxes or other sums owed;
 - (b) if the default of a contractual term has been remedied by the district;
 - (c) if the legal proceeding or claim has been settled and a release signed by all the parties; or
 - (d) any other matter Council considers appropriate.

Grants

6. Grants shall be used to deliver or enhance an existing project or to develop a new project.

7. The five categories of projects are as follows:

- (a) district beautification project;
- (b) enhanced maintenance project;
- (c) business development events project;
- (d) public events hosting project; and
- (e) marketing project.

District Beautification Project

8. A district beautification project shall satisfy at least one of the following:

- (a) the project improves the experience of business clientele and neighbourhood visitors to the district;
- (b) the project attracts investment, development, or clientele; or
- (c) the project improves the street-level image of the district.

Enhanced Maintenance Project

9. An enhanced maintenance project shall satisfy at least one of the following:

- (a) the project promotes the maintenance of property within the district, including improving the state-of-good-repair of it; or
- (b) the project beautifies the district by improving cleanliness and discouraging litter.

Business Development Events Project

10. A business development event project shall satisfy at least one of the following:

- (a) the project promotes networking opportunities in the district; or
- (b) the project promotes the district as a place for retail and commercial activities, including a consumer or trade show, seminar, symposium, public lecture, or conference.

Public Events Hosting Project

11. (1) A public event hosting project shall promote the retail and commercial activities of the district by highlighting the district's restaurants, retailers, artists, cultural organizations, and public spaces.

(2) Examples of public event hosting projects that promote the district include:

- (a) restaurant or gallery tours;
- (b) interpretive tours of historical attractions; or
- (c) farmers' market, block parties, holiday festivals, or street fairs.

Marketing Project

12. Marketing projects shall promote the district, enhance the branding of the district, and increase pedestrian traffic in the district.

Ineligible Funding Amount

13. (1) The awarding of a grant for a project does not constitute approval of any expenditures from that grant.

(2) No portion of the grant shall be expended towards any of the following:

- (a) wages or remuneration of employees of the district;
- (b) bursaries, or honoraria;
- (c) members or officers of the district's Board of Directors, either directly or indirectly;
- (d) operating expenses of the district, including meetings;
- (e) personal gifts, awards, or prizes;
- (f) fundraising events of any kind;
- (g) social events, except public events hosting projects;
- (h) sporting events, or media or political events;
- (i) corporate, institutional or private reunions;
- (j) award or civic ceremonies;
- (k) hospitality for private events, including receptions or banquets;
- (l) debt payment, or cost overruns of the district;
- (m) funding for an expense incurred in a prior fiscal year, including prior losses; or
- (n) pre-paid expenses that have been incurred in the current fiscal year that relate to goods or services to be delivered or provided in the following fiscal year.

Calculation of Grant Value

14. (1) In this section,

- (a) "adjusted program budget" means the program budget less the uniform sum amount;
- (b) "proportional share amount" means the dollar amount calculated by dividing the prior year district levy by the prior year cumulative levy and then multiplying the resulting quotient by the adjusted program budget; and
- (c) "uniform sum amount" means a fixed dollar amount set by Council for each district for the fiscal year.

(2) The amount of each eligible district's grant is calculated by adding together the uniform sum amount and the district's proportional share amount, and may be expressed as follows:

$$\text{Uniform Sum Amount} + \left[\begin{array}{l} \text{District Levy} \\ \text{Cumulative Levy} \end{array} \right] \times \text{Adjusted Program Budget} = \text{Amount of District's Grant}$$

Financial Reporting

15. (1) The district shall report all funding it received from the Municipality during the fiscal year as either a separate line item in its annual financial statement, or as a separate schedule in its financial statement.

(2) The annual financial statement or the separate schedule in the financial statement shall

(a) identify the amount of the grants the district received from the Municipality under this Administrative Order, the applicable project category, and any allocation of funds between two or more projects;

(b) distinguish the municipal funding the district received from the area rate from any other revenues of the district; and

(c) distinguish any other municipal funding the district received from sources other than the area rate.

Notification and Payment Schedule

16. Following Council's approval of the program's annual budget, the Municipality will provide written notice to eligible districts notifying each district of the amount of its grant calculated in accordance with section 14.

17. (1) Grants shall be issued in one payment.

(2) There shall be no supplementary or incremental commitment from the Municipality.

(3) A grant that complies with this Administrative Order may be paid by the Municipality to the district.

Public Notice of Grants

18. In accordance with subsection 79C(1) of the *Charter*, the Municipality will disclose to the public the recipients of all grants, including the amount of the grant under this Administrative Order.

Funding Acknowledgement

19. Funding recipients shall publicly acknowledge the grant.

Use of Logo

20. Guidelines regarding government protocols and use of the logo of the Municipality may be obtained from HRM Corporate Communications.

Indemnification, Insolvency and Guarantor Status

21. Before accepting a grant under this Administrative Order, the district shall:

(a) agree to release the Municipality from all claims and losses arising from the project;

(b) agree to indemnify the Municipality against all claims and losses arising from the project;

(c) agree that in the event of bankruptcy, insolvency, or dissolution of the business improvement association or the district, the Municipality is not required to complete payment for the project;

(d) agree that the Municipality will not serve as a guarantor for the project;

- (e) agree to acknowledge the grant publicly;
- (f) agree not to expend any portion of the grant on the items listed in subsection 13(2);
- (g) agree that the Municipality may, at its own expense and with reasonable notice, audit or examine the district's books of accounts and records;
- (h) acknowledge that the provisions of the Part XX of the *Municipal Government Act* respecting freedom of information and the protection of privacy (FOIPOP) apply to the grant;
- (i) acknowledge and agree that information pertaining to a grant may be shared with staff of the Municipality, committees of Council, including members of the public serving on same, and Council;
- (j) acknowledge and agree that information pertaining to a grant may be requested by third parties through a freedom of information request; and
- (k) acknowledge that the Auditor General, and the Municipal Auditor may request material in the course of a random or non-randomized financial audit of the BID grant program or during an internal service review.

Transition

22. A reference to the 2011 BID Contribution Fund Policy shall be read as including a reference to the provisions of this Administrative Order relating to the same subject matter.

Repeal

23. The BID Contribution Fund Policy adopted by Council on October 4, 2011, and all amendments thereto, is repealed.

Effective Date

24. This Administrative Order shall come into force on April 1, 2020.

Done and passed in Council this [] day of [], 2019

Mayor

Municipal Clerk