

REGIONAL TRAILS CAPITAL FUNDING AGREEMENT

HALIFAX REGIONAL MUNICIPALITY (HRM)
HALIFAX REGIONAL TRAILS ASSOCIATION (HRTA)

[PARTICIPANT]

2018-2019

1. Parties to this Agreement:

Halifax Regional Municipality (“HRM”), a statutory body corporate duly incorporated under the laws of the Province of Nova Scotia

Contact Person(s):

David MacIsaac, AT Supervisor, 902 490-1665, macisacd@halifax.ca

Emma Martin, AT Community Programs Coordinator, 902-490-4920,
martinem@halifax.ca

Mailing Address: P.O. Box 1749, Halifax, Nova Scotia, B3J 3A5,

-and-

Halifax Regional Trails Association (“HRTA”), a non-profit society incorporated under the laws of Nova Scotia

Contact Person(s):

Paul Adlakha, Co - Chair, HRTA and Chair- Capital Committee

paul.adlakha@gmail.com

Barry Dalrymple, Co - Chair HRTA lwfbaseball@hotmail.com

Mailing Address:

67A Penhorn Drive, Dartmouth NS Canada B2Y 3K6

-and-

[Trail Association name] (“Participant”), a non-profit society incorporated under the laws of Nova Scotia

Contact Person (s):

Chair name, **address and contact**

Project lead: **name, address, contact (if not the chair)**

2. Purpose of Agreement:

- 2.1 The purpose of this Agreement is to set out the terms and conditions by which an active transportation capital grant (the “**Grant**”) is dispersed by HRM to the Participant, a community trail organization that is a member of the HRTA. The Grant is specifically provided to the Participant to assist with active transportation greenway facility (“**AT Greenway Facility**”) planning, construction and recapitalization and such project is aligned with HRM’s ‘Making Connections: 2014-19 Halifax Active Transportation Priorities Plan’ and Integrated Mobility Plan and the construction standards set out in HRM’s Active Transportation Plan of 2006, ‘Technical Appendix: Facility Planning and Design Guidelines’.

3. 2018/2019 Grant

- 3.1 A Grant of up to a maximum of [spell out amount] Canadian dollars (\$xyz) and a scope of work for the AT Greenway Facility, as approved by HRM’s Council is set out in Appendix 1, Capital Funding Grant.
- 3.2 The Participant is eligible to receive a portion of the Grant, up to a maximum of the approved amount set out in Appendix 1, subject to the terms and conditions of this Agreement.

4. Term of Agreement:

- 4.1. This Agreement will be effective on the date that the last of the parties to this Agreement signs this Agreement and will continue in full force and effect until the Grant set out in Appendix 1 has been dispersed by HRM to the Participant in accordance with this Agreement, or until the project scope approved was accomplished as per HRM’s requirements or until this Agreement is terminated by HRM, whichever is earlier.

5. Terms & Conditions Applicable to the Participant:

- 5.1. Throughout the duration of this Agreement, and in order to maintain its eligibility to receive a Grant, the Participant agrees:
- (a) that all statements provided to HRM in seeking the Grant were true, accurate and complete, and remain true, accurate and complete, and agrees that HRM has relied on such statements in deciding to enter into this Agreement.

- (b) that the Participant is an organization recognized as a registered charity, society or non-profit organization registered in Nova Scotia or Canada as a tax-exempt entity and, accordingly, the Participant will utilize the Grant only for activities consistent with its tax-exempt status and this Agreement and the Participant will inform HRM immediately of any change in revocation of its tax status, as described above, during the term of this Agreement;
- (c) to maintain its registered non-profit organization in good standing with Nova Scotia Registry of Joint Stock Companies;
- (d) to maintain its membership in good standing in the Halifax Regional Trails Association per HRTA's bylaws;
- (e) to maintain its membership with Nova Scotia Trails Federation and ensure that the Participant is either eligible for group insurance coverage through that Federation or that it has obtained similar insurance coverage through other means;
- (f) to make every effort to maintain a current and active membership as the Participant's board of directors has a role in representing the community and therefore the general membership is important as a representation of the community;
- (g) to demonstrate local community engagement and consultations through such events as community open houses, and public engagement opportunities where members of the community have provided input regarding the development of the AT Greenway Facility project;
- (h) to maintain books and records regarding expenditure of the Grant according to generally recognized accounting principles and make them available for inspection by HRM upon HRM's reasonable request and the Participant shall maintain copies of all records and reports under the Grant for a period of at least two (2) years after the receipt of the Grant.
- (i) to ensure that the Participant's use of the Grant complies with all applicable laws, rules and regulations to which the Participant is subject;
- (j) to not use the Grant for the hiring of Participant personnel or to employ staff;

- (k) that the Participant has not, at the time of execution of this Agreement, received any other funding or in-kind support from other HRM programs for its AT Greenway Facility project;
- (l) that if the Participant meets the criteria for another funding opportunity such as the Trans Canada Trail or Provincial or Federal grant programs, the Participant will make an application to those programs and provide the HRM contact with a copy of any approval of funding and if these other funding requests are denied, HRM requires documentation to that effect and the Participant further agrees that if the Participant is successful in obtaining funding from other sources, and such funding, when combined with the Grant, would provide a surplus of funding for the AT Greenway Facility, the amount of the Grant may be reduced accordingly;
- (m) to obtain, as appropriate, an easement for any private land from the landowner, or a Letter of Agreement for use of provincial land from Province of Nova Scotia or a Lease for use of municipal land from HRM to use the property for AT Greenway Facility purposes.
- (n) to commit to continued planning, constructing or managing AT Greenway Facilities as set forth in the scope of work in Appendix 1;
- (o) to ensure that all construction work meets the applicable AT Greenway Facility standards set out in HRM's 'Technical Appendix: Facility Planning and Design Guidelines' of the HRM Active Transportation Plan located at: [http://physicalactivitystrategy.ca/pdfs/Halifax%20AT%20Plan%20\(technical\).pdf](http://physicalactivitystrategy.ca/pdfs/Halifax%20AT%20Plan%20(technical).pdf) and the HRM Municipal Service System (Red Book) guidelines located at: [https://www.halifax.ca/sites/default/files/documents/business/doing-business-halifax/39_00_00_Standard_Details_w_Index%20\(2\).pdf](https://www.halifax.ca/sites/default/files/documents/business/doing-business-halifax/39_00_00_Standard_Details_w_Index%20(2).pdf) ;
- (p) to provide any outstanding documents and information pertaining to the requirements in Appendix 2 - Capital Projects Requirements within thirty (30) days, and adhere to the procedures outlined in Appendix 3 - Capital Expenditures Procedures.
- (k) to make and record any significant decisions, in relation to the expenditure of the Grant, in accordance with the procedures set out in the Participant's bylaws;
- (l) to require approval of all major construction expenditures in the form of motions in the minutes of each of the Participant's regular Board of Directors meetings;

- (m) to ensure a representative of the Participant attends HRTA meetings as regularly as possible in accordance with HRTA bylaws or policies;
- (n) to provide a Capital Project Status Report at regular HRTA meetings and submit the first written Capital Project Status Report **on or before October 1, 2018** to the HRTA Capital Committee and the Participant's HRM Contact and submit the second written Capital Project Status Report **on or before March 20, 2019**.
- (o) that not less than forty-five (45) days after each annual general meeting of the Participant, the Participant shall provide a list of its Directors and a copy of the Year-End Financial Statement approved at the AGM to its HRM Contact Person;
- (p) to consult with its HRM Contact regarding project planning, community consultation, authorizations, tendering and construction related to the approved AT Greenway Facility project;
- (q) to facilitate regular communication with HRM Contacts such as informing the HRM Contact of Participant meetings and provide date, time and location;
- (r) to make the Participant's HRM Contact one of the points of contact for AT Greenway Facility-related inquiries and potential hazards on AT Greenway Facility trails;
- (s) to require all contractors hired by Participant provide a certificate from the contractor setting forth the warranty for the work performed, and such certificate shall be transferrable to HRM and Participants must provide such warranty certificate with the Capital Project Final Report;
- (t) to ensure that an AT Greenway Facility inspection is conducted before the construction warranty expiration date and a routine schedule of trail inspections is followed with reports kept up to date and on file for insurance and risk management purposes, as well as for evaluation of safety and usability purposes; and
- (u) that the Participant understands and agrees to be bound by the terms of this Agreement.

5.2 HRTA agrees to the following terms and conditions:

- (a) Not less than forty-five days after each Annual General Meeting of HRTA, HRTA shall provide a list of its Directors and a copy of the Year- End Financial Statement approved during the AGM to its HRM Contact Person.
- (b) HRTA agrees to execute this Capital Funding Agreement and ensure it is also executed by the Participant.

5.3 HRM agrees to:

- (a) provide strategic direction to the HRTA and the Participant with respect to AT Greenway Facility development in HRM by emphasising the ‘*Making Connections 2014-19 Halifax Active Transportation Priorities Plan*’, Map 3 (Appendix 4), ‘*Vision for a Greenway and Bike Network,*’ Maps 2 A, B and C ‘*Candidate Bicycle Routes and Greenway Network*’- located at <https://www.halifax.ca/transportation/transportation-projects/active-transportation> , the Integrated Mobility Plan- located at: https://www.halifax.ca/sites/default/files/documents/about-the-city/regional-community-planning/IMP_report_171220-WEB.pdf and the Halifax Regional Plan – located at: <https://www.halifax.ca/about-halifax/regional-community-planning/regional-plan> and ensuring the Participant’s Grant is being used for purposes that incorporate these policies and guidelines;
- (b) ensure HRM staff attend HRTA Capital Committee meetings and meetings of the Participant as requested;
- (c) coordinate AT Greenway Facility development with the Province of Nova Scotia;
- (d) refer the Participant to HRM’s ‘Technical Appendix: Facility Planning and Design Guidelines’ of the HRM Active Transportation Plan – located at: [http://physicalactivitystrategy.ca/pdfs/Halifax%20AT%20Plan%20\(technical\).pdf](http://physicalactivitystrategy.ca/pdfs/Halifax%20AT%20Plan%20(technical).pdf) and the HRM Municipal Service System (Red Book) guidelines- located at: [https://www.halifax.ca/sites/default/files/documents/business/doing-business-halifax/39_00_00_Standard_Details_w_Index%20\(2\).pdf](https://www.halifax.ca/sites/default/files/documents/business/doing-business-halifax/39_00_00_Standard_Details_w_Index%20(2).pdf) so that the Participant constructs the AT Greenway Facility as per HRM technical standards;

- (e) provide the Participant with information regarding project delivery standards and general advice pertaining to planning, construction and management of AT Greenway Facilities including items such as budgeting, tendering, materials to be used, proposals, plans, phasing, and project time lines;
- (f) provide the Participant with technical and administrative support required for project delivery such as processing grant disbursements and providing information related to planning and land acquisitions; and,
- (g) communicate with the HRTA Board on potential changes to HRM legislation or policies or by-laws that will have a direct impact on funding commitments and changes in HRM's AT Greenway Facility network vision or priorities.

6. Insurance

6.1. The Participant shall procure, at its own expense, the insurance listed below and maintain it in place during the Term of this agreement:

- (a) commercial general liability insurance in amounts of no less than two million dollars (\$2,000,000) per occurrence with the Halifax Regional Municipality named as Additional Insured and provide HRM with a Certificate of Insurance at the time of signing this Agreement.

6.2 HRTA will maintain, at HRTA's expense, throughout the period the Grant is to be expended by the Participant the following minimal insurance coverage:

- (a) Commercial general liability insurance in amounts of no less than two million dollars (\$2,000,000) per occurrence with the Halifax Regional Municipality named as Additional Insured. A Certificate of Insurance shall be provided to HRM at the time of signing this Agreement.

7. Changes to Scope of Work

7.1 All proposed changes or amendments to the Participant's Grant application shall be submitted in writing to the HRM Contact for review and approval. No changes can be made to the AT Greenway Facility project scope for which a Grant was received, as set forth in Appendix 1, unless approved by HRM in writing.

8. Relationship of the Parties

8.1 HRM, HRTA and the Participant are contractors independent of one another, and no party has the authority to bind another to any third party or to act in any way as a representative of the other, except as expressly set forth in this Agreement. This Agreement does not create, and shall not be construed as creating, a partnership or joint venture relationship between the Participant, HRTA and HRM. To the extent that the term "partner" or "partnership" may be utilized in this Agreement or in describing the relationship between the parties, such terms shall be utilized merely to convey the anticipated spirit of cooperation between the parties and is in no way intended to establish joint and several liability, fiduciary duties, or other implications of the legal term of "partner."

9. Termination

9.1 HRM may at any time, following a thirty (30) day written notice to the other parties to this Agreement, in its sole discretion, terminate this Agreement.

9.2 If the Participant materially breaches any of the terms and conditions of this agreement, or fails to perform any of its obligations or responsibilities as set forth in this Agreement, and fails to remedy such breach within five (5) days of written notification from HRM, then HRM may terminate this Agreement immediately.

9.3 Subject to section 10, if HRM terminates this Agreement, HRM shall compensate the Participant only for eligible costs, expenses and charges incurred to the date of the termination of the Agreement, however such amounts shall not exceed the value of the undispersed Grant approved for the Participant remaining at the time of the termination of the Agreement. Original contracts and receipts and other pertaining documents should be provided in original, confirming the amount owed by the Participant for any compensation.

10. Appropriation and Withholding

10.1 Any payment of the Grant to be made to the Participant is subject to there being an appropriation by HRM for the fiscal year in which the Grant is to be made. If HRM's appropriation is changed or if funds are not available for any other reason, the Grant may be reduced or withheld; if the latter, this Agreement may be terminated by HRM providing written notice to the Participant in which

event HRM shall owe no further obligation to the Participant under this Agreement.

10.2 HRM reserves the right to discontinue, modify or withhold any payments to be made under this Agreement or to require refund of the Grant, if it, in its sole but reasonable discretion, deems the action necessary:

- (a) because the Participant has not materially complied with the terms and conditions of the Grant;
- (b) to protect the purpose and objectives of the Grant or any other charitable activities of HRM; or
- (c) to comply with any law or regulation applicable to the Participant, HRTA, HRM, or this Grant.

11. Acknowledgement

11.1 In all communications associated with the Grant, the Participant shall credit HRM as a partner. HRM has the right to review and approve all advertising materials (including website postings) intended for publication that use its name or logo, prior to such publication. Such approval will not be unreasonably withheld.

12. General Terms and Conditions

12.1 Any modification of this Agreement, including its appendices, must be in writing and signed by all parties or it shall have no effect and it shall be void.

12.2 No failure by a party to exercise any right under this Agreement or to insist upon full compliance by another party as to its obligations under this Agreement will constitute a waiver of any provision of this Agreement.

12.3 Headings contained herein are included solely for convenience and shall not be considered part of this Agreement.

12.4 Neither the Participant nor HRTA shall assign this Agreement, in whole or in part, without the prior written permission of HRM.

12.5 HRM, its Mayor, its councillors, officers, employees, agents and volunteers shall not be liable for any injury, including death to any person, or for any loss or damage to property of the Participant or HRTA or for any obligation of the Participant or HRTA

or anyone else, incurred or suffered by the Participant or HRTA or their employees, agents or voluntary workers in carrying out any work related to the Grant.

- 12.6 This Agreement constitutes the entire agreement between HRM and Participant and HRTA and supersedes all prior agreements, representations, warranties, statements, promises, information, arrangements and understandings, whether oral or written, express or implied, with respect to the relationship between HRM, HRTA and the Participant.
- 12.7 Should any part of this agreement be determined to be void by a competent judicial or legislative authority, the remainder shall be valid and enforceable.
- 12.8 This Agreement shall be governed by and interpreted in accordance with the laws of the Province of Nova Scotia and the laws of Canada. Any disputes with regard to this Agreement shall be adjudicated in Halifax, Nova Scotia.
- 12.9 The parties hereby acknowledge that this Agreement is a public document and that any information, document or record, in any form, provided to HRM by any party pursuant to this Agreement may be subject to disclosure in accordance with Part XX of the Municipal Government Act (SNS 2008 c 39) regarding Freedom of Information and Protection of Privacy.
- 12.10 This Agreement may be signed in any number of counterparts, each of which is an original, and all of which taken together constitute one single document.
- 12.11 The signatories of this Agreement warrant that they have the full power and authority to enter into this Agreement on behalf of their respective principals and that the person signing this Agreement on behalf of each has been properly authorized and empowered. Each Party further acknowledges that it has read the Agreement, understands it, and agrees to be bound by it.

By signing below, the parties acknowledge that they have read and understood the Agreement and agree to be bound by its the terms and conditions.

[signature page follows]

Halifax Regional Municipality

Signature

Witness Signature

Name: _____

Witness Name

Title

Date

Halifax Regional Trails Association

Signature

Witness Signature

Name: _____

Witness Name

Title

Date

[Participant]

Signature

Witness Signature

Name: _____

Witness Name

Title

Date

**Appendix 1
Capital Funding Grant**

<name>
Chairperson
Trail Association
Address

May

Re: Active Transportation Capital funding request for 2018-2019

Dear <name>.:

Thank you for your submission for 2018-2019 Active Transportation Capital funding.

Project Planning and Design staff has reviewed your proposal in relation to the goals of the *2014-19 Halifax Active Transportation Priorities Plan*. <Trail Group>' s request for <amount> in capital has been approved by Regional Council. The scope of the capital project approved for the <trail name> development, as per proposal submitted, is outlined below:

<list the project elements/ phase/ cost approved for 2018-2019>

This capital is pending the signing of the Capital Agreement between Halifax Municipality, Halifax Regional Trails Association and your Trail Association. Thank you for your ongoing effort towards developing community greenways and we look forward to working with you. Please don't hesitate to contact me if you have any questions.

Sincerely,



David MacIsaac
Active Transportation Supervisor
Project Planning and Design Services
HRM Transportation & Public Works
t.: 902-490-1665
e.: macisad@halifax.ca

c.c.:<name>, Capital Committee Chair

**Appendix 2
Capital Projects Requirements**

Document	Accomplished during application	Accomplished before Agreement was signed	To be accomplished by:
Detailed designs prepared for AT Facility Greenways:			
Engineer designs if required:			
Environmental Approvals if required:			
Construction Tender Package: Cost Estimations:			
Public Consultations: Public meetings, landowner, business, residence notifications, information distribution, media outreach etc.			
Landowner Authorizations:			
Other Approvals: Road, Planning & Development, Halifax Water, NS Power, Gas and Utility etc.			
Budget and Funding in place:			
Capacity of Participant to implement project:			

Appendix 3 Capital Expenditures Procedures

The Participant agrees that:

1. Applications for HRM AT Greenway Facility Grants may be made annually at a stipulated date. Proposals shall follow a template and comply with the criteria distributed by HRTA and HRM.
2. Capital funding is to be used for construction costs only (bricks and mortar type of work) as well as project planning and design, as per approved budget outlined in the Proposal Application. Other operational expenses, outside of construction and planning are not eligible under this Agreement (i.e. photocopies, late pay charges, office expenses, mechanical expenses, brochures, media relations etc.).
3. Participants must request minimum of three quotes for contracted work over \$1,000. Participants must keep copies of all bids obtained.
4. Contracts from Participants to contractors must be awarded based on expertise aligned with the scope of project and costing. The lowest cost qualified bidder must be considered first and if the lowest cost bidder is not qualified on expertise, the Participant can evaluate the next lower cost bidder that is qualified on expertise.
5. Contractor invoices shall name the Participant that hired their services and include details on the type of work, including labour hours, materials, cost, location and date.
6. Contractors will be instructed to provide the Participant a Warranty Certificate for the work done and name the Participant and HRM as beneficiaries.
7. The project lead and a signing officer, if different, of the Participant shall sign the bottom of each contractor invoice.
8. Participant shall prepare and submit a Grant disbursement request to HRM Contact, attaching contractor invoices. Participant Grant disbursement requests shall state GRANT DISBURSEMENT REQUEST which shall include:
 - (a) Covering Invoice on letterhead with date, Participant name, project lead and contact person who can refer to the Memo, if different, address, phone number;
 - (b) Capital Funding Report updated with all funds confirmed and expenses for which invoices/ receipts were issued to the date submitting the Grant Disbursement Request
 - (c) Contractors' certificate of warranty, transferrable to HRM- as appropriate
 - (d) Contractor invoices and/ or receipts for all services contracted, after following the instructions in paragraphs above; and

9. HRM staff shall review and confirm that Participant Grant disbursement requests are in conformance with this Agreement. Grant disbursement requests are subject to the approval of the CAO or his/her delegate. Following approval of a Grant disbursement request (or part thereof), a corresponding cheque or direct deposit payment will be issued to the Participant.
10. Participant is solely responsible to pay contractors directly, promptly and in accordance with contractors' invoice terms and conditions. Participant should negotiate invoice payment terms to allow no interest/ no payment **for at least 30 days** to allow processing of invoices and grant disbursement by HRM. The Participant shall be responsible to pay any fees or charges associated with late payments to the contractor and the Participant shall be responsible to ensure no liens or other encumbrance is made against any HRM property and the Participant shall be fully responsible for the removal of such lien.
11. Participant shall manage its capital expenditures by maintaining the **Appendix 5-Capital Funding Report** spread sheet that tracks expenditures and balances. Participant must include a final copy of this Report in the Capital Project Status/ Final Report.
12. Participants may be eligible for Harmonized Sales Tax (HST) refunds. Participants are encouraged to seek professional advice or to contact Canada Revenue Agency to see if they qualify. If eligible, the Grant provided to the Participant by HRM shall be net of any HST refund the Participant was eligible to claim from the Canada Revenue Agency. A copy of the HST Refund Statement should be forwarded to Participant's HRM Contact Person.

Appendix 5 Capital Funding Report

<Trail Name>- Capital Funding Report			
	Date	2018-2019	Comments
Invoices			
Total Spent		\$0.00	
Approved in Capital Budget			
	Prior to 2018		
	2018-2019		
Total Approved		\$0.00	
Remaining Balance		\$0.00	

Brief Project update:

Funds approved from other sources: