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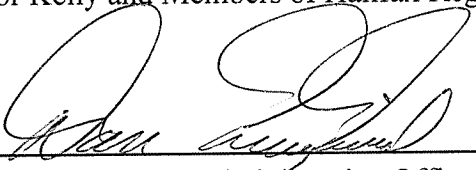


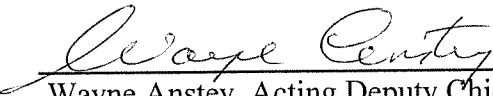
PO Box 1749  
Halifax, Nova Scotia  
B3J 3A5 Canada

**Halifax Regional Council**  
**February 14, 2006**

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

**SUBMITTED BY:**

  
\_\_\_\_\_  
Dan English, Chief Administrative Officer

  
\_\_\_\_\_  
Wayne Anstey, Acting Deputy Chief Administrative Officer

**DATE:** January 23, 2006

**SUBJECT:** CN Overpass Repairs - Young Avenue - West Region

**ORIGIN**

Halifax Regional Council Meeting of May 22, 2001, item 11.3.10 and Halifax Regional Council Meeting of October 23, 2001, item 11.2.9.

**RECOMMENDATION**

It is recommended that Halifax Regional Council approve the expenditure of \$254,181 including net HST as HRM's share of the costs of upgrading the sidewalks and bridge railings on the CN overpass structure located on Young Avenue, Halifax. Funding from account CYR00991 Paving Renewal 2001 is authorized as per the Budget Implications Section of this report.

**BACKGROUND**

In accordance with a cost sharing agreement between CN and the Halifax Regional Municipality to carry out major concrete repairs to the Young Avenue Overpass, HRM agreed to bear the cost of restoring the sidewalks and bridge railings on the structure.

**DISCUSSION**

Restoration of the overpass structure was completed in the Fall of 2001 and CN has recently issued an invoice to HRM for the Municipality's portion of the work. Funding for this work was originally intended to be withdrawn from Account No. CKU00141, Sidewalk Renewals, however upon completion of the 2001 Sidewalk Renewal Program all funds in this account were depleted. Staff has determined that there are sufficient funds remaining in Account No. CYR00991, Paving Renewal 2001, to pay for the repairs to the sidewalks and railings.

**BUDGET IMPLICATIONS**

Based on the total project cost of \$254,181, including net HST, funding is available in the Approved 2001/02 Capital Budget from Account No. CYR00991, Paving Renewal 2001. The budget availability has been confirmed by Financial Services.

**Budget Summary:**                      **Account No. CYR00991, Paving Renewal 2001**

Cumulative Unspent Budget	\$290,287.00
Less: <b>CN Overpass - Young Ave</b>	<u>\$254,181.00</u>
	\$ 36,106.00

**FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN**

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Capital and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Capital and Operating reserves, as well as any relevant legislation.

**ALTERNATIVES**

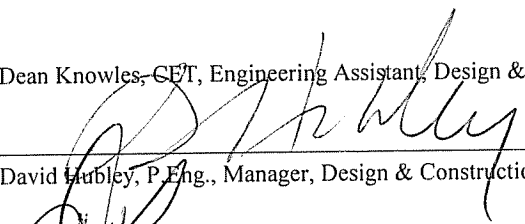
There are no recommended alternatives.

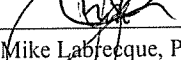
ATTACHMENTS

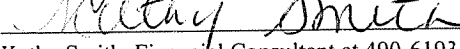
1. Halifax Regional Council Meeting of October 23, 2001. Copy of Council Report - Cost Sharing Agreement Young Avenue, Halifax - Between HRM and CN.

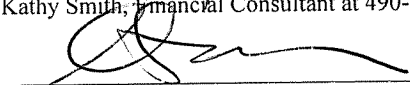
A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/cagenda.html> then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by: Dean Knowles, CET, Engineering Assistant, Design & Construction Services at 490-6825

Report Approved by:   
David Hubley, P.Eng., Manager, Design & Construction Services at 490-4845

Report Approved by:   
Mike Labrecque, P.Eng., Director, Transportation and Public Works Services at 490-4855


Financial Review:   
Kathy Smith, Financial Consultant at 490-6193

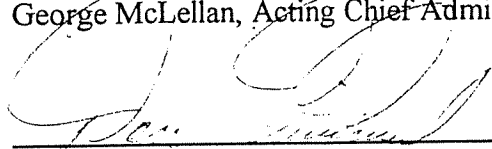
Report Approved by:   
Catherine Sanderson, Senior Manager, Financial Services at 490-1562

DHK/bhs

Halifax Regional Council  
October 23, 2001

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

**SUBMITTED BY:**   
George McLellan, Acting Chief Administrative Officer

  
Dan English, Deputy Chief Administrative Officer

**DATE:** October 17, 2001

**SUBJECT:** Cost Sharing Agreement Young Avenue, Halifax - Between HRM  
and CN

**ORIGIN**

Halifax Regional Council Meeting of May 22, 2001, item 11.3.10.

**RECOMMENDATION**

It is recommended that Halifax Regional Council:

1. authorize a transfer of funds in the amount of \$246,916. from Account No. CRESPOOL, to the Capital Account No. CKU00141 - Sidewalk Renewals, as indicated in the Budget Implications section of this report.
2. approve the increase in the total project cost from the previously approved amount of \$133,036. to \$246,916. as outlined in the report.
3. authorize the Mayor and the Municipal Clerk to sign the attached Cost Sharing Agreement between CN and HRM and relating to the proposed upgrading works to the CN overpass structure on Young Avenue in Halifax.

## BACKGROUND

At the Halifax Regional Council meeting of May 22, 2001, staff presented Council with information received from CN relative to structural and surface upgrading works proposed for the CN overpass structure on Young Avenue in Halifax. At that time, the budget proposed by CN was \$500,000. As with past similar cost sharing arrangements with CN, HRM was being asked to pick up those costs applicable to the surface works on the overpass structure, i.e., upgrading of the sidewalks and associated curb upgrading for enhanced surface drainage control and repairs to the existing deteriorated ornamental bridge railings. HRM's projected cost for those surface works at that time was \$133,036. inclusive of applicable taxes.

## DISCUSSION

Subsequent to the May submission to Council, several meetings and discussions were held between CN and staff. On the basis of those discussions, CN proceeded with their design of the works, the tendering of the project and a contract award to a New Brunswick Firm - Atlantic Underground Services Ltd. CN's total budget for this project has remained at \$500,000. but the cost split between CN and HRM has now changed based on the actual tendered prices received from the low bidder.

CN - Shotcrete repair works to sections of the overpass structure: \$268,000. plus taxes.

HRM - Surface works as described above: \$232,000. plus applicable taxes for a total Project Cost of \$246,916. - an increase of \$113,880. over what was projected in May of this year. Traffic control and an assigned portion of the project management costs (25%) are included within this new Total Project Cost.

Given the nature of the works represented by the \$246,916., particularly the time and effort associated with the upgrading of the two badly deteriorated ornamental bridge railings and the additional works of removing the grass medians for more enhanced drainage control, staff does not consider this increased cost to be out of line with what is intended to be achieved.

## BUDGET IMPLICATIONS

Funding for this work was targeted to be withdrawn from Account No. CKU00141- Sidewalk Renewals. However, the completion of the 2001 Sidewalk Renewal Program has depleted all funds within that account. Consequently, the project cost of \$246,916. is to be withdrawn from Account CRESPOOL, the availability of which has been confirmed by staff of Finance.

This meets the criteria for use of the Capital Pool Fund as per the Capital Pool Procedures Report, dated May 8, 2001 and approved by Council May 15, 2001.

**FINANCIAL MANAGEMENT POLICIES/BUSINESS PLAN**

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Capital and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Capital and Operating Reserves, as well as any relevant legislation.

The upgrading of this overpass structure will be of benefit to both CN and HRM by reducing ongoing maintenance and repair costs.

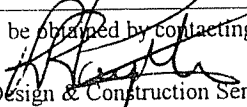
**ALTERNATIVES**

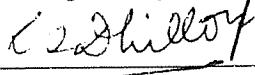
There are no recommended alternatives.

**ATTACHMENT**

Copy of the Cost Sharing Agreement between Canadian National Railway Company and HRM and relating to this proposed overpass upgrading repair work.

Additional copies of this report, and information on its status, can be obtained by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by:  Rick Paynter, P.Eng., Manager, Design & Construction Services

Report Approved by:   
K.Dhillon, P.Eng., ~~Director~~ Public Works and Transportation Services at 490-4855

RP/klz

## COST SHARING AGREEMENT

THIS AGREEMENT made this \_\_\_\_\_ day of \_\_\_\_\_, 2001.

**B E T W E E N:**

**CANADIAN NATIONAL RAILWAY COMPANY**, a company organized and existing under the laws of Canada and having its principal place of business at 935 de la Gauchetière Street West, Montreal, Quebec, Canada, H3B 2M9

(hereinafter called "CN")

**PARTY OF THE FIRST PART**

- and -

**Halifax Regional Municipality**, a municipality governed by the Municipal Government Act of the Province of Nova Scotia.

(hereinafter called the "Municipality")

**PARTY OF THE SECOND PART**

**WHEREAS** CN wishes to restore in kind the structure identified as Young Avenue Overpass located at mileage 0.80 Bedford Subdivision within the boundaries of the Municipality (the "Structure") without rail operation disruption.

**WHEREAS** CN, by proposal dated April 24th, 2001, informed the Municipality of its intent to execute major concrete repairs to the Structure, the public sidewalks and the concrete handrails on either side of the structure (the "Work").

**WHEREAS** CN and the Municipality have shared the cost of similar repairs or improvements in the past and intend to pursue this practice in the future.

**WHEREAS** CN agrees to enter into a cost-sharing agreement with the Municipality for the cost of executing major concrete repairs to the Structure as CN's share of the Structure Work;

**WHEREAS** the Municipality, by motion unanimously adopted at Council held on May 22, 2001, agrees to enter into a cost-sharing agreement with CN for the cost of the sidewalks, the bridge railings on the Structure as the Municipality's share of the Structure Work;

**NOW THEREFORE IN CONSIDERATION OF THE MUTUAL COVENANTS SET OUT IN THIS AGREEMENT**

1. CN and the Municipality shall carry out their respective portion of the Work as specified in appendix A at a total estimated cost of five hundred thousand Dollars (\$500,000) plus appropriate taxes, either directly or under one or more contracts to be awarded on the basis of competitive bids. CN will not be obliged to retain the lowest bidder.
2. CN will bear the cost of executing the major concrete repairs to the Structure at an estimated cost of two hundred sixty eight thousand Dollars (\$268,000) or 54% of the total cost, plus HST as CN's share of the Work.
3. The Municipality will bear the cost of restoring the sidewalks and the bridge railings on the Structure at an estimated cost of two hundred thirty two thousand Dollars (\$232,000) or 46% of the total cost plus HST as the Municipality's share of the Work.

4. Upon CN's payment of invoices under awarded contract for its portion of Work, CN shall issue an invoice to the Municipality for the Municipality's portion of invoices. The Municipality shall have thirty (30) days from the CN invoice date to pay CN directly, failing which interest at the annual rate of 12 per cent will accrue from the date the payment should have been made.
5. The Halifax Regional Municipality in conjunction with CN will be responsible to organize and coordinate the required traffic control measures (including but not limited to car, truck or pedestrian traffic), during the period required for completion of the Work. The Municipality will directly assume all costs related to such traffic control.
6. Both parties agree not to undertake additional repair without the prior consent of the other party. The total estimated cost and cost allocation included in this agreement reflect CN's evaluation of the cost of the Work, such cost being subject to change upon reception of the competitive bids.
7. Upon execution, the Railway may file this agreement with the Canadian Transportation Agency.
8. Any written notice or other communication required between the parties will be delivered in writing, and if to CN, addressed to:

CANADIAN NATIONAL RAILWAY COMPANY  
 Engineering - Eastern Canada Division  
 Attention: Senior Coordinator, Technical Services  
 4<sup>th</sup> floor Central Station  
 895 de la Gauchetiere Street West  
 Montreal (Quebec)  
 Canada, H3B 2M9

and if to the Municipality, addressed to:

HALIFAX REGIONAL MUNICIPALITY  
 Director Public works & Transportation  
 P.O. box 1749  
 Halifax, Nova Scotia  
 B3J 3A5

9. This agreement shall be construed in accordance with and be governed by the laws of the Province of Nova Scotia and the Laws of Canada.
10. This agreement (including its preamble) constitutes the entire agreement between the parties with regard to the matters dealt with in it and precedes and replaces all prior representations, negotiations, understandings and agreements whether oral or written between the parties with respect to this agreement.
11. This agreement is confidential and the agreement or any of its terms and conditions shall not be disclosed to any third party, person or association except and to the extent as may be required by law or upon the prior written consent of all parties hereto.
12. Even if a provision of this agreement is held to be invalid or unenforceable, the validity or enforceability of the other provisions of this agreement will not be affected or impaired by such holding.



13. This agreement shall become effective on the date appearing on page 1 of this agreement and shall continue until the Work is completed or until all obligations under this agreement are fulfilled.

IN WITNESS WHEREOF, the parties have caused the agreement to be executed by their duly authorized representatives, as of the date first above written.

CN:

CANADIAN NATIONAL RAILWAY COMPANY

Per: \_\_\_\_\_ c/s

Name: Keith Heller

Title: Senior Vice-President, Eastern Canada Division

I have authority to bind the corporation.

MUNICIPALITY:

HALIFAX REGIONAL MUNICIPALITY

Per: \_\_\_\_\_ c/s

Name:

Title:

I have authority to bind the corporation.

APPENDIX A

Work Undertakings

CN shall carry out the work related to restoring:

- the concrete repairs to the Structure;
- bridge railings;
- sidewalks

The Municipality shall carry out the work related to restoring:

- the pavement,
- and associated drainage.