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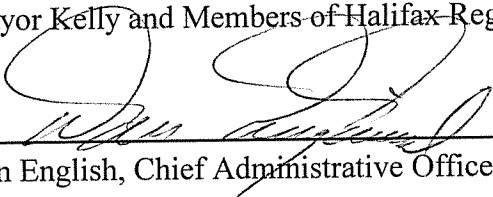


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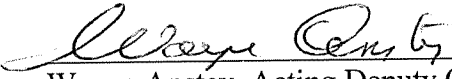
Halifax Regional Council
December 6, 2005

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY:



Dan English, Chief Administrative Officer



Wayne Anstey, Acting Deputy Chief Administrative Officer

DATE: November 21, 2005

SUBJECT: **Proposed Installation of Crossing Gates at the Railway Crossing Near
the Fall River/Windsor Junction Intersection**

ORIGIN

Request from Canadian National Railway Company.

RECOMMENDATION

It is recommended that Regional Council authorize the Mayor and Municipal Clerk to sign the attached agreement with CN to fund \$26,887.50 plus net HST or 12.5% of the \$215,100 cost of upgrading the CN rail crossing on Fall River Road with funding authorized from Account No. CTR00905 as per the Budget Implications Section of this report.

BACKGROUND

The CN rail crossing is located on the Fall River Road and is parallel to the Windsor Junction Road. On March 18, 2005, HRM staff met on site with representatives from CN and Transport Canada to investigate safety concerns raised by area residents following a February 2005 vehicle/train collision. All parties agreed there were safety concerns for motorists travelling on Windsor Junction Road when turning onto Fall River Road and that the installation of crossing gates would enhance safety at this crossing.

DISCUSSION

Upon a funding agreement being reached between HRM and CN, an application will be made to Transport Canada by CN to fund 80% of the project. Once funding is secured from Transport Canada, CN will give notice of its intent to commence work in accordance with Section 8(1) of the *Railway Safety Act* and the *Notice of Railway Works Regulation*.

BUDGET IMPLICATIONS

Funds are available for this project in Account No. CTR00905 - Intersection Improvement Program as part of the advanced funding approval for the 2006/07 Capital Budget.
\$26,887.50 + net HST= \$27,809.47

2006/07 Approved Advance Funding	\$528,000
Less Windsor Junct Railway Crossing	<u>\$ 27,809.47</u>
Remaining Unspent Funds	\$500,190.53
From 2006/07 Approved Advanced Funding	

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

CN Agreement

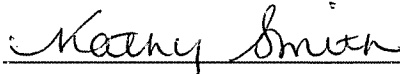
**Proposed Installation of Crossing Gates -Fall River/Windsor Junction Railway Crossing
Halifax Regional Council Report**

- 3 -

December 6, 2005

A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/agenda.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: Taso Koutroulakis, Senior Traffic Operations Engineer, 490-4816



Financial Review: Kathy Smith, Financial Consultant, 490-6153

Report Approved by:



Mike Labrecque, P.Eng, Director, TPW, 490-4855

STANDARD FUNDED CROSSING WARNING SYSTEM MODIFICATION AGREEMENT

THIS AGREEMENT effective as of the _____ day of _____, TWO THOUSAND AND

_____.

BETWEEN:

CANADIAN NATIONAL RAILWAY COMPANY
(hereinafter called the "Railway")

- and -

HALIFAX REGIONAL MUNICIPALITY
P.O. Box 1749
Halifax, Nova Scotia
B3J 3A5
(hereinafter called the "Road Authority")

WHEREAS Order No. 91652 of the Board of Transport Commissioners for Canada, dated May 28th, 1957, ordered the Canadian National Railways, to install a grade crossing warning system consisting of flashing light signals and bell, at the grade crossing of Fall River Road, at mileage 17.24, on the Bedford Subdivision, at Fall River, in the Province of Nova Scotia;

AND WHEREAS Order No. R-38608 of the Canadian Transport Commission, dated October 28th, 1985, ordered the Canadian National Railway Company, to improve the grade crossing warning system by installing a third signal, at the grade crossing of Fall River Road, at mileage 17.24, on the Bedford Subdivision, at Fall River, in the Province of Nova Scotia;

AND WHEREAS Order No. 1996-R-504 of the Canadian Transportation Agency, dated December 6th, 1996 approved an amendment to Order No. R-38608 to reflect a change in road authority and the associated cost apportionment responsibilities by replacing in clause 5, the words "Department of Transportation of the Province of Nova Scotia" with the words "Halifax Regional Municipality";

AND WHEREAS On the 25th day of February, 2003, the parties entered into an agreement (the "original agreement"), relating to the installation of a grade crossing warning system consisting of the addition of advanced pre-emption and a "Prepare to Stop at Railway Crossing Sign", at the grade crossing of Fall River Road, at mileage 17.24, on the Bedford Subdivision, at Fall River, in the Province of Nova Scotia, which original agreement is cancelled and superseded by the present Agreement;

AND WHEREAS the parties have agreed on the requirement for a modification to the existing crossing warning system, that modification consisting of the installation of automatic gates (hereinafter the "crossing warning system"), at the grade crossing of Fall River Road, at mileage 17.24, on the Bedford Subdivision, at Fall River, in the Province of Nova Scotia.

Initials: CN _____
RA _____

NOW THEREFORE THIS AGREEMENT WITNESSES THAT, in consideration of the mutual covenants and agreements herein and subject to the terms and conditions set out in this Agreement, the parties agree as follows:

1. The Railway, as party proposing to undertake the work, will file an application pursuant to section 12(1)(a) of the *Railway Safety Act, R.S.C. 1985, c.32, 4th supplement* ("the Act"), for a grant for 80% in respect of the cost of this proposed railway work as defined in the Act.
2. Upon confirmation from the Minister that funding has been authorized, the Railway will carry out the proposed railway work.
3. 63% of the remaining actual cost of the crossing warning system modification, after Transport Canada funding has been applied, shall be paid by the Road Authority.
4. 37% of the remaining actual cost of the crossing warning system modification, after Transport Canada funding has been applied, shall be paid by the Railway.
5. The cost of maintaining the crossing warning system shall be paid 50% by the Road Authority and 50% by the Railway.
6. The Railway shall prepare all accounts for work performed by the Railway for both installation and maintenance using rates as stipulated in the latest Guide to Railway Charges for Crossing Maintenance and Construction as issued by the Canadian Transportation Agency. In the event that the Canadian Transportation Agency should discontinue publishing same, the accounts shall be based on actual costs including allowances for the Railway's overhead.
7. If at any time during the continuance of this Agreement the parties agree on the requirement for modification to the crossing warning system, the terms associated with the modifications will be agreed to by the parties by means of a written agreement between them.
8. This Agreement shall be governed by and construed in accordance with the laws of the Province of Nova Scotia and all applicable federal laws and regulations.
9. This Agreement is not assignable without the prior written consent of both parties which consent will not be unreasonably withheld. Notwithstanding the above, in the event of the transfer of its line for continued operations, the Railway will have the right to assign this Agreement to any subsequent owner.
10. This Agreement shall become effective on the date appearing on page 1 of this Agreement and shall continue until either the Railway discontinues its operations at this location, or the Road Authority closes the Highway at this location, or the Minister notifies the parties that funding will not be provided, or upon the written consent of both parties.
11. Upon termination of the Agreement the Railway shall be responsible for dismantling the crossing warning system at the Railway's cost.

Initials: CN _____
RA _____

12. Any dispute relating to the wording and interpretation of the clauses in this Agreement will be resolved in accordance with the arbitration act of the province in which the crossing warning system is located.
13. Upon execution, the Railway may file this Agreement with the Canadian Transportation Agency.
14. Subject to clause 13, 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.
15. The preamble to this Agreement forms an integral part of the Agreement.

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

CANADIAN NATIONAL RAILWAY COMPANY

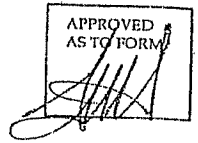
Authorized signing officer,

Title,

Witness,

Title,

Date



HALIFAX REGIONAL MUNICIPALITY

Authorized signing officer,

Title,

Witness,

Title,

Date

Initials: CN _____
RA _____



COST ESTIMATE

ESTIMATE No: BD-17.24-SK-001
 MILE: 017.24
 LOCATION: FALL RIVER

DATED: 25-Jul-05
 SUBDIVISION: BEDFORD
 PROVINCE: NOVA SCOTIA

PROJECT DESCRIPTION:

INSTALL GATES WITH EXTRA FLASHING LIGHTS AND BELL
 BEDFORD SUB, M.P. 17.24 FALL RIVER ROAD

MATERIAL

Signals materials		\$65,000
TOTAL MATERIAL		\$65,000
Handling charges 58 % on	\$65,000	\$37,700

LABOUR & EQUIPMENT

Labour, S & C		\$22,500
Labour, S&C testing all modifications		\$2,000
Labour, M/W		\$4,000
Engineering design sketch		\$2,000
Vacation Allowance 20.0% on	\$30,500	\$6,100
Supervision and Overheads 83 % on	\$36,600	\$30,378
Living Allowance		\$9,900
Transportation - CN		\$6,475
Equipment Rental & Transportation - Outside		\$6,000
Est. Hydro charge		\$3,500
Contract engineering for signals plans issued		\$0
TTM modifications		\$0
Contingencies 10% on	\$195,553	\$19,555

TOTAL ESTIMATED COST

\$215,100

ANNUAL COST OF MAINTENANCE AND OPERATION WILL BE IN ACCORDANCE
 PARTIES SUBJECT TO G.S.T. WILL HAVE 7% G.S.T. APPLIED TO THEIR COSTS.
 ESTIMATE IS BASED ON WORK DURING FROST-FREE GROUND CONDITIONS.
 ESTIMATE IS SUBJECT TO REVISION AFTER JULY 25, 2006

Estimate done by : **Michel Deschamps**
 For : **John Greene, Ass. Superintendent**
 S&C , EAST DIVISION
 Montreal, Quebec
 25-Jul-05