

**THE CORPORATION OF THE CITY OF BROCKVILLE**  
**BY-LAW NUMBER 35-95**

**A BY-LAW OF THE CITY OF BROCKVILLE**  
**RESPECTING THE FENCING OF RAILWAY**  
**LANDS**

**WHEREAS** pursuant to Section 102 of the Municipal Act R.S.O.1990, c.M45, as amended, every council may pass such by-laws and make such regulations for the health, safety, morality and welfare of the inhabitants of the municipality in matters not specifically provided for by this Act as may be deemed expedient and are not contrary to law; AND

**WHEREAS** residents living adjacent to or in the vicinity of the CN mainline railway tracks have petitioned the Council to have CN Railway adopt an anti-whistling policy for trains using this rail line; AND

**WHEREAS** as a preliminary step to adopting an anti-whistling policy, trespassing must be addressed at various key locations on the rail line and eliminated.

**NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF BROCKVILLE ENACTS AS FOLLOWS:**

**1. DEFINITIONS:- (In this section)**

(a) "municipality" means a municipality as defined in the Municipal Affairs Act.

**2. THAT** a 1.6m high fence be erected along some 1750m of CN rail line at the CN/private common property line.

**3. THAT** the estimated cost of the two (2) year undertaking is One Hundred and Eighty Thousand Dollars (\$180,000.00)

	<u>CITY</u>	<u>TOTAL</u>
Construction:	\$165,000	\$165,000.
Engineering:	10,000	10,000
Financing:	<u>5,000.</u>	<u>5,000.</u>
<b><u>TOTAL BUDGETED COST:</u></b>	<b><u>\$180,000.</u></b>	<b><u>\$180,000.</u></b>

**4. THAT** the Treasurer of the Corporation be and is hereby authorized to expend the sum of Ninety Thousand Dollars (\$90,000.00) for Phase I in 1995 and Ninety Thousand Dollars (\$90,000.00) for Phase II in 1996 for the purposes aforesaid being the total budgeted cost of the said works, provided that, funding for each phase of the proposed undertaking as aforesaid be separately authorized in the adopted capital budget of the municipality for each year of the years stated as comprising the duration of the project..

**5(a). THAT** the Mayor and Treasurer of the Corporation are hereby authorized to obtain from any bank or banks or other sources, temporary advances at a borrowing rate not exceeding the banks prime lending rate to Municipalities, by way of a promissory note or notes or otherwise but not to exceed the sum of Ninety Thousand Dollars (\$90,000.00) for Phase I in 1995 and Ninety Thousand Dollars (\$90,000.00) for Phase II in 1996 being the total budgeted cost of the said works, until and pending completion of the said undertaking, provided that, each phase of the said undertaking be separately authorized in the adopted capital budget of the municipality as aforesaid.

**5(b). THAT** a promissory note or notes or other vouchers sealed with the seal of the Corporation and signed on behalf of the Corporation by the Mayor and Treasurer be given to the bank or banks or other lenders for advances obtained on the authority of this instrument and providing for repayment of said advances with interest thereon.

**5(c). THAT** the Treasurer of the Corporation is hereby directed and authorized to apply in payment of said advances with interest thereon all monies borrowed on the credit of the Corporation to defray the cost of the said works and all monies from other sources properly applicable to the cost of the said undertaking.

5(d). THAT the Treasurer of the Corporation is hereby authorized to approve for payment any additional expenditures for the said capital project from contingency funds allocated for this purpose, subject to the following conditions and limitations:

1. That the request for the additional expenditure is submitted in writing by the Project Manager to the Treasurer of the Corporation; and
2. That the approval of the Chief Administrative Officer or designate has been obtained for the additional expenditure being requested; and
3. That the amount of the approved additional expenditure shall not exceed Ten Percent (10%) of the authorized budgeted cost of the said undertaking; and
4. That the amount of additional expenditure approved as aforesaid shall not exceed the greater of the balance remaining in the capital contingency account or the amount that Ten Percentum (10%) is of the approved budgeted cost of the said capital project providing that this amount is no greater than Twenty Five Percentum (25%) of the contingency funds available.

6. THAT the provisions of this By-Law shall not become effective until approval of the undertaking has been received from the National Transportation Agency and CN Rail.

7. THAT the Certificate of the Treasurer and the Project Manager's Report, Schedules "A" and "B" attached hereto, shall be read with and form part of this by-law.

GIVEN UNDER THE SEAL OF THE CORPORATION OF  
THE CITY OF BROCKVILLE AND PASSED  
THIS 28TH DAY OF MARCH A.D.1995

MAYOR

*Marilyn J. Smith*  
CLERK

SCHEDULE "A"  
TO  
BY-LAW NUMBER *35-95*

**TREASURER'S REPORT**  
**ON THE**  
**APPROVALS and AVAILABILITY OF FUNDS**

DATE OF REPORT: MARCH 13, 1995  
PROJECT NAME: RAILWAY FENCING  
LOCATION: CN RAILWAY TRACKS WITHIN CITY LIMITS  
PURPOSE: FENCING TO MITIGATE TRESPASSING ON TRACKS  
ACCOUNT NUMBER: C3011-EN55  
CAPITAL PROJECT NO.: CB1995 - 2.6.

**APPROVALS**

STATUTORY AUTHORITY: Section 210.58, Municipal Act, c.M45, R.S.O. 1990  
ESTIMATED LIFE OF ASSET: 5 YEARS  
PERIOD OF WORK: 1 Year.  
AVAILABILITY OF INTERIM FINANCING: Bank Loan and Internal Loan.  
MINISTRY APPROVAL(S): (1) National Transportation Agency  
(2) CN Rail  
DATE APPROVAL RECEIVED: To be received APPROVAL NO.:

**AVAILABILITY OF FUNDS**

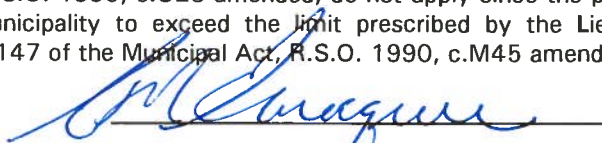
**BUDGETED EXPENDITURES**

BUDGETED COST OF PROJECT : 1995	\$85,000
Cost of Financing:	<u>5,000</u>
<b>(1) TOTAL BUDGETED COST OF PROJECT:</b>	<b><u>\$90,000</u></b>

**BUDGETED REVENUES**

CONTRIBUTION FROM CURRENT FUND:	\$73,000
CONTRIBUTION FROM CAPITAL CONTINGENCY :	
<u>MISCELLANEOUS CONTRIBUTION: CN Rail</u>	<u>17,000</u>
<b>(2) TOTAL OWN SOURCE REVENUES &amp; SUBSIDIES FOR 1995:</b>	<b><u>\$90,000</u></b>
<b>(3) AMOUNT TO BE DEBENTURED IN 1995</b>	<b><u>\$ Nil</u></b>
<b>(4) TOTAL BUDGETED REVENUES FROM ALL SOURCES:</b>	<b><u>\$90,000</u></b>

I hereby certify that the above indicated sources of funds are eligible, approved and will be made available for the undertaking of this project subject to the restrictions imposed by any Ministry or Regulatory Agency as it pertains to the purpose(s) for which the financing is intended. Sections 65 & 66 of the Ontario Municipal Board Act, R.S.O. 1990, c.O28 amended, do not apply since the proposed debenture issue does not cause the municipality to exceed the limit prescribed by the Lieutenant Governor in Council as set out in Section 147 of the Municipal Act, R.S.O. 1990, c.M45 amended.



TREASURER

**NOTE:** This certificate is contingent on all the above documentation, approvals and required certificates being on hand and complete in every respect prior to the commencement of the said undertaking.

**SCHEDULE "B"**  
**TO**  
**CITY OF BROCKVILLE**  
**BY-LAW NO. 35-95**

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DATE: 1995 03 14

Project No: CB1995-2.6  
Account No: C3011-EN55

**REPORT OF THE PROJECT MANAGER**  
**ON A**  
**CAPITAL PROJECT**

Name of Project: FENCING OF RAILWAY LANDS

TO THE COUNCIL OF THE CITY OF BROCKVILLE:

GENTLEMEN and LADIES:

I wish to report as follows on the subject project:

1. Description of the Undertaking:

Fencing by City of CN Rail lands to mitigate trespassing as a possible solution to anti-whistling.

2. Budgeted Cost Estimate:

	1995 Budget	Total Proposed Cost Estimate	Previously Adopted Cost Estimate
Construction:	\$ 80 000	\$ 80 000	
Engineering:	5 000	5 000	N/A
Financing:	5 000	5 000	
TOTAL	\$ 90 000	\$ 90 000	\$ N/A

3. Corporation's Statutory Authority to Proceed:

Municipal Act, c.M45, Section(s) 210.58 R.S.O. 1990 as amended.

4. Statutory Authority for Ontario Municipal Board Approval:

N/A

5. Other Approvals Required:

National Transportation Agency  
CN Rail

Project Manager's Report  
Project No: CB1995-2.6  
Account No: C3011-EN55

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Date 1995 03 14

6. Lifetime of Work:

5 years

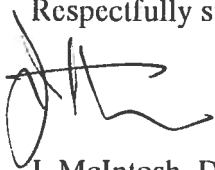
7. Recommended Funding:

	1995 Capital Budget	Total of Proposed Funding	Previously Adopted Funding
Debenture:	\$ -	\$ -	\$
Contr. from Current:	73 000	73 000	N/A
CN Contribution:	17 000	17 000	
<b>TOTAL</b>	<b>\$ 90 000</b>	<b>\$ 90 000</b>	<b>\$ N/A</b>

8. Method of Recovery:

Mill rate on all rateable property                      \$ 73 000

Respectfully submitted



J. McIntosh, Director of Engineering