



**TOWN OF AMHERSTBURG
DRAINAGE BOARD
Tuesday, August 3, 2021
6:00 PM
ELECTRONIC PARTICIPATION
MINUTES**

PRESENT

Bob Bezaire, Chair
Allan Major, Vice-Chair
Bob Pillon
Anthony Campigotto
Brad Laramie
Shane McVitty, Drainage Superintendent &
Engineering Coordinator
Nicole Humber, Recording Secretary
Kevin Fox, Policy and Committee Coordinator

ABSENT

CALL TO ORDER

The Chair called the meeting to order at 6:01 p.m.

ROLL CALL

DISCLOSURE OF PECUNIARY INTEREST & GENERAL NATURE THEREOF

There were none.

4. The Chair read the following land acknowledgement:

“We will begin by acknowledging that the land on which we gather is the traditional territory of the Three Fires Confederacy of First Nations (comprising the Ojibway, the Odawa, and the Potawatomie Peoples), and of the Huron- Wendat and Wyandot Peoples. We recognize the land as an expression of gratitude to those whose traditional territory we reside on, and a way of honouring the Indigenous people who have been living and thriving on the land since time immemorial. We value the significant historical and contemporary contributions of local and regional First Nations and all of the Original Peoples of Turtle Island.”

5. **MINUTES OF PREVIOUS MEETING**

Allan Major moved, Bob Pillon seconded;

That:

The minutes of the previous meeting BE ADOPTED:

1. Drainage Board Meeting Minutes – July 6, 2021

| | Yes/Concur | No/Not Concur |
|--------------------------|-------------------|----------------------|
| Bob Pillon | X | |
| Allan Major – Vice Chair | X | |
| Brad Laramie | X | |
| Anthony Campigotto | X | |
| Bob Bezaire - Chair | X | |

Motion Carried

6. OPEN COURT OF REVISION

The Chair opened the Court at 6:04 p.m.

6.1 Appeals – Parks Drain Access Bridges and Drain Maintenance Schedules

Tim Oliver, P. Eng from Dillon Consulting Ltd provided a brief overview of the Parks Drain report.

Shane McVitty noted that the Town did not receive any appeals or questions from the assessed landowners.

Board Chair Bob Bezaire asked if the Board members had any questions.

There were none.

Allan Major moved, Anthony Campigotto seconded;

That:

- 1. The appeals submitted written or verbally to the Court of Revision for the Parks Drain Access Bridges and Drain Maintenance Schedules BE RECEIVED;**
- 2. The schedule of assessment as presented by Dillon Consulting Ltd. for the Parks Drain Access Bridges and Drain Maintenance Schedules BE APPROVED.**

| | Yes/Concur | No/Not Concur |
|--------------------------|------------|---------------|
| Bob Pillon | X | |
| Allan Major – Vice Chair | X | |
| Brad Laramie | X | |
| Anthony Campigotto | X | |
| Bob Bezaire - Chair | X | |

Motion Carried

7. CLOSE COURT OF REVISION

Bob Pillon moved, Allan Major seconded;

That:

The Court of Revision be ADJOURNED.

| | Yes/Concur | No/Not Concur |
|--------------------------|------------|---------------|
| Bob Pillon | X | |
| Allan Major – Vice Chair | X | |
| Brad Laramie | X | |
| Anthony Campigotto | X | |
| Bob Bezaire - Chair | X | |

Motion Carried

8. NEW BUSINESS

8.1 John Parks Drain No. 1 – Tender Results

Shane McVitty advised that the original drainage report for this project was completed in 2019, and the tender was published online through the Town's Bids & Tenders website in June of this year. Mr. McVitty stated that the tender results were high and the lowest tender received was from South Shore Contracting of Essex County Inc. at \$213,076.00 excluding HST. This price is more than 33% higher than the engineer's estimate of the project. Mr. McVitty explained that Section 59 of the Drainage Act provides a Municipality with instruction regarding projects whose tendered prices have exceeded the Engineer's estimate and the procedures that are to be followed by Council when construction prices exceed 33% of the engineering estimate. Mr. McVitty read Section 59 of the Act to the Board and audience:

Meeting to consider contract price

59. (1) Where the contract price exceeds 133 per cent of the engineer's estimate of the contract price, the council of the initiating municipality shall call a meeting in the manner prescribed by section 41, and sections 42 and 43 apply with necessary modifications. R.S.O. 1990, c. D.17, s. 59 (1).

Mr. McVitty stated that the Drainage Board could recommend that Council reject and retender the project with the appropriate modifications outlined in his report to the Board as well as from the engineer.

Mike Gerrits, P.Eng., of R.Dobbin Engineering Inc., addressed the Board Members and advised that there is an option of accepting the tender costs and moving ahead with the project. However, Mr. Gerrits explained that the tendered costs were much higher than his estimate and would increase assessments significantly. Mr. Gerrits explained that the other option would be to reject the submitted bids and retender the project at a later date. Mr. Gerrits further explained that the material costs are very high on some items and that retendering at a later date with a later completion date may free up contractors to complete the project in 2022 rather than 2021.

Board Chair Bob Bezaire asked if any of the landowners in attendance had any questions.

The Board heard from:

- Gina and Frank Storino – 1215 & 1217 Front Road S

Mrs. Storino advised that they were extremely concerned with the tender results as they are assessed for approximately 45% of the cost. Mr. Storino requested that consideration be given to partial repairs, extending the completion deadline and extending the debenture period from 5 years to 10 years.

Mr. Gerrits agreed that the cost of the tender was too high. He suggested that extending the work period into 2022, as well as removing the bonding requirements, may attract additional contractors to bid if the project was retendered in the late fall. Mr. Gerrits also suggested removing the item for the headwall replacement at the outlet to the river would further reduce the cost of the project. He added that the existing headwall could remain in place and be monitored by the Town, and then replaced in the future under maintenance and according to the provisions of his report when required.

Board Chair Bob Bezaire asked if there was anything the Town could do with respect to extending the debenture period.

Mr. McVitty explained that the landowner would have to contact the Treasurer regarding the debenture. He suggested that Council would have to grant permission to extend the debenture period. Mr. McVitty further explained that the Town charges an interest rate on debentures that would be also add to the overall cost to the Storino's should they choose to debenture their assessment. Mr. McVitty indicated that he would reach out to the Treasurer to put him in contact with the Storino's

Board Chair Bob Bezaire asked if any of the landowners online had any further questions.

There were none.

Board Chair Bob Bezaire asked if the Board members had any questions.

Board Member Brad Laramie asked if it was too much of a risk to wait to retender the project, adding that there could be the possibility of costs continuing to rise.

Shane McVitty indicated that waiting to retender is certainly a risk, and there is the possibility of the tender coming in higher than the original tender. Mr. McVitty added that there were only a handful of plan-takers on this tender and only three submissions. Mr. McVitty further added that the summer timing of this tender was not ideal, though it was tendered as soon as possible in light of project delays such as Tribunal appeals. Mr. McVitty stated that if the project was retendered, then modifications will be made, including scope clarifications, amendments to certain tender items, the removal of bonding requirements, and time of completion extensions. Mr. McVitty added that the Town would retender during the late fall, after the busy summer construction season, at a time when contractors would be in a better position to tender and plan their upcoming construction schedules.

Board Member Anthony Campigotto asked if there was any possible liability to the Town if the tender is rejected.

Mr. McVitty stated that the section of the drain that is being replaced has already completely failed and that the longer the project is delayed, the more risk there is for other areas to fail. Mr. McVitty further stated that the Town has followed all of the legislated steps in the process to date, and delays to the construction have taken place due to circumstances outside of its control.

Board Chair Bob Bezaire asked if there were any further questions from the Board.

There were none.

Brad Laramie moved, Anthony Campigotto seconded;

That:

- 1. The report from the Drainage Superintendent and Engineering Coordinator dated July 21, 2021, regarding the John Parks Drain No.1 – Tender BE RECEIVED;**
- 2. The Drainage Board recommend that Council REJECT the tender submissions for the John Parks Drain No. 1; and**
- 3. The Drainage Board recommend that Council DIRECT administration to retender the John Parks Drain No.1 in the late fall of 2021 with appropriate modifications to the Tender documents according to the recommendations from R. Dobbin Engineering Inc.**

| | Yes/Concur | No/Not Concur |
|--------------------------|-------------------|----------------------|
| Bob Pillon | X | |
| Allan Major – Vice Chair | X | |
| Brad Laramie | X | |
| Anthony Campigotto | X | |
| Bob Bezaire - Chair | X | |

Motion Carried

8.2 John Parks Drain No. 2 – Tender Results

Mr. McVitty advised the Board Members that the tender for the John Parks Drain No. 2 had similar results as the John Parks Drain No. 1 tender. Mr.

McVitty explained that the lowest tender price was \$217,460.00 which is approximately 50% higher than the engineer's estimate. Mr. McVitty stated that Town's procurement policy indicates that the Town does have the right to reject these bids.

Josh Warner, P.Eng of R. Dobbin Engineering Inc. advised the Board members that the 50% tender increase over the engineer's estimate would result in higher assessments to landowners. Mr. Warner stated that by retendering the project with modifications such as removing bonding and extending the tendering, similar to what is proposed for the retendering of the John Parks Drain No.1 project, there may be more contractors close on the tender, which would hopefully result in lower tender prices.

Board Chair Bob Bezaire asked if there were any delegations online that had any questions.

There were none.

Board Chair Bob Bezaire asked if there were any questions from the Board Members.

Board Member Allan Major asked if the Town would be responsible for damages should the bonding be removed from the tender.

Mr. McVitty stated that there is a maintenance period for one year after the project completion wherein the contractor would be responsible for any construction related issues. Mr. McVitty added that the Town's Procurement Policy allows for projects to be tendered without bonding for projects under a certain cost threshold at the discretion of the project manager. In this case, both John Parks Drain projects do not require bonding.

Board Chair Bob Bezaire asked if there were any further questions from the Board Members.

There were none.

Allan Major Moved, Bob Pillon seconded;

That:

1. The report from the Drainage Superintendent and Engineering Coordinator dated July 21, 2021, regarding the John Parks Drain No.2 – Tender BE RECEIVED;
2. The Drainage Board recommend that Council REJECT the tender submissions for the John Parks Drain No. 2; and
3. The Drainage Board recommend that Council DIRECT administration to retender the John Parks Drain No.2 in the late fall of 2021 with appropriate modifications to the Tender documents according to the recommendations from R. Dobbin Engineering Inc.

| | Yes/Concur | No/Not Concur |
|--------------------------|------------|---------------|
| Bob Pillon | X | |
| Allan Major – Vice Chair | X | |
| Brad Laramie | X | |
| Anthony Campigotto | X | |
| Bob Bezaire - Chair | X | |

Motion Carried

8. NEXT MEETING DATE

Tuesday, September 7, 2021 @ 6:00 p.m.

9. ADJOURNMENT

Anthony Campigotto moved, Bob Pillon seconded;

That:

The Board rise and adjourn at 6:48 p.m.

| | Yes/Concur | No/Not Concur |
|--------------------------|------------|---------------|
| Bob Pillon | X | |
| Allan Major – Vice Chair | X | |
| Brad Laramie | X | |
| Anthony Campigotto | X | |
| Bob Bezaire - Chair | X | |

Motion Carried

Chair – Bob Bezaire

Staff Liaison – Shane McVitty



THE CORPORATION OF THE TOWN OF AMHERSTBURG

OFFICE OF ENGINEERING AND PUBLIC WORKS

MISSION STATEMENT: *Committed to delivering cost-effective and efficient services for the residents of the Town of Amherstburg with a view to improve and enhance their quality of life.*

| | |
|---|--|
| Author's Name: Shane McVitty | Report Date: July 21, 2021 |
| Author's Phone: 519 736-3664 ext. 2318 | Date to Drainage Board : August 3, 2021 |
| Author's E-mail: smcvitty@amherstburg.ca | Resolution #: N/A |

To: Members of the Drainage Board

Subject: John Parks Drain No.1 - Tender Results

1. **RECOMMENDATION:**

It is recommended that:

1. The report from the Drainage Superintendent and Engineering Coordinator dated July 21, 2021, regarding the John Parks Drain No.1 – Tender **BE RECEIVED**;
2. The Drainage Board recommend that Council **REJECT** the tender submissions for the John Parks Drain No. 1; and
3. The Drainage Board recommend that Council **DIRECT** administration to retender the John Parks Drain No.1 in the late fall of 2021 with appropriate modifications to the Tender documents according to the recommendations from R. Dobbin Engineering Inc.

2. **BACKGROUND:**

The Town advertised a Request for Tender (RFT) for improvements to the John Parks Drain No.1 on June 10, 2021 online via Bids and Tenders and on the Town's website. The RFT included the removal of existing CSP drain pipe and storm sewer structures, the installation of approximately 68m of new, smooth wall plastic drain pipe and structures, and the replacement of an existing drainage headwall at the outlet to the Detroit River. The tendered works was to be completed according to the October 18, 2019 engineering report completed by R. Dobbin Engineering Inc. (the Consulting Engineer). The By-law authorizing the work under said report was passed by Council on May 10, 2021.

3. **DISCUSSION:**

Tenders closed for this project at 11:00 a.m. on Wednesday June 30, 2021. Though there were eight (8) plan takers (picked up the RFT), the Town only received three (3) tender submissions that were processed electronically via the Bids and Tenders system.

The tenders were reviewed electronically to ensure that there were no mathematical errors or omissions. The tender results are:

| Bidder | Tender Amount (excluding HST) |
|---|-------------------------------|
| 1. South Shore Contracting of Essex County Inc. | \$ 213,076.00 |
| 2. Neptune Security Services Inc. | \$ 245,402.00 |
| 3. Nevan Construction Inc. | \$ 247,880.00 |

The lowest tender price submitted by South Shore Contracting of Essex County Inc. is approximately 124% higher than the Engineer's construction estimate of \$95,073.00. Both the tender and the engineering estimate included a \$15,000.00 contingency.

Section 59 of the Drainage Act provides a Municipality with instruction regarding projects whose tendered prices have exceeded the Engineer's estimate. Specifically, the procedures that are to be followed by Council when construction prices exceed 33% of the estimate are outlined below:

Meeting to consider contract price

59. (1) Where the contract price exceeds 133 per cent of the engineer's estimate of the contract price, the council of the initiating municipality shall call a meeting in the manner prescribed by section 41, and sections 42 and 43 apply with necessary modifications. R.S.O. 1990, c. D.17, s. 59 (1).

The tender results exceed the engineering estimate provided under the Drainage Report by R. Dobbin Engineering Inc. In comparison with the engineering estimate, the bid submitted by South Shore Contracting of Essex County Inc. is well above the 33% overage threshold stipulated under Section 59 of the Drainage Act that has compelled the Municipality to hold a public meeting to discuss the tender price. It should be noted that the Act does not provide an overage threshold by which a construction tender shall be rejected by Council.

The engineer's estimate for this project undervalued many of the required construction material and installation costs. These include the drainage pipe and storm sewer structures, granular stone, and block headwalls. Administration has recently noted a trend in the increasing costs of materials and material delivery due to COVID-19 pandemic related supply challenges. The tendered material prices received under this project provide further evidence that supports this trend.

It should also be noted that due to Tribunal appeals, the final passing of the By-law and subsequent tendering of this project was delayed by eighteen months. Pandemic related challenges pushed the Tribunal hearing from its original scheduled date in early April 2020 to April 2021. At the time when the engineering report and estimate were completed

in October 2019, there was no way of forecasting the pandemic or the impacts that it would have on construction costs or the timing of any appeals hearings. Had there been no Tribunal appeals, tendering would have occurred in late 2019 to early 2020 and prior to the onset of these COVID-19 pandemic related cost increases.

In addition to the late tender-call and COVID related price increases, the engineer has identified other issues that may have impacted the tender prices. These include:

- Timing of the Tender and Tender Completion Date – the tender was called on June 30, 2021, late into this year's construction season. Most Contractors have set their construction schedules by this point, and may not have been able to meet the completion deadline.
- Low Bidder Turn-out – with only eight (8) plan-takers and three (3) tender submissions received, it is assumed that there was a lack of interest in this project from Contractors. Through our post-tender discussions with Contractors, we have learned that busy summer construction schedules prevented some from reviewing and submitting tenders.
- Bonding Requirements – the tender required that bidders submit performance, labour and material bonds. This may have dissuaded some smaller, but qualified drainage Contractors from bidding.

The consulting engineer has completed a review of the submissions and has recommended that the tenders be rejected and re-tendered in the late Fall of 2021.

Through consultation with the Engineer, Administration recommends that this project be re-tendered with the following modifications in an effort to reduce the cost of bid submissions:

- Tender call in late Fall 2021, after the summer construction season has slowed to allow Contractors a better opportunity to bid.
- Adjust the tender completion date to the Fall of 2022 to provide ample time to schedule and complete the project.
- Remove bonding requirements within the limits set by the Town's Procurement Policy
- Adjust certain tender items to better streamline the Form of Tender
- Remove the tender item for the replacement of the new headwall at the Detroit River, which can be monitored by Town Staff and replaced when necessary according to the provisions of the Engineering Report
- Provide additional clarification within the tender documents to remove ambiguities that were identified by some Contractors through conversations that followed the recent tender call

Under the terms of the tender, it is identified that submissions will be accepted and processed in accordance with the Town's Procurement Policy. Section 15.7 of the Procurement Policy states:

15.7. No Acceptable Bids Received

- 15.7.1. The Town has the right to deem that no acceptable bids were received where, in the opinion of the Project Manager, it was determined one of the following conditions exist:
 - 15.7.1.1. The bid prices exceed the Town's budget for that purpose.
 - 15.7.1.2. The bid specifications are determined to be inadequate or ambiguous, or otherwise in need of revision.
 - 15.7.1.3. The goods or services forming in the subject of the tender are no longer required.
 - 15.7.1.4. It is realized that the terms and conditions of the tender did not allow for consideration of all cost factors in the relation to the supply.
 - 15.7.1.5. The needs of the Town can be satisfied by a less expensive article differing from which the bids were invited.
 - 15.7.1.6. The bids are not responsive to the intent or requirement of the bid document and do not represent fair market value.
- 15.7.2. If the Town deems that no acceptable bids were received, a revised call for bids may be issued in an effort to obtain an acceptable bid.
- 15.7.3. The Town will not be responsible financially or otherwise, to a bidder who has responded to the bid process wherein no acceptable bids were received.

According to provisions 15.7.1.1 and 15.7.2 of the Procurement Policy, the Town reserves the right to reject all submitted bids for the John Parks Drain No.1 project and to initiate a revised call for bids at a later time. Through discussions with the Engineer and the Town's Financial Planning Administrator, it is recommending that this occur in the late Fall of 2021 with the tender revisions outlined herein and within the Engineer's tender recommendation letter attached to this report.

4. RISK ANALYSIS:

Acceptance of the lowest tender submission would result in a significant increase in the assessments of the affected landowners that are responsible for paying the cost of this project according to the engineering report. However, it should also be noted that

rejection of the submitted tenders followed by a second tender call could also result in prices that exceed the engineering estimate should the second tender call proceed without sensible and strategic amendments to the tender. In recognition of this, Administration feels that these possible increases can be mitigated by adjusting the tender documents according to the recommendations outlined in the Discussion Section of this report.

5. **FINANCIAL MATTERS:**

As this is a drainage project being conducted under the provisions Section 78 of the Drainage Act, final project costs will be assessed to affected landowners according to the Drainage Report prepared by R. Dobbin Engineering Inc., dated October 18, 2019, and subsequent amendments made by the Court of Revision.

Should the Town elect to award the tender to the low bidder from South Shore Contracting of Essex County Inc., the total project cost for improvements to the John Parks Drain No.1 is estimated as follows:

| Drainage Project: John Parks Drain No. 1 | Budget ⁽¹⁾ | Actual (incl. net HST) | Variance (over)/under |
|---|-----------------------|------------------------------|--------------------------|
| Cost: | | | |
| Engineering & Project Management | | \$ 46,374 | |
| Cost of ERCA Permit | | 800 | |
| Tribunal Costs | | 11,309 | |
| Allowances (per Engineer's Report) ⁽²⁾ | | 1,340 | |
| Construction – Tender Pricing ⁽³⁾ | | 216,826 | |
| Total Project Cost | \$ 145,260 | \$ 276,649 | (\$ 131,389) |
| Funding: | | | |
| Taxation (Municipal Share) | \$ 1,668 | \$ 3,177 | (\$ 1,509) |
| Assessment to the County of Essex | 21,487 | 40,922 | (19,435) |
| Assessment to Public Utilities | 6,672 | 12,707 | (6,035) |
| Landowner Assessments | 115,433 | 219,843 | (104,410) |
| Total Project Funding | \$ 145,260 | \$ 276,649 | (\$ 131,389) |

Notes:

1. The 2021 Budget includes an allowance of \$145,260 in the Drainage budget centre under Drain Construction expense for completion of these works, to be funded by recoveries from benefitting property owners. The estimated Town share of the cost is funded from taxation and is allowed for under the Public Works budget centre as Municipal Drain Expense.
2. Allowances to be paid to lands specified under the Drainage Report, cost of which makes up part of the total project cost, collected through assessment.

3. The tender pricing is represented by the low bid submitted by South Shore Contracting of Essex County Inc. and includes a contingency allowance of \$15,264 including net HST (\$15,000 plus HST), which would be used for unforeseen expenditures should they arise during construction.

6. CONSULTATIONS:

The Consulting Engineer reviewed the tender submissions. They are recommending that all tenders be rejected and that the project be re-tendered at a later date.

The Manager of Engineering and the Financial Planning Administrator were consulted on this report.

7. CONCLUSION:

Administration is recommending that Council reject the tender submissions for the John Parks Drain No. 1 project and that the project be re-tendered in the late Fall of 2021 with appropriate modifications to the tender documents according to the recommendations from R. Dobbin Engineering Inc.



Shane McVitty

Drainage Superintendent and Engineering Coordinator

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Attachment(s):

- LETTER – R. Dobbin - 210720 - John Parks Drain No.1 Tender Summary Letter

July 20, 2021

The Mayor and Council
Town of Amherstburg
271 Sandwich Street South
Amherstburg, Ontario
N9V 2A5

Attention: Shane McVitty, Drainage Superintendent and Engineering Co-ordinator

Re: John Parks Drain No. 1 Tender Results

Three (3) electronic tenders for the John Parks Drain No. 1 were received by the Town of Amherstburg.

Following the tender opening, the schedule of tender prices from each bid was reviewed by R. Dobbin Engineering Inc. The following tender prices were submitted (including contingency and without HST):

- | | |
|--|---------------|
| • South Shore Contracting of Essex County Inc. | \$ 213,076.00 |
| • Neptune Security Services Inc. | \$ 245,402.00 |
| • Nevan Construction Inc. | \$ 247,880.00 |

Based on this review, the bid from South Shore Contracting of Essex County Inc. is the lowest price tendered. This tender price is approximately 124% higher than the Engineer's Estimate of \$95,073.00 (with contingency and without HST). As this amount is greater than 33% of the construction estimate, a meeting shall be held with ratepayers on the drain in accordance with Section 59 of the Drainage Act. At this meeting the direction, moving forward will be decided.

In R. Dobbin Engineering Inc.'s opinion, there are several reasons why the costs for this project significantly exceeded the estimated total:

- Supply prices have gone up significantly since the start of COVID-19. This drain report was finalized in October of 2019, had the Court of Revision in December 2019, had a Tribunal date set for April 2020 and had the Tribunal date deferred to April 2021 due to COVID-19. Prices have continued to increase since the report was submitted.
- Very few Contractors took out plans for the project and only a small number closed the project. Two Contractors who have completed drainage projects within the Town of Amherstburg closed the tender and one tender was received from a security company. All bidders submitted the required documents, however, not all Contractors qualifications and experience was related underground drainage works.

- General comments on some tender items are provided below:
 - The pipe installation costs were nearly double the Engineer's estimate.
 - The concrete structures price of the low tenderer was \$45,360 more than the Engineer's estimate.

A review of the tender requirements was completed to determine why more drainage Contractors did not submit a tender. Items which may have deterred additional drainage Contractors from submitting a tender may have been:

- The tender closed on June 23, 2021. A lot of the smaller companies have limited resources and during the summer have a hard time putting time to closing a tender.
- Bonding was required. Some of the smaller drainage Contractors may not have bonding, or have limited bonding.
- The completion date stipulated in the tender was November 30, 2021. Pre-established 2021 work loads may have prohibited completion by this date.

Options

There are two (2) options moving forward:

1. Accept the increased tendered price.
2. Re-tender the project with modifications.

Analysis and Recommendation

Based on an analysis of the tendered prices of the bids received, the increased cost of this project does not relate to one item. Accepting the increased tendered price will result in a significant increase to all assessed Landowners.

In consideration of the above, R. Dobbin Engineering Inc. recommends to re-tender this project with some modifications:

- Clarify what is to be done as part of this project to ensure the tenderers fully understand the scope of work.
- Reduce the amount of tender items by merging multiple tender items into one tender item. Items such as removal of pipes, structures and bends can be retendered as one removal item. Traffic control, working around utilities and locating the existing drain can be part of the unit price item for the closed drain. Clear stone bedding can be removed from the unit price item for pipe and paid for provisionally when required.
- The headwall at the outlet to the Detroit River is in poor shape but still functions. The replacement of the headwall can be removed from the tender. The wall can be monitored and replaced in the future, at the direction of the Drainage Superintendent using the drawings and specifications provided in the drainage report.
- Remove requirements for bonding.
- Close the tender in late fall of 2021 (after the busy summer construction season) so all Contractors have time to bid the project.

- Adjust the completion date to fall of 2022 so Contractors have ample time to complete the project.


All of the above modifications can be completed without compromising the drain report.

Risk

The risk with re-tendering is the possibility that the new tenders come in at a price that is higher than the original tender. R. Dobbin Engineering Inc. does not think that this will be the case once the above modifications are made.

Should you have any questions feel free to contact the under signed at 519-845-0969.

Yours truly,



July 20 10 21
2018-933

Mike Gerrits, P. Eng
R. Dobbin Engineering Inc.

July 22, 2021.

Shane McVitty

Engineering Coordinator & Drainage Superintendent

Public Works Department

Re: John Parks Drain No.1 Improvements - Meeting to Consider Tender Results

Dear Mr. McVitty;

We are extremely concerned with the tender price of 124% greater than the engineer's estimate, since we are the landowners that would be paying the bulk of the cost for this project. (45.6% of the cost)

We are in favour of any modifications that would bring the cost of the project down. Consideration should be given for re-tendering to local drainage contractors and perhaps consider partial repairs at this time.

Consideration should also be given to extending the payment costs related to this project from five years to 10 years.

Thank you for your attention to this matter.

Sincerely,

Frank and Gina Storino

Landowners: [REDACTED] Amherstburg, Ontario



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OFFICE OF ENGINEERING AND PUBLIC WORKS

MISSION STATEMENT: *Committed to delivering cost-effective and efficient services for the residents of the Town of Amherstburg with a view to improve and enhance their quality of life.*

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|---|--|
| Author's Name: Shane McVitty | Report Date: July 21, 2021 |
| Author's Phone: 519 736-3664 ext. 2318 | Date to Drainage Board : August 3, 2021 |
| Author's E-mail: smcvitty@amherstburg.ca | Resolution #: N/A |

To: Members of the Drainage Board

Subject: John Parks Drain No.2 - Tender Results

1. **RECOMMENDATION:**

It is recommended that:

1. The report from the Drainage Superintendent and Engineering Coordinator dated July 21, 2021, regarding the John Parks Drain No.2 – Tender **BE RECEIVED**;
2. The Drainage Board recommend that Council **REJECT** the tender submissions for the John Parks Drain No. 2; and
3. The Drainage Board recommend that Council **DIRECT** administration to retender the John Parks Drain No.2 in the late fall of 2021 with appropriate modifications to the Tender documents according to the recommendations from R. Dobbin Engineering Inc.

2. **BACKGROUND:**

The Town advertised a Request for Tender (RFT) for improvements to the John Parks Drain No.2 on June 10, 2021 online via Bids and Tenders and on the Town's website. The RFT included the removal of existing CSP drain pipe and storm sewer structures, the installation of new, CSP, concrete and plastic drain pipe and structures, open channel repair, and the replacement of an existing drainage headwall at the outlet to the Detroit River, complete with a new backwater preventor. The tendered works was to be completed according to the September 30, 2020 engineering report completed by R.

Dobbin Engineering Inc. (the Consulting Engineer). The By-law authorizing the work under said report was passed by Council on May 10, 2021.

3. **DISCUSSION:**

Tenders closed for this project at 11:00 a.m. on Wednesday June 30, 2021. Though there were eight (8) plan takers (picked up the RFT), the Town only received three (3) tender submissions that were processed electronically via the Bids and Tenders system.

The tenders were reviewed electronically to ensure that there were no mathematical errors or omissions. The tender results are:

| Bidder | Tender Amount (excluding HST) |
|---|-------------------------------|
| 1. Nevan Construction Inc. | \$ 217,460.00 |
| 2. South Shore Contracting of Essex County Inc. | \$ 229,900.00 |
| 2. Neptune Security Services Inc. | \$ 416,255.00 |

The lowest tender price submitted by Nevan Construction Inc. is approximately 50% higher than the Engineer's construction estimate of \$145,450.00. Both the tender and the engineering estimate included a \$16,500.00 contingency.

Section 59 of the Drainage Act provides a Municipality with instruction regarding projects whose tendered prices have exceeded the Engineer's estimate. Specifically, the procedures that are to be followed by Council when construction prices exceed 33% of the estimate are outlined below:

Meeting to consider contract price

59. (1) Where the contract price exceeds 133 per cent of the engineer's estimate of the contract price, the council of the initiating municipality shall call a meeting in the manner prescribed by section 41, and sections 42 and 43 apply with necessary modifications. R.S.O. 1990, c. D.17, s. 59 (1).

The tender results exceed the engineering estimate provided under the Drainage Report by R. Dobbin Engineering Inc. In comparison with the engineering estimate, the bid submitted by Nevan Construction Inc. is well above the 33% overage threshold stipulated under Section 59 of the Drainage Act that has compelled the Municipality to hold a public meeting to discuss the tender price. It should be noted that the Act does not provide an overage threshold by which a construction tender shall be rejected by Council.

The engineer's estimate for this project undervalued many of the required construction material and installation costs. Administration has recently noted a trend in the increasing costs of materials and material delivery due to COVID-19 pandemic related supply challenges. The tendered material prices received under this project provide further evidence that supports this trend.

It should also be noted that due to an additional sitting of the Court of Revision and an appeal to the Tribunal, the final passing of the By-law and subsequent tendering of this project was delayed by four months. Delays to tendering caused by these events

contributed to the increased prices which have continued to increase since the onset of the Pandemic.

In addition to the late tender-call and COVID related price increases, the engineer has identified other issues that may have impacted the tender prices. These include:

- Timing of the Tender and Tender Completion Date – the tender was called on June 30, 2021, late into this year's construction season. Most Contractors have set their construction schedules by this point, and may not have been able to meet the completion deadline.
- Low Bidder Turn-out – with only eight (8) plan-takers and three (3) tender submissions received, it is assumed that there was a lack of interest in this project from Contractors. Through our post-tender discussions with Contractors, we have learned that busy summer construction schedules prevented some from reviewing and submitting tenders.
- Bonding Requirements – the tender required that bidders submit performance, labour and material bonds. This may have dissuaded some smaller, but qualified drainage Contractors from bidding.
- Project Scope Misunderstandings – post tender discussions with some contractors suggested that there may have been some confusion regarding portions of the project which may have prevented a broader bidding field from additional drainage contractors.

The consulting engineer has completed a review of the submissions and has recommended that the tenders be rejected and re-tendered in the late Fall of 2021.

Through consultation with the Engineer, Administration recommends that this project be re-tendered with the following modifications in an effort to reduce the cost of bid submissions:

- Tender call in late Fall 2021, after the summer construction season has slowed to allow Contractors a better opportunity to bid.
- Adjust the tender completion date to the Fall of 2022 to provide ample time to schedule and complete the project.
- Remove bonding requirements within the limits set by the Town's Procurement Policy
- Adjust certain tender items to better streamline the Form of Tender
- Replace the tender item for the new concrete block wall near the inlet to the new drain enclosure with sloped stone erosion protection. The Consulting Engineer estimates that this tender change will result in a savings of approximately \$9,000.00
- Provide additional clarification within the tender documents to remove ambiguities that were identified by some Contractors through conversations that followed the recent tender call

Under the terms of the tender, it is identified that submissions will be accepted and processed in accordance with the Town's Procurement Policy. Section 15.7 of the Procurement Policy states:

15.7. No Acceptable Bids Received

- 15.7.1. The Town has the right to deem that no acceptable bids were received where, in the opinion of the Project Manager, it was determined one of the following conditions exist:
 - 15.7.1.1. The bid prices exceed the Town's budget for that purpose.
 - 15.7.1.2. The bid specifications are determined to be inadequate or ambiguous, or otherwise in need of revision.
 - 15.7.1.3. The goods or services forming in the subject of the tender are no longer required.
 - 15.7.1.4. It is realized that the terms and conditions of the tender did not allow for consideration of all cost factors in the relation to the supply.
 - 15.7.1.5. The needs of the Town can be satisfied by a less expensive article differing from which the bids were invited.
 - 15.7.1.6. The bids are not responsive to the intent or requirement of the bid document and do not represent fair market value.
- 15.7.2. If the Town deems that no acceptable bids were received, a revised call for bids may be issued in an effort to obtain an acceptable bid.
- 15.7.3. The Town will not be responsible financially or otherwise, to a bidder who has responded to the bid process wherein no acceptable bids were received.

According to provisions 15.7.1.1 and 15.7.2 of the Procurement Policy, the Town reserves the right to reject all submitted bids for the John Parks Drain No.2 project and to initiate a revised call for bids at a later time. Through discussions with the Engineer and the Town's Financial Planning Administrator, it is recommending that this occur in the late Fall of 2021 with the tender revisions outlined herein and within the Engineer's tender recommendation letter attached to this report.

4. RISK ANALYSIS:

Acceptance of the lowest tender submission would result in a significant increase in the assessments of the affected landowners that are responsible for paying the cost of this project according to the engineering report. However, it should also be noted that

rejection of the submitted tenders followed by a second tender call could also result in prices that exceed the engineering estimate should the second tender call proceed without sensible and strategic amendments to the tender. In recognition of this, Administration feels that these possible increases can be mitigated by adjusting the tender documents according to the recommendations outlined in the Discussion Section of this report.

5. **FINANCIAL MATTERS:**

As this is a drainage project being conducted under the provisions Section 78 of the Drainage Act, final project costs will be assessed to affected landowners according to the Drainage Report prepared by R. Dobbin Engineering Inc., dated September 20, 2020, and subsequent amendments made by the Court of Revision.

Should the Town elect to award the tender to the low bidder from Nevan Construction Inc., the total project cost for improvements to the John Parks Drain No.2 is estimated as follows:

| Drainage Project: John Parks Drain No. 2 | Budget ⁽¹⁾ | Actual (incl. net HST) | Variance (over)/under |
|---|-----------------------|------------------------------|--------------------------|
| Cost: | | | |
| Engineering & Project Management | | \$ 44,952 | |
| Cost of ERCA Permit | | 800 | |
| Allowances (per Engineer's Report) ⁽²⁾ | | 1,340 | |
| Construction – Tender Pricing ⁽³⁾ | | 221,287 | |
| Total Project Cost | \$ 195,182 | \$268,379 | (\$ 73,197) |
| Funding: | | | |
| Taxation (Municipal Share) | \$ 1,410 | \$ 1,939 | (\$ 529) |
| Assessment to the County of Essex | 20,671 | 28,423 | (7,752) |
| Assessment to Public Utilities | 8,697 | 11,959 | (3,262) |
| Landowner Assessments | 164,404 | 226,058 | (61,654) |
| Total Project Funding | \$ 195,182 | \$ 268,379 | (\$ 73,197) |

Notes:

1. The 2021 Budget includes an allowance of \$195,182 in the Drainage budget centre under Drain Construction expense for completion of these works, to be funded by recoveries from benefitting property owners. The estimated Town share of the cost is funded from taxation and is allowed for under the Public Works budget centre as Municipal Drain Expense.
2. Allowances to be paid to lands specified under the Drainage Report, cost of which makes up part of the total project cost, collected through assessment.

3. The tender pricing is represented by the low bid submitted by Nevan Construction Inc. and includes a contingency allowance of \$16,790 including net HST (\$16,500 plus HST), which would be used for unforeseen expenditures should they arise during construction.

6. CONSULTATIONS:

The Consulting Engineer reviewed the tender submissions. They are recommending that all tenders be rejected and that the project be re-tendered at a later date.

The Manager of Engineering and the Financial Planning Administrator were consulted on this report.

7. CONCLUSION:

Administration is recommending that Council reject the tender submissions for the John Parks Drain No. 2 project and that the project be re-tendered in the late Fall of 2021 with appropriate modifications to the tender documents according to the recommendations from R. Dobbin Engineering Inc.



Shane McVitty

Drainage Superintendent and Engineering Coordinator

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Attachment(s):

- LETTER – R. Dobbin - 210720 - John Parks Drain No.2 Tender Summary Letter

July 22, 2021

The Mayor and Council
Town of Amherstburg
271 Sandwich Street South
Amherstburg, Ontario
N9V 2A5

Attention: Shane McVitty, Drainage Superintendent and Engineering Co-ordinator

Re: John Parks Drain No. 2 Tender Results

Three (3) electronic tenders for the John Parks Drain No. 2 were received and opened by the Town of Amherstburg.

Following the tender opening, the schedule of tender prices from each bid was reviewed by R. Dobbin Engineering Inc. The following are the confirmed, corrected, tender prices submitted (including contingency and without HST):

- | | |
|--|---------------|
| • South Shore Contracting of Essex County Inc. | \$ 229,900.00 |
| • Neptune Security Services Inc. | \$ 416,255.00 |
| • Nevan Construction Inc. | \$ 217,460.00 |

Based on this review, the bid from Nevan Construction Inc. in the amount of \$217,460.00 (including contingency and without HST) is the lowest price tendered. This tender price is approximately 50% higher than the Engineer's Estimate (\$145,450.00 with contingency and without HST). As this amount is greater than 33% of the construction estimate, a meeting shall be held with ratepayers on the drain in accordance with Section 59 of the Drainage Act. At this meeting the direction moving forward is decided.

In R. Dobbin Engineering's opinion, there are several reasons why the costs for this project significantly exceeded the estimated total:

- Supply prices have gone up significantly since the start of COVID-19. Although, this drain report was finalized in September of 2020, prices have continued to increase since then. Having two sittings of the Court of Revision, and a preliminary Tribunal Hearing delayed in sending out the tenders and contributed to seeing these increased prices.
- Very few Contractors took out plans for the project and only a small number closed the project. Two Contractors who have completed drainage projects within the Town of Amherstburg closed the tender and one tender was received from a security company.
- Following tender close, the Town of Amherstburg contacted Contractors and determined that there were likely a few items that deterred them from the project:
 - The job was not well understood as a whole. Some contractors were under the impression that there was a road crossing replacement across Front Road, when there is not. This can be seen in some of the tendered prices as well, as Traffic Control was \$10,000 in the lowest Contractors tendered price.
 - The tender closed on June 23, 2021. A lot of the smaller companies have limited resources and during the summer have a hard time putting time to closing a tender.

- Bonding was required. Some of the smaller drainage Contractors may not have bonding, or have limited bonding.
- The completion date stipulated in the tender was November 30, 2021. Pre-established 2021 work loads may have prohibited completion by this date.

Options

There are two (2) options moving forward:

1. Accept the increased tendered price.
2. Re-tender the project with modifications.

Analysis and Recommendation

Accepting the increased tendered price would result in almost a 40% increase in the majority of Landowners costs as compared to the drainage report. In reviewing the costs, R. Dobbin Engineering is of the opinion that the costs for most items are high. While some can be attributed to supply issues, R. Dobbin Engineering believes the majority of the cost increases have resulted from a lack of bidders.

In consideration of the above, R. Dobbin Engineering's recommendation is to re-tender this project with modifications, mainly to ensure more Contractors bid the project:

- Clarify what is to be done as part of this project and remove and merge some items that don't necessarily need to be separated (Such as traffic control).
- Remove bonding requirements.
- Close the tender in late fall of 2021 (after the busy summer construction season) so all Contractors have time to bid the project.
- Adjust the completion date to fall of 2022 so Contractors have ample time to complete the project.
- Changing the end wall type at Station 0+067 from concrete block to rip-rap erosion protection. R. Dobbin Engineering believes that changing the end wall to rip rap will result in an approximate \$9,000 savings to the tendered price of the lowest Contractor.

Risk

The risk with re-tendering is the possibility that the tenders come in at a price that is higher than what was recently received. R. Dobbin Engineering Inc. does not think that this will be the case once the above modifications are made.

Should you have any questions feel free to contact the under signed at 519-882-0032, ext.204.

Yours truly,

Josh Warner, P. Eng
R. Dobbin Engineering Inc.