



Council Meeting – May 22, 2024

Subject: Dertinger Drain – Consideration of Contract Price
Report Number: EIS-24-036
Division: Environmental and Infrastructure Services
Department: Engineering - Drainage
Ward: Ward 3
Purpose: For Decision

Recommendation(s):

THAT Report EIS-24-036, Dertinger Drain – Consideration of Contract Price, be received as information;

AND THAT staff be authorized to execute a contract with Robinson Farm Drainage Limited for Tender EIS-ENG-24-03 Dertinger Drain Construction in the amount of \$669,290 (excluding HST);

AND THAT the Approved Capital Budget of Project 5931340 D5212 Dertinger Drain Improvement be amended from \$817,000 to \$966,000, to accommodate the required increase of \$149,000, with funding as identified in Table 1;

Executive Summary:

Reconstruction of the Dertinger Drain was tendered in compliance with Norfolk County Policies and procedures. Three (3) bids were received, all being considerably higher than the Engineer's estimate. As a result, staff require Council direction to proceed with construction.

Discussion:

The Dertinger Municipal Drain is located in Lots 20-22, Concession 9-11 in the former Township of Windham.

Staff issued Request for Tender EIS-ENG-24-02 Dertinger Drain Construction in accordance with the Dertinger Drain Report adopted under by-law 2023-76. Three (3) bids were received. The Engineer's estimated construction cost is \$456,450. The lowest bid received is \$669,290 which is 143% of the engineers estimate.

When the tendered price is greater than 133% of the engineer's estimate the *Drainage Act* requires Council to hold a meeting to consider the contract price, including

notification of all affected owners. At the meeting to consider the contract price, owners are provided with an opportunity to add or remove their names from the drainage petition and if at the close of the meeting the drainage petition remains valid, Council may proceed with construction. However, in this case, the project is the replacement and improvement of an existing drain, which does not include a petition for drainage works. Therefore, there is no requirement to determine the validity of the petition. Notwithstanding the absence of a petition, Council must determine whether to proceed with constructing the drainage works or cancel the project.

If Council decides not to proceed with construction of the drainage works they must repeal By-law 2023-76. If such decision is made, Council is required to pay all expenses in connection with the report to date. This will also leave the County responsible for maintenance of a drain that cannot be properly maintained under the current report. The Engineer's report identifies the existing drain pipe as being in poor condition and undersized for the needs of the lands and roads. The engineer has reviewed prices received and recommends proceeding with award to the lowest bid received. (Refer to Attachment No. 1) For these reasons staff are recommending the work proceeds as proposed.

Staff have calculated the potential effect of the bid price on the individual assessments to the lands and roads. It is anticipated that the landowner net assessments will increase on average by approximately 20% and the Norfolk County roads assessments will increase by 55% due to Special assessments related to the road crossings.

Staff will work with the proposed contractor as well as the Engineer to determine any opportunities during construction to reduce the net impact of the increased cost to all parties affected.

Financial Services Comments:

The Approved Capital Budget includes an allocation of \$817,000 for Phases 1 and 2 of the Dertinger Drain Construction with \$585,000 to be funded from affected landowners and \$232,000 to be provided from the issuance of debentures (Norfolk County's portion).

If Council proceeds with the Drain

If Council proceeds with the drain, based on the tender amount of \$682,000 (rounded, incl. net HST) from Robinson Farm Drainage Limited for the construction component of this project, a budget amendment of \$149,000 will be required to accommodate the bid.

Staff have estimated that the drain would be funded with \$633,000 from affected landowners, with the remaining portion increasing to \$333,000 (rounded, incl. net HST) assessed to Norfolk County, to be funded through the issuance of debentures. This budget amendment is summarized in the following table.

Table 1: Budget Amendment by Funding Source (Project 5931340)

Funding Source	Approved Budget	Revised Budget	Amendment
Norfolk Share (Debt)	\$232,000	\$333,000	\$101,000
External Recoveries	585,000	633,000	48,000
Total Project Cost	817,000	966,000	149,000

The Municipal Act and Regulations require that, upon the amendment of a capital project, Council is required to approve the issuance of long-term debentures. Further, the Treasurer is required to provide a Certificate of Treasurer, certifying that the issuance of the proposed debt will not exceed the financial obligation limit of the municipality. A Certificate of Treasurer – CT 24-07 required under Regulations in the Municipal Act has been completed.

If Council does not Proceed with the Drain

As noted in the report, if Council does not proceed with the drain, the County is responsible for all costs incurred to date. Costs to date, primarily attributed to engineering, total approximately \$98,000.

Interdepartmental Implications:

Purchasing Services has reviewed and advises that Request for Tender EIS-ENG-24-03 - Dertinger Drain Construction was developed and issued in accordance with the Norfolk County Purchasing Policy and Procedures.

Consultation(s):

Staff have provided all landowners affected under the report with a Notice of Council Consideration including a projected summary calculation showing the net assessments based on the low bid price received.

Strategic Plan Linkage:

This report aligns with the 2022-2026 Council Strategic Priority Building Norfolk - Develop the infrastructure and supports needed to ensure complete communities.

Explanation:

Municipal Drains once completed are municipal infrastructure. The County is responsible for keeping all municipal drains in a state of repair to properly service the affected owners.

Conclusion:

Staff recommends that Council hold a meeting to consider the contract price in accordance with the legislated requirements of the *Drainage Act*. The decision of council will provide the necessary direction for staff to proceed with the *Drainage Act* process for the Dertinger Municipal Drian Construction project.

Attachment(s):

- Not Applicable

Approval:

Approved By:
Al Meneses, CAO

Reviewed By:
Darnell Lambert, Director Engineering

Prepared By:
Bill Mayes, Drainage Superintendent