

# Town of Niagara-on-the-Lake

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**Report:** OPS-22-019

**Committee Date:**

June 13, 2022

**Due in Council:**

June 20, 2022

**Report To:** Committee of the Whole - General

**Subject:** Irvine Road Municipal Drain – Construction Contract Award

## 1. RECOMMENDATION

It is respectfully recommended that:

- 1.1 Council award Contract Bid Number NOTL-ES-2022-MD-2 for the construction of the Irvine Road Municipal Drain to the successful bidder, CRL Campbell Construction and Drainage Limited of Wainfleet, Ontario, in the amount of \$728,450 plus applicable HST;
- 1.2 Council authorize the Lord Mayor and Town Clerk to sign a by-law to enter into an agreement with CRL Campbell Construction and Drainage Limited for the construction of the Irvine Road Municipal Drain;
- 1.3 Council approve a budget increase of \$96,838 to Capital Project C01966 to allow for the cost increase to the roads apportionment on the Irvine Road municipal drainage works; and
- 1.4 Council approve the increase of \$9,447 to the 1/3 non-agricultural grant to the lands as apportioned by the drainage engineer.

## 2. EXECUTIVE SUMMARY

The Irvine Road Municipal Drain project was initiated by means of a Section 4 Petition in accordance with the *Drainage Act R.S.O. 1990* (the Act). It was submitted by eighteen (18) residents of Irvine Road requesting the improvement or modification of existing drainage work under the *Drainage Act*.

K. Smart Associates Limited was appointed by By-law No. 5123-19 to design an improved drainage system to accommodate the runoff in the watershed. The resulting system consists of 388 metres of 900mm HDPE pipe designed to drain overland flows associated with the 100-year storm event.

Qualified contractors were sought to construct the Drain by means of a Request for Tenders posted on the Bids and Tenders on May 4, 2022. A total of three (3) bids were submitted. The successful bidder, CRL Campbell Construction and Drainage Limited from Wainfleet, Ontario, was chosen to complete the construction of the Irvine Road Municipal Drain at the tendered amount of \$728,450.

## 3. PURPOSE

The purpose of this report is to obtain Council's approval to award Contract Bid Number NOTL-ES-2022-MD-2 for the construction of the Irvine Road Municipal Drain and have the Lord Mayor and Clerk enter into an Agreement with CRL Campbell Construction and Drainage Limited.

Further, Staff is requesting increases to the capital project C01966 to allow for the increased costs to be apportioned to the roads and also the increase to the 1/3 non-agricultural grant for the residents as outlined in previous reports.

#### **4. BACKGROUND**

Council received a petition requesting the improvement or modification of existing drainage work in November 2018. Council subsequently approved the petition and assigned an Engineer to the matter in January 2019. Through the drainage process, options for consideration were presented and deliberated with petitioners through several meetings. A more detailed chronology is included in report OPS-20-018.

On May 16, 2022, Council approved Report No. OPS-22-008: Third Reading of Provisional By-law No. 5357-21 re Irvine Road Drain.

The Final Engineering Report for the Irvine Road Municipal Drain includes details to construct a municipal drain consisting of 388 metres of 900mm HDPE pipe originating just south of the greenhouses at 1499 Irvine Road, where the drain intercepts overland flow from the private open channel. The piped system then flows along the property line to the road allowance (Irvine Road), where it turns 90 degrees and flows north in the road allowance before it outlets into Lake Ontario. The 900mm pipe is designed to convey the 100-year storm event; thus, it does not require an overflow route.

Tender documents were posted to Bids and Tenders on May 4, 2022. Notices were posted on the Town's website. Tender submissions closed on May 18, 2022, at 12:00 PM and were opened shortly after. Sixteen (16) bidders registered for the tender document, and three (3) bids were submitted. A bid summary is attached in **Appendix I**.

#### **5. DISCUSSION / ANALYSIS**

The Engineer estimated the project's total construction cost to be \$523,300 (excluding HST). The total construction cost of the submitted low bidder was \$728,450, an increase of 39.2%.

The bids submitted ranged from a low of \$728,450 to a high of \$1,246,707. All bids were reviewed to ensure individual items, sub-totals and grand totals were calculated correctly.

Schedule C – Schedule for Actual Cost Bylaw is attached as **Appendix II** and was provided by the Drainage Engineer in an effort for assessed landowners to see the increases to the project due to the construction costs

Section 59 of the Drainage Act stipulates that Council must call a meeting of the affected landowners to consider the cost of the drainage works if the contract price exceeds 133% of the Engineer's estimate of the construction cost.

The construction costs directly related to the drainage works portion of the Irvine Road Drain increased significantly and exceeded the Engineer's original estimate. However, the general increase in the lands is averaged at 12.76%. Most of the cost increases are allocated to the road construction and the shoreline works and, therefore, are not considered under Section 59.

Based on the results above, a meeting to consider is not required, and the Town can proceed with construction following the award of the contract.

The construction is expected to begin in late summer 2022 and be completed within approximately twenty-five (25) working days.

## 6. STRATEGIC PLAN

### Pillar(s)

1. Protect Distinctive Community Assets

### Objective(s)

1.2 Close the gap on capital investments

### Tactic(s)

1.2 b) Identify capital investment priorities within agricultural lands and ensure they are included in the 10-year

## 7. OPTIONS

7.1 **Option 1:** Council award the contract to CRL Campbell Construction and Drainage Limited and account for the additional costs under Capital Project C01966. **(As recommended).**

7.2 **Option 2:** Council direct Staff to cancel the project. If Council cancels the project, all costs to date will be the responsibility of the Municipality. Landowners can challenge the decision of Council and go to the Drainage Tribunal for reconsideration. (Not recommended).

## 8. FINANCIAL IMPLICATIONS

Capital project C01966 was initially approved at \$430,000 as part of the 2022 Capital program, which is set to finance the Town's road apportionment costs and grant provided to land owners using a debenture. Due to the increases in the construction works, an increase of \$96,838 is required, bringing the total to \$524,523. This includes the 1/3 non-agricultural grant and the requested increase of \$9,447 (all to be funded through a future debenture). OPS Report No. 21-017 provided a non-agricultural/residential properties grant for \$66,350 and will be required to be amended to \$75,797 upon Council's approval of this report.

The total estimated cost of the project, per the Engineer's schedule (**Appendix II**), before applicable grants and allowances, is \$1,027,100. Town road allowances are assessed for \$448,726, including the Special Assessment of \$190,925 for the reconstruction of Irvine Road and associated engineering and administration costs. The remaining \$578,374 is assessed to other lands within the watershed.

The total project costs are summarized in **Appendix III**, and the amount being awarded is highlighted. The balance of the costs is attributed to engineering and overhead.

All amounts shown above are estimated assessments based on the project's increased costs. The actual assessed amounts will be adjusted based on the actual final cost of the project. The Municipality front ends all costs until the completion of the project. At that time, much of the costs will be recovered through assessments on lands within the watershed unless landowners elect to enter into a 20-year payment plan. A levying Bylaw will be brought forward outlining all costs at the end of the project.

In accordance with the provisions of Section 85 of the Act and the Ontario Ministry Of Agriculture, Food And Rural Affairs' (OMAFRA) Agricultural Drainage Infrastructure Program (ADIP) policies, a grant not exceeding 1/3 (33-1/3%) may be available on the assessments against privately owned parcels of land which are used for agricultural purposes and are eligible for the Farm Property Class Tax Rate.

Section 88 of the Act allows the Town to apply for this possible grant upon certification of completion of the drain provided for in the Engineering Report. The Town will first confirm the Farm Property Tax Class for the parcel in the current assessment roll and then deduct the grant from the assessments before collecting the final assessments. If an assessed owner feels their property should be eligible for the grant and can provide proof to the Town of this eligibility as noted before the final cost levy, the property could have the 1/3 (33-1/3%) grant deducted from the final cost levy.

Council should note that OMAFRA retains the final right to determine eligibility under the grant program, regardless of designation in the Engineer Report

## **9. ENVIRONMENTAL IMPACT**

The flooding experienced on Irvine Road can be attributed to more frequent high-intensity rainfall events brought on by climate change. The proposed closed pipe municipal drain has been designed with this in mind. Based on the size of the watershed, the new 900mm HDPE pipe will convey the 100-year storm, thereby substantially reducing the risk of flood damage in the future.

In addition, an oil-grit separator will be installed in the second northernmost catch basin structure. The oil-grit separator will reduce the amount of sediment and contaminants entering Lake Ontario at the outlet structure.

## **10. COMMUNICATIONS**

The assessed landowners will be notified in writing of Council's decision and the start date for construction.

The contractor conducting the work will ensure the road remains open to traffic at all times. Staff will ensure that all emergency services and impacted residents are notified of the work before it begins.

## **11. CONCLUSION**

It is in the best interest of the Town and the landowners within the Drain watershed for Council to award the contract to CRL Campbell Construction and Drainage Limited for the tendered price of \$728,450.00, excluding HST, and to proceed with the completion of this project.

## **12. PREVIOUS REPORTS**

- OPS-19-002 – Petition for Drainage Works by Irvine Road Residents
- OPS-20-018 – Irvine Road Drain 2020 Preliminary Engineering Report – Meeting to Consider
- OPS-21-017 – Providing 1/3 Grant to Non-agricultural Properties for Irvine Road Municipal Drain
- OPS-21-023 – Irvine Road 2021 Engineering Report – Meeting to Consider
- OPS-22-008 – Third Reading of Provisional By-law No. 5357-21 re Irvine Road Drain

## **13. APPENDICIES**

- **Appendix I** – Tender Bid Summary
- **Appendix II** – Schedule C –Actual Cost By-law adjusted and provided by K. Smart and Associates
- **Appendix III** – Irvine Road Drain Final Cost Summary

**Respectfully submitted by,**

**Brandon Enns**

A handwritten signature in black ink, appearing to read "B Enns", written in a cursive style.

**Irrigation and Drainage Superintendent,  
Environmental Services**

**Brett Ruck**

A handwritten signature in blue ink, reading "Brett J Ruck", written in a cursive style.

**Environmental Services Supervisor**