



2021 Division Road North  
Kingsville, Ontario N9Y 2Y9  
(519) 733-2305  
[www.kingsville.ca](http://www.kingsville.ca)  
[kingsvilleworks@kingsville.ca](mailto:kingsvilleworks@kingsville.ca)

**Date:** November 25, 2019

**To:** Mayor and Council

**Author:** Ken Vegh, CRS

**RE:** Esseltine Drain Extension- Meeting to consider contract price

**Report No.:** MS 2019 - 50

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## **AIM**

To review the construction pricing for the Esseltine Drain Extension pursuant to Section 59 (1) of the Drainage Act in order to award the project to the lowest bidder.

## **BACKGROUND**

In December 2014, the Town of Kingsville initiated the repair and improvement of the Esseltine Drain under Section 78 of the Drainage Act and appointed R.C. Spencer Associates to prepare a report under provisions of the Act. The Esseltine Drain Extension Report (The Report) created by R.C. Spencer Associates is intended to provide for the repair and improvement of the existing municipal drain and to extend the municipal drain to a sufficient outlet.

The Drainage Act requires transparency throughout the entire process. The Act allows for public input through mandatory meetings that must be held in front of Council. The Meeting to Consider is held to allow landowners to question the engineer's design. Council must approve the report before move to the next step of the process.

The Court of Revision which allows landowners to question their assessments as determined by the engineer is the next step in the Drainage Act process. The Court is historically made up of members of Council, however, the Court of Revision is a mandatory meeting separate than a Council meeting. Once adopted by Council a mandatory waiting period is required. If no appeals are submitted than a Third and Final reading is held and a corresponding by-law is passed and the project is allowed to move forward.

The Report was completed and submitted to the Town in December of 2016, and went through the mandatory Meeting to Consider the report, four (4) Court of Revision sittings, three (3) Drainage Tribunal hearing dates and one (1) request to have a Review of the Tribunal decision. Once the final decision of the Tribunal was received the Third and Final Reading to adopt the report occurred. Preparation of the contract documents and specifications to initiate the tendering process began soon thereafter.

## **DISCUSSION**

The tender closing date for the Esseltine Drain Extension project was October 11, 2019 where the tender results were received and analyzed. Three (3) contractors submitted bids of which the lowest bidder had a construction price of \$4,708,655.00. The bids were as follows:

South Shore Contracting of Essex County.	\$4,708,655.00
D' Amore Construction (2000) Inc.	\$5,210,000.00
Sterling Ridge Infrastructures Inc.	\$6,285,690.00

On the attached, Tables 1 and 2 illustrate the assessment comparison between the lowest submitted tendered price (October 2019) and the Engineer's estimate provided in the Report dated June 2016.

A direct cost comparison shows that the lowest tendered price is 136% higher than the original Engineer's estimate. Section 59 (1) of the Drainage Act states that Council shall hold a meeting to consider the contract price if it exceeds 133% of the engineer's estimate.

Section 59 of the Drainage Act states:

**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).

It is important to note that it has taken more than three (3) years to reach the tendering process after the engineer prepared the estimate and submitted the report in June 2016. This delay is a result of the public process required for the four (4) sittings of the Court of Revision, the three (3) hearings of the Tribunal and the request to review the Tribunal's decision.

During preparation of the Engineer's estimate prepared in 2016, it is important to note R.C. Spencer Associates reached out to multiple local contractors to confirm the unit prices that were used in the estimate for the Report. The estimate provided for construction within the Report were representative of the market conditions at that time.

Tendering projects at different times of the year may have an impact on contractor's pricing. This project was tendered in the fall to begin construction in the winter of 2020. Considering that most infrastructure projects historically do not usually take place in the wintertime, contractors will generally provide aggressive tender bids at this time of year.

Therefore, it is unlikely that tendering this project at a different time of year would have resulted in lower contract prices.

It is also important to note that as a result of the timing window restrictions imposed by the Department of Fisheries and Oceans for fish species, no in water works are permitted between March 15<sup>th</sup> and June 30<sup>th</sup>. As part of the tendering process contractors were required to submit a work schedule. All bidders planned on starting preliminary works in the winter and scheduled in water works to commence in July of 2020 with an estimated completion date of winter 2020.

Throughout the entire design and approval process, multiple design alternatives were considered and evaluated for potential cost savings. The final approved design for this project has been developed to provide the most economical solution that will also provide long term sustainable protection for the Esseltine Drain and adjacent properties.

The estimates provided in the Report for contract administration and inspection services will not be affected as a result of inflation.

## **LINK TO STRATEGIC PLAN**

To become a leader in sustainable infrastructure renewal and development.

## **FINANCIAL CONSIDERATIONS**

Inflation to infrastructure costs must be considered when comparing the original estimate to current pricing. Stats Canada shows that since 2016, the infrastructure price index has shown an average increase of 6% per year. When considering inflation the estimate shall be compared as follows:

Inflation from 2016-2019= 6%/year compounded for three (3) years= $1.06^3 = 1.191681$  = 19%  
Original Estimate plus inflation=  $\$3,461,025 \times 1.191681 = \$4,118,619.75$   
Contract Price comparison=  $\$4,708,655.00 / \$4,118,619.75 = 114.3\%$

Therefore, after considering the inflation that has occurred since the filing of the Report in 2016, the lowest bid is 14% higher than the original estimate.

## **CONSULTATIONS**

Municipal Services- Internal Review  
R.C. Spencer Associates

## **RECOMMENDATION**

That Council receive the Esseltine Drain Extension Report- Meeting to consider contract price.

That, Council approve South Shore Contracting of Essex County Inc. to complete the Esseltine Drain Extension project in the amount of \$4,708,655.00 plus H.S.T. and to authorize the Mayor and the Clerk to execute the agreement and draft the appropriate by-law

*Ken Vegh*

Ken Vegh, CRS  
Drainage Superintendent

*Shaun Martinho*

Shaun Martinho, H.B.Sc., C.E.T.  
Public Works Manager

*G.A. Plancke*

G.A. Plancke, Civil Eng. Tech (Env)  
Director of Municipal Services

*Peggy Van Mierlo-West*

Peggy Van Mierlo-West, C.E.T.  
Chief Administrative Officer