



## Staff Report

**Report Title: Clark Creek Municipal Drain Tender Results**

**Prepared By: Ken McCallum, Drainage Superintendent**

**Department: DRAINS**

**Date: May. 8, 2023**

**Report Number: DRAIN-2023-05-8**

**File Number: C11 DRAIN**

**E09 CLA21**

**Attachments: None**

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### **Recommendation:**

**THAT** the Township of Huron-Kinloss Council hereby receives for information Report DRAIN-2023-05-08;

**AND FURTHER THAT** Staff bring forward a by-law to award the construction of drainage works to Elliott Construction in the amount of \$542,472.74, exclusive of applicable taxes.

### **Background:**

On May 18, 2011, Township of Huron-Kinloss appointed K. Smart and Associates by resolution to prepare a report under Section 78 of the Act for an improvement to the Clark Creek Municipal Drain.

The work was initiated as a result of a request by a landowner, Kitt Elmes in 2011 due to concerns with the drainage and loss of land due to erosion and other problems associated with the existing Clark Creek Drain, in Lots 12 & 13, Lake Range.

The original report was submitted on December 21, 2015. After the report was filed, Fisheries and Oceans Canada (DFO) noted concerns with the design, therefore Council referred the report back to the engineer on February 1, 2016.

Following on December 13, 2021, Council approved the Clark Creek Municipal Drain, 2021 report that addressed the concerns of the DFO, the municipality and landowners by proposing a realignment of 275m of the channel, constructing several riffle structures

consisting of riffle stones, riprap and vegetated riprap, and the construction of a riprapped laneway crossing with 92m of new laneway. Council approved the By-law to provide drainage works on the Clark Creek Drain in February of 2022.

**Discussion:**

Tender Call No. 1

Tender documents were sent out directly to drainage contractors and posted to the municipal website on May 18, 2022, with a closing date of June 14, 2022. With no bids being received.

Administration spoke with the Engineer to discuss the lack of interest in the project and received the following feedback:

Timing issues: Contractors have many commitments and are fully booked for the 2022 season.

Inflation Costs: Market increases and inflation compounded with the Project size and scope, Contractors had concerns with rising material costs and fuel prices.

Tender Call No. 2

A second Tender call was posted to the municipal website and documents were sent directly to drainage contractors with a closing date of March 24, 2023. Four tenders were received, and the results are as follows:

<b>Contractor</b>	<b>Tender (excluding HST)</b>
Elliott Construction	\$542,472.74
Roubos Farm Service Ltd.	\$796,755.701
Dozlan Construction	\$987,547.50
Hanna & Hamilton	\$1,412,247.45

Based on the review of K. Smart & Associates Ltd. The above are the confirmed, correct tender prices submitted.

The lowest tender was submitted by Elliott Construction in the amount of \$542,472.74. This tender price is approximately 155 percent higher than the engineer's estimate of \$298,600 as contained within the Clark Creek Drain report (By-Law 2021-162).

According to Section 59(1), if the contract price exceeds 133 percent of the engineer's construction estimate, the Council of the initiating municipality shall call a meeting to consider the contract price with the affected landowners and discuss the next steps. As the lowest tendered bid was above 133 percent, this public meeting has been scheduled to permit affected landowners to represent any concerns to Council prior to deliberation of the options set out in this report.

There are three options for Council to consider:

**Option 1** – Award the tender to the lowest bidder

**Option 2** – Reject the tenders and re-tender the project for a third time.

**Option 3** – Reject the tenders and stop the proceedings of the project.

In review and discussion of the three options, Administration is providing the following information for consideration:

- The project has been tendered twice, with the Township receiving no submissions for the first tender call.
- The second tender call commenced during the Spring of 2023 and garnered greater interest with four bids being submitted.
- There is risk in re-tendering the project for a third time, whereby the Township could either receive no bids, or higher bids due to the time of year.
- Contractors are already preparing their work schedules for the next calendar year.
- Re-tendering would increase project and engineering costs.
- The increase in costs is attributable to: Market increases and inflation between the time of the Engineers Report and the second tender call.

Rejecting the tenders and stopping the proceedings of the project under section 44 of the Drainage Act, Council has no ability to recover costs incurred to date.

Landowners would have rights to appeal Council's decision to stop the process to the Tribunal under section 45 and the decision may further be appealed to the Referee under Sections 101 and 106 (2) of the Drainage Act.

Based on the foregoing discussion points, Staff is recommending that Council proceed with **Option 1 – Award the tender to the lowest bidder.**

**Financial Impacts:**

The Township of Huron-Kinloss is assessed at \$16,476.

**Strategic Alignment / Link:**

We are an environmentally conscious community that are good stewards of our natural environment.

**Respectfully Submitted By:**

Ken McCallum, Drainage Superintendent

**Report Approved By:**

Mary Rose Walden, Chief Administrative Officer