



## Administrative Report

### Office of the Manager, Design and Construction

**To:** Warden MacDonald and Members of Essex County Council

**From:** Karyn Templin, P.Eng.  
Manager, Design and Construction

**Date:** Wednesday, December 20, 2023

**Subject:** Dedication of Land as Public Highway – Quarry Access Culvert Project

**Report #:** 2023-1220-IPS-R44-KT-DMS

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#### Purpose

The purpose of this Administrative Report (the "**Report**") is to provide County Council with the necessary background information to pass the necessary By-law to dedicate the lands, further described below, as a public highway.

#### Background

At the October 18, 2023 meeting of County Council, Report #2023-1018-IPS-KT-DMS (the "**October Report**") was presented to Council. A copy of the October Report is appended to this Report as Appendix 1 for ease of reference. Following presentation of the October Report, Council authorized construction of an access culvert (the "**Tunnel**") under County Road 9 by Walker Aggregates Inc. ("**Walker**"), and further authorized the Warden and the Clerk to execute a Road User and Easement Agreement (the "**Agreement**") with Walker related to the Tunnel.

As stated in the October Report, the construction of the Tunnel requires a detour road to be built around County Road 9 to permit the continued flow of traffic while construction is being completed. The detour road has now been almost completed and will be able to be opened for use for traffic in the near future.

In anticipation of the detour road being completed soon, Walker has had a Reference Plan prepared, which has been deposited with the Registry Office.

A copy of the draft Reference Plan is appended to this Report as Appendix 2. Part 1 on the Reference Plan is where the detour road is located.

## **Discussion**

Section 31(2) of the *Municipal Act, 2001* provides that "land may only become a highway by virtue of a by-law establishing the highway". As such, in order for the detour road constructed by Walker to be able to be used as a highway, the County must (1) take title for the detour road into its name, (2) pass a by-law dedicating the lands for use as a public highway, and (3) register a copy of the By-law on title to the lands on which the detour road is situated.

The Agreement that has been negotiated between the County and Walker provides that all costs for the detour road and its maintenance remain the responsibility of Walker. Following completion of the Tunnel, County Road 9 will be reopened, the detour road will be closed, and title to the lands on which the detour road sits will be transferred back to Walker. Once those 3 items have been completed, a by-law, in accordance with Section 34(1) of the *Municipal Act, 2001*, closing the detour road for use as public highway will be required.

## **Financial Implications**

There are no financial implications to the County, with Walker being obligated to assume all costs for construction and maintenance of the detour road.

## **Consultations**

The Report was co-authored with David Sundin, County Solicitor, who will be responsible for completing the transfer of the lands and registration of the By-law on title to the lands.

## **Recommendation**

That Essex County Council pass a By-law authorizing the Warden and the Clerk to execute all necessary documents to assume title of Part 1 on the Reference Plan and dedicating Part 1 on the Reference Plan as a public highway.

## Approvals

Respectfully Submitted,

*Karyn Templin*

Karyn Templin, P. Eng., Manager, Design and Construction

Concurred With,

*David M. Sundin*

David Sundin, BA (Hons), LL.B., County Solicitor

Concurred With,

*Sandra Zwiers*

Sandra Zwiers, MAcc, CPA, CA, Chief Administrative Officer

<b>Appendix</b>	<b>Title</b>
1	Report # 2023-1018-IPS-R36-KT-DMS
2	Draft Reference Plan