

The Corporation of the City of Port Colborne

By-law No. _____

Being a By-law to Provide for a Section 78 & Section 4 Engineer's Report for Drainage works in the City of Port Colborne
In the Regional Municipality of Niagara Known as the Biederman Municipal Drain

Whereas the Biederman Drain is a municipal drain within the limits of the Corporation of the City of Port Colborne, having status under the *Drainage Act R.S.O. 1990*;

and whereas the Biederman Drain is a municipal drain which drains lands from The City of Port Colborne, The City of Welland and the Township of Wainfleet;

and whereas on the 28th day of October, 2019, the Council of the City of Port Colborne appointed Brandon Widner P.Eng of Spriet Associates Engineers & Architects to complete a new report for the Biederman Drain watershed;

and whereas pursuant to Section 4(3) and Section 78 of the *Drainage Act*, R.S.O. 1990, the Council of the Corporation of the City of Port Colborne, in the Regional Municipality of Niagara, has procured a report titled Biederman Drain, dated January 12, 2023, prepared by Brandon Widner, P. Eng., of Spriet Associates Engineers & Architects, which report was filed with the City Clerk on the 15th day of February, 2023, containing plans, profiles and assessment schedules for the construction and future maintenance of the Biederman Drain, and is attached hereto and forms part of this by-law;

and whereas the eligible drainage works costs will be recorded to a drainage account established and the account will be charged interest at the City's Bank Prime Rate + 2% to temporarily finance the drainage works;

and whereas the total estimated cost the Biederman Drain, inclusive of the engineer's report, construction, contract administration and HST (net) is \$518,000;

and whereas \$306,396 is the total estimated cost assessed to all lands within Township of Wainfleet;

and whereas \$535 is the total estimated cost assessed all lands within the City of Welland;

and whereas \$211,069 is the total estimated cost assessed to all lands in the City of Port Colborne;

and whereas \$25,911 is the total estimated cost assessed to the Ministry of Transportation for their roads;

and whereas \$13,426 is the total estimated cost assessed to the Regional Municipality of Niagara for their parcels;

and whereas \$16,893 is the total estimated cost assessed to the City of Port Colborne for City owned parcels;

and whereas \$73,963 is the total estimated cost assessed to the City of Port Colborne for their roads and railway;

and whereas \$80,876 is the total estimated cost assessed to the private lands within the City of Port Colborne;

and whereas of the \$80,876 total estimated cost assessed to the private lands within the City of Port Colborne, \$720 of that amount is the total estimated cost assessed to parcels, within the urban storm taxed watershed and said cost shall be paid from the municipality's urban storm funds;

and whereas on the 14th day of February 2023 the council of the City of Port Colborne directed staff, by resolution, to proceed to the "Meeting to Consider", under Section 41 of the *Drainage Act*, R.S.O. 1990, in accordance with the recommendations laid out in Public Works Report 2023-16;

and whereas the Council of the Corporation of the City of Port Colborne, at its meeting on the 7th day of March, 2023, approved the Department of Public Works, Report No. 2023-35, Biederman Municipal Drain Meeting to Consider, whereby the proposed drainage works was deemed necessary and desirable;

Now therefore the Municipal Council of the Corporation of the City of Port Colborne

under the *Drainage Act R.S.O. 1990*, enacts as follows:

1. The report dated January 12, 2023, may be amended by pronouncement(s) of Courts of Revision and Final Decisions/Orders of the Agriculture, Food and Rural Affairs Appeals Tribunal and/or Referee, and appended hereto as Schedule “A” is hereby adopted and the drainage works as therein indicated and set forth is hereby authorized and shall be maintained in accordance therewith.
2.
 - 1) The Corporation of the City of Port Colborne may borrow on the credit of the Corporation the amount of \$518,000, excluding HST, being the amount assessed in the City, necessary for payment of the cost of the said drainage works.
 - 2) The Corporation may arrange for the issue of debentures on its behalf for the amount borrowed less the total amount of,
 - a) grants received under Section 85 of the Act;
 - b) commuted payments made in respect of lands and roads assessed within the municipality;
 - c) money paid under subsection 61(3) of the Act; and,
 - d) money assessed in and payable by any another municipality,and such debentures shall be made payable within 5 years from the date of the debenture and shall bear interest at a rate not higher than the rate charged by The Ontario Municipal Improvement Corporation on the date of sale of such debentures.
4. A special equal annual rate sufficient to redeem the principal and interest on the debentures shall be levied upon the lands and roads as set forth in Schedule “B” hereto to be collected in the same manner and at the same time as other taxes are collected.
5. For paying the amount of \$211,069 being the amount assessed upon the lands and roads belonging to or controlled by the municipality, a special rate sufficient to pay the amount assessed plus interest thereon shall be levied upon the whole rateable property in the City of Port Colborne in each year for 5 years after the passing of this by-law to be collected in the same manner and at the same time as other taxes are collected.
6. If the actual of the drainage works varies from the estimated costs as set out in schedule “B” forming part of this By-law, the actual cost shall be assessed, levied and collected upon and from the said parcels of lands and roads and parts of parcels in the same proportions and in the same manner as provided in the Schedule “B” forming part of this by-law, as revised by the Court of Revision and Final Decisions of the Agriculture, Food and Rural Affairs Appeal Tribunal and/or Referee.
7. That all assessments of \$50.00 or less are payable the first year in which the assessment is imposed upon the land assessed, as provided for under Section 61(3) of the *Drainage Act*, R.S.O. 1990.
8. This By-law may be cited as “The Biederman Municipal Drain By-law” and shall come into force on the day of its final passing.

Read a first and second time and provisionally adopted this 7th day of March 2023.

William Steele
MAYOR

Charlotte Madden
ACTING CITY CLERK

Read a third time and enacted this _____ day of _____ 20____.

Head of Council

Clerk