



City of  
**Peterborough**

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**To:** Members of the General Committee

**From:** Cynthia Fletcher  
Commissioner of Infrastructure and Planning Services

**Meeting Date:** October 15, 2019

**Subject:** Report IPSRE19-019  
Extension of Option on sale of 1850 Technology Drive

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## **Purpose**

This report is to recommend that Council extends an option date for 1850 Technology Drive.

## **Recommendation**

That Council approve the recommendation, outlined in Report IPSRE19-019 dated October 15, 2019 of the Commissioner of Infrastructure and Planning Services, as follows:

That staff be directed to notify Darrell Osgoode Drain and Nortrax Canada Inc. that The Corporation of the City of Peterborough consents to an extension from November 15, 2019 to June 15, 2020 of the date by which construction of a building must be lawfully commenced pursuant to section 1.01 of an Option Agreement registered on January 15, 2018 as instrument number PE284089 but without prejudice to the parties' rights and obligations pursuant to the said Option Agreement and time to remain of the essence in respect of all such rights and obligations.

## Budget and Financial Implications

There are no financial implications related to the recommendation.

## Background

On January 15, 2018, the City completed the sale of 1850 Technology Drive to Darrell Osgoode Drain (Part 1, Plan 45R-16538). The City also completed the sale of 1900 Technology Drive (Part 2, Plan 45R-16538) to Drain Bros. Excavating Limited. Reference Plan 45R-16538 is attached as Appendix A.

On completion of the transactions, Mr. Drain granted to the City an option to reacquire 1850 Technology Drive. The option could be exercised by the City in each of two circumstances:

- Section 1.01: “[...] in the event that Darrell Osgoode Drain has not commenced construction of a building on the Lands, having an area of not less than Four Thousand, Three Hundred and Five (4,305) square feet, on or before July 15, 2019 and does not proceed to diligently complete the construction of the said industrial building.”
- Section 5.01: “In the event that Drain receives a bona fide offer to sell, or otherwise dispose of, all or any portion of the Lands, upon which it has not erected an industrial building [...]”

On May 29, 2018, Mr. Drain’s counsel notified the City that Mr. Drain had entered into an agreement of purchase and sale for the sale of 1850 Technology Drive to Nortrax Canada Inc. and advised that Mr. Drain had not commenced the construction of the industrial building for the purposes of section 5.01 of the option agreement. Mr. Drain requested that Council waive its right under section 5.01 of the option agreement to reacquire 1850 Technology Drive. On July 16, 2018, Council adopted the recommendation contained in Report CLSRE18-006 dated July 9, 2018 to waive the City’s right to acquire 1850 Technology Drive pursuant to section 5.01 of the option agreement.

On June 24, 2019, in response to report IPSRE19-010 of the Commissioner of Infrastructure and Planning Services, Council authorized an extension from July 15, 2019 to November 15, 2019 of the date by which construction of a building must be lawfully commenced pursuant to section 1.01 of the option agreement but without prejudice to the parties’ rights and obligations pursuant to the option agreement and time remaining of the essence in respect of all such rights and obligations.

Nortrax Canada Inc. is now requesting an extension from November 15, 2019 to June 15, 2020 of the date by which construction of a building must be lawfully commenced pursuant to section 1.01 of the option agreement. Nortrax Canada Inc. is in the process of obtaining the relevant development approvals and will not be able to secure them and commence construction by November 15, 2019. It is recommended that Council consent to the extension request on the terms set out in the "Recommendation" section of this report.

The City's interest has not changed and the proponent has been working through the approvals and site plan process. The file is currently in the latter stages of site plan approval.

Submitted by,

Cynthia Fletcher  
Commissioner of Infrastructure and Planning Services

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**Attachments:**

Appendix A – Reference Plan 45R-16538

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