
HALDIMAND COUNTY

Report ENG-01-2020 Expansion of Scope of Work – Caledonia Arterial Road Environmental Assessment, Design & Contract Administration



For Consideration by Council on May 19, 2020

OBJECTIVE:

To seek approval to increase the scope of work for the Caledonia Arterial Road Environmental Assessment, Design and Contract Administration project to include a possible interchange at Sixth Line and the Highway 6 Bypass.

RECOMMENDATIONS:

1. THAT Report ENG-01-2020 Expansion of Scope of Work – Caledonia Arterial Road Environmental Assessment, Design and Contract Administration be received;
2. AND THAT the Caledonia Arterial Road study area be expanded to include an interchange at Sixth Line and the Highway 6 Bypass;
3. AND THAT a limited tendering award for additional Environmental Assessment, Design and Contract Administration, specific to a new interchange at Sixth Line to the Highway 6 Bypass, be approved as part of Contract ENG-74-2019 Caledonia Arterial Road Study to BT Engineering Inc., in the amount of \$202,700 including rebateable HST.

Prepared by: Kristopher R. Franklin, Manager Engineering Services

Respectfully submitted: Tyson Haedrich, M. Eng., P. Eng., General Manager of Engineering & Capital Works

Approved: Craig Manley, MCIP, RPP, Chief Administrative Officer

EXECUTIVE SUMMARY:

After the award of contract ENG-74-2019 - Caledonia Arterial Road Environmental Assessment, Design and Contract Administration, the County received a letter from the Minister of Transportation indicating support for the County's effort to construct a new interchange from Sixth Line to the Highway 6 Bypass on the south end of Caledonia.

BT Engineering Inc., the consultant completing the Caledonia Arterial Road study, has provided a cost estimate of \$202,700 including non-rebateable HST to expand the project to include the additional work.

Haldimand County's Procurement Policy is silent on the matter of adding scope of work but does reference Single Sourcing. The County can award the additional work under Limited Tendering as described in the Canadian Free Trade Agreement (CFTA) and Canadian-European Comprehensive Economic Trade Agreement (CETA) as retendering for the additional scope of work would add substantial duplication of costs and the combination with the existing project would limit duplication of public and agency consultation.

The \$202,700 additional estimated cost of work would bring the awarded amount for the engineering component to \$536,810 including non-rebateable HST and is within the approved \$1,200,000 budget for the engineering and investigations component of this project. The total approved budget for the Caledonia Arterial Road study is \$2,400,000.

BACKGROUND:

Haldimand County's Master Servicing Plan identifies a new arterial road along the southern limit of the urban boundary of Caledonia. As this will be a new road, there is significant public consultation and environmental study work required.

In 2019, a Request for Proposal was issued to hire a consultant to complete the study work; with 6 submissions evaluated and 4 meeting the minimum benchmark score. BT Engineering Inc. was the lowest price per point in addition to being substantially lower priced overall. A purchase order was issued to BT Engineering Inc. in the amount of \$334,110 including non-rebateable HST.

The original scope of the work included the completion of Environmental Assessment, Pre-Engineering, Design and Drawing Preparation, Contract Administration and Construction Inspection of a proposed Caledonia Arterial Road from a new intersection at McKenzie Road to the intersection of Argyle Street South and Sixth Line in Caledonia.

After the award of the contract, the County received a letter from the Minister of Transportation (MTO) indicating support for the County's effort to construct a new interchange from Sixth Line to the Highway 6 Bypass on the south end of Caledonia. While this letter did not indicate financial support, it did indicate that the Ministry would cooperate with the County's efforts.

The process to complete the Environmental Assessment, design of the new interchange and connection to the proposed Caledonia Arterial Road could be achieved by expanding the study area of the Caledonia Arterial Road Study. BT Engineering Inc., the consultant that is completing the Caledonia Arterial Road study, has provided a cost estimate of \$202,700 including rebateable HST to expand the project to include the additional work.

ANALYSIS:

BT Engineering Inc. is well qualified to complete the additional work involved with the Sixth Line/Highway 6 interchange study as the company has significant experience in all areas of roadway, highway and interchange planning, design and Environmental Assessment (EA) studies including involvement in many MTO projects.

Haldimand County's Procurement Policy is silent on the matter of adding scope of work, but does reference Single Sourcing. The County can award the additional work under Limited Tendering as described in the Canadian Free Trade Agreement (CFTA) and Canadian-European Comprehensive Economic Trade Agreement (CETA) as retendering for the additional scope of work would add substantial duplication of costs and the combination with the existing project would limit duplication of public and agency consultation. Limited Tendering is not specifically defined in the legislation but is similar in nature to single source purchasing in the Procurement Policy.

Canadian Free Trade Agreement (CFTA) - applies when the purchase of the service is valued at \$105,700; Chapter 5 Procurement whose purpose is to "*establish a transparent and efficient framework to ensure fair and open access to government procurement opportunities for all Canadian suppliers*".

The greatest challenge that purchasing staff face with this Agreement is its newness; coming into effect July 1, 2017. Although it seems like a substantial time, it has limited case law to help determine the legal meaning of the intent of the statute law. As such, interpretation of the Agreement is based upon

information and sessions provided by leading procurement lawyers, through peer discussions and own experiences as follows:

- Under Article 503: General Procurement Rules 2) “A *procuring entity shall not use options, cancel a procurement, or modify an awarded contract in a manner that circumvents the obligations of this Chapter*”.
- Under Article 513: Limited Tendering c) “for additional deliveries by the original supplier of goods or services that were not included in the initial procurement, if a change of supplier for such additional goods or services: (i) cannot be made for economic or technical reasons such as requirements of interchangeability or interoperability with existing equipment, software, services, or installations procured under the initial procurement; and (ii) **would cause significant inconvenience or substantial duplication of costs for the procuring entity**”. NOTE – Limited Tendering is not specifically defined but is similar to what we breakdown and define as single and sole source purchasing in our Policy.

Canadian-European Comprehensive Economic Trade Agreement (CETA) – applies when the purchase of the service is valued at \$365,700:

- Limited Tendering is defined as “a *procurement method whereby the procuring entity contacts a supplier or suppliers of its choice*”.
- Article 19.2 Limited Tendering has the same intent as outlined above in CFTA
- CETA is also relatively new legislation having come into effect on Sept 21, 2017.

While there are always risks of vendor challenges with Limited Tendering awards, upon review of the evaluation scores and submission pricing, the inclusion of the additional work is still priced lower than the second low bidder bidding on the original scope of work; which substantially reduces the likelihood of any challenges. Staff also are of the opinion that the expansion of the scope of work and the proposed award are consistent with the legislation outlined above.

Haldimand County continues to work to maintain a fair, open and transparent process with its vendor community and in compliance with legislation. Recommendation for Limited Tendering awards are not made to Council without just cause and analysis of risks.

FINANCIAL/LEGAL IMPLICATIONS:

The total approved budget for the Caledonia Arterial Road Study is \$2,400,000 including non-rebateable HST. The \$202,700 additional estimated cost of work would bring the awarded amount for the engineering component to \$536,810 including non-rebateable HST and is within the approved budget. In review of the original bid prices and the additional work request, the total new amount is only slightly higher (\$110) than the 2nd lowest bid submission which only includes the original scope of work.

If the scope of work expansion is approved, Staff would award the additional work to BT Engineering through purchase order, as the increased cost of the additional work is within the original project budget.

STAKEHOLDER IMPACTS:

Not applicable.

REPORT IMPACTS:

Agreement: No

By-law: No

Budget Amendment: No

Policy: No

ATTACHMENTS:

1. None