

CITY OF NORTH CANTON, OHIO

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

IN RE:)	
)	
BOARD OF CONTROL)	
MEETING)	
)	TRANSCRIPT OF PROCEEDINGS
)	

Transcript of proceedings, taken before North Canton Board of Control, taken by the undersigned, Shannon Roberts, a Registered Professional Reporter and Notary Public in and for the State of Ohio, at the offices of North Canton City Hall, 145 North Main Street, North Canton, Ohio, on Monday, the 15th day of April, 2019, at 6:30 p.m.

Premier Court Reporting
Canton 330.492.4221 Akron 330.928.1418
www.premierreporters.com

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

APPEARANCES:

Patrick DeOrio, Chairman
Timothy Fox, Director of law
Laura E. Brown, Director of Finance
David Held, Mayor

1 MR. DEORIO: It's 6:32. I'd like to call
2 the meeting of the North Canton Board of
3 Control to order. It is Monday, April 15th,
4 2019. We are in the Council chambers of City
5 Hall. It's 6:32 p.m.

6 I will take the roll.

7 Member Held.

8 MR. HELD: Here.

9 MR. DEORIO: Member Brown.

10 MS. BROWN: Here.

11 MR. DEORIO: Member Fox.

12 MR. FOX: Here.

13 MR. DEORIO: Member DeOrio is here.

14 On the agenda before you, the first item
15 on the agenda is the review of the minutes
16 from the March 4th, 2019 Board of Control
17 meeting. If there are no additions or
18 corrections, I look for a motion to approve
19 as amended.

20 MS. BROWN: I have one correction.

21 MR. DEORIO: Yes.

22 MS. BROWN: On page 4, we are speaking
23 about police cars, and it says, about halfway
24 down the page, "under statement pricing," I
25 believe I said "under safety bid pricing."

1 MR. DEORIO: Are there any other changes?

2 (No response.)

3 MR. DEORIO: If not, I look to a -- a
4 motion to amend the minutes as indicated by
5 Member Brown.

6 MR. FOX: Motion.

7 MR. DEORIO: It has been moved.

8 MS. BROWN: Second.

9 MR. DEORIO: Seconded. All those in
10 favor, signify by saying "aye."

11 MR. FOX: Aye.

12 MR. DEORIO: Aye.

13 MS. BROWN: Aye.

14 MR. HELD: Aye.

15 MR. DEORIO: All opposed?

16 (No response.)

17 MR. DEORIO: They have been approved as
18 amended.

19 Now I look for a motion to adopt those
20 minutes.

21 MR. FOX: Motion.

22 MS. BROWN: Second.

23 MR. DEORIO: Moved and seconded. All
24 those in favor, signify by saying "aye."

25 MR. FOX: Aye.

1 MR. DEORIO: Aye.

2 MS. BROWN: Aye.

3 MR. HELD: Aye.

4 MR. DEORIO: All opposed?

5 (No response.)

6 MR. DEORIO: Ayes have it. Review of the
7 minutes from the March 11, 2019 Board of
8 Control meeting. Are there any additions or
9 corrections?

10 MR. HELD: I have no changes.

11 MR. DEORIO: If not, I would entertain a
12 motion to approve as submitted.

13 MR. FOX: Motion.

14 MR. DEORIO: Moved.

15 MS. BROWN: Second.

16 MR. DEORIO: All those in favor, signify
17 by saying "aye."

18 MR. FOX: Aye.

19 MR. DEORIO: Aye.

20 MS. BROWN: Aye.

21 MR. HELD: Aye.

22 MR. DEORIO: All opposed?

23 (No response.)

24 MR. DEORIO: Ayes have it.

25 The next item on our agenda is City Hall

1 generator. So I'd like to take a few
2 minutes, if I may, in my capacity as the
3 Director of Administration, and just review a
4 brief history of how this project has come to
5 be.

6 So back in 2017, when the Mayor asked me
7 to come back to City Hall, this was one of
8 the priorities, visions, in that the City
9 Hall complex had been subjected to random
10 power outages, and they were very frequent
11 and long duration.

12 And this would mean that, as it related
13 to the police department operations, an
14 emergency generator to run just the
15 dispatching would kick into play. The rest
16 of City Hall would be without power. So this
17 is affecting critical issues in the finance
18 department, as it related to utilities,
19 and -- and water billing and income tax
20 questions. If our computers are down, we
21 can't answer the questions when they would
22 call in.

23 In working with the power company, we
24 couldn't get to any understanding with them
25 as to what the nature of the problem is. You

1 know, we are told various things; animals in
2 the circuitry and aging equipment and
3 overloaded capacity and whatnot.

4 So it started us down the road of looking
5 at the feasibility of getting a generator to
6 run City Hall. Now, this also dovetailed
7 into a restructuring plan that the Mayor had
8 asked us to look into, trying to get as many
9 of the departmental operations back in City
10 Hall as possible. That would create even
11 more of an issue if we didn't have backup
12 emergency power.

13 So this involved us contacting a couple
14 different entities to assist us with the
15 scope of this project. We actually had --
16 worked with two contractors, looked at those
17 contractors, and it seemed that there was no
18 unanimity on the approach. So the City hired
19 a consultant out of Cleveland, Heapy
20 Engineering, through the Trane Corporation.
21 And we were able to get an independent
22 analysis of what was needed, and they worked
23 with the power company to come up with a
24 determination of the size generator we would
25 need. And we were able to put some specs in

1 place and get the project bid out.

2 Accentuating the nature of the -- of the
3 need, really, is a critical emergency. We
4 faced a critical emergency during a winter
5 snowstorm. We typically think of the
6 emergencies during the summer, when there is
7 lightening storms and transformers get taken
8 out and whatnot. But in this case, a
9 transformer went out in the winter. It put a
10 capacity load onto the police department's
11 generator for dispatch. And even that had a
12 breakdown in equipment, and we were forced to
13 have the fire department respond with
14 generators in their trucks to come to City
15 Hall and get the police department
16 operational, so we would not lose any 911
17 calls.

18 So the need is for real. We took it to
19 City Council. City Council approved it
20 through Ordinance Number 20-19, which brings
21 us to the Board of Control. And we need to
22 look at this.

23 So there are a couple issues on the
24 table. Number one is regards to selecting
25 between the two bidders, which is the lowest

1 and best bid. And we are going to ask that
2 the Director of Law, who has done some
3 research into this, to kick us off here with
4 this.

5 MR. FOX: Thank you, Member DeOrio.
6 Indeed, both the Ohio Revised Code and our
7 charter are instructive in Ohio's competitive
8 bidding statute. And under the revised code,
9 Section 735.05, it clearly states that the
10 municipality, such as the City of North
11 Canton, is required to enter into a written
12 contract with the lowest and best bidder.
13 Prior to that, it used to be the lowest bid.
14 About 20 years ago, it changed to lowest and
15 best.

16 And our Supreme Court had stated that the
17 amendment clearly indicates that the
18 legislature recognized that an element other
19 than the mere low dollar bid often enters
20 into the letting of a bid; hence, the
21 amendment providing that the contract should
22 be let to the lowest and best bidder. The
23 Court states that this amendment therefore
24 places in the hands of City authorities the
25 discretion of determining who, under all the

1 circumstances, is the lowest and best bidder
2 for the work in question.

3 Our charter states, as well, in Section
4 4.05, contracts and bidding; it simply
5 reinforces the State's statute, in stating
6 that the contract -- any purchase contract in
7 excess of \$50,000 shall go to the qualified,
8 responsible bidder submitting the lowest and
9 best bid, as determined by the Board of
10 Control.

11 And the Court further emphasized that
12 discretion is conferred upon the authority
13 of -- here, the Board of Control to consider
14 the character of the bidder, the quality,
15 feasibility and efficiency of the thing being
16 furnished, qualifications of and
17 responsibility of the bidder and the price
18 proposed, in view of these conditions.

19 So with all of that discretion placed on
20 a Board such as ours, where we -- we are not
21 experts in electricity and engineering and so
22 forth. So from time to time, when needed --
23 especially with larger contracts here, well
24 beyond \$50,000. I believe initially we were
25 looking at \$250,000, but the bids came in a

1 bit lower.

2 And so we looked for a consultant and
3 actually found a consulting team from the
4 manufacturer of the product of the generator.
5 That company is called Trane, T-r-a-n-e.
6 It's widely known for producing generators.
7 And a team led by -- the author of the
8 recommendation letter is Bryan Ledbetter.
9 And Bryan has 28 years of experience in
10 operational construction management and is
11 the operations district manager for Trane.

12 Part of the team also included Tony
13 Bledsoe, who has 30 years of experience in
14 electrical consulting. And I'll read its
15 recommendation. It's dated March 20th. And
16 it's a letter to our engineer, Rob Graham.

17 And it states, from Bryan Ledbetter, that
18 he has completed his review of the bids for
19 the North Canton City Hall generator project,
20 and has the following recommendations: After
21 comparing the two independent bids from ANR
22 Electrical and Abbott Electrical, I weighed
23 the following criteria: Time in business,
24 experience with similar projects, financial
25 soundness, and overall scope coverage.

1 Additionally, I referred to the budget
2 price that was developed with the project
3 development team. ANR has the lowest
4 pricing, however, their estimated labor hours
5 seem significantly low when compared to the
6 other bid and budget estimations. Abbott
7 Electrical's estimated labor was more in line
8 with the budget estimate, however, not the
9 lowest bid price.

10 Regarding the estimated electrical hours
11 to complete the electrical scope of work
12 based on site conditions, the development
13 team estimated 575 hours to the project at a
14 current market burden rate for local
15 contractors. Based on the estimates, ANR
16 Electrical has roughly 174 labor hours
17 compared to Abbott Electrical's estimated 667
18 labor hours to complete the same scope of
19 work.

20 This difference in labor hours accounts
21 for a majority of the price difference
22 between the two bids. Abbott Electrical has
23 significantly more experience as it relates
24 to similar projects and would most likely
25 have fewer issues executing the specified

1 scope of work.

2 My recommendation for a quality
3 installation within the City's budget would
4 be Abbott Electrical. This was based on
5 discussions with the development team
6 following the pre-bid review and review of
7 the bid documents returned by each bidder.

8 Please let me know if you have any
9 questions. Sincerely, Bryan Ledbetter, Trane
10 area contracting manager.

11 And indeed, the bid packages, when you
12 look at the two, as far as -- I guess this
13 appears, as far as the hours associated with
14 it, Abbott -- I believe their units is 667,
15 which is 16 percent above what -- the
16 estimated time frame for the installation,
17 versus ANR at 174, which is 70 percent below
18 what's the estimate.

19 And given the comparison of the two, and
20 in speaking -- perhaps our engineer can
21 expound on this, but it appears from the --
22 our consultant that it does not appear that
23 ANR could feasibly complete the work within
24 that 174 unit time frame. And 70 percent
25 below what the expected amount of time is

1 somewhat sends the message that it's nearly
2 impossible for them to complete that based
3 upon Trane's experience in the installation
4 of this generator, and would lead us to
5 believe that ANR would be unable to complete
6 it within that period of time, thus having us
7 to expect that there would be a cost
8 increase.

9 A couple other factors for the Board to
10 consider is the City has not contracted with
11 ANR to this point. However, we have
12 contracted and had favorable results with
13 Abbott Electric, at least eleven times in the
14 past couple years; one of those in a
15 significant project, that being our portico
16 project.

17 And that's what I have as far as kind of
18 putting together what our consultants had
19 passed on to us. And I guess I'll leave it
20 for our engineer, if he has any further
21 insight with that.

22 MR. GRAHAM: No, sir. That pretty much
23 summed it up, based on my discussions and --
24 with the design team, as they come up with
25 their best and lowest recommendation for us.

1 MR. FOX: Yeah.

2 MR. DEORIO: And I would say, having been
3 a part of all the various meetings that have
4 taken place here between the consulting team,
5 the pre-bid review, our own building
6 department that was involved in all this,
7 this really stands out to me as a huge red
8 flag, that they would bid 70 percent below
9 the unit labor hours. And if you think about
10 it, I mean, there are a lot of entities that
11 come our way that bid on various things, and
12 you have to watch what's in the pricing.

13 And in this case, I think this was well
14 warranted. I mean, it's tantamount to
15 someone coming to your house and saying,
16 yeah, I can put that roof on; I can do it in
17 two hours and give you a really low bid. And
18 they start on the project, and it's like,
19 well, we didn't anticipate this, we didn't
20 anticipate that, and the next thing, they are
21 changing the word up to beyond where we were
22 before, and that's no way to run a project on
23 this.

24 I think you did very fine work there, and
25 I think the key word for me, in what you

1 read, was feasibility. And it's just not
2 feasible to expect an independent consultant
3 who estimates 575 hours to do this project,
4 that someone can come in and do it for 174.
5 It's just not feasible.

6 We had had some bad experience in the
7 last couple years with a particular project,
8 where a contractor came in and -- you know,
9 and promised a lot of things and was unable
10 to deliver. So -- and they were the low bid.

11 And we have to look beyond just that, and
12 what is the lowest and best bid, and what you
13 indicated to this Board, who has the
14 discretion to make that determination, based
15 on what our history is and what we know.

16 MR. FOX: Indeed, it does. And I recall,
17 as well, a recent issue that we had where the
18 lowest bidder was a significant outlier from
19 perhaps a half a dozen bids that we had, and
20 to the significance where we contacted the
21 bidder and asked them to recheck. We have
22 the authority to do that, in case they made
23 some sort of mathematical error and perhaps
24 missed something. And we brought it to their
25 attention and gave them the opportunity to

1 remedy that.

2 And they responded back that -- that they
3 would honor that bid, that it was correct.
4 And to our dismay, we wound up with quite a
5 bit of frustration, in that the work wasn't
6 completed anywhere near the level of
7 satisfaction that we had thought would be
8 done for -- for an important project. And
9 we're quite frustrated with what happened to
10 be the lowest bidder. And it was just a red
11 flag.

12 It appears here, as well, and as you
13 said, I think the -- the key term is
14 feasible. Had it been simply lower, I don't
15 think it would have stood out so much. But
16 70 percent lower than the manufacturer's
17 estimate time frame for this completion seems
18 to be beyond the mark, and indeed, we should
19 raise a concern whether or not it can
20 complete this work.

21 MR. DEORIO: Any other members of the
22 Board like to opine, or would someone like to
23 make a motion to award this contract to
24 Abbott Electric for the City Hall generator?

25 MR. FOX: If no one else has anything

1 else to add, I would say, given all of the
2 criteria, the advice from experts in the
3 field, experts from the -- the manufacturer
4 putting us on notice of the concern of this
5 drastically low estimate, and essentially
6 stating that's the difference between the
7 bids, that is why one is lower than the
8 other; it is that -- this drastic reduction
9 for the period of estimated time to complete
10 the work. And the experts are telling us
11 that it simply can't be done.

12 And we do have a history of favorable
13 work with Abbott Electric. It's not as
14 though these each are newcomers for us. So
15 we do have the history of positive,
16 professional work from Abbott.

17 And so I would recommend that we award
18 this contract to Abbott Electric as the
19 lowest and best bidder.

20 MR. DEORIO: I understand that to be in
21 the idea of a motion. So do we have a
22 second?

23 MR. HELD: Second.

24 MR. DEORIO: It has been moved and
25 seconded. With no further discussion, the

1 Chair will call the roll.

2 Member Brown.

3 MS. BROWN: Yes.

4 MR. DEORIO: Member DeOrio is yes.

5 Member Fox.

6 MR. FOX: Yes.

7 MR. DEORIO: Member Held.

8 MR. HELD: Yes.

9 MR. DEORIO: Moving on to the last item
10 on the agenda is the Weber Avenue, Northeast
11 reconstruction project. Rob Graham, who's
12 the City Engineer, is available. Would you
13 be able to fill us in a little bit?

14 MR. GRAHAM: Thank you, Member DeOrio.
15 Back on March 29th, we opened bids for our
16 Weber Avenue, Northeast reconstruction
17 project. We had allocated in the budget last
18 fall \$1.1 million. We had put the plans
19 together and whatnot this winter. That was
20 probably a little too much. I was guessing
21 more \$850- was the number.

22 So that leads us to the bid opening on
23 March 29th. We had six plan holders. All
24 six plan holders submitted bids. Our low bid
25 was submitted by Superior Paving and

1 Materials, Inc., in the amount of
2 \$673,166.90.

3 And our second bid was just a smidge
4 more, literally \$2,800.10 more, by Northstar
5 Asphalt, a very good company. And then we
6 also had a couple at the high end of the
7 scale. Of the six, one at \$927-, and the
8 next bid was \$971,000. So a very nice range
9 amongst the six bidders.

10 With that said, Superior Paving is
11 actually doing two contracts for us as we
12 speak. They are ahead with the 2019 paving
13 program, and they are also working on the
14 Elmwood water line replacement project. All
15 that said, they do great work. There's no
16 reason to go to number two for \$2,800.

17 So my recommendation to the Board of
18 Control would be award the Weber
19 reconstruction project to Superior Paving and
20 Materials, Inc., in the amount of
21 \$673,166.90.

22 MR. DEORIO: Are there comments from the
23 Board?

24 (No response.)

25 MR. DEORIO: I'll entertain a motion to

1 approve the awarding of this contract to
2 Superior Paving for the Weber Avenue,
3 Northeast reconstruction project in the
4 amount of \$673,166.90.

5 MR. FOX: Motion --

6 MR. HELD: Motion to approve.

7 MR. DEORIO: Moved by Member Held.

8 MR. FOX: I'll second.

9 MR. DEORIO: Seconded by Member Fox.
10 I'll do a roll call.

11 Member Fox.

12 MR. FOX: Yes.

13 MR. DEORIO: Member Held.

14 MR. HELD: Yes.

15 MR. DEORIO: Member Brown.

16 MS. BROWN: Yes.

17 MR. DEORIO: Member DeOrio votes yes.

18 Being that there are no other items on
19 the agenda, I look for a motion to adjourn.

20 MR. FOX: Motion.

21 MS. BROWN: Seconded.

22 MR. DEORIO: All those in favor, signify
23 by saying "aye."

24 MR. HELD: Aye.

25 MR. FOX: Aye.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. DEORIO: Aye.

MS. BROWN: Aye.

MR. DEORIO: All opposed?

(No response.)

MR. DEORIO: We are adjourned at 6:56.



(This proceeding concluded at 6:56 p.m.)
