

North Canton City Council
Finance and Property Committee

Ordinance No. 28 - 2019

An ordinance authorizing the Mayor of the City of North Canton, upon Board of Control Approval, to enter into a Project Development Agreement with Johnson Controls, Inc. ("JCI") to develop Facility Improvement Measures, a copy of which is attached hereto and incorporated herein, and declaring the same to be an emergency.

WHEREAS, the City desires to explore the potential energy and operational savings by upgrading certain systems or equipment; and

WHEREAS, the City recognizes the expertise of JCI in designing and developing facility improvement measures; and

WHEREAS, the City is a member of a cooperative purchasing agency, Sourcewell, which satisfies competitive procurement requirements.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NORTH CANTON, COUNTY OF STARK, AND STATE OF OHIO:

- Section 1. That the Mayor, upon Board of Control approval, is hereby authorized to enter into a project development agreement with Johnson Controls, Inc. through the Sourcewell purchasing cooperative. A copy of the proposed Agreement is attached hereto and incorporated herein.
- Section 2. That if a provision of this ordinance is or becomes illegal, invalid, or unenforceable, that shall not affect the validity or enforceability of any other provision of this ordinance.
- Section 3. That this ordinance is hereby declared to be an emergency measure necessary for the preservation of the health, safety, and peace of the City of North Canton and further necessary for the immediate implementation of energy and operational savings measures, together with a reduction of a deferred maintenance backlog of critical City equipment, all while reducing the City's own carbon footprint for the future generations; wherefore, provided it receives the affirmative vote of six or more members of Council elected thereto, this ordinance shall take effect and be in full force immediately upon its adoption by Council, and approval by the Mayor.

Passed in Council this 17 day of June 2019


David Held, Mayor

Signed: 6/17, 2019

ATTEST:


Laura Brown, Director of Finance



Project Feasibility Agreement

**FEASIBILITY ASSESSMENT AGREEMENT
BETWEEN**

City of North Canton
145 N Main Street
North Canton, Ohio 44720

AND

Johnson Controls, Inc.
835 Green Crest Drive
Westerville, OH 43081

Johnson Controls, Inc. (JCI) and The City of North Canton (Customer) agree as follows:

1. Scope of Services

It is the Parties' mutual understanding this Feasibility Agreement will provide for the following work for the Water Treatment Facility:

- a) The work in this facility will include assistance in the design of a sludge press or presses for use in conjunction with the removal of the material in the sludge pits. This work will include the following:
 - i. The development of a feasibility assessment outlining sludge dewatering options for the City along with a lifecycle analysis of each.
 - ii. Design and schematic drawings to allow for project pricing, DPW low interest loan application, and required EP permitting application.
 - iii. Bidding of the necessary subcontracts and vetting potential subcontractors.
 - iv. Investigation of potential grants associated with this work and assistance in the preparation of those determined as viable by both JCI and the City.
- b) The existing lighting within this facility will be evaluated for the potential conversion to LED technology. If that evaluation determines it is viable to upgrade, JCI will provide turn-key pricing for an upgrade of the existing lighting system to LED technology.
- c) Assist the Customer in arranging for project funding.

During the Detailed Evaluation, the Customer will furnish to JCI upon its request, accurate and complete data concerning operational expenditures for the City, including the following data for the most recent three years from the effective date of this Agreement:

- a) Detailed utility billing information (gas, electric, water, and sewer – 2016 through 2018);
- b) All operational cost records for relevant City of North Canton infrastructure;
- c) Descriptions of relevant operational or maintenance procedures;
- d) Previous studies or master plans relevant to JCI's work;
- e) Any other pertinent information as requested by JCI, if any.

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2. **Project Determinants**

Project Determinants in the table below will be used by JCI and the Customer to determine the economic merit of the project, the values can change at any time throughout development as better information is made known. However for the purposes of determining whether or not JCI has met the success criteria identified in section 3 "Deliverables", the values indicated herein will be used upon completion of the development to make such determination. Each party has a duty to inform the other of changes to any of the values indicated in a timely manner that may affect the success of the project.

	Determinant	Value	Unit
1	Project Term	15	years
2	Interest rate	TBD	% per year
3	Customer capital contribution	\$TBD	Each
4	Electric escalation	3	% per year
5	Natural gas escalation	3	% per year
6	Natural gas	TBD	\$/mmbtu
7	Water	TBD	\$/k-gal
8	Sewer	TBD	\$/k-gal
9	City's cost to dispose of Water Treatment Sludge	11.20	\$/yard
10	Non-guaranteed incentives and rebates	TBD	\$ each, included where permitted by law
11	Operational Savings	TBD	\$ per year
12	Maintenance Savings	TBD	\$ per year

3. **Deliverables**

Upon completion of the development, JCI shall deliver to the Customer:

- a) A feasibility assessment of sludge de-watering options for the City to consider and determine the method to implement;
- b) A written description of each item proposed to be implemented;
- c) A financial pro forma cash flow documenting the proposed project. The pro forma will include applicable annual costs and savings that affect the project outcome such as financing, energy, water, sewer, labor and maintenance;
- d) A preliminary schedule for implementation of the project;
- e) A summary of the Measurement & Verification plan, including proposed International Performance Measurement and Verification Protocol (IPMVP), such as Option A, B, C, or D that will be used for each facility improvement measure.

4. **Preparation of Performance Infrastructure Project Agreement**

Within 30 days after the submission to Customer of the Detailed Evaluation Study described under paragraph one (1) of this Agreement, JCI will prepare and submit to the Customer a Performance Infrastructure Project Agreement to implement the infrastructure improvements and operational efficiency measures, procedures, and services identified that could reduce the Customer's overall expense in operating the City. The Performance Infrastructure Project Agreement will contain the following:

- a) A scope of work that has been approved by the Customer and Johnson Controls;
- b) Project/construction management for the agreed upon scope;
- c) Assistance in the finalizing the City's application for EPA re-permitting of the plant;

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- d) Training of the City staff in the operation and maintenance of newly installed equipment associated with this work.

This Performance Infrastructure Project Agreement shall be prepared on standard JCI contract forms, copies of which will be made available to the Customer for review prior to the contract submission and per the schedule outlined below in section 6 "Implementation Schedule".

5. **Price and Payment Terms**

The City of North Canton agrees to pay to JCI the sum of \$66,780.00 within 30 days after the delivery to the Customer of the Project Agreement described under section 4 "Preparation of Performance Infrastructure Project Agreement" of this document. However, the Customer will have no obligation to pay this amount if JCI and the Customer enter into the Performance Infrastructure Project Agreement within 30 days after its delivery to the Customer.

6. **Implementation Schedule**

It is the intent and commitment of all parties identified in this agreement to work diligently, and cause others under their direction to work diligently toward meeting the following timeline:

Preliminary or Estimated Timeline*	Completion Date
Governing Board or Authorized Representative authorizes Feasibility Assessment Agreement	June 2019
JCI Commences on-site work	June 2019
Form of procurement established for the project **	June 2019
JCI requests pertinent Customer Documents and Data to execute the development	June 2019
Blank Contract submitted to the Customer for legal approval	July 2019
Customer approves sludge press system design schematic desired to be included in project	August 2019
JCI to conduct financial workshop with customer to review financing options.	August 2019
JCI and Customer conduct Measurement and Verification workshop	August 2019
JCI presents installation contract to Customer	September 2019
City Council approves project	October 2019
Project Financing and Contract executed	October 2019

*These milestones may be modified by subsequent work plans mutually agreed upon by both parties.

** The City of North Canton agrees to finance this project utilizing the Sourcewell Cooperative agreement (of which both the City and JCI are signatory) to satisfy the State of Ohio procurement requirements.

7. **Disputes**

If a dispute arises under this agreement, the parties shall promptly attempt in good faith to resolve the dispute by negotiation.

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8. Confidentiality

This agreement creates a confidential relationship between JCI and the Customer. Both parties acknowledge that while performing this agreement, each will have access to confidential information, including but not limited to systems, services or planned services, suppliers, data, financial information, computer software, processes, methods, knowledge, ideas, marketing promotions, current or planned activities, research, development, and other information relating to the other party ("Proprietary Information"). Except as authorized in writing both parties agree to keep all Proprietary Information confidential. JCI may only make copies of Proprietary Information necessary for performing its services. Upon cessation of services, termination, or expiration of this agreement, or upon either party's request, whichever is earlier, both parties will return all such information and all documents, data and other materials in their control that contain or relate to such Proprietary Information.

JCI and Customer understand that this is a confidential project and agree to keep and maintain confidentiality regarding its undertaking of this project. JCI shall coordinate its services only through the designated Customer representative and shall provide information regarding this project to only those persons approved by Customer. JCI will be notified in writing of any changes in the designated Customer representative.

9. Miscellaneous Provisions

This agreement cannot be assigned by either party without the prior written consent of the other party. This agreement is the entire agreement between JCI and the Customer and supersedes any prior oral understandings, written agreements, proposals, or other communications between JCI and the Customer. Any change or modification to this agreement will not be effective unless made in writing. This written instrument must specifically indicate that it is an amendment, change, or modification to this agreement.

This document represents the business intent of both parties and should be executed by the parties who would ultimately be signatory to a final agreement.

IN WITNESS WHEREOF the parties hereto have made and executed this Agreement the day and year above written.

Acceptance:

Acceptance:

The City of North Canton

Johnson Controls, Inc.

Signature

Signature

Name

Joseph Boetsch

Name

Title

Area General Manager – Great Lakes

Title

Date

Date