

REPORT OF THE FINANCE COMMITTEE

JANUARY 16, 2019

A meeting of the Finance Committee was held on Wednesday, January 16, 2019, at 7:02 p.m. in the Aldermanic Chamber.

Mayor Jim Donchess, Chairman, presided.

Members of the Committee present: Alderman Michael B. O'Brien, Vice Chair
Alderman-at-Large Shoshanna Kelly
Alderman-at-Large Brandon Michael Laws
Alderman Patricia Klee
Alderman June M. Caron
Alderman Linda Harriott-Gathright

Also in Attendance: Dan Kooken, Purchasing Manager
John Griffin, CFO/Comptroller
John Stewart, Fleet Manager Street Department
Tim Cummings, Director Economic Development

PUBLIC COMMENT - None

Mayor Donchess

Now we have two items related to the Performing Arts Center; Tim is in the other meeting and should be here momentarily. We can take them without him, I mean he has provided ... but maybe we should take it out of order and go to the third item which is the packer.

COMMUNICATIONS

From: Dan Kooken, Purchasing Manager
Re: Purchase of One (1) Rear Load Packer – Trash Truck (Value: \$276,254)

Mayor Donchess

And we have here the fleet manager to answer any questions. You can come sit at any of the chairs. Are there any questions or discussions regarding the packer?

Alderman O'Brien

Thank you, if I may ask a question, I see this is a rear loader and I know the barrels in my neighborhood go with the side loader. I thought eventually we would be phasing out rear loaders, but evidently they still have a purpose with the City.

John Stewart, Fleet Manager Street Department

There are quite a few places in the City that the automated trucks can't reach to the curb so that requires them.

Mayor Donchess

Downtown, narrow streets.

Mr. Stewart

We also use them for soft yard waste.

Mayor Donchess

A lot of where there are narrow streets, a lot of cars on the street.

Alderman O'Brien

Thank you Mr. Mayor because that makes sense, because like I say, I look at how convenient it is in picking up off the side. Thank you.

**MOTION BY ALDERWOMAN KELLY TO ACCEPT, PLACE ON FILE, AND AWARD THE CONTRACT TO MCNEILUS TRUCK AND MANUFACTURING, INC., IN THE AMOUNT OF \$276,254. FUNDS ARE AVAILABLE IN DEPARTMENT 168, SOLID WASTE; CERF
MOTION CARRIED**

From: Dan Kooken, Purchasing Manager
Re: Purchase of One (1) Front Loader and One (1) Side Loader – Solid Waste Vehicles
(Value: \$637,421)

**MOTION BY ALDERWOMAN KELLY TO ACCEPT, PLACE ON FILE AND AWARD THE CONTRACT TO MCNEILUS TRUCK AND MANUFACTURING, INC., IN THE AMOUNT OF \$637,421. SOURCE OF FUNDING IS DEPARTMENT 168, SOLID WASTE; CERF
MOTION CARRIED**

Mayor Donchess

Thank you very much. Now let's return to the first item which will require Mr. Cummings to come forward.

From: Dan Kooken, Purchasing Manager
Re: Construction Manager Services Contract for 201 Main Street – Performing Arts Center ("PAC")
(Value: \$TBD)

Mayor Donchess

So why don't you fill us in on the background and short explanation?

Tim Cummings, Director of Economic Development

Sure so for the record, Tim Cummings, Director of Economic Development for the City. What is before you is a contract for construction management services, we are doing design build. We don't have the design in place yet and so therefore we are not necessarily sure what that value will be which is how you predicate the value of the construction manager contract. What we do have is an agreed to formula, which based off of the design, they will receive a set dollar, based off of what is designed. I believe it is 2.9% which is in the contract.

All the terms in the contract are substantially similar; this is something that we needed to get on to the – that you've seen in the past. This is something that we needed to get on the agenda, because we are trying to make a very tight timeline. We are still working through some of the details. As you all know, I will be coming before the Board of Aldermen, regularly – once a month – to give continuous updates. I will be happy to give you an update as to how this contract progresses once we finalize the actual dollar amount, which we anticipate to be over the next couple of weeks.

Mayor Donchess

This will have to go to the full Board as well?

Mr. Cummings

It may not. Definitely the architect will.

Mayor Donchess

Anything over a million, but I guess 2.9% is not. Ok, alright so the proposal is for Harvey Construction; obviously the City has dealt with Harvey many times. Are there any discussion/questions, anything about the contract?

Alderman O'Brien

Thank you Mr. Mayor. Mr. Cummings, is what you say, because I have never really seen a to-be-determined amount come before this Board. So I am somewhat cautious with it but you gave a good explanation of what it is, but is that inside Harvey's contract that is the 2.whatever number that you quoted, is that in there?

Mr. Cummings

Yes.

Alderman O'Brien

Because I haven't really poured over the contract 100% but it is clearly stated. So it is a determined amount. And if I may have a follow up Mr. Mayor? If for some unforeseen reason, would a change order come back to the Committee for that as with our usual procedure?

Mr. Cummings

Yes.

Mayor Donchess

Any other questions or discussion?

Alderwoman Kelly

Yes I too say the "TBD" and was concerned. I was wondering why we wouldn't put a "not to exceed" which we have done in the past, based on this formula.

Mr. Cummings

I don't know what that number is; not to exceed what?

Alderwoman Kelly

I guess that's my question. I feel uncomfortable approving something that I don't what that value is going to be if you don't know what that value is going to be?

Mr. Cummings

If I may Mr. Mayor – I think we have a pretty good understanding of projected estimates right, so we know that per the bond resolution \$15.5 million has been authorized. We are anticipating somewhere in the vicinity of a little over a \$1 million dollars of design. But I would not want to be held to that number explicitly because you do have that other rule which is you have to come back for every \$10,000.00 increment changes and that is tough type of contract to manage.

That is just a tough scenario to be in so having the flexibility would help greatly and at the end of the day, it is very transparent process. I am coming before the Board of Aldermen regularly, I can gladly give you updates.

Alderman Caron

Thank you. I understand what you are saying Director Cummings, but we have had change orders come through for many, many items. As far as the \$10,000.00 purchasing that has to come before Finance, we are looking that next week that will be changed; so that would not affect anything here. In my 8 years of being here, I have never seen a “to-be-determined” and if we are looking at that it is going to be \$1.5 million dollars of architectural fees, then that percentage, we should be figuring that in. You talk about transparency, but this is very difficult for us to sit here and say “Ok” it is like opening the pocketbook and letting the money flow without having some control over it.

Your coming before the Board is to give us an update which I think is a great thing, but for the Finance Committee this is what we have to approve and I know that over the last 6 months, we have approved millions of dollars for Waste Water and then have had to come back and make changes because they have had unexpected issues. So I have to agree with my two colleagues that this could be a concern for a lot of us.

Mayor Donchess

Now when you speak of the million dollars that is the architect, that is not the 3%.

Mr. Cummings

That’s on top of that. So if I may Mr. Mayor. So if it is the pleasure of the Committee and if you want to put a number in, not to exceed \$350,000.00 I think that is a reasonable figure. It is an estimate on my part; I did anticipate this issue coming up. I will say that I want it to be explicitly clear particularly for our finance team here in the City that that money will probably be overage because I am coming in a little high – will need to be transferred to maybe another line item in the project.

I don’t want to be held up because I am told that Finance Committee approved it for this dollar amount explicitly, I can’t use that money now in a different way. Because that just ties my hands to be able to manage this project effectively. And that was one of the reasons why I really wanted it to be done this way. But if it is the pleasure of the Committee to put it at \$350,000.00 not to exceed with the understanding that there is more money than is probably going to be necessary and we will be looking to change that, I’m fine with that.

Alderman Caron

Thank you, for me I would rather see a figure but I would prefer you to come in a little bit lower and then come to us and say – because of issues that we didn’t know came up we need another \$25,000.00 toward the project. I don’t think anyone on the Committee is trying to stall or keep things from moving forward, but I think me personally, I think it is important that there is something there; that I see a figure there. And I am not trying to be argumentative, but that is a concern that I would have and I know I would be getting phone calls about that.

Alderman Klee

I see merits in all sides in truth and I understand that if we did it at a lower value that would mean that you might be coming in a little bit more regularly and it is subject to whoever is on the Board at the time which could change in a year, with an election coming up. And I understand the anxiety of something like that; so I could see why you might not want to come in at a lower figure. I am all for the Performing Arts, but I have to agree with my colleagues, we will be getting phone calls if we don't have some number in there. And at the same time it would be wrong if I didn't say I also understand that you may, on the fly, need to take that money and use it in a different location. I don't know how much flexibility you have going from line item to line item as far as finance is concerned and perhaps Mr. Kooken can answer that.

Mr. Cummings

Thank you, if I may, the issue is relative to time and the good example I can give you is somewhere between November and the 1st of the Year, how many times did this Finance Committee meet to actually authorize differing types of changes? The reality is that you met I think once, maybe twice in an 8 week period, 10 week period and that is ok and fine because we are all busy. But if I am trying to keep this project on time and on schedule, an 8 or 10 week can be really difficult. That is the issue.

Mayor Donchess

Just in terms of allocation, Mr. Griffin is here, maybe he should come up, just in terms of this allocation. Just because the Committee were to approve a maximum figure, that does not tie finance to that figure. There would be still a flexibility – if the maximum figure were \$350,000.00 and we only needed \$300,000.00 there would be nothing regarding the approval that would prevent the \$50,000.00 that was unnecessary from being expended on something else, correct

John Griffin, CFO/Comptroller

Yes Mr. Chairman, I think there are a couple of competing things going on here. You folks are going to be hearing a public hearing moving \$50,000.00 from an LED project to work on a school project. That is what you folks need to from a Board of Aldermen. This is a situation where we have already authorized \$15.5 million of bonding. Furthermore, so we have spent \$2 million to purchase the building; the team working on it was able to get the Board to allow the construction manager and the architect, that is part of that \$15.5 million.

What you are approving is contracts and I think the way you are proceeding is “not to exceed”. If Director Cummings or the Mayor needs another contract to fulfill what you folks want to do to get the project going and continuing, there may be another contract but it shouldn't hold up in any kind of material way votes.

Mayor Donchess

So what you are saying is as long as we are under the “not to exceed” number if the full “not to exceed” number were not required, there is nothing that would prevent the extra \$50,000.00 or \$25,000.00 or whatever it is to be allocated somewhere else within the authorized project?

Mr. Griffin

Correct that is the way I look at it. You are going to have a series of agreements and contracts

Mayor Donchess

But if for some reason there were a recommendation or requirement that the “not to exceed” number be exceeded, then you would have to come back to the Committee?

Mr. Griffin

Correct.

Mayor Donchess

Unless it was less than whatever the amount of whatever the floor or the ceiling is, whether it is \$10,000.00 or \$25,000.00 or whatever we do, if it is less than that, the Committee could simply be informed. But if it exceeded whatever the requirement is at that time, we would need to come back.

Mr. Griffin

Correct.

Alderman O'Brien

Thank you Mr. Mayor. As many of my colleagues remember in another Committee I did write a proposal where it raised the amount that Mr. Cummings said from \$10,000.00 to \$25,000.00 and now it is going to the next step, I think will be hopefully passed within the Board of Aldermen. I felt very comfortable in doing that and the reason is because we have Mr. Griffin as the CFO and Mr. Kooken, there are many people watching the pot here as comptrollers and looking at the project; they are watching. So I feel very comfortable and in that regard of the \$25,000.00, that is stuff that already was pre-budgeted, ok, so we already pre-budgeted to get back to the same mix here, we already assigned \$15 million dollars in a way to this project.

So I think maybe what we are kind of concerned with and what I am concerned with and I think the public is concerned with, is no so much the dollar amount but that the money is being spent on the project that it is. And I just want to throw out there, if we have comptrollers that are watching this, Mr. Griffin and Mr. Cummings and Mr. Kooken and the Mayor, would it satisfy this Board if Mr. Cummings did come back and report to the Board the financial progress of this so that we know what the dollar amount is being set. That way, unless you want that really cold, hard number, but I'm saying I would feel comfortable looking at a financial report that comes back to this particular Board that we can determine that we are in the right direction.

Therefore, that would give us the authority to monitor the project well. And I will throw that out there. Thank you Mr. Mayor.

Mayor Donchess

Well if the construction were \$13, 500,000.00, 2.9% is \$391,000.00.

Mr. Cummings

At \$13.5?

Mayor Donchess

Yes.

Mr. Cummings

And then maybe safely say \$400,000.00.

Mayor Donchess

Where I get \$13.5 is \$15.5 minus \$2 million for acquisition. So the Motion pending is simply to approve as proposed.

Alderman Kelly

I didn't move. Do we want to move to amend?

Mayor Donchess

Well I just wanted to get going. Why don't we make a motion to approve it and then entertain motions to amend?

MOTION BY ALDERWOMAN KELLY TO ACCEPT, PLACE ON FILE, AND AWARD THE CONTRACT TO HARVEY CONSTRUCTION. FUNDS ARE AVAILABLE IN DEPARTMENT 183, ECONOMIC DEVELOPMENT; PERFORMING ARTS CENTER BOND

ON THE QUESTION

Mayor Donchess

So motions to amend are in order.

MOTION BY ALDERMAN CARON TO AMEND, PLACE ON FILE, AND AWARD THE CONTRACT TO HARVEY CONSTRUCTION NOT TO EXCEED \$400,000.00. FUNDS ARE AVAILABLE IN DEPARTMENT 183, ECONOMIC DEVELOPMENT; PERFORMING ARTS CENTER BOND

ON THE QUESTION

Alderman Klee

I'll second that motion.

Mayor Donchess

Any further discussion?

Alderman O'Brien

Thank you, I'm not saying this is a bad motion but I am going to be reserved on it, because where I proposed an alternative idea, I just want to state to the Board that if this motion should fail for the complete dollar amount, then I will introduce another motion to have further guidance by Mr. Cummings. So I just want to exercise that I could bring forward another motion. Thank you Mr. Mayor.

Alderman Caron

Thank you. I think that you are misunderstanding that. Mr. Cummings has to come this full Board now monthly or quarterly to give us an update. So that shouldn't effect that we want to put in a dollar amount in this particular contract. He still has to do that whether we have a dollar amount or not. So that is why I am asking that we put that dollar amount in there. And that way, we are covered as well, because the first phone call we are going to get is – why are you giving an approval on something that has no dollar amount for a large project? And I all am all for the Performing Arts Center, don't get me wrong. But I also have to do my due diligence to the people in Ward 7 and throughout the City that have those kinds of questions. I certainly don't want people coming here and haranguing when Mr. Cummings is trying to do his job.

Mayor Donchess

I think that Mr. Cummings is comfortable with the \$400,000.00 "not to exceed", right?

Mr. Cummings

Yes with the explicit understanding that we may need to, if the money comes in less, repurpose those funds into another place in the project.

Mayor Donchess

Well we have already established that if less than \$400,000.00 is required, no repurposing motion is necessary, because this is a single purpose project. This is just one contract within a single project, not moving from one – as Mr. Griffin said – you know lights, street lights to the Fire Department. Where are we reallocating that, to the school building.

So the motion is not to exceed \$400,000.00.

Alderman O'Brien

Well therefore if Mr. Cummings, if I may Mr. Mayor, if Mr. Cummings is content with that and with due respect to the Ward 7 Alderman, then I will withdraw my previous statement of introducing another subsequent motion and support Ward 7 Alderman. Thank you.

Alderwoman Kelly

I have two questions, one is clarification and one is to Mr. Cummings. Would it be the same on both of these motions to do the \$400,000.00 on both? No? That's just construction, ok. Thank you.

Then my second question was just where does this wording go, where do we want to put it, is it before funds are available?

Mayor Donchess

Well we understand, if the amendment passes and the motion passes as amended, we will deal with legal to put it in the right place.

Alderwoman Kelly

Ok that sounds fine.

Alderman Lopez

So I just wanted to thank the Committee for making this decision because I think having the "to be determined" amount, Director Cummings is just doing his job, like he obviously would prefer to build it as quickly and as much open check booking as possible, but that will blow up in our face. I think that this an incredibly heavily scrutinized project and I think if the Board of Aldermen isn't going to exercise its responsibilities and make sure we at least put a cap on how much money we are spending, it is only going to spell disaster for both the project as it is perceived by the public and progress for getting it done on time. So I am really grateful that everybody has had this discussion, particularly Alderman Caron for being such a strong advocate for it.

Mayor Donchess

So the motion is to amend \$400,000.00 max, not to exceed.

MOTION CARRIED

Mayor Donchess

So the amendment passes so the motion is now before us to approve the contract with a not to exceed number of \$400,000.00. Is there any further discussion?

MOTION CARRIED

From: Dan Kooken, Purchasing Manager

Re: Architectural Manager Services Contract for 201 Main Street – Performing Arts Center (“PAC”)
(Value: \$TBD)

MOTION BY ALDERWOMAN KELLY TO ACCEPT, PLACE ON FILE, AND AWARD THE CONTRACT TO ICON ARCHITECTURE, INC. SOURCE OF FUNDING IS DEPARTMENT 183, ECONOMIC DEVELOPMENT; PERFORMING ARTS CENTER BOND

ON THE QUESTION

Mayor Donchess

Now the percent here is proposed as 10%. So if we use the \$13.5 million, 10% would be \$1,350,000.00. Does someone want to make a motion to insert a “not to exceed” number of \$1,350,000.00?

MOTION BY ALDERMAN CARON TO AMEND THE ARCHITECTURAL MANAGER’S SERVICE CONTRACT TO READ A VALUE NOT TO EXCEED \$1,350,000.00.

ON THE QUESTION

Mayor Donchess

Any discussion on that motion to amend? Nothing? All those in favor of the motion to amend?

MOTION CARRIED

Mayor Donchess

So the motion is now before us to approve the contract with the amendment to be included by legal not to exceed \$1,350,000.00. Any discussion on that motion to amend? It’s not the motion to amend, it is to approve as already amended, sorry.

MOTION CARRIED

UNFINISHED BUSINESS – None

NEW BUSINESS – None

RECORD OF EXPENDITURES

MOTION BY ALDERWOMAN KELLY THAT THE FINANCE COMMITTEE HAS COMPLIED WITH THE CITY CHARTER AND ORDINANCES PERTAINING TO THE RECORD OF EXPENDITURES FOR THE PERIOD DECEMBER 28, 2018 TO JANUARY 10, 2019

MOTION CARRIED

GENERAL DISCUSSION - None

PUBLIC COMMENT - None

REMARKS BY THE ALDERMENAlderman O'Brien

I want to thank Alderman Caron, I don't want you to think I was against you there. I was trying to come up with a way with a compromise for the situation because I think as the people voted, they do support the Performing Arts Center, I know a lot of us do. So just trying to look for the best way; but I think you were prudent in coming up – I think the tax payers would like to see a clear dollar amount. So it was my pleasure to support you with that. Thank you.

Alderman Lopez

I'm not even on this Committee so I appreciate the recognition. Yesterday on the Committee that I actually was on I made a comment to some of the other Aldermen that I would be playing at an open mic for charity for the outreach team on Sunday at 5:30 p.m. at Liquid Therapy. Some skepticism was raised and I would like to point out that I can play guitar and I can sing. If you don't believe me, then come on Sunday at 5:30 to Liquid Therapy.

Mayor Donchess

Is there an admission charge?

Alderman Lopez

No there's no cover, lots of raffle items.

Alderwoman Harriott-Gathright

There are several celebrations going on this weekend and I just want to share that with Nashua. The first one is Saturday at First Baptist Church in Nashua, they have a great celebration for Martin Luther King with speakers and music from many different choirs and that is free. There is no admission charge for that, and did I say it was at 6:00, I think it is 6:00.

And then on Monday, Southern New Hampshire Outreach of Black Unity will be celebrating our 35th Annual Martin Luther King Breakfast at the same place, which is Alpine Grove and it starts at 8:30 and our keynote speaker is the Reverend Eric Jackson, he is a Senior Pastor at Brookside Congregational Church. He is the President of the Manchester National Association for Advancement of Colored People and he is also the NH Co-Chair for the Poor People's Campaign. So we are going to have a good time.

We also have a youth speaker, Jamila-Ashanti Scales, and she is the elected 2019 Board of Education North High School Student Representative to the Board of Education. So we are going to hear from some great speakers. And we have other students that are performing and our Mayor will be there of course, as always. We did confirmation from Senator Hassan as well as from Congresswoman Annie Custer. So we are going to have a good time this year, and quite a few other officers and City Officials.

So I invite my colleagues here as well and to the City of Nashua, please come out and join us, it is \$35.00 in advance you can call 603-880-4537 and I will make sure you get your tickets. It is \$40.00 at the door, youth and students are \$20.00 and 4 and under is free, because it really is like a family affair, it really is. So that's it.

Mayor Donchess

While we are on that subject, Nashua was the first City in New Hampshire to create a Martin Luther King Holiday some 10 years or so before the State of New Hampshire did. So this was in '88 or '89. So we are very happy to be celebrating those holidays.

Alderman Klee

I don't have so much a remark as a question. Director Cummings made a comment about if he had to come in front of the Board because sometimes there can be long periods of time, but we can call a Special Finance Committee meeting correct? If we needed to; I just want to let the public know that we may not have to come because there may not be anything in front of the Board, but when there is something that is important and needs to be escalated we can call a special meeting and get us all here. Thank you.

Alderman Laws

I just wanted to hear what Alderman Lopez said. I am very proud of the discussion that happened tonight in the Chamber I think everyone did a really great job. I didn't chime in much because you had it handled. You did the right thing and good work, especially you Alderman Caron.

Alderman Caron

Alderman O'Brien I appreciate it, I know that we do a lot of things together and we don't always agree but I think it is important because this is a big project. I mean look at what happened when we were trying to do a playground that took up all of our time. So I think that having a number there will help us and it won't delay the project because as Mr. Griffin has stated, it is a project and you can move that money around within the project to use it as needed. If it was going outside of the project then he would have to come back here. But I think that we would be doing a disservice if we didn't put some numbers in there and I appreciate your support on that. Thank you. And thank you Mayor for getting the numbers because I was trying to figure out how much we should put in there.

POSSIBLE NON-PUBLIC SESSIONAlderman O'Brien

Go Patriots! And a motion to adjourn.

ADJOURNMENT**MOTION BY ALDERMAN O'BRIEN TO ADJOURN
MOTION CARRIED**

The Finance Committee meeting was adjourned at 7:36 p.m.

Alderman-at-Large Shoshanna Kelly
Committee Clerk