

1646.

APPROVAL, CONTRACT BETWEEN STATE OF OHIO AND THE NORTHERN ELECTRIC COMPANY OF COLUMBUS, OHIO, FOR CONSTRUCTION AND COMPLETION OF REPAIRS TO ELECTRICAL SYSTEM, REWIRING SWINE BARN, OHIO STATE FAIR GROUNDS, AT COST OF \$2,377.00.—SURETY BOND EXECUTED BY THE MARYLAND CASUALTY COMPANY.

COLUMBUS, OHIO, July 31, 1924.

HON. L. A. BOULAY, *Director, Department of Highways and Public Works, Columbus, Ohio.*

Dear Sir:—

You have submitted for my approval contract between the State of Ohio, acting by the Department of Highways and Public Works, and The Northern Electric Company of Columbus, Ohio. This contract covers the construction and completion of repairs to electrical system, rewiring swine barn, at the Ohio State Fair Grounds, and calls for an expenditure of \$2,377.00.

You have submitted the certificate of the Director of Finance to the effect that there are unencumbered balances legally appropriated in a sum sufficient to cover the obligations of the contract. There has further been submitted a contract bond upon which the Maryland Casualty Company appears as surety, sufficient to cover the amount of the contract.

You have further submitted evidence indicating that plans were properly prepared and approved, informal bids were taken and the contract duly awarded. Also it appears that the laws relating to the status of surety companies and the workmen's compenstion have been complied with.

Finding said contract and bond in proper legal form, I have this day noted my approval thereon and return the same herewith to you, together with all other data submitted in this connection.

Respectfully,
C. C. CRABBE,
Attorney General.

1647.

AUTHORITY OF COUNTY COMMISSIONERS TO EMPLOY AN ENGINEER UNDER SECTION 2411 G. C.—SECTIONS 2343 AND 2344 G. C. CONSTRUED.

SYLLABUS:

1. *County commissioners may, upon the written request of the county surveyor, employ an engineer under the provisions of Section 2411 of the General Code.*
2. *County commissioners may not employ an engineer under the provisions*

of Sections 2343 and 2344 of the General Code without first having the written request of the county surveyor.

COLUMBUS, OHIO, July 31, 1924.

Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.

Gentlemen:—

Receipt is acknowledged of your recent communication and request for an opinion, which reads:

“Section 2792 G. C., as amended 110 O. L. 133, provides that:

‘The county surveyor shall perform all duties for the county now or hereafter authorized or declared by law to be done by a civil engineer or surveyor. He shall prepare all plans, specifications, details, estimates of cost, and submit forms of contracts for the construction or repair of all bridges, culverts, roads, drains, ditches and other public improvements, except buildings, constructed under the authority of any board within and for the county.’

“Sections 2343 and 2344 G. C., require the county commissioners, when it becomes necessary to erect a bridge, to cause to be made by a civil engineer full and accurate plans showing all necessary details of the work and the materials required with working plans suitable for the use of mechanics or other builders in the construction thereof; also accurate bills, showing the exact amount of the different kinds of materials and full and complete specifications of the work to be performed.

“Section 2411 G. C. provides that when the services of an engineer are required with respect to roads, turnpikes, ditches or bridges, or with respect to any other matter, and when, on account of the amount of work to be performed, the board deems it necessary, upon the written request of the county surveyor, the board may employ a competent engineer and as many assistant engineers, rodmen and inspectors as may be necessary.

“Question 1. In view of the provisions of Section 2792 G. C., are the commissioners authorized to employ an engineer upon the request of the county surveyor under the provisions of Section 2411 General Code?

“Question 2. May the county commissioners, under the provisions of Sections 2343 and 2344, G. C., legally employ an engineer other than the county surveyor without first having the written request of the county surveyor?”

Section 2343 of the General Code, reads:

“When it becomes necessary for the commissioners of the county to erect or cause to be erected a public building, or substructure for a bridge, or an addition to or alteration thereof, before entering into any contract therefor or repair thereof or for the supply of any materials therefor, they shall cause to be made by a competent architect or civil engineer the following: full and accurate plans showing all necessary details of the work and materials required with working plans suitable for the use of mechanics or other builders in the construction thereof, so drawn as to be easily understood; accurate bills, showing the exact amount of the different kinds of material necessary to the construction, to accompany the plans; full and complete specifications of the work to be performed showing the

manner and style required to be done, with such directions as will enable a competent builder to carry them out, and afford to bidders all needful information; a full and accurate estimate of each item of expense, and of the aggregate cost thereof.

Nothing in this section shall prevent the commissioners from receiving from bidders on iron or reinforced concrete substructures for bridges the necessary plans and specifications therefor."

Section 2344 of the General Code reads:

"When it becomes necessary to erect a bridge, the county commissioners shall determine the length and width of the superstructure, whether it shall be single or double track, and advertise for proposals for performing the labor and furnishing the materials necessary to the erection thereof. In their discretion, the commissioners may cause to be prepared plans, descriptions and specifications for such superstructure, which shall be kept on file in the auditor's office for inspection by bidders and persons interested, and invite bids or proposals in accordance therewith."

Section 2411 of the General Code reads:

"When the services of an engineer are required with respect to roads, turnpikes, ditches or bridges, or with respect to any other matter, and when, on account of the amount of work to be performed, the board deems it necessary, upon the written request of the county surveyor, the board may employ a competent engineer and as many assistant engineers, rodmen and inspectors as may be needed, and shall furnish suitable offices, necessary books, stationery, instruments and implements for the proper performance of the duties imposed on them by such board."

The above quoted sections, in substantially the same form, have been in effect for a great many years.

In an opinion of my predecessor, found in Opinions of the Attorney General for the year 1913, Vol. 2, page 1144, it was held:

"Under Section 2792, General Code, it is the duty of the county surveyor to prepare all plans and specifications necessary for bridge improvements, and assistants for such work may not be employed except upon the request of the county surveyor in accordance with Section 3411, General Code."

This holding is in accord with the statutory provisions. Before the commissioners may legally employ an engineer, there must be on file therefor the written request of the county surveyor.

Specifically answering your questions, I am of the opinion, and you are advised that county commissioners may, upon the written request of the county surveyor, employ an engineer under the provisions of Section 2411 of the General Code, but that they may not legally employ an engineer under the provisions of Sections 2343 and 2344 of the General Code without first having the written request of the county surveyor.

Respectfully,

C. C. CRABBE,

Attorney-General.