

(Mayor Potter)

CITY OF KIRTLAND

RESOLUTION NUMBER 24-R-34

A RESOLUTION ACCEPTING THE BID OF WATTS EXCAVATING LLC FOR ITS WORK ON THE PHEASANT LANE CULVERT REPLACEMENT PROJECT, AND DECLARING AN EMERGENCY.

WHEREAS, the City of Kirtland has a duty to maintain public streets and roads within its municipal boundaries; and

WHEREAS, it was discovered that Pheasant Lane requires a culvert replacement to be completed which is necessary for the proper maintenance of the City's roads; and

WHEREAS, the City of Kirtland, in compliance with all bidding requirements as found in the Ohio Revised Code and in its Codified Ordinances, solicited appropriate bids for said potential project; and

WHEREAS, the Director of Public Service, has reviewed said proposals or bids, and has made a recommendation for acceptance of the bid placed by Watts Excavating LLC for work to be performed in accordance with said proposal.

IT IS HEREBY RESOLVED by the Council of the City of Kirtland, County of Lake and State of Ohio, that:

SECTION I: It is hereby determined that the proposal of Watts Excavating LLC of Chesterland, Ohio, is the lowest and best bid to perform the Pheasant Lane Culvert Replacement Project. The City of Kirtland hereby accepts the bid of Watts Excavating LLC for the completion of this project in an amount not to exceed \$32,150.00 and to be performed in accordance with the attached Excavation Proposal and Estimate which is attached hereto and incorporated herein as Exhibit A.

SECTION II: The Mayor or his designee is hereby authorized and directed to enter into a contract or execute any purchase orders in the furtherance of this Resolution. However, any

expenditures beyond the original bid of \$32,150.00 shall be subject to further authorization by this Council.

SECTION III: The Director of Finance is authorized and instructed to issue such vouchers and expend all funds necessary in the furtherance of this Resolution. Said payments shall first be made from the fund containing the grant issued by the Board of Commissioners of Lake County for road improvement projects. Should that grant money be depleted, then any other payment shall be made from the road levy fund.

SECTION IV:

(a) It is found and determined that all formal actions of this Council concerning and relating to the passage of this resolution were passed in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

(b) This resolution is declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of the City, and for the further reason that it is necessary to maintain the streets and roads of the City; wherefor, this resolution shall be in full force and effect immediately upon its passage by the affirmative vote of five (5) members of Council and approval by the Mayor, otherwise this resolution shall be in effect from and after its adoption at the earliest period allowed by law.

First Reading: _____

Second Reading: _____

Third Reading: _____

DATE PASSED: _____

President of Council

Submitted to the Mayor for his
Approval on this _____ day of
_____, 2024.

(Mayor Potter)
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ATTEST:

Approved by the Mayor on this _____
day of _____, 2024.

Clerk of Council

Pheasant Lane Culvert Replacement – Watts Excavating

Mayor Kevin F. Potter

EXCAVATION PROPOSAL AND ESTIMATE

Watts Excavating LLC

9480 Sherman Road, Chesterland, Ohio 44026

Phone: 440-666-1869 Email (for notices): WattsExcavatingllc@gmail.com

Customer Name(s):	<u>City of Kirtland</u>
Mailing Address:	<u>10282 Chillicothe Rd, Willoughby, OH 44094</u>
Phone Number(s):	<u>440-799-5019</u>
Email (for notices):	<u>Jfornaro@kirtlandohio.com</u>
Worksite Location:	<u>Pheasant Lane</u>

Effective Date of this Proposal: 1/15/24 Unless accepted by Customer, this Proposal will expire on midnight of the seventh (7th) day following the above Effective Date.

Watts Excavating Services (the "Excavator") makes the following proposal and gives the following estimate to Customer for the described work to be performed at the Worksite. If Customer accepts this Proposal, a binding contract by and between the parties, effective as of the date of such acceptance, shall result.

DESCRIPTION AND SCOPE OF WORK: Excavator shall provide to Customer all labor and materials at the Worksite to complete the following work (collectively the "Project") pursuant to any attached and incorporated specifications, plans and/or drawings:

Excavate roadway and remove old galvanized pipe to be replaced with 36" Plastic pipe. We will also remove the existing headwalls to be replaced with 2x2x6 concrete blocks.

<u>Labor, Equipment, Haul off, Shoring-</u>	<u>\$20,000.00</u>
<u>70' of 36" Gray HDPE pipe-</u>	<u>\$6,750.00 (price is for 80' of pipe, pipe comes in 20' sections)</u>
<u>12 (6x2x2) blocks delivered-</u>	<u>\$1,200.00</u>
<u>concrete for top of wall</u>	<u>\$1,000.00</u>
<u>70 tons of limestone #304 delivered-</u>	<u>\$3,200.00</u>

Watts Excavating is not responsible for any possible damage to the yard or driveway from the equipment.

Estimated Completion: Within 60 days after Excavator's receipt of Customer's Acceptance of this Proposal.

PRICE AND PAYMENT: In consideration of Excavator's performance and upon the completion of the Project, Customer shall pay to Excavator the sum of \$ 32,150.00 ("Contract Price") within three (3) days following the date of Excavator's email Invoice to Customer. Any and all requested changes (collectively, "Amendments") to the scope of work and/or pricing shall be in writing and signed by all parties prior to Excavator's execution of such change(s). Excavator's email Invoice shall include the original Contract Price, as adjusted by any and all such signed Amendments.

PERMITS AND INSURANCE: Excavator shall apply for and obtain, at Excavator's expense, any and all permits and regulatory approvals as may be required by the township, city and/or county government. Excavator shall maintain general liability and worker's compensation coverage during the term of this contract.

WORKSITE SURVEYS: Customer shall advise Excavator of the property lines of the Worksite. If Customer is unsure of such property boundaries, Customer shall provide, at Customer's cost, boundary stakes by a licensed land surveyor. Customer shall also provide, at Customer's expense, all underground utility surveys on the Worksite as are needed prior to Excavator's commencement of work.

WORKSITE ACCESS: Customer will allow Excavator free access to work areas for its workers, vehicles and equipment and will allow areas for the storage of material and/or debris. Driveways will be kept clear for the movement of such vehicles and equipment during regular work hours.

WARRANTY: Excavator shall complete the Project in a timely and workmanlike manner, using knowledge and recommendations for performing the work with generally-acceptable standards in the community of the Worksite and will provide a standard of care equal, or superior to, the care used by service providers similar to Excavator on similar projects.

DEFAULT AND REMEDIES: In addition to any and all of the remedies a party may have according to law, if a party defaults by failing to substantially perform any provision, term or condition or obligation of this contract (including without limitation the failure to make a monetary payment when due) the other party may terminate the contract by providing written notice to the defaulting party. This notice shall describe with sufficient detail the nature of the default. The party receiving such notice shall have ten (10) days from the effective date of such notice to cure the default. Unless waived by a party providing notice, the failure to cure the default within such time shall result in the automatic termination of this contract.

MISCELLANEOUS TERMS AND CONDITIONS:

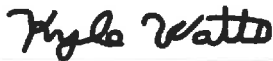
Force Majeure: If performance of any obligation of under this contract is prevented, restricted or interfered with by causes beyond either party's reasonable control ("Force Majeure") and if the party unable to carry out its obligation(s) gives the other party prompt written notice of such event, then the obligation(s) of the party invoking this provision shall be suspended to the extent necessary by such event. The term Force Majeure shall include, without limitation, acts of God, plague, epidemic, pandemic, outbreaks of infectious disease or any other public health crisis, including quarantines (or other such imposed personal or business restrictions or lockdowns), fire, explosion, vandalism, storm or other similar occurrences, orders or acts of military or civil authority, or national emergencies, insurrections, riots or wars or strikes or lockouts or work stoppages. The excused party shall use reasonable effort under the circumstances to avoid or remove such causes of non-performance and shall proceed with reasonable dispatch to perform upon the removal of such causes. An act or omission shall be deemed within the reasonable control of a party if committed, omitted or caused by such party, its employees, officers or agents.

Entire Agreement: This contract contains the entire agreement of the parties and there are no other promises or conditions in any other prior agreement, whether oral or written, concerning the subject matter of this contract. This contract supersedes any prior written or oral agreement between the parties. This contract shall be construed in accordance with the laws of the State of Ohio.

Notices: Any notice or communication required or permitted under this contract shall be sufficiently given and effective if delivered by hand; by U.S. certified mail (return receipt requested) or by electronic mail (email) to the mailing addresses and/or email addresses set forth in the opening paragraph above. U.S. mail notice is effective upon receipt. Email notice is effective upon the date of transmission.

WATTS EXCAVATING SERVICES

by:



Kyle Watts, Owner

CUSTOMER'S ACCEPTANCE OF PROPOSAL AND ESTIMATE

The undersigned Customer approves and accepts all of the terms and conditions of the above Proposal and Estimate and intends the same to be a binding contract with Excavator upon all such terms and conditions.

YOU, THE BUYER MAY CANCEL THIS TRANSACTION AT ANY TIME PRIOR TO MIDNIGHT OF THE THIRD BUSINESS DAY AFTER THE DATE OF THIS TRANSACTION. SEE THE ATTACHED NOTICE OF CANCELLATION FOR AN EXPLANATION OF THIS RIGHT TO CANCEL.

Customer's Printed Name: _____

CUSTOMER'S SIGNATURE: X _____

Email Address: _____

DATE OF ACCEPTANCE: _____

Customer acknowledges by initials below that Customer has received or retained a paper copy, electronic copy or photographic copy of each page of this signed contract. x _____ (Customer's initials) Dated: _____