

ORDINANCE NO. 2018-13
INTRODUCED BY: MS. GRUBE

4088

**AN ORDINANCE
AUTHORIZING THE MAYOR TO ENTER INTO A
CONTRACT WITH MR. EXCAVATOR, INC. FOR THE
WALTERS ROAD IMPROVEMENT PROJECT, WHOSE
BID IS THE LOWEST BID FOR THE REPAIR OF
WALTERS ROAD AND THE REPLACEMENT OF THE
SEWER AND WATER MAINS AND DECLARING AN
EMERGENCY.**

WHEREAS, the Village has determined that Walters Road and the utilities contained therein are in need of repair and replacement; and

WHEREAS, the Village sought bids for the Walters Road improvement project and after receiving all bids the Village Engineer determined the lowest and best bidder is Mr. Excavator, Inc. in the amount of Eight Hundred and Sixty-One Thousand Six Hundred Dollars and Eighty-Eight Cents (\$861,600.88) which excludes the unit bid for installation of sidewalks on one side of Walters Road, which will be delayed pending notification of all property owners to be assessed for the sidewalks; and

WHEREAS, the Village desires to enter into an agreement with Mr. Excavator, Inc. to perform the Walters Road improvement project as soon as possible.

**NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE
VILLAGE OF CHAGRIN FALLS, CUYAHOGA COUNTY, STATE OF OHIO:**

SECTION 1. That the Mayor is authorized and directed to enter into an Agreement with Mr. Excavator, Inc. in the amount of Eight Hundred and Sixty-One Thousand Six Hundred Dollars and Eighty-Eight Cents (\$861,600.88) to provide for Walters Road repair and replacement of the sanitary sewer and water lines within the Walters Road right-of-way as specified on the contract attached hereto and incorporated herein as Exhibit "A".

SECTION 2. The Finance Director is authorized to appropriate to a proper account a sum sufficient to cover the costs of the contract authorized in Section 1 of this Ordinance.

SECTION 3. That actions of this Council concerning and relating to the passage of this legislation were adopted in lawful meetings of this Council and that all deliberations of this Council and of any of its committees that resulted in such formal action were in

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compliance with all legal requirements, including Chapter 114 of the Codified Ordinances of the Village of Chagrin Falls.

SECTION 4. That in accordance with Section 113.01 of the Codified Ordinances of the Village of Chagrin Falls, public notice of this Ordinance shall be given by posting a copy thereof for not less than fifteen (15) days in the Village Hall.

SECTION 5. That this Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health and safety of the inhabitants of the Village and for the further reason that this Ordinance is necessary to authorize road repair work to be performed while weather conditions are appropriate for such work to be completed and in order to assure safe use of the Village streets; wherefore provided it receives the affirmative vote of at least two-thirds (2/3) of all members elected to Council, this Ordinance shall be in full force and effect from and immediately upon its passage by this Council and approval by the Mayor; otherwise, it shall take effect and be in force after the earliest period allowed by law.

PASSED: February 26, 2018



Karl Maersch, Council President

Submitted to the Mayor for his approval on this

27 day of February, 2018


Approved by the Mayor

February 27, 2018



Mayor William Tomko

I hereby certify that Ordinance No. 2018-13 was duly enacted on the 26 day of February, 2018, by the Council of the Village of Chagrin Falls and posted in accordance with Section 113.01 of the Codified Ordinances of the Village of Chagrin Falls.



Clerk of Council

EXHIBIT "A"

CONTRACT FOR WALTERS ROAD IMPROVEMENT PROJECT

THIS AGREEMENT, made and entered into at Chagrin Falls, Ohio, this 26 day of February, 2018 by and between the Village of Chagrin Falls ("OWNER"), Ohio and Mr. Excavator, Inc. ("CONTRACTOR").

WITNESSETH: That the said CONTRACTOR has agreed and by this presents does agree with the OWNER for the consideration hereinafter mentioned and contained, and under penalty expressed in a bond given with these presents, and herein contained or hereunto annexed, to furnish at its own cost and expense, all the necessary tools, equipment, materials, labor, and tests in an expeditious, substantial and workmanlike manner, the equipment and appurtenances herein contemplated, commencing work within twenty (20) days from the date of the Notice to Proceed and executing the work within the time and in the manner specified and in conformity with the requirements set forth in this Contract.

The following form essential parts of the Contract:

1. Advertisement for Bids/Public Notice to Bidders
2. Instruction to Bidders
3. Bid Forms and Proposal
4. Contract Forms and Exhibits
5. Contract Bond – ORC 153.571 or ORC 153.57
6. Contract Provisions
7. General Conditions
8. Supplementary Conditions
9. Specifications
10. Specific Project Requirements
11. Prevailing Wage Rate Schedule
12. Contract Drawings dated December 13, 2017

The CONTRACTOR agrees and understands that the work on this contract shall be subject to the acceptance of the OWNER based upon and in accordance with the contract specifications and contract plans and drawings on file in the office of the OWNER.

The Contractor agrees that each individual employed by the Contractor or any Subcontractor and engaged in work on the project under this contract shall be paid by prevailing wage established by the Department of Industrial Relations of the State of Ohio or the U.S. Department of Labor (Davis-Bacon Act) as detailed in the section titled "Wage Rates." This shall occur regardless of any contractual relationship which may be said to exist between the Contractor or any Subcontractor and such individual.

The CONTRACTOR shall proceed with the said work in a prompt and diligent manner and shall do the several parts thereof. Further he shall complete the whole of said work in accordance with the specifications and contract drawings to the satisfaction of the OWNER on or before the time stated, and in default of completion within the time as fixed, the CONTRACTOR shall pay to the OWNER as liquidated damages, an amount equal to Eight Hundred Dollars (\$800.00) Per Day, for each and every day (Sundays and legal holidays excepted) the completion of the work may be delayed beyond the date fixed in the manner and as stipulated.

It is hereby mutually agreed that the OWNER is to pay and the CONTRACTOR is to receive, as full compensation for furnishing all materials and labor in building, constructing and testing and in all respect completing the herein described work and appurtenances in the manner and under the conditions herein specified, the prices stipulated in the proposal herein contained or hereto annexed and the total contract sum is Eight Hundred and Sixty-One Thousand Six Hundred Dollars and Eighty-Eight Cents (\$861,600.88).

This Contract shall be in full force and effect from the date of execution by the parties.

IN WITNESS WHEREOF: The parties hereunto affixed their signature the day and year first mentioned above.

MR. EXCAVATOR, INC.

BY: /s/ Timothy Flesher
Thomas J. Flesher, Vice President

VILLAGE OF CHAGRIN FALLS

By: William Tomko
William Tomko, Mayor

I hereby certify that the funds in the amount of Eight Hundred and Sixty-One Thousand Six Hundred Dollars and Eighty-Eight Cents (\$861,600.88) necessary for the foregoing Contract have been appropriated and are in the Treasury, or are in the process of collection, or are available through grants and/or loans from other funding sources.

 David B. Bloom
David B. Bloom, Director of Finance

APPROVED AS TO FORM:

 Dale Markowitz
Dale Markowitz, Director of Law

**THE CONTRACTOR SHALL FURNISH THE FOLLOWING ITEMS
WITHIN TEN (10) DAYS OF NOTIFICATION OF AWARD:**

- A) **CERTIFICATE OF INSURANCE FOR CONTRACTOR'S PUBLIC
LIABILITY INSURANCE POLICY AND AUTOMOTIVE INSURANCE
POLICY**

- B) **CERTIFICATE OF INSURANCE FOR OWNER'S AND
CONTRACTOR'S PROTECTIVE POLICY**

- C) **CERTIFICATE OF WORKER'S COMPENSATION**

- D) **CONTRACT BOND THAT COMPLIES WITH ORC 153.54 AND 153.57**

*D above is not required if a bond complying with ORC 153.54 and 153.571 (rollover bond) was submitted at time of bid.

DELINQUENT PERSONAL PROPERTY STATEMENT

Mr. Excavator, Inc., having been awarded a contract by the Village of Chagrin Falls, Ohio, hereby affirms under oath, pursuant to Ohio Revised Code Section 5719.042, that at the time the bid was submitted, my company was was not (CIRCLE ONE) charged with delinquent personal property taxes on the General Tax List of Personal Property for Cuyahoga County, Ohio.

If such charge for delinquent personal property tax exists on the General Tax List of Personal Property for Cuyahoga County, Ohio, the amount of such due and unpaid delinquent taxes, including due and unpaid penalties and interest shall be set forth below.

A copy of this statement shall be transmitted by the Taxing District's Fiscal Officer to the County Treasurer within thirty days of the date it is submitted. A copy of this statement shall also be incorporated into the Contract made between Village of Chagrin Falls, Ohio, and Mr. Excavator, Inc., and no payment shall be made with respect to any Contract unless such statement has been so incorporated as a part thereof.

Delinquent Personal Property Tax	\$	<u> </u>
Penalties	\$	<u> </u>
Interest	\$	<u> </u>

MR. EXCAVATOR, INC.



Timothy A. Plesher, President

AFFIDAVIT
OF COMPLIANCE WITH OHIO REVISED CODE SECTION 3517.13

STATE OF OHIO

COUNTY OF Lake

Timothy A. Flesher being duly sworn deposes and states as follows:

1. I am duly authorized to make the statements contained herein on behalf of Mr. Excavator, Inc. ("the Contracting Party").
2. The Contracting Party is a/an (select one):
 - Individual, partnership, or other unincorporated business association (including without limitation, a professional association organized under Ohio Revised Code Chapter 1787), estate, or trust
 - Corporation organized and existing under the laws of the State of Ohio
 - Labor organization
3. I hereby affirm that the Contracting Party and each of the individuals specified in R.C. 3517.13(I) (with respect to non-corporate entities and labor organizations) or R.C. 3517.13(J) (with respect to corporations) are in full compliance with the political contribution limitations set forth in R.C. 3517.13(I) and (J), as applicable.
4. I understand that a false representation on this certification will incur penalties pursuant to 3517.992(R)(3).

Affiant further sayeth naught.

By: [Signature]
Title: President

SWORN TO BEFORE ME and subscribed in my presence this 5th day of March, 2018.

[Signature]
Notary Public

My commission expires: _____




MICHELLE S MCGONNELL
NOTARY PUBLIC - STATE OF OHIO
MY COMMISSION EXPIRES
June 19, 2021

ESCROW WAIVER

In accordance with a certain Contract between the Village of Chagrin Falls, Ohio, (hereinafter referred to as "the Owner") and Mr. Excavator, Inc., (hereinafter referred to as "the Contractor") it is mutually agreed by and between the parties hereto that because of the short-term duration of the within contract, no escrow account will be established pursuant to Sections 153.13, 153.14 and 153.63 of the Ohio Revised Code nor shall any interest be paid on any retainage.

MR. EXCAVATOR, INC.



Timothy A. Fletcher, President

VILLAGE OF CHAGRIN FALLS



David B. Bloom, Director of Finance

NOTICE TO PROCEED

Project: The Walters Road Improvement Project

Owner: Village of Chagrin Falls
21 West Washington Street
Chagrin Falls, Ohio 44022

To: Mr. Excavator, Inc.
8616 Euclid Chardon Road
Kirtland, Ohio 44094

Date: April 4, 2018

You are hereby notified to commence work in accordance with the Contract. All work shall be completed by October 15, 2018.

VILLAGE OF CHAGRIN FALLS



Rob Jamieson, Chief Administrative Officer

NOTICE OF AWARD

TO: Mr. Excavator, Inc.
8616 Euclid Chardon Road
Kirtland, Ohio 44094

PROJECT: WALTERS ROAD WATERLINE & PAVEMENT IMPROVEMENTS

You are notified that your Bid which was opened on 1/12/18 has been accepted for items in the amount of \$861,600.88 at the unit bid prices as reflected in the bid tabulation contained herein with deletion and reduction of the sidewalk items and contingency.

You are required by the Instructions to Bidders to execute the Agreement and furnish the required Bonds, Certificates of Insurance, and other documents within 10 calendar days from the date of receipt of this Notice.

Failure to comply with these conditions within the time specified will entitle Owner to consider your Bid in default, to annul this Notice and to declare your Bid Security forfeited.

The Owner will return to you one (1) fully signed set of the contract documents.

VILLAGE OF CHAGRIN FALLS



Rob Jamieson, Chief Administrative Officer

ACKNOWLEDGMENT

MR. EXCAVATOR, INC.




Timothy A. Flesher, President

It is hereby mutually agreed that the OWNER is to pay and the CONTRACTOR is to receive, as full compensation for furnishing all materials and labor in building, constructing and testing and in all respect completing the herein described work and appurtenances in the manner and under the conditions herein specified, the prices stipulated in the proposal herein contained or hereto annexed and the total contract sum is \$901,215.50.

This Contract shall be in full force and effect from the date of execution by the parties.


IN WITNESS WHEREOF: The parties hereunto affixed their signature the day and year first mentioned above.

MR. EXCAVATOR, INC.



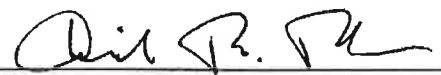
Timothy A. Flesher, President

VILLAGE OF CHAGRIN FALLS




William Tomko, Mayor

I hereby certify that funds in the amount of Nine Hundred One Thousand Two Hundred Fifteen and 50/100 Dollars (\$901,215.50) necessary for the foregoing Contract have been appropriated and are in the Treasury, or are in the process of collection, or are available through grants and/or loans from other funding sources.



David B. Bloom, Director of Finance

APPROVED AS TO FORM:



Dale Markowitz, Director of Law