

ORDINANCE 2017-03

AN ORDINANCE AUTHORIZING AND DIRECTING THE VILLAGE ADMINISTRATOR AND/OR MAYOR OF THE VILLAGE OF COMMERCIAL POINT TO ENTER INTO CONTRACTS WITH WATCON CONSULTING ENGINEERS & SURVEYORS, AND DECLARING IT AN EMERGENCY.

WHEREAS, The Village desires to contract with Watcon Consulting Engineers & Surveyors [hereinafter “Watcon”] for waterline improvements; and

WHEREAS, the Village Engineer is familiar with and satisfied with the quality of service provided by Watcon; and

NOW THEREFORE BE IT ORDAINED by the Council of the Village of Commercial Point, Ohio that:

SECTION 1: The Council of the Village of Commercial Point does hereby grant approval of the contracts attached as Exhibit “A” and “B.”

SECTION 2: The Village Mayor/Administrator hereby is directed to execute said contracts on behalf of the Village of Commercial Point.

SECTION 3: That this Ordinance is hereby declared to be an emergency measure and shall take effect and be in force immediately from and after its passage. The Village is in need of engineering services to protect the health and welfare of the citizens. The Village is currently expanding its water capacity and making waterline improvements.

Vote on Suspension of Readings: (Three-fourths vote, 5 votes)

Motion by: Scott O’Neil 2nd Ben Townsend

Roll Call:

Yes Mark Geiger
Yes David Sadler

Yes Ben Townsend
Yes Brad Laxton

Yes Scott O’Neil
Yes Becky Blevins

Vote on Passage of the Ordinance and declaring it an emergency: (Two-thirds vote, 4 votes)

Motion by: Scott O’Neil 2nd Ben Townsend

Roll Call:

Yes Mark Geiger
Yes David Sadler

Yes Ben Townsend
Yes Brad Laxton

Yes Scott O'Neil
Yes Becky Blevins

Adopted this 3 day of April 2017.




Gary Joiner, Mayor



Wendy Hastings, Fiscal Officer

Approved as to Form:



Michael D. Hess, Law Director

Original contracts attached to original Ordinance.



Village of Commercial Point
10 W. Scioto Street
Commercial Point, Ohio 43116
Attention: John Grosse, P.E

Date: March 24TH, 2017

Re: Proposal for Professional Surveying services for the CONKLIN and PETTIE Utility Easements.

Dear John:

WatCon Consulting Engineers and Surveyors, L.L.C (Watcon) is pleased to provide you a Proposal for Professional Surveying services for the project listed above.

Our proposed Lump Sum Fee for these Professional Services will be one thousand, five hundred dollars (\$1,500). Exhibit A itemizes the breakdown of Professional Services Site visits, meetings, mileage, and prints are considered Reimbursable costs and are included in the Lump Sum Fee. The legal deed document and preparation are not part of our professional services.

When authorized by writing, additional services, above the Comprehensive Scope of services will be charged hourly at the rates outlined in Exhibit B. Example of additional services would be major changes requested by the Client. All work will be performed in accordance to the attached WatCon Consulting Engineers and Surveyors L.L.C Terms and Conditions and are part of this proposal.

83 Shull Avenue

Gahanna, Ohio 43230

614.414.7979

fax: 614.414.7980

James T. Watkins

P.E., M.B.A., Principal

jim@watconeng.com

The Consultant shall maintain insurance coverage with a qualified insurance company for duration of the project. Coverage shall be in amounts not to exceed the following limits...

	Statutory Limit
Workman's Compensation	
General Liability	\$2,000,000 per occurrence
Employers Liability	\$2,000,000 per occurrence
Automobile Liability	\$2,000,000 per occurrence
Professional Liability	\$1,000,000 per claim

If requested, a copy of the Certificate of Insurance shall be provided to the Client.

The project will be invoiced monthly.

Sincerely,



James T. Watkins, P.E., M.B.A.
Principal
WatCon Consulting Engineers & Surveyors, L.L.C

A	B	Project
Item No.	Comprehensive Scope of Services EXHIBIT A	S.R 762 EASEMENT DESCRIPTIONS
	CONKLIN EASEMENT	
1	Metes & Bounds Description, and Exhibit	\$750
	PETTIT EASEMENT	
2	Metes & Bounds Description, and Exhibit	\$750
3	TOTAL	\$1,500

EXHIBIT B

WATCON CONSULTING ENGINEERS & SURVEYORS, L.L.C
Professional Services
Fee Rate Schedule

WATCON SERVICES RATES

Engineering.....	\$95/hr
Surveying.....	\$95/hr
Construction Administration.....	\$75/hr
Inspections.....	\$65/hr
Technician.....	\$75/hr
Administrative Assistant.....	\$45/hr
1 Man Field Crew	\$100/hr
2 Man Field Crew	\$140/hr

WATCON CONSULTING ENGINEERS & SURVEYORS L.L.C
TERMS & CONDITIONS OF PROFESSIONAL SERVICES

1) SCOPE OF SERVICES

WATCON CONSULTING ENGINEERS & SURVEYORS L.L.C hereinafter called "WATCON" shall perform the services defined in this proposal and shall invoice the client at the unit prices or fixed fee as specified in this proposal. WATCON shall provide additional services under this agreement as requested by the CLIENT and shall invoice the CLIENT for those additional services at the rates or revised fee as indicated by the proposal. It is understood that the nature and scope of the services set forth in the proposal and the rate of fee agreed upon for performing such services is based upon information provided by the CLIENT. If unexpected site conditions are encountered which increase the cost of WATCON's work beyond that contemplated in the accepted proposal or if such conditions require additional services beyond the defined scope of work, WATCON will make a reasonable effort to promptly contact the CLIENT. Additional work beyond that contained in the accepted proposal shall be performed by WATCON only upon authorization by the CLIENT, and the CLIENT'S agreement to compensate WATCON at its accepted rate for such additional work.

2. RIGHT OF ACCESS

Free right-of-access shall be granted to the personnel of WATCON and its subcontractors. Exploration equipment and/or WATCON company vehicles may unavoidably disturb, alter or damage the existing vegetation and terrain at the site. WATCON and its subcontractors will take reasonable precautions to limit possible damage, but shall not be liable for such damage and will accept no responsibility to restore the site to its original condition. Conditions unless specific arrangements and reimbursement are contractually agreed upon prior to the initiation of our fieldwork.

3. CONSTRUCTION KEY

It is understood and agreed that WATCON has no constructive use of the Owner's site; has no control or authority over the means, methods, and sequences of construction; and therefore has no ongoing responsibility whatsoever for construction safety, beyond WATCON's personnel.

4. COMPUTER AIDED DRAFTING AND DESIGN LIMITATIONS

Electronic data and drawing files, submitted as part of this agreement are compatible only with AutoCAD 2015; operating on an IBM-Compatible PC using Windows 7. WATCON makes no representation as to the compatibility of these files beyond the specified release of the above mentioned software. Hard copies are submitted to CLIENT, to review for a 7-day acceptance period. During this period, the CLIENT may review and examine these plans and any errors detected during this time will be corrected by WATCON as part of the scope of services of this agreement. Any changes requested after the acceptance period will be considered additional services to be performed on a unit rate basis, at the WATCON standard hourly rate schedule.

5. CONSTRUCTION COST AND TIME ESTIMATES

WATCON is not a construction cost estimator or construction contractor. WATCON's opinion of probable construction cost will be based upon its own experience and familiarity with the construction industry. WATCON is required to make a number of assumptions as to specific site conditions, methods of construction and market conditions over which WATCON has no control. WATCON does not guarantee that proposals, bids, or construction costs will not vary from opinions of probable cost prepared under this agreement.

6. PERMITS AND APPROVALS

When identified in the Scope of Services, WATCON shall assist the CLIENT in applying for and obtaining permits and approvals typically required by law for projects similar to the one for which WATCON's services are being engaged. WATCON will follow the guidelines set forth by the various agencies and shall make any technical corrections to the plans that are the fault of WATCON without cost to the CLIENT. Assistance in applying for permit applications by WATCON does not guarantee approval of the permits by the jurisdictional regulatory authorities. Payment for the services outlined in the scope of services is not contingent upon the CLIENT permit approval. This assistance shall also not extend to the preparation of research studies, special documentation, special tests, development and delivery of testimony, or any other action which may be required to obtain regulatory approval. These services shall be compensated for as additional services. The costs of all such permits shall be paid by the CLIENT.

7. LIMITATION OF LIABILITY

WATCON will exercise reasonable care in the performance of its duties under this agreement. CLIENT agrees that the liability of WATCON, and that of its officers, directors, employees, agents and subcontractors, to CLIENT or any third party due to any negligent professional acts, errors or omissions will be limited to the amount of WATCON's professional liability insurance coverage available at the time of settlement or judgment. CLIENT shall provide information which the CLIENT reasonably believes to be accurate as to the condition of the project site including the location of any underground utilities, utility services, structures, and underground storage tanks, and WATCON shall be entitled to rely upon the accuracy and completeness thereof. CLIENT agrees to defend, indemnify, and hold harmless WATCON from any claim or expense, including attorney fees, arising from an allegation that WATCON's performance under this agreement resulted in damage to any subterranean or surface structure or facility as a result of errors, omissions, or inaccuracies in the information provided by the CLIENT.

8. OWNERSHIP OF DOCUMENTS

CLIENT acknowledges WATCON's reports, plans specifications, field data, field notes, calculations, and estimates including electronic media, are instruments of professional service, not products. These documents are and shall remain the sole and exclusive property of WATCON. The CLIENT agrees to hold-harmless and indemnify WATCON against all claims arising out of any reuse of these documents without written authorization of WATCON. WATCON reserves the right to remove all indication of its ownership and/or involvement in the material from each electronic medium not held in its possession. CLIENT shall retain copies of the work performed by WATCON in CADD form only for information and use by the CLIENT for the specific purpose for which WATCON was engaged. Said materials shall not be used by CLIENT, or transferred to another party, for use in other projects, additions to current project, or any other purpose for which the material was not strictly intended by WATCON without WATCON's express written permission. Any unauthorized modification or reuse of materials shall be at CLIENT'S sole risk, and CLIENT agrees to defend, indemnify, and hold WATCON harmless from all claims, arising out of the unauthorized modification or use of these materials.

9. PAYMENT

CLIENT will be invoiced monthly for services and expenses. Invoices will be due and payable upon receipt. Past due amounts are subject to a service charge of 1.5% per month (18% per annum) after thirty (30) days on the outstanding balance. Attorney fees and other costs, incurred in collecting past due amounts shall be paid by the CLIENT. WATCON also reserves the right to terminate its services for failure of CLIENT to make payments in accordance with the provisions of this Agreement. The CLIENT'S obligation to pay for Services contracted in this agreement is in no way dependent upon the CLIENT'S ability to obtain financing, payment, approval of governmental or regulatory agencies, or upon the CLIENTS successful completion of the Project. WATCON reserves the right to retain possession of CLIENT'S documents until payment is made in accordance with the terms of this Agreement. No retainer of payment for services

performed by WATCON is to be held by CLIENT. If the CLIENT fails to make payments when due or otherwise is in breach of this agreement, WATCON may suspend performance of services upon 5 calendar days' notice to CLIENT.

10. CONFIDENTIALITY

WATCON agrees to maintain the confidentiality of the work performed under this agreement, and shall not disclose any such information to any party other than the CLIENT without the express written or oral authorization of CLIENT, except to the extent that such disclosure is to a governmental entity and/or another party to the project contemplated by this agreement.

11. PERFORMANCE DELAY AND FORCE MAJEURE

In the event that WATCON's work is interrupted due to unusual or unanticipated causes outside of its control, WATCON shall be compensated for the additional labor, equipment, and other costs associated with maintaining its work force and equipment availability during such interruption, or at the option of the CLIENT, for such similar charges that are to be incurred by WATCON for shutting down the project and subsequent re-start up costs. Except for the foregoing provision, neither party shall hold the other responsible for damages or delays in performance caused by force majeure, acts of God, or other events beyond control or either party which could not have been reasonably foreseen or prevented. Such acts or events shall include unusual weather, floods, epidemics, war riots, strikes, lockouts, protest demonstrations, unanticipated site conditions and instability. Any delay within the scope of this provision which cumulatively exceeds 45 days shall, at the option of either party, make the Agreement subject to termination or renegotiation.

12. TERMINATION

Either CLIENT or WATCON may terminate this agreement for reasons identified elsewhere in this agreement. In the event termination becomes necessary, the party effecting the termination shall so notify the other party in writing, and termination shall become effective within seven calendar days

after receipt of the termination notice. The CLIENT shall be obligated pursuant to the terms of the agreement for all services performed by WATCON on the CLIENT'S behalf. In the event of termination by CLIENT, WATCON may complete and be compensated for such analyses and records as are necessary to complete its files and may also complete a report on the Services performed to the date of notice of termination.

13. DISPUTE RESOLUTION

All claims, disputes and other matters in controversy between WATCON and CLIENT arising out of this Agreement shall be submitted to mediation before and as a condition precedent to other remedies provided by law.

14. NOTICES

Any notice to be given under this Agreement shall be in writing and shall be deemed given and received when delivered in person, deposited in the United States Mail, or by Courier, to the responsible project manager under this agreement at the appropriate address for WATCON or CLIENT as appropriate.

15. APPLICABLE LAW

The validity, interpretation and performance of this Agreement shall be governed by and construed in accordance with the laws of the State of Ohio. Further, the parties agree that venue and jurisdiction shall be within Franklin County, Ohio. All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating responsibility or liability between WATCON and CLIENT shall survive the completion of services and the termination of this Agreement.

16. SEVERABILITY

If any provision of this Agreement shall to any extent be invalid, the remainder of this Agreement shall be valid and enforced to the fullest extent permitted by law.

17. AMENDMENT

This Agreement may not be amended except in a writing executed by both WATCON and CLIENT. No alterations or modifications to the proposal and to the terms and conditions shall be effective unless affirmatively contained in the signed proposal.

18. AS-BUILT DRAWINGS

Any "as-built" drawing or record drawing has been prepared based upon information in part by others. While this information is believed to be reliable, WATCON cannot assure its accuracy, and is thus not responsible for the accuracy of this record drawing or for any error or omission, which may have been incorporated into it as a result. Those relying on this record drawing are advised to obtain independent verification of its accuracy before applying it for any purpose. In addition, WATCON will provide additional services for new "as-built" drawings upon the CLIENT's request.

19. DEFINITIONS

CLIENT: shall refer to the person, firm, or corporation that has entered into a contractual relationship with WATCON providing for the performance of professional services related to civil engineering and surveying, and WATCON's subcontracted services.


PROPOSAL: shall refer to the written scope of services, unit prices, and/or fixed fee provided by WATCON to CLIENT describing, if applicable, the nature of the services to be performed by WATCON or its subcontractors, and the amount and type of compensation to be paid for those services.

CLAIMS or LIABILITY: referred to in this document shall include damages, liability for injury or loss, cost of defense and all other losses.

CERTIFY: means to state or declare a professional opinion of condition whose true properties cannot be known at the time such certification was made, despite appropriate professional evaluation. A WATCON certification of conditions in no way relieves any other party from meeting requirements

imposed by contract or other means, including commonly accepted industry practices.

Client


Watson Consulting Engineers & Surveyors, L.L.C.
By: James T. Watkins, P.E., M.B.A.
Principal

Subject: [Illegible text]

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