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BILL NO. S-18-06-21

SPECIAL ORDINANCE NO. S-63-18

AN ORDINANCE approving CONSTRUCTION CONTRACT - 2018 MANHOLE REHABILITATION - RESOLUTION/WORK ORDER #76349 - \$168,742.00 between CULY CONTRACTING, INC. and the City of Fort Wayne, Indiana, in connection with the Board of Public Works.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. That the CONSTRUCTION CONTRACT - 2018 MANHOLE REHABILITATION - RESOLUTION/WORK ORDER #76349 - by and between CULY CONTRACTING, INC. and the City of Fort Wayne, Indiana, in connection with the Board of Public Works, is hereby ratified, and affirmed and approved in all respects, respectfully for:

All labor, insurance, material, equipment, tools, power, transportation, miscellaneous equipment, etc., necessary for 2018 Manhole Rehabilitation Project - Rehabilitation of approximately 50 selected sanitary and combination sewer manholes via full depth epoxy coating and installation of chimney seals;

involving a total cost of ONE HUNDRED SIXTY-EIGHT THOUSAND SEVEN HUNDRED FORTY-TWO AND 00/100 DOLLARS - (\$168,742.00). A copy of said Contract is on file with the Office of the City Clerk and made available for public inspection, according to law.

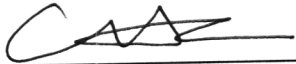
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SECTION 2. That this Ordinance shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor.



Council Member

APPROVED AS TO FORM AND LEGALITY



Carol Helton, City Attorney

PROJECT: 2018 Manhole Rehabilitation
Resolution#: 76349
Work Order#: 76349
Project Designer: Eric Steinman
Construction Manager: Michael Kiester
Manager: May 22, 2018
Bid Date: (Quote Date) 2016 SRF-A Sewer Bond
Funding:

Item#	Description	Quantity	Unit	Engineer's Estimate			Caly Contracting			Front Range			Advanced Rehab			Levitt & Siroch		
				Unit Price	Extension	Unit Price	Extension	Unit Price	Extension	Unit Price	Extension	Unit Price	Extension	Unit Price	Extension			
1	Mobilization and Demobilization	1	LS	\$5,000.00	\$ 5,000.00	\$ 1,500.00	\$ 1,500.00	\$ 2,000.00	\$ 2,000.00	\$ 5,000.00	\$ 5,000.00	\$ 42,880.00	\$ 42,880.00					
2	Work Allowance	1	LS	\$10,000.00	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00					
3	Maintenance and Protection of Traffic	1	LS	\$5,000.00	\$ 5,000.00	\$ 1,500.00	\$ 1,500.00	\$ 2,000.00	\$ 2,000.00	\$ 3,000.00	\$ 3,000.00	\$ 15,000.00	\$ 15,000.00					
4	Video Documentation of Conditions	1	LS	\$1,000.00	\$ 1,000.00	\$ 2,350.00	\$ 2,350.00	\$ 750.00	\$ 750.00	\$ 500.00	\$ 500.00	\$ 3,000.00	\$ 3,000.00					
5	24" Sanitary Casting & Lid Replacement	9	EA	\$1,800.00	\$ 16,200.00	\$ 1,430.00	\$ 12,870.00	\$ 1,400.00	\$ 12,600.00	\$ 1,260.00	\$ 11,340.00	\$ 1,000.00	\$ 9,000.00					
6	Special Hinged Casting & Lid Replacement	1	EA	\$2,000.00	\$ 2,000.00	\$ 1,145.00	\$ 1,145.00	\$ 2,000.00	\$ 2,000.00	\$ 2,363.00	\$ 2,363.00	\$ 1,500.00	\$ 1,500.00					
7	Lawns and Grasses	1	LS	\$300.00	\$ 300.00	\$ 1,500.00	\$ 1,500.00	\$ 1,000.00	\$ 1,000.00	\$ 500.00	\$ 500.00	\$ 2,000.00	\$ 2,000.00					
8	48-inch Manhole Cleaning and Coating	511	VF	\$210.00	\$ 107,310.00	\$ 190.00	\$ 97,090.00	\$ 175.00	\$ 89,425.00	\$ 193.00	\$ 98,623.00	\$ 330.00	\$ 166,330.00					
9	Chimney Seals	7	EA	\$1,000.00	\$ 7,000.00	\$ 446.00	\$ 3,122.00	\$ 600.00	\$ 4,200.00	\$ 500.00	\$ 3,500.00	\$ 450.00	\$ 3,150.00					
10	Rebuild Bench	5	EA	\$800.00	\$ 4,000.00	\$ 610.00	\$ 3,050.00	\$ 600.00	\$ 3,000.00	\$ 800.00	\$ 4,000.00	\$ 700.00	\$ 3,500.00					
11	Chimney Realignments/Replacement	10	EA	\$300.00	\$ 3,000.00	\$ 568.00	\$ 5,680.00	\$ 1,200.00	\$ 12,000.00	\$ 667.30	\$ 6,673.00	\$ 1,000.00	\$ 10,000.00					
12	Manhole Bench Coating Allowance	1	LS	\$5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00					
TOTAL BASE BID				\$ 169,310.00	\$ 169,310.00	\$ 144,817.00	\$ 144,817.00	\$ 143,975.00	\$ 143,975.00	\$ 150,430.00	\$ 150,430.00	\$ 273,660.00	\$ 273,660.00					

ALTERNATE #1													
13	48-inch Manhole Cleaning and Coating	96	VF	\$210.00	\$ 20,160.00	\$ 190.00	\$ 18,240.00	\$ 175.00	\$ 16,800.00	\$ 193.00	\$ 18,528.00	\$ 350.00	\$ 31,680.00
14	Chimney Realignments/Replacement	3	EA	\$700.00	\$ 2,100.00	\$ 569.00	\$ 1,707.00	\$ 1,200.00	\$ 3,600.00	\$ 840.00	\$ 2,520.00	\$ 1,000.00	\$ 3,000.00
TOTAL ALTERNATE #1				\$ 22,260.00	\$ 22,260.00	\$ 19,947.00	\$ 19,947.00	\$ 20,000.00	\$ 20,000.00	\$ 21,048.00	\$ 21,048.00	\$ 34,680.00	\$ 34,680.00

ALTERNATE #2													
15	72-inch Manhole Cleaning and Coating	18	VF	\$300.00	\$ 5,400.00	\$ 221.00	\$ 3,978.00	\$ 250.00	\$ 4,500.00	\$ 350.00	\$ 6,300.00	\$ 775.00	\$ 13,950.00
TOTAL ALTERNATE #2				\$ 5,400.00	\$ 5,400.00	\$ 3,978.00	\$ 3,978.00	\$ 4,500.00	\$ 4,500.00	\$ 6,300.00	\$ 6,300.00	\$ 13,950.00	\$ 13,950.00
TOTAL BASE - ALTERNATE #1 + ALTERNATE #2*				\$ 197,770.00	\$ 197,770.00	\$ 168,742.00	\$ 168,742.00	\$ 168,975.00	\$ 168,975.00	\$ 177,847.00	\$ 177,847.00	\$ 322,290.00	\$ 322,290.00

*Project awarded based on Base Bid - Alternate #1 Bid - Alternate #2 Bid

Addendum No. 1
 Bidder's Bond
 Form 96
 Non-Collusion Affidavit
 Cert. in Lieu/Financial Statement
 Employee Drug Testing Program (<\$1,50K)

Reviewed By:  Eric Steinman

#76349

CITY OF FORT WAYNE, INDIANA

Culy Contracting, Inc.

(Vendor Name)

VENDOR DISCLOSURE STATEMENT RELATING TO:

1. **FINANCIAL INTERESTS;**
2. **POTENTIAL CONFLICTS OF INTEREST;**
3. **CURRENT AND PENDING CONTRACTS OR PROCUREMENTS**

Vendors desiring to enter into certain contracts with the City of Fort Wayne, Indiana (the "City") shall disclose their financial interests, potential conflicts of interest and current and pending contract or procurement information as set forth below.

The following disclosures by Vendors are required for all contracts with annual payments by the City in the amount of \$50,000 or more. Vendors shall disclose their financial interests, potential conflicts of interest and other contract and procurement information identified in Sections 1, 2 and 3 below as a prerequisite for consideration for a contract awarded by the City. This Disclosure Statement must be completed and submitted together with the Vendor's contract, bid, proposal or offer.

A publicly traded entity may submit its current 10K disclosure filing in satisfaction of the disclosure requirements set forth in Sections 1 and 2 below.

Section 1: Disclosure of Financial Interest in Vendor

a. If any individuals have either of the following financial interests in Vendor (or its parent), please check all that apply and provide their names and addresses (attach additional pages as necessary):

- (i) Equity ownership exceeding 5%
- (ii) Distributable income share exceeding 5%
- (iii) Not Applicable (If N/A, go to Section 2)

Name: _____ Name: _____

Address: _____ Address: _____

b. For each individual listed in Section 1a. show his/her type of equity ownership:

sole proprietorship stock
 partnership interest units (LLC)
 other (explain) _____

c. For each individual listed in Section 1a. show the percentage of ownership interest in Vendor (or its parent): ownership interest:

Name: _____ %

Name: _____ %

Section 2: Disclosure of Potential Conflicts of Interest (not applicable for vendors who file a 10K)

For each individual listed in Section 1a. check "Yes" or "No" to indicate which, if any, of the following potential conflict of interest relationships apply. If "Yes", please describe using space under applicable subsection (attach additional pages as necessary):

- a. City employment, currently or in the previous 3 years, including contractual employment for services:
Yes No

Jon Moore worked for City of Fort Wayne

- b. City employment of "Member of Immediate Family" (defined herein as: Spouse, Child, Step Child, Parent or Step Parent, Father-in-law or Mother-in-law, Brother or Sister, Step Brother or Step Sister, Half Brother or Half Sister, Brother-in-law or Sister-in-law, Son-in-law or Daughter-in-law, Grandparent or Step Grandparent, Grandparent or Step Grandparent of Spouse, Grandchild)
Including contractual employment for services in the previous 3 years:

Yes No

- c. Relationship to Member of Immediate Family holding elective City office currently or in the previous 3 years: Yes No
-
-
-

Section 3: DISCLOSURE OF OTHER CONTRACT AND PROCUREMENT RELATED INFORMATION

- a. Does Vendor have current contracts (including leases) with the City? Yes No

If "Yes", identify each current contract with descriptive information including purchase order or contract reference number, contract date and City contact below (attach additional pages as necessary).

- b. Does Vendor have pending contracts (including leases), bids, proposals, or other pending procurement relationship with the City? Yes No

If "Yes", identify each pending matter with descriptive information including bid or project number, contract date and City contact using space below (attach additional pages as necessary).

c. Does vendor have any existing employees that are also employed by the City of Fort Wayne?

Yes _____ No X

If "Yes", provide the employee's name, current position held at vendor, and employment payment terms (hourly, salaried, commissioned, etc.).

Name / Position / Payment Terms:

Name / Position / Payment Terms:

Name / Position / Payment Terms:

d. Does vendor's representative, agent, broker, dealer or distributor (if applicable) have any existing employees that are also employed by the City of Fort Wayne? For each instance, please provide the name of the representative, agent, broker, dealer or distributor; the name of the City employee, and the payment terms (hourly, salaried, commissioned, etc.).

Company / Name / Payment Terms: N/A

Company / Name / Payment Terms: _____

Section 4: CERTIFICATION OF DISCLOSURES

In connection with the disclosures contained in Sections 1, 2 and 3 Vendor hereby certifies that, except as described in attached Schedule A:

- a. Vendor (or its parent) has not, within the five (5) year period preceding the date of this Disclosure Statement, been debarred, suspended, proposed for debarment declared ineligible or voluntarily excluded from any transactions by any federal, state or local unit of government;
- b. No officer or director of Vendor (or its parent) or individual listed in Section 1a. is presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any offense;
- c. Vendor (or its parent) has not, within the five (5) year period preceding the date of this Disclosure Statement, had one or more public transactions (federal, state or local) terminated for cause or default;
- d. No officer or director of Vendor (or its parent) or individual listed in Section 1a. has, within the five (5) year period preceding the date of this Disclosure Statement, been convicted, adjudged guilty, or found liable in any criminal or civil action instituted by the City, the federal or state government or any other unit of local government; and
- e. Neither Vendor, nor its parent, nor any affiliated entity of Vendor, or any of their respective officers, directors, or individuals listed in Section 1a. is barred from contracting with any unit of any federal, state or local government as a result of engaging in or being convicted of: (i) bid-rigging; (ii) bid-rotating; or (iii) any similar federal or state offense that contains the same

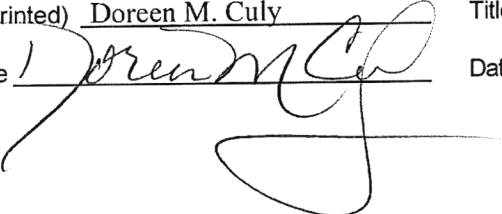
elements as the offense of bid-rigging or bid-rotating

- f. Pursuant to IC 5-22-16.5, Vendor hereby certifies they do NOT provide \$20 million dollars or more in goods or services to the energy sector of Iran. Vendor also certifies it is not a financial institution that extends \$20 million dollars or more in credit that will provide goods or services to the energy sector of Iran or extends \$20 million dollars or more in credit to a person identified on the list as a person engaging in investment activities in Iran.

The disclosures contained Sections 1, 2 and 3 and the foregoing Certifications are submitted by

<u>Culy Contracting, Inc.</u> (Name of Vendor)	<u>5 Industrial Park Drive, Winchester, IN 47394</u> Address <u>(765) 584-8509</u> Telephone <u>jonm@culycontracting.com</u> E-Mail Address
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The individual authorized to sign on behalf of Vendor represents that he/she: (a) is fully informed regarding the matters pertaining to Vendor and its business; (b) has adequate knowledge to make the above representations and disclosures concerning Vendor; and (c) certifies that the foregoing representations and disclosures are true and accurate to the best of his/her knowledge and belief.

Name (Printed) <u>Doreen M. Culy</u>	Title <u>President</u>
Signature 	Date <u>May 21, 2018</u>

NOTE: FAILURE TO COMPLETE AND RETURN THIS FORM WITH YOUR DOCUMENTATION MAY RESULT IN YOUR CONTRACT, OFFER, BID OR PROPOSAL BEING DISQUALIFIED FROM CONSIDERATION.

**MINUTES OF THE ANNUAL MEETING
OF THE SHAREHOLDERS OF
CULY CONTRACTING, INC.**

Winchester, Indiana
March 1st, 2014

The annual meeting of the shareholders of Culy Contracting, Inc., a corporation organized and existing under the laws of the State of Indiana ("Company") was held at the principal office of Company in Winchester, Indiana, on the 1st day of March 2014. Doreen Culy and Chris Culy, being all of the shareholders of Company, were present, either in person or by telephone.

Doreen Culy served as Chairperson of the meeting and Chris Culy served as Secretary.

The first item of business to come before the meeting was a discussion of recent changes made to both the structure and ownership of Company. The Chairperson acknowledged that Articles of Amendment were filed on behalf of Company for the purposes of dispensing with the requirement of having a Board of Directors pursuant to Ind. Code §23-1-33-1(c). As a result, only a meeting of the shareholders of Company is being held. The Chairperson then directed that a copy of the Articles of Amendment be placed in Company's minute book and be made part of the records of Company.

The next item of business to come before the meeting was the change in ownership of Company. The Chairperson noted that Company is a relatively new entity that resulted from a corporate reorganization that was effected on or about February 14, 2012, to separate the construction business previously owned by Chris Culy and his brother, Ronald D. Culy. The Chairperson further noted that because of the separation of the business between the brothers and despite the pending lawsuit arising from such reorganization, Chris Culy could now freely transfer, gift or sell all or any portion of his stock in Company. In furtherance of the business and succession planning for Company, effective as of January 1, 2014, Chris Culy, as the then sole shareholder of Company, gifted and transferred to Doreen Culy, as evidenced by that certain Capital Stock Transfer (Gift Transfer) instrument attached hereto as Exhibit "A" and made a part hereof (the "Gift Transfer"), fifty (50) shares of his common capital stock in Company, effectively giving Doreen Culy a fifty percent (50%) interest in Company. The Gift Transfer was made to be effective for all purposes as of January 1, 2014. After discussion concerning the transfer, upon motion duly made by the Chairperson and seconded by the Secretary, Company's shareholders adopted the following resolutions:

RESOLVED: that the transfer of stock to Doreen Culy pursuant to the Gift Transfer be confirmed and hereby recognized by Company for all purposes as of January 1, 2014;

FURTHER RESOLVED: that Stock Certificate No. 2 be cancelled and that Stock Certificate No. 3 representing fifty (50) shares of the no par value common capital stock of Company be issued to Chris Culy in replacement of Stock Certificate No. 2; and

FURTHER, RESOLVED: that Stock Certificate No. 4 be issued to Doreen Culy representing fifty (50) shares of the no par value common capital stock of Company.

The Chairperson then presented a copy of that certain Agreement for Sale and Purchase of Common Capital Stock (Culy Contracting) entered into by and between Chris Culy as the "Selling Shareholder" and Doreen Culy as the "Purchaser", a copy of which is attached hereto as Exhibit "B" and made a part hereof (the "Agreement"). The Chairperson noted that pursuant to the Agreement, Doreen Culy purchased, for value, one (1) share of Company for cash consideration as set forth in the Agreement, which as of the date hereof, was calculated by Company's accountants to be \$19,068.44 per share (the "Cash Consideration"). After discussion concerning the purchase and sale, and the acknowledgment of the receipt of the Cash Consideration by Chris Culy, upon motion duly made by the Chairperson and seconded by the Secretary, Company's shareholders adopted the following resolutions:

RESOLVED: that the purchase, sale and transfer of one (1) share of the no par value common capital stock of Company held by Chris Culy to Doreen Culy pursuant to the Agreement be confirmed and hereby recognized by Company for all purposes as of January 1, 2014;

FURTHER RESOLVED: that Stock Certificate No. 3 be cancelled and that Stock Certificate No. 5 representing forty-nine (49) shares of the no par value common capital stock of Company be issued to Chris Culy in replacement of Stock Certificate No. 3; and

FURTHER, RESOLVED: that Stock Certificate No. 6 be issued to Doreen Culy representing one (1) share of the no par value common capital stock of Company.

The next item of business to come before the meeting was the election of officers of Company to serve until the next annual meeting of Company's shareholders, or until their respective successors are duly elected and qualified. Thereafter, upon motion duly made by the Chairperson and seconded by the Secretary, Company's shareholders adopted the following resolution:

RESOLVED: that the following be and they hereby are elected as officers of Company to serve until the next annual meeting of the sole shareholder, or until their successors are duly elected and qualified:

<u>Name</u>	<u>Office</u>
Doreen Culy	President
Chris Culy	Vice-President / Director of Operations
Aaron Anderson	Vice-President / Director of Sales
JJ Hall	Vice-President / General Manager
Bruce Culy	Secretary / Treasurer

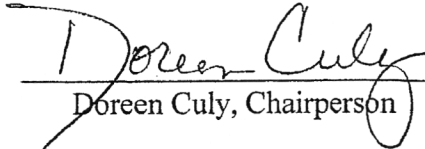
The Chairperson then reviewed and discussed the business of Company over the course of the immediately preceding fiscal year, which business focuses on the water and sewer industry, including pipelines, manholes, sewer mains and site preparation for municipalities, commercial, industrial and residential customers. Company operates in Indiana and throughout the Midwest. As part of the discussion, the Chairperson also reviewed the financial results from the operations and activities of Company for its fiscal year ended December 31, 2013.

The next item of business to come before the meeting was the review of the acts taken on behalf of Company by the officers and shareholders of Company since the last annual shareholder meeting. Thereafter, upon motion duly made by the Chairperson and seconded by the Secretary, Company's shareholders adopted the following resolution:

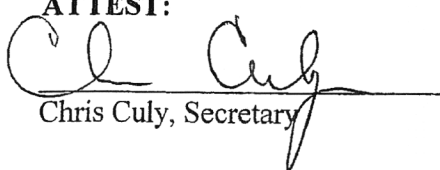
RESOLVED: That all of the acts of the officers of Company done and performed on behalf of Company since the date of the last annual meeting of Company's shareholders be ratified, approved and adopted in all respects.

The last item of business to come before the meeting was the discussion of the potential opportunities and possible strategies that should be considered and/or implemented by Company for the 2014 fiscal year.

There being no further business to come before the meeting, the meeting was adjourned.



Doreen Culy, Chairperson

ATTEST:


Chris Culy, Secretary

**AGREEMENT
BETWEEN OWNER AND CONTRACTOR
ON THE BASIS OF A STIPULATED PRICE**

Resolution 76349

Work Order 76349

THIS AGREEMENT is by and between the Board of Public Works of the City of Fort Wayne, Indiana (hereinafter called Owner) and Culy Contracting, Inc. (hereinafter called Contractor).

Owner and Contractor, in consideration of the mutual covenants hereinafter set forth, agree as follows:

ARTICLE 1 – WORK

1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

Rehabilitation of approximately 50 selected sanitary and combination sewer manholes via full depth epoxy coating and installation of chimney seals.

ARTICLE 2 – THE PROJECT

2.01 The Project for which the Work under the Contract Documents may be the whole or only a part is generally described as follows:

2018 Manhole Rehabilitation

ARTICLE 3 – ENGINEER

3.01 The Project has been designed by Fort Wayne City Utilities Engineering, Fort Wayne, IN. Throughout these Contract Documents, the term Engineer is used. Engineer is to act as Owner's representative, assume all duties and responsibilities, and have the rights and authority assigned to Engineer in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents. Owner will advise Contractor prior to issuance of Notice to Proceed as to who will serve as Engineer.

ARTICLE 4 – CONTRACT TIMES

4.01 Time of the Essence

A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

4.02 Days to Achieve Substantial Completion and Final Payment

A. Milestone 1: All Work, with the exception of final restoration, shall be completed **90 days** after the date when the Contract Times commence to run as provided in Paragraph 2.03 of the General Conditions.

B. The Work will be substantially completed within **120 days** after the date when the Contract Times commence to run as provided in Paragraph 2.03 of the General Conditions, and completed and ready for final payment in accordance

with Paragraph 14.07 of the General Conditions within **150 days** after the date when the Contract Times commence to run.

- C. Definitions of Substantial Completion for this Work shall consist of the point at which all Work, including final restoration, and Owner's acceptance of the Contractor's 3-year warranty..

4.03 Liquidated Damages

- A. Contractor and Owner recognize that time is of the essence of this Agreement and that Owner will suffer financial loss if the Work is not completed within the times specified in Paragraph 4.02 above, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions. The parties also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty), Contractor shall pay Owner **\$1,000.00** for each day that expires after the time specified in Paragraph 4.02 above for Substantial Completion until the Work is substantially complete. After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Time or any proper extension thereof granted by Owner, Contractor shall pay Owner **\$500.00** for each day that expires after the time specified in Paragraph 4.02 above for completion and readiness for final payment until the Work is completed and ready for final payment.

ARTICLE 5 – CONTRACT PRICE

- 5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents an amount in current funds equal to the sum of the amounts determined pursuant to Paragraphs 5.01.A, 5.01.B, and 5.01.C below:

- A. Not used.
- B. For all Unit Price Work, an amount equal to the sum of the established unit price for each separately identified item of Unit Price Work times the actual quantity of that item as indicated in this Paragraph 5.01.B:

As provided in Paragraph 11.03 of the General Conditions, estimated quantities are not guaranteed, and determinations of actual quantities and classifications are to be made by Engineer as provided in Paragraph 9.08 of the General Conditions. Unit prices have been computed as provided in Paragraph 11.03 of the General Conditions.

UNIT PRICE WORK

See Article 5 (itemized Bid Schedule) of the Bid Form

TOTAL OF ALL UNIT PRICES:

One Hundred Sixty Eight Thousand, Seven Hundred Forty Two Dollars and Zero Cents
(\$168,742.00).

Basis of Award is Base Bid plus Alternates 1&2

- C. Not Used.

ARTICLE 6 – PAYMENT PROCEDURES

6.01 Submittal and Processing of Payments

- A. Contractor shall submit Applications for Payment in accordance with Article 14 of the General Conditions. Engineer will process Applications for Payment as provided in the General Conditions.

6.02 Progress Payments; Retainage

- A. Owner shall make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment within 45 days of receipt during performance of the Work as provided in Paragraph 6.02.A.1 below. All such payments will be measured by the Schedule of Values established as provided in Paragraph 2.07.A of the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no Schedule of Values, as provided in the General Requirements.
 1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Engineer may determine or Owner may withhold, in accordance with Paragraph 14.02 of the General Conditions.
 - a. 95% of Work completed (with the balance being retainage); and
 - b. 95% of cost of materials and equipment not incorporated in the Work (with the balance being retainage).
- B. Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to 100% of the Work completed, less such amounts as Engineer shall determine in accordance with Paragraph 14.02.B.5 of the General Conditions and less 200% of Engineer's estimate of the value of Work to be completed or corrected as shown on the tentative list of items to be completed or corrected attached to the certificate of Substantial Completion. However, payments to the Contractor are not to exceed 95% of the total Contract Price until the Owner has verified that the Contractor has made good faith efforts to attain the Indiana Finance Authority (IFA) State Revolving Fund (SRF) goals stipulated in Paragraph 10.06. Payment of the final 5% of the total Contract Price will be dependent upon acceptance of the Work, in accordance with Paragraph 14.07 of the General Conditions, and good faith efforts to comply with the IFA/SRF participation requirements; subject to reduction in the event of non-compliance as provided in Paragraph 10.06.
- C. Escrow Agreement.
 1. If the Contract is in excess of \$200,000, the contract will be subject to the standard Board of Public Works escrow agreement; unless written notice is received from Contractor prior to execution of the Agreement stating that an Escrow Account is not desired. If an Escrow Account is not desired, then the Board of Public Works, in accordance with IC 36-1-12-14, shall hold the retainage and will not pay interest on the amounts of retainage that it holds.

6.03 Final Payment

- A. Upon final completion and acceptance of the Work in accordance with Paragraph 14.07 of the General Conditions, Owner shall pay the remainder of the Contract Price as recommended by Engineers as provided in said Paragraph 14.07.

ARTICLE 7 – INTEREST

- 7.01 All moneys not paid when due as provided in Article 14 of the General Conditions shall bear interest at the rate at the maximum rate allowed by law at the place of the Project.

ARTICLE 8 – CONTRACTOR'S REPRESENTATIONS

- 8.01 In order to induce Owner to enter into this Agreement, Contractor makes the following representations:
- A. Contractor has examined and carefully studied the Contract Documents and the other related data identified in the Bidding Documents.
 - B. Contractor has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
 - C. Contractor is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, and performance of the Work.
 - D. Contractor has carefully studied all: (1) reports of exploration and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous the site (except Underground Facilities), which have been identified in the Supplementary Conditions as provided in Paragraph 4.02 of the General Conditions and (2) reports and drawings of Hazardous Environmental Conditions, if any, at the Site that have been identified in the Supplementary Conditions as provided in Paragraph 4.06 of the General Conditions.
 - E. Contractor has obtained and carefully studied (or assumes responsibility for having done so) all additional supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the Site which may affect cost, progress, or performance of the Work or which relate to any aspect of means, methods, techniques, sequences, and procedures of construction to be employed by Contractor including applying the specific means, methods, techniques, sequences, and procedures of construction, if any expressly required by the Contract Documents to be employed by Contractor, and safety precautions and programs incident thereto.
 - F. Contractor does not consider that further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.
 - G. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
 - H. Contractor has correlated the information known to Contractor, information and observations obtained from visits to the Site, report and drawings identified in the Contract Documents, and all additional examinations, investigations, explorations, tests, studies and data with the Contract Documents.
 - I. Contractor has given Design Manager written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof provided by Design Manager is acceptable to Contractor.
 - J. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
 - K. In connection with the performance of Work under this Contract, Contractor agrees to comply with Anti-Discrimination Under Indiana Code Chapter 5-16-6-1 and be bound by Chapter 93.036, of the Code of the City of Fort Wayne, Indiana of 1974, passed by the Common Council of the City of Fort Wayne, Indiana as General Ordinance No. G-34-78 (as amended) on December 12th, 1978. Contractor shall file a Manpower Utilization Report for this project with the Compliance Office within ten (10) days after completion of the construction or upon request of the Office of Compliance.

ARTICLE 9 – CONTRACT DOCUMENTS

9.01 Contents

- A. The Contract Documents consist of the following:
1. This Agreement (pages 00 52 00-1 to 00 52 00-9, inclusive);
 2. Escrow Account Agreement (pages 00 54 43-1 to 00 54 43-3, inclusive);
 3. Drug Policy Acknowledgement Form (page 00 54 52-1);
 4. E-Verify Affidavit (page 00 54 53-1, inclusive);
 5. SRF Loan Program DBE Packet (pages 00 54 61-1 to 00 54 61-4, inclusive);
 6. SRF Attachment B – Davis-Bacon Act Contract Provisions (pages 00 54 65-1 to 00 54 65-8, inclusive);
 7. SRF Attachment C – Wage Fringe Benefit Certification Contract Provisions (page 00 54 66);
 8. SRF Attachment E – Suspension and Debarment Contract Provisions (page 00 54 68-1);
 9. SRF Attachment I – AIS Contract Provisions
 10. SRF Attachment J – AIS Contractor Certification
 11. SRF EPA Form OEE-1 (page 00 54 72-1);
 12. SRF EPA Form OEE-2 (page 00 54 73-1);
 13. Performance Bond Form (pages 00 61 13.13-1 to 00 61 13.13-2, inclusive);
 14. Payment Bond Form (pages 00 61 13.16-1 to 00 61 13.16-2, inclusive);
 15. Federal Wage Rate Requirements (see Appendix);
 16. General Conditions (pages 00 72 00-1 to 00 72 00-41, inclusive);
 17. Supplementary Conditions (pages 00 73 00-1 to 00 73 00-12, inclusive);
 18. Miscellaneous Work Items (pages 01 11 21-1 to 01 11 21-2);
 19. Exhibits included in the project manual;
 20. Addenda (numbers 1 to 1, inclusive);
 21. Attachments to this Agreement (enumerated as follows):
 - a. Contractor’s Bid Schedule (page 00 41 00-3);
 - b. Documentation submitted by Contractor prior to Notice of Award;

22. The following which may be delivered or issued on or after the Effective Date of the Agreement and are not attached hereto:
- a. Notice to Proceed;
 - b. Written Amendments;
 - c. Work Change Directives;
 - d. Change Orders;
- B. The documents listed in Paragraph 9.01.A are attached to this Agreement (except as expressly noted otherwise above).
- C. There are no Contract Documents other than those listed above in this Article 9.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in Paragraph 3.04 of the General Conditions.

ARTICLE 10 – MISCELLANEOUS

10.01 Terms

- A. Terms used in this Agreement will have the meanings stated in the General Conditions.

10.02 Assignment of Contract

- A. No assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

10.03 Successors and Assigns

- A. Owner and Contractor each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

10.04 Severability

- A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

10.05 Contractor's Certifications

- A. Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 10.05:
1. “corrupt practice” means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the bidding process or in the Contract execution;
 2. “fraudulent practice” means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to detriment of Owner, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;
 3. “collusive practice” means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and
 4. “coercive practice” means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the contract.

10.06 M.B.E./W.B.E. Participation

- A. **Indiana State Revolving Fund Loan Program** – This project is being financed in whole or in part by the Indiana State Revolving Fund Loan Programs. The Contractor is required to comply with all federal and state laws, rules, regulations, and contract provisions included in Indiana Finance Authority (IFA) State Revolving Fund (SRF) documents per Article 9 of this agreement
- (IFA SRF requirements and forms are available on the IFA SRF website.)
- B. **Request for Waiver** – If, at the time final payment application is made, Contractor has not attained the IFA/SRF goal, Contractor shall file with the final payment application a “Request for Waiver.” Said Request for Waiver shall contain a written description of the efforts taken by Contractor to attain the goal.
- C. **Determination of Waiver Requests** – The Vendor Compliance Department of the City of Fort Wayne shall examine all Requests for Waiver to determine if Contractor’s efforts constitute good faith efforts to attain such goal and shall submit recommendations concerning said requests for Waiver for the final determination of the Board of Public Works of the City of Fort Wayne.
- D. **Waiver Approved** – In the event the Board of Public Works determines that a good faith effort to comply with the IFA/SRF participation requirements has been made, the Contract Price shall not be reduced, and the balance owing to the Contractor shall be paid in full.

10.07 Other Provisions

- A. The Allen County Regional Water & Sewer District shall be designated as a dual obligee under this contract. All bonds shall name both the Board of Public Works of the City of Fort Wayne, Indiana and the Allen County Regional Water & Sewer District.

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement (Contract/Resolution Number 76349). One counterpart has been delivered to Owner, and one counterpart delivered to Contractor. All portions of the Contract Documents have been signed or have been identified by Owner and Contractor or on their behalf.

This Agreement will be effective on _____, _____ (which is the Effective Date of the Agreement).

CONTRACTOR:

CULY CONTRACTING, INC.

BY: 1 Doreen M Culy
(Name)

TITLE: Doreen M. Culy, President

DATE: 6/11/18
(Date signed by Contractor)

Address for giving notices:

5 Industrial Park Drive
PO Box 29
Winchester, IN 47394

OWNER:

CITY OF FORT WAYNE

BY: _____
THOMAS C. HENRY, MAYOR

BOARD OF PUBLIC WORKS

BY: _____
SHAN GUNAWARDENA, CHAIR

BY: _____
MIKE AVILA, MEMBER

BY: _____
KUMAR MENON, MEMBER

ATTEST: _____
MICHELLE FULK, CLERK

DATE: _____
(Date signed by Board)

ACKNOWLEDGMENT (CONTRACTOR)

STATE OF (INDIANA)
SS:)
COUNTY OF (WANDOLPH)

BEFORE ME, a Notary Public, in and for said County and State, this 11th day of JUNE, 2018, personally appeared the within named DOREEN M. CULY who under penalty of perjury says that he is the PRESIDENT of CULY CONTRACTING and as such duly authorized to execute the foregoing instrument and acknowledged the same as the voluntary act and deed of CULY CONTRACTING for the uses and purposes therein set forth.

IN WITNESS WHEREOF, hereunto subscribed my name, affixed my official seal.

Mark Schildmeier
Notary Public

MARK SCHILDMER
Printed Name of Notary

My Commission Expires: 4/3/2025

Resident of HAMILTON County



ACKNOWLEDGMENT (OWNER)

STATE OF INDIANA)
SS:)
COUNTY OF ALLEN)

BEFORE ME, a Notary Public, in and for said County and State, this _____ day of _____, _____, personally appeared the within named Thomas C. Henry, Shan Gunawardena, Mike Avila, Kumar Menon and Michelle Fulk, by me personally known, who being by me duly sworn said that they are respectively the Mayor of the City of Fort Wayne, and Chairman, Members, and Clerk of the Board of Public Works of the City of Fort Wayne, Indiana, and that they signed said instrument on behalf of the City of Fort Wayne, Indiana, with full authority so to do and acknowledge said instrument to be in the voluntary act and deed of said City for the uses and purposes therein set forth.

IN WITNESS WHEREOF, hereunto subscribed my name, affixed my official seal.

Notary Public

Printed Name of Notary

My Commission Expires:

Resident of _____ County

ARTICLE 5 – BASIS OF BID

Name Culy Contracting, Inc.

5.01 Bidder will complete the Work in accordance with the Contract Documents for the following price(s):

BASE BID						
Item #	Section	Description	Estimated Quantity	Unit	Unit Price	Extension
1	01 11 21-A	Mobilization and Demobilization	1	LS	\$1,500.00	\$1,500.00
2	01 11 21-B	Work Allowance	1	LS	\$10,000.00	\$ 10,000.00
3	01 55 26-A	Maintenance and Protection of Traffic	1	LS	\$1,500.00	\$1,500.00
4	01 71 16.13-A	Video Documentation of Conditions	1	LS	\$2,350.00	\$2,350.00
5	00 56 00-A	24" Sanitary Casting & Lid Replacement	9	EA	\$1,430.00	\$12,870.00
6	00 56 00-B	Special Hinged Casting & Lid Replacement	1	EA	\$1,145.00	\$1,145.00
7	32 92 00-A	Lawns and Grasses	1	LS	\$1,500.00	\$1,500.00
8	33 01 30.78-A	48-inch Manhole Cleaning and Coating	511	VF	\$190.00	\$97,090.00
9	34 01 30.78-C	Chimney Seals	7	EA	\$446.00	\$3,122.00
10	33 01 30.78-D	Rebulid Bench	5	EA	\$610.00	\$3,050.00
11	33 01 30.78-E	Chimney Realignment/Replacement	10	EA	\$569.00	\$5,690.00
12	33 01 30.78-F	Manhole Bench Coating Allowance	1	LS	\$5,000.00	\$ 5,000.00
TOTAL BASE BID						\$144,817.00

ALTERNATE #1 BID						
Item #	Section	Description	Estimated Quantity	Unit	Unit Price	Extension
13	33 01 30.78-A	48-inch Manhole Cleaning and Coating	96	VF	\$190.00	\$18,240.00
14	33 01 30.78-D	Chimney Realignment/Replacement	3	EA	\$569.00	\$1,707.00
TOTAL ALTERNATE #1 BID						\$19,947.00

ALTERNATE #2 BID						
Item #	Section	Description	Estimated Quantity	Unit	Unit Price	Extension
15	33 01 30.78-B	60-inch Manhole Cleaning and Coating	18	VF	\$221.00	\$3,978.00
TOTAL ALTERNATE #2 BID						\$3,978.00

CONTRIBUTION STATEMENT BY A BUSINESS ENTITY

I, Doreen M. Culy, under the penalties of perjury, affirm and state as follows:

1. I am over the age of eighteen (18) years old.
2. I am an officer or party of the below named company/firm, a business entity within the meaning of Section 37.28 of the Fort Wayne Municipal Code of Ordinances (the "City Code").
3. As an officer or party of the below named company/firm, I am authorized to execute this *Contribution Statement by a Business Entity* on behalf of said business entity.
4. Since January 1, 2018, neither the below named company/firm, nor any of its covered principals, partners, officers, subsidiaries, or other individuals as defined in Section 37.28 has made a contribution to any City of Fort Wayne candidate or holder of public office, whether directly or indirectly by contribution to such candidate's or holder of public office's campaign committee, a City or Allen County party committee or a political action committee that regularly engages in the support of municipal elections and/or municipal parties in the City of Fort Wayne, which would prohibit the City of Fort Wayne from negotiating or entering into a contract with the below named company/firm under Section 37.28 of the City Code.
5. This *Contribution Statement by a Business Entity* is made pursuant to Section 37.28 of the City Code to support approval of a contract between the City of Fort Wayne, Indiana and the below named company/firm.

6/11/2018
Date

Culy Contracting, Inc.
Company/Firm

By: Doreen M. Culy

Printed: Doreen M. Culy

Title: President

Interoffice Memo

Date: June 20, 2018
To: Common Council Members
From: Michael Kiester, Manager, City Utilities Engineering
RE: **2018 Manhole Rehabilitation
Resolution / Work Order Number 76349**

*Michael Kiester
6.20.2018*

Council District: City Wide

The contractor shall furnish all labor, insurance, equipment, materials and power for the completion of the project: "2018 Manhole Rehabilitation" as follows: **Rehabilitation of approximately 50 selected sanitary and combination sewer manholes via full depth epoxy coating and installation of chimney seals.**

Implications of not being approved: Manholes have high infiltration and inflow of groundwater that takes capacity away from the sewer system and adds to unnecessary treatment costs at the Water Pollution Control Plant.

If Prior Approval is being Requested, Justify: N/A

This project was advertised to contractors on May 4, 2018 and May 11, 2018 in the Journal Gazette.

The contract for Resolution #76349 awarded to Culy Contracting, Inc. for \$168,742.00 was the lowest most responsive bidder of 4 bidders and 15% below the Engineer's estimate of \$197,470.00. The second lowest bidder was \$133.00 above Culy Contracting's bid.

The cost of said project funded by 2016 Sewer SRF Bond.

Council Introduction Date: June 26, 2018

CC: BOW
Matthew Wirtz
Diane Brown
Construction Manager
File

BILL NO. S-18-06-21

REPORT OF COMMITTEE ON CITY UTILITIES

July 10, 2018

Russell Jehl Chair

Glynn Hines Co-Chair

All Council Members

An Ordinance approving Construction Contract - 2018 Manhole Rehabilitation - Resolution/Work Order #76349 - between Culy Contracting, INC. and the City of Fort Wayne, Indiana, in connection with the Board of Public Works

Involving a total cost of \$168,742.00

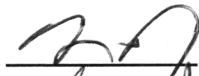
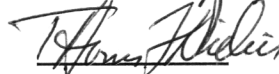
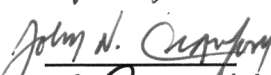





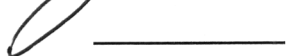
COMMITTEE ON CITY UTILITIES HAVE HAD SAID Ordinance under consideration and beg leave to report back to the Common Council that said Ordinance

DO PASS

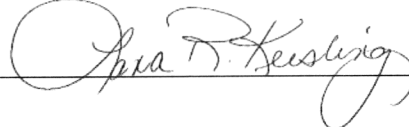
DO NOT PASS

ABSTAIN

NO REC

	_____	_____	_____
	_____	_____	_____
	_____	_____	_____
	_____	_____	_____
	_____	_____	_____
	_____	_____	_____
	_____	_____	_____
	_____	_____	_____
	_____	_____	_____

**LANA R. KEESLING
CITY CLERK**



Public Hearing Date: N/A


Read the first time in full and on motion by Councilman Hines.

Read the second time by title and referred to the City Utilities Committee.

Read the third time in full and on motion by Councilman Jehl, placed on passage by the following vote:

<u>TOTAL VOTES</u>	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
ARP	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
BARRANDA	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
CRAWFORD	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
DIDIER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ENSLEY	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
FREISTROFFER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
HINES	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
JEHL	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
PADDOCK	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

DATED: July 10, 2018




 LANA R. KEESLING, CITY CLERK

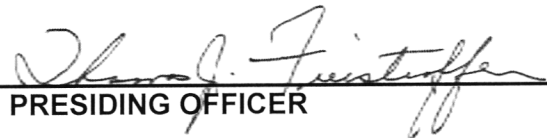
Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as

Special Ordinance No. S-18-06-21 on the 10th day of July, 2018

ATTEST:



 LANA R. KEESLING
 CITY CLERK



 PRESIDING OFFICER


Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 11th of July 2018, at the hour of 9:45 o'clock A.M. E.S.T.



 LANA R. KEESLING, CITY CLERK

Approved and signed by me this 16TH day of JULY

2018, at the hour of 10:30 O'clock AM. E.S.T.



 THOMAS C. HENRY, MAYOR