

RESOLUTION NO. R17-16

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH CIP CONSTRUCTION TECHNOLOGIES, INC. FOR MANHOLE REHABILITATION SERVICES WITHIN THE CITY OF LAUREL.

BE IT RESOLVED by the City Council of the City of Laurel, Montana:

Section 1: Approval. The Contract between the City of Laurel and CIP Construction for the manhole rehabilitation project and work described in the attached Contract and the Proposal (Exhibit A) is accepted and approved.

Section 2: Execution. The Mayor and City Clerk/Treasurer of the City of Laurel are hereby given authority to accept and execute the Contract on behalf of the City.

Section 3: Effective date. The effective date for the attached Contract is hereby approved upon approval by the City Council.

Introduced at a regular meeting of the City Council on May 16, 2017, by Council Member Mountsier.

PASSED and APPROVED by the City Council of the City of Laurel this 16th day of May, 2017.

APPROVED by the Mayor this 16th day of May, 2017.

CITY OF LAUREL



Mark A. Mace, Mayor

ATTEST:



Bethany Keeler, Clerk/Treasurer

Approved as to form



Sam S. Painter, Civil City Attorney

INDEPENDENT CONTRACTOR SERVICE CONTRACT

This Contract is made and entered into this 16th day of May, 2017, between the City of Laurel, a municipal corporation organized and existing under the laws of the State of Montana whose address is P.O. Box 10, Laurel, Montana 59044, hereinafter referred to as "City" and CIP Construction Technologies, Inc., a contractor licensed to conduct business in the State of Montana, whose address is 134 1st Avenue West, Kalispell, Montana 59901, hereinafter referred to as "Contractor".

SECTION ONE DESCRIPTION OF SERVICES

A. Purpose. City shall hire Contractor as an independent contractor to perform for City the services described in the Bid dated April 25, 2017, attached hereto as Exhibit "A" and by this reference made part of this contract.

B. Effective Date. This contract is effective upon the date of its execution by both Parties. Contractor shall complete the services within 60 days of commencing work. The parties may extend the term of this contract in writing prior to its termination for good cause.

C. Scope of Work. Contractor shall perform his/her work and provide services in accordance with the specifications and requirements of this contract, any applicable Montana Public Work Standard(s) and Exhibit "A".

SECTION TWO CONTRACT PRICE

Payment. City shall pay Contractor sixty-three thousand eight hundred ninety-three dollars (\$63,893.00) for the work described in Exhibit A. Any alteration or deviation from the described work that involves extra costs must be executed only upon written request by the City to Contractor and will become an extra charge over and above the contract amount. The parties must agree to extra payments or charges in writing. Prior to final payment, Contractor shall provide City with an invoice for all charges.

SECTION THREE CITY'S RESPONSIBILITIES

Upon completion of the contract and acceptance of the work, City shall pay Contractor the contract price, plus or minus any additions or deductions agreed upon between the parties in accordance with Sections one and two, if any.

SECTION FOUR CONTRACTOR'S WARRANTIES AND RESPONSIBILITIES

A. Independent Contractor Status. The parties agree that Contractor is an independent contractor for purposes of this contract and is not to be considered an employee of the City for any purpose hereunder. Contractor is not subject to the terms and provisions of the City's personnel policies or handbook and shall not be considered a City employee for workers' compensation or any other purpose. Contractor is not authorized to represent the City or otherwise bind the City in any dealings, agreements or sub-contracts in any dealings between Contractor and any third parties. The City is

interested solely in the results of this contract. Contractor is solely responsible for all work and work product under this contract, including techniques, sequences, procedures, and means. Contractor shall supervise and direct the work to the best of his/her ability.

B. Wages and Employment. Contractor shall abide by all applicable State of Montana Rules, Regulations and/or Statutes in regards to prevailing wages and employment requirements. Contractor shall comply with the applicable requirements of the Workers' Compensation Act. Contractor shall maintain workers' compensation coverage for all members and employees of his/her business, except for those members who are exempted as independent contractors under the provisions of §39-71-401, MCA. Contractor understands that all contractors or subcontractors working on publicly funded projects are required to have withheld from earnings a license fee of one percent (1%) of the gross contract price if the gross contract price is Five Thousand Dollars (\$5,000) or more. This license fee is paid to the Montana Department of Revenue pursuant to Montana law.

C. Unless otherwise specified by the terms of this Agreement, all materials and equipment used by Contractor on the Construction Project shall be new and where not otherwise specified, of the most suitable grade for their intended uses.

D. All workmanship and materials shall be of a kind and nature acceptable to the City.

E. All equipment, materials, and labor provided to, on, or for the Contract must be free of defects and nonconformities in design, materials, and workmanship for a minimum period beginning with the commencement of the work and ending one (1) year from completion and final acceptance by the City. Upon receipt of City's written notice of a defective or nonconforming condition during the warranty period, Contractor shall take all actions, including redesign and replacement, to correct the defective or nonconforming condition within a time frame acceptable to the City and at no additional cost to the City. Contractor shall also, at its sole cost, perform any tests required by City to verify that such defective or nonconforming condition has been corrected. Contractor warrants the corrective action taken against defective and nonconforming conditions for a period of an additional one (1) year from the date of City's acceptance of the corrective action.

F. Contractor and its sureties are liable for the satisfaction and full performance of all warranties.

G. Contractor has examined the facilities and/or has made field examinations. Contractor has knowledge of the services or project sought under this Contract and he/she further understands the site conditions to be encountered during the performance of this Contract. Contractor has knowledge of the types and character of equipment necessary for the work, the types of materials needed and the sources of such materials, and the condition of the local labor market.

H. Contractor is responsible for the safety of the work and shall maintain all lights, guards, signs, temporary passages, or other protections necessary for that purpose at all times.

I. All work is performed at Contractor's risk, and Contractor shall promptly repair or replace all damage and loss at its sole cost and expense regardless of the reason or cause of the damage or loss; provided, however, should the damage or loss be caused by an intentional or negligent act of the City, the risk of such loss shall be placed on the City.

J. Contractor is responsible for any loss or damage to materials, tools, work product or other articles

used or held for use in the completion or performance of the Contract.

K. Title to all work, work product, materials and equipment covered by any payment of Contractor's compensation by City, whether directly incorporated into the Contract or not, passes to City at the time of payment, free and clear of all liens and encumbrances.

**SECTION FIVE
INDEMNITY AND INSURANCE**

Contractor shall indemnify, defend and save City, its officers, agents and employees harmless from any and all losses, damage and liability occasioned by, growing out of, or in any way arising or resulting from any intentional or negligent act on the part of Contractor or its agents or employees.

**SECTION SIX
COMPLIANCE WITH LAWS**

Contractor shall comply with all federal, state, local laws, ordinances, rules and regulations. Contractor shall either possess a City business license or shall purchase one, if a City Code requires a business license.

**SECTION SEVEN
NONDISCRIMINATION**

Contractor agrees that any hiring of persons as a result of this contract must be on the basis of merit and qualification and further that Contractor shall not discriminate on the basis of race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability or national origin.

**SECTION EIGHT
DEFAULT**

If either party fails to comply with any term or condition of this Contract at the time or in the manner provided for, the other party may, at its option, terminate this Contract and be released from all obligations if the default is not cured within ten (10) days after written notice is provided to the defaulting party. Said notice shall set forth the items to be cured. Additionally, the non-defaulting party may bring suit for damages, specific performance, and any other remedy provided by law except for punitive damages. The Parties hereby waive their respective claims for punitive damages. These remedies are cumulative and not exclusive. Use of one remedy does not preclude use of the others. Notices shall be provided in writing and hand-delivered or mailed to the parties at the addresses set forth in the first paragraph of this Contract.

**SECTION NINE
TERMINATION**

Either party may terminate the contract for their convenience upon thirty days written notice sent postage prepaid, to the addresses provided herein.

**SECTION TEN
GOVERNING LAW AND DISPUTE RESOLUTION**

The Parties agree that the laws of the State of Montana govern this Contract. The Parties agree that venue is proper within the Courts of Yellowstone County, Montana. If a dispute arises, the Parties, through a representative(s) with full authority to settle a dispute, shall meet and attempt to negotiate a resolution of the dispute in good faith no later than ten business days after the dispute arises. If negotiations fail, the Parties may utilize a third party mediator and equally share the costs of the mediator or file suit.

**SECTION ELEVEN
ATTORNEY FEES**

If any action is filed in relation to this agreement, the unsuccessful party in the action shall pay to the successful party, in addition to all sums that either is ordered to pay, a reasonable sum for the successful party's attorney's fees and all costs charges and expenses related to the action.

**SECTION TWELVE
ENTIRE AGREEMENT**

This contract and its referenced attachment and Exhibit A contain the entire agreement and understanding of the parties and supersede any and all prior negotiations or understandings relating to this project. This contract shall not be modified, amended, or changed in any respect except through a written document signed by each party's authorized respective agents.

**SECTION THIRTEENTH
ASSIGNMENT OF RIGHTS**

The rights of each party under this Contract are personal to that party and may not be assigned or transferred to any other person, firm, corporation, or other entity without the prior, express, and written consent of the other party.

**SECTION FOURTEEN
SEVERABILITY**

Each provision, section, or subsection of this Contract shall stand separate and independent of every other. In the event that a court of competent jurisdiction shall find any provision, section, or subsection of this contract to be invalid, the remaining provisions, sections, and subsections of this contract shall remain in full force and effect.

**SECTION FIFTEEN
PARAGRAPH HEADINGS**

The titles to the paragraphs of this contract are solely for the convenience of the parties and shall not be used to explain, simplify, or aid in the interpretation of the provisions of this agreement.

SIGNED AND AGREED BY BOTH PARTIES ON THE 16TH DAY OF MAY, 2017.

CITY OF LAUREL

Mark A. Mace
Mark A. Mace, Mayor

ATTEST:

Bethany Keeler for
Bethany Keeler, Clerk/Treasurer

CONTRACTOR

[Signature]
CIP Construction Technologies, Inc.
President

Employer Identification Number

81-2341999

CIP Construction Technologies, Inc.134 1st Ave W Kalispell, MT 59901

Phone (406) 291-8017 Fax (406) 752-4630

Billing Phone: (406) 257-3938

E-mail: supertec@rexforddsl.net Website: www.cipmanhole.com**PROPOSAL
#LaurelPro17-4-25**

April 25, 2017
 Faxed & Emailed
 City of Laurel
 Laurel, MT
 Phone 406-860-8139
 Email: mwheeler@laurel.mt.gov
 Pages: 2
 Attn: Matt Wheeler and Guy Rollins

PROJECT: City of Laurel Manhole Rehabilitation

SCOPE: Line interior of eight sewer manholes with cured-in-place fiberglass liner by authorized licensed installer CIP Construction Technologies, Inc., rebuild invert channels and benches, and level existing chimneys via the Mr. Manhole system.

ITEM	DESCRIPTION	DIMENSIONS'	PRICE
1a.	Line mh in front of Safety Center	4.58 x 10.25'	6483.00
1b.	Repair hole in invert channel		95.00
1c.	Mr. Manhole leveling system		1395.00
1d.	Supply and install new frame and cover		315.00
2a.	Line mh in intersection of 2 nd St & 4 th Ave	4.58 x 9.5	6009.00
2b.	Build new benches and invert channel		750.00
2c.	Mr. Manhole leveling system		1395.00
2d.	Supply and install new frame and cover		315.00
3a.	Line mh in intersection of 4 th St & 4 th Ave	4.58 x 10.17	6427.00
3b.	Build new benches and invert channel		750.00
3c.	Mr. Manhole leveling system		1395.00
3d.	Supply and install new frame and cover		315.00
4a.	Line mh in intersection of 5 th St & 4 th Ave	4.58 x 10.0	6320.00
4b.	Build new benches and invert channel		750.00
4c.	Mr. Manhole leveling system		1395.00
4d.	Supply and install new frame and cover		315.00
5a.	Line mh 5 th St next to church parking lot	4.0 x 7.67	4219.00
5b.	Repair invert channel		350.00
5c.	Mr. Manhole leveling system		1395.00
5d.	Supply and install new frame and cover		315.00

ITEM	DESCRIPTION	DIMENSIONS'	PRICE
6a.	Line mh on Montana Ave w of middle school gym	4.0 x 10.08	5544.00
6b.	Build new benches and invert channel		750.00
6c.	Mr. Manhole leveling system		1395.00
6d.	Supply and install new frame and cover		315.00
7a.	Line mh at 515 Idaho	4.58 x 10.42	6585.00
7b.	Build new benches on one side		350.00
7c.	Mr. Manhole leveling system		1395.00
7d.	Supply and install new frame and cover		315.00
8a.	Line mh at 614 Idaho	4.0 x 7.42	4081.00
8b.	Build new benches and invert channel		750.00
8c.	Mr. Manhole leveling system		1395.00
8d.	Supply and install new frame and cover		315.00
9.	Mobilization*		NC
TOTAL			\$63,893.00

* The normal mobilization fee of \$2000 is being waived as well as an overall price reduction of approximately 10% being figured in because this project is to be started and finished before July 1, 2017 and performed in conjunction with other CIP projects with the City of Billings and the Town of Joliet. The anticipated project length is two weeks. Please get me approval as soon as possible so the liners can be ordered, shipped and delivered prior to June 1.

Manufacturer's Warranty: To stop infiltration and further deterioration – Five Years Labor, Twenty Years Materials.

It is agreed that the City of Laurel in all instances and at its expense, including but not limited to installation, repair, or warranty service, will provide CIP with the following: adequate access to structure(s), a source of water supply, assistance with traffic control and/or personnel in high traffic areas if necessary, assistance as needed to coordinate and control sewage flow, a location for garbage disposal (e.g., access to dumpster); hydrovac assistance for excavating the manholes that are to receive the Mr. Manhole leveling process if the chimneys are deeper than 12”.

CIP will provide the normal preparatory work and equipment necessary to install the liner system which includes pressure cleaning @ 3500 p.s.i., and step removal. We expect that our process will eliminate further deterioration and greatly increase the life of the structure(s). Independent lab tests predict a 50 – 100 year life span for our liner in a sanitary sewer environment.

Thank you for the opportunity to assist you and the City in solving these infrastructure problems. We look forward to working with you on this project and others in the future.

Best regards,

Jim Swain

Jim Swain
President

**Request for Taxpayer
 Identification Number and Certification**

Give form to the
 requester. Do not
 send to the IRS.

Print or type
 See Specific Instructions on page 2.

Name (as shown on your income tax return) CIP Construction Technologies Inc	
Business name, if different from above	
Check appropriate box: <input type="checkbox"/> Individual/ Sole proprietor <input checked="" type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Other ▶	<input type="checkbox"/> Exempt from backup withholding
Address (number, street, and apt. or suite no.) 134 1st Ave W	Requester's name and address (optional) CITY OF LAUREL
City, state, and ZIP code Kalispell, MT 59901	P.O. Box 10
List account number(s) here (optional)	Laurel, Montana 59044

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on Line 1 to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Note. If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Social security number
+ +
or
Employer identification number
812341999

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
3. I am a U.S. person (including a U.S. resident alien).

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the Certification, but you must provide your correct TIN. (See the instructions on page 4.)

Sign Here	Signature of U.S. person ▶	Date ▶ 5/16/17
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Purpose of Form

A person who is required to file an information return with the IRS, must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

U.S. person. Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee.

In 3 above, if applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

Note. If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

For federal tax purposes, you are considered a person if you are:

- An individual who is a citizen or resident of the United States,
 - A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States, or
 - Any estate (other than a foreign estate) or trust. See Regulations sections 301.7701-6(a) and 7(a) for additional information.
- Special rules for partnerships.** Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.
- The person who gives Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States is in the following cases:
- The U.S. owner of a disregarded entity and not the entity,