BILL NO. S-19-03-14

SPECIAL ORDINANCE NO. S-_________

AN ORDINANCE approving the awarding of ITB #4422 - SERVICE AGREEMENT - PAVING OF VARIOUS PARKING LOTS - ($294,200.00) by the City of Fort Wayne, Indiana, by and through its Department of Purchasing and WAYNE ASPHALT for the PARKS AND RECREATION DEPARTMENT.

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

SECTION 1. That ITB #4422 - SERVICE AGREEMENT - PAVING OF VARIOUS PARKING LOTS - ($294,200.00) between the City of Fort Wayne, by and through its Department of Purchasing and WAYNE ASPHALT for the PARKS AND RECREATION DEPARTMENT, respectfully for:

> installation of new asphalt paving, striping and concrete work to parking lots, drives and pathways at Memorial Park, Salomon Park, Shoaff Park, Waynedale Park and Weisser Park. Work shall also include: tear out and replace, overlaying with repairs to surface imperfections as specified per drawings and specifications. Includes Alternates #, #2 and #3;

involving a total cost of TWO HUNDRED NINETY-FOUR THOUSAND TWO HUNDRED AND 00/100 DOLLARS – ($294,200.00) all as more particularly set forth in said ITB #4422 - SERVICE AGREEMENT - PAVING OF VARIOUS PARKING LOTS which is on file in the Office of the Department of Purchasing, and is by reference incorporated herein, made a part hereof, and is hereby in all things ratified, confirmed and approved.

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

Bid/Quote Tabulation

Project Name: Various Paving Projects
Project Number: 219006
I.T.B. # 4422
Bids Due: March 7, 2019

CONTRACTOR:	Brooks Construction	Wayne Asphalt		
Base bid:	$280,994.00	$247,300.00		
Alternate 1: Wayndale Park	$27,061.00	$21,300.00		
Alternate 2: Weisser Park	$19,300.00	$15,500.00		
Alternate 3: Shoaff Park	$11,549.00	$10,100.00		
Total:	$338,904.00	$294,200.00		

SERVICE AGREEMENT: **Various Paving Projects 2019**
Project #219006 ITB #4422 Q #0012

SUPPLIER NAME **Wayne Asphalt**		CITY DEPARTMENT **Parks and Recreation**
STREET ADDRESS **6600 Ardmore Ave.**		STREET ADDRESS **705 E. State Blvd.**
CITY, STATE, ZIP CODE **Fort Wayne, IN 46809**		CITY, STATE, ZIP CODE **Fort Wayne, IN 46805**
ATTENTION **Dave Westropp**		INVOICE ADDRESS **705 E. State Blvd.**
TELEPHONE **(260) 747-7531**	FAX **(260) 747-0630**	CITY, STATE, ZIP CODE **Fort Wayne, IN 46805**
EMAIL ADDRESS **dave@wayneasphalt.com**		ATTENTION **Greg Kreiger**
		TELEPHONE **(260) 427-6412** / FAX **(260) 427-6020**

Service Description	**Rates**
Work includes but not limited to installation of New Asphalt paving, striping, and concrete work to Various Parks: Parking lots, Drives and Pathways. Work shall also include: tear out and replace, overlaying with repairs to surface imperfections as specified per drawings and specifications. Includes Alternates #1, #2 and #3.	$294,200.00
Aggregate Price	**$294,200.00**

The following Attachments are part of this Agreement:

SERVICE ADDRESS **Various Parks per Bid Documents**
CITY, STATE, ZIP CODE **Fort Wayne, IN**
AGREEMENT START DATE **Date given on Purchase Order**
AGREEMENT END DATE **Aug. 31, 2019**

This Agreement Is entered into between Supplier and the City. The additional terms and conditions on the reverse side hereof are part of this Agreement. Capitalized terms on this page are used as defined terms when the context so requires. The City may extend the Contract at its option, for an equivalent period, by written notice to the Supplier not less than thirty days prior to the expiration date.

SUPPLIER:	**City of Fort Wayne**
By (Signature): [signature]	By (Signature): [signature]
Printed Name: Dave Westropp	Printed Name: Steve McDaniel
Title: Project Manager	Title: Director Parks and Recreation
Date: 3-18-19	Date: 3/18/19
FEDERAL TAX ID NUMBER:	

E.B.E. RIDER

THIS AGREEMENT made and entered into by and between the **CITY OF FORT WAYNE,** hereinafter referred to as **OWNER** and **Wayne Asphalt,** hereinafter referred to as **CONTRACTOR,**

WITNESSETH:

WHEREAS, the **CONTRACTOR** is the apparent low bidder on construction project commonly referred to as the Various Paving Projects 2019, **Project #219006**, which project was bid under Resolution Number **ITB #4422**; and

WHEREAS, CONTRACTOR agrees that the goal for qualified Emerging Business Enterprises, hereinafter sometimes referred to as **E.B.E.'s** as subcontractors on this project is **10%** of the contract amount; and

WHEREAS, OWNER has, pursuant to Executive Order 90-01 (as amended 05-08-06), adopted a goal of at least 10% of the contract amount to Emerging Business Enterprises as defined under said Executive Order (as amended 05-08-06); and

WHEREAS, said Executive Order (as amended 05-08-06) states:

"Section 2, Paragraph C. Each contractor shall be required to make a good faith effort to subcontract 10% of the contract amount to Emerging Business Enterprises on each construction contract he/she is awarded. In the event a contractor is unable to subcontract 10% of the contract amount or secure services of an Emerging Business Enterprise, he/she will be required to submit a completed Request for Waiver form on which he/she will provide a written description of the efforts taken to comply with the participation goals."

NOW, THEREFORE, in consideration of the foregoing and of the mutual agreements hereinafter contained, the sufficiency of which consideration is hereby acknowledged, the parties hereto agree as follows:

1. **Conditional Award - Subject to approval by the Common Council of the City of Fort Wayne as stipulated in the construction contract to which this Rider is attached, OWNER awards the construction contract to the CONTRACTOR.**

2. **E.B.E. Retainage requirements - If the contractor is in compliance with the provisions of the construction contract to which this Rider is attached, the Owner will make payments for such work performed and completed. However, in any such case, the Owner will retain five percent (5%) of the total amount owing to insure compliance with this E.B.E. Rider. Upon final inspection and acceptance of the work, and determination by the Fort Wayne Board of Public Works that the contractor has made a good faith effort to subcontract 10% of the contract amount to emerging business enterprises, the contractor will be paid in full.**

   In the event there is a determination that good faith compliance with this E.B.E. Rider has not occurred, appropriate reduction in the final payment pursuant to paragraph 6 of this E.B.E. Rider will be made.

   If the contract is in excess of $100,000, the contract will be subject to the standard Board of Public Works escrow agreement. However, payments to the CONTRACTOR are not to exceed 95% of the total contract amount until the OWNER has verified that the CONTRACTOR has made good faith efforts to attain the E.B.E. goal stipulated in this E.B.E. Rider. Payment of the final 5% of the total contract amount will be dependent upon good faith efforts to comply with this E.B.E. Rider, and subject to reduction in the event of non-compliance as provided in paragraph 6 of this E.B.E. Rider.

3. **Request for Waiver - If, at the time final payment application is made, contractor has not attained the ten 10% E.B.E. 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 10% E.B.E. goal.**

4. **Determination of Waiver Requests - The Contract 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.**

5. **Good Faith Per Se. - In any case, a Contractor shall be deemed to have made good faith efforts at compliance where E.B.E.'s have subcontracted for every sub-contract for which there are qualified E.B.E.'s available.**

6. **Consequence of noncompliance - In the event the Board of Public Works approves a recommendation that contractor failed to make good faith efforts at compliance, the contract shall be reduced by the amount calculated as the difference between 10% and the percentage level met. Said amount shall be added to the City of Fort Wayne E.B.E. Bond Guarantee Fund and contractor agrees to accept the reduced amount as full payment under the terms of his/her contract.**

7. **Waiver approved - In the event the Board of Public Works determines that a good faith effort to comply with this E.B.E. Rider has been made, the contract shall not be reduced, and the balance owing to the contractor shall be paid in full.**

IN WITNESS WHEREOF,

The parties have executed the E.B.E. Rider this 18 day of March, 2015.

CONTRACTOR

BY: [signature] **Company** Wayne Asphalt

Name Printed Dave Wostropp

ATTEST: Breanne Chaney

[signature]

Steve McDaniel, Director

Fort Wayne Parks and Recreation

Revised 2-09

Council Digest Sheet

Enclosed with this introduction form is a tab sheet and related material from the vendor(s) who submitted bid(s). Purchasing Department is providing this information to Council as an overview of this award.

RFPs & BIDS

Bid/ITB #	4422
Awarded To	Wayne Asphalt
Amount	$294,200.00
Conflict of interest on file?	X Yes ☐ No
Number of Registrants	2
Number of Bidders	2
Required Attachments	ITB – attached; Bids – attach Tab Sheet

EXTENSIONS

Date Last Bid Out	0
# Extensions Granted To Date	0

SPECIAL PROCUREMENT

Contract #/ID *(State, Federal, Piggyback--Authority)*	n/a
Sole Source/ Compatibility Justification	

BID CRITERIA *(Take Buy Indiana requirements into consideration.)*

Most Responsible, Responsive Lowest	X Yes ☐ No *If no, explain below*
If not lowest, explain	

COUNCIL DIGEST SHEET

COST COMPARISON

Increase/decrease amount from prior years For annual purchase (if available).	n/a

DESCRIPTION OF PROJECT / NEED

Identify need for project & describe project; attach supporting documents as necessary.	The Fort Wayne Parks and Recreation Department is requesting approval for a contract with Wayne Asphalt for the paving of Parking lots, Drives and Pathway at various Parks. The parks included in this project are: Memorial Park, Salomon Park, Shoaff Park Waynedale Park, and Weisser Park.

REQUEST FOR PRIOR APPROVAL

Provide justification if prior approval is being requested.	

FUNDING SOURCE

Account Information.	Parks Cumulative Capital Fund, Project number 219006

MEMORANDUM

To: City Council Members, City of Fort Wayne
From: Mike Gore
CC: File
Subject: Council Approval for Various Paving Project
Date: March 19, 2019

The Fort Wayne Parks and Recreation Department is requesting approval for a contract with Wayne Asphalt for the paving of Parking lots, Drives and Pathway at various Parks. The parks included in this project are: Memorial Park, Salomon Park, Shoaff Park Waynedale Park, and Weisser Park. Two quotes were submitted to the Parks Department for this project and Wayne Asphalt was the low bidder with a base bid of $247,300.00. We have three alternates included with this bid: Alternate one is for an additional parking lot at Waynedale Park, ($21,300.00). Alternate two is for the additional paving of the gravel parking lot at Weisser Park, ($15,500.00) and alternate three is for the complete removal of a drive and install new at Shoaff Park, ($10,100.00).
The total bid for this project, (under a publicly bid price agreement), will exceed $100,000.00 for 2019, requiring Councils approval. With the base bid and all three alternates, the total cost for this project will be $294,200.00

Funding Source: Parks Cumulative Capital Funds

I will be available at the Council meetings to answer any questions you may have and I may also be reached at 427-6406.

Thank you for your consideration on this project.

We respectively request your approval of this contract so that we may proceed with the work. If you have any questions, please feel free to contact me at 427-6406 or Steve Schuhmacher at 427-6401.

Thank you in advance.

Mike Gore