

BILL NO. S-19-03-15

SPECIAL ORDINANCE NO. S-_____

AN ORDINANCE approving the awarding of ITB #4412
- FOELLINGER-FREIMANN BOTANICAL
CONSERVATORY CONNECTOR PROJECT -
(\$560,240.00) by the City of Fort Wayne, Indiana, by
and through its Department of Purchasing and
SCHENKEL CONSTRUCTION, INC. 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 #4412 - FOELLINGER-FREIMANN BOTANICAL
CONSERVATORY CONNECTOR PROJECT - (\$560,240.00) between the City of
Fort Wayne, by and through its Department of Purchasing and SCHENKEL
CONSTRUCTION, INC. for the PARKS AND RECREATION DEPARTMENT,
respectfully for:

new building construction for a climate-controlled structure
connecting the Foellinger-Freimann Botanical Conservatory and
Embassy Theatre Stair Tower;

involving a total cost of FIVE HUNDRED SIXTY THOUSAND TWO HUNDRED
FORTY AND 00/100 DOLLARS - (\$560,240.00) all as more particularly set forth in
said ITB #4412 - FOELLINGER-FREIMANN BOTANICAL CONSERVATORY
CONNECTOR PROJECT - (\$560,240.00) 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.

1 **SECTION 2.** That this Ordinance shall be in full force and effect from
2 and after its passage and any and all necessary approval by the Mayor.
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6 _____
7 Council Member
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9 APPROVED AS TO FORM AND LEGALITY
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12 _____
13 Carol Helton, City Attorney
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Bid/Quote Tabulation

Project Name: Foellinger-Freimann Botanical Conservatory Connector

Project No.: 218025

I.T.B. #4412

Bids Due: 2/28/2019

CONTRACTOR:	Shawnee Construction	Schenkel	Hamilton Hunter	Strebig
Base bid:	\$574,600.00	\$556,540.00	\$610,000.00	\$584,661.00
Alternate #1 - Stainless Steel Underslab Ductwork	\$6,400.00	\$3,700.00	\$6,300.00	\$1,657.00
Addenda #1, 2 & 3 Verification:	Yes	Yes	Yes	Yes



SERVICE AGREEMENT:

**Botanical Conservatory Connector
Project #218025, ITB #4412 and Q #0018**

SUPPLIER NAME Schenkel Construction, Inc.		CITY DEPARTMENT Parks and Recreation
STREET ADDRESS 1120 St. Marys Avenue		STREET ADDRESS 705 E. State Blvd.
CITY, STATE, ZIP CODE Fort Wayne, IN 46808		CITY, STATE, ZIP CODE Fort Wayne, IN 46805
ATTENTION Greg Schenkel		INVOICE ADDRESS 705 E. State Blvd.
TELEPHONE (260) 459-2030	FAX	CITY, STATE, ZIP CODE Fort Wayne, IN 46805
EMAIL ADDRESS gschenkel@scibuild.com		ATTENTION Dave Weadock
		TELEPHONE (260) 427-6417
		FAX (260) 427-6020

Service Description	Rates
New building construction for a climate-controlled structure connecting the Foellinger-Freimann Botanical Conservatory and Embassy Theatre Stair Tower.	\$560,240.00
Aggregate Price	\$560,240.00

The following Attachments are part of this Agreement:

SERVICE ADDRESS 1100 S. Calhoun Street
CITY, STATE, ZIP CODE Fort Wayne, IN 46802
AGREEMENT START DATE Date given on Purchase Order
AGREEMENT END DATE December 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): 	By (Signature): 		
Printed Name: Greg Schenkel	Printed Name: Steve McDowell		
Title: President	Title: Director		
Date: 03/05/19	Date: 3/18/19		
FEDERAL TAX ID NUMBER: 27-23960861/0			

(This form was last updated June 15, 2016.)



E.B.E. RIDER

THIS AGREEMENT made and entered into by and between the **CITY OF FORT WAYNE**, hereinafter referred to as **OWNER** and **Schenkel Construction, Inc.**, hereinafter referred to as **CONTRACTOR**,

WITNESSETH:

WHEREAS, the **CONTRACTOR** is the apparent low bidder on construction project commonly referred to as the **Foellinger-Freimann Botanical Conservatory Connector – Project 218025**, which project was bid under Resolution Number **ITB #4412**; 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

SECTION 00387
SERVICE AGREEMENT, E.B.E. RIDER

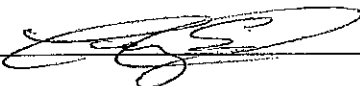
good faith efforts to comply with this E.B.E. Rider, and subject to reduction in the event of non-compliance as provided in paragraph 6 of this E.B.E. Rider.

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,

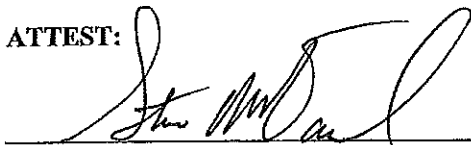
The parties have executed the E.B.E. Rider this _____ day of _____, 20__.

CONTRACTOR

BY:  Company Schenkel Construction

Name Printed Greg Schenkel

ATTEST:



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 #	4412
Awarded To	Schenkel Construction
Amount	\$560,240.00
Conflict of interest on file?	☒ Yes ☐ No
Number of Registrants	4
Number of Bidders	4
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	☒ Yes ☐ No <i>If no, explain below</i>
If not lowest, explain	

COUNCIL DIGEST SHEET

COST COMPARISON

<i>Increase/decrease amount from prior years For annual purchase (if available).</i>	n/a
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DESCRIPTION OF PROJECT / NEED

<i>Identify need for project & describe project; attach supporting documents as necessary.</i>	The Fort Wayne Parks and Recreation Department is requesting approval for a contract with Schenkel Construction, for the construction of a climate-controlled structure connecting the Foellinger-Freimann Botanical Conservatory and Embassy Theatre Stair Tower.
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REQUEST FOR PRIOR APPROVAL

<i>Provide justification if prior approval is being requested.</i>	

FUNDING SOURCE

<i>Account Information.</i>	Parks Cumulative Capital Fund, Parks Department Bond Fund, as well as private donations. Project # 218025.

MEMORANDUM

To: City Council Members, City of Fort Wayne
From: Mike Gore
CC: File
Subject: Council Approval for the Foellinger-Freimann Botanical Conservatory Connector Project
Date: March 19, 2019

The Fort Wayne Parks and Recreation Department is requesting approval for a contract with Schenkel Construction for the construction of a climate-controlled structure connecting the Botanical Conservatory and Embassy Theatre Stair Tower. Work includes: Demolition, earthwork, concrete, masonry, roofing, doors, windows, casework, fire suppression, HVAC, electrical, and security. Multiple quotes were submitted to the Parks Department for this project and Schenkel Construction was the low bidder with a base bid of \$556,540.00 and an alternate bid of \$3,700.00. This brings the total cost for this connector project to \$560,240.00.

The total bid for this project, (under a publicly bid price agreement), will exceed \$100,000.00 for 2019, requiring Councils approval.

Funding Source: Parks Cumulative Capital Funds, Parks Department Bond Fund, as well as private donations.

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 respectfully 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