

BILL NO. S-18-05-37

SPECIAL ORDINANCE NO. S-_____

AN ORDINANCE approving the awarding of ITB #4375
- CONTRACT FOR NEW RESTROOM FACILITY AT
JOHNNY APPLESEED PARK (\$165,000.00) by the
City of Fort Wayne, Indiana, by and through its
Department of Purchasing and HAMILTON HUNTER
BUILDERS, 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 #4375 - CONTRACT FOR NEW RESTROOM
FACILITY AT JOHNNY APPLESEED PARK between the City of Fort Wayne, by
and through its Department of Purchasing and HAMILTON HUNTER BUILDERS,
INC. for the PARKS AND RECREATION DEPARTMENT, respectfully for:

construction of new restroom facility in Johnny Appleseed Park;
involving a total cost of ONE HUNDRED SIXTY-FIVE THOUSAND AND 00/100
DOLLARS - (\$165,000.00) all as more particularly set forth in said ITB #4375 -
CONTRACT FOR NEW RESTROOM FACILITY AT JOHNNY APPLESEED PARK
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
2 **SECTION 2.** That this Ordinance shall be in full force and effect from
3 and after its passage and any and all necessary approval by the Mayor.
4

5
6
7 _____
8 Council Member
9

10 APPROVED AS TO FORM AND LEGALITY
11
12
13

14 _____
14 Carol Helton, City Attorney
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

Bid/Quote Tabulation

Project Name: Johnny Appleseed Park Restroom

Project No.: 218009

I.T.B. #4375

Bids Due: 2/21/2019

CONTRACTOR:	C3 Construction	CME Corp.	Gabet Remodeling	Hamilton Hunter Builders	Schenkel Construction	Strebig Construction
Base bid:	\$211,700.00	\$195,000.00	\$214,380.34	\$165,000.00	\$182,435.00	\$227,110.00

SERVICE AGREEMENT:

Johnny Appleseed Restroom Project
Project #218009, ITB #4375

SUPPLIER NAME Hamilton Hunter Builders, Inc.		CITY DEPARTMENT Parks and Recreation	
STREET ADDRESS 915 Lafayette St.		STREET ADDRESS 705 E. State Blvd.	
CITY, STATE, ZIP CODE Fort Wayne, IN 46802		CITY, STATE, ZIP CODE Fort Wayne, IN 46805	
ATTENTION Holly Hunter		INVOICE ADDRESS 705 E. State Blvd.	
TELEPHONE (260) 423-3577	FAX	CITY, STATE, ZIP CODE Fort Wayne, IN 46805	
EMAIL ADDRESS hhunter@hamiltonhunterbuilders.com		ATTENTION Dave Weadock	
		TELEPHONE (260) 427-6417	FAX (260) 427-6020

Service Description	Rates
Improvements per contract documents.	
Aggregate Price	\$165,000.00

The following Attachments are part of this Agreement:

SERVICE ADDRESS
1500 N. Harry Baals Drive
CITY, STATE, ZIP CODE
Fort Wayne, IN
AGREEMENT START DATE
Date given on Purchase Order
AGREEMENT END DATE
September 30, 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:	Printed Name:
Holly Hunter	Steve McDaniel
Title:	Title:
President	Director
Date:	Date:
5/13/19	5/14/19
FEDERAL TAX ID NUMBER:	
35-1559623	



E.B.E. RIDER

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

WITNESSETH:

WHEREAS, the **CONTRACTOR** is the apparent low bidder on construction project commonly referred to as the **Johnny Appleseed Restroom Building Project - 218009**, which project was bid under Resolution Number **ITB #4375**; 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.

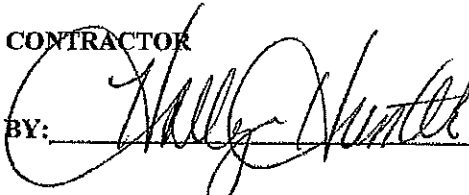
SECTION 00387
SERVICE AGREEMENT, E.B.E. RIDER

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,

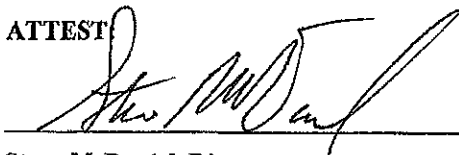
The parties have executed the E.B.E. Rider this _____ day of _____, 20__.

CONTRACTOR

BY:  _____ Company Hamilton Hunter Builders, Inc.

Name Printed Holly Hunter, President

ATTEST

 _____

Steve McDaniel, Director

Fort Wayne Parks and Recreation

Revised 2-09

CITY OF FORT WAYNE, INDIANA
Hamilton Hunter Builders, 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: Holly Hunter Name: _____

Address: 915 Lafayette St., Fort Wayne, IN 46802 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: Holly Hunter 100 %

Name: _____ %

SECTION 000390
CONFLICT OF INTEREST

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 X

- 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 X

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

Section 3: DISCLOSURE OF OTHER CONTRACT AND PROCUREMENT RELATED INFORMATION

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

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 X

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.). N/A

Company / Name / Payment Terms:

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

SECTION 000390
CONFLICT OF INTEREST

- 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

Hamilton Hunter Builders, Inc.

(Name of Vendor)

915 Lafayette Street

Fort Wayne, IN 46802

Address

() 260.423.3577

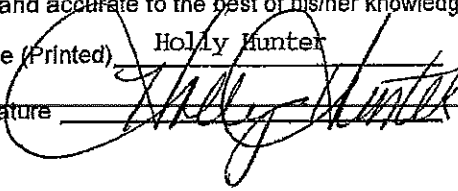
Telephone

hhunter@hamiltonhunterbuilders.com

E-Mail Address

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) Holly Hunter Title President

Signature  Date 2/21/19

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

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 #	4375
Awarded To	Hamilton Hunter Builders
Amount	\$165,000.00.
Conflict of interest on file?	☒ Yes ☐ No
Number of Registrants	6
Number of Bidders	6
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
--	-----

DESCRIPTION OF PROJECT / NEED

<i>Identify need for project & describe project, attach supporting documents as necessary.</i>	This project is for the new restroom building located at Johnny Appleseed Park. This restroom will serve not only the new playground but the dog park and the greenway trail that goes through the park.
--	--

REQUEST FOR PRIOR APPROVAL

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

FUNDING SOURCE

<i>Account Information.</i>	Parks Cumulative Capital Fund, Project number 218009

MEMORANDUM

To: City Council Members, City of Fort Wayne
From: Mike Gore
CC: File
Subject: Council Approval for new restroom at Johnny Appleseed Park
Date: May 15, 2019

The Fort Wayne Parks and Recreation Department is requesting approval for a contract with Hamilton Hunter Builders to build a new restroom facility in Johnny Appleseed Park adjacent to the new playground that was installed last year. This restroom will serve not only the playground but the dog park and the greenway trail that goes through Johnny Appleseed Park.

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

Hamilton Hunter Builders was the low bidder for this project with a bid of \$165,000.00.

Funding Source: Parks Cumulative Capital Funds

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. I will also be available at the Council meeting to answer any questions you may have.

Thank you in advance.

Mike Gore