

BILL NO. S-20-03-04

SPECIAL ORDINANCE NO. S-_____

AN ORDINANCE approving the CONSTRUCTION CONTRACT - VARIOUS PAVING PROJECT - PARKS DEPARTMENT JOB NUMBER 220001 in connection to City Purchasing ITB #4535 - \$375,000.00 between T - E INCORPORATED and the City of Fort Wayne, Indiana, in connection with the BOARD OF PARK COMMISSIONERS.

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

SECTION 1. That the CONSTRUCTION CONTRACT - VARIOUS PAVING PROJECT - PARKS DEPARTMENT JOB NUMBER 220001 in connection to City Purchasing ITB #4535 - \$375,000.00 between T - E INCORPORATED and the City of Fort Wayne, Indiana, in connection with the BOARD OF PARK COMMISSIONERS., respectfully for:

All labor, insurance, material, equipment, tools, power, transportation, miscellaneous equipment, etc., necessary for installation of new asphalt paving, striping, and concrete curb to various parks, parking lots, drives and pathways. Work shall also include: tear out and replace, milling and overlaying, with repairs to surface imperfections per drawings and specifications that were provided by the Parks Department. The parks included in this project are: Johnny Appleseed Parking lot, Lakeside Park, Memorial Park, Northside Park, Salomon Farm Park and Tillman Park Tennis Center;

involving a total cost of THREE HUNDRED SEVENTY-FIVE THOUSAND AND 00/100 DOLLARS - (\$375,000.00) all as more particularly set forth in said CONSTRUCTION CONTRACT - VARIOUS PAVING PROJECT - PARKS DEPARTMENT JOB NUMBER 220001 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.

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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.
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7 _____
8 Council Member
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10 APPROVED AS TO FORM AND LEGALITY
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13 _____
14 Carol Helton, City Attorney
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Bid/Quote Tabulation

Project Name: Various Paving Projects

Project No.: 220001

I.T.B.#: 4535

Bids Due: 01/30/2020

CONTRACTOR:	Brooks Construction	T-E Inc.	Wayne Asphalt	
Base bid:	\$ 477,718.00	\$ 375,000.00	\$ 419,995.00	



SECTION 00386
SERVICE AGREEMENT

SERVICE AGREEMENT:

2020 Various Paving Projects
Project # 220001, ITB # 4535 and Q #0088

SUPPLIER NAME T-E Incorporated		CITY DEPARTMENT Parks and Recreation	
STREET ADDRESS 8620 Bluffton Rd.		STREET ADDRESS 705 E. State Blvd.	
CITY, STATE, ZIP CODE Fort Wayne, IN 46809		CITY, STATE, ZIP CODE Fort Wayne, IN 46805	
ATTENTION Justin Swing		INVOICE ADDRESS 705 E. State Blvd.	
TELEPHONE 260.489.5541	FAX	CITY, STATE, ZIP CODE Fort Wayne, IN 46805	
EMAIL ADDRESS justin@t-elnc.com		ATTENTION Jacob Clasen	
		TELEPHONE (260) 427-6412	FAX (260) 427-6020

Service Description	Rates
Improvements per contract documents.	
Aggregate Price	\$375,000.00

The following Attachments are part of this Agreement:

SERVICE ADDRESS Various City Parks
CITY, STATE, ZIP CODE Fort Wayne, IN
AGREEMENT START DATE Date given on Purchase Order
AGREEMENT END DATE September 30, 2020

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: Justin Swing		Printed Name: Steve McDaniel	
Title: Project Manager		Title: Director	
Date: 2-4-2020		Date: 2/12/2020	
FEDERAL TAX ID NUMBER: 351954881			



E.B.E. RIDER

THIS AGREEMENT made and entered into by and between the CITY OF FORT WAYNE, hereinafter referred to as OWNER and T-E Incorporated, hereinafter referred to as CONTRACTOR,

WITNESSETH:

WHEREAS, the CONTRACTOR is the apparent low bidder on construction project commonly referred to as the 2020 Various Paving Projects Project - 220001, which project was bid under Resolution Number YTB# 4535; and Q# 0068

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 5% 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 5% 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 5% 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 5% 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 5% 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

2/4/00 YS

3. Request for Waiver - If, at the time final payment application is made, contractor has not attained the 5% 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 5% 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 5% 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: [Signature] Company T-E INCORPORATED

Name Printed Justin Swing
Project Manager

ATTEST: [Signature]
[Signature]

Steve McDaniel, Director
Fort Wayne Parks and Recreation

Revised 2-09

CITY OF FORT WAYNE, INDIANA

T-E INCORPORATED

(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% ☐ *See Attached*

(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: _____ %

RESOLUTION OF THE BOARD OF DIRECTORS

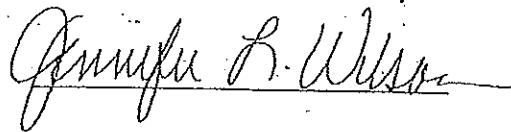
At a specially called meeting of the Board of Directors of T-E INCORPORATED, an Indiana Corporation, duly held at their corporate offices on November 9, 2011, at which a quorum of the Directors was present, a change in ownership was announced.

Distribution is as follows:

Eric S Olson 30%
DR Premium, LLC 15%
MR Premium, LLC 15%
RR Premium, LLC 15%
GS Premium, LLC 11.5%
GR Premium, LLC 11.5%
JW Premium, LLC 1.65%
Paul Everett .35%

I, Jennifer Wilson, Secretary, do hereby certify that the foregoing is a true and correct copy of the Resolution adopted by the Board of Directors of T-E INCORPORATED, on November 9, 2011 and that said Resolution has not been amended, modified or revoked and is still in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand, on this 9th day of November 2011.



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 ☒

- 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).

7900-8500 Block Flutter Road Septic Elimination, Work Order #76594, 10/15/2019, Zach Schaefer

South Bend & Covington Road Drainage, Work Order #83656, 10/15/2019, Emily Grabill

N. Washington Road Storm, PO Number 19950129, 10/15/2019, Matthew Wirtz

- 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).

Long Road Lift Station, Resolution No 76533, Have not received Notice to Proceed yet

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

Yes _____ No ☒

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: _____

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.

SECTION 00390
CONFLICT OF INTEREST

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

T-E INCORPORATED

(Name of Vendor)

8620 Bluffton Road

Address

(260)489-5541

Telephone

te@t-einc.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) Eric S. Olson

Title President

Signature

Date 1/30/2020

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 #	4535
Awarded To	T – E Incorporated
Amount	\$375,000.00
Conflict of interest on file?	☒ Yes ☐ No
Number of Registrants	3
Number of Bidders	3
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>	Work includes but not limited to installation of new asphalt paving, striping, and concrete curb to various parks, parking lots, drives and pathways. Work shall also include: tear out and replace, milling and overlaying, with repairs to surface imperfections per drawings and specifications that were provided by the Parks Department. The parks included in this project are: Johnny Appleseed Parking lot, Lakeside Park, Memorial Park, Northside Park, Salomon Farm Park and Tillman Park Tennis Center.
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REQUEST FOR PRIOR APPROVAL

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

FUNDING SOURCE

<i>Account Information.</i>	Funding source comes out of the Parks Cumulative Capital Funds: Project number 220001

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>	
	PLEASE SEE ATTACHED COMMON COUNCIL SUPPLEMENTAL

REQUEST FOR SUSPENSION OF RULES

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

FUNDING SOURCE

<i>Account Information.</i>	
	Municipal Surtax

MEMORANDUM

To: City Council Members, City of Fort Wayne
From: Mike Gore
CC: File
Subject: Council Approval for Parks Department Various Paving Project
Date: February 27, 2020

Work includes but not limited to installation of new asphalt paving, striping, and concrete curb to various parks, parking lots, drives and pathways. Work shall also include: tear out and replace, milling and overlaying, with repairs to surface imperfections per drawings and specifications that were provided by the Parks Department. The parks included in this project are: Johnny Appleseed Parking lot, Lakeside Park, Memorial Park, Northside Park, Salomon Farm Park and Tillman Park Tennis Center. The total bid for this project, (under a publicly bid price agreement), will exceed \$100,000.00 for 2020, requiring Councils approval. There were three bids submitted for this project. T-E Incorporated is the low bidder for this project with a bid of \$375,000.00

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