

SPECIAL ORDINANCE NO. S-_____

AN ORDINANCE approving the awarding of ITB #9326256 - SERVICE AGREEMENT - WAYNEDEALE PARK PLAYGROUND EQUIPMENT AND SAFETY SURFACING - (\$165,000.00) by the City of Fort Wayne, Indiana, by and through its Board of Park Commissioners and SNIDER RECREATION, 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 of ITB #9326256 - SERVICE AGREEMENT - WAYNEDEALE PARK PLAYGROUND EQUIPMENT AND SAFETY SURFACING - by the City of Fort Wayne, Indiana, by and through its Board of Park Commissioners and SNIDER RECREATION, INC. for the PARKS AND RECREATION DEPARTMENT, respectfully for:

All labor, insurance, material, equipment, tools, power, transportation, miscellaneous equipment, etc., necessary to PROVIDE AND INSTALL PLAYGROUND EQUIPMENT AND MULCH SAFETY SURFACING AS DESIGNED BY THE VENDOR;

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 #9326256 - SERVICE AGREEMENT - WAYNEDEALE PARK PLAYGROUND EQUIPMENT AND SAFETY SURFACING 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.

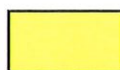
Council Member

APPROVED AS TO FORM AND LEGALITY

Malak Heiny, City Attorney

2024 Fort Wayne Parks Playgrounds Selection Criteria Results Summary

Vendor	Jehl Park	Franke Park 2-5 YO	Lakeside Park	Waynedale Park	Indian Village Park	McCormick Park
Commercial Recreation Group	666	708	693	681	619	837
Great Lakes Recreation	732	783	675	699	849	699
MidStates Recreation	867	963	897	897	867	867
Miracle Playgrounds of IN	834	864	834	834	813	834
Play Pros	630	597	645	660	660	630
Recreation InSites	933	810	933	810	810	810
Sinclair Recreation	912	936	906	909	963	963
Snider Recreation	783	810	810	933	810	810



Denotes Highest Total Score per Park

Maximum Possible Score: 963

SELECTION CRITERIA EVALUATION FORM

Waynedale Park - Snider

A	B	C	D	E
EVALUATION CRITERIA	WEIGHT 1 - 10	SCORE 0, 1, 3, 6, 9	EXT. SCORE	COMMENTS
Vendor's qualifications and experience clearly stated in the proposal.	7	9	63	Since 1980s. Ownership change in 2014.
Playground manufacturer's years in business clearly stated in proposal.	7	9	63	BCI Burke Co. First equipment approximately 1925-1935
Installation company identified, along with number of years installing playground equipment	9	9	81	Steve Sarges, 10 years experience
List of proposed equipment provided along with product data information per play piece	8	9	72	Excellent
Quantity of total play items clearly identified in the proposal	10	9	90	Clearly stated in proposal
Warranty length for equipment and installation	6	9	54	Clearly stated in proposal
Lead time of proposed equipment, and timeframe clearly stated in proposal	5	3	15	Not Clearly stated in proposal
Design utilizes the available playground space effectively and minimizes void areas	9	9	81	Nice selection of different play challenge locations for site.
Design provides for multiple activities including: motor skills, sensory system, core strength, balance, coordination and social interaction	10	9	90	Nice selection of different play challenges.
Quality of design, creativity and appropriateness for surrounding area	9	9	81	The size of the equipment is impressive. The vertical play for this space was well received.
Design follows the requirements of the Request for Proposal and Scope of Work	8	9	72	Excellent
Accessibility/Universal Design	5	9	45	Very good
Presentation quality of renderings	7	9	63	Excellent
Overall completeness & quality of the proposal	7	9	63	Excellent
MAXIMUM POSSIBLE SCORE:	963	TOTAL:	933	

WEIGHT = How important we feel this Selection Criteria is to the position.

Values range from 1 through 10. 1 = Low, 10 = High.

SCORE = How well this proposal meets the Selection Criteria.

Zero: Does not meet criteria, 1 = Low, 3 = Fair, 6 = Good, 9 = Excellent.

EXT. SCORE = Column B times Column C

Source: Six-Sigma/Cause and Effect Matrix; as amended.



SERVICE AGREEMENT: Waynedale Park Playground
Equipment and Safety Surfacing, QuestCDN #9326256

SUPPLIER NAME Snider Recreation, Inc.		CITY DEPARTMENT/CONTACT NAME Fort Wayne Parks and Recreation	
STREET ADDRESS 10139 Royalton Rd., Suite K		STREET ADDRESS 705 E. State Blvd.	
CITY, STATE, ZIP CODE North Royalton, OH 44133		CITY, STATE, ZIP CODE Fort Wayne, IN 46805	
ATTENTION Paul Childs		INVOICE ADDRESS 705 E. State Blvd.	
TELEPHONE 574.612.0079		CITY, STATE, ZIP CODE Fort Wayne, IN 46805	

Service Description

Rates

Waynedale Park playground equipment and safety
surfacing.

\$165,000.00

Estimated Completion Date: June 30, 2025

The following is made part of this agreement:

This Agreement is entered into between Supplier and the City. The Additional Terms and Conditions below 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 by mutual agreement and written notice to the Supplier.

SUPPLIER REPRESENTS THAT ANY PERSON OR ENTITY CONTRACTED OR PERMITTED BY SUPPLIER TO PERFORM AND DELIVER THE SERVICES WHO IS NOT AN EMPLOYEE OF SUPPLIER SHALL BE REQUIRED BY SUPPLIER TO COMPLY WITH THE WORKMEN'S COMPENSATION REQUIREMENTS ON THE REVERSE SIDE HEREOF.

SUPPLIER: Snider Recreation, Inc.

Board of Park Commissioners

By (Signature):

By (Signature):

Printed Name:

James C. Snider, President

Printed Name:

STEVE McDANIEL

Date:

10/24/2024

Date:

10/30/24

ADDITIONAL TERMS AND CONDITIONS

1 SERVICES Supplier agrees to perform the Services beginning on the Begin Date and continuing until the Services are completed. Supplier warrants that the Services will be completed on or before the End Date. TIME IS OF THE ESSENCE. Supplier warrants that all Services shall conform to the Service Description, be of good quality and workmanship, and be free from defects. Supplier further warrants that all goods furnished in connection with the Services shall be merchantable and suitably safe and sufficient for the purpose for which they are normally used. Supplier warrants that it has good title to goods supplied hereunder and that they are free of all liens and encumbrances. These warranties are in

addition to those implied in fact or in law. For the purposes of this Agreement, the term "Services" shall include any goods furnished in connection with the Services.

2 INVOICES Supplier shall invoice the City for Services performed according to the Rates, Billing Interval, and Invoice Address. Invoices shall be rendered in triplicate and shall itemize the Services performed, the Service Address, and the corresponding rates and taxes, if any. Payment shall be due within thirty (30) days after the invoice date or the date of completion of the invoiced Services, whichever

occurs later, provided that the City shall not be obligated to make any payment to Supplier hereunder until Supplier has furnished proof satisfactory to the City of full payment for all labor, materials, supplies, machinery, and equipment furnished for or used in performance of this Agreement or has furnished all necessary waivers of lien supported by affidavits, all satisfactory to the City, establishing that all liens and rights to claim liens that could arise out of the performance of the Services have been waived. Payment of invoices shall not constitute acceptance of the Services, and invoices shall be subject to adjustment for defects in quality or any other failure of Supplier to meet the requirements of this Agreement. The City may at any time set off any amount owed by the City to supplier against any amount owed by Supplier or any of its affiliated companies to the City.

3. **INDEPENDENT CONTRACTOR RELATIONSHIP.** The relationship between City and Supplier is and shall at all times remain as independent contractors. Persons provided by Supplier to perform and deliver the Services shall be Supplier's employees under the sole and exclusive direction and control of Supplier and shall not be considered employees of City for any purpose. Supplier shall be responsible for compliance by Supplier's employees and any other person or entity contracted or permitted by Supplier to perform and deliver the Services, with all laws, rules and regulations applicable to the performance and delivery of the Services hereunder, including but not limited to employment, labor, wage and hour, health and safety, and working conditions. Supplier shall be responsible for the payment of all federal, state and local taxes and charges of any type or nature assessed with respect to Supplier's employees and any other persons or entities contracted or permitted by Supplier to provide and deliver the Services, including Social Security, unemployment, Workmen's Compensation, disability insurance and federal and state withholding. Supplier shall be responsible for providing such reasonable accommodations which may be required under the Americans with Disabilities Act, 42 U.S.C.12101 et seq. in order that any person with disabilities employed, contracted or permitted by Supplier to provide the Services to be able to perform the essential functions of such person's job-related duties. Supplier agrees to defend, indemnify and hold harmless City, to the extent permitted by law, from and against any loss, cost, claim, liability, damage or expense (including attorneys' fees) that may be asserted against or incurred by City as a result of Supplier's failure to comply with the covenants and obligations of this paragraph.
4. **INDEMNITY.** Supplier shall defend, indemnify and hold harmless City, its officers, directors, employees, representatives, agents, departments and divisions, to the extent permitted by law, from and against all demands, damages, liabilities, costs and expenses (including reasonable attorneys' fees), judgments, settlements and penalties of every kind and nature asserted against, charged to or imposed upon City which directly or indirectly arise or are associated with the performance and delivery of the Services by Supplier, the employees of Supplier or any person or entity contracted or permitted by Supplier to provide and deliver the Services, which is claimed to be caused directly or indirectly to the negligent or intentional act or omission of Supplier, any employee of Supplier or any person or entity contracted or permitted by Supplier to perform and deliver the Services, including, without limitation, damages for personal injury, death or loss of or damage to property. City may elect to participate in the defense of any lawsuit, claim or demand in which City is a named party or in which City may have an interest by employing attorneys selected by City at City's expense or to be represented by Supplier's counsel at Supplier's expense, without waiving Supplier's defense, indemnity and hold harmless obligations to City contained herein. Supplier shall not settle or compromise any claim, suit or action or consent to entry or a judgment without the prior written consent of City and without the unconditional release of City from liability by each claimant or plaintiff. The indemnification covenants contained herein shall survive the completion of the performance and delivery of the Services.
5. **LIMITATION OF LIABILITY.** Supplier's liability hereunder for any loss, cost, claim liability, damage or expense (including attorneys' fees) arising out of any negligent or intentional act or omission of the performance of the obligations hereunder by Supplier, Supplier's employees or any person or entity contracted or permitted by Supplier to perform any obligation under this Agreement shall be limited to the amount of the direct damage incurred by City. Absent grossly negligent or willful misconduct by Supplier, Supplier's employees or any person or entity contracted or permitted by Supplier to perform the obligations under this Agreement, Supplier shall not be liable for any indirect, incidental, special, consequential or punitive damages of any kind whatsoever.
6. **INSURANCE.** Supplier shall maintain in full force and effect during the performance and delivery of the Services, and shall require any person or entity contracted or permitted by Supplier to perform and deliver the Services, the following insurance coverage:

(a)	General Liability	\$1,000,000 minimum per occurrence/ \$2,000,000 aggregate
	Personal & Advertising Liability	\$1,000,000 any one person or organization
	Products/Completed Operations Liability	\$2,000,000 aggregate
(b)	Automobile Liability, including Hired and Non-Owned Auto	\$1,000,000 minimum per occurrence
(c)	Worker's Compensation*	
	Bodily Injury by Accident	\$500,000 each accident
	Bodily Injury by Disease	\$500,000 policy limit
	Bodily Injury by Disease	\$500,000 each employee

*ANY PERSON OR ENTITY CONTRACTED OR PERMITTED BY SUPPLIER TO PERFORM AND DELIVER THE SERVICES AND DOES NOT CARRY WORKMEN'S COMPENSATION INSURANCE MUST SUBMIT A VALID CLEARANCE CERTIFICATE APPROVED BY THE WORKMEN'S COMPENSATION BOARD OF INDIANA.

The Certificate of Insurance must show the City of Fort Wayne, its Divisions and Subsidiaries as an **Additional Insured and a Certificate Holder, with 30 days notification of cancellation or non-renewal.** All Certificates of Insurance should be sent to the following address:
City of Fort Wayne Purchasing Department
200 East Berry Street, Suite 490
Fort Wayne, IN 46802

7. **HAZARDOUS MATERIALS.** Supplier will provide to the City before performing any Services, a statement describing any Hazardous Materials intended and necessary for use in performing the Services. "Hazardous Materials" means any item which may be classified under federal, state, or local law, as hazardous or toxic. Supplier must comply with all federal, state, or local law in the use, transportation, and disposal of such Hazardous Materials.
8. **PROGRESS REPORTS.** The Supplier shall submit progress reports to the City upon request. The report shall serve the purpose of assuring the City that work is progressing in line with the schedule, and that completion can be reasonably assured on the scheduled date. This contract shall be deemed to be substantially performed only when fully performed according to its terms and conditions and any modification thereof.
9. **CONFLICT OF INTEREST.** Supplier certifies and warrants that neither it nor any of its directors, officers, agents, representatives or employees which will participate in any way in the performance of the Supplier's obligations hereunder has or will have any conflict of interest, direct or indirect, with the City of Fort Wayne or any of its departments, divisions, agencies, officers, directors or agents.
10. **CONFIDENTIALITY OF DATA, PROPERTY RIGHTS IN PRODUCTS, AND COPYRIGHT PROHIBITION.** Supplier further agrees that all information, data findings, recommendations, proposals,

etc. by whatever name described and by whatever form therein secured, developed, written or produced by the Supplier in furtherance of this contract—shall be the property of the City. The Supplier shall take action as is necessary under law to preserve such property rights in and of the City while such property is within the control and/or custody of the Supplier. By this contract the Supplier specifically waives and/or releases to the City any cognizable property right of the Supplier to copyright, license, patent or other wise use such information, data findings, recommendations proposals, etc.

11. **CONFIDENTIALITY OF CITY INFORMATION.** Supplier understands and agrees that data, materials, and information disclosed to Supplier may contain confidential and protected data. Therefore, the Supplier promises and assures that data, material, and information gathered, based upon or disclosed to the Supplier for the purpose of this contract, will not be disclosed to others or discussed with other parties without the prior written consent of the City.
12. **EMPLOYER CERTIFICATION.** In accordance with I.C. §22-5-1.7, Supplier understands and agrees to enroll and verify work eligibility status of all newly hired employees of the contractor through E-Verify program or any other system of legal residence verification as approved by the United States Department of Homeland Security or the department of homeland security. Supplier further understands that they are not required to verify work eligibility status of newly hired employees of the Supplier through the E-Verify program if the E-Verify program no longer exists. Supplier certifies that they do not knowingly employ any unauthorized aliens.
13. **COMPLIANCE WITH LAWS.** Supplier warrants that the Services shall be in strict conformity with all applicable local, state and federal laws including, but not limited to, the standards promulgated by the Occupational Safety and Health Act, Executive Order 11246, as amended, relative to Equal Employment Opportunity and all other applicable laws, rules, and regulations, including the Civil Rights Act of 1964 pertaining to equal opportunity, Section 503 of the Vocational Rehabilitation Act of 1973, the American with Disabilities Act, Section 402 of the Vietnam Era Veterans Readjustment Assistance Act of 1974 and all applicable immigration laws and regulations including the 1986 Immigration Reform and Control Act et seq. Supplier agrees to indemnify and hold harmless the City from and against any loss, cost, claim, liability, damage, or expense (including attorney's fees) that may be sustained because of Supplier's breach of such warranty.
14. **DEFAULT.** In the event that (a) Supplier breaches any warranty contained herein; (b) Supplier fails to provide the insurance certificate required herein; (c) Supplier or Supplier's insurance carrier fails to defend, indemnify, or hold harmless the City as required herein; (d) Supplier's performance of the Services violates applicable law; (e) Supplier admits insolvency, makes an assignment for the benefit of creditors, or has a trustee appointed to take over all or a substantial part of its assets; or (f) Supplier fails to perform or comply with any other provision of this Agreement, such failure, breach, or violation shall constitute a default under this Agreement.
15. **TERMINATION.** In the event of default by Supplier under this Agreement, the City reserves the right without liability, in addition to its other rights and remedies, to terminate this Agreement by notice to Supplier as to the portion of the Services not yet rendered and to purchase substitute services at Supplier's expense. Supplier shall reimburse the City for the cost of such substitute services upon Supplier's receipt of an invoice, therefore.
16. **WAIVER.** No action or inaction by the City shall constitute a waiver of any right or remedy.
17. **CANCELLATION.** City may at any time cancel this Agreement in whole or in part for its sole convenience upon written notice to Supplier, and Supplier shall stop performing the Services on the date specified in such notice. The City shall have no liability as a result of such cancellation, except that the City will pay Supplier the Rates for completed Services accepted by the City and the actual incurred cost to Supplier for Services in progress. These payments shall not exceed the Aggregate Price.
18. **FORCE MAJEURE.** Neither party shall be liable to the other or responsible for nonperformance of any of the terms of this Agreement due to unforeseeable causes beyond the reasonable control and without the fault or negligence of such party, including, but not restricted to acts of God or the public enemy, acts of government, fire, floods, epidemics, quarantine restrictions, strikes, freight embargoes, or unusually severe weather.
19. **NOTICES.** All notices required or permitted to be made or given hereunder by one party to the other party shall be in writing and shall be deemed to have been given when hand delivered, or on the date stated on the receipt if deposited in the United States mail in certified form, postage prepaid with return receipt requested, and addressed to such other party at its Notice Address or at such other address as may be specified by such other party by written notice sent or delivered in accordance herewith.
20. **ASSIGNMENT.** Any assignment, in whole or in part, of Supplier's rights or obligation under this Agreement without the prior written consent of the City shall be void. Supplier shall not use subcontractors to perform any part of the Services without the prior written consent of the City.
21. **DISPUTE RESOLUTION.** The City shall be the sole judge of the quality of services. In the event of any dispute or disagreement between the parties either with respect to the interpretation of any provision of this agreement, or with respect to the performance of either party hereunder, the dispute shall be resolved by the Director of Finance and Administration and will not be subject to arbitration.
22. **ACCESS TO RECORDS.** The Supplier shall maintain all books, documents, papers, accounting records, and other evidence pertaining to the cost incurred. They shall make such materials available at their respective offices at all reasonable times during the contract period and for three (3) years from the date of final payment under the contract for inspection by the City or by any other authorized representative of city government. Copies thereof shall be furnished at no cost to the City if requested.
23. **NONDISCRIMINATION.** Pursuant to IC 22-9-1-10, the Civil Rights Act of 1964, and Title VI, Supplier and its subcontractors shall not discriminate against any employee or applicant for employment in the performance of this contract. The Supplier shall not discriminate with respect to hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of race, color, religion, sex, disability, national origin or ancestry. Breach of this covenant may be regarded as a material breach of contract. Acceptance of this contract also signifies compliance with applicable Federal laws, regulations, and executive orders prohibiting discrimination in the provision of services based on race, color, national origin, age, sex, disability or status as a veteran.
24. **MISCELLANEOUS.** If any provision of this Agreement is held to be invalid or unenforceable, the validity and enforceability of the remaining provisions shall not be affected. This Agreement shall be governed by the laws of the state of Indiana and shall be subject to the exclusive jurisdiction of the courts therein. This Agreement embodies the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements and understanding, whether written or oral, and all contemporaneous oral agreements and understandings relating to the subject matter hereof. No agreement hereafter made shall be effective to modify or discharge this Agreement, in whole or in part, unless such agreement is in writing and signed by the party against whom enforcement of the modification or discharge is sought. The paragraph headings are for convenience only and are not intended to affect the interpretation of the provisions hereof. This agreement shall be binding on the parties hereto and their respective personal and legal representatives, successors and assigns.

PROPOSAL #: 127-191969-1

WAYNEDALE PARK

Burke:
PLAY THAT MOVES YOU.
BCBURKE.COM • 800.266.1230



COLOR KEY	
●	OLIVE
●	BLACK
●	TAN
■	TAN/GREEN



www.snider.com
800-888-2839

3D Designer: Kaitlyn

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

Quest vBid #	9326256
Awarded To	Snider Recreation
Amount	\$165,000.00
Conflict of interest on file?	☒ Yes ☐ No
Number of Registrants	11
Number of Bidders	8
Required Attachments	ITB – attached; Criteria Evaluation Results

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	Playgrounds are thoroughly inspected on an annual basis and prioritized for replacement or repairs accordingly. This playground was deemed a high priority for replacement due to the age of the existing equipment, condition, and availability of replacement parts. This project requires the vendor to provide and install playground equipment and safety surfacing as designed by the vendor, and as selected based upon the criteria evaluation form.

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>	Playgrounds are thoroughly inspected on an annual basis and prioritized for replacement or repairs accordingly. This playground was deemed a high priority for replacement due to the age of the existing equipment, condition, and availability of replacement parts. This project requires the vendor to provide and install playground equipment and mulch safety surfacing as designed by the vendor, and as selected based upon the criteria evaluation form.
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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: Supplemental Economic Development Distribution 2024 \$1,200,000 Budgeted for Park Playgrounds.

MEMORANDUM

To: City Council Members, City of Fort Wayne
From: Dave Weadock
CC: File
Subject: Council Approval for Parks Department Waynedale Park Playground
Date: October 21, 2024

The project includes the installation of new playground equipment and safety surfacing at Waynedale Park playground. Per annual inspection reports, this playground was deemed a high priority for replacement due to the age of the existing equipment, condition, and availability of replacement parts.

Funding Source: 2024 Supplemental Economic Development Distribution for Parks

Proposals for the project were received on behalf of the Board of Park Commissioners on October 10, 2024. Eight proposals were received, with the highest scoring vendor being awarded the project per the evaluation criteria form. We respectfully request your approval of this contract with Snider Recreation for the amount of \$165,000.00. If you have any questions, please feel free to contact me at 427-6417. I will also be available at the Council meeting to answer questions.

Thank you in advance.

Dave Weadock
Manager of Project Administration
Fort Wayne Parks and Recreation