

**INTERLOCAL AGREEMENT FOR THE DAYTONA BEACH
REGIONAL LIBRARY PLAY YARD BETWEEN THE COUNTY OF
VOLUSIA AND THE CITY OF DAYTONA BEACH**

THIS INTERLOCAL AGREEMENT is made and entered into by and between the County of Volusia, a political subdivision of the State of Florida (County), and the City of Daytona Beach, a Florida Municipal Corporation (City), for the lease of land adjacent to the Daytona Beach Regional Library and for the installation, operation, administration, and maintenance responsibilities for the Daytona Beach Regional Library Play Yard (Play Yard) on the leased land.

WHEREAS, the County and City both desire to have a Play Yard at the Daytona Beach Regional Library for the benefit of the public; and

WHEREAS, the County owns the land which the Daytona Beach Regional Library building sits upon; and

WHEREAS, the City owns the land adjacent to the Daytona Beach Regional Library where the parties agree to locate the Play Yard; and

WHEREAS, the County and City desire to enter into this Interlocal Agreement providing for the City to lease to the County certain land adjacent to the Daytona Beach Regional Library for the operation of the Play Yard; and to delineate the installation, administration, and maintenance responsibilities of the Parties for the Play Yard.

NOW THEREFORE, in consideration of the mutual covenants set forth herein, the receipt and sufficiency of which are hereby acknowledged, the County and the City agree as follows:

Section 1 Recitals

The recitals set forth above are true and correct and are intended to form a material part of this Interlocal Agreement.

Section 2 Term of this Agreement/Termination

The term of this Agreement shall be for a period of five (5) years, commencing on the Effective Date. Thereafter at the option of the County, the terms of this Agreement shall renew for four (4) successive five (5) year periods, each under the same terms and conditions of this Agreement and commencing upon the expiration of the initial term of this Agreement or any renewal thereof. Either party may cancel this Agreement upon one (1) year written notice by the City or the County.

Section 3 Lease

3.1 Premises. City demises and leases to County, and County rents from City an unimproved area of land adjacent to the Volusia County Public Library, being a portion of Section

39, Township 15 South, Range 33 East, Volusia County, Florida, also being a portion of the lands known as City Island and being more particularly described and depicted in **Exhibit A** (hereinafter the "Demised Premises) and as follows:

Commence at a point of intersection of the West Right of Way line of South Beach Street (right of way varies) with the North Right of Way line of Magnolia Avenue, a 100 foot wide Right of Way, which is marked by a disk in the sidewalk; thence run N 64°56'33" E, along the easterly extension of said North Right of Way line, a distance of 507.36 feet; thence N 24°48'19" W, a distance of 314.31 feet to a point on the East edge of a seawall, said point being the southwesterly corner of those lands described in Official Records Book 3959, Page 2105 of the Public Records of Volusia County, Florida, thence run along the boundary of said lands the following courses and distances, N 24°48'19" W, a distance of 28.50 feet; thence N 06°47'00" W, a distance of 332.46 feet; thence N 83°13'00" E, a distance of 59.00 feet; thence N 06°47'00" W, a distance of 100.00 feet; thence N 25°43'00" E, a distance of 50.00 feet; thence N 83°13'00" E, a distance of 98.00 feet; thence S 06°47'00" E, a distance of 7.63 feet to the Point of Beginning; thence, departing said boundary, N 67°29'18" E, a distance of 30.00 feet; thence N 28°58'23" E, a distance of 112.57 feet; thence N 89°08'35" E, a distance of 44.00 feet; thence S 52°23'40" E, a distance of 44.00 feet, thence S 29°35'01" E, a distance of 94.00 feet; thence S 30°52'55" W a distance of 126.00 feet to a point on the easterly boundary of the aforementioned lands described in Official Records Book 3959, Page 2105; thence along the boundary of said lands the following courses and distances, N 06°46'35" W, a distance of 24.00 feet; thence N 54°56'39" W, a distance of 56.77 feet; thence S 83°13'00" W; a distance of 87.00 feet; thence N 06°47'00" W, a distance of 60.37 feet to the Point of Beginning. The above described lands contain 0.58 acres more or less.

3.2 **Rent.** In addition to other good and valuable consideration provided by County under the terms of this Agreement, County shall pay City the sum of Five Hundred Dollars (\$500.00) ("Rent"), for the initial five (5) year term, payable in advance within 30 days after the Effective Date of the Agreement, and payable thereafter within the 30 days prior to each renewal period.

3.3 **Use of the Premises.** County agrees to occupy and use the Demised Premises exclusively for the operation of a public Play Yard for children and its customary associated activities in conjunction with County's public library use. County shall install Play Yard equipment and other improvements (collectively, hereinafter referred to as the "Play Yard Improvements") on the Demised Premises consistent with the use of the Demised Premises as provided herein and as contained in **Exhibit B** or similar Play Yard equipment. The Play Yard Improvements shall be funded solely by County unless otherwise expressly agreed to in writing between the parties.

3.4 **General Requirements for Alterations.** County shall not make any improvements, additions, modifications or alterations to the Demised Premises (including installation of the Play Yard Equipment) without the prior written consent of City in each instance ("Alterations"). County shall submit plans and specifications for all Alterations to City for City's written approval prior to commencing installation or work on same. City agrees that the Play

Yard, including the Play Yard Equipment to be installed as identified in **Exhibit B** or similar Play Yard Equipment, is consistent with and allowed under the City's zoning and land use requirements, and the City permits the County to construct the Play Yard and Play Yard Equipment identified in **Exhibit B** or similar Play Yard Equipment without submission to the City of a site plan or attainment of City's permits. County agrees and acknowledges that all Alterations, whether pursuant to this Article or otherwise, are installed, performed, and accomplished solely for the benefit of County, and not the benefit of City, such Alterations being nevertheless subject to each and every provision of this Lease. All work done by County in connection with any installations, alterations, repairs, and maintenance on the Demised Premises shall be done in a good and workmanlike manner and shall be diligently pursued to completion strictly in accordance with the plans and specifications therefore. County shall have the Play Yard Equipment and Park inspected by a NRPA Certified Play Yard Safety Inspector prior to opening the Play Yard to the public.

No permanent structures or buildings, other than approved Alterations, shall be placed on the Demised Premises. All Alterations installed by County on the Premises shall be deemed to have been attached to the freehold and to have become the property of the City unless otherwise agreed to in writing by the parties prior to installation of such Alterations. All Alterations which remain the personal property of the County shall be removed by County at County's sole cost and expense prior to the termination or expiration of this Lease. Upon surrender of the Premises, title to any and all remaining Alterations shall revert to City.

3.5 Specific Alteration Requirements. The County shall buy, install, maintain, and repair or replace as necessary, outdoor security cameras and lighting for the Demised Premises. The City shall have final approval authority over the security and lighting equipment prior to the County purchasing and installing the equipment, which approval shall not be unreasonably withheld.

The City shall buy, install, maintain, and repair or replace as necessary, a fence as depicted in **Exhibit A** spanning both County and City property that will encompass the Play Yard. The fence shall be a minimum of six (6) feet in height, shall be unclimbable or scalable by persons, and shall have two (2) secured vehicle access gates and a secured emergency only pedestrian access gate. After installation, the City shall remain responsible for the maintenance and repair or replacement of the two (2) secure emergency vehicle access gates and the emergency only pedestrian access gate. After installation of the emergency pedestrian gate with secured access by the City, the County shall assume responsibilities for maintenance, repair, and replacement as necessary of the pedestrian gate's secure access system only. The emergency pedestrian gate secure access system procured by the City shall sound an audible alarm when opened and shall provide notice of some kind of being opened to employees inside the library. The locations and types of the two (2) secured vehicle access gates and the secured emergency only pedestrian access gate shall be determined after execution of this agreement by the Parties and upon agreement of the final layout by the City and County staff and with concurrence of the Library Director. The County shall have final approval authority over the fence and vehicle and pedestrian access gates type, material, and construction plans prior to the City purchasing and installing the fence, which approval shall not be unreasonably withheld.

3.6 Maintenance by County. Except as expressly provided herein to the contrary, City shall not be obligated or required to make or conduct any maintenance or repairs whatsoever

to the Demised Premises or the improvements situate thereon. County shall keep and maintain all portions of the Demised Premises, and all Play Yard Equipment and other Alterations constructed on or about the Demised Premises, in good condition and repair, at County's sole cost and expense. County shall have the Play Yard Equipment and Park re-inspected no less than once a year by a NRPA Certified Play Yard Safety Inspector.

3.7 City's Right to Inspect. City or City's agents shall have the right, upon reasonable prior notice to County (except that no notice need be given in case of emergency) to enter the Demised Premises for the purpose of inspection of the Demised Premises and all improvements situate thereon. Any such entrance into the Demised Premises shall be conducted by City in a manner calculated to minimize interference with or disruption of County's operations within the Demised Premises.

3.8 Utilities. In the event utilities are to be provided at the Demised Premises, County shall be solely responsible for and promptly pay directly to the utility company or the provider of such service all charges and assessments for water, gas, electricity, trash collection and removal or any other utility used or consumed on the Demised Premises. The City shall permit the County to connect any electronic equipment necessary for the Play Yard such as lighting, security cameras, secure access entry keypads, etc., to the electric utility junction box located on the premises. However, in no event shall City be liable for an interruption or failure in the supply of any such utility to the Demised Premises.

3.9 Quiet Possession. City covenants that it is seized of the Demised Premises in fee simple and has full right to make this Agreement and that County shall have quiet and peaceful possession of the Demised Premises during the term of this Agreement.

3.10 Compliance with Laws and Rules. County shall, at County's sole cost and expense, comply with all ordinances, laws, statutes and regulations promulgated thereunder of all county, municipal, state, federal, and other applicable governmental authorities, now in force, or which may hereafter be in force, pertaining to County's use of the Demised Premises, or the Demised Premises generally.

3.11 Representations. City has made no representation, covenant or warranty with respect to the Demised Premises. County certifies that County has inspected the Premises and accepts same "AS IS", in its existing condition, as of the Effective Date of this Lease. No repair work, alterations, or remodeling of the Demised Premises is required to be done by City as a condition of this Lease.

Section 4 Interpretation/Enforcement

Any disputes concerning the interpretation or enforcement of the provisions of this Agreement shall be resolved by the County and City Managers or their representatives, and if unresolved within a reasonable period, pursuant to Chapter 164, Florida Statutes.

Section 5 Breach of Agreement

In the event of a material breach of this Agreement, the non-breaching party shall provide

written notice of a breach to the other party. If the other party does not remedy the breach within ninety (90) days after receipt of the written notice, or such additional time as may be reasonably necessary and agreed upon by both parties to remedy such breach, the non-breaching party may then terminate this Agreement by providing at least thirty (30) days notice in writing to the other party.

Section 6 Notices

6.1 All notices required to be given by either party under this Interlocal Agreement shall be in writing, addressed to the other party as follows, and delivered by certified mail, return receipt requested, or in person:

- (a) City of Daytona Beach
ATTN: City Manager
301 S. Ridgewood Ave.
Daytona Beach, FL 32114
- (b) County of Volusia
ATTN: County Manager
123 West Indiana Avenue
DeLand, FL 32720

6.2 Either party may, by written notice to the other party as provided herein above, change the address for any subsequent notice.

Section 7 Assignment

This Agreement may not be assigned or transferred in any manner. Any attempt to assign this Agreement is expressly prohibited and shall render this Agreement null and void.

Section 8 Waiver

Waiver by either party for breach of any covenant or provision of this Agreement shall not be deemed to constitute a waiver of any preceding or subsequent breach of the same or any other covenant or provision.

Section 9 Time of Essence.

Time is of the essence with respect to the performance of every provision of this Agreement in which time of performance is a factor.

Section 10 Sovereign Immunity and Severability

10.1 The County and the City each expressly retain all rights, benefits and immunities of sovereign immunity in accordance with Section 768.28, Florida Statutes. Each party shall be liable for its own actions and negligence. Notwithstanding anything set forth in any section of this Interlocal Agreement to the contrary, nothing in this Interlocal Agreement shall be deemed as a

waiver of immunity or limits of liability of any party beyond any statutory limited waiver of immunity or limits of liability which may have been adopted by the Florida Legislature, or may be adopted by the Florida Legislature, and liability of any party for damages shall not exceed the statutory limits of liability, regardless of the number or nature of any claim which may arise, including, but not limited to, a claim sounding in tort, equity or contract.

10.2 This Interlocal Agreement is solely for the benefit of the County and the City, and no right or cause of action shall accrue to or for the benefit of any third party that is not a party hereto, including but not limited to any citizens of the City or County or any employees of the City or County. Nothing in this Interlocal Agreement, express or implied, is intended or shall be construed to confer upon or give any person or corporation other than the County or the City any right, remedy, or claim under or by reason of this Interlocal Agreement or any provisions or conditions of it, and all of the provisions, covenants, and conditions herein contained shall inure to the sole benefit of and shall be binding upon the County and the City.

10.3 If any portion of the Interlocal Agreement is for any reason held or declared to be invalid or unenforceable, such determination shall not affect the remaining portions of this Interlocal Agreement.

10.4 This Interlocal Agreement shall become effective upon the date of the last signature below by either party.

Section 11 Liability and Indemnification

11.1 Liability. County is self-insured for general liability risks under its self-insurance plan and agrees to administer under its self-insurance plan any claims or suits that arise as a result of County's use of the Premises up to the limits of Section 768.28, Florida Statutes, and any excess coverage which may be applicable.

11.2 Indemnification. The County and City agree that each party shall be responsible for its own acts or omissions and the results and consequences thereof and shall not otherwise be responsible for the acts or omissions of the other party or the results and consequences thereof as a result of the undertakings agreed to herein. Each party further agrees to indemnify, defend, and hold harmless the other, and its officials (elected and appointed), agents, and employees from and against any and all liabilities, losses, suits, claims, judgments, fees or demands arising from the injury or death of any person(s) or damage to any property, including, but not limited to, the Demised Premises, associated with any incident, occurrence, or loss arising from such party's acts or omissions related to or arising from this Agreement. However, the foregoing indemnification shall not constitute a waiver of sovereign immunity beyond the limits set forth in Florida Statutes Section 768.28 (2016), nor shall the same be construed to constitute agreement to be sued by third parties or as agreement by County to indemnify the City for the City's negligent, willful, or intentional acts or omissions.

Section 12 Construction.

No party shall be considered the author of this Agreement since the parties hereto have been represented by counsel and have participated in negotiations and drafting of this document

to arrive at a final Agreement. Thus, the terms of this Agreement shall not be strictly construed against one party as proposed to the other party based upon who drafted it. In the event that any section, paragraph, sentence, clause, or provision hereof is held by a court of competent jurisdiction to be invalid, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect.

Section 13 Governing Law

Unless otherwise pre-empted by federal law, this Agreement shall be governed by and construed in accordance with the laws of the State of Florida.

Section 14 Entire Agreement/Amendment

This Agreement and the Exhibits attached hereto set forth all of the covenants, agreements, conditions and understandings between the City and County. There are no covenants, agreements, conditions, or understanding either oral or written, between them other than those herein set forth. The provisions of this Lease may not be modified in any way except by written agreement approved by both the County Council and the City Commission.

IN WITNESS WHEREOF, the parties hereto executed this Interlocal Agreement, by and through their duly authorized representatives, on the respective dates below.

COUNTY OF VOLUSIA, FLORIDA

ATTEST:

James T. Dinneen
County Manager

Jason P. Davis
County Chair

DATE: _____

STATE OF FLORIDA }
COUNTY OF VOLUSIA }

The foregoing instrument was acknowledged before me this ____ day of _____, 2016, by **Jason P. Davis**, as **County Chair** of the County of Volusia, who is personally known to me and who () did () did not take an oath.

Notary Public, State of Florida
Printed: _____
Commission No.: _____
Expiration: _____

CITY OF DAYTONA BEACH, FLORIDA

ATTEST:

James V. Chisholm
City Manager

Derrick Henry
Mayor

DATE: _____

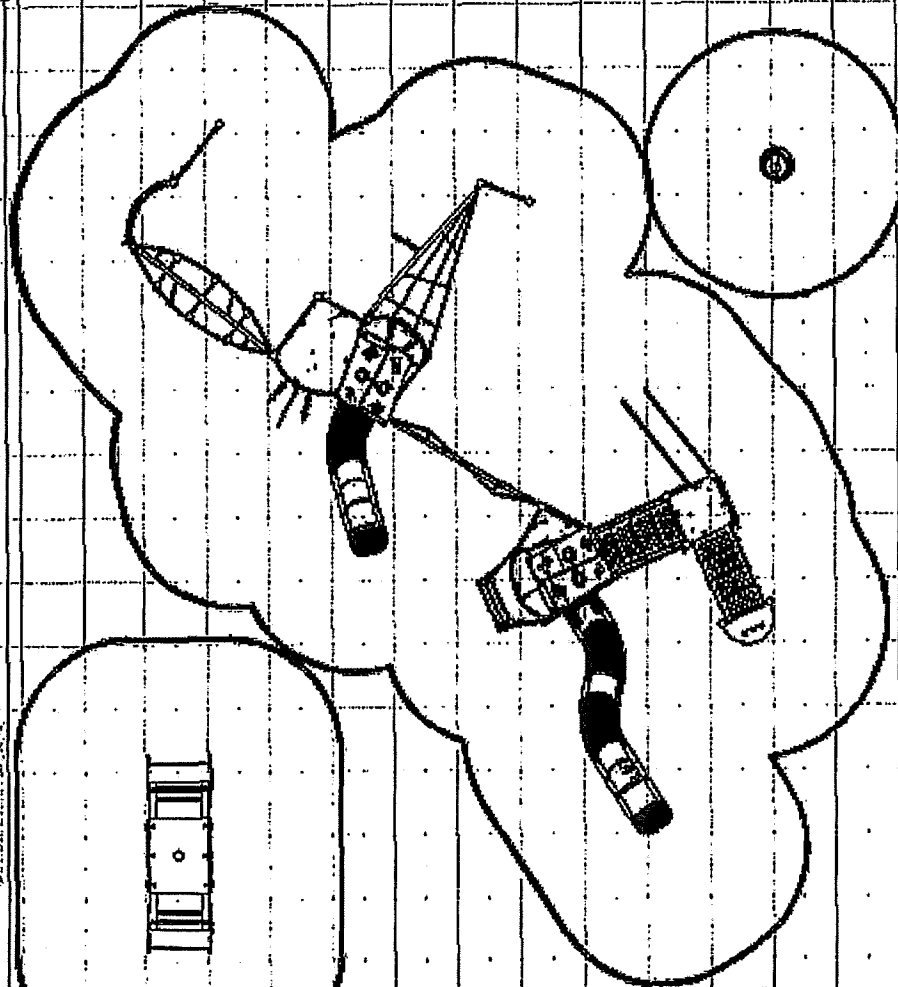
STATE OF FLORIDA }
COUNTY OF VOLUSIA }

The foregoing instrument was acknowledged before me this ____ day of _____, 2016, by **Derrick Henry**, as **Mayor** of the City of Daytona Beach, who is personally known to me and who () did () did not take an oath.

Notary Public, State of Florida
Printed: _____
Commission No.: _____
Expiration: _____

EXHIBIT B

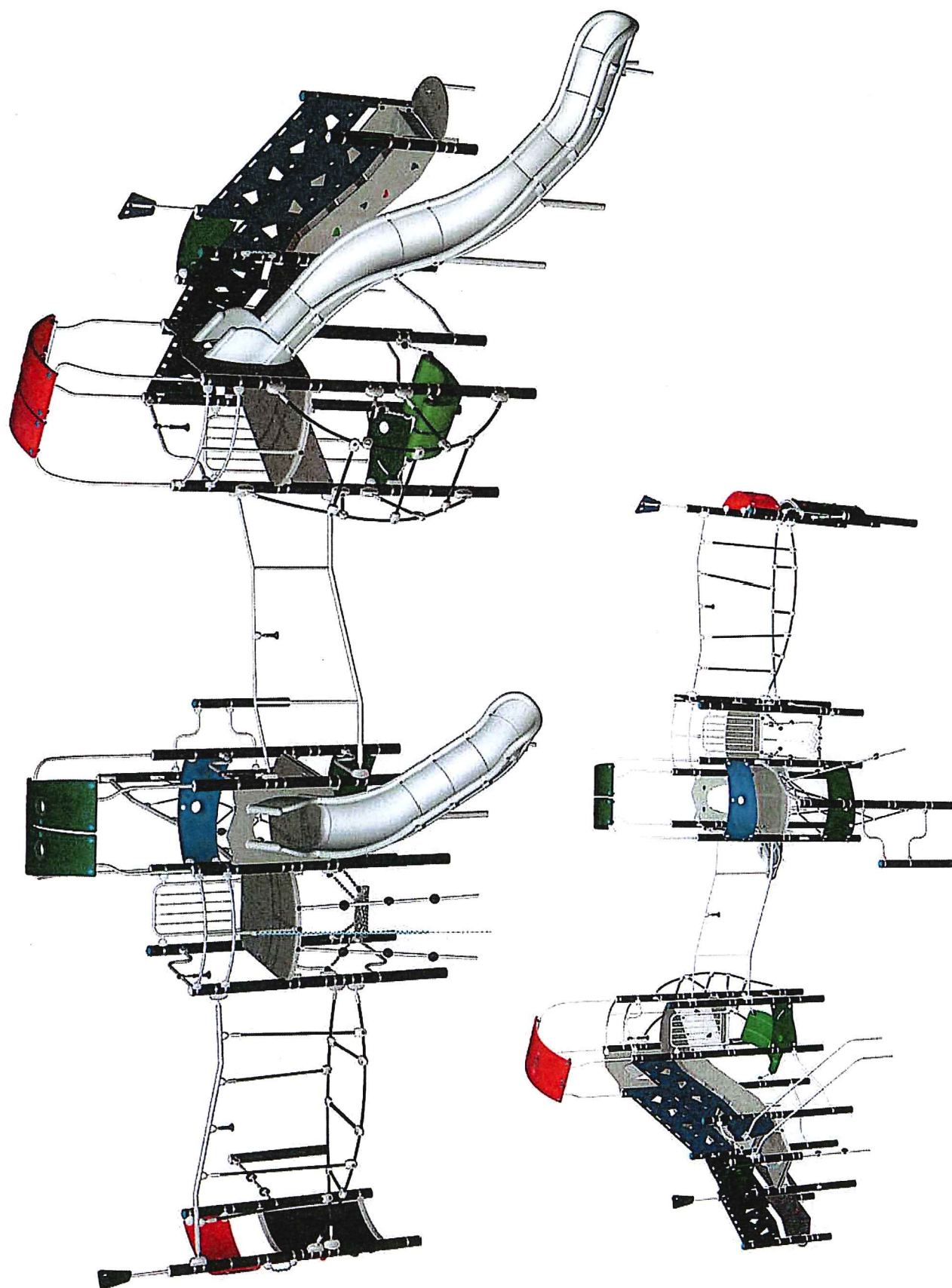
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KOMPAN Product Info

EPIC - ELE500015



Best User Age: 5-12 years

Footings: In-ground posts

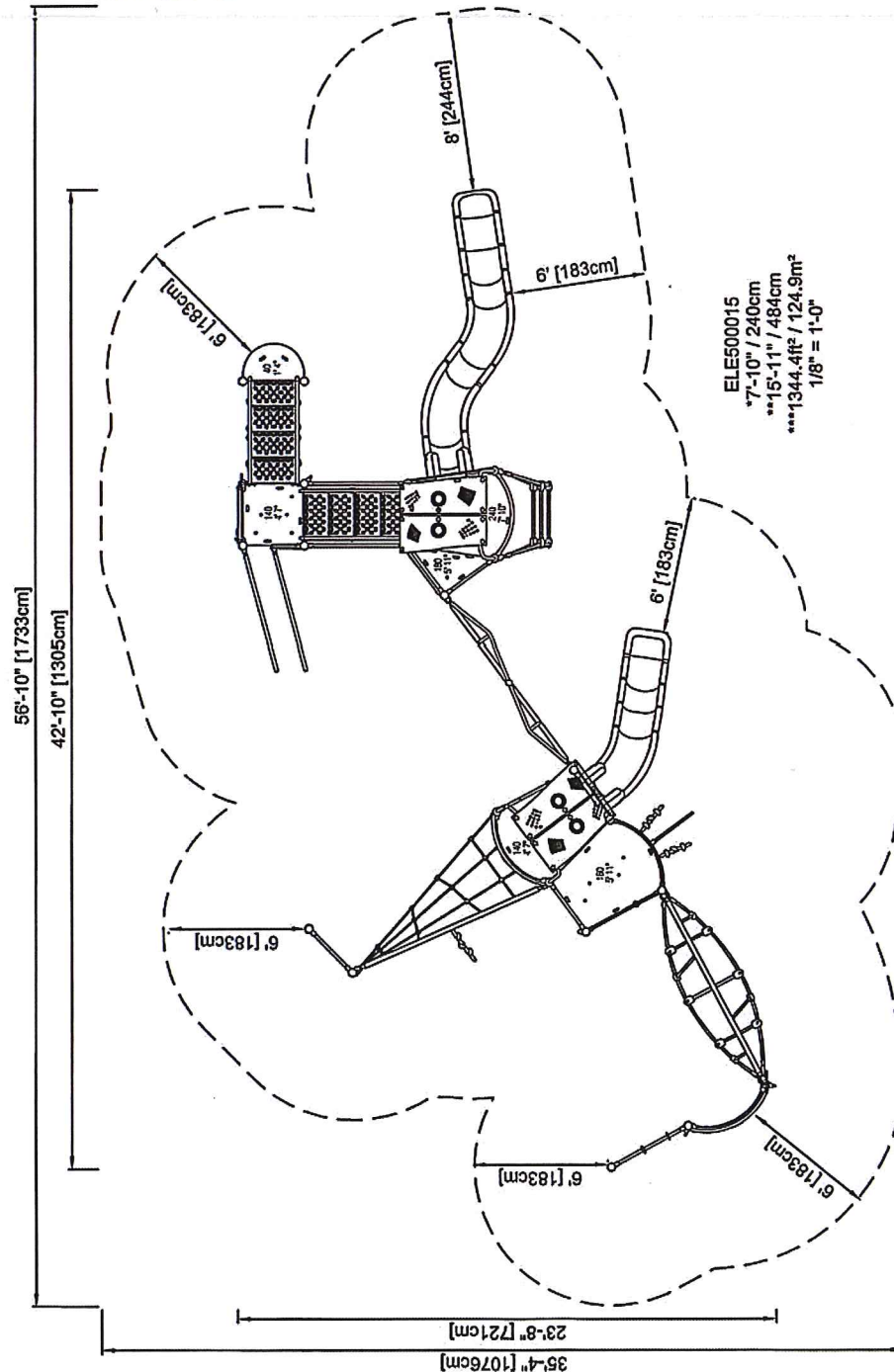
Surface installation also available

Technical information available at kompan.com

ADA ANALYSIS

Elevated Activities: 10	Accessible Elevated Activities	Accessible Ground Level Activities	Accessible Ground Level Play Types
Present	5	8	4
Required	5	4	4

EDGE



ELE500015
 *7'-10" / 240cm
 **15'-11" / 484cm
 ***1344.4ft² / 124.9m²
 1/8" = 1'-0"



To verify product certification, visit www.ipema.org

* = Highest designated play surface.

** = Total height of product.

*** = Total area of safety zone.

Highest designated play surface, space required and total area of safety zone are according to ASTM F1487.

Equipment must be installed over resilient surfacing appropriate to the safety guidelines in your area.

Product development is an ongoing process. We reserve the right to make modifications on all our products. This product may not be mirrored, scaled or altered in any way. Safety zones must be retained for proper placement of equipment. If any changes are required, please contact your KOMPAN representative at 1.800.426.9788.

US Communities Warranty 2016 – US

LIFETIME* Warranty

- **Galvanized structural parts**
 - ✓ **Steel poles**
 - ✓ **Cross beams**
 - ✓ **Floor frames**
 - ✓ **Top brackets**
- **Stainless steel hardware**
- **EcoCore™ and other HDPE panels**

10 Years Warranty

- **HPL floors & panels**
- **Galvanized and aluminum metal parts with painted top layer**
- **Other galvanized metal parts**
- **Other stainless steel parts**
- **Corocord rope**
- **“S” clamps of stainless steel**
- **Solid plastic parts**
- **Hollow plastic parts**
- **Non-painted metal parts**
- **Engineered timber and Robinia wood**

5 Years Warranty

- **Resin coated plywood plates**
- **Other painted metal parts**
- **Springs & ball bearing assemblies**
- **Other rope & net constructions**
- **Concrete elements**

2 Years Warranty

- **Movable plastic & metal parts**
- **EPDM rubber membranes material**
- **Electronic components**

1. Warranty coverage

This warranty applies to KOMPAN's products for the time periods described for each product type above and with the limitations described in this warranty. The warranty period applies from the date of purchase by the first customer. This warranty covers only defects in materials. KOMPAN's liability under this warranty is limited to repair or replacement of defective products, without charge, at KOMPAN's discretion. Defective electronic components will be delivered and changed by a KOMPAN ICON Professional installer free of charge

2. Limited warranty coverage of labor

In cases where KOMPAN invoices for installation, the labor warranty with respect to failure due to installation defects is limited to 1 year commencing on the date of completed installation.

3. Warranty applies only if products have been properly installed and maintained

The warranty only applies if KOMPAN's products have been installed according to the instructions provided by KOMPAN, and maintained correctly according to the KOMPAN Maintenance Manual. The warranty for ICON electrical components is dependent on those products being installed by an ICON trained and approved installer.

4. No coverage for accidents, wear, tear, cosmetic issues, misuse or vandalism

This warranty does not cover any damage caused by accident, improper care, negligence, normal wear and tear, surface corrosion on metal parts, discolored surfaces and other cosmetic issues or failures due to misuse or vandalism. Natural changes in wood over time are considered cosmetic issues and are not covered.

5. Products installed near water

Products installed in direct contact with chlorinated water or saltwater (Waterparks), or products installed with occasional contact with such water or installed so close to the shore that they are subjected to salt spray are not covered by the KOMPAN warranty for any defects caused by corrosion.

Products installed in coastal areas, within 200 meters of the shore, will only be covered by the warranty for half the period of the standard product warranty in relation to defects caused by corrosion. KOMPAN's lifetime warranty if applicable is limited to a 10 year warranty in relation to such products.

**** KOMPAN's LIFETIME warranty is in effect for the lifetime of the product until the product is uninstalled and/or taken out of use.***

In addition, KOMPAN's general terms & delivery conditions apply and supplement this warranty.



Volusia County Parks and Rec
202 North Florida Ave
32720 Deland
Chris Lessig
SP46711
Daytona Regional Recreation. PIP


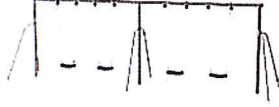



KOMPAN, Inc. • 930 Broadway, Tacoma, WA 98402 • (800) 426-9788 • Fax (866) 943-6254 • www.kompan.com

Thank you for your interest in KOMPAN.
I am pleased to provide you with a quote for your playground.
Prices are valid through December 31, 2016.
Please contact me if you have any questions.



U.S. COMMUNITIES[®]
GOVERNMENT PURCHASING ALLIANCE



Product		Product Number	Quantity	List Price	Discount Amount	Discount Percent	Net Price	Total Price
		US Communities Contract # 110171						
		ELE500015-3717 Epic	1.00	58,420.00	5,842.00	10.00	52,578.00	52,578.00
		Installation Price	1.00	14,605.00	730.25	5.00	13,874.75	13,874.75
		KSW91051-0809 Two Bay Swing In Ground	1.00	2,690.00	269.00	10.00	2,421.00	2,421.00
		Installation Price	1.00	672.50	33.63	5.00	638.87	638.87
	Link	M18601-09P GARDEN SEESAW Surface Mount	1.00	6,580.00	658.00	10.00	5,922.00	5,922.00
		Installation Price	1.00	1,645.00	82.25	5.00	1,562.75	1,562.75
	Link	ELE400024-3717LG SPINNER BOWL,Lime GREEN	1.00	1,030.00	103.00	10.00	927.00	927.00
		Installation Price	1.00	257.50	12.88	5.00	244.62	244.62
	Link	EST-PIP-8'CFH Per Sft 50/50 PIP Estimated	3,901.00	22.00	2.20	10.00	19.80	77,239.80
		SITEWORK Site Work. estimated curbing per linear feet	1.00	2,086.00	208.60	10.00	1,877.40	1,877.40
		SITEWORK Site Work. Concrete pad for PIP	1.00	3,500.00	350.00	10.00	3,150.00	3,150.00
		This is an estimate. SOW completed upon request						

Number of Products	3,907
Installation Price	17,180.00
Surface	0.00
Discount Amount	16,871.81
Freight Charge	2,946.00
Price Excluding Tax	163,382.19
Sales Tax	0.00
Basket Total	163,382.19

STANDARD TERMS: 50% DEPOSIT, NET 30

Customer is responsible to off-load truck at time of delivery.

Prevailing Wages installation will require an additional charge

Products have different lead times, please inquire for specific details.

For additional information on installation, please read attached document.

Authorized Signature

Date

