



# CONTRACT AGREEMENT

## City of Missoula Parks and Recreation

### Project: McCormick Park All Abilities Playground

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This agreement made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2013, and between the City of Missoula and Kompan Inc. 930 Broadway, Tacoma, WA. 98402, hereinafter referred to as "Supplier," for the scope of work listed below.

A. SCOPE OF WORK

Supplier shall furnish all labor, equipment and materials necessary to complete the following items:

1. The supply of specified playground equipment, poured in place fall zone material and professional installation services as shown in the Kompan Inc. proposal dated 11/21/13 and consistent with the McCormick Park Playground Equipment and Safety Surfacing Plan dated May 8, 2013

B. TIME OF COMPLETION

Work shall begin as soon as possible after the issuance of the Notice to Proceed. An 8 to 12 week lead time is anticipated for the manufacture of equipment and materials. Installation work must be completed within Sixty (60) calendar days of the arrival of equipment and materials with a completion date of no later than July 1, 2013.

C. PAYMENT

Upon completion and acceptance by the City of the work performed under this agreement, the City shall pay Supplier in accordance with the not-to-exceed price of **One Hundred Forty-Five Thousand, Nine Hundred Dollars and No Cents (\$145,900.00)**, for items listed on the Sales Proposal dated 11/21/2013, plus a project contingency of \$5,014.01 hereby made a part of this agreement less 1% payable to the Montana Department of Revenue. Where unit prices are listed on the Sales Proposal the payment shall be based upon unit prices for quantities installed and accepted. The final payment shall be full compensation for the materials and work described on the attached Quotation Proposal.

D. DOCUMENTS AND DRAWINGS

The following documents shall be made a part of this Contract Agreement:

1. Contract Agreement
2. Project Special Conditions
3. General Conditions
4. Contract Bonds
5. Prevailing Wage Rates
6. Kompan Inc. Sales Proposal dated 11/21/2013
7. City of Missoula Business License
8. Certificates of Insurance (listing City as additionally insured)
9. McCormick Park Playground Equipment and Safety Surfacing Plan dated May 8, 2013

**ACKNOWLEDGMENT AND APPROVAL OF AGREEMENT:**

Supplier –

By: \_\_\_\_\_  
**Shasta Bergener,**  
**Kompan Finance Manager**  
**KOMPAN, Inc.**

Date: \_\_\_\_\_

City of Missoula –

By: \_\_\_\_\_  
**JOHN ENGEN**  
**MAYOR**

Date: \_\_\_\_\_

By: \_\_\_\_\_  
**(Approved as to form)**  
**JIM NUGENT**  
**CITY ATTORNEY**

Date: \_\_\_\_\_

Attest:

\_\_\_\_\_  
**MARTHA L REHBEIN, CMC**  
**CITY CLERK**

Date: \_\_\_\_\_

*(Seal)*

## SECTION 2 – PROJECT SPECIAL CONDITIONS

### MCCORMICK PARK ALL ABILITIES PLAYGROUND

#### PROJECT SPECIAL CONDITIONS

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These Special Conditions are special provisions that modify and/or supplement in part the General Conditions or the Technical Specifications of the contract. In the event of a conflict, these Special Conditions shall take precedence. These Special Conditions are a part of this Contract.

1. **SAFETY.** The safety of park patrons, children, pets and maintenance staff is paramount. The Supplier shall execute and secure the work in such a way as to protect the safety of said individuals at all times until the project is complete and accepted by the City.
2. **PREVAILING WAGE RATES.** The Supplier shall utilize the Montana Davis-Bacon Wage Rates for Building Installation effective April 13, 2012 (see Prevailing Wage Rates section). Heavy and Highway Installation wage rates will not apply to this project.
3. **INSURANCE.** The insurance requirements listed in the Competitive Sealed Proposals (CSP) supersede those listed in the General Conditions.
4. **QUALIFICATIONS AND CERTIFICATION OF MANUFACTURER AND SUPPLIER.** The firm shall be a member in good standing of IPEMA, the International Play Equipment Manufacturer's Association. Each and every component of Manufacturer's products must be certified that it does meet or exceed the most current guidelines established by ASTM F-1487 Standard Consumer Safety Performance Specification for Playground Equipment for Public Use. Certification is required from both the manufacturer and IPEMA.
5. **INSTALLATION SCHEDULE & SEQUENCE OF WORK.** The Supplier shall submit an Installation Schedule to be approved by the Owner. The Supplier should schedule work so as not to cause unnecessary conflicts with other installation or unnecessary inconvenience to the public or to Parks & Recreation staff. Supplier's attention and adherence to the provided project schedule is required.  
  
Time is of the essence in this contract. Therefore, the Supplier shall prosecute the work regularly and uninterruptedly with such force as to complete the work within the contract time and per the installation schedule to minimize the effects upon park patrons and maintenance crews.
6. **SITE WORK DESIGN SPECIFICATIONS AND PRECEDENCE.** Not Applicable.
7. **CONSTRUCTION STAKING.** The Supplier is responsible for construction staking for play components and poured in place fall zone design and fall attenuation depths.

8. **TRAFFIC CONTROL AND SIGNING.** Traffic control and signing for this project shall be provided by the Supplier. No additional compensation will be made for traffic control on this project. The traffic control shall meet all requirements set forth by the Manual of Uniform Traffic Control Devices and the City of Missoula Standardized Installation Traffic Control Plans.
9. **MAINTENANCE OF TRAFFIC & ACCESS FOR EMERGENCY SERVICES.** It is the Supplier's responsibility to maintain emergency vehicle traffic routes at all times. It is the Supplier's responsibility to sign the routes when they are temporarily closed and to sign an approved detour.
10. **STAGING & SITE WORK.** The Supplier shall stage his work such as to prevent damage to any and all existing park elements and to minimize any impact to park patrons and maintenance crews. The Supplier shall be responsible at their own expense for the repair or restoration of any damage or negative impact to the park caused by moving onto the site or prosecution of the work. Concrete trucks shall not be allowed to enter or cross park turf areas. Truck wash-out shall not be allowed on site. Immediate clean up shall address any spilled or dripped concrete from discharge site to installation site. No remnant or evidence of concrete usage or transport shall be present or be allowed to remain. The Supplier shall protect completed work from any damage until final acceptance by the owner.
11. **PERMITS.** The Supplier to obtain all applicable permits prior to commencing work on the project. Necessary permits may include but are not limited to; Building, Storm Water Discharge, and Grading.
12. **PLAYGROUND DESIGN.** Provided by the City: McCormick Park Playground Equipment and Safety Surfacing Plan dated May 8, 2013.
13. **Assembly/Installation:** The play system assembly and installation will be provided and managed by the Supplier. The Supplier must provide direct supervision from manufacturer or provide qualified and certified representative familiar with playground installation. All tools and equipment required to install play equipment shall be provided by the Supplier for this project. The Supplier will be given sixty (60) calendar days to complete the playground and fall zone installation. Calendar days will begin as outlined in the Notice to Proceed. The Supplier will certify installation is in accordance with all manufacturers' requirements including, but not limited to warrantee and fall zone requirements.
14. **Inspection:** A CPSI Certified representative of the Supplier is required to conduct a post installation inspection of all equipment upon completion to insure proper installation. If not properly installed, modifications must be submitted in writing to the City and remedied immediately. Co-inspection with the Supplier's representative of assembly and installation work will be conducted by the City following installation. The City will supply the punch list for final completion generated by this co-inspection. The Supplier shall submit to the City the manufacturer's certification of compliance and warrantee following punch list completion.

15. **Warranty:** Upon completion of installation, the Supplier must provide documentation attesting the equipment and fall zone surfacing has been installed meeting all specifications required to be warranted by manufacturer. Additionally, it is the Supplier's responsibility to provide to the City the manufacturer's warranty of installed equipment.

16. **LIEN/CLAIM WAIVERS AND AFFIDAVIT OF BILLS PAID FOR RELEASE OF FINAL PAYMENT.** Supplier's attention is directed to General Conditions, Section 2.6.02 which requires completion and submission of installation lien/claim waivers for payment applications and an Affidavit of Bills Paid for Release of Final Payment. The new text is also copied below:

"Requests for Payment shall be accompanied by a City of Missoula Lien/Claim Waiver Form, with appropriate "Conditional" and "Unconditional" portions completed, from the Supplier and from each vendor, subcontractor and sub-subcontractor. Supplier shall submit an Affidavit of Bills Paid for Release of the Final Payment. For projects under \$50,000 a single Lien/Claim Waiver form may be submitted from each vendor, subcontractor and sub-subcontractor with the Request for Final Payment, accompanied by the Supplier's Affidavit of Bills Paid for Release of the Final Payment."

Forms are provided near the end of this contract document. Use of alternative form requires pre-approval of the Missoula City Attorney.

*END OF SPECIAL CONDITIONS*

## SECTION 3 – GENERAL CONDITIONS

### GENERAL CONDITIONS

1. **EXAMINATION OF PLANS, SPECIFICATIONS AND SITE OF WORK.** The Bidder is required to examine carefully the site of the work and all of the plans, specifications and other contract documents for the work contemplated. It will be assumed that the bidder has investigated and is satisfied as to the conditions to be encountered, above and under the surface of the ground, in performing the work as scheduled. It is mutually agreed that submission of a proposal shall be considered prima facie evidence that the Bidder has made such examination and is satisfied as to all conditions and contingencies.
2. **MATERIALS AND WORKMANSHIP.** Whenever any material is specified by name and/or number thereof, such specifications shall be deemed to be used for the purpose of facilitating a description of the materials and establishing quality, and shall be deemed and construed to be followed by the words "or approved equal." No substitutions will be permitted which have not been submitted for prior approval by the Project Manager. All materials shall be new and without flaws or defects and shall be the best of their class and kind. Sufficient descriptive literature and/or samples must be furnished for any materials submitted as "equal" substitutes.

All materials and equipment shall be installed in a neat and workmanlike manner. The Owner's Authorized Representative reserves the right to direct the removal and replacement of any items, which in their opinion shall not present an orderly and reasonably neat or workmanlike appearance, provided such time can be properly installed in such orderly way by the usual methods in such work. Such removal and replacement shall be done, when directed in writing, at the Contractor's expense without additional cost to the Owner.
3. **MONTANA STATE LICENSE AND REGISTRATION REQUIREMENTS.** Uniform Professional Licensing and Regulation procedures are contained in Title 37, M.C.A. Bidders are responsible for ensuring that they and their subcontractors are licensed and qualified to conduct business in Montana. Any Construction Contractor bidding on public work in the State of Montana is required to have a current Montana State Construction Contractor Registration except as listed in M.C.A. 39-9-211. No bids will be considered that do not carry the current contractor registration number on the Bid Proposal immediately following the signature and address of the bidder. Information pertaining to registration requirements may be obtained from the Montana Department of Labor and Industry, Helena, Montana. It is the duty of said Department to determine whether an applicant has met all requirements for registration as a construction contractor per Title 39, Chapter 9, Sections 39-9-101 through 39-9-401, M.C.A.
4. **TAXATION – GROSS RECEIPTS TAX.** As defined under Title 15, Chapter 50, embracing Sections 15-50-101 through 15-50-207, M.C.A., a governmental agency entering into a construction contract shall withhold one percent (1%) of gross sum due the Contractor under the performance of the contract provided that the contract amount exceeds five thousand dollars (\$5,000). The Contractor shall also withhold one percent (1%) of gross sum due the subcontractors. The withholdings shall be made payable to Miscellaneous Tax Division, Department of Revenue, Mitchell Building, Helena, Montana.
5. **CITY OF MISSOULA LICENSE AND BOND REQUIREMENTS.** Any Contractors engaged in public work in the City of Missoula are required to have a license from the City of Missoula based upon the nature of the work. A bond is also required for each type of work in the City of Missoula. Licenses are obtainable at the Office of the City Treasurer, City Hall, Missoula, Montana.
6. **INDUSTRIAL ACCIDENT INSURANCE.** The Contractor's attention is directed to the Industrial Accident Insurance laws in force in Montana and to the responsibility of the Owner for the collection of premiums thereunder. Contractor's compliance with said laws is required, and he shall relieve the Owner of any responsibility for the payment of premiums thereunder, and shall furnish the Owner with satisfactory

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McCormick Park All Abilities Playground Equipment and Fall Zone  
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evidence showing that all premiums arising from this contract have been paid before payment is made on the final estimate.

7. **WAGE RATES.** The minimum wages if included as a part of the contract documents, are not controlling except as to the minimum for the purpose of the Davis-Bacon Act; therefore, it is incumbent upon each employer to pay the standard prevailing rate of wages including fringe benefits for health and welfare and pension contributions, and travel allowance provisions in effect and applicable to the County or locality in which the work is being performed. The prevailing wage rate schedule in effect at the time this project is first advertised shall be used throughout the duration of the contract as prescribed in Administrative Rules of Montana (ARM) 24.17.127(1)(c).

"Standard Prevailing Rate of Wages" is defined by Section 18-2-402, M.C.A. as including wages, fringe benefits for health and welfare and pension contributions and travel allowance which are paid in the City or locality by other contractors for work of a similar character performed in the county or locality by each craft, classification or type or worker needed to complete a contract. Prevailing Wage Rates must be paid on any construction contract awarded for an amount greater than \$25,000.00

Any infractions of the Laws of the State of Montana covering Labor will be forwarded to the State of Montana, Department of Labor and Industry, Labor Standards Division.

Travel allowance if applicable, may or may not be all inclusive of "travel" and/or subsistence and travel time due employees. It is incumbent of the employer to determine the amounts due for each craft employed according to the method of computation outlined for each craft where applicable.

To comply with Section 18-2-406, M.C.A., the Contractor performing work or providing construction services, shall post in a prominent and accessible site on the project or staging area, not later than the first day of work and continuing for the entire duration of the project, a legible statement of all wages and fringe benefits to be paid to the employees.

Copies of the current prevailing rate of wages may be obtained from the Montana State Department of Labor and Industry, Labor Standards Division, Helena, Montana.

8. **ORDINANCES AND REGULATIONS.** The Contractor shall give all notices and comply with all Federal, State and local laws, ordinances and regulations in any manner affecting the conduct of the work, and all such orders and decrees as exist, or may be enacted by bodies or tribunals having any jurisdiction or authority over the work, and shall indemnify and save harmless the Owner and the Engineer against any claim or liability arising from, or based on, the violation of any such law, ordinance, regulation, order or decrees, whether by himself or his employees.
9. **GUARANTEE.** The Contractor shall guarantee all materials and equipment furnished and work performed a period of two years from the date of written acceptance of the work unless specified otherwise.
10. **INSURANCE.** The Contractor shall not commence any work until he obtains, at his own expense, all required insurance. Such insurance must have the approval of the Owner as to limit, form and amount. The Contractor will not permit any Subcontractor to commence work on this project until the same insurance requirements have been complied with by such Subcontractor.

A. Types: The types of insurance the Contractor is required to obtain and maintain for the full period of the Contract will be: Workmen's Compensation Insurance, Comprehensive General Liability Insurance, and Property Insurance upon the work itself written on a Builders' Risk "All-Risk" or open peril or special causes of loss policy form as detailed in the following portions of this specifications.

B. Evidence: As evidence of specified insurance coverage, the Owner may, in lieu of actual policies, accept certificates issued by the insurance carrier showing such policies in force for the specified period. Each policy or certificate will bear an endorsement or statement waiving right of cancellation or reduction

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in coverage without Forty-five day's notice in writing to be delivered by registered mail to the Owner. Should any policy be canceled before final payment by the Owner to the Contractor and the Contractor fails immediately to procure other insurance as specified, the Owner reserves the right to procure such insurance and to deduct the cost thereof from any sum due the Contractor under this Contract.

C. Adequacy of Performance: Any insurance bearing on adequacy of performance shall be maintained after completion of the project for the full guaranty period. Should such insurance be canceled before the end of the guaranty period and the Contractor fails immediately to procure other insurance as specified, the Owner reserves the right to procure such insurance and to charge the cost thereof to the Contractor.

D. Payment of Damages: Nothing contained in these insurance requirements is to be construed as limiting the extent of the Contractor's responsibility for payment of damages resulting from his operations under this contract.

11. **WORKMEN'S COMPENSATION INSURANCE.** Before the Agreement between the Owner and the Contractor is entered into, the Contractor shall submit written evidence that he and all subcontractors have obtained, for the period of the Contract, full Workmen's Compensation Insurance coverage for all persons whom they employ or may employ in carrying out the work under this Contract. This insurance shall be in strict accordance with the requirements of the most current and applicable State Workmen's Compensation Insurance Laws.

12. **COMPREHENSIVE GENERAL LIABILITY INSURANCE.** Before commencement of the work, the Contractor shall submit written evidence that he and all his Subcontractors have obtained for the period of the Contract, full Comprehensive General Liability Insurance coverage. This coverage shall provide for both bodily injury and property damage. (The Comprehensive General Liability Insurance will include as Additional Named Insured: The Owner, the Engineer and his consultants; and each of their officers agents and employees).

A. Bodily Injury portion shall include coverage for injury, sickness or disease, and death, arising directly or indirectly out of, or in connection with the performance of work under this Contract, and shall provide for a limit of not less than one million dollars (\$1,000,000) for all damages arising out of bodily injury, sickness or disease to or death of one person, and a total limit of two million dollars (\$2,000,000) for damages arising out of bodily injury, sickness or disease and death of two or more persons in any one occurrence.

B. Property Damage portion will provide for a limit of not less than that listed below for all damages arising out of injury to or destruction of property of others arising directly or indirectly out of or in connection with the performance of work under this Contract and in any one occurrence including explosion, collapse and underground exposure.

1. Automobile \$1,000,000

2. Other than automobile \$1,000,000 each occurrence, \$2,000,000 aggregate

C. Indemnity: Included in such insurance will be Contractual Coverage sufficiently broad to insure the provisions of Paragraph 14 below.

13. **PROPERTY INSURANCE UPON THE WORK.** Before commencement of the work, the Contractor shall submit written evidence that he has obtained, for the period of the Contract, property insurance upon the work at the site in the amount of the full replacement cost thereof.. This policy shall be written on a Builders' Risk "All-Risk" or open peril or special causes of loss policy form and include Completed Value Insurance coverage (including Flood and/or Earthquake) upon the entire project which is the subject of this Contract and including completed work and work in progress. At a minimum this insurance shall cover physical loss and damage to the Work itself, to temporary buildings or structures, and to materials and equipment in care, custody, control or in transit before and during installation, from at least the following perils or causes of loss: fire, lightning, extended coverage, theft, vandalism and malicious mischief, earthquake, collapse, debris removal, demolition occasioned by enforcement of Laws and Regulations, water damage, including flood. Such insurance shall be maintained in effect until final payment is made unless otherwise agreed to in writing by Owner. Such insurance shall include as Additional Named



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Insured: The Owner; the Engineer and his consultants; and each of their officers; employees and agents; and any other persons with an insurable interest designated by the Owner as an Additional Named Insured.

A. Deductible Clause: Such insurance may have a deductible clause but amount of deductible shall not exceed \$250.00.

14. **INDEMNITY.** The Contractor shall hold harmless, indemnify and shall defend the Owner, the Manager and his consultants, and each of their officers and employees and agents, from any and all liability claims, demands, losses, costs, damages, expenses or liability to the extent arising or alleged to arise from the Contractor's performance of the work described herein, but not including the sole negligence of the Owner or the Manager. Contractor shall procure and maintain in force, at its expense, the liability insurance required.
15. **NOTICE TO PROCEED.** Following the execution for the Contract by the Owner and the Contractor, written Notice to Proceed with the work shall be given by the Owner to the Contractor. The Contractor shall begin and prosecute the work regularly and uninterruptedly thereafter with such force as to secure the completion of the work within the Contract time.
16. **CONTRACT TIME.** The Contractor shall complete, in an acceptable manner, all of the work contracted for in the time stated herein. Computation of the Contract Time shall commence on the day following the date the Contractor's Acknowledgement of the Notice to Proceed and every calendar day following shall be counted as Contract Time.
17. **REQUESTS FOR PAYMENT.** The Contractor may submit to the Owner periodically, but not more than once each month a Request for Payment for work done and materials delivered to and stored on the site. The Contractor shall furnish the Owner all reasonable information required for obtaining the necessary data relative to the progress and execution of the work. Payment for materials stored on the site will be conditioned upon evidence submitted to establish the Owner's title to such materials. Each Request for Payment shall be computed on the basis of work completed on all items listed in the Detailed Breakdown of Contract, unit prices, less five percent to be retained until final completion and acceptance of the work and less previous payments.
18. **OWNER'S ACTION ON REQUEST FOR PAYMENT.** Within thirty days after receipt of a Request for Payment from the Contractor, the Owner shall:
  - A. **Pay the Request** for Payment as submitted by the Contractor.
  - B. **Pay such other amount,** in accordance with Paragraph 18 as he shall decide is due the Contractor, informing the Contractor in writing of his reasons for payment the amended amount.
  - C. **Withhold payment** in accordance with Paragraph 18, informing the Contractor of his reasons for withholding payment.
19. **OWNER'S RIGHT TO WITHHOLD PAYMENT OF A REQUEST FOR PAYMENT.** The Owner may withhold payment, in whole or in part, of a Request for Payment to the extent necessary to protect itself from loss on account of any of the following:
  - A. **Defective work.**
  - B. **Evidence indicating** the probably filing of claims by other parties against the Contractor that may adversely affect the Owner.
  - C. **Failure of the Contractor** to make payments due to Subcontractors, material suppliers or employees.
20. **INTEREST ON UNPAID REQUESTS FOR PAYMENT.** No interest will be paid on unpaid requests for payment.

21. **AFFIRMATIVE ACTION POLICY.** Contractors, subcontractors, subgrantees, and other firms doing business with the City of Missoula must be in compliance with the City of Missoula's Affirmative Action Plan, and Title 49 Montana Code Annotated entitled "Human Rights" or forfeit the right to continue such business dealings.

**The City's Affirmative Action Policy Statement is:**

NON-DISCRIMINATION. All hiring shall be on the basis of merit and qualification and there shall be no discrimination in employment on the basis race, ancestry, color, physical or mental disability, religion, national origin, sex, age, marital or familial status, creed, ex-offender status, physical condition, political belief, public assistance status or sexual orientation, gender identity or expression, except where these criteria are reasonable bona fide occupational qualifications.

AFFIRMATIVE ACTION POLICY. Contractors, subcontractors, sub grantees, and other firms doing business with the City of Missoula must be in compliance with the City of Missoula's Affirmative Action Plan, and Title 49 Montana Codes Annotated, entitled "Human Rights" or forfeit the right to continue such business dealings.

**The City's Affirmative Action Policy Statement is:**

The Mayor of the City of Missoula or the Mayor's designee may adopt an affirmative action plan to provide all persons equal opportunity for employment without regard to race, ancestry, color, disability, religion, creed, national origin, sex, age, marital status. In keeping with this commitment, we are assigning to all department heads and their staff the responsibility to actively facilitate equal employment opportunity for all present employees, applicants, and trainees. This responsibility shall include assurance that employment decisions are based on furthering the principle of equal employment opportunity by imposing only valid requirements for employment and assuring that all human resource actions are administered on the basis of job necessity.

Specific responsibility for developing, implementing, monitoring and reporting are assigned to the City Personnel staff under the supervision and direction of the Chief Administrative Officer and the Mayor.

It is the policy of the City of Missoula to eliminate any practice or procedure that discriminates illegally or has an adverse impact on an "affected" class. Equal opportunity shall be provided for all City employees during their terms of employment. All applicants for City employment shall be employed on the basis of their qualifications and abilities.

The City of Missoula, where practical, shall utilize minority owned enterprises and shall ensure that subcontractors and vendors comply with this policy. Failure of subcontractors and vendors to comply with this policy statement shall jeopardize initial, continued, or renewed funds.

Our commitment is intended to promote equal opportunity in all employment practices and provide a positive program of affirmative action for the City of Missoula, its employees, program participants, trainees and applicants.

## **SECTION 5 – CONTRACT BONDS**

## PERFORMANCE BOND

Bond Number: \_\_\_\_\_

KNOW ALL MEN BY THESE PRESENTS:

That we, the undersigned contractor, \_\_\_\_\_ as

PRINCIPAL, and \_\_\_\_\_, a corporation organized and existing

under the laws of the State of \_\_\_\_\_, as SURETY, are firmly bound unto the Owner, the City

of Missoula, Montana, in the penal sum of \_\_\_\_\_

\_\_\_\_\_ (\$ \_\_\_\_\_) lawful money of the United States, for the payment of which sum

well and truly to be made, the said Principal and Surety bind themselves, their successors and assigns, jointly

and severally, firmly by these presents, as follows:

THE CONDITION OF THIS OBLIGATION IS SUCH THAT:

Whereas, the said Principal, by a written agreement attached hereto and bearing the date of \_\_\_\_\_, has contracted for the **McCormick Park All Abilities Playground** and has agreed with the said Owner, City of Missoula, to furnish all tools, equipment, materials, appliances, except as otherwise provided, and construct and complete the construction of the work described in the proposal and the contract agreement, and to complete all specified work appurtenant thereto, all in accordance with the plans and specifications, proposal, and contract agreement which form a part of the Contract Documents hereto attached.

NOW, THEREFORE, if the said Principal shall well and truly perform and complete said work in strict accordance with said Contract Documents, shall comply with all the requirements of the laws of the State of Montana, shall pay as they become due all just claims for work or labor performed and materials furnished in connection with said Contract Agreement, and shall defend, indemnify and save harmless said Obligee against any and all liens, encumbrances, damages, claims, demands, expenses, costs and charges of every kind, including patent infringement claims, arising out of or in relation to the performance of said work and the provisions of said Agreement, then these present shall be void; otherwise they shall remain in full force and effect.

PROVIDED FURTHER, that the said Surety for value received, hereby stipulates and agrees that no change, extension of time, alteration, or attrition to the terms of the Contract, or the work to be performed there under; or the specifications accompanying the same, shall in any way affect its obligation on this bond, and it does hereby waive notice of any change, extension of time, alteration, or addition to the terms of the Contract or to the work, or to the Specifications.

PROVIDED FURTHER, that if the Contractor, or its subcontractor or subcontractors fail to duly pay for any labor, materials, team hire, sustenance, provisions, provender or any other supplies or materials used or consumed by such Contractor, or its subcontractors in performance of the work contracted to be done, the Surety will pay the same in any amount not exceeding the sum specified in the bond, together with interest provided by law.

IN WITNESS WHEREOF, said Principal and Surety have hereunto set their hands and seals at

\_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

<b>CONTRACTOR AS PRINCIPAL</b>
--------------------------------

Company:\_\_\_\_\_ Address \_\_\_\_\_

Signature:\_\_\_\_\_ \_\_\_\_\_

Name and Title:\_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Signature, Name and Title

(Seal)

<b>SURETY</b>
---------------

Company:\_\_\_\_\_ Address: \_\_\_\_\_

Signature:\_\_\_\_\_ \_\_\_\_\_

Name and Title:\_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Signature, Name and Title

(Surety Seal)

(Attach Power of Attorney)

## PAYMENT BOND

Bond Number: \_\_\_\_\_

Note: This bond is issued simultaneously with another bond in favor of the Owner conditioned for the full and faithful performance of the Contract.

KNOW ALL MEN BY THESE PRESENTS:

That \_\_\_\_\_  
(Name and address or legal title of the Contractor)

\_\_\_\_\_ as Principal, hereinafter called PRINCIPAL,

and \_\_\_\_\_  
(Legal title of Surety)

as Surety, hereinafter called SURETY, are held and firmly bound unto the City of Missoula, Montana as obligee, hereinafter called OWNER, for the use and benefit of claimants as herein below defined in the amount of \_\_\_\_\_  
(\$ \_\_\_\_\_) for the payment whereof Principal and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, Principal has by a written agreement dated \_\_\_\_\_ entered into a contract for the **McCormick Park All Abilities Playground** with the Owner for the work included in this contract in accordance with drawings and specifications herein, which contract is by reference made a part hereof, and is hereinafter referred to as the Contract.

NOW, THEREFORE, the condition of this obligation is such that if the Principal shall promptly make payments to all claimants as hereinafter defined, for all labor and materials used or reasonably required for use in the performance of the Contract, and any duly authorized modifications that may hereafter be made, except that no change will be made which increases the total contract price without notice to the Surety, then this obligation shall be void; otherwise, it shall remain in full force and effect, subject, however, to the following conditions:

1. A claimant is defined as one having a direct contract with the Principal or with a subcontractor of the Principal for labor, material, or both, used or reasonably required for use in the performance of the contract; labor and material being construed to include that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental of equipment directly applicable to the contract.
2. The above named Principal and Surety hereby jointly and severally agree with the Owner that every claimant as herein defined who has not been paid in full before the expiration of a period of ninety (90) days after the date on which the last of such claimant's work or labor was done or performed, or materials were furnished by such claimant, may sue on this bond for the use of such claimant in the name of the Owner, prosecute the suit to final judgment for such sum or sums as may be justly due claimant, and have execution thereon, provided, however, that the Owner shall not be liable for the payment of any costs or expenses of any such suit.
3. No suit or action shall be commenced hereunder by any claimant.

CITY OF MISSOULA

McCormick All Abilities Playground & Fall Zone  
Missoula, Montana

- (a) Unless claimant shall have given written notice to any two of the following: the Principal, the Owner, or the Surety above named, within ninety (90) days after such claimant did or performed the last of the work or labor, or furnished the last of the materials for which said claim is made, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were furnished or for whom the work or labor was done or performed. Such notice shall be served by mailing the same by registered mail, postage prepaid, in an envelope addressed to the Principal, Owner, or Surety, at any place where an office is regularly maintained for the transaction of business, or served in the state in which the aforesaid project is located, save that such service need not be made by a public officer.
  - (b) After the expiration of one (1) year following the date on which the Principal ceased work on said contract.
  - (c) Other than in a state court of competent jurisdiction in and for the county or other political subdivision of the state in which the project, or any part thereof, is situated or in the United States District Court for the district in which the project, or any part thereof, is situated, and not elsewhere.
4. Special exceptions: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
5. The amount of this bond shall be reduced by and to the extent of any payment or payments made in good faith hereunder, inclusive of the payments by Surety of mechanic's liens that may be filed on record against said improvement, whether or not claim for the amount of such lien be presented under and against this bond.

IN WITNESS WHEREOF, said Principal and Surety have hereunto set their hands and seals at

\_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

<b>CONTRACTOR AS PRINCIPAL</b>
--------------------------------

Company:\_\_\_\_\_

Address:\_\_\_\_\_

Signature:\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Name and Title:\_\_\_\_\_

ATTEST:\_\_\_\_\_

Signature, Name and Title

(Seal)

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<b>SURETY</b>
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Company:\_\_\_\_\_

Address:\_\_\_\_\_

Signature:\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Name and Title:\_\_\_\_\_

ATTEST:\_\_\_\_\_

Signature, Name and Title

(Surety Seal)

(Attach Power of Attorney)

(Seal)



## SECTION 5 – PREVAILING WAGE RATES

Source: <http://www.wdol.gov/wdol/scafiles/davisbacon/mt64.dvb>

General Decision Number: MT130064 11/08/2013 MT64

Superseded General Decision Number: MT20120064

State: Montana

Construction Type: Building

County: Missoula County in Montana.

BUILDING CONSTRUCTION PROJECTS (does not include single family homes or apartments up to and including 4 stories).

Modification Number	Publication Date
0	01/04/2013
1	01/18/2013
2	02/08/2013
3	02/22/2013
4	03/01/2013
5	03/15/2013
6	04/05/2013
7	05/03/2013
8	07/12/2013
9	07/19/2013
10	08/23/2013
11	09/20/2013
12	10/04/2013
13	11/01/2013
14	11/08/2013

ASBE0082-002 08/01/2012

	Rates	Fringes
Heat and Frost Insulator.....	\$ 32.17	16.25

BOIL0011-002 10/01/2013

	Rates	Fringes
BOILERMAKER.....	\$ 33.67	23.85

BRMT0007-002 06/01/2011

	Rates	Fringes
BRICKLAYER.....	\$ 26.06	11.35

CITY OF MISSOULA

McCormick Park All Abilities Playground Equipment and Fall Zone  
Missoula, Montana

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CARP0028-008 06/01/2013

	Rates	Fringes
CARPENTER (Including Drywall Hanging, Metal Stud Installation, and Formwork).....	\$ 21.00	11.57
MILLWRIGHT.....	\$ 29.00	11.57

Zone Definition:

The hourly rate applicable to each project is determined by measuring the road miles over the shortest practical route from the County Courthouse of the following towns to the center of the job: Billings, Bozeman, Butte, Great Falls, Helena, Kalispell, Lewiston, Miles City, and Missoula

Zone 1: 0 to 30 miles - Base Rate  
Zone 2: 31 to 60 miles - \$3.70  
Zone 3: over 60 miles - \$5.60

-----  
ELEC0768-008 06/01/2012

	Rates	Fringes
ELECTRICIAN.....	\$ 27.02	11.68

-----  
ELEV0019-005 01/01/2013

	Rates	Fringes
ELEVATOR MECHANIC.....	\$ 47.00	25.185+a+b

FOOTNOTE:

- a. Employer contributes 8% of the basic hourly rate for over 5 year's service and 6% of the basic hourly rate for 6 months to 5 years' of service as vacation paid credit.
- b. Eight paid holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Veteran's Day; Thanksgiving Day; Friday after Thanksgiving and Christmas Day

-----  
ENGI0400-004 05/01/2013

	Rates	Fringes
POWER EQUIPMENT OPERATOR: (Zone 1)		
(1) Crane, Forklift, Front End Loader.....	\$ 24.32	11.40
(2) Excavator.....	\$ 24.79	11.40

# CITY OF MISSOULA

McCormick Park All Abilities Playground Equipment and Fall Zone  
Missoula, Montana

## ZONE DEFINITIONS FOR POWER EQUIPMENT OPERATORS:

The zone hourly rates applicable to each project shall be determined by measuring the road miles over the shortest practical maintained route from the nearest County Court House of the following listed towns to the center of the job:

BILLINGS, BOZEMAN, BUTTE, GREAT FALLS, HELENA, KALISPELL, MISSOULA

Zone 1: 0 to 30 miles - Base Pay  
Zone 2: 30 to 60 miles - Base Pay + \$3.50  
Zone 3: Over 60 miles - Base Pay + \$5.50

-----  
IRON0014-014 07/01/2013

	Rates	Fringes
IRONWORKER, STRUCTURAL, REINFORCING AND ORNAMENTAL.....	\$ 25.90	20.53

-----  
\* LAB01686-007 05/01/2012

	Rates	Fringes
LABORER (Zone 1)		
Common or General.....	\$ 19.08	8.42
Mason Tender-Brick.....	\$ 19.48	8.42

## ZONE DEFINITIONS FOR LABORERS

The zone hourly rates applicable to each project shall be determined by measuring the road miles over the shortest practical maintained route from the County Courthouse of the following listed town to the center of the job:

Billings, Bozeman, Butte, Helena, Great Falls, Missoula, Kalispell

## TRAVEL ZONES:

ZONE 1: 0 to 30 miles, Base Pay  
ZONE 2: 30-60, add \$3.05 to Base Pay  
ZONE 3: Over 60 miles, add \$4.85 to Base Pay

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PAIN0260-003 06/01/2010

	Rates	Fringes
PAINTER: Brush and Spray.....	\$ 18.35	6.84

CITY OF MISSOULA

McCormick Park All Abilities Playground Equipment and Fall Zone  
Missoula, Montana

PLUM0459-006 05/01/2013

	Rates	Fringes
PIPEFITTER, Excludes HVAC		
Pipe Installation.....	\$ 27.58	12.93
PLUMBER, Includes HVAC Pipe		
Installation.....	\$ 27.58	12.93

-----  
ROOF0189-003 07/01/2011

	Rates	Fringes
ROOFER.....	\$ 23.69	10.02

-----  
SFMT0669-002 07/01/2013

	Rates	Fringes
SPRINKLER FITTER (Fire		
Sprinklers).....	\$ 30.14	17.62

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SHEE0103-008 07/01/2013

	Rates	Fringes
SHEET METAL WORKER (HVAC Duct		
and System Installation Only)....	\$ 27.33	13.16

-----  
SUMT2011-039 01/04/2011

	Rates	Fringes
OPERATOR: Backhoe.....	\$ 20.56	6.35
PAINTER: Roller.....	\$ 17.00	0.00

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WELDERS - Receive rate prescribed for craft performing  
operation to which welding is incidental.

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Unlisted classifications needed for work not included within  
the scope of the classifications listed may be added after  
award only as provided in the labor standards contract clauses  
(29CFR 5.5 (a) (1) (ii)).

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The body of each wage determination lists the classification

## CITY OF MISSOULA

McCormick Park All Abilities Playground Equipment and Fall Zone  
Missoula, Montana

and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of "identifiers" that indicate whether the particular rate is union or non-union.

### Union Identifiers

An identifier enclosed in dotted lines beginning with characters other than "SU" denotes that the union classification and rate have found to be prevailing for that classification. Example: PLUM0198-005 07/01/2011. The first four letters, PLUM, indicate the international union and the four-digit number, 0198, that follows indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. The date, 07/01/2011, following these characters is the effective date of the most current negotiated rate/collective bargaining agreement which would be July 1, 2011 in the above example.

Union prevailing wage rates will be updated to reflect any changes in the collective bargaining agreements governing the rates.

0000/9999: weighted union wage rates will be published annually each January.

### Non-Union Identifiers

Classifications listed under an "SU" identifier were derived from survey data by computing average rates and are not union rates; however, the data used in computing these rates may include both union and non-union data. Example: SULA2004-007 5/13/2010. SU indicates the rates are not union majority rates, LA indicates the State of Louisiana; 2004 is the year of the survey; and 007 is an internal number used in producing the wage determination. A 1993 or later date, 5/13/2010, indicates the classifications and rates under that identifier were issued as a General Wage Determination on that date.

Survey wage rates will remain in effect and will not change until a new survey is conducted.

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### WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can

CITY OF MISSOULA

McCormick Park All Abilities Playground Equipment and Fall Zone  
Missoula, Montana

be:

- \* an existing published wage determination
- \* a survey underlying a wage determination
- \* a Wage and Hour Division letter setting forth a position on a wage determination matter
- \* a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations  
Wage and Hour Division  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

=====  
END OF GENERAL DECISION



# SALES PROPOSAL



KOMPAN, INC. \* 930 Broadway, Tacoma, WA 98402 \* Tel 1-888-579-8223 \* Fax 1-888-579-8224 \* www.kompan.com

KOMPAN is a proud supplier partner of



**Date** 11/21/13  
**Expiration Date** 12/31/13  
**Proposal No.** SP28542  
**Project** McCormick Park  
**Ship to State/Zip** MT 59801  
**Customer Service Representative** Joedi Rice  
**Sales Representative** PlaySpace Designs, Inc.  
**Payment Terms** TBD

**Site Location:** 130225

McCormick Park  
Option 2  
600 Cregg Ln.  
Missoula, 59801  
United States

**Invoice-to:** 130225

McCormick Park  
600 Cregg Ln.  
Missoula, MT 59801  
United States

**Ship-to:**

McCormick Park  
Option 2  
600 Cregg Ln.  
Missoula, MT 59801  
United States

Qty.	Item No.	Description	Unit Price	Retail Price	Disc. %	Net Price
U.S. Communities Contract #110171						
1	M18601-12P	Garden Seesaw In Ground	5,900.00	5,900.00	10.00	5,310.00
2	M14701-00P	SUPPORT HDPE	910.00	1,820.00	10.00	1,638.00
1	ELE400101-3717E	Ministudio 1, (COLOR TBD)	2,980.00	2,980.00	10.00	2,682.00
1	GXY801421-3717	Spica 1 In Ground -90cm 3 Bay Swing w/ Basket Seat, 2 Belts, 1 ADA (5-12) & 1 ADA (2-5)	2,060.00	2,060.00	10.00	1,854.00
1	SW910201-0809	SWING Complete Frame Double	1,173.00	1,173.00	10.00	1,055.70
1	SW910801-0809	SWING Start-End Double	952.00	952.00	10.00	856.80
1	SW910901-0809	BSKT SWING START-END	2,376.00	2,376.00	10.00	2,138.40
2	SW990011-01	Belt Seat Galvanized Chains	94.00	188.00	10.00	169.20
1	S67855	Made-For-Me Seat, (5-12)	590.00	590.00	10.00	531.00
1	S67860	Made-For-Me Seat, (2-5)	554.00	554.00	10.00	498.60
1	SW990051-00	BIRD'S NEST SEAT 8'	2,747.00	2,747.00	10.00	2,472.30
1	COR-CUSTOM	Mountaineering Ropes COR2528	1,270.00	1,270.00	10.00	1,143.00
Continued on page 2.....						20,349.00

Continued from page 1 .....						20,349.00
1	INSTALLATION	Installation of KOMPAN Equipment @ Davis Bacon Wage	8,765.75	8,765.75	5.00	8,327.46
1	INSPECTION	Playground Site Inspection-CPSI	400.00	400.00	5.00	380.00
1	FRT-PA	Freight Middletown PA Please call 24 hours before delivery:	1,803.00	1,803.00		1,803.00
6,745	DP2-6CFH-1001+50-	PourInPlace 2.25" 50/50 Color - Main Play Po Main Play Pod Area + Playmound	11.95	80,602.75	10.00	72,542.47
1,682	DP1-8CFH-800+50-5	PourInPlace 3.5" 50/50 Color - Swing Area *Does not include 4" Concrete underlayment Does not include stone base under concrete	11.95	20,099.90	10.00	18,089.91
7,486	INSTALLATION	Installation of crushed gravel base **Does not include crushed gravel material	2.15	16,094.90	5.00	15,290.15
1	PERF. BOND	Performance Bond Charge	4,104.00	4,104.00		4,104.00
<b>Total</b>						<b>140,885.99</b>

**Comments:**

Please allow 12-14 weeks for product delivery upon order placement.  
This quote assumes direct access delivery. Limited access deliveries will incur extra freight charges.  
This quote includes a charge for liftgate service.  
Charges for permits are not included. An appropriate amount will be added if applicable.  
Price assumes NO overhead (13'6" or lower) or underground (within 3'6" of surface) obstacles.  
Terms for credit will be established upon approval.  
A new pricelist will go into effect as of January 1, 2014.  
Please provide us with a copy of your tax-exempt certificate if applicable.  
Prices do not include dumpster or security if needed. This will be an additional charge  
Customer is to provide level dirt site, free of underground obstacles.  
Customer is responsible for disposal of refuse / garbage.  
Customer is responsible for removal of any existing equipment / obstacles prior to installation.  
Customer is responsible to do all site work prior to installation.  
The site should be as level as possible, and MUST have no more than a 1" (inch) in 10' (feet) slope  
or change in elevation over the full length and width of the playground area,  
Price for poured-in-place surfacing includes material, delivery and installation.  
Price for poured-in-place surfacing does not include sub base preparation, rubbish removal or security for work performed.



Summary:

	Retail Price	Discount	Net Price
Subtotal - KOMPAN Products	21,466.00	2,146.60	19,319.40
Subtotal - Other Products	1,144.00	114.40	1,029.60
Subtotal - Surfacing	100,702.65	10,070.27	90,632.38
Subtotal - Installation & Other Services	28,964.65	1,243.04	27,721.61
Subtotal - Freight	1,803.00	0.00	1,803.00
Subtotal	154,480.30	13,594.31	140,885.99

Estimated Tax Rate	(Applicable sales tax will be added unless a valid tax exemption certificate is provided. This amount is only an estimate of your tax liability.)	0.00
Total		140,885.99

<p>Your acceptance of this proposal constitutes a valid order request and includes acceptance of terms and conditions contained within the Master Agreement, which is hereby acknowledged. Acceptance of this proposal by KOMPAN is acknowledged by issuance of an order confirmation by an authorized KOMPAN representative. Prices in this quotation are good for 60 days.</p> <p>This proposal may be withdrawn if not accepted by 01/20/14.</p> <p>KOMPAN Products are "Buy American" qualified, and compliant with the Buy American Act of 1933 and the "Buy American" provision of the ARRA of 2009.</p>	<p>KOMPAN Authorized Signature:</p> <p>Accepted By (signature): _____</p> <p>Accepted By (please print): _____</p> <p>Date: _____</p>
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Unless otherwise noted in the quote, the installation charge includes the below:

- Receiving shipment on site and off-loading equipment
- Layout and excavation of footing holes for equipment provided by KOMPAN
- Assembly of equipment provided by KOMPAN
- Concrete footings (where applicable)

Below is a list of services that are not automatically included in the quote for equipment installation, but may be available for an extra charge. Please inquire with your local KOMPAN sales associate for details:

- Demolition/removal of existing equipment, surfacing, etc.
- Off-site disposal of packaging from delivered equipment
- Removal of excavated soil from site
- Installation of resilient surfacing
- Installation of playground borders
- Additional site excavation not involving equipment footings
- Permits
- Storage of Equipment
- Site Fence – Security
- Installation in stages
- Non-standard working hours (i.e. nights, weekends, holidays)

Unless otherwise noted, the quoted installation charge assumes the following site conditions:

- Adequate access to the site for vehicles and equipment
- A flat, level site (less than 1% grade) with no existing surfacing, drain rock, or other landscaping material
- Clear markings of play site borders and finished grade height
- Good soil conditions for excavation (i.e. no large rocks, tree roots, underground structures, etc.)
- All underground utilities marked clearly by customer prior to installation crew arriving on site and without those utilities interfering with necessary footing holes
- If products are ordered as “surface mount” and will be anchored to an existing concrete slab, that the slab meets the thickness and strength requirements associated with the equipment.

If any of the above site conditions are not met, this may result in an inability to complete the installation and/or may result in additional installation charges.