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GRANT ACCEPTANCE AGREEMENT

Between KABOOM!, Inc. and the
San Francisco Recreation and Park Department
regarding the 25-in-5 Initiative

This Grant Acceptance Agreement, dated as of [-], 2025 (this “Agreement”), is made and entered into by and between KABOOM!, Inc., a District of Columbia nonprofit corporation (“KABOOM!”), and the City and County of San Francisco (the “City”) acting through its Recreation and Parks Department (“RPD” and, collectively with the City and KABOOM!, the “Parties”).

RECITALS

WHEREAS, RPD operates and maintains certain real property owned by the City and seeks to develop new, nature-rich playspaces at such properties;

WHEREAS, in 2022, KABOOM! launched the 25 in 5 Initiative to End Playspace Inequity (the “Initiative”), pursuant to which, over a five-year period, KABOOM! seeks to establish partnerships with 25 municipal systems across the country to begin progress toward achieving equitable access to quality playspaces, ensuring that every child can experience the critical developmental benefits of having quality places to play;

WHEREAS, on May 17, 2023, as part of the Initiative, KABOOM! and the City announced an ambitious plan to ensure that every San Francisco child has a place to play, emphasizing nature-based playspaces in communities in the City that disproportionately lack such resources (the “Project”);

WHEREAS, upon the terms and subject to the conditions contained herein, the Parties wish to memorialize their agreement regarding the Project;

WHEREAS, approval of this Agreement shall not constitute approval of a concept plan for any particular Project Site(s) (as defined herein), which, as set forth in Section 4(b), shall be subject to approval by the Recreation and Park Commission following community outreach and any required environmental review; and

WHEREAS, on [-], 2025, the Board of Supervisors on recommendation of the Recreation and Park Commission (RPC Resolution No. ____) adopted Board Resolution No. _____, to approve this Agreement and to authorize RPD to accept and expend the Grant (as defined herein).

NOW, THEREFORE, in furtherance of the foregoing and intending to be legally bound hereby, the Parties agree as follows:

1. Term. This Agreement shall become effective upon the execution and delivery of this Agreement by the Parties (the date on which the last of the Parties so delivers this Agreement, the “Effective Date”). This Agreement shall expire once the Grant has been expended and the Project is complete or upon the earlier termination of this Agreement as provided herein.

2. Project. Upon the terms and subject to the conditions set forth in this Agreement, the Parties agree to collaborate on the funding, development, planning and installation of up to eight (8) new playspaces at the RPD-operated locations mutually determined by the Parties (the “Project Sites”), four (4) of which are specified on Exhibit A. The Parties’ goal is to complete the Project by the fifth anniversary of the Effective Date.

3. Fundraising.

a. **Overview.** The Parties have targeted a goal of \$10 million in aggregate funding for the Project. The Parties intend to seek funding in two phases, with Phase 1 seeking \$5 million in aggregate funding, with a goal of funding the Project Sites designated as Phase 1 Project Sites on Exhibit A and, upon, and subject to, the successful completion of Phase 1, with Phase 2 seeking an additional \$5 million in aggregate funding, with a goal of funding the remaining four (4) Project Sites.

b. Source of Funds.

i. The City intends to contribute or otherwise secure \$5 million in public funds, of which \$2.5 million relates to Phase 1 and \$2.5 million relates to Phase 2 (the “Public Funding”) to support the Project. KABOOM! intends to engage in a fundraising campaign (the “Campaign”) that will seek to solicit and secure donations, funds, contributions, and grants in the form of cash, in-kind services, and materials (“Campaign Funds”) from third party donors (“Donors”) with a goal of raising \$5 million in Campaign Funds, of which \$2.5 million relates to Phase 1 and \$2.5 million relates to Phase 2.

ii. Each Party hereby recognizes and agrees that (A) the Project is contingent on the receipt of Public Funding and Campaign Funds; (B) there is no assurance that any Public Funding or Campaign Funds will be received in connection with the Project and, provided that a Party has otherwise complied with its obligations hereunder, no Party shall have any liability to the other if funds are not received; and (C) no Party shall have any obligation to provide funds to support the Project if Public Funding or Campaign Funds are insufficient to complete the Project.

c. **Campaign.** KABOOM! shall reasonably consult with RPD in advance regarding its Campaign fundraising and sponsorship materials. KABOOM! will execute separate contracts with each Donor detailing the funding commitment, expenditure requirements, and sponsorship benefits for such Donor. KABOOM! shall track all Campaign Funds committed and received and shall provide RPD quarterly updates on the Campaign, including Campaign Funds and Campaign Costs (as defined below). Campaign Funds actually received by KABOOM! less Campaign Costs and contributed to the Project in accordance with this Agreement shall constitute a grant to the City (the “Grant”). The City’s and RPD’s assumption of risk of possible lack of funding or underfunding of the Grant is part of the consideration for this Agreement.

d. **Administrative Expenses.** The City and RPD acknowledge that KABOOM!, like many other non-profit organizations, must use a portion of the funds it raises to fund its own administrative expenses. The Parties agree that KABOOM! shall retain up to 10% of any cash contributions it raises under the Campaign, unless it has a federally approved indirect cost rate (NICRA) of any cash contributions it raises from its fundraising efforts, to reimburse itself for its administrative expenses related to the Campaign (“Campaign Costs”). KABOOM! shall disclose Campaign Costs to all Donors providing Campaign Funds. Campaign Costs are subject to audit by the City as provided in this Agreement.

e. **Public Funding.** RPD shall reasonably consult with KABOOM! in advance regarding its solicitation of Public Funding. RPD shall track all Public Funding committed and received and shall provide KABOOM! quarterly updates on such efforts. The City has no obligation to make appropriations for this Agreement in lieu of appropriations for new or other agreements. City budget decisions are subject to the discretion of the Mayor and the Board of Supervisors. KABOOM!’s assumption of risk of possible non-appropriation is part of the consideration for this Agreement.

4. Project Sites; Budget and Schedule.

a. **Project Sites.** The Parties have used the San Francisco Environmental Justice Communities data to identify potential Project Sites for the Initiative. Using such data, the Parties will prioritize the

selection of the Project Sites based on factors such as the condition and age of any existing playspace, equity metrics, site accessibility and youth population density.

b. **Budget and Schedule.** From time to time during the term of this Agreement as funding may be secured, the Parties will work together to develop and agree on a concept plan for each Project Site. Each concept plan shall be subject to approval by the Recreation and Park Commission following community outreach and any required environmental review (upon approval, an “Approved Concept Plan”). The specific details concerning how the Parties will implement an Approved Concept Plan, including confirmation of necessary Public Funding and Campaign Funds and other terms (for example, detailing the playspace and related materials and/or equipment, schedules and budgets) shall be memorialized in an accompanying Related Agreement, substantially in the form of Exhibit G. RPD shall promptly (and in any event within 2 business days) notify KABOOM! when there is an Approved Concept Plan, and shall initiate the work promptly thereafter. Except as may otherwise be agreed in writing by the Parties, any Public Funding and Campaign Funds committed to an Approved Concept Plan must be used only for such Approved Concept Plan.

5. Use of Funds. The Parties will make joint decisions on how to expend the Grant, considering the needs of the Project, the budget and schedule, the total amount of Campaign Funds raised and Public Funding available and any specific restrictions that may apply to such funds, including Donor expenditure requirements, and such other factors as the Parties may deem appropriate. The committed portions of the Grant and the Public Funding will be memorialized in each Related Agreement for each Project Site. Pursuant to the Related Agreement, the Grant will be disbursed either in cash (“Cash Grant”) and /or services from third parties that are funded directly from Campaign Funds in accordance with a Related Agreement (“In-Kind Grant”).

a. **Cash Grant.** A Cash Grant contribution may be used to purchase equipment or materials or to reimburse RPD for Project expenses in accordance with a Related Agreement, such reimbursement to be disbursed to RPD within six (6) months of receipt of an invoice by KABOOM!. Any unexpended funds from a Cash Grant that remain after completion of the pertinent Project Site shall be returned to KABOOM!, unless KABOOM! agrees otherwise in writing.

b. **In-Kind Grant (Professional Design Services).** In-Kind Grants in the form of professional services from architects, engineers, independent construction management services, inspection and building commissioning services and the like (in each case, solely if engaged by KABOOM!, “Consultants”) shall include conceptual, schematic, and detailed designs, construction documents, and technical specifications (“Project Documents”) for the applicable Project Site. The agreement governing the Consultants’ services shall have terms and conditions substantially similar to those listed in Exhibit C attached hereto and shall be approved by the RPD prior to any such Consultant commencing work on the Project Site, such approval to not be unreasonably withheld, conditioned or delayed.

c. **In-Kind Grant (Construction Work).** In-Kind Grants in the form of construction services from a contractor (in each case, solely if engaged by KABOOM!, “Contractor”) shall require a description of the scope of work for the applicable Project Site (“Scope of Work”). Additionally, this agreement governing the Scope of Work of such Contractor shall have terms and conditions substantially similar to those listed in Exhibit D attached hereto and shall be approved by RPD prior to any such Contractor commencing work on the Project Site, such approval not to be unreasonably withheld, conditioned or delayed. RPD’s authorization to proceed shall constitute the grant of a revocable, personal, unassignable, non-exclusive and non-possessory privilege to the Contractor to enter the Project Site for the limited purpose of completing the approved Scope of Work. [This section remains under discussion between the Parties.]

6. Meetings; Amendment to Project Document(s) and Scope of Work. The Parties agree to participate in regularly scheduled coordination meetings, including with any Consultants or Contractors as needed, to develop concept plans, Related Agreements, Scopes of Work (listed in Exhibit B), and to discuss the construction phases of each Project Site with an Approved Concept Plan. In such meetings, when discussing Project Sites with Approved Concept Plans and as applicable, (a) RPD shall provide KABOOM! with an update on the expenditure of the Public Funding, Grants and any other Project Site expenditures; (b) RPD shall provide KABOOM! with updates on the status of each Project Sites under construction; (c) KABOOM! shall provide feedback at key milestones set forth in the applicable Approved Concept Plan and; (iv) subject to mutual written agreement of the Parties, the Parties along with the Contractor or the Consultant, as applicable, shall have the opportunity to amend Project Documents or Scope of Work.

7. RPD Additional Responsibilities.

a. RPD will coordinate necessary reviews and approvals for the design, permitting, and completion of the Project Sites, including but not limited to environmental review, compliance with disability access laws, stormwater management, hazardous materials inspections and monitoring, and geotechnical investigations and reports.

b. RPD shall be solely responsible for maintaining the Project Sites after completion, and for ensuring each remains in good condition consistent with prevailing maintenance practices. The Improvements shall remain at the Project Sites through the term of this Agreement and for their useful life as determined by RPD.

8. Data Sharing and Impact Reports.

a. Upon completion of a Project Site and for a period of three (3) years following such completion, RPD and KABOOM! shall collaborate and share data on the RPD-operated playspace at such Project Site, including (i) usage by youths, (ii) overall usage information, (iii) impact stories on surrounding communities, and (iv) any other information reasonably requested by the other Party.

b. On an annual basis beginning on the Effective Date of this Agreement and for a period of three (3) years following the termination of this Agreement, RPD shall share a current list of playspaces in the San Francisco, including (but not limited to) all playspaces that were opened, renovated, or closed during the prior twelve (12) months. The list shall include full addresses of each location and/or other geolocation data, including latitude and longitude coordinates.

c. RPD agrees to allow KABOOM! to place a QR code and supporting instructional text on permanent playspace signs at each Project Site when a playspace is completed hereunder. The QR code will link to a survey which allows residents to share playspace use and raise any visible maintenance concerns with the playspace. KABOOM! may use this information to help track playspace use over time and identify any evolving concerns with playspace quality. KABOOM! shall share information with RPD, at least annually. Content and location of the sign shall be subject to the approvals of RPD. The standalone sign shall be removed once the survey is inactive at the expense of KABOOM!.

d. On an annual basis from the completion of each Project Site when a playspace is completed hereunder and for a period of three (3) years, RPD agrees to meet with KABOOM!'s Learning and Evaluation team to discuss existing data sets or methods that could be used to estimate changes in physical activity and exercise among existing and potential users of the playspaces, and, if applicable, to share data on changes in physical activity and exercise among playspace users.

e. Should the Parties mutually agree that impact reports for the Project Site(s) would benefit the Project, RPD and KABOOM! will collaborate to complete a before and after count using SOPARC methodology or another agreeable methodology. The logistics of the impact report shall be agreed on by the Parties in an addendum to this Agreement.

f. To the extent the Parties agree on any additional outcome data in addition to the data described in this Section 8, the Parties may enter into an addendum to this Agreement. Such addendum shall set forth in detail the requirement(s) and obligations of the Parties. If data with personally identifiable information is implicated, KABOOM! and RPD may enter into a separate agreement governing such data sharing.

9. Records; Audits.

a. Each Party shall maintain accurate accounting records of all expenditures for each Project Site with an Approved Concept Plan for at least two (2) years after the completion of the Project.

b. From the Effective Date until one (1) year after the termination of this Agreement and at the expense of the requesting Party, each Party shall provide the other Party with reasonable and timely access during regular business hours and upon reasonable advance notice to conduct audit all books and records relating to the expenditures related to every Project Site with an Approved Concept Plan.

10. Public Engagement; Donor Recognition.

a. In consultation with KABOOM!, RPD will facilitate community outreach and design workshops and use social media, postings, printed reports and other methods as appropriate to familiarize and engage the public with the Project.

b. In consultation with KABOOM!, RPD will develop signage and suitable donor recognition for KABOOM! substantially similar to Exhibit F and subject to approval of the Recreation and Park Commission.

11. Indemnification.

a. KABOOM! shall defend, indemnify, and hold harmless the City and its officers, agents and employees from any and all loss, expense, damage, injury, liability and claims thereof, for injury to or death of any person, including Contractors, or loss of or damage to property, resulting directly or indirectly from any activity conducted on the Project Site by KABOOM!, any Contractors, or their respective agents, employees or volunteers under this Agreement, regardless of the negligence of, and regardless of whether liability without fault is imposed or sought to be imposed on the City, except to the extent where such loss, damage, injury, liability or claim is the result of the sole negligence or intentional or willful misconduct of the City, its officers, agents or employees.

b. The City agrees to defend, indemnify and hold harmless KABOOM!, their officers, directors, employees and agents, from any and all acts, claims, omissions, liabilities and losses asserted by any third party arising out of acts or omissions of City, its officers, employees and agents in connection with this Agreement, except those arising by reason of the sole negligence or intentional or willful misconduct of KABOOM! and/or Contractors, their officers, directors, employees and agents.

c. In the event of concurrent negligence of the City, its officers, employees and agents, and KABOOM! and/or Contractors, their officers, directors, employees and agents, the liability for any and all

claims for injuries or damages to persons and/or property shall be apportioned under the California theory of comparative negligence as presently established or as may hereafter be modified.

12. Insurance. During the term of this Agreement KABOOM! shall maintain insurance providing coverage meeting the requirements specified on Exhibit E, and shall cause the City and County of San Francisco, its officers, employees and agents to be named as additional insureds. Promptly following execution of this Agreement and from time to time during the term of this Agreement and upon reasonable request by the City, KABOOM! shall furnish to the City certificates of insurance and additional insured policy endorsements evidencing such coverage in customary form provided by its insurance carriers. Failure to maintain insurance shall constitute a material breach of this Agreement. Compliance with the provisions of this section shall in no way relieve or decrease KABOOM!'s indemnification or other obligations under this Agreement.

13. Public Relations. The Parties shall cooperate in good faith on all public relations and media responses related to the Project. Any response to an inquiry by a news or community organization regarding the Project shall include a recommendation to contact the other Party. Neither Party shall issue a press release regarding the Project without providing prior written notice to the other Party. To facilitate the execution of this Section, the Parties have each designated a spokesperson below under "Contacts." Nothing in this Agreement shall prohibit either Party from discussing this Agreement in response to inquiries from the public or the press. At a time and in a format to be determined, the Parties may hold joint public ribbon cutting ceremonies at completed Project Sites. Materials and collateral for the Project shall be approved by RPD and KABOOM! (which approval shall not be unreasonably withheld, conditioned or delayed).

14. Contacts/Notices

RPD: 501 Stanyan Street, San Francisco, CA 94117

RPD Media and Public Relations	RPD Project Manager	RPD Partnerships
Sarah Madland	Keri Ayers	Abigail Maher
sarah.madland@sfgov.org	keri.ayers@sfgov.org	abigail.maher@sfgov.org
(415) 831-2740	(628) 652-6642	(415) 831-2790

KABOOM!: KABOOM! Inc. 7100 Wisconsin Avenue, Suite 400, Bethesda, MD 20814

KABOOM! Chief Financial Officer	KABOOM! Project Lead	KABOOM! Regional Partnerships
Gerry Megas	Jennifer DeMelo	Alex Lima
gmegas@kaboom.org	JDeMelo@kaboom.org	alima@kaboom.org
(202) 464-6180	(650) 670-6130	(202) 464-6064

15. Sunshine Ordinance and Required Disclosures. KABOOM! understands and acknowledges that this Agreement, and any document between the Parties, shall be subject to the disclosure requirements of the City's Sunshine Ordinance and the California Public Records Act. In addition, KABOOM! agrees to disclose such information as it is legally required to disclose as set forth in Administrative Code Section 67.29-6, to provide a copy of such disclosures to RPD, and to provide all information reasonably requested by RPD that is necessary to enable RPD to comply with its legally required disclosure obligations related to this Agreement.

16. Termination.

a. If a Party defaults in the performance of any of its obligations under this Agreement, the non-defaulting Party shall give the defaulting Party written notice of such breach. The defaulting Party shall have thirty (30) days after it receives such notice to cure the default (the "Cure Period") to the reasonable satisfaction of the non-defaulting Party. If the defaulting Party fails to do so, then the non-defaulting Party shall have the right to immediately terminate this Agreement as of the expiration of the Cure Period or such other reasonable timeframe as may be mutually agreed in writing by the Parties.

b. If a Party is materially at risk of becoming unable to deliver the funding identified for a particular Project Site in an Approved Concept Plan/Related Agreement, it shall notify the other Party immediately and in writing. In the unlikely event that either Party determines it is necessary to abandon the Project due to a lack of funding, that Party may terminate the Agreement by providing the other Party thirty (30) days' prior written notice. **[Consequence of such termination remains under discussion between the Parties.]**

c. Upon the termination of this Agreement, all obligations and rights arising prior to the termination remain in effect. The Parties shall continue to comply with and abide by Section 11 (Indemnification) and Section 12 (Insurance), as applicable.

17. Conflicts of Interest. By executing this Agreement, each of the Parties certify that it is not aware of, and shall promptly inform the other Party if it becomes aware of, a conflict of interest arising out of this Agreement. For example, a conflicted Party will notify the other Party if it becomes aware of any of its employee or officer participates in a decision in which such employee or officer, or a member of their family, has a financial interest in the Project. In addition, the Parties agree and acknowledge that KABOOM!'s support of RPD, or lack thereof, shall have no bearing on and shall not be relevant towards any future contracting, leasing, or permitting decisions by RPD.

18. Miscellaneous.

a. **Entire Agreement.** This Agreement (including the Exhibits hereto, which are incorporated herein by reference) contains the entire understanding between the Parties as of the date of this Agreement, and all prior written or oral negotiations, discussions, understandings and agreements are merged herein.

b. **Compliance with Applicable Laws.** All actions described herein are subject to and must be conducted and accomplished in accordance with the City's charter, its municipal code, California state law and federal laws, building codes and regulations. KABOOM! understands and agrees that RPD is entering into this agreement in its capacity as a property owner, and that nothing herein shall limit any obligations to obtain any required regulatory approvals from City departments, boards or commissions or other governmental regulatory authorities as detailed in Approved Concept Plans or limit in any way City's exercise of its police powers.

c. **Approvals.** Except as expressly provided otherwise, all approvals, consents and determinations to be made by the City hereunder may be made by the General Manager of RPD or his or her designee in his or her sole and absolute discretion.

d. **Independent Relations.** Nothing herein contained shall be construed as creating the relationship of employer and employee between the City and KABOOM! or any of their respective agents, employees or Contractors. KABOOM! shall at all times be deemed an independent contractor and shall

be wholly responsible for the manner in which it performs the duties required of it by the terms of this Agreement. KABOOM! shall exercise full control and supervision of its duties and full control and responsibility as to the employment, direction, compensation, and discharge of all persons assisting it in the performance this Agreement. Nothing set forth in this Agreement shall constitute, or be construed to create a partnership, joint venture or joint enterprise between the Parties.

e. **No Third Party Beneficiaries.** Except as expressly provided herein, nothing contained in this Agreement shall create or justify any claim against the City or KABOOM! by any third person with respect to the performance of any duties or other projects being undertaken by KABOOM! or the City. The provisions of this Agreement are not intended to benefit any third party, and no third party may rely hereon.

f. **Amendments.** This Agreement may be amended or modified only in writing by the Parties. The RPD General Manager, in consultation with the City Attorney, may execute such amendments on behalf of the City, provided the amendments are in the best interests of the City, do not materially increase the City's obligations or liabilities, are necessary or advisable to effectuate the purposes of the Project, and are in compliance with all applicable laws. KABOOM! shall be entitled to rely on execution of any amendment by the RPD General Manager as a representation that such criteria are satisfied for purposes of this subsection (f).

[Signature Pages Follow]

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IN WITNESS WHEREOF, the undersigned hereto have executed and delivered this Agreement as of the date first above written.

KABOOM! INC.

RECREATION AND PARK DEPARTMENT

George T. Megas, CFO

Phil Ginsburg, General Manager

**APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY**

By: _____
Deputy City Attorney Manu Pradhan

Attachments:

- Exhibit A: Permit Project Site Areas
- Exhibit B: General Scope of Work
- Exhibit C: Design Professional Terms
- Exhibit D: Contractor Terms
- Exhibit E: KABOOM! Insurance
- Exhibit F: Example Signage and Donor Recognition
- Exhibit G: Sample Related Agreement

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EXHIBIT A: PERMIT PROJECT SITE AREAS

Phase 1 Project Site Locations

- Crocker-Amazon Purple Playground, 1398 Geneva Avenue, San Francisco, CA 94112
- Randolph-Bright Mini Park, 100 Randolph Street, San Francisco, CA 94132
- Silver Terrace Playground, 1700 Silver Avenue, San Francisco, CA 94124
- Tenderloin Recreation Center, 570 Ellis Street, San Francisco, CA 94109

Phase 2 Project Site Locations

- Four (4) Additional Sites to be determined.

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EXHIBIT B: GENERAL SCOPE OF WORK

1. Design
 - A. RPD to facilitate in-person or virtual "Design Workshop(s)" event(s) with support from KABOOM! and design team.
 - B. RPD to facilitate the engagement of design team to prepare concept plans, design development drawings and construction documents based on the feedback of community, stakeholders and regulatory reviews. KABOOM! will support at key milestones.
2. Construction
 - A. RPD to provide for the administration of a formal construction contract, in conformance with City requirements, to complete the project.
 - B. RPD to manage the City's contractor and all visits to the construction site.
 - C. KABOOM! to collaborate with RPD on re-opening celebrations.
 - D. KABOOM! in collaboration with RPD to select and manage RPD approved vendors that will provide necessary equipment, surfacing, materials and construction services related to the installation of the new nature playspace.
 - E. In the cases where KABOOM! constructs a portion of the project, RPD in collaboration with KABOOM! manages site preparation and construction logistics including:
 1. Site Prep:
 - a. at least two weeks before the commencement of construction
 - b. activities may include removing existing equipment, footers and safety surfacing
 - c. professional installation of the playspace
 2. Construction Prep-Work:
 - a. excavation footings
 - b. onsite chainsaw work
 - c. onsite use of heavy equipment to aid in the installation of NEA elements (stumps/boulders)
 3. Community Build/Professional Installation Day(s)
 - a. Installation of final elements with community volunteers, if applicable
 - b. Installation of mulch, landscaping, enhancement projects, and sign, if applicable.

**EXHIBIT C
DESIGN PROFESSIONALS
REQUIRED CONTRACT TERMS**

1. Code Compliance.

Consultant shall comply with requirements of applicable codes, regulations, and current written interpretation thereof published and in effect during the Consultant's work on the Project. Where there is an irreconcilable discrepancy between any of the above-mentioned codes and regulations, the Consultant shall identify to RPD the irreconcilable discrepancy, exercise a professional standard of care in determining which code or regulation governs, and provide RPD with the basis for its determination. In the event of changes in codes, regulations or interpretations during the course of the Project that were not and could not have been reasonably anticipated by the Consultant and which result in a substantive change to the plans, the Consultant shall not be held responsible for the resulting additional costs, fees or time, and shall be entitled to reasonable additional compensation for the time and expense of complying with the changes. The Consultant shall be responsible to identify, analyze and report to the City on pending changes to codes and regulations that would reasonably be expected to affect the design of the Project, including changes to the California building codes and San Francisco Building Code and other amendments.

2. Standard of Performance

The Consultant shall perform its services in accordance with the professional standard of care applicable to the design and construction of projects of similar size and complexity in the San Francisco Bay Area.

3. Insurance

Consultant must maintain in force, during the full term of its Agreement with KABOOM!, insurance in the following amounts and coverages:

- A. Workers' Compensation, in statutory amounts, with Employers' Liability Limits not less than \$1,000,000 each accident, injury, or illness. Consultant hereby agrees to waive subrogation which any of its insurers may acquire from Consultant by virtue of the payment of any loss. Consultant agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the City and KABOOM! for all work performed by the Consultant, its employees, agents and subconsultants.
- B. Commercial General Liability Insurance with limits not less than \$2,000,000 each occurrence Combined Single Limit for Bodily Injury and Property Damage, including Contractual Liability, Personal Injury, Products and Completed Operations.
- C. Commercial Automobile Liability Insurance with limits not less than \$1,000,000 each occurrence Combined Single Limit for Bodily Injury and Property Damage, including Owned, Non-Owned and Hired auto coverage, as applicable.
- D. Professional liability insurance with limits not less than \$2,000,000 each claim with respect to negligent acts, errors or omissions in connection with professional services to be provided under this Agreement.
- E. Commercial General Liability and Commercial Automobile Liability Insurance policies must be endorsed to provide:

1. Name as Additional Insured the City and County of San Francisco, its Officers, Agents, and Employees and KABOOM!, its Officers, Agents, and Employees.
 2. That such policies are primary insurance to any other insurance available to the Additional Insureds, with respect to any claims arising out of this Agreement, and that insurance applies separately to each insured against whom claim is made or suit is brought.
- F. All policies shall provide thirty days' advance written notice to the City of reduction or nonrenewal of coverages or cancellation of coverages for any reason. Notices shall be sent to the City address in the "Notices to the Parties" section.
 - G. Should any of the required insurance be provided under a claims-made form, Consultant shall maintain such coverage continuously throughout the term of this Agreement and, without lapse, for a period of three years beyond the expiration of this Agreement, to the effect that, should occurrences during the contract term give rise to claims made after expiration of this Agreement, such claims shall be covered by such claims-made policies.
 - H. Should any of the required insurance, be provided under a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defense costs be included in such general annual aggregate limit, such general annual aggregate limit shall be double the occurrence or claims limits specified above.
 - I. Should any required insurance lapse during the term of this Agreement, requests for payments originating after such lapse shall not be processed until the City receives satisfactory evidence of reinstated coverage as required by this Agreement, effective as of the lapse date. If insurance is not reinstated, the City may, at its sole option, terminate this Agreement effective on the date of such lapse of insurance.
 - J. Before commencing any operations under this Agreement, Consultant shall furnish to City certificates of insurance and additional insured policy endorsements with insurers with ratings comparable to A-, VIII or higher, that are authorized to do business in the State of California, and that are satisfactory to City, in form evidencing all coverages set forth above. Failure to maintain insurance shall constitute a material breach of this Agreement.
 - K. Approval of the insurance by City and/or KABOOM! shall not relieve or decrease the liability of Consultant hereunder.

4. Indemnity

- A. Defense Obligations. To the fullest extent permitted by law, Consultant shall, following a tender of defense from City, assume the immediate defense of (with legal counsel subject to approval of the City), the City, its boards, commissions, officers, and employees (collectively "Indemnitees"), from and against any and all claims, losses, costs, damages, expenses and liabilities of every kind, nature, and description including, without limitation, injury to or death of any person(s) and incidental and consequential damages (collectively "Damages"), court costs, attorneys' fees, litigation expenses, fees of expert consultants or witnesses in litigation, and costs of investigation (collectively "Litigation Expenses"), that arise out of, pertain to, or relate to, directly or indirectly, in whole or in part, the alleged negligence, recklessness, or willful misconduct of Consultant, any subconsultant, anyone directly or indirectly employed by them, or anyone that they control (collectively, "Liabilities"). City will reimburse Consultant for the proportionate percentage of defense costs exceeding Consultant's proportionate percentage of fault as determined by a Court of competent jurisdiction.

- B. Indemnity Obligations. To the fullest extent permitted by law, Consultant shall indemnify and hold harmless Indemnitees from and against any and all Liabilities, including but not limited to those for Damages or Litigation Expenses.
- C. Copyright Infringement. Consultant shall also indemnify, defend and hold harmless all Indemnitees from all suits or claims for infringement of the patent rights, copyright, trade secret, trade name, trademark, service mark, or any other proprietary right of any person or persons in consequence of the use by the City, or any of its boards, commissions, officers, or employees of articles, work or deliverables supplied in the performance of Services. Infringement of patent rights, copyrights, or other proprietary rights in the performance of this Agreement, if not the basis for indemnification under the law, shall nevertheless be considered a material breach of contract.
- D. Severability Clause Specific to Indemnification and/or Defense Obligations. To the extent any Court of competent jurisdiction or law invalidates any word, clause, phrase, or sentence herein that word, clause, phrase, or sentence, and no other portion, shall be deemed removed from this section. All other words, clauses, phrases and/or sentences remain enforceable to the fullest extent permitted by law.

5. Third Party Beneficiary

The City shall be named as a third party beneficiary in the Consultant Agreement.

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**EXHIBIT D
CONTRACTORS
REQUIRED CONTRACT TERMS**

1. Exercise of Due Care.

Contractor shall exercise due care in completing the work, and shall use due care at all times to avoid any damage or harm to City's property and to native vegetation and natural attributes of the Permit Area. Contractors shall take such soil and resource conservation and protection measures with the Permit Area as City may request. City shall have the right to approve and supervise any excavation work. Under no circumstances shall Contractors damage, harm or take any rare, threatened or endangered species on or about the Permit Area. Contractors shall do everything reasonably within its power, both independently and upon request by City, to prevent and suppress fires on and adjacent to the Permit Area attributable to its work in the Permit Area. Contractors shall also maintain the Permit Area in a good, clean, safe, secure, sanitary and sightly condition; upon completion remove all debris and restore the Permit Area to its condition immediately prior to construction, to the satisfaction of City; and immediately at its sole cost repair any and all damage to the Permit Area or property.

2. Additional Requirements.

- a. Contractor shall provide RPD with the necessary waivers and releases from all claims (including from subcontractors) against the City, its employees and agents.
- b. Contractor shall obtain any and all necessary City permits and comply with applicable laws including disability access laws and with required noticing procedures before closing any sidewalks.
- c. Contractor shall comply with RPD instructions and implement appropriate measures to ensure public safety while working in the Park, including, but not limited to, erecting safety barriers and caution signage and/or tape.
- d. Contractor shall pay its workers the prevailing rate of wage for the craft or classification of work performed, and provide certified payroll records to City on request pursuant to City-standard practices.
- e. Contractor shall adhere to Occupational Safety & Health Administration standards related to the Project.
- f. Contractor shall warrant and guarantee to the City that materials and equipment used for the Project will be first-class in quality and new, that the work will be free from defects and of the quality specified, and that the work will conform to the requirements of the contract documents.
- g. Contractor shall not construct or place any temporary or permanent structures or improvements on the Permit Area, or alter any existing structures or improvements on the Permit Area, except for the approved Scope of Work.
- h. Contractor shall not dump or dispose of refuse or other unsightly materials on, in, under or about the Permit Area.
- i. Contractor shall not cause, nor allow its Agents or Invitees to cause, any Hazardous Material (as defined below) to be brought upon, kept, used, stored, generated or disposed of in, on or about the Permit Area, or transported to or from the Permit Area. Contractor shall immediately notify City when it learns of, or has reason to believe that, a release of Hazardous Material has occurred in, on or about the Permit Area. Contractor shall further comply with all laws requiring notice of such releases or threatened releases to governmental agencies, and shall take all action necessary to mitigate the release or minimize the spread of contamination. In the event that

Contractor or its Agents or Invitees causes a release of Hazardous Material, Contractor shall, without cost to City and in accordance with all laws and regulations, return the Permit Area to the condition immediately prior to the release. In connection therewith, Contractor shall afford City a full opportunity to participate in any discussion with governmental agencies regarding any settlement agreement, cleanup or abatement agreement, consent decree or other compromise proceeding involving Hazardous Material. For purposes hereof, "Hazardous Material" means material that, because of its quantity, concentration or physical or chemical characteristics, is at any time now or hereafter deemed by any federal, state or local governmental authority to pose a present or potential hazard to public health, welfare or the environment. Hazardous Material includes, without limitation, any material or substance defined as a "hazardous substance, pollutant or contaminant" pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Sections 9601 et seq., or pursuant to Section 25316 of the California Health & Safety Code; a "hazardous waste" listed pursuant to Section 25140 of the California Health & Safety Code; any asbestos and asbestos containing materials whether or not such materials are part of the Permit Area or are naturally occurring substances in the Permit Area, and any petroleum, including, without limitation, crude oil or any fraction thereof, natural gas or natural gas liquids. The term "release" or "threatened release" when used with respect to Hazardous Material shall include any actual or imminent spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing in, on, under or about the Permit Area.

- j. Contractor shall not conduct any activities on or about the Permit Area that constitute waste, nuisance or unreasonable annoyance (including, without limitation, emission of objectionable odors, noises or lights) to City, to the owners or occupants of neighboring property or to the public.

3. Completion Process.

Upon completion of the work detailed in the Scope of Work, Contractor shall notify RPD and within ten (10) business days of such notice, RPD shall perform a final inspection of the pertinent Project Site to ensure the work was completed in accordance with such Scope of Work. Within five (5) days of RPD's approval of such Scope of Work post-inspection, RPD will prepare and deliver a letter of final acceptance (the "Acceptance Letter") to Contractor and KABOOM!, pursuant to which the Contractor shall remove all their property and debris from the Project Site and surrounding areas and shall repair, at their own cost, any damage to the park cause by their activities. Within 10 days of receipt of the Acceptance Letter, the Contractor shall deliver the work free and clear of all liens, easements or potential claims arising from the Contractor's work on the Project and the Contractor (including subcontractors, as applicable) shall provide RPD fully executed waivers and releases from all claims against the City, its employees and agents, in each case, as specified in the applicable Scope of Work.

4. Insurance

Contractor must maintain all of the insurance as set forth below, during the full term of its Agreement with KABOOM! and at all times during its activities in the Park, naming the City and County of San Francisco, its officers, employees and agents as additional insureds. Before commencing any operations under this Agreement, Contractor(s) shall furnish to City certificates of insurance and additional insured policy endorsements with insurers with ratings comparable to A-, VIII or higher, that are authorized to do business in the State of California, and that are satisfactory to City, in form evidencing all coverages set forth above. Failure to maintain insurance shall constitute a material breach of this Agreement. Compliance with the provisions of this section shall in no way relieve or decrease Contractor's indemnification obligations under this Agreement or any of Contractor's other obligations hereunder.

- a. Workers' Compensation, in statutory amounts, with Employers' Liability Limits not less than \$1,000,000 each accident, injury, or illness. Contractor hereby agrees to waive subrogation which any of its insurers may acquire from Contractor by virtue of the payment of any loss. Contractor agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the City and KABOOM! for all work performed by the Consultant, its employees, agents and subconsultants.
- b. Commercial General Liability Insurance with limits not less than \$2,000,000 each occurrence Combined Single Limit for Bodily Injury and Property Damage, including Contractual Liability, Personal Injury, Products and Completed Operations.
- c. Commercial Automobile Liability Insurance with limits not less than \$1,000,000 each occurrence Combined Single Limit for Bodily Injury and Property Damage, including Owned, Non-Owned and Hired auto coverage, as applicable.
- d. Professional liability insurance with limits not less than \$2,000,000 each claim with respect to negligent acts, errors or omissions in connection with professional services to be provided under this Agreement.
- e. Commercial General Liability and Commercial Automobile Liability Insurance policies must be endorsed to provide:
 - i. That such policies are primary insurance to any other insurance available to the Additional Insureds, with respect to any claims arising out of this Agreement, and that insurance applies separately to each insured against whom claim is made or suit is brought.
- f. All policies shall provide thirty days' advance written notice to the City of reduction or nonrenewal of coverages or cancellation of coverages for any reason. Notices shall be sent to the City address in the "Notices to the Parties" section.
- g. Should any of the required insurance be provided under a claims-made form, Consultant shall maintain such coverage continuously throughout the term of this Agreement and, without lapse, for a period of three years beyond the expiration of this Agreement, to the effect that, should occurrences during the contract term give rise to claims made after expiration of this Agreement, such claims shall be covered by such claims-made policies.
- h. Should any of the required insurance, be provided under a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defense costs be included in such general annual aggregate limit, such general annual aggregate limit shall be double the occurrence or claims limits specified above.
- i. Should any required insurance lapse during the term of this Agreement, requests for payments originating after such lapse shall not be processed until the City receives satisfactory evidence of reinstated coverage as required by this Agreement, effective as of the lapse date. If insurance is not reinstated, the City may, at its sole option, terminate this Agreement effective on the date of such lapse of insurance.
- j. Before commencing any operations under this Agreement, Consultant shall furnish to City certificates of insurance and additional insured policy endorsements with insurers with ratings comparable to A-, VIII or higher, that are authorized to do business in the State of California, and that are satisfactory to City, in form evidencing all coverages set forth above. Failure to maintain insurance shall constitute a material breach of this Agreement.
- k. Approval of the insurance by City and/or KABOOM! shall not relieve or decrease the liability of Consultant hereunder.

- I. If a subcontractor will be used to complete any portion of this Agreement, Consultant shall ensure that its subcontractor shall provide all necessary insurance and shall name the City and County of San Francisco, its officers, agents and employees, KABOOM!, its officers, agents and employees and the Consultant as additional insureds.

5. Indemnification

- a. Consistent with California Civil Code section 2782, Contractor shall assume the defense of, indemnify and hold harmless the City and County of San Francisco, its boards and commissions, and all of their officers, agents, members, employees, authorized representatives, or any other persons deemed necessary by any of them acting within the scope of the duties entrusted to them, from all claims, suits, actions, losses and liability of every kind, nature and description, including, but not limited to attorneys fees, directly or indirectly arising out of, connected with or resulting from the performance of the Contract. This indemnification shall not be valid in the instance where the loss is caused by the sole negligence or intentional tort of any person indemnified herein.
- b. Contractor acknowledges that any claims, demands, losses, damages, costs, expenses, and legal liability that arises out of, result from, or are in any way connected with the release or spill of any legally designated hazardous material or waste or contaminated material as a result of the work performed under this Contract are expressly within the scope of this indemnity, and that the costs, expenses, and legal liability for environmental investigations, monitoring, containment, removal, repair, cleanup, restoration, remedial work, penalties, and fines arising from the violation of any local, state, or federal law or regulation, attorney's fees, disbursements, and other response costs are expressly within the scope of this indemnity.
- c. The City shall provide Contractor with prompt written notice after receipt of any claim, action or demand ("Claim") made by a third party against the City and/or other indemnified party, provided, however, that no delay on the part of the City or other indemnified party shall relieve Contractor from any obligation hereunder. Contractor shall obtain the City's and other indemnified parties' consent for Contractor's choice of counsel and such consent shall not be unreasonably withheld or delayed, such that any responsive pleadings may be timely filed and in every instance, within thirty (30) days after City or other indemnified party has given notice of the Claim, and provided further that City and other indemnified party may retain separate counsel co-counsel at their expense and participate in the defense of the Claim. If the interests of Contractor and the City and/or other indemnified party conflict and counsel chosen by Contractor cannot, in City's or other indemnified parties' reasonable opinion, adequately represent Contractor, City and/or other indemnified party, then the cost and expense associated with the City and/or other indemnified party retaining separate counsel shall be borne by Contractor, otherwise, the cost and expense of separate co-counsel retained by City and/or other indemnified party shall be borne by the City or other indemnified party, as applicable. Subject to Contractor's obligation to reimburse City's and other indemnified parties' costs of same, City and other indemnified parties will assist Contractor in the defense of the Claim by providing cooperation, information and witnesses, as needed to the extent there is no material conflict of interest.
 - i. So long as Contractor has assumed and is conducting the defense of a Claim in accordance with the preceding subparagraph, (i) Contractor will not consent to the entry of any judgment or enter any settlement with respect to the Claim without the prior written consent of City or other indemnified party, as applicable, which consent will not be unreasonably withheld, unless the judgment or proposed settlement involves only the payment of money damages by Contractor and does not impose any obligation upon the City and/or other indemnified party in connection with such judgment or settlement and

Contractor obtains the full and complete release of City and/or other indemnified parties; and (ii) City and/or other indemnified parties will not consent to the entry of judgment or enter into any settlement without the prior written consent of Contractor.

- ii. If Contractor does not assume and conduct the defense of Claim as required above, (i) City or other indemnified party may defend against, and consent to, the entry of any judgment or enter into any settlement with respect to the Claim in any manner it reasonably may deem appropriate, and City or other indemnified party need not consult with, or obtain any consent from, Contractor, and (ii) Contractor will remain responsible for any losses City and/or other indemnified party may suffer resulting from, arising out of, relating to, in the nature of, or caused by the Claim to the fullest extent provided in this Section 3 (Indemnification).

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EXHIBIT E
KABOOM! INSURANCE

- A. Workers' Compensation, with Employer's Liability limits not less than \$1,000,000 each accident.
- B. Comprehensive General Liability Insurance with limits not less than \$1,000,000 each occurrence, \$2,000,000 General Aggregate, Combined Single Limit for Bodily Injury and Property Damage.
- C. Carriers must have ratings comparable to A-, VIII or higher, be authorized to do business in the State of California, and be reasonably satisfactory to City,

EXHIBIT F: EXAMPLE SIGNAGE AND DONOR RECOGNITION

Welcome * Bienvenidos * 歡迎

Nature Exploration Area



Play, create, balance & climb here
Aquí puedes jugar, crear, hacer equilibrio y escalar
在這裏玩耍、創新、攀爬



Keep natural materials within this area and leave for others to enjoy
Deja los materiales naturales aquí para que otros los puedan disfrutar
請將天然的材料留著此處、讓大家都機會玩耍



No pets please
No se admiten mascotas
請不要帶寵物

This kid-inspired Nature Exploration Area was made possible through the funding and volunteer power of Kaiser Permanente, the San Francisco Recreation and Parks Department, the Port of San Francisco, KABOOM!, and this community. It was built by repurposing downed San Francisco trees to inspire play and connection to the natural world.



www.sfchildrennature.org

EXHIBIT G

RELATED AGREEMENT

Between KABOOM!, Inc. and
and the San Francisco Recreation and Park Department
regarding the Grant Acceptance Agreement

This Related Agreement (the “Agreement”), effective as of [] (the “Effective Date”), is entered into by and between KABOOM!, Inc., a District of Columbia nonprofit corporation (“KABOOM!”), and the City and County of San Francisco (the “City”) acting through its Recreation and Parks Department (“RPD” and, collectively with the City and KABOOM!, the “Parties”). Reference is made to that certain Grant Acceptance Agreement, dated as of [], 2025 (the “Grant Agreement”) by and between the Parties. Unless otherwise specified, capitalized terms used herein and not defined shall have the respective meanings ascribed to them in the Grant Acceptance Agreement.

WHEREAS, the Grant Agreement requires the Parties to agree on a concept plan detailing the playspace and related material and/or equipment, schedules and budget for each Project Site and to memorialize the specific terms for how they will fund and proceed with work at each individual Project Site in separate Related Agreements;

WHEREAS, the Parties have developed a concept plan, a copy of which is attached hereto, for Recreation and Park Commission approval for the [name of Project Site], and an initial budget to fund the estimated cost of that work, as follows:

- KABOOM! shall grant [amount] for [specify whether cash and/or in-kind and state the intended uses of these grants and if in-kind, if applicable, specify how Contractors expect the funds to be distributed]
- RPD will provide [\$] for [intended uses of the public funding]

WHEREAS, the Parties share a goal of completing the work at this Project Site by _____, and may as agreed in writing by the Parties update the funding plan and schedule as set forth in this Related Agreement from time to time, based on the needs of the Project; and

NOW, THEREFORE, pending approval of the concept plan, the Parties agree it is in their best interest to move forward with the work at [Project Site] as set forth herein. All provisions of the Agreement shall remain unmodified and in full force and effect.

[Signature Page Follows]

IN WITNESS WHEREOF, the undersigned hereto have executed and delivered this Agreement as of the date first above written.

KABOOM! INC.

RECREATION AND PARK DEPARTMENT

George T. Megas, CFO

Phil Ginsburg, General Manager

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY

By: _____
Deputy City Attorney Manu Pradhan

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