

File No. 250290

Committee Item No. 2

Board Item No. 8

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Budget and Finance Committee Date April 16, 2025

Board of Supervisors Meeting Date April 22, 2025

Cmte Board

<input type="checkbox"/>	<input type="checkbox"/>	Motion
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Resolution
<input type="checkbox"/>	<input type="checkbox"/>	Ordinance
<input type="checkbox"/>	<input type="checkbox"/>	Legislative Digest
<input type="checkbox"/>	<input type="checkbox"/>	Budget and Legislative Analyst Report
<input type="checkbox"/>	<input type="checkbox"/>	Youth Commission Report
<input type="checkbox"/>	<input type="checkbox"/>	Introduction Form
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Department/Agency Cover Letter and/or Report
<input type="checkbox"/>	<input type="checkbox"/>	MOU
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Grant Information Form
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Grant Budget
<input type="checkbox"/>	<input type="checkbox"/>	Subcontract Budget
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Contract/Agreement
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Form 126 – Ethics Commission
<input type="checkbox"/>	<input type="checkbox"/>	Award Letter
<input type="checkbox"/>	<input type="checkbox"/>	Application
<input type="checkbox"/>	<input type="checkbox"/>	Public Correspondence

OTHER (Use back side if additional space is needed)

<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<u>REC Commission Resolution No. 2502-005 2/20/2025</u>
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<u>REC Presentation 4/16/2025</u>
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<u>Presidential Action Memo – Temporary Membership 4/15/2025</u>
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Completed by: Brent Jalipa Date April 10, 2025

Completed by: Brent Jalipa Date April 17, 2025

1 [Accept and Expend Grant - KABOOM! - Children's Playspaces Improvements - \$5,000,000]

2
3 **Resolution authorizing the Recreation and Park Department to enter into a Grant**
4 **Agreement with KABOOM!; and to accept and expend cash and/or in-kind grants from**
5 **KABOOM! valued at approximately \$5,000,000 to support improvements for up to eight**
6 **children's playspace sites, effective upon approval of this Resolution through notice of**
7 **substantial completion; and to authorize the General Manager of the Recreation and**
8 **Park Department to enter into amendments or modifications to the Grant Agreement**
9 **provided they do not materially increase the obligations or liabilities of the City and are**
10 **necessary to effectuate the purposes of the Project or this Resolution.**

11
12 WHEREAS, The City, through the Recreation and Park Department (RPD) operates
13 and maintains various parks, playgrounds, and playspaces throughout San Francisco; and

14 WHEREAS, KABOOM! is a national nonprofit that works to end playspace inequity,
15 and in 2021, worked with RPD and San Francisco Children and Nature to create the Nature
16 Exploration Area (NEA), an innovative eco-friendly playspace in Heron's Head Park made
17 from all-natural materials which promotes physical activity, creativity, and appreciation of
18 nature; and

19 WHEREAS, Inspired by the success of the NEA, KABOOM! invited RPD to participate
20 in its 25 in 5 Initiative (the Initiative), a five-year plan focused on ending playspace inequity in
21 25 different places across the country in five years; and

22 WHEREAS, Through the Initiative, RPD and KABOOM! desire to partner on an
23 ambitious \$10,000,000 plan to create up to eight quality, nature-rich children's playspaces in
24 communities in San Francisco that disproportionately lack resources (the Project), as set forth
25

1 in the Grant Agreement on file with the Clerk of the Board of Supervisors in File No. 250290
2 and which is incorporated herein by reference; and

3 WHEREAS, The phase 1 sites are Crocker Amazon Purple Playground, Randolph and
4 Bright Mini Park, Silver Terrace Playground, and Tenderloin Recreation Center; and phase 2
5 sites are still to be determined; and

6 WHEREAS, As described in the Grant Agreement, KABOOM! will seek to raise
7 \$5,000,000 from third party donors, to be disbursed in the form of cash and in-kind grants (the
8 Grant) to support these efforts; and

9 WHEREAS, The Grant terms prohibit including indirect costs in the grant budget; and

10 WHEREAS, The Grant will not require amending the Annual Salary Ordinance; and

11 WHEREAS, On February 20, 2025, the Recreation and Park Commission, by
12 Resolution No. 2502-005, recommended that the Board of Supervisors authorize the
13 Recreation and Park Department to accept and expend the Grant and approve the associated
14 Grant Agreement; now, therefore, be it

15 RESOLVED, That the Board of Supervisors approves the Grant and authorizes the
16 Recreation and Park Department General Manager to accept the Grant; and, be it

17 FURTHER RESOLVED, That the Board of Supervisors hereby waives inclusion of
18 indirect costs in the grant budget; and, be it

19 FURTHER RESOLVED, That the Board of Supervisors authorizes the Recreation and
20 Park Department General Manager to enter into any modifications and amendments to the
21 Grant or Grant Agreement including accepting and expending funds and in kind services that
22 increase the total Grant value by up to 10% above the estimate stated in this Resolution,
23 provided that the Recreation and Park General Manager determines, in consultation with the
24 City Attorney, that any such modifications are in the best interests of the City, do not
25 materially increase the obligations or liabilities of the City, are necessary or advisable to

1 effectuate the purposes of the Grant, Grant Agreement or this Resolution, and are in
2 compliance with all applicable laws, including the City's Charter; and, be it

3 FURTHER RESOLVED, That within 30 days of the Grant Agreement being fully
4 executed by all parties, the Recreation and Park Department shall provide the final Grant
5 Agreement to the Clerk of the Board for inclusion into the official file.

6
7 Recommended:

8
9
10 /s/

11 Philip A. Ginsburg, General Manager, Recreation and Park Department

12
13 Approved:

Approved:

14
15 /s/ Sophia Kittler

16 Daniel Lurie, Mayor

/s/ Jocelyn Quintos

Greg Wagner, Controller

File Number: 250290
(Provided by Clerk of Board of Supervisors)

Grant Information Form
(Effective March 2005)

Purpose: Accompanies proposed Board of Supervisors resolutions authorizing a Department to accept and expend grant funds.

The following describes the grant referred to in the accompanying resolution:

1. Grant Title: KABOOM! Playspaces Project

2. Department: Recreation and Park Department

3. Contact Person: Abigail Maher

Telephone: 415-831-2790

4. Grant Approval Status (check one):

☒ [X] Approved by funding agency

☐ [] Not yet approved

5. Amount of Grant Funding Approved or Applied for: \$5,000,000

6a. Matching Funds Required: \$0

b. Source(s) of matching funds (if applicable):

7a. Grant Source Agency: KABOOM!

b. Grant Pass-Through Agency (if applicable):

8. Proposed Grant Project Summary: The project is to create up to 8 quality, nature-rich children's playspaces. Phase 1 calls for renovating Crocker Amazon Purple Playground, Randolph and Bright Mini Park, Silver Terrace Playground, and Tenderloin Recreation Center. Phase 2 sites are still to be determined.

9. Grant Project Schedule, as allowed in approval documents, or as proposed:

Start-Date: upon approval by the Board of Supervisors

End-Date: upon notice of substantial completion

10a. Amount budgeted for contractual services: \$0

b. Will contractual services be put out to bid? No

c. If so, will contract services help to further the goals of the department's MBE/WBE requirements? N/A

d. Is this likely to be a one-time or ongoing request for contracting out? N/A

11a. Does the budget include indirect costs?

☐ [] Yes

☒ [X] No

b1. If yes, how much? \$

b2. How was the amount calculated?

c. If no, why are indirect costs not included?

☐ [] Not allowed by granting agency

☒ [X] To maximize use of grant funds on direct services

[] Other (please explain):

c2. If no indirect costs are included, what would have been the indirect costs?

12. Any other significant grant requirements or comments:

****Disability Access Checklist****

13. This Grant is intended for activities at (check all that apply):

<input checked="" type="checkbox"/> Existing Site(s)	<input type="checkbox"/> Existing Structure(s)	<input type="checkbox"/> Existing Program(s) or Service(s)
<input type="checkbox"/> Rehabilitated Site(s)	<input type="checkbox"/> Rehabilitated Structure(s)	<input type="checkbox"/> New Program(s) or Service(s)
<input type="checkbox"/> New Site(s)	<input type="checkbox"/> New Structure(s)	

14. The Departmental ADA Coordinator and/or the Mayor's Office on Disability have reviewed the proposal and concluded that the project as proposed will be in compliance with the Americans with Disabilities Act and all other Federal, State and local access laws and regulations and will allow the full inclusion of persons with disabilities, or will require unreasonable hardship exceptions, as described in the comments section:

Comments: Compliance includes but is not limited to:

1. Ensuring that any service areas and related facilities open to the public are architecturally accessible and have been inspected and approved by the RPD Disability Access Coordinator (DAC) or the DPW DAC.
2. Having staff trained in how to provide reasonable modifications in policies, practices, and procedures.
3. Having auxiliary aids and services available in a timely manner to ensure communication access.

Departmental Disability Access Coordinator: John Romaidis CASp, Recreation and Park Department

DocuSigned by:
 3/10/2025
 Date Reviewed: 84D18CA9CC81420...

Department Approval: Philip A. Ginsburg, General Manager, Recreation and Park Department
 (Name) (Title)

DocuSigned by:
 3/10/2025
 AF27F6596709494...
 (Signature) Date

DRAFT

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-possessionary 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 slightly 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



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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April 16, 2025

Budget and Finance Committee Accept and Expend Grant

KABOOM! Children's Playspaces Improvements
\$5,000,000





Nature Exploration Area At Heron's Head Park

Kid-designed and constructed out of repurposed natural materials like logs, stumps, and boulders, the [Heron's Head NEA](#) invites discovery and play.

- Awarded UNICEF Inspire awards.



What is a Nature Exploration Area?

- A space that encourages people of all ages to engage with natural elements including tree trunks, boulders, and loose natural parts.
- A place where kids ARE encouraged to touch and climb, balance on tree trunks, jump from stump to stump, and use branches, leaves and pine cones to create... whatever their imagination conjures.
- A place to enjoy childhood experiences such as fort building, playing in mud, scrambling on rocks and logs that are getting harder to come by in cities.
- A way of inspiring lifelong connections with nature.





25 in 5 Initiative in San Francisco

“Every child, in every neighborhood, should have the chance to play and explore in nature. Research tells us that being in nature improves our mental and physical health, reduces stress, and even helps heal trauma. All San Franciscans should have access to these health benefits.”

— Former Mayor London Breed



Our Bold Goal: Address Playspace Inequity in 25 Places in 5 Years



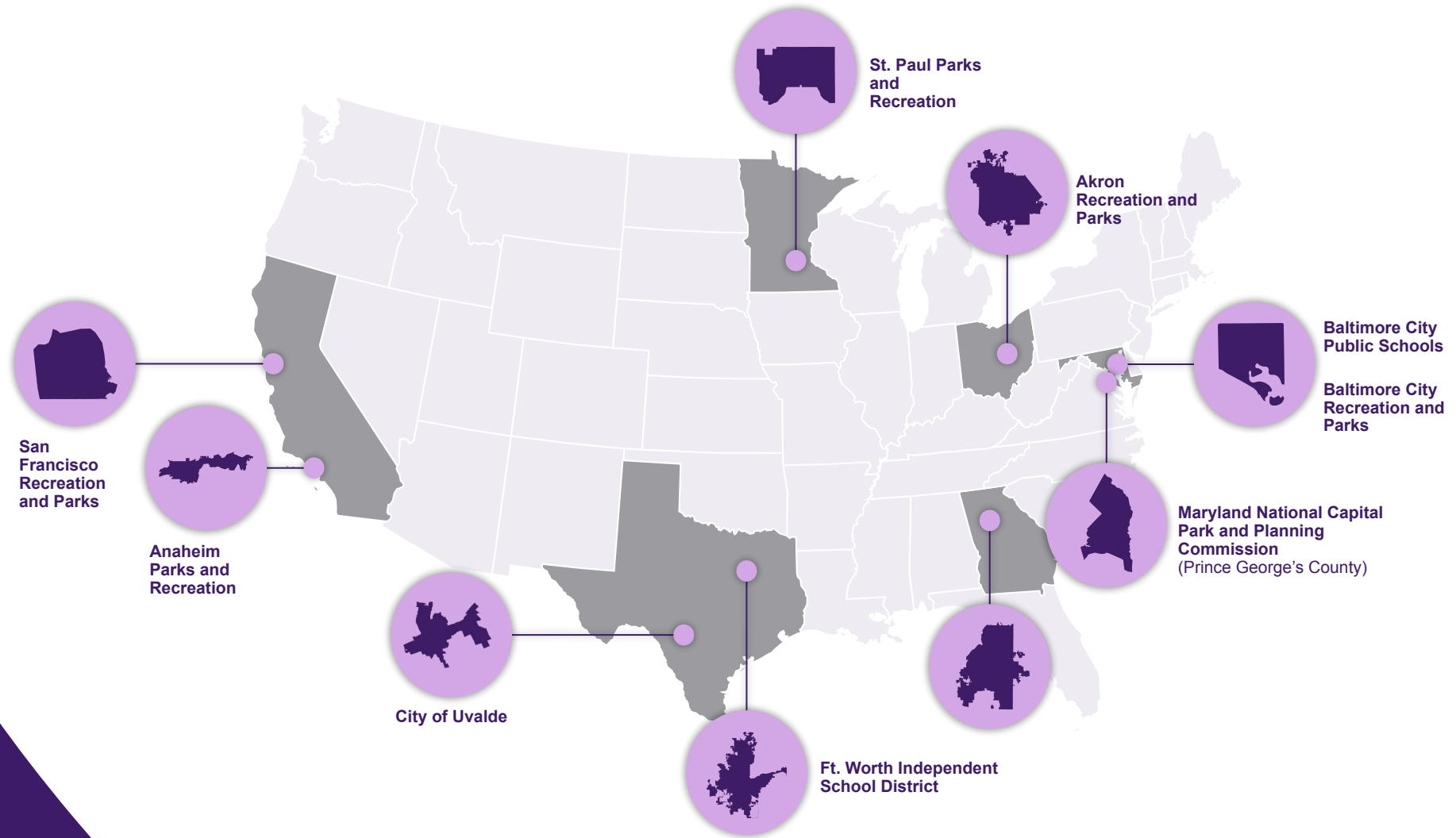
Through the 25 in 5 Initiative, KABOOM! will:

- **Build** partnerships with municipalities, nonprofits, and other organizations that provide a network of playspaces where kids live and learn
- **Identify and address** playspace inequities within those systems
- **Measure** the impact of our work to understand how we strengthen community connection and improve childhood well-being
- **Create a roadmap to end playspace inequity across the country**



Our Bold Goal: End Playspace Inequity in 25 Places in 5 Years

Through our 25 in 5 Initiative, KABOOM! has established key partnerships with school districts and park systems to identify and address playspace inequities within those systems.



Reaching Disadvantaged Communities

Rec Park and KABOOM! have teamed up to deliver an ambitious goal of creating up to 8 nature exploration areas and nature based play spaces.

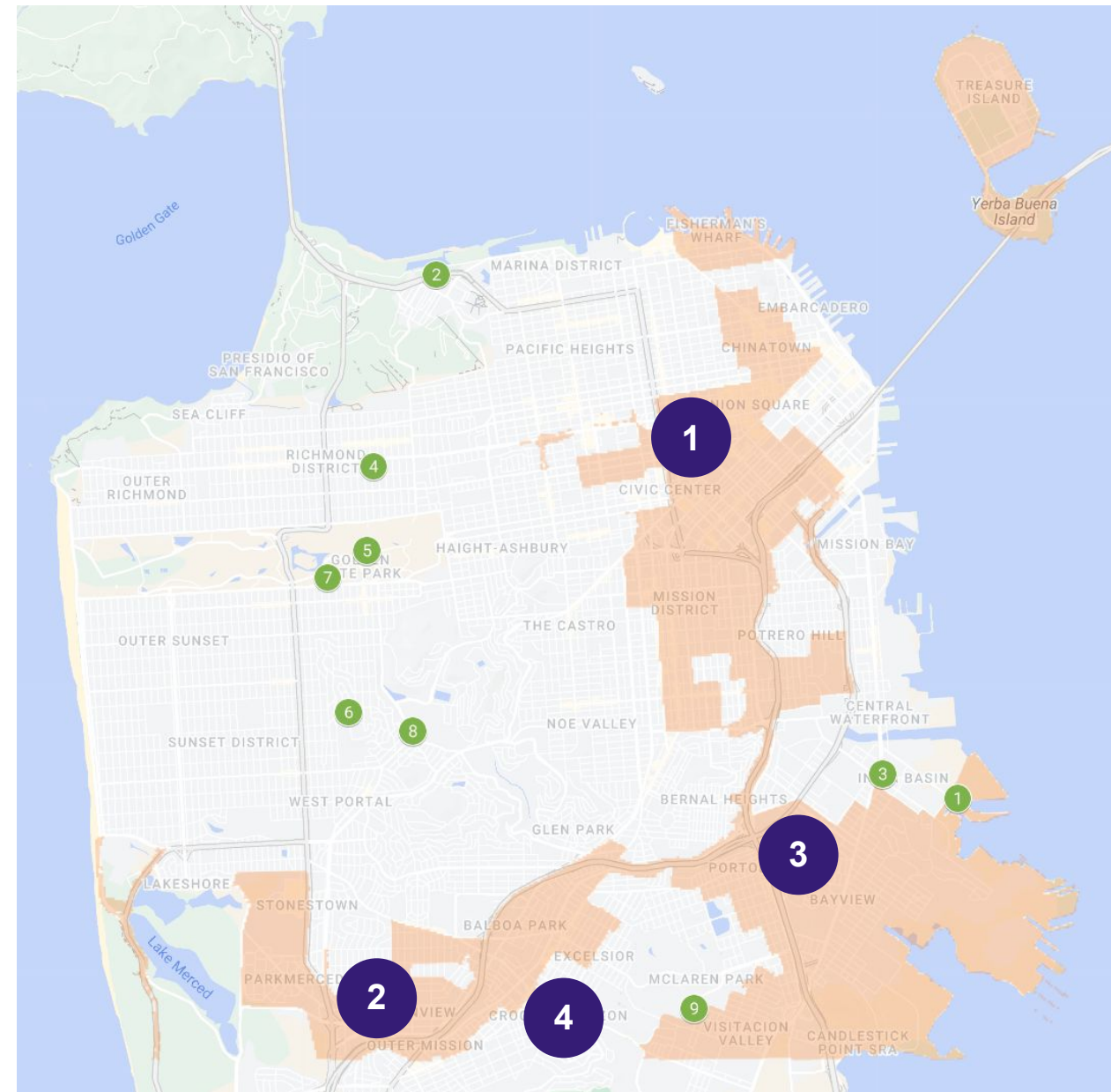
The projects will be rolled out in 2 phases.

Phase 1 - \$2.5 million in Rec and Park public funding (stemming from 2020 Bond) + \$2.5 million in KABOOM! private funding these four projects:

1. Tenderloin Children's Playground, District 5, Tenderloin
2. Randolph and Bright Mini Park, District 11, OMI
3. Silver Terrace Playground, District 10, Bayview
4. Crocker Amazon Purple Playground, District 11, Excelsior

Phase 2 - \$2.5 million in Rec and Park public funding + \$2.5 million in KABOOM! private funding for projects ranging up to four additional sites, still to be determined.

Equity metrics and other factors, such as lower access to nearby nature and analysis of facility condition were taken into consideration in selecting sites.

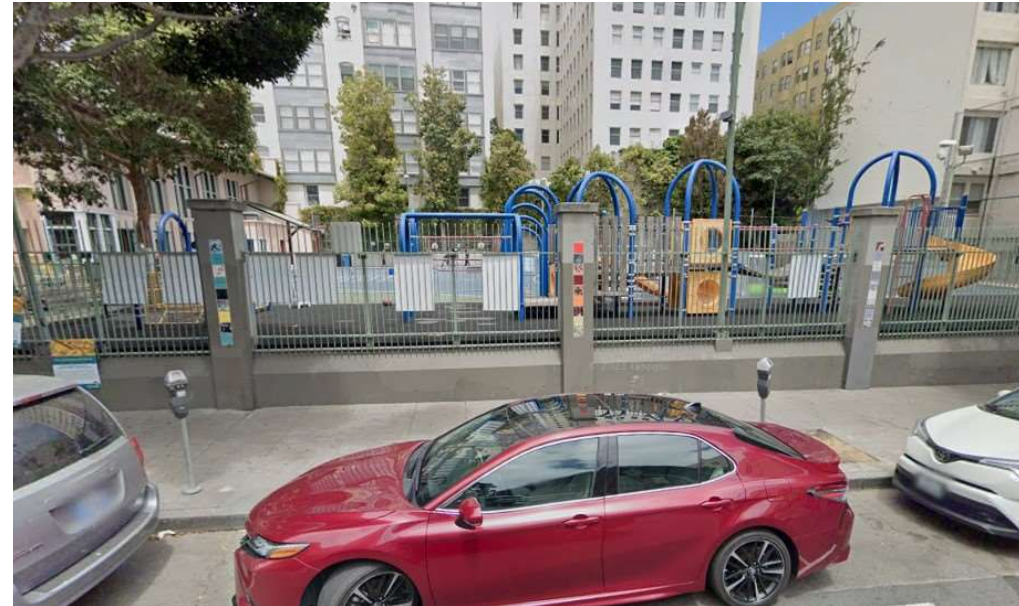
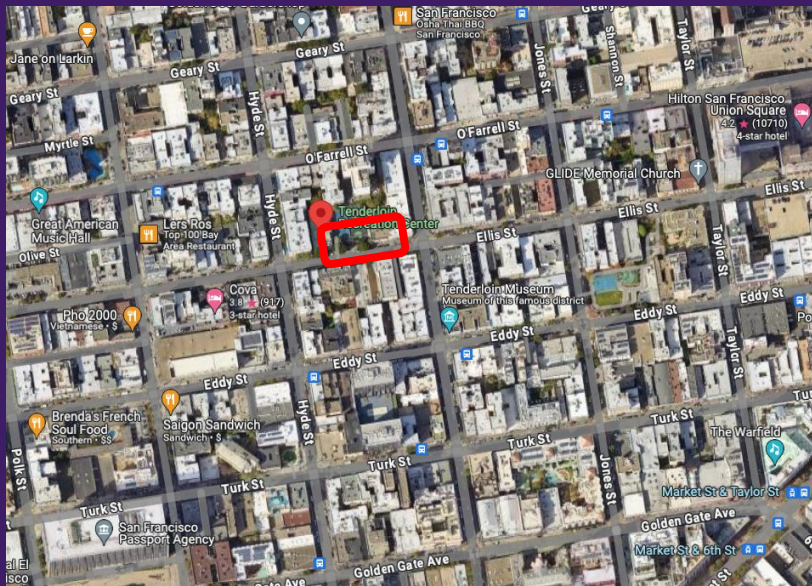


Environmental Justice Communities: low-income areas with a disproportionate burden of environmental hazards such as higher pollution

Tenderloin Rec Center

Located in the heart of a dense, urban environment, the worn out playground serves about 3,800 children living in the neighborhood.

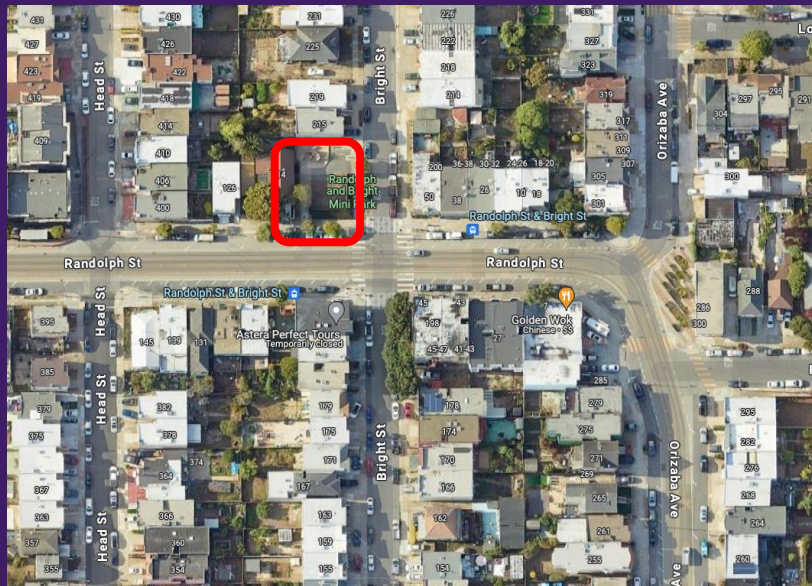
We plan to remove asphalt to make room for a new nature based playspace with planting areas, a pocket forest, and an outdoor classroom.



Randolph & Bright Mini Park

Last renovated in 1992, the community can't wait to break ground on a bold, new nature exploration area.

In November 2021, community volunteers installed artwork, native plants, and a pop-up nature exploration area. They host regular cleanups and preschool groups frequent the park for nature play days.



“We live really close to it but don't use it because there are often adults hanging out at the play structure and it's pretty run down. It would be great to have an updated kids play area.”

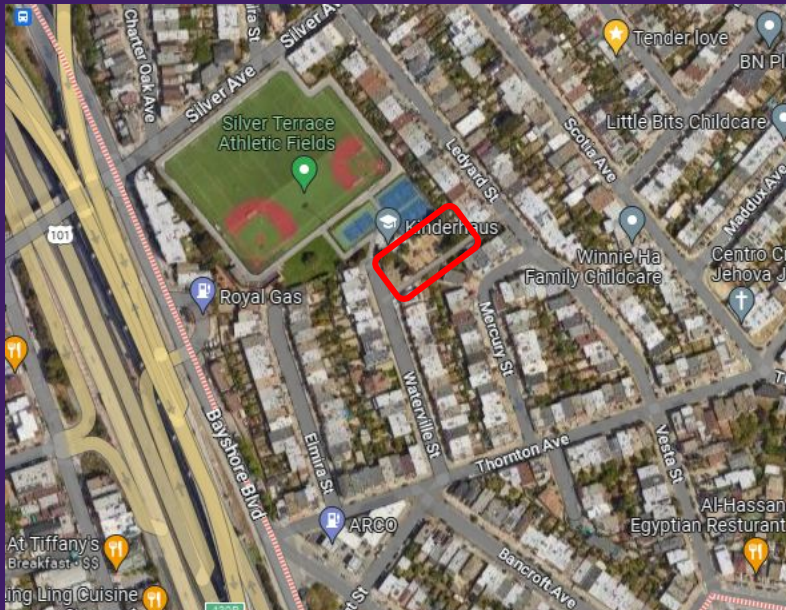
-neighbor

5/11 | Community Design Jam

Silver Terrace Playground

The community and onsite preschool are eager to replace the aging equipment with a nature exploration area and expand the nature play space to include an unused area adjacent to the playground.

This site - situated between 2 major freeways and a residential neighborhood - has limited access to nearby nature.

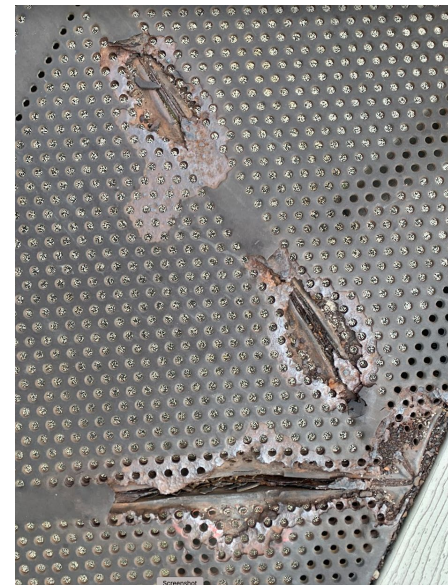
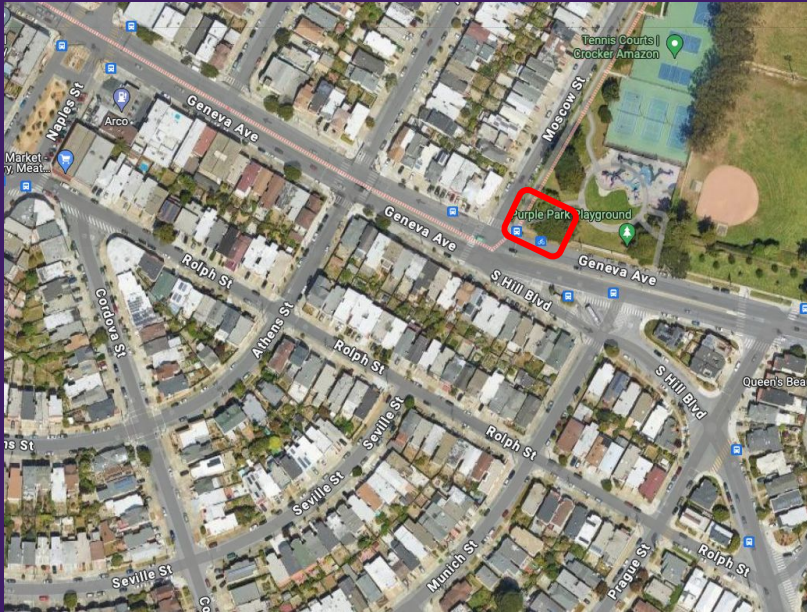


1/20 | Community Design Jam

We love the sand and the "forest" area for children to play in freely and connected to sensory and nature explorations. Any forest inspired nature elements would compliment the way children play here. Our hope is that new structures won't be made out of plastic and that we will still have a lot of free room to play unstructured. - neighbor

Crocker Amazon Purple Playground

An aging playground that needs urgent upgrades in a busy park. Community outreach will help drive a plan for a new, creative nature based playspace for the thousands of children in the neighborhood.



Honoring Partners and Donors

Rec Park and KABOOM! have contemplated recognizing donors at each of the playspace sites. We plan to work together to determine the level of giving to be recognized on site signage. This is the existing sign in the Heron's Head Park Nature Exploration Area (NEA) is an example of the type of sign under consideration for donor recognition.

This sign includes partner logos and a narrative about the philanthropic support. Per Rec Park policy the sign might include not for profit logos but not corporate or for-profit logos.

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.





KABOOM! and the San Francisco Recreation and Park Department are partnering on an ambitious \$10 million plan to address gaps in access to **quality, nature-rich children's playspaces in communities that disproportionately lack resources.**

KABOOM! is leading the fundraising campaign with a goal of \$5 million, with the City matching that amount, to improve up to 8 playspaces playgrounds.



Rec Park and KABOOM! believe all children & youth growing up in the city should have the same opportunities to **PLAY, LEARN, and GROW** in NATURE.



Accept and Expend Grant – KABOOM! – Playspaces - \$5,000,000

Grant Budget

The \$5,000,000 Grant supports the construction budget for the nature play improvements.

	Park 1 - RB	Park 2 - TR	Park 3 - ST	Park 4 - CA	Total Phase I
Construction Budget - Nature Play Improvements	\$625,000	\$1,625,000	\$1,800,000	\$2,600,000	\$6,650,000
Construction Budget - Required Site Improvements	\$596,939	\$661,500	\$600,000	\$800,000	\$2,658,439
Project Soft Cost	\$815,561	\$1,013,500	\$949,500	\$1,155,625	\$3,934,186
KABOOM! Admintrative Cost	\$62,500	\$62,500	\$62,500	\$62,500	\$250,000
ESTIMATED BUDGET	\$2,100,000	\$3,362,500	\$3,412,000	\$4,618,125	\$13,492,625

Nature Play Improvements Budget includes: play equipment, nature exploration features, site furnishings, and resilient surfacing in nature play area.

Required Site Improvements Budget includes: demolition, site preparation, drainage, walkways, fencing, retaining walls, signage, planting, irrigation, lighting (if applicable), and required ADA improvements.

Soft and Admin costs includes: project management, topographic survey & site inspections, design team, regulatory reviews & construction management.

RECREATION AND PARK COMMISSION
City and County of San Francisco
Resolution Number 2502-005

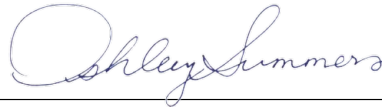
**KABOOM! PARK IMPROVEMENTS GRANT – ACCEPT AND EXPEND,
DONOR RECOGNITION AND GRANT AGREEMENT**

RESOLVED, This Commission does (1) recommend that the Board of Supervisors authorize the Recreation and Park Department to accept and expend cash and/or in-kind grants that KABOOM! will seek to solicit and secure from third party donors with a target amount of \$5,000,000 for improvements to playspace sites; and (2) recommend that the Board approve the associated grant agreement; and (3) approve a donor recognition plan.

Adopted by the following vote:

Ayes	5
Noes	0
Absent	2

I hereby certify that the foregoing resolution was adopted at the Recreation and Park Commission meeting held on February 20, 2025.



Ashley Summers, Commission Liaison

President, District 8
BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4689

Tel. No. 554-6968
Fax No. 554-5163
TDD/TTY No. 544-5227

RAFAEL MANDELMAN

PRESIDENTIAL ACTION

Date: 4/15/25

To: Angela Calvillo, Clerk of the Board of Supervisors

Madam Clerk,
Pursuant to Board Rules, I am hereby:

☐ Waiving 30-Day Rule (Board Rule No. 3.23)

File No. _____

(Primary Sponsor)

Title. _____

☐ Transferring (Board Rule No 3.3)

File No. _____

(Primary Sponsor)

Title. _____

From: _____ Committee

To: _____ Committee

☒ Assigning Temporary Committee Appointment (Board Rule No. 3.1)

Supervisor: Chen Replacing Supervisor: Chan

For: 4/16/25 Budget & Finance Meeting
(Date) (Committee)

Start Time: _____ End Time: _____

Temporary Assignment: ☐ Partial ☒ Full Meeting



Rafael Mandelman, President
Board of Supervisors



San Francisco Ethics Commission

25 Van Ness Avenue, Suite 220, San Francisco, CA 94102

Phone: 415.252.3100 . Fax: 415.252.3112

ethics.commission@sfgov.org . www.sfethics.org

Received On:

File #: 250290

Bid/RFP #:

Notification of Contract Approval

SFEC Form 126(f)4

(S.F. Campaign and Governmental Conduct Code § 1.126(f)4)

A Public Document

Each City elective officer who approves a contract that has a total anticipated or actual value of \$100,000 or more must file this form with the Ethics Commission within five business days of approval by: (a) the City elective officer, (b) any board on which the City elective officer serves, or (c) the board of any state agency on which an appointee of the City elective officer serves. For more information, see: <https://sfethics.org/compliance/city-officers/contract-approval-city-officers>

1. FILING INFORMATION

TYPE OF FILING	DATE OF ORIGINAL FILING (for amendment only)
Original	
AMENDMENT DESCRIPTION – Explain reason for amendment	

2. CITY ELECTIVE OFFICE OR BOARD

OFFICE OR BOARD	NAME OF CITY ELECTIVE OFFICER
Board of Supervisors	Members

3. FILER'S CONTACT

NAME OF FILER'S CONTACT	TELEPHONE NUMBER
Angela Calvillo	415-554-5184
FULL DEPARTMENT NAME	EMAIL
Office of the Clerk of the Board	Board.of.Supervisors@sfgov.org

4. CONTRACTING DEPARTMENT CONTACT

NAME OF DEPARTMENTAL CONTACT	DEPARTMENT CONTACT TELEPHONE NUMBER
Abigail Maher	4158312700
FULL DEPARTMENT NAME	DEPARTMENT CONTACT EMAIL
REC Recreation and Park Department	abigail.maher@sfgov.org

5. CONTRACTOR	
NAME OF CONTRACTOR KABOOM!	TELEPHONE NUMBER 202-659-0215
STREET ADDRESS (including City, State and Zip Code) 7200 Wisconsin Ave, Suite 400 Bethesda, MD 20814	EMAIL

6. CONTRACT		
DATE CONTRACT WAS APPROVED BY THE CITY ELECTIVE OFFICER(S)	ORIGINAL BID/RFP NUMBER	FILE NUMBER (If applicable) 250290
DESCRIPTION OF AMOUNT OF CONTRACT 5,000,000		
NATURE OF THE CONTRACT (Please describe) This is a grant to the City. KABOOM! is providing a grant to Rec Park to improve playspaces in the City.		

7. COMMENTS

8. CONTRACT APPROVAL	
This contract was approved by:	
<input type="checkbox"/>	THE CITY ELECTIVE OFFICER(S) IDENTIFIED ON THIS FORM
<input checked="" type="checkbox"/>	A BOARD ON WHICH THE CITY ELECTIVE OFFICER(S) SERVES Board of Supervisors
<input type="checkbox"/>	THE BOARD OF A STATE AGENCY ON WHICH AN APPOINTEE OF THE CITY ELECTIVE OFFICER(S) IDENTIFIED ON THIS FORM SITS

9. AFFILIATES AND SUBCONTRACTORS

List the names of (A) members of the contractor's board of directors; (B) the contractor's principal officers, including chief executive officer, chief financial officer, chief operating officer, or other persons with similar titles; (C) any individual or entity who has an ownership interest of 10 percent or more in the contractor; and (D) any subcontractor listed in the bid or contract.

#	LAST NAME/ENTITY/SUBCONTRACTOR	FIRST NAME	TYPE
1	Ratliff	Lysa	CEO
2			
3			
4			
5			
6			
7			
8			
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9. AFFILIATES AND SUBCONTRACTORS

List the names of (A) members of the contractor's board of directors; (B) the contractor's principal officers, including chief executive officer, chief financial officer, chief operating officer, or other persons with similar titles; (C) any individual or entity who has an ownership interest of 10 percent or more in the contractor; and (D) any subcontractor listed in the bid or contract.

#	LAST NAME/ENTITY/SUBCONTRACTOR	FIRST NAME	TYPE
20			
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9. AFFILIATES AND SUBCONTRACTORS

List the names of (A) members of the contractor's board of directors; (B) the contractor's principal officers, including chief executive officer, chief financial officer, chief operating officer, or other persons with similar titles; (C) any individual or entity who has an ownership interest of 10 percent or more in the contractor; and (D) any subcontractor listed in the bid or contract.

#	LAST NAME/ENTITY/SUBCONTRACTOR	FIRST NAME	TYPE
39			
40			
41			
42			
43			
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47			
48			
49			
50			

☐ Check this box if you need to include additional names. Please submit a separate form with complete information. Select "Supplemental" for filing type.

10. VERIFICATION

I have used all reasonable diligence in preparing this statement. I have reviewed this statement and to the best of my knowledge the information I have provided here is true and complete.

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

SIGNATURE OF CITY ELECTIVE OFFICER OR BOARD SECRETARY OR CLERK

DATE SIGNED

BOS Clerk of the Board

Daniel Lurie, Mayor



Kat Anderson, Commission President
Philip A. Ginsburg, General Manager

TO: Angela Calvillo, Clerk of the Board of Supervisors

FROM: Philip A. Ginsburg, General Manager
Recreation and Park Department

DATE: March 11, 2025

SUBJECT: Accept and Expend Grant – KABOOM! – \$5,000,000

GRANT TITLE: KABOOM! Park Improvements

Attached please find the original of each of the following:

___ Grant resolution; original signed by Department, Controller, Mayor

___ Grant Information Form, including disability check list

___ Grant Budget

___ Award Letter or Agreement

___ Recreation and Park Commission Resolution

Special Timeline Requirements: We would like legislation introduced as soon as possible due to a tight timeline as set forth by the State's Cal Fire Grant requirements for the Tenderloin Recreation Center project.

The grant will be used to renovate up to 8 playspaces, one of which is the outdoor playspace in the Tenderloin Recreation Center.

Departmental representative to receive copy of the adopted resolution:

Name: Abigail Maher Phone: 831-2790

Interoffice Mail Address: Abigail.maher@sfgov.org

Certified copy required: Yes ☐ No ☒

(Note: certified copies have the seal of the City/County affixed and are occasionally required by funding agencies. In most cases ordinary copies without the seal are sufficient.)



From: [Livingston, Jack \(MYR\)](#)
To: [BOS Legislation, \(BOS\)](#); [Somera, Alisa \(BOS\)](#)
Cc: [Thongsavat, Adam \(MYR\)](#); [RUSSI, BRAD \(CAT\)](#); [Ng, Beverly \(REC\)](#); [Chami, Barbara \(REC\)](#); [Maher, Abigail \(REC\)](#)
Subject: MDL Intro | 3-25-25 | Accept and Expend Grant – KABOOM! – Playspaces - \$5,000,000 (RPD)
Date: Tuesday, March 25, 2025 2:49:41 PM
Attachments: [3.KABOOM Accept and Expend_Grant Budget.pdf](#)
[4. KABOOM Accept and Expend_Grant Agreement.pdf](#)
[5. KABOOM Accept and Expend_Commission Resolution.pdf](#)
[0. KABOOM Accept and Expend_Clerk of the BoS Memo.docx](#)
[1. KABOOM Accept and Expend Grant Information Form.pdf](#)
[2. KABOOM Accept and Expend_Grant Resolution with REC and CON sigs.pdf](#)
[2.1 Budget Director Approval.pdf](#)
[1. Sunnysdale Block 7 bond issuance resolution final.docx](#)
[6. Cover Letter MDL 3.25.25 \(KABOOM Accept and Expend\).doc](#)

Dear Clerks,

Attached for introduction is a resolution authorizing the Recreation and Park Department to enter into a Grant Agreement with KABOOM!; and to accept and expend cash and/or in-kind grants from KABOOM! valued at approximately \$5,000,000 to support improvements for up to 8 playspace sites; and to authorize the General Manager of the Recreation and Park Department to enter into amendments or modifications to the Grant Agreement provided they do not materially increase the obligations or liabilities of the City and are necessary to effectuate the purposes of the Project or this Resolution.

Please find the following supporting documents for introduction attached:

- 0. KABOOM Accept and Expend_Clerk of the BoS Memo
- 1. KABOOM Accept and Expend Grant Information Form
- 2. KABOOM Accept and Expend _Grant Resolution in Word format
- 2. KABOOM Accept and Expend __Grant Resolution with REC and CON sigs in PDF format
- 2.1 Budget Director Approval
- 3.KABOOM Accept and Expend_Grant Budget
- 4. KABOOM Accept and Expend_Grant Agreement
- 5. KABOOM Accept and Expend_Commission Resolution
- 6. Cover Letter MDL 3.25.25 (KABOOM Accept and Expend)

Should you have any questions/concerns, please reach out to me directly at:

jack.livingston@sfgov.org.

Best,

Jack

Jack Livingston

Legislative and Ethics Secretary