



**FONTAINBLEAU LAKES
COMMUNITY DEVELOPMENT
DISTRICT**

**MIAMI-DADE COUNTY
REGULAR BOARD MEETING
NOVEMBER 21, 2022
6:30 P.M.**

Special District Services, Inc.
8785 SW 165th Avenue, Suite 200
Miami, FL 33193

www.fontainbleaulakescdd.org

786.303.3661 Telephone

877.SDS.4922 Toll Free

561.630.4923 Facsimile

AGENDA
FONTAINBLEAU LAKES COMMUNITY DEVELOPMENT DISTRICT
Las Ramblas Clubhouse Conference Room
9960 NW 10th Terrace
Miami, Florida 33172
REGULAR BOARD MEETING
November 21, 2022
6:30 p.m.

- A. Call to Order
- B. Proof of Publication.....Page 1
- C. Establish Quorum
- D. Additions or Deletions to Agenda
- E. Comments from the Public for Items Not on the Agenda
- F. Approval of Minutes
 - 1. October 17, 2022 Regular Board Meeting Minutes.....Page 2
- G. Old Business
 - 1. Update Greenspace Area in Southwest Quadrant of CDD – Open Soil Testing Holes
 - 2. Update Regarding Potential Addition of Gate Door – Las Sevillas (SE Corner – Ruben Dario Park)
 - 3. Discussion Regarding Bollard installation – Las Sevillas.....Page 5
 - 4. Update Regarding KaBOOM! Playground Project – Letter of Intent.....Page 7
- H. New Business
 - 1. Discussion Regarding District Projects Master Plan
- I. Administrative & Operational Matter
- J. Board Members & Staff Closing Comments
- K. Adjourn

MIAMI-DADE

STATE OF FLORIDA
COUNTY OF MIAMI-DADE:

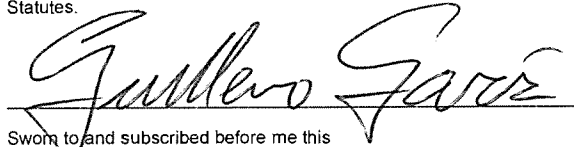
Before the undersigned authority personally appeared GUILLERMO GARCIA, who on oath says that he or she is the DIRECTOR OF OPERATIONS, Legal Notices of the Miami Daily Business Review f/k/a Miami Review, a daily (except Saturday, Sunday and Legal Holidays) newspaper, published at Miami in Miami-Dade County, Florida; that the attached copy of advertisement, being a Legal Advertisement of Notice in the matter of

FONTAINBLEAU LAKES COMMUNITY DEVELOPMENT DISTRICT - FISCAL YEAR 2022/2023 REGULAR MEETING SCHEDULE

in the XXXX Court,
was published in said newspaper by print in the issues of
and/or by publication on the newspaper's website, if
authorized, on

10/07/2022

Affiant further says that the newspaper complies with all legal requirements for publication in chapter 50, Florida Statutes.

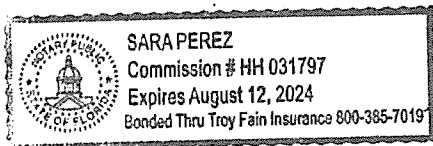


Sworn to and subscribed before me this
7 day of OCTOBER, A.D. 2022



(SEAL)

GUILLERMO GARCIA personally known to me



FONTAINBLEAU LAKES COMMUNITY DEVELOPMENT DISTRICT FISCAL YEAR 2022/2023 REGULAR MEETING SCHEDULE

NOTICE IS HEREBY GIVEN that the Board of Supervisors (the "Board") of the Fontainebleau Lakes Community Development District (the "District") will hold Regular Meetings in the Las Ramblas Clubhouse Conference Room located at 9960 NW 10th Terrace, Miami, Florida 33172 at 6:30 p.m. on the following dates:

October 17, 2022
November 21, 2022
February 20, 2023
March 20, 2023
April 17, 2023
May 15, 2023
June 19, 2023
September 18, 2023

The purpose of the meetings is to conduct any District business which may lawfully and properly come before the Board. Meetings are open to the public and will be conducted in accordance with the provisions of Florida law. Copies of the Agenda for any of the meetings may be obtained from the District's website or by contacting the District Manager at 786-313-3661 and/or toll free at 1-877-737-4922 five (5) days prior to the date of the particular meeting.

From time to time one or two Board members may participate by telephone; therefore, a speaker telephone will be present at the meeting location so that the Board members may be fully informed of the discussions taking place. Said meeting(s) may be continued as found necessary to a time and place specified on the record.

If any person decides to appeal any decision made with respect to any matter considered at these meetings, such person will need a record of the proceedings and such person may need to insure that a verbatim record of the proceedings is made at his or her own expense and which record includes the testimony and evidence on which the appeal is based.

In accordance with the provisions of the Americans with Disabilities Act, any person requiring special accommodations or an interpreter to participate at any of these meetings should contact the District Manager at 786-313-3661 and/or toll free at 1-877-737-4922 at least seven (7) days prior to the date of the particular meeting.

Meetings may be cancelled from time to time without advertised notice.

FONTAINBLEAU LAKES COMMUNITY DEVELOPMENT DISTRICT

www.fontainebleaulakescdd.org

10/7

22-73/0000623301M

**FONTAINBLEAU LAKES COMMUNITY DEVELOPMENT DISTRICT
REGULAR BOARD MEETING
OCTOBER 17, 2022**

A. CALL TO ORDER

District Manager Armando Silva called the October 17, 2022, Regular Board Meeting of the Fontainebleau Lakes Community Development District (the “District”) to order at 6:30 p.m. in the Las Ramblas Clubhouse Conference Room located at 9960 NW 10th Terrace, Miami, Florida 33172.

B. PROOF OF PUBLICATION

Mr. Silva presented proof of publication that notice of the Regular Board Meeting had been published in the *Miami Daily Business Review* on October 7, 2022, as part of the District’s Fiscal Year 2022/2023 Regular Meeting Schedule, as legally required.

C. ESTABLISH A QUORUM

Mr. Silva determined that the attendance of Vice Chairman Timothy Toy and Supervisors Edward Aparicio and Humberto Jovanovic constituted a quorum and it was in order to proceed with the meeting.

Staff in attendance were: District Manager Armando Silva of Special District Services, Inc.; and General Counsel Scott Cochran of Billing, Cochran, Lyles, Mauro & Ramsey, P.A.

Others in attendance were: Javier Tome, Miami, FL; Miguel Garcia, Miami, FL; L. Leonardo Bobadilla, Miami, FL.

D. ADDITIONS OR DELETIONS TO THE AGENDA

There were no additions or deletions to the agenda.

E. COMMENTS FROM THE PUBLIC FOR ITEMS NOT ON THE AGENDA

There were no comments from the public for items not on the agenda.

F. APPROVAL OF MINUTES

1. July 18, 2022, Regular Board Meeting

Mr. Silva presented the minutes of the July 18, 2022, Regular Board Meeting. A **motion** was made by Mr. Jovanovic, seconded by Mr. Toy and passed unanimously approving the minutes of the July 18, 2022 Regular Board Meeting, as *amended*; under section D. (Additions or Deletions to the Agenda), the word “directs” in the second line was revised to “direct”; and under section F. (Approval of Minutes), the heading and the paragraph itself (twice) refer to the minutes of the September 19, 2022 meeting and was revised to reflect July 18, 2022 meeting, as it is the minutes of the July meeting that were approved at the September meeting.

H. OLD BUSINESS

1. Update Regarding Restrictive Covenant – Greenspace Area in Southwest Quadrant of CDD

Mr. Silva stated that he has once again followed up with Mr. Frank Silva (Attorney with Shoma Homes) regarding the status of the Declaration of Restrictive Covenants that was submitted for recording. He also stated that has begun inquiring regarding the cost of filling in the open soil sampling holes within the District (SW Quadrant – Las Sevillas).

2. Update Regarding Potential Addition of a Gate Door – Las Sevillas (SE Corner – Ruben Dario Park)

Mr. Scott Cochran informed the board that he has looked into the possibility of the District financing the construction of a pathway between Las Sevillas and the Ruben Dario Park and stated that it is possible for the District to finance this project as long as there is a public purpose. He also suggested that the District look into obtaining financing assistance from the adjacent commercial center or Miami-Dade County (“County”). A discussion ensued after which the Board consensus was to proceed with obtaining a License Agreement from County to allow the District to construct a pathway between the Ruben Dario Park and Las Sevillas. The District is also to look into possibly obtaining financing assistance from the adjacent commercial center and the County.

H. NEW BUSINESS

1. Consider Resolution No. 2022-04 – Adopting a Fiscal Year 2021/2022 Amended Budget

Mr. Silva presented Resolution No. 2022-04, entitled:

RESOLUTION NO. 2022-04

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE FONTAIBLEAU LAKES COMMUNITY DEVELOPMENT DISTRICT AUTHORIZING AND ADOPTING AN AMENDED FINAL FISCAL YEAR 2021/2022 BUDGET (“AMENDED BUDGET”), PURSUANT TO CHAPTER 189, FLORIDA STATUTES; AND PROVIDING AN EFFECTIVE DATE.

Mr. Silva read the title of the resolution into the record and provided an explanation for the document. The Operating Fund as of September 30, 2022, had a positive balance. In addition, Mr. Silva stated that the Debt Service Fund for the Series 2016 Refunding Bonds had sufficient funds to make the required November 1, 2022, interest payment. A discussion ensued after which the following motion was made:

A **motion** was made by Mr. Toy, seconded by Mr. Jovanovic and unanimously passed to approve and adopt Resolution No. 2022-04, as presented; thereby setting the amended/revised final budget for the 2021/2022 fiscal year.

2. Staff Report, as Required

There was not staff report at this time.

I. ADMINISTRATIVE & OPERATIONAL MATTERS

1. Staff Report, as Required

There was not staff report at this time.

J. BOARD MEMBER & STAFF CLOSING COMMENTS

There was no Board Member or Staff closing comments.

K. ADJOURNMENT

There being no further business to come before the Board, a **motion** was made by Mr. Toy, seconded by Mr. Aparicio and passed unanimously to adjourn the Regular Board Meeting at 7:07 p.m.

Secretary/Assistant Secretary

Chairperson/Vice Chairperson

Las Sevillas – Bollard Locations



Fold-Down Safety Bollard - 4 1/2 x 36"



Control vehicle access near facilities and park entrances.

- Easy fold-down hinge and integrated lock.
- 11-gauge steel construction with cast steel base.
- Top-mounted eyelet for use with safety chains or ropes.
- Includes 2 keys.

| DIAM. | RAISED HEIGHT | COLLAPSED HEIGHT | MOUNTING PLATE DIM. | WT. (LBS.) |
|-------|---------------|------------------|---------------------|------------|
| 4.5" | 36" | 5" | 8 1/2 x 8 1/2" | 25 |

Easy fold-down hinge and integrated lock.



Top-mounted eyelet for use with safety chains or ropes.



LETTER OF INTENT

Thank you for your interest in a community-built playspace in partnership with KABOOM! We appreciate the time you are investing in the screening process for this grant.

All potential partners must review and approve our Community Partner Agreement (contract) in draft form prior to being considered for the grant. Below are the next steps that are essential to moving forward in the screening process.

1) VET & APPROVE THE CONTRACT VIA YOUR LEGAL REVIEW PROCESS

Please have your organization's authorized signatory and any other necessary parties, including but not limited to facilities, legal, insurance or risk management departments, review the Community Partner Agreement and *fully approve the language in the agreement*.

Please note:

- The Community Partner Agreement is a standard form agreement; any requested changes will need to be approved by KABOOM! and the Funding Partner
- Signing the Letter of Intent does not guarantee grant funding for a playspace.

2) SIGN & RETURN THE LETTER OF INTENT

Upon full approval of the contract language, the authorized signatory must sign the Letter of Intent indicating that your organization will sign an official Agreement within three business days if awarded a grant from KABOOM!.

If you are applying in partnership with one or more organizations, please have each partner sign a separate Letter of Intent. Certain responsibilities can be assigned to singular parties of the contract, but all responsibilities must be accounted for.

If you have any questions about the Community Partner Agreement or Letter of Intent, please contact your KABOOM! main point of contact who will be happy to assist you.

We look forward to receiving your signed Letter of Intent.

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Sparks for Change.



2022 KABOOM! Letter of Intent

By signing this document, I understand that if my organization is selected for a KABOOM! project, my organization will (please initial each point):

- _____ Assume all responsibilities as outlined in the KABOOM! Project Summary
- _____ Fundraise \$8,500 USD toward the cost of play equipment
- _____ Own and maintain the playspace for its lifetime
- _____ Provide copy of deed or Letter of Permission to build from landowner
- _____ Secure all necessary permits for construction of playspace
- _____ Remove or bring up to code all existing play equipment currently on site
- _____ Perform necessary site preparation upon agreed time frame (to potentially include grading, removal of equipment, repairing surfacing, etc.) to ensure playspace can be properly installed
- _____ Perform a utility check (private and public) prior to Design Day and secure all necessary extensions to ensure the utility check is current through Build Week
- _____ Perform a soil test for lead and arsenic within two weeks of Design Day and perform remediation if necessary
- _____ Use equipment manufactured by Landscape Structures Inc., Connor Sport Court International or Playworld Systems, Inc. and accept engineered wood fiber safety surfacing
- _____ Allow names and logos of KABOOM! and the Funding Partner to be displayed on permanent signage, measuring no greater than 19 ½ inches wide by 30 ¼ inches tall
- _____ Recruit at least 20 community members, residents, and/or parents to participate in the Playspace Design Event and planning process
- _____ Recruit 40-60 volunteers from the community to participate in a 3-4 day installation event known as Build Week
- _____ Provide breakfast, lunch, water, tools, a dumpster, music, hand washing/sanitizing facilities and restroom facilities for volunteers during Build Week
- _____ Build the playspace through supervised volunteer installation
- _____ Accept liability for and maintain the playspace upon build completion
- _____ Accept ownership of equipment upon purchase
- _____ Provide proof of insurance, maintain policy for the playspace and Build Week, and add KABOOM! and the Funding Partner as additional insureds for the term described in the agreement
- _____ Indemnify and hold harmless KABOOM! and the Funding Partner
- _____ Distribute and complete 3 play-related surveys before and after Build Week
- _____ Follow KABOOM! protocol on all media as outlined in the Corporate Sponsorship Policy

2022 KABOOM! Letter of Intent

Signing this Letter of Intent signifies that all authorized signatories have reviewed the Agreement and are prepared to sign a final agreement within three business days of being awarded a

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KABOOM! playspace project. *Please ensure that the person authorized to sign legal agreements signs below.*

Legal Name of Organization: _____

Name of Organization to Use in
Media: _____

Name and Title of Signatory (please print): _____

Signatory Email Address: _____

Signatory Phone Number: _____

Authorized Signature: _____

Date: _____

Signatory Mailing Address: _____

Contact information for person who should receive KABOOM! Invoice:

Name:

Telephone number:

Mailing Address:

Email:

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TEMPLATE COMMUNITY PARTNER AGREEMENT

This agreement must be approved by your organization's legal signatory before signing Letter of Intent

KABOOM!, Inc. (referred to herein as KABOOM!) is pleased that «CP» (referred to herein as the Community Partner) has agreed to collaborate with KABOOM! and «FP» (referred to herein as the Funding Partner) in the construction of a new playspace at «Site_Name», «Site_Address», «City», «State» «Zip» (the "Project"). This Community Partner Agreement (this "Agreement"), which sets forth the Community Partner's obligations in connection with the Project and certain matters on which the parties have agreed, will, when executed by the duly authorized representatives of each party, supersede any prior agreements and represent the complete legally binding agreement between the parties regarding the Project.

1. Obligations of the Community Partner. The Community Partner shall work with KABOOM! and the Funding Partner as well as community residents to design, plan, and build the Project. By executing this Agreement, the Community Partner is unconditionally agreeing to each of the following obligations, in each case meeting the requirements provided by KABOOM!:
 - (a) Fundraising. In support of the Project, the Community Partner must contribute \$«Contribution» to KABOOM!, which will apply the funds directly to the purchase of the equipment. KABOOM! will invoice the Community Partner for such amount promptly following the execution of this Agreement, which amount must be paid in full at least thirty (30) days prior to the Project's Build Week (as defined below).
 - (b) Project Site.
 - (i) Ownership. At the time of execution of this Agreement, the Community Partner shall provide KABOOM! with proof of land ownership evidenced by either a deed granting title to the property to the Community Partner or a letter from the property owner showing approval for the Project. The Community Partner is the owner of the playspace in its entirety, for the lifetime of the product, including the equipment and/or safety surfacing at the time purchased by KABOOM! and/or the Funding Partner.
 - (ii) Permits. Prior to Build Week, the Community Partner shall obtain or cause to be obtained all necessary permits and licenses regarding the installation, possession, and use of the playspace in compliance with applicable laws and regulations.
 - (iii) Preparation. The Community Partner shall ensure that the Project site is safe for volunteers and children, which responsibility includes: (1) preparing the site for the installation of the Project at least two weeks before Build Week, which may include removing existing equipment, footers, and safety surfacing, grading the land, repairing existing surfacing and removing fencing (2) conducting up to two (2) utility checks as reasonably requested by KABOOM! with the appropriate utility companies, with the first test being completed on or before Design Day (as defined below) and with all utility check documentation provided upon completion to the KABOOM! Project Manager who shall supervise the planning and installation of the equipment (the "Project Manager"); and (3) conducting up to two (2) soil site tests as reasonably requested by KABOOM!, with the first test being completed on or before Design Day and with all soil check documentation provided to the Project Manager upon completion. The Community Partner is responsible for undertaking any necessary risk mitigation should the soil be deemed unsafe for children and volunteers.

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- (iv) Safety and Security. The Community Partner shall ensure the security of equipment, tools, supplies, and well-being of the adults and children from the beginning of the preparation activities until the conclusion of Build Week, including any postponement. This includes designating a Community Partner staff member or volunteer to serve as the safety leader onsite. This safety leader will register volunteers, ensure they have signed waivers, ensure they wear required cloth face coverings, ask that they leave the project site if exhibiting symptoms of illness, and post signage for the project from the CDC (a copy of which has been provided).
- (v) Maintenance. Maintenance of the facility and supervision of its use is the sole responsibility of the Community Partner. The Community Partner shall collaborate with KABOOM! during the Project planning process to develop a maintenance program (a copy of which has been provided) for the play equipment and, with the support of the property owner (if owner is a separate party), shall maintain the equipment and the property before and after the Build Week to ensure a safe and attractive playspace. It is also the responsibility of the Community Partner to ensure that no one enters the playground within 72 hours of the completion of the final Build Day. Anyone accessing and/or touching the playground within 72 hours of its completion could prevent the concrete from curing properly or the surfacing (if rubber) from setting properly, leading to long-term damage that would be the responsibility of the Community Partner to repair. In furtherance of the foregoing, in the event any equipment included in the Project no longer is permitted for any reason to be located at its original site of construction or such site is no longer controlled by the Community Partner for any reason, then the Community Partner promptly shall notify KABOOM! following its becoming aware of such situation and shall, at the Community Partner's sole cost and expense, take such steps as may be necessary to promptly and safely relocate the equipment (including any permanent signage and other fixtures) to an alternate site that serves children or to ensure that the successor controlling person of such site shall continue to make such equipment available to children in the same manner contemplated as of the Build Week and maintain (or permit the Community Partner to maintain) such play equipment in accordance with the maintenance program. In addition, if applicable, the Community Partner shall accept and maintain engineered wood fiber as play equipment safety surfacing, meeting standards established by Consumer Product Safety Commission guidelines, for the lifetime of the playspace. Guidance and materials for the purpose of developing a maintenance plan for the playspace are available, upon request, from the play equipment and safety surfacing manufacturers.
- (c) Design Day. In the event Public Health guidelines and public health conditions permit public gatherings, the Community Partner agrees to host a KABOOM! facilitated Design Day event with at least twenty (20) adult volunteers and twenty (20) youth. Such adult volunteers shall remain engaged in the planning activities throughout the Project's planning process.

In the event Public Health guidelines and public health conditions do not permit or preclude public gatherings, the Community Partner agrees to participate in KABOOM! facilitated Design events remotely and virtually. The Community Partner will recruit at least twenty (20) adult volunteers and twenty (20) youth. Such adult volunteers shall remain engaged in the planning activities throughout the Project's planning process.
- (d) Build Week. The Community Partner shall recruit 40-60 community volunteers, approximately 10-25 per day, to participate in a 3-4 day installation event for the Project, which is scheduled to occur from XX to XX and which is referred to herein as the Build Week. The Community Partner shall ensure that all volunteers sign a waiver (a copy of which has been provided). During the Build Week, the Community Partner shall

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provide food, water, tools, dumpsters, music, hand washing and/or hand sanitizing facilities, and restroom facilities for all volunteers on each day.

- (e) Promotion; Intellectual Property. The Community Partner shall seek prior approval from KABOOM! and/or the Funding Partner for any materials that reference the Project or contain the name, trademarks, service marks, logos and other intellectual property (collectively, and together with all goodwill attached or which shall become attached to any of the them, the "Marks") of KABOOM! and/or the Funding Partner, including press releases, fliers, and promotional materials. The Community Partner acknowledges and agrees that each of KABOOM! and the Funding Partner is the sole owner of all right, title, and interest in and to its respective Marks. The parties acknowledge that KABOOM! and the Funding Partner may take all steps to protect their Marks as they deem appropriate. Any use of the Marks will inure to the sole benefit of KABOOM! or the Funding Partner (as applicable). The Community Partner shall not use the Marks in any manner that would harm the reputation of KABOOM! or the Funding Partner or disparage or negatively reflect upon the Marks. Upon expiration of or termination of this Agreement for any reason, the Community Partner shall cease all use of the Marks. The Community Partner shall collaborate with KABOOM! and the Funding Partner to secure media coverage for the Project.
- (f) Signage. The Community Partner shall allow the names and logos of KABOOM! and the Funding Partner to be displayed on permanent signage (a copy of which has been provided), and shall be no greater than 19 ½ inches wide by 30 ¼ inches tall and mounted on poles in a mutually agreed location. If applicable, the Community Partner shall allow individual instructional signs to accompany the equipment.
- (g) Costs. The Community Partner is solely responsible for and shall hold KABOOM! and the Funding Partner harmless from any costs incurred by the Community Partner for any prior site preparation, upgrades, or improvements, or any equipment or materials purchased to supplement those secured by KABOOM!.
- (h) Warranty. The equipment and the safety surfacing related to the Project may be covered under warranty by the applicable manufacturers (a copy of which has been provided). The Community Partner acknowledges that any warranties and/or guarantees on any equipment or material are subject to the respective manufacturer's terms thereof, and the Community Partner agrees to look solely to such manufacturers for any such warranty and/or guarantee. Neither KABOOM! nor the Funding Partner nor any of their respective affiliates, directors, officers, managers, partners, members, shareholders, employees, agents or representatives, have made nor are in any manner responsible or liable for any representation, warranty, or guarantee, express or implied, in fact or in law, relative to any equipment or material, including its quality, mechanical condition or fitness for a particular purpose.
- (i) Insurance. The Community Partner (or such other appropriate entity to which KABOOM! consents in writing) shall obtain and maintain from no less than seven (7) days prior to the Build Week and through the first anniversary of the Build Week, commercial general liability insurance (providing coverage against liability for bodily injury, death, and property damage that may arise out of or be based upon the use of the equipment) with a limit of not less than one million dollars (\$1,000,000) per occurrence. The Community Partner shall also obtain and maintain worker's compensation insurance policies with statutory limits for the state in which the work is performed for their volunteer employees. Within seven (7) days from execution of this Agreement, the Community Partner shall provide to KABOOM! a copy of a certificate from its insurer indicating the nature, scope, duration, and amount of insurance coverage, and naming KABOOM! and the Funding Partner as additional insureds under such policy, which insurance shall be primary over any other insurance covering

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KABOOM! and the Funding Partner and which policy shall provide that KABOOM! and the Funding Partner is given at least thirty (30) days prior written notice of any change or cancellation of coverage.

- (j) Indemnification. The Community Partner shall indemnify and hold harmless KABOOM!, the Funding Partner and their respective affiliates, directors, officers, managers, partners, members, shareholders, employees, agents, and representatives from any and all losses, liabilities, claims, actions, fees, and expenses (including interest and penalties due and payable with respect thereto and reasonable attorneys' and accountants' fees and any other reasonable out-of-pocket expenses incurred in investigating, preparing, defending, or settling any action), including any of the foregoing arising under, out of or in connection with any breach of this Agreement, any actions associated with this Project or resulting from the use of any play property and equipment, including those for personal injury, death, or property damage, except to the extent resulting from the gross negligence or willful misconduct of such indemnified person. This provision shall survive any termination or expiration of this Agreement.
- (k) Data and Reporting Requirements. The Community Partner shall distribute and complete play-related surveys, provided by KABOOM!, to its stakeholders, including parents/caregivers, volunteers, staff and board members (i) promptly following the execution of this agreement (ii) 2 weeks following the completion of the Project (iii) 12 months after the completion of the Project.
- (l) Code of Conduct. The Community Partner agrees to comply with the build site rules (a copy of which has been provided). The Community Partner shall allow the build site rules to be displayed on site and communicate and enforce the build site rules for all participants in the Project's Design Day and Build Week events.
- (m) Post-Build Week. The Community Partner shall use its commercially reasonable efforts to provide, and otherwise shall cooperate in good faith with KABOOM! regarding obtaining, such other information related to the Project as KABOOM! from time to time may request.

2. Obligations of KABOOM!

- (a) Project. KABOOM! shall provide technical and organizational leadership and guidance for the Project and shall:
 - (i) Coordinate Funding Partner participation, facilitate design, including regular planning meetings, and work with vendors to procure equipment and materials in a timely manner, except to the extent that safety surfacing other than engineered wood fiber is used, which shall be procured by the Community Partner.
 - (ii) On the behalf of and in collaboration with the Community Partner, KABOOM! shall manage construction logistics for the Project, coordinate site preparation activities with the Community Partner, inventory equipment and materials, and assure that the necessary small hand tools and materials and other general supplies are available on the Build Week; Lead the Build Week activities, including the coordination of Build Week volunteers.
 - (iii) Make available certain educational and promotional materials related to the Project.
- (b) Inspection. KABOOM!, in collaboration with the Community Partner, will secure an Installation Supervisor to review the structure at the conclusion of the Build Week to ensure that the structure is safe and built to all appropriate standards and guidelines, unless the installation is not completed during the Build Week due to

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failure of the Community Partner, in which case the Community Partner shall secure the Installation Supervisor.

- (c) Promotion. KABOOM! will provide proposed promotional materials relating to the Project for the Community Partner's review and approval, which approval shall not be unreasonably withheld or delayed.
- (d) Website Listing. KABOOM! will place the playspace on its list of KABOOM! builds on the KABOOM! website, and KABOOM! will send information to the Community Partner on maintenance programming and enhancements.

3. Build Week Postponement.

- (a) COVID-19 Public Health Compliance. The Project Manager will monitor public health guidelines and local conditions to ensure adherence to public health safety at specific timelines prior to Build Week. If the project does not meet requirements, KABOOM!, the Funding Partner, and the Community Partner will agree on a postponement date at least 1 month later than the original Build Week and if health indicators allow project completion. If health indicators do not allow project completion within close to the originally scheduled date, project will be rescheduled on a mutually agreed upon date or converted to a professional installation with no volunteers participating in building the playspace.
 - (i) If a project does not meet requirements at 6 weeks out, the design process will be completed and KABOOM! will work with relevant parties (playground manufacturer, playground safety surfacing and construction materials) to reschedule deliveries.
 - (ii) If a project does not meet requirements at 4 weeks out, the equipment may already be in manufacturing, KABOOM! will work with the manufacturer to halt manufacturing if possible and find a storage solution if not possible.
 - (iii) If a project does not meet requirements at 2 weeks out, KABOOM! will reschedule deliveries of construction materials and arrange storage for any materials that cannot be rescheduled together with the Community Partner.
 - (iv) If a project does not meet requirements at 1 week out or less, KABOOM! will reschedule deliveries of construction materials and arrange storage for any materials that cannot be rescheduled together with the Community Partner.
 - (v) If health indicators do not allow project completion on the reschedule date, the project will need to be postponed and rescheduled when health indicators allow project completion.
- (b) Weather or other conditions unrelated to COVID-19. The Build Week shall not be postponed except when weather or other conditions jeopardize the safety of the volunteers or threaten the structural integrity of the playspace. The decision to postpone the Build Week will be made by majority agreement of the representatives of KABOOM!, the Community Partner, and the Funding Partner, except where such decision must be made by KABOOM! on the construction site and representatives of the Community Partner and the Funding Partner are not available for consultation. In the event that the Build Week is postponed, KABOOM!, the Community Partner, and the Funding Partner shall develop a plan for rescheduling the Build Week at the next earliest date possible for each party. The Funding Partner shall be responsible for all additional expenses related to the rescheduled Build Week, including, without limitation, equipment, labor and materials, storage and travel costs and expenses; provided, however, that the Funding Partner shall be notified of the estimated

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amount of such additional expenses in connection with rescheduling of the Build Week. Notwithstanding the foregoing, in the event that the date of the Build Week is cancelled or changed as a result of the Community Partner's failure to satisfy its obligations in connection with the Project, then the Community Partner shall be liable to KABOOM! and the Funding Partner for all such additional expenses related to the rescheduled Build Week.

4. Funding Partner Relations. KABOOM! has a separate contract with the Funding Partner pursuant to which the Funding Partner has agreed to provide financial and human resources for the Project. In recognition of the Funding Partner's contribution of such resources, the Funding Partner shall receive first placement on any recognition materials developed for the Project, including signage, banners, T-shirts, press releases, website and newsletter stories, and flyers, and the Community Partner shall not solicit sponsors or donors in relation to the Project whose products or services directly compete with the products or services of the Funding Partner as identified to the Community Partner by KABOOM! and/or the Funding Partner. In the event the Community Partner solicits other sponsors or donors, then the Community Partner shall not permit such sponsors or donors to compete with the Funding Partner for signage and sponsorship recognition.
5. Termination. In the event that the Community Partner fails to make the payments required under Section 1(a) or otherwise breaches this Agreement, KABOOM! may terminate this Agreement upon written notice to the Community Partner of such termination. Furthermore, if either party is delayed or prevented from fulfilling any of its obligations hereunder by any cause beyond its reasonable control, including acts of God, acts or omissions of civil or military authorities, fire, strike, flood, riot, act of terrorism, war, transportation delay, or inability due to such causes to obtain required labor, materials or facilities, such party shall not be liable hereunder for such delay or failure and either party may terminate this Agreement if the other is unable to perform any obligation hereunder for a period longer than ten (10) calendar days due to such force majeure event, in which case KABOOM! shall refund to the Community Partner any amounts paid to KABOOM!, less expenses already committed and/or incurred prior to the date of such termination. If, upon termination as provided herein, the sum due KABOOM! by the Community Partner exceeds the sum paid to KABOOM! hereunder, the Community Partner shall pay KABOOM! for any such additional sum due upon presentation of appropriate documentation within thirty (30) days of invoice. Except as set forth above, upon any termination, this Agreement shall become void and have no effect, and no party shall have any liability to the other party, except that nothing herein will relieve any party from liability for any intentional breach of this Agreement prior to such termination.
6. General Provisions. The Community Partner represents to KABOOM! that all information provided by it to KABOOM!, including in the application, is true, correct and complete in all respects and does not omit any information relevant to the Project. Each party has all requisite power and authority, including any necessary approval by its governing body, to execute and deliver this Agreement, and to perform its obligations hereunder. This Agreement may not be assigned or transferred by either party without the prior written consent of the other party hereto. This Agreement shall inure to the benefit of and be binding upon the parties hereto, their respective successors and permitted assigns, and where expressly stated, their affiliates and representatives. This Agreement shall be governed by and construed under the laws of the State of «State», without regard to conflicts of laws principles to the extent that the application of the laws of another jurisdiction would be required thereby. This Agreement may be altered, modified, or amended only by a written document signed by both parties. This Agreement may be executed in two or more counterparts, each of which shall be an original and all of which, when taken together, shall constitute the same agreement and may be delivered by facsimile or electronic mail transmission with the same force and effect as if originally executed copies hereof were delivered. Any notices

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required or permitted to be given hereunder shall be sent by certified or registered United States mail, postage prepaid, by personal delivery addressed to the applicable party or by facsimile or electronic mail transmission (the receipt of which is confirmed) at the address set forth under such party's signature below. The Funding Partner shall be an intended third party beneficiary of Sections 1(b), (e), (f), (g), (h), (i), and (j) and Sections 2(b), 3, 4 and 6 of this Agreement and is entitled to enforce its rights under such sections as if it were a party to this Agreement.

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