

## ROUTING SLIP CONTRACTS AND AGREEMENTS

Originating Department: Recreation Services

Council Meeting Date: 10/27/2016

Department Contact: Karen Lang

Phone # 256-564-8023

Contract or Agreement: Agreement between the City of Huntsville, KaBOOM! and Let's Play (Dr Pepp...

Document Name: Agreement between the City of Huntsville, KaBOOM! and Let's Play (Dr Pepper Snap...

City Obligation Amount: no less than 9,000  
no more than 25,000

Total Project Budget:

Uncommitted Account Balance:

Account Number:

### Procurement Agreements

<u>Not Applicable</u>	<u>Not Applicable</u>
-----------------------	-----------------------

### Grant-Funded Agreements

<u>Other</u>	<b>Grant Name:</b> <u>Let's Play Construction Grant Program</u>
--------------	--

Department	Signature	Date
1) Originating		<u>10-14-16</u>
2) Legal		<u>10-17-16</u>
3) Finance		<u>10-18-16</u>
4) Originating		<u>10-14-16</u>
5) Copy Distribution		
a. Mayor's office (1 copies)		
b. Clerk-Treasurer (Original & 2 copies)		

CITY COUNCIL AGENDA ITEM COVER MEMO

Agenda Item Number: \_\_\_\_\_

Meeting Type: Regular

Meeting Date: Oct 27, 2016

Action Requested By: Parks and Recreation

Agenda Type: Resolution

Subject Matter:

The City of Huntsville Department of Parks & Recreation shall be awarded a grant to apply toward the creation of a playground under the terms and conditions stated in the Letter of Agreement.

Exact Wording for the Agenda:

Agreement between the City of Huntsville, KaBOOM! and Let's Play (Dr Pepper Snapple Group).

**Note: If amendment, Please state title and number of the original**

Item to be considered for: Action

Unanimous Consent Required: No

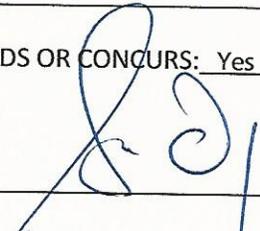
Briefly state why the action is required; why it is recommended; what council action will provide, allow and accomplish and; any other information that might be helpful.

The City of Huntsville Department of Parks & Recreation shall be awarded a grant to apply toward the creation of a playground under the terms and conditions stated in the Letter of Agreement.

Associated Cost: \_\_\_\_\_

Budgeted Item: Not Applicable

MAYOR RECOMMENDS OR CONCURS: Yes

Department Head: 

Date: 10.14.16

RESOLUTION NO. 17-\_\_\_\_\_

**WHEREAS** the City Council of the City of Huntsville, Alabama, does hereby declare in accordance with Code of Alabama (1975) that the Mayor be, and he is hereby authorized to enter into Agreement between the City of Huntsville, KaBOOM! and Let's Play (Dr Pepper Snapple Group), on behalf of the City of Huntsville, a municipal corporation in the State of Alabama, which said agreement is substantially in words and figures similar to that certain document attached hereto and identified as "Agreement between the City of Huntsville, KaBOOM! and Let's Play (Dr Pepper Snapple Group)," consisting of three (3) pages, and the date of October 27, 2016 appearing on the margin of the first page, together with the signature of the President or President Pro Tem of the City Council, an executed copy of said document being permanently kept on file in the Office of the City Clerk-Treasurer of the City of Huntsville, Alabama.

**ADOPTED** this the 27th day of October, 2016.

\_\_\_\_\_  
President of the City Council of  
the City of Huntsville, Alabama

**APPROVED** this the 27th day of October, 2016.

\_\_\_\_\_  
Mayor of the City of  
Huntsville, Alabama

# Dr Pepper Snapple Group – KaBOOM! Let's Play Construction Grant Program Grantee Letter of Agreement

City of Huntsville Department of Parks & Recreation ("Grantee") is hereby awarded a grant of **\$15,000** (\$9,000 from KaBOOM!, and a discount of \$6,000 from a preferred vendor), to apply toward the creation of a playground under the terms and conditions stated in this Letter of Agreement (LOA). Failing to comply with any of the requirements stated in this LOA or providing false information may result in forfeiture of this grant.

## Scope of Project

1. The final Build Day on which the playground is constructed and fully completed must be on or before **September 9, 2017**.
2. The playground must be built using the KaBOOM! community-build model, defined in summary here as the method of using community volunteers to plan for, design, fundraise for, and build a community playground.
3. \$9,000 will be applied toward the purchase of playground equipment from any one of the following Preferred Vendors: BCI Burke, Landscape Structures, Inc, Miracle Recreation Equipment Company, or Playworld Systems. **Grantee must work directly with a local representative of the selected Preferred Vendor.**
4. The total playground equipment expenditure for this project from the single manufacturer toward whom this grant is applied must be no less than \$24,000 and no more than \$40,000 inclusive of grant monies.

## Disbursement and Verification of Grant Funds

5. Grantee must alert vendor of KaBOOM! grant when they are prepared to purchase their equipment so that the vendor can contact their national headquarters to apply the \$6,000 equipment discount.
6. Grant funds will be disbursed directly to the equipment manufacturer selected by the Grantee, once the Grantee has submitted the following documentation to KaBOOM!:
  - a) An invoice verifying the amount of the equipment order, showing that the grantee has paid their balance.
  - b) A final invoice showing the equipment order, the Grantee's payment, and a remaining balance of \$9,000.
  - c) Grantee Completion Report is submitted.
7. In the event that KaBOOM! submits payment of grant funds to equipment manufacturer, for purchase of playground equipment on behalf of Grantee based on information provided by Grantee and Grantee does not complete a playground build, Grantee will reimburse KaBOOM! for the amount of the payment.
8. During any time of the grant program the grant can be withdrawn due to incomplete benchmarks during the planning process.

## Ongoing Participation of the Grantee During the Grant Period

9. Grantee agrees to meet the timelines established for the submission and/or completion of the following key project benchmarks. In the case of submissions of reports or documents, they should be sent to the attention of the KaBOOM! Grants Manager. Failure to submit any such report by the appointed deadline may result in forfeiture of the grant.
  - a) Grantee must sign this LOA and return a signed, copy to KaBOOM! by **October 3, 2016**.

\_\_\_\_\_  
President, Huntsville City Council  
Date: \_\_\_\_\_

- b) Grantee must submit a 3 month, 6 month and 9 month status report. The guidelines and format to be provided to the grantee by KaBOOM!
- c) At least 4 weeks prior to the Build Date, grantee must place equipment order directly with the local representative of the equipment manufacturer and submit proof of playground equipment order in the form of an **itemized equipment invoice (Purchase order)** from the representative.
- d) At least 4 weeks prior to the Build Date:
  - i. Grantee must submit their **Build Day Plan of Action** report, outlining the roles and responsibilities of all community volunteers, along with time breakdowns illustrating how volunteers will be engaged in the build day process from the kick-off to the ribbon-cutting.
  - ii. Grantee must submit a **programming plan** detailing how their organization will use their play space to encourage play behavior change.
  - iii. Grantee must submit a **maintenance plan** detailing how the playground will be maintained, who will conduct the maintenance, and how the maintenance plan will be budgeted.
- e) No later than 2 weeks after the Build Date:
  - i. Grantee must submit the equipment invoice showing the equipment order, their payment, and a remaining balance of \$9,000.
  - ii. Grantee must submit a Grantee Completion Report. A portion of the report consists of a post-build survey, which will be provided by KaBOOM!. In addition, the grantee must include a project summary, photographs, and media stories that document the project's progress and execution. **Payment will not be sent to the equipment vendor until all Post Build documents are received.**

The grantee must:

- 10. Agree to purchase playground equipment from a KaBOOM! Preferred Vendor.
- 11. Participate in regularly scheduled webinars and calls.
- 12. Complete steps of planning by established timelines (this will be provided to selected grantees).
- 13. Submit proof of funds raised for the project (grant funds will only be released at this time).
- 14. Post new pictures and information on the Map of Play after the playground is completed.

### Partner Recognition

- 15. Grantee must send out the pre-approved press release template to a minimum of one local media outlet. Reference to the Dr Pepper Snapple Group – KaBOOM! grant program and their sponsorship in other forms such as newsletters, web stores, or other promotional materials is subject to review and approval.
- 16. All grantees will automatically be signed up to receive information by email from Let's Play. If requested, grantee agrees to collaborate with a representative from the Dr Pepper Snapple Group to plan and host a grant award presentation, prior to, on, or just following their Build Day.

### Certification Requirements

- 17. Grantee agrees to purchase only surfacing that meets ADA Guidelines (Americans with Disabilities Act), is IPEMA (International Play Equipment Manufacturers Association) certified and meets and/or exceeds the standards set forth by ASTM (American Society for Testing Materials) and CPSC (Consumer Product Safety Commission).
- 18. Grantee is self-insured and is responsible for providing coverage for its own employees and against liability for bodily injury, death, and property damage that may arise out of or be based on the use of the playground installed using the Lets Play Construction Grant, from four weeks (4) before the Build Day and for a minimum of one year afterward, in each case, in amounts not less than the Alabama statutory limits on municipal liability. This self-insurance shall be primary over any other insurance covering KaBOOM! and its funding partners.
- 19. Grantee will look solely to Vendor for performance of, and for payment and/or satisfaction of any obligation or claim arising out of, or in connection with, this Agreement and hereby covenants that it will

not assert any claims against KaBOOM!, Inc. or any of its affiliates, nor look to KaBOOM! or any such affiliates for satisfaction of any such obligation.

20. Grantee must ensure that an installer representing the selected manufacturer will be on site on Build Day to oversee the installation of the playground and to review the playground structure to ensure that it is safe and built to all appropriate standards and guidelines. Grantee acknowledges that neither KaBOOM!, Dr Pepper Snapple Group nor their respective officers, directors, employees, or agents are in any way responsible or liable for action, inaction or negligence of the playground installer. In the event that the Build Day is delayed or not completed on the scheduled day, Grantee acknowledges that it will be the responsibility of Grantee to secure an installer representing the selected equipment manufacturer to review the completed playground.

**Indemnification**

21. By accepting the Grant, the Grantee acknowledges that neither KaBOOM! nor DPS nor their respective subsidiaries and affiliates, and their officers, directors, employees or agents shall be liable for any acts, omissions, injuries, errors or damages, whether direct, indirect, incidental or consequential, associated with the use of the Grant funds or the Grant sponsored project. The Grantee irrevocably and unconditionally agrees, to the fullest extent permitted by law, to defend, indemnify, and hold harmless KaBOOM!, DPS and its subsidiaries, and their respective officers, directors, employees and agents, from and against any and all claims, liabilities, losses, damages (including incidental, consequential, special and punitive damages) and expenses (including reasonable attorneys' fees) directly, indirectly, wholly, or partially arising from or in connection with any act or omission of the Grantee, its employees, or agents, in applying for or accepting the Grant, in expending or applying funds furnished pursuant to the Grant or in carrying out the Grant sponsored project, except to the extent that such claims, liabilities, losses, damages or expenses arise from or in connection with any willful misconduct of KaBOOM!, DPS, their respective subsidiaries and affiliates, and their respective officers, directors, employees or agents. Grantee's indemnification obligations shall extend only to the amount proscribed by Alabama state law for the limits of municipal liability.

**General**

22. KaBOOM! has the sole right, at its discretion, to waive or postpone any deadline or requirement stipulated in this Letter of Agreement.
23. Grantee agrees to have their contact information shared with representatives from the Dr Pepper Snapple Group for award purposes.

I have read and attest that my organization is willing to comply with the Dr Pepper Snapple Group - KaBOOM! Let's Play Construction Grant requirements outlined in the Letter of Agreement.

**Please return a signed copy of this Letter of Agreement electronically to [mbahrmasel@kaboom.org](mailto:mbahrmasel@kaboom.org)**

_____	_____	_____
Authorized Signature for Grantee	Date	Printed Name
_____	_____	_____
Name of Challenge Grantee Organization	Job Title	
_____	_____	_____
Phone Number	Fax Number	E-Mail Address
_____	_____	_____
Mailing Address	City	State Zip
_____	_____	_____
Federal ID #	Non-profit Status (e.g. 501(c)(3))	

_____	_____	_____
KaBOOM! CFO	Date	George T. Megas

KaBOOM! 4301 Connecticut Ave., NW Suite ML-1 Washington, DC 20008 202.659.0215 fax: 202.659.0210