

STATE OF TEXAS

§

FUNDING AGREEMENT WITH

§

§

COUNTY OF BEXAR

§

MORGAN'S

This Funding Agreement is hereby made and entered into by and between the City of San Antonio ("**City**"), a Texas Municipal Corporation, acting by and through its City Manager under the authority of City Ordinance No. _____ passed and approved on _____[date] and Morgan's Inclusion Initiative d/b/a Morgan's ("**Recipient**"), a Texas nonprofit corporation, organized in the State of Texas, by and through its authorized representative. Collectively, City and Recipient may be referred to herein as the "**Parties**".

RECITALS

WHEREAS, Morgan's Wonderland has been recognized with exceptional traveler ratings from the world's largest travel website, Trip Advisor, and has received international recognition from *Amusement Today* as "Park of Year" in 2017; and

WHEREAS, Recipient is a 501c3 organization whose mission is to improve the quality of life for individuals of all ages and all abilities through initiatives that produce fully-inclusive, ultra-accommodating™ experiences; and

WHEREAS, the proposed ultra-accommodating, fully inclusive hotel would be the first of its kind in the nation and aims to go beyond the traditional concept of a hotel, striving to create an environment where every individual, regardless of their physical abilities or unique needs, can experience hospitality at its finest; and

WHEREAS, each room in this hotel would not only be ADA accessible, but a welcoming environment for the hearing and visually impaired; and

WHEREAS, Recipient is the catalysis for a multitude of entities that serve everyone, including Morgan's Wonderland, Morgan's Inspiration Island, Morgan's Wonderland Camp, and The Multi-Assistance Center (MAC); and

WHEREAS, through ordinance 2023-09-07-0612, City's Budget for fiscal year 2024 allocated \$950,000.00 to assist Recipient in the development of a potential ultra-accommodating, fully inclusive hotel; and

WHEREAS, it is the desire of City to provide that assistance by reimbursing Recipient for the purchase of the real property where the planned hotel will be located; and

WHEREAS, Recipient has identified real property described as roughly 3.7 acres of land in Bexar County, Texas, more particularly described in the attached **Exhibit D** (the “**Property**”) that is suitable for purchase and construction of the planned hotel;

NOW THEREFORE:

The Parties hereto severally and collectively agree, and by the execution hereof are bound, to the mutual obligations herein contained and to the performance and accomplishment of the tasks hereinafter described:

ARTICLE I. AGREEMENT PURPOSE

A. The purpose of this Funding Agreement is to provide Recipient with funds to assist and support Recipient in the development of an ultra-accommodating, fully inclusive hotel which City has deemed will benefit City (the “**Project**”). The Project will be proximate to Morgan’s Wonderland and the Multi-Assistance Center at Morgan’s Wonderland, and is more particularly described in the Scope to be provided by Recipient and attached as **Exhibit A**.

ARTICLE II. TERM

A. The term of this Funding Agreement shall commence on the later of (a) the effective date of the Authorizing Ordinance; or (b) the later of the signatures of the two Parties (the “**Term**”). The Term shall expire upon the substantial completion of the Project and commencement of operations of ultra-accommodating, fully inclusive hotel, except for the continued requirements concerning transfer and use of the Property, as specified in **Article VI**, Section B.

ARTICLE III. PAYMENT TO RECIPIENT

A. In consideration of Recipient’s performance, in a satisfactory and efficient manner as determined by City, of all services and activities set forth in this Funding Agreement, City agrees to provide funding to Recipient on a reimbursement basis for the purchase of the Property as further described below. Notwithstanding any other provisions of this Funding Agreement, the total of all payments and other obligations made or incurred by City hereunder shall not exceed the sum of \$950,000 (“**Funding Total**”). No advance disbursements shall be made by City to Recipient.

B. City shall not be obligated nor liable under this Funding Agreement to any party, other than Recipient for payment of any monies or provision of any goods or services.

ARTICLE IV. CONDITIONS FOR PAYMENT

A. Upon receipt and approval by City of documents sufficient to demonstrate that Recipient has acquired fee-simple title of the Property described in **Exhibit D**, City shall reimburse Recipient in a single lump sum for the purchase price of the Property up to the amount of the Funding Total.

ARTICLE V. RESPONSIBILITIES OF RECIPIENT

A. Recipient shall provide to City a narrative Scope for the Project, including a background, project summary and timeline, ("**Scope**") attached as **Exhibit A**.

B. Recipient shall provide to City its construction schedule for the Project ("**Project Schedule**"), The Project Schedule is– or will be – attached as **Exhibit C**. If this Funding Agreement is fully executed before the completion of the Project Schedule, **Exhibit C** shall be a placeholder and the Project Schedule will be appended to this Funding Agreement by written amendment on the mutual assent by the Parties. Recipient shall not make any substantial changes that would result in the Project's intended use being inconsistent with the purposes stated in this this Funding Agreement. Any approvals given by City pursuant to this Funding Agreement do not relieve Recipient of the burden of obtaining all necessary governmental approvals, including those provided by City through its relevant development departments, relevant boards and commissions, as well as the State of Texas Commission on Environmental Quality, or any other federal, state, or local permitting requirements. Nor does City's approval release Recipient of the responsibility for the correction of Recipient's mistakes, errors or omissions contained in the project plans, including any mistakes, errors or omissions which may be the result of unforeseen circumstances. City encourages the inclusion of design features and systems in the Project that will incorporate sustainable practices addressing energy efficient design, low-impact development, life cycle assessments and other items appropriate to the Project.

C. City shall have authority to inspect the Project throughout the construction process to ensure that Recipient's use of the Property is consistent with the purposes stated in this this Funding Agreement.

ARTICLE VI. CONTINUING RESPONSIBILITIES OF RECIPIENT

A. Recipient shall complete the Project and begin operations for its intended use as stated above, i.e. an ultra-accommodating, fully inclusive hotel, no later than one (1) year after the scheduled completion date indicated in the Project Schedule attached as **Exhibit C**. This deadline applies notwithstanding any subsequent revision to the Project Schedule. This deadline may not be extended except by the mutual written agreement of the Parties.

Recipient shall provide City with a copy of the Certificate of Occupancy upon completion of the Project in order to certify substantial compliance with this provision.

B. Recipient shall maintain ownership and possession of the Property, and covenants that it shall not sell, transfer, or otherwise convey the Property within ten (10) years of the date of City's payment to Recipient for reimbursement of the purchase cost of the Property ("**Ten Year Period**").

C. Notwithstanding the foregoing covenant contained in this Article, Section B, Recipient may transfer the Property to a non-profit entity owned or controlled by Gordon V. Hartman. In the event of such transfer, Recipient or Gordon V. Hartman shall notify City of the transfer in writing no later than thirty (30) days before the effective date of the transfer, including sufficient information to show that the intended transferee is a non-profit entity, owned or controlled by Gordon V. Hartman, and that the transferee intends to continue to use the Property for the purpose stated in this Funding Agreement for the remainder of the Ten-Year Period.

D. As indicated by his signature below, Gordon V. Hartman assumes personal responsibility for and personally guarantees the Repayment Obligation.

ARTICLE VII. COMPLIANCE WITH FEDERAL, STATE AND LOCAL LAWS

A. **Legal Compliance.** Recipient warrants and represents that it will use best efforts to comply with all Federal, State, and Local laws and regulations and will use reasonable efforts to ensure said compliance by any and all contractors and subcontractors that may work on the Project.

B. **ADA compliance.** Recipient acknowledges that the Project must conform to Americans with Disabilities Act (ADA) requirements and must be approved by the Texas Department of Licensing and Regulation before construction may begin. Inspections and final approval shall be the responsibility of Recipient.

C. **Environmental.** Recipient shall use reasonable best efforts to ensure construction shall be in accordance with all Federal, State, and local environmental requirements including all City applicable construction and development regulations.

D. **Compliance with Texas Government Code Chapters 2252, 2270, 2271, and 2274.** Recipient agrees to comply with the applicable restrictions from Texas Government Code Chapters 2252, 2270, and 2271 prohibiting City from contracting with a company that engages in business with Iran, Sudan, or a designated Foreign Terrorist Organization; boycotts Israel; boycotts firearm entities or firearm trade associations; or boycotts energy companies. By signing this Funding Agreement with City, Recipient hereby verifies they have reviewed the applicable state law restrictions, and warranties compliance with the

certification requirements from Texas Government Code §2270.002 and §2274.002, if applicable. City hereby relies on Recipient's verification. If found to be false, City may terminate the contract for material breach.

ARTICLE VIII. RETENTION AND ACCESSIBILITY OF RECORDS

A. Recipient shall maintain written and/or digital records and supporting documentation (the "**Records**") relating to and sufficient to reasonably determine the fulfillment of all obligations of Recipient under this Funding Agreement in accordance with the general records retention schedule at the Texas State Library and Archive Commission website and in accordance with the Texas Public Information Act. Recipient shall provide copies of the applicable Records to City within ten (10) business days of City requesting such Records. City shall notify Recipient of any additional information required to reasonably satisfy Recipient's obligation to provide Records hereunder. Recipient acknowledges and agrees that retention of the Records by Recipient and City's right to inspect the Records as set forth below, are required in order to permit City's representatives to determine with certainty Recipient's compliance with all of Recipient's obligations under this Funding Agreement.

B. Upon at least seven (7) business days' prior notice to Recipient, Recipient shall allow representatives of City access to the Records at the Project site or such other location where the Records are kept during normal business hours for inspection to determine if the obligations of Recipient and the terms and conditions of this Funding Agreement are being met by Recipient. If the Records are kept in any location outside of Bexar County, Recipient shall provide access to City to inspect the Records within Bexar County. Any information that is not required by law to be made public shall be kept confidential by City. Recipient shall not be required to disclose to City any information that by law Recipient is required to keep confidential.

C. Should any good faith dispute or question arise as to the validity of the data inspected, City reserves the right to require Recipient to obtain an independent firm to verify the data. This certified statement by an independent firm shall be provided at the sole cost of Recipient.

D. The rights to access the Records shall continue through the Term of this Funding Agreement.

E. Failure to provide reasonable access to the Records to authorized City representatives shall give City the right to suspend or terminate this Funding Agreement as

provided for herein, or any portion thereof, for reason of default, and to exercise City's right to recoup all disbursed funds made to Recipient under this Funding Agreement.

ARTICLE IX. REPORTING AND MONITORING

A. Recipient shall provide City with a written report during the preconstruction and construction phases of the Project and periodically thereafter in accordance with the description below for the duration of the Term of this Funding Agreement to keep City apprised of Recipient's progress and ongoing operation of the Project.

B. During the pre-construction/construction phase of the Project, Recipient agrees to provide the following information to City:

Preconstruction:

1. Proof of fee simple ownership in the Project Site.

Construction:

1. On City's request, an updated Project construction schedule.
2. On City's request, a certification that expenses are aligning to the project budget

C. City reserves the right to evaluate Recipient's progress and performance in undertaking and completing the Project and to confirm Recipient's compliance with the terms and conditions of this Funding Agreement.

ARTICLE X. DEFAULT, SUSPENSION AND TERMINATION

A. Should Recipient fail to comply with any of the terms and/or conditions of this Funding Agreement, then such non-compliance shall be deemed a "default." Upon the occurrence of a default, City shall provide Recipient with written notification as to the nature of the default, whereupon Recipient shall have forty-five (45) calendar days following the date of Recipient's receipt of City's written notification (the "**Cure Period**") to cure such default. Should Recipient fail to cure the default within the Cure Period, or such longer period of time as may be reasonably necessary for Recipient to cure the default in question if the same cannot reasonably be cured within such forty-five (45) calendar day period, City may, upon written notice of suspension to Recipient, suspend this Funding Agreement in whole or in part until the default is cured. Such notice of suspension shall include: (1) the reason for such suspension; and (2) the effective date of such suspension.

B. A suspension under this Article may be lifted by City upon a showing by Recipient that the default has been cured or by a written waiver of City of the term(s) in question.

C. City shall not be liable to Recipient or to Recipient's creditors for costs incurred during any term of suspension of this Funding Agreement.

D. Should Recipient fail to cure a default within the Cure Period, City shall have the right to terminate this Funding Agreement for non-compliance. City will provide Recipient with written Notice of Termination which shall include: (1) the reasons for such termination, without limiting City from later identifying additional reasons on further investigation; (2) the effective date of such termination; and (3) in the case of partial termination, the portion of this Funding Agreement to be terminated. In the event that this Funding Agreement is terminated, Recipient agrees to refund any amounts paid by City plus interest at a rate of three percent (3%) ("**Repayment Obligation**"). Recipient or Gordon V. Hartman shall pay such refund in a reasonable amount of time, not to exceed ninety (90) calendar days.

E. As indicated by his signature below, Gordon V. Hartman assumes personal responsibility for and personally guarantees the Repayment Obligation to City in the event of default in accordance with this Article and non-payment by Recipient.

F. In addition to the remedies provided in the above paragraphs, Recipient agrees default under **Article VI**, Paragraph B, shall automatically, immediately, and without further action by Recipient cause amounts paid by City, plus interest at a rate of three percent (3%), generated from the sale of the Property during the Term to be placed in trust for the benefit of City, and that Recipient shall act as trustee for the purpose of protecting those funds for the future distribution to City.

G. This Funding Agreement may also be terminated in whole or in part by City (with the consent of Recipient) in which case the two parties shall agree upon the termination conditions, including the effective date and in the case of partial termination, the portion to be terminated.

H. Notwithstanding any exercise by City of its right of suspension or termination pursuant to this Funding Agreement, Recipient shall not be relieved of any liability to City for damages due to City by virtue of any breach by Recipient of this Funding Agreement not to exceed the amount of the Repayment Obligation.

ARTICLE XI. CITY'S DISCLAIMER OF OWNERSHIP

A. Except for the rights and obligations stated in this Funding Agreement, City

disclaims any and all interest in the Property, including but not limited to present, future, possessory, non-possessory, contingent, or beneficial.

B. Except for the rights and obligations stated in this Funding Agreement, and generally applicable regulations, permitting requirements, health and safety standards, etc., the Parties agree that City shall have no right of control of the Property.

ARTICLE XII. INDEMNITY

A. **RECIPIENT covenants and agrees to FULLY INDEMNIFY, DEFEND and HOLD HARMLESS, CITY and the elected officials, employees, officers, directors, volunteers and representatives of CITY, individually and collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal or bodily injury, death and property damage, made upon CITY directly or indirectly arising out of, resulting from or related to RECIPIENT's activities under this Funding Agreement, including any acts or omissions of RECIPIENT, any agent, officer, director, representative, employee, contractor or subcontractor of RECIPIENT, and their respective officers, agents employees, directors and representatives while in the exercise of the rights or performance of the duties under this Funding Agreement. The indemnity provided for in this paragraph shall not apply to any liability resulting from the negligence of CITY, its officers or employees, in instances where such negligence causes personal injury, death, or property damage. IN THE EVENT RECIPIENT AND CITY ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS FOR THE STATE OF TEXAS, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW.**

B. The provisions of this INDEMNITY agreement are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity. RECIPIENT shall advise CITY in writing within 24 hours of any claim or demand against CITY or RECIPIENT known to RECIPIENT related to or arising out of RECIPIENT's activities under this Funding Agreement and shall see to the investigation and defense of such claim or demand at RECIPIENT's cost. CITY shall have the right, at its option and at its own expense, to participate in such defense without relieving RECIPIENT of any of its obligations under this paragraph.

C. Defense Counsel. City shall have the right to select or to approve defense counsel to be retained by Recipient in fulfilling its obligation hereunder to defend and indemnify City, unless such right is expressly waived by City in writing. Recipient shall retain City

approved defense counsel within seven (7) business days of City's written notice that City is invoking its right to indemnification under this Funding Agreement. If Recipient fails to retain Counsel within such time period, City shall have the right to retain defense counsel on its own behalf, and Recipient shall be liable for all costs incurred by City. City shall also have the right, at its option, to be represented by advisory counsel of its own selection and at its own expense, without waiving the foregoing.

D. Employee Litigation. In any and all claims against any party indemnified hereunder by any employee of Recipient, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation herein provided shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for Recipient or any subcontractor under worker's compensation or other employee benefit acts.

ARTICLE XIII. CONFLICT OF INTEREST

A. Recipient certifies and warrants that neither it nor any members of its Board of Directors, officers or employees has or will derive any personal or financial interest or benefit from the activity or activities funded through this Funding Agreement, nor has an interest in any contract, subcontract or agreement with respect thereunto, nor the proceeds thereunder, either for themselves or for those with whom they have family or business ties, during their tenure and for one year thereafter.

B. Recipient acknowledges that it is informed that the Charter of City and its Ethics Code prohibit a City officer or employee, as those terms are defined in Section 2-52 of the Ethics Code, from having a financial interest in any contract with City or any City agency such as City-owned utilities. An officer or employee of City has a "prohibited financial interest" in a contract with City or in the sale to City of land, materials, supplies or service, if any of the following individual(s) or entities is a party to the contract or sale: a City officer or employee; his parent, child or spouse; a business entity in which the officer or employee, or his parent, child or spouse owns ten (10) percent or more of the voting stock or shares of the business entity, or ten (10) percent or more of the fair market value of the business entity; a business entity in which any individual or entity above listed is a subcontractor on a City contract, a partner or a parent or subsidiary business entity.

ARTICLE XIV. NONDISCRIMINATION AND SECTARIAN ACTIVITY

A. Recipient agrees to comply with City's Non- Discrimination Policy of City contained in Chapter 2, Article X of City Code and further, ensure that no person shall, on the ground of race, color, religion, national origin, sex, sexual orientation, gender identity, veteran status, age or disability, be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied access to any program or activity funded in whole or in part with funds made available under this Funding Agreement.

B. None of the performances rendered by Recipient under this Funding Agreement shall involve, and no portion of the funds received by Recipient under this Funding Agreement shall be used in support of, any sectarian or religious activity, nor shall any facility used in the performance of this Funding Agreement be used for sectarian instruction or as a place of religious worship.

C. Recipient shall include the substance of this Article XIV in all sub-grant or sub-contractor agreements entered into after the Effective Date.

ARTICLE XV. POLITICAL ACTIVITY

A. None of the activities performed hereunder shall involve, and no portion of the funds received hereunder shall be used, either directly or indirectly, for any political activity including, but not limited to, an activity to further the election or defeat of any candidate for public office or for any activity undertaken to influence the passage, defeat or final content of local, state or federal legislation.

ARTICLE XVI. CHANGES AND AMENDMENTS

A. Except when the terms of this Funding Agreement expressly provide otherwise, any alterations, additions, or deletions to the terms hereof shall only be by amendment in writing executed by both City and Recipient under authority granted by formal action of the Parties' respective governing bodies.

B. It is understood and agreed by the Parties hereto that changes in local, state and federal rules, regulations or laws applicable hereto may occur during the term of this Funding Agreement. Any such changes shall be automatically incorporated into this Funding Agreement without written amendment hereto, and shall become a part hereof as of the effective date of the rule, regulation or law.

ARTICLE XVII. SUBCONTRACTS

A. Recipient shall ensure that all contractors (including subcontractors) are made aware of all terms and conditions of this Funding Agreement which apply to contractors. Compliance by contractors with this Funding Agreement shall be the responsibility of Recipient. Recipient is responsible to ensure that all local, state and federal permits and approvals required for the activities under this Funding Agreement are obtained.

B. Recipient, in subcontracting any of the performances hereunder, expressly understands that in entering into such subcontracts, City is in no way liable to Recipient's subcontractor(s).

C. Recipient, in accordance with Chapter 2264 of the Texas Government Code, agrees not to knowingly employ any worker during the construction phase of the Term of this Funding Agreement who is not lawfully admitted for permanent residence to the United States or who is not authorized under law to be employed in the United States.

ARTICLE XVII. SEVERABILITY

A. If any provision of this Funding Agreement is for any reason held to be unconstitutional, void, or invalid, the remaining provisions or articles contained herein shall remain in effect and the articles so held shall be reformed to reflect the intent of the Parties.

ARTICLE XVIII. PRESERVATION OF RIGHTS

A. It is expressly understood and agreed by the parties hereto that any right or remedy provided for in this Funding Agreement shall not preclude the exercise of any other right or remedy under any agreement between City and Recipient or under any provision of law, nor shall any action taken in the exercise of any right or remedy be deemed a waiver of any other rights or remedies. Failure to exercise any right or remedy hereunder shall not constitute a waiver of the right to exercise that or any other right or remedy at any time.

ARTICLE XIX. NON-ASSIGNMENT

A. This Funding Agreement is not assignable except for the following events: (i) written approval by City or (ii) in accordance with **Article VI**, Section C, above. Notwithstanding any attempt to assign this Funding Agreement, Recipient shall remain fully liable on this Funding Agreement and shall not be released from performing any of the terms, covenants and conditions herein. Recipient shall be held responsible for all funds received under this Funding Agreement.

ARTICLE XX. ORAL AND WRITTEN AGREEMENTS

A. All oral and written agreements between the parties to this Funding Agreement relating to the subject matter of this Funding Agreement that were made prior to the execution of this Funding Agreement have been reduced to writing and are contained in this Funding Agreement.

ARTICLE XXI. NOTICE

A. Any notice required or permitted to be given under this Funding Agreement shall be in writing and the same shall be given and shall be deemed to have been served and given if: (a) delivered in person to the address set forth herein below for the Party to whom the notice is given; (b) placed in the United States mail with postage prepaid, return receipt requested, properly addressed to such Party at the address hereinafter specified; or (c) deposited, with fees prepaid, into the custody of a nationally recognized overnight delivery service such as FedEx, addressed to such Party at the address hereinafter specified. Any notice mailed in the above manner shall be effective two (2) business days following its deposit into the custody of the United States Postal Service or one (1) business day following its deposit into the custody of such nationally recognized delivery service, as applicable; all other notices shall be effective upon receipt. Either Party may designate another address for all purposes under this Funding Agreement by giving the other Party no less than ten (10) calendar days advance written notice of such change of address in accordance with the provisions hereof.

TO CITY:

City of San Antonio

P.O. Box 839966

San Antonio, TX 78283

TO RECIPIENT:

Morgan's Inclusion Initiative

Attn: Mr. Gordon V. Hartman

5210 Thousand Oaks, Suite 1318

San Antonio TX 78233

E-mail: gordon@morgans.org

ARTICLE XXII. ENTIRE AGREEMENT

A. This Funding Agreement, together with its authorizing ordinance and its exhibits, if any, constitute the final and entire agreement between the parties hereto and contain all of the terms and conditions agreed upon. No other agreements, oral or otherwise, regarding the subject matter of this Funding Agreement shall be deemed to exist or to bind the parties hereto, unless same be in writing, dated subsequent to the date hereto, and duly executed by the parties.

ARTICLE XXIII. RELATIONSHIP OF PARTIES

A. Nothing contained herein shall be deemed or construed by the Parties hereto, or by any third party, as creating the relationship of principal and agent, partners, joint venturers or any other similar such relationship between the Parties hereto. It is expressly understood and agreed by the parties hereto that City is contracting with Recipient as an independent contractor, and that Recipient, its employees and subcontractors are not employees of City.

ARTICLE XIX. GOVERNING LAW AND VENUE

A. Recipient acknowledges that City is a political subdivision of the State of Texas and is subject to, and complies with, the applicable provisions of the Texas Tort Claims Act, as set out in the Civil Practice and Remedies Code, Section 101.001 et seq., and the remedies authorized therein regarding claims and causes of action that may be asserted by third parties for accident, injury or death.

B. Recipient shall give City immediate notice in writing of: (i) any OSHA investigation of Recipient concerning the Project; (ii) bankruptcy of Recipient; and (iii) any notice given by Recipient to its employees at the Project Site required under any applicable laws pertaining to contemplated job reductions at the Project Site. Recipient shall submit a copy of each such notice required hereunder to City within fifteen (15) calendar days after receipt or issuance, as applicable.

C. This Funding Agreement shall be performed in Bexar County, Texas and shall be interpreted according to the Constitution and the laws of the State of Texas. Venue and jurisdiction of any court action brought directly or indirectly by reason of this Funding Agreement shall be in Bexar County, Texas.

ARTICLE XX. LEGAL AUTHORITY

A. Each Party assures and guarantees to the other that it possesses the legal authority to enter into this Funding Agreement, to receive/deliver the funds authorized by this Funding Agreement, and to perform their respective obligations hereunder.

B. Each Party represents and warrants to the other that the person or persons signing and executing this Funding Agreement on behalf of such Party has been duly authorized to execute this Funding Agreement on behalf of that Party and to validly and legally bind that Party to all terms, performances and provisions herein set forth.

C. City will have the right to suspend or terminate this Funding Agreement in accordance with **Article X** if there is a dispute as to the legal authority, of either Recipient or the person signing this Funding Agreement, to enter into this Funding Agreement, any amendments hereto or failure to render performances hereunder.

ARTICLE XXI. CAPTIONS OR HEADINGS

A. The captions contained in this Funding Agreement are for convenience of reference only, and in no way limit or enlarge the terms and/or conditions of this Funding Agreement.

ARTICLE XXII. RELIEF FROM PERFORMANCE (FORCE MAJEURE)

A. In addition to relief expressly granted in this Funding Agreement, Recipient may be granted relief from performance under this Funding Agreement to the extent Recipient is prevented and/or impaired from compliance and performance by any Force Majeure Event. For purposes of this Funding Agreement, a “**Force Majeure Event**” shall include an act of war, order of legal authority, act of God, terrorism, social unrest, strike, natural disaster casualty, condemnation or other event beyond the reasonable control of Recipient. The burden of proof for such relief shall rest upon Recipient. To obtain relief based upon this **Article XXII**, Recipient must file a written notice with City Attorney’s Office for approval, specifying the Force Majeure Event and the performance under this Funding Agreement that such event is impairing. A Force Majeure Event does not release Recipient from the repayment of any funds disbursed under this Funding Agreement.

ARTICLE XVI. ATTORNEY FEES

A. The Parties hereto expressly agree, in the event of litigation, all Parties waive rights to payment of attorneys’ fees that otherwise might be recoverable, pursuant to the Texas Civil Practice and Remedies Code Chapter 38, Texas Local Government Code §271.153, common law or any other provision for payment of attorney’s fees.

ARTICLE XVII. CONDITIONS TO AGREEMENT

A. This Funding Agreement, and all obligations of the parties hereunder, is expressly made conditioned on the mutual final agreement to the terms and conditions of the Funding Agreement and the mutual final agreement and approval of all exhibits attached hereto. Each of the Exhibits and Attachments listed below is an essential part of this Funding Agreement, which governs the rights and duties of the Parties:

Exhibit A: Project Scope
Exhibit B: [RESERVED]
Exhibit C: Project Schedule
Exhibit D: Legal Description of the Property

Signatures appear on next page.

EXECUTED and AGREED to this the 1 day of August, 2024 ("Effective Date")

CITY:

City of San Antonio
a municipal corporation

RECIPIENT:

Morgan's Inclusion Initiative
a Texas non-profit corporation

Gordon V Hartman

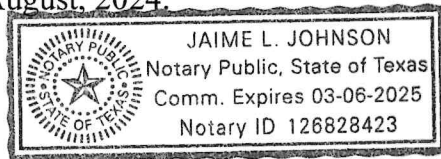
By: Gordon V. Hartman
Its: Authorized Agent

I, Gordon V. Hartman, residing in Bexar County, Texas, founder of Morgan's Inclusion Initiative d/b/a Morgan's ("**Recipient**") hereby personally guaranties the Reimbursement Obligation of Recipient contained in this Funding Agreement in Article VI(D) as defined in Article X(D). This guaranty shall be a continuing and irrevocable guaranty and action may be taken against me for any non-payment without notice thereof.

Gordon V Hartman

Gordon V. Hartman

SUBSCRIBED AND SWORN TO BEFORE ME by Gordon V. Hartman on the 1 day of August, 2024.



Jaime L. Johnson
NOTARY PUBLIC, State of Texas

APPROVED:

City Attorney

Exhibit A

Exhibit B

(Reserved)

Exhibit C

Exhibit D

Lot 2, Block 16, NCB 14945 of LONGHORN QUARRY - UNIT 3, a subdivision in the City of San Antonio, Bexar County, Texas, according to the map or plat thereof recorded in/under Volume 20002, Page 1179 of the Map/Plat Records of Bexar County, Texas.