

**STATE OF TEXAS
COUNTY OF BEXAR**

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**FUNDING AGREEMENT
FOR THE WITTE MUSEUM**

This Funding Agreement (“Agreement”), pursuant to City Ordinance No. 2022-02-10-0093, is entered into by and between the City of San Antonio, a Texas Municipal Corporation in Bexar County, Texas (“City”), the Board of Directors (“Board”) for Tax Increment Reinvestment Zone Number Thirty-One, City of San Antonio, Texas, and The Witte Museum (“Developer”), a nonprofit corporation registered in the State of Texas, whom together may be referred to as the “Parties”.

BACKGROUND:

WHEREAS, the City recognizes the importance of its continued role in economic development; community development and urban design and in accordance with Chapter 311 of the Texas Tax Code (the “Act”), the City through Ordinance No. 2008-12-11-1134, established Tax Increment Reinvestment Zone Number Thirty-One, San Antonio, Texas, known as the Midtown TIRZ (“TIRZ”), to promote development and redevelopment which would not otherwise occur solely through private investment; and

WHEREAS, a focus of the TIRZ are the four city owned cultural facilities along the Broadway Cultural Corridor: Brackenridge Park, San Antonio Botanical Garden, San Antonio Zoo, and The Witte Museum; and

WHEREAS, in January 2022, the City of San Antonio applied for funding from the City’s Tax Increment Financing Program (“TIF”) to undertake necessary capital and infrastructure improvements at The Witte Museum, which is located at 3801 Broadway St, San Antonio, Texas 78209, within the boundaries of the Midtown TIRZ and City Council District 2, and which is owned by the City and leased to the Developer; and

WHEREAS, the proposed funding will be utilized for public infrastructure, public improvements, including renovation and expansion of the auditorium and related facilities at The Witte Museum; and

WHEREAS, the cost for capital improvements related to infrastructure upgrades at The Witte Museum is estimated to be approximately \$6,000,000; and

WHEREAS, pursuant to Section 311.008 of the Act, the Board has authority to enter into agreements that the Board deems necessary or convenient to implement the Project Plan and to achieve the purposes of developing the TIRZ within the scope of those plans; and

WHEREAS, in accordance with Section 311.008 of the Act, on February 2, 2022, the Board approved Resolution T31-2022-02-02-01R, attached as **Exhibit A**, authorizing approval of this Agreement, which provides a funding commitment in an amount not to exceed Three Million Dollars and No Cents (\$3,000,000.00) in reimbursable TIF funds for infrastructure improvements and authorizes said commitment to be incorporated into the TIRZ Project Plan; and

WHEREAS, pursuant to Ordinance No. 2022-02-10-0093, approved on the 10th day of February 2022, the Board and the Developer agree to enter a binding agreement to ensure that the Developer is reimbursed for the public infrastructure and public improvement costs associated with the Project, described and incorporated herein in the attached **Exhibit B**; and

NOW, THEREFORE, in consideration of the mutual promises, covenants, obligations, and benefits

contained in this Agreement, the Developer and the Board agree as follows:

ARTICLE I. TERM

- 1.1 **TERM.** The term of this Agreement shall commence on the Effective Date of this Agreement and end on whichever of the following dates should occur the earliest: (i) the date the Developer receives the final reimbursement for completing the Project; (ii) the date this Agreement is terminated as provided in Article XI; or, (iii) termination of the TIRZ, provided that all existing warranties and warranty bonds on the Project shall survive termination of this Agreement.

ARTICLE II. DEFINITIONS

- 2.1 **ACT** - The Tax Increment Financing Act of Texas Tax Code, Chapter 311, as may be amended from time to time.
- 2.2 **AGREEMENT, CITY, BOARD, AND DEVELOPER** – Shall have the meaning specified in the preamble of this document.
- 2.3 **AVAILABLE TAX INCREMENT FUNDS** – Is the meaning given in the Act, Section 311.012(a), contributed by each participating taxing entity to the TIF Fund and distributed in accordance with the priority of payment of the TIRZ.
- 2.4 **CITY’S REVENUE FUND** – A fund established by City for the deposit of Three Million Dollars and No Cents (\$3,000,000) from the issuance of the Certificates of Obligation.
- 2.5 **COMPLETION** – In order for the Project to achieve a state of “Completion”, the Project must be completed in accordance with Section 5.1 of this Agreement.
- 2.6 **CONSTRUCTION SCHEDULE** – The specific timetable for constructing the improvements specified in this Agreement, which timetable is more particularly set forth in **Exhibit C**, attached hereto and incorporated herein for all purposes and which timetable may be amended from time to time pursuant to the provisions of this Agreement.
- 2.7 **EFFECTIVE DATE** - The date that is listed on the signature page of this Agreement.
- 2.8 **FINANCE PLAN** – The Inner City TIRZ Financing Plan, as defined in the Act, and as approved and amended from time to time by the Board and the City, which is incorporated by reference into this document as if set out in its entirety, for all purposes.
- 2.9 **PROJECT** – The Developer’s construction of public improvements as described in Section 4.1 of this Agreement and in attached **Exhibit B**.
- 2.10 **PROJECT COSTS** - Shall have the meaning provided by the Act as applied to the Project.
- 2.11 **PROJECT PLAN** – The Project Plan as defined in the Act, for the TIRZ as approved and amended from time to time by the Board and the City, and incorporated by reference into this document as if set out in its entirety, for all purposes.
- 2.12 **PROJECT SITE** - The real property located within the TIRZ at 3801 Broadway St, San Antonio, Texas 78209, described in attached **Exhibit D** (Map).

- 2.13 **PROJECT STATUS REPORT** – Statement(s) prepared and submitted by the City in accordance with the requirements of this Agreement, including quarterly updates and reports of compliance with laws, ordinances, and contractual requirements, and as described and attached in **Exhibit E**, attached and incorporated herein, for all purposes.
- 2.14 **TAX INCREMENT** – Shall have the meaning provided by Section 311.012 of the Texas Tax Code, and applies only to taxable real property within the TIRZ.
- 2.15 **TIF** – Tax Increment Financing.
- 2.16 **TIF DIVISION** – The division of the City’s Neighborhood & Housing Services (or successor) Department responsible for the management of the City’s Tax Increment Financing Program.
- 2.17 **TIF FUND** - The fund created by the City of San Antonio for the deposit of Tax Increments for the Zone, entitled “Tax Increment Reinvestment Zone Number Thirty-One, City of San Antonio, Texas.”
- 2.18 **TIRZ** - Tax Increment Reinvestment Zone Number Thirty-One, City of San Antonio, Texas, known as the Midtown TIRZ.

ARTICLE III. REPRESENTATIONS

- 3.1 **CITY’S AUTHORITY.** The City represents that as of the date of the execution of this Agreement, the City is a home rule municipality located in Bexar County, Texas, and has authority to carry out the obligations contemplated by this Agreement.
- 3.2 **BOARD’S AUTHORITY.** The Board represents that as of that date of the Board’s signature to this Agreement, the Board established pursuant to City Ordinance No. 2008-12-11-1134, has the authority to carry out the functions and operations contemplated by this Agreement.
- 3.3 **DEVELOPER’S AUTHORITY.** Developer represents to the City and the Board that Developer has the authority to enter into this Agreement and perform the requirements set forth herein. Developer’s performance shall not violate any applicable judgment, order, law or regulation nor result in the creation of any claim against the City for money or performance, any lien, charge, encumbrance or security interest upon any asset of the City or the Board, except that this Agreement shall constitute a claim against the City’s Revenue Fund to the extent provided herein. Developer shall have sufficient capital to perform all of its obligations under this Agreement when it needs to have said capital.
- 3.4 **COOPERATE.** The Parties represent that they shall each cooperate and provide each other all necessary information in order to assist determining compliance with this Agreement.
- 3.5 **DUTY TO COMPLETE IMPROVEMENTS.** The Parties represent that they understand and agree that even after the TIRZ terminates, the City shall ensure the successful completion of all required improvements at no additional cost to the TIRZ beyond the maximum TIRZ funding, in accordance with the terms of this Agreement.
- 3.6 **NO INTER-LOCAL AGREEMENTS.** The Parties represent to each other that they understand and agree that the City is the only participating taxing entity contributing 100% of the tax increment to the TIF Fund, and therefore, no other agreements are necessary with any other public entity to make this Agreement effective.

- 3.7 **DEVELOPER BEARS THE RISK.** Developer understands and agrees that any expenditure made by Developer in anticipation of reimbursement of City Revenue Funds shall not be, nor shall be construed to be, the financial obligations of the City and/or the TIRZ. Developer shall bear all risks associated with reimbursement, including, but not limited to incorrect estimates of tax increment, changes in tax rates or tax collections, changes in law or interpretations thereof, changes in market or economic conditions impacting the Project, changes in interest rates or capital markets, changes in building and development code requirements, changes in City policy, and unanticipated effects covered under legal doctrine of force majeure. Any contribution made by Developer in anticipation of reimbursement from the City Revenue Fund shall never be an obligation of the City's General Fund, but are only obligations of the City Revenue Fund, and are subject to limitations herein.

ARTICLE IV. THE PROJECT

- 4.1 **PROJECT.** The Project shall consist of the construction, renovation and expansion of the auditorium and related facilities at The Witte Museum, such related improvements and facilities including without limitation the expansion of the auditorium, the installation of a new roof, the construction of prep kitchen and an AV/IT room for use in connection with the auditorium. The Project is located at 3801 Broadway St, San Antonio, Texas, in City Council District 2, and within the TIRZ.

ARTICLE V. DUTIES AND OBLIGATIONS OF DEVELOPER

- 5.1 **RESPONSIBILITY TO COMPLETE PROJECT.** Provided Developer receives the funding described in Section 7.2 of this Agreement, and subject to the other terms and conditions of this Agreement, including, but not limited to, force majeure provisions, Developer hereby accepts full responsibility for the performance of all services and activities to complete the Project, as described in this Agreement.
- 5.2 **PROJECT ESTIMATION.** The current budget estimates of the Project are approximately \$6,000,000.00 ("Project Estimation"). Developer shall provide all necessary funding for the Project Estimation beyond the Board's commitment of \$3,000,000.00. Developer shall provide evidence to the Board that all Project Estimation funds have been secured prior to the receipt of any funding under this Agreement. The Board is not responsible for any costs exceeding the Project Estimation unless agreed to in writing in the form of an amendment to this Agreement. All funding for the Project must be secured by June 1, 2025, otherwise this Agreement can be terminated and the funds released to the Board for reallocation in the TIRZ.
- 5.3 **DISCRETIONARY PROGRAM.** Developer agrees that the TIF program is a discretionary program and that the City and the Board have no obligation to extend TIF to Developer, except as agreed to by the City and Board under this Agreement for the purposes of advancing the TIRZ. Developer agrees that it has no vested rights by virtue of this Agreement under any regulations, ordinances or laws, and waives any claim by virtue of this Agreement to be exempt from applicable provisions of the current and future City Charter, City Code, City Ordinances, and City Unified Development Code, state or federal laws and regulations.
- 5.4 **COMPLIANCE.** Developer agrees to exercise supervision over the construction of the Project, including those eligible for reimbursement. Developer shall comply and use all reasonable efforts to cause its contractors and subcontractors to comply with all applicable provisions of the TIF Guidelines, the City Charter, the City Code (including the Unified Development Code such as Universal Design and Construction requirements), and all applicable federal, state and local laws.

Developer shall cooperate with the City and the Board in providing all necessary information in order to assist the City in determining Developer's compliance with this Agreement.

- 5.5 **DUTY TO COMPLETE.** Developer agrees to complete, or cause to be completed, the Project. Developer agrees to provide, or cause to be provided, all materials, labor and services for completing the Project. Developer also agrees to obtain or cause to be obtained, all necessary permits and approvals from the City and/or all other governmental agencies having jurisdiction over the construction of the Project.
- 5.6 **COMMENCEMENT OF CONSTRUCTION.** From and after the Effective Date of this Agreement, Developer shall not commence any construction on the Project until the plans and specifications have been approved in writing by the appropriate City department and the requirements of all applicable federal, state, and local laws that are required to be met prior to commencing construction have been met. For purposes of this Section 5.6, letters of certification or acceptance issued by the City shall constitute written approval of the City and shall not be unreasonably withheld.
- 5.7 **SUPERVISION OF CONSTRUCTION.** Notwithstanding any other provision of this Agreement, Developer agrees to retain and exercise supervision over the construction of the Project, and cause the construction of the Project to be performed, at a minimum, in accordance with all federal, state, and local laws, including, but not limited to the Unified Development Code, Universal Design, Prevailing Wage, Chapter 2258 of the Texas Government Code, the City Code, and the plans and specifications approved by the appropriate City department.
- 5.8 **PAYMENT OF APPLICABLE FEES.** Developer shall be responsible for paying, or causing to be paid, to the City and all governmental agencies the cost of all applicable permit fees and licenses which have not been waived and are required for construction of the Project.
- 5.9 **QUARTERLY STATUS AND COMPLIANCE REPORTS.** Upon the commencement and throughout the duration of the construction of this Project, Developer shall submit to the City's TIF Division Project Status Reports (See Section 2.15 above), on a quarterly basis, no later than on the 15th day of January, April, July and October or, as requested by the City, in accordance with the requirements of this Agreement and of the Status Report Form, attached hereto as **Exhibit E**.
- 5.10 **PROJECT SITE INSPECTION.** Developer shall allow the City and the Board reasonable access to the Project Site owned or controlled by Developer for inspections during and upon completion of construction of the Project, and access to documents and records considered necessary to assess the Project and Developer's compliance with this Agreement. The Board and TIF Division Staff shall be provided a right of entry onto the Project Site to conduct random walk-through inspections of the Project's development subject to all security and site safety requirements.
- 5.11 **PUBLIC ENGAGEMENT.** To the extent necessary, Developer will engage in public comment regarding the scope of the Project. Such public discussions will occur prior to beginning construction of the Project.
- 5.12 **TRAFFIC ANALYSIS.** Developer will provide the most recent traffic analysis report to the Board prior to beginning construction.
- 5.13 **HDRC APPROVAL.** To the extent necessary, Developer will obtain all necessary approvals from the Historic Design Review Commission prior to the beginning of construction on the Project.

ARTICLE VI. COMPLIANCE WITH FEDERAL, STATE AND LOCAL LAWS

- 6.1 Developer warrants and represents that it will comply in all material respects with all Federal, State and Local laws and regulations with respect to the Project, and will use all reasonable efforts to ensure said compliance by any and all contractors and subcontractors that may work on the Project.
- 6.2 To the extent applicable, Developer agrees to abide by Chapters 252 and 271 of the Texas Local Government Code, and Chapters 2254 and 2267 of the Texas Government Code or other open competitive contracting processes which are advertised to the public in a legal and appropriate manner.
- 6.3 Plans must conform to Americans with Disabilities Act 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 Developer.
- 6.4 Prevailing Wage Rate and Labor Standards
 - A. The requirements of Chapter 2258 of the Texas Government Code, entitled "Prevailing Wage Rates," shall apply to this Agreement. Developer agrees that its construction contractor will comply with City Ordinance No. 71312 and its successors such as Ordinance No. 2008-11-20-1045 and will require subcontractors to comply with City Ordinance 71312 and its successors such as Ordinance No. 2008-11-20-1045 and shall not accept affidavits.
 - B. In accordance with the provisions of Chapter 2258 and Ordinance No. 2008- 11-20-1045, Developer shall request upon advertisement of construction bids, and the City will provide Developer with the appropriate wage determination which includes the general prevailing rate of per diem wages in this locality for each craft or type of workman needed to perform the construction work. The Developer is required and shall require its construction contractor and all subcontractors to comply with each updated schedule of the general prevailing rates in effect at the time the Developer calls for bids for construction of a given phase. The Developer is further required to cause the latest prevailing wage determination decision to be included in bids and contracts with the Developer's general contractor and all subcontractors for construction of each phase. Developer is responsible for and shall collect and monitor weekly certified payrolls and perform site visits to ensure the prevailing wage is being paid to all workmen. City will audit certified payroll records as necessary in accordance with this Agreement.
 - C. Upon audit of the records and certified payrolls under this section, should the City or its auditors find any violations, the Developer shall cause its Construction Contractor to forfeit as a penalty to the City \$60.00 for each laborer, workman, or mechanic employed, for each calendar day, or portion thereof, that such laborer, workman or mechanic is paid less than the said stipulated rates for any work done under said contract, by the Contractor or any subcontractor. The establishment of prevailing wage rates in accordance with Chapter 2258, Texas Government Code shall not be construed to relieve the Developer from its obligation under any federal or state law regarding the wages to be paid to or hours worked by laborers, workmen or mechanics insofar as applicable to the work to be performed under this Agreement.
- 6.5 **ENVIRONMENTAL.** Construction shall be in accordance with all Federal, State, and local

environmental requirements including all City applicable construction and development regulations.

- 6.6 **SMALL BUSINESS ECONOMIC DEVELOPMENT ADVOCACY PROGRAM.** Developer shall comply with all Small/Minority and Woman Owned Business Terms and Conditions.

ARTICLE VII. OBLIGATIONS OF THE BOARD

- 7.1 **ELIGIBLE PROJECT COSTS.** Costs shall be considered eligible only if approved by the Board, incurred directly and specifically in the performance of, and in compliance with this Agreement and all applicable laws.
- 7.2 **PLEDGE OF FUNDS.** The Board hereby pledges TIF Funds, as payment to City for debt service on Three Million Dollars and No Cents (\$3,000,000.00) in Certificates of Obligation issued for eligible project costs, subject to the terms and conditions in this Agreement, priority of payment schedule, and termination of the TIRZ.

ARTICLE VIII. NOTICE

- 8.1 **ADDRESSES.** Any notice sent under this Agreement shall be written and mailed with sufficient postage, sent by certified mail, return receipt requested, documented facsimile or delivered personally to an officer of the receiving Party at the following addresses:

THE DEVELOPER

The Witte Museum
Attn: Marise McDermott
3801 Broadway St.
San Antonio, Texas 78209

THE BOARD

Midtown TIRZ #11
Attn: TIF Division
City Tower
100 W. Houston St., 6th Floor
San Antonio, Texas 78205

- 8.2 **CHANGE OF ADDRESS.** Notice of change of address by either Party must be made in writing and mailed to the other Party within 5 business days of such change.

ARTICLE IX. RECORDS

- 9.1 **RIGHT TO REVIEW.** The Board shall have the right to access records related to the Project, including but not limited to the Project's construction schedule and expenditures. At the Request of the Board, the City agrees to provide the Board and the TIF Division access to records related to the Project for examinations during regular business hours.
- 9.2 **PRESERVATION OF RECORDS.** Developer shall retain, preserve, and make available to the Board all records and accounts relating to the Project and this Agreement throughout the term of this Agreement and for 12 months after the termination of this Agreement.
- 9.3 **DISCREPANCIES.** Should errors be discovered in internal controls or in record keeping associated with the Project, such discrepancies shall be corrected upon discovery or within a reasonable period of time, not to exceed 60 days after discovery. The Board shall be informed of the action taken to correct such discrepancies.
- 9.4 **OVERCHARGES.** If it is determined that the TIRZ has been overcharged for the cost of the

Project Costs, then such overcharges shall be immediately returned to the City Revenue Fund and become due and payable with interest at the maximum legal rate under applicable law from the date the Developer paid such overcharges.

ARTICLE X. REIMBURSEMENT

- 10.1 **PRIMELINK APPROVAL.** City shall reimburse Developer on a monthly basis upon receipt and approval of an invoice through the City's Project Reporting Information Management Exchange Link (COSA PRIMElink) within thirty (30) days after receipt of an approved invoice.
- 10.2 **PRIMELINK AGREEMENT.** All requests for reimbursement shall be submitted through the COSA PRIMElink. Developer shall sign a Business Level Agreement and ensure that all of its employees or representatives utilizing PRIMElink sign and comply with an Individual User Agreement. Such requests for reimbursement shall be completed on PRIMElink and/or utilizing forms and instructions approved by the Public Works Department. Prior to the initial request for reimbursement, Developer must submit a schedule of values for payment to be approved by the Public Works Department, which approval shall not be unreasonably withheld, conditioned, or delayed. Any changes to the schedule of values once approved shall be processed and approved as task orders through the portal.
- 10.3 **AVAILABLE FUNDS.** The sole source of the funds to reimburse Developer for Project Costs shall be three Million Dollars and No Cents (\$3,000,000.00) held in the City's Revenue Fund and funded through the issuance of Certificates of Obligation.
- 10.4 **MAXIMUM REIMBURSEMENT.** Following PRIMElink approval, Developer shall receive in accordance with this Agreement, from the City's Revenue Fund a total maximum reimbursement of THREE MILLION DOLLARS AND NO CENTS (\$3,000,000.00) for eligible Project Costs.
- 10.5 **REQUESTS FOR REIMBURSEMENT.** The Parties agree that all requests for reimbursement from the Developer shall be in accordance to Section 10.1 of this Agreement.

ARTICLE XI. TERMINATION

- 11.1 **TERMINATION.** For purposes of this Agreement, termination shall mean the expiration of the term as provided by Section 1.1 above. In addition, Developer and/or the Board may terminate this Agreement in the following manners: (1) Termination by Mutual Consent pursuant to Section 11.2 and (2) Termination for Cause pursuant to Section 11.3.
- 11.2 **TERMINATION BY MUTUAL CONSENT.** This Agreement may also be terminated by mutual consent and a written agreement of the Parties. In such case, the Parties shall agree upon the reason(s) of such termination, the termination conditions, the proposed pay-back plan of disbursed funds, and the proposed effective date of such termination.
- 11.3 **TERMINATION FOR CAUSE.** Each Party shall have the right to terminate this Agreement in whole or in part for cause if the Developer fails to perform the terms and conditions herein or, if the Developer fails to cure a default within 60 days after receiving written notice of Default from the Board, requesting that the failure be cured.
- 11.4 **CURE.** Upon written Notice of Default resulting from a breach of this Agreement, such default may be cured within 60 days from the date of the Notice of Default.

- 11.5 **NOTICE OF TERMINATION.** In the event that either Party fails to comply with this Agreement, such non-compliance shall be deemed a default and this Agreement may summarily be terminated upon the issuance of a written Notice of Termination, which shall include: (1) the reasons for termination; and (2) the effective date of Termination.
- 11.6 **RECAPTURE.** If the Board terminates this Agreement for cause, then the TIRZ shall have the right to recapture all the disbursed City's Revenue Funds made under this Agreement and Developer shall repay and deposit all City's Revenue Funds disbursed to Developer under this Agreement to the City's Revenue Fund within 60 days from the date of Notice of Termination.
- 11.7 **OTHER REMEDIES AVAILABLE.** The Board shall have the right to seek any remedy in law to which it may be entitled, in addition to termination and repayment of funds, if the City defaults under the material terms of this Agreement.

ARTICLE XII. CHANGES AND AMENDMENTS

- 12.1 **AUTOMATIC INCORPORATION OF LAWS.** Changes in Federal, State and local laws, rules, or regulations may occur during the term of this Agreement and any such change(s) shall be automatically incorporated into this Agreement without written amendment to this Agreement, and shall become a part of this Agreement as of the effective date of the rule, regulation or law.
- 12.2 **INVALID PROVISION.** If any provision of this Agreement is held invalid, ineligible, illegal or unenforceable under City, State, or Federal laws, then said provision and the remainder of this Agreement shall be construed as if such provision was never contained in this Agreement.
- 12.3 **AMENDMENTS.** Except when the terms of this Agreement expressly provide otherwise, any alteration, addition, or deletion that constitutes a material change to the terms of this Agreement shall be effectuated by an amendment, in writing, executed by the passage of Board Resolution and subsequent City Ordinance. For amendments that provide additional funding commitments of less than \$50,000, only Board approval shall be required. Following Board approval, the Director of Neighborhood Housing or his or her designee shall have authority to execute such amendments without further action by the San Antonio City Council.

ARTICLE XIII. NON-DISCRIMINATION

- 13.1 **NON-DISCRIMINATION.** In accordance with the Non-Discrimination Policy of the City of San Antonio contained in Chapter 2, Article X of the City Code, no person shall, on the ground of race, color, national origin, religion, sex, age, gender (to include transgender), sexual orientation, veteran status 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 under this Agreement.

ARTICLE XIV. GOVERNING LAW

- 14.1 **TEXAS LAW.** This Agreement shall be construed in accordance with the laws of the State of Texas, and all obligations of the Parties created hereunder are performable in with this in Bexar County, Texas. Any legal action or proceeding brought or maintained, directly or indirectly, as a result of this Agreement shall be heard and determined in Bexar, County Texas.

ARTICLE XV. CAPTIONS

- 15.1 **CAPTIONS.** All captions herein are only for the convenience of reference and shall not be

construed to have any effect or meaning as to this Agreement.

ARTICLE XVI. ENTIRE AGREEMENT

- 16.1 **FINAL AGREEMENT.** This written Agreement embodies the final and entire agreement between the Parties and may not be contradicted by evidence of prior, contemporaneous, or subsequent oral agreements of the Parties.
- 16.2 **INCORPORATION AND EXHIBITS.** Exhibits referenced below are incorporated herein and shall be considered a part of this Agreement, except that if there is a conflict between an Exhibit and a provision of this Agreement, the provision of this Agreement shall prevail over the Exhibit.

EXHIBIT A - T31-2022-02-02-01R

EXHIBIT B - The Witte Museum Project

EXHIBIT C - Construction Schedule

EXHIBIT D - Project Site (Map)

EXHIBIT E - Project Status Report Form

Signatures on the following page

EXECUTED BY THE PARTIES IN DUPLICATE ORIGINALS, each of which shall have the full force and effect of an original on this the ____ day of _____, 2022.

CITY OF SAN ANTONIO,
a Texas Municipal Corporation

BOARD OF DIRECTORS
Midtown TIRZ #31

Erik Walsh
CITY MANAGER
Date: _____

Lori Houston
BOARD CHAIR
Date: _____

THE WITTE MUSEUM

Name: Marise McDermott
Its: President and CEO
Date: 7/15/2022

APPROVED AS TO FORM:

Thomas Rice

ASSISTANT CITY ATTORNEY