

ASSIGNMENT AND FIRST AMENDMENT – CHAPTER 380 AGREEMENT

THIS ASSIGNMENT AND FIRST AMENDMENT – CHAPTER 380 AGREEMENT (this “First Amendment”), is entered into and is effective as of the ____ day of _____, 2024, by and among the CITY OF WYLIE, TEXAS, a Texas home-rule city (“City”), AGAPE RESOURCE & ASSISTANCE CENTER, INC., a Texas nonprofit 501 (c) 3 tax exempt corporation (“Agape”) and JERICHO VILLAGE, LLC, a Texas limited liability company (“Jericho”).

W I T N E S S E T H:

WHEREAS, City and Agape entered into that certain Chapter 380 Agreement dated May 16, 2023 recorded October 10, 2023 as document number 2023-2023000116602 in the records of the Collin County Clerk of Collin County, Texas, (the “Agreement”), to facilitate Agape’s proposed development of that certain parcel of land containing 2.4573± acres, situated in the City of Wylie, Collin County, Texas, located on the Property, as those terms are defined in the Agreement; and

WHEREAS, Agape and Jericho represent and warrant that Jericho is a wholly owned subsidiary of Agape, its only member, and is treated as an integral part of Agape for federal income tax purposes, i.e., it is treated as part of a 501 (c) 3 tax exempt non-profit organization; and

WHEREAS, Agape desires to assign the Agreement to Jericho and Jericho desires to accept assignment of the Agreement from Agape; and

WHEREAS, City is willing to consent to the assignment of the Agreement from Agape to Jericho in reliance on the representations and warranties made herein; and

WHEREAS, City and Jericho desire to modify and amend the Agreement in certain respects, as more particularly set forth in this First Amendment.

NOW, THEREFORE, in consideration of the recitals set forth above and the mutual covenants and agreements contained herein and for other good and valuable consideration, the sufficiency and receipt of all of which are hereby acknowledged, City, Agape, and Jericho agree to amend and modify the Agreement as follows:

1. Defined Terms. Capitalized terms used but not defined in this First Amendment will have the meanings given to them in the Agreement.

2. Assignment and Assumption. Agape hereby assigns all of its rights and obligations under the Agreement to Jericho. Jericho accepts assignment of the Agreement from Agape and assumes the rights and obligations of Agape as “Company” under the Agreement. City hereby consents to the assignment and assumption of the Agreement from Agape to Jericho.

3. Modification of Performance Requirements. Section 3 (Performance Requirements) of the Agreement is amended to read as follows: Notwithstanding anything to the

contrary in the Agreement, the Performance Requirements as defined in the Agreement is hereby amended to modify the sections as follows:

“The following conditions must be satisfied by the Company in order for the Company to qualify for the Grant (collectively, the “Performance Requirements”):

~~3.~~

- a. The Company shall obtain or cause to be obtained a building permit for the Facilities, pay to the City all applicable permit fees, impact fees and other fees and cause the commencement of construction of the Facilities on the Property on or before ~~December 31, 2024~~3. For purposes of this section, “commencement of construction” shall mean (i) the issuance of a building permit for the Facilities; (ii) the issuance of a notice to proceed to a third-party contractor, and (iii) the start of grading of the Property for the Facilities; and
- ~~a.b.~~ The Company shall invest at least \$6.5 million in real property improvements and business personal property in the Facilities, including the cost of the land, related to the development of the Facilities on the Property on or before December 31, 2026; and
- c. The Company shall obtain a permanent Certificate of Occupancy from the City for the Facilities and occupy the Facilities on or before ~~June 30~~December 31, 2026; ~~and shall maintain continuous occupancy of the Facilities for at least ten (10) years thereafter;~~
- d. The Company shall comply with that certain Amended and Restated Declaration of Deed Restriction dated _____, 2024, relating to use of the Property (which the parties hereby agree supersedes that certain Declaration of Deed Restrictions dated April 11, 2023) provided however the Grant shall be paid within thirty (30) days after the other Performance Requirements are met; and
- e. ~~The Company shall cause all construction contracts in the amount of \$100,000.00 or more for construction of the Facilities and all other improvements on the Property (“Separated Materials Contracts”) to (i) separately identify labor and material components for purposes of determining sales and use tax pursuant to Section 151.056(b) of the Texas Tax Code resulting in the value of the materials being separately identified from other costs, and (ii) to the extent reasonably possible, state that the situs of any sales and use tax paid and related thereto will be Wylie, Texas. Separated Building Materials Contracts shall include but not be limited to contracts for the following construction materials: concrete, steel (foundation as well as framing), pre-cast concrete/windows/glass/exterior siding, heating ventilation air conditioning plumbing (HVAC), lighting, roofing, piping (water, sewer and storm water); and~~
- ~~f.~~ e. Building Materials Standards.

- (i) In the construction, renovation, maintenance and alteration of any existing or future building on the Property, including the Facilities, Company shall not use or install, or permit the use or installation of, any building product or material or aesthetic method that does not comply with the Building Materials Standards, notwithstanding any conflicting provision of Chapter 3000 of the Texas Government Code, as it exists or may be amended. Company also shall comply with any City-approved façade plans for the Property, as they exist or may be amended by City, notwithstanding any conflicting provision of Chapter 3000 of the Texas Government Code, as it exists or may be amended. Company voluntarily consents and agrees to comply with this Agreement, the Building Materials Standards and any approved façade plan(s) in the construction, renovation, maintenance and alteration of any existing or future building on the Property.
- (ii) City designates the Property for its historical, cultural or architectural importance and significance pursuant to Section 3000.002(d) of the Texas Government Code. Company voluntarily consents and agrees to such designation. Company voluntarily waives any rights or protections that may exist under Chapter 3000 of the Texas Government Code, as it exists or may be amended, with respect to any existing or future building on the Property, and further agrees that City's right to enforce the Building Materials Standards arise from this Agreement and not from a rule, charter provision, ordinance, order, building code or other regulation of City. Company agrees that City is entitled to amend, revise, supplement and otherwise modify the Building Materials Standards in City's sole discretion.
- (iii) The obligations under this Agreement relating to the Building Materials Standards shall be automatically null, void and of no legal effect in the event that Chapter 3000 of the Texas Government Code is repealed or amended such that City's authority to enforce the Building Materials Standards is not limited or preempted in any way under Texas law.

~~g. f. The Company shall pay all taxes and other governmental assessments as applicable for the Property and the Facilities when due. In the event the Company fails to maintain the property in accordance with section 1. Restriction on Use of Property of the Amended and Restated Declaration of Deed Restriction during the period of 10 years after the issuance of a permanent Certificate of Occupancy, the Company shall repay the amount of the grant to City within 30 days of notice of violation of said Declaration. In the event the Company fails to maintain the Property in accordance with the Amended and Restated Declaration of Deed Restriction dated _____, 2024, at any time during the period beginning on the date of issuance of a permanent Certificate of Occupancy for the Facilities and ending on the 10th anniversary of such date, the Company shall repay the entire amount of the Grant to City within 30 days of the City sending notice of such violation to the Company, notwithstanding any statement to the contrary in this Agreement.~~

~~g. Upon issuance of the final certificate of occupancy and issuance of grant reimbursement, the Grant Agreement will be released. The Company shall continuously comply with this Agreement during the Grant Term.~~

h. The Company shall provide to the City documents satisfactory to the City that the Company has satisfied all of the Performance Requirement set forth above.”

4. Modification of Section 5(c). Section 5(c) (Default) of the Agreement is amended to read as follows:

(c) This Agreement shall terminate upon the occurrence of any one of the following:

- (i) the execution by both parties of a written agreement terminating this Agreement;
- (ii) intentionally deleted due to the addition of Section 3(g); or
- (iii) at the option of the non-defaulting party (subject to the notice and cure and other provisions of Section 5(b)), after an Event of Default.”

4.5.Ratification. As expressly modified by this First Amendment, the Agreement is hereby ratified and confirmed by City and Jericho.

5.6. Counterparts; Transmission. This First Amendment may be executed in multiple counterparts, each of which shall be deemed an original, and all of which shall constitute one and the same agreement. Transmission of an executed signature page of this First Amendment by email will be effective to create a binding agreement.

IN WITNESS WHEREOF, the parties hereto have executed this First Amendment the day and year first above written.

CITY:
CITY OF WYLIE, TEXAS
a home-rule municipality

By: _____
Brent Parker, City Manager

Date executed: _____

STATE OF TEXAS §

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COUNTY OF COLLIN §

BEFORE ME, the undersigned authority, on this ____ day of _____, 2024, personally appeared Brent Parker, City Manager and duly authorized representative for the CITY OF WYLIE, TEXAS, known to me to be one of the persons whose name is subscribed to the foregoing instrument, and who acknowledged to me that he executed the same for the purposes and consideration therein expressed and in the capacity therein stated on behalf thereof.

Notary Public, State of Texas

AGAPE:
Agape Resource & Assistance Center, Inc.
a Texas nonprofit corporation

By: _____
Janet Collinsworth, Founder & Exec. Director
Date executed: _____

STATE OF TEXAS §

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COUNTY OF _____ §

BEFORE ME, the undersigned authority, on this ____ day of _____, 2024, personally appeared _____, as _____ and duly authorized representative of _____, a _____, known to me to be one of the persons whose name is subscribed to the foregoing instrument, and who acknowledged to me that he executed the same for the purposes and consideration therein expressed and in the capacity therein stated on behalf thereof.

Notary Public, State of Texas

JERICHO:

Jericho Village, LLC
a Texas limited liability company

By: _____
Janet Collinsworth, Founder & Exec. Director

Date executed: _____

STATE OF TEXAS §

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COUNTY OF _____ §

BEFORE ME, the undersigned authority, on this ____ day of _____, 2024, personally appeared _____, as _____ and duly authorized representative of _____, a _____, known to me to be one of the persons whose name is subscribed to the foregoing instrument, and who acknowledged to me that he executed the same for the purposes and consideration therein expressed and in the capacity therein stated on behalf thereof.

Notary Public, State of Texas