

**THE STATE OF TEXAS
COUNTY OF HIDALGO**

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INTERLOCAL AGREEMENT

In consideration of the covenants set forth herein, and subject to the terms and conditions herein, the Parties (as defined below) hereby agree to the terms and conditions of this Agreement (as defined below).

I. PARTIES & INDEX

A. Parties

1. THIS INTERLOCAL AGREEMENT (the "Agreement") is made by and between the **CITY OF EDINBURG, TEXAS** (hereafter referred to as "CITY"), a Texas home-rule municipality, **HIDALGO COUNTY** (hereafter referred to as "COUNTY"), a political subdivision of the State of Texas, **REINVESTMENT ZONE NUMBER THREE, CITY OF EDINBURG, TEXAS**, a reinvestment zone created by the CITY pursuant to Chapter 311 of the Texas Tax Code, (hereafter referred to as the "ZONE", as hereafter defined) acting by and through its duly authorized Board of Directors, established to administer, manage, and/or operate the ZONE pursuant to Sections §311.009(b) and 311.010, Texas Tax Code ("ZONE BOARD") and **BURNS BROTHERS, LTD.** (hereafter referred to as "DEVELOPER") the developer and petitioner for creation of the Zone . Collectively, the CITY, COUNTY, ZONE, and DEVELOPER may be referred to as the "Parties". This Agreement is made pursuant to Chapter 791, Texas Government Code and Chapter 311 of the Texas Tax Code for the participation of CITY, COUNTY, ZONE, and DEVELOPER in the "La Sienna" Project.

2. The initial addresses of the Parties are listed below. Each party may designate a different address by giving all parties at least ten (10) days prior written notice.

CITY

Ramiro Garza
City Manager
City of Edinburg
415 W. University Drive
Edinburg, Texas 78541

With Copy to:

ZONE BOARD

Attention: Chairman
Reinvestment Zone Number Three, City of Edinburg, Texas
415 W. University Drive
Edinburg, Texas 78541

COUNTY

Ramon Garcia
Hidalgo County Judge
County of Hidalgo
P. O. Box 1356
Edinburg, Texas 78540

With Copy to:

HIDALGO COUNTY AUDITOR

Attention: Ray Eufracio, CPA
Re: City of Edinburg TIRZ #3
2808 South Business Hwy 281
Edinburg, Texas 78539

DEVELOPER

Burns Brothers, LTD.
3900 N 10th, Suite 1050
McAllen, TX 78501

B. Index

In consideration of the covenants set forth herein, and subject to the terms and conditions herein, the CITY, COUNTY, ZONE BOARD, and DEVELOPER hereby agree to the terms and conditions of this Agreement. This Agreement consists of the following sections:

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C. Parts Incorporated

All of the above-described exhibits are hereby incorporated into this Agreement by this reference for all purposes.

II. DEFINITIONS

As used in this Agreement, the following terms shall have the meanings set out below:

1. "Administrative Costs" means reasonable costs directly incurred by a Participating Taxing Entity (as hereinafter defined) (which, with respect to the CITY, may include reimbursement of reasonable costs incurred by the Edinburg Economic Development Corporation in conducting administrative functions for the ZONE on behalf of the City) related to its agreement to participate in the development or administration of the ZONE, as described in this Agreement. These costs include, but are not limited to, costs and expenses for legal review and financial analysis related to the ZONE incurred prior to entering into this Agreement, as well as any such costs and expenses incurred after this Agreement becomes effective but exclude financial or legal services incurred in any dispute arising under this Agreement with another Participating Taxing Entity or Participating Taxing Entities.
2. "Administrative Costs Cap" means the maximum amount of Administrative Costs that are reimbursable hereunder by a Participating Taxing Entity, except as provided in Section V.D.2. below. The Administrative Costs Cap for the CITY, during any fiscal year of the CITY is 5% of the CITY's total Tax Increment provided to the ZONE during the immediately preceding fiscal year. The Administrative Costs Cap for the COUNTY is

\$5,000.00 per year during the term of the Zone commencing with the year in which Bonds are issued, as provided in Section IV.D.10 below, not to exceed an aggregate of \$100,000 for the life of the ZONE.

3. "Agreement" means this Interlocal Agreement.
4. "Agreement Term" has the meaning set forth in Section VII.A. below.
5. "Available Tax Increment" shall mean the "Tax Increment," as defined below.
6. "Bonds" means any bonds issued with respect to the ZONE under Section 311.015 of the Texas Tax Code.
7. "Captured Appraised Value" means the captured appraised value of the ZONE, as defined by Section 311.012(b), Texas Tax Code (and as said Code may be amended from time to time); e.g., the total appraised value in a given year of all real property taxable by a participating taxing entity and located in the ZONE for that year less the total appraised value of that property in 2008, the base year of the ZONE.
8. "CITY" has the meaning set forth in Section I.A.1 above, and includes its successors and assigns.
9. "CITY M&O Tax rate" means that portion of the ad valorem tax rate used by the CITY for Maintenance and Operation. The CITY M&O Tax Rate may be changed by the CITY during the term of the Zone. The CITY M&O Tax Rate for the year 2009 is 0.52.
10. "COUNTY" has the meaning set forth in Section I.A.1 above.
11. "COUNTY M&O Tax Rate" means that portion of the ad valorem tax rate used by the COUNTY for Maintenance and Operation. The COUNTY M&O Tax Rate may be changed by the COUNTY during the term of the Zone. The COUNTY M&O Tax Rate for the year 2009 is 0.5127.
12. "Economic Development Agreement" means the executed Development Agreement, effective as of June 17, 2008, among the CITY, COUNTY, DEVELOPER, and City of Edinburg, Texas Local Government Corporation.
13. "Financing Plan" means the Final Financing Plan for the ZONE as adopted by the ZONE BOARD on July 7, 2009, and approved by City Council of CITY on July 7, 2009, and attached hereto as Exhibit "A".
14. "Participating Taxing Entity" or "Participating Taxing Entities" means, singularly, a taxing unit participating in the ZONE, and collectively, two or more taxing units participating in the ZONE, and may include CITY and COUNTY.
15. "Parties" has the meaning given such term in Section I.A.1 above.
16. "Project" refers to the City of Edinburg Proposed Public Improvements identified in the Final Project Plan.
17. "Project Costs" means the items set forth and described in Section 311.002(1), Texas Tax Code that are included in the Project Plan for the Project. The Project Costs include, but are not limited to, public infrastructure improvements and related capital costs; including streets; streetlights; drainage; gas, water and sewer utilities; sidewalks; landscaping; and related facilities; railroad facilities; fencing; and rights-of-way.
18. "Project Plan" means the Final Project Plan for the ZONE as adopted by the Board of Directors of the ZONE on and approved by the City Council of the CITY on and attached hereto as Exhibit "A".
19. "Tax Increment" for a Participating Taxing Entity means the total amount of ad valorem taxes levied and collected each year by that Participating Taxing Entity each year on the Captured Appraised Value of taxable real property in the ZONE. Further, with respect to the COUNTY, this term shall be further limited to the total amount of ad valorem taxes levied and collected only on behalf of the COUNTY each year.
20. "Tax Increment Base" means the total appraised value of all real property taxable by a Participating Taxing Entity and located in the ZONE as of January 1, 2008, the year in which the ZONE was designated.

21. "Tax Increment Fund" means the tax increment fund created by the CITY for the deposit of Tax Increments for the ZONE, entitled "Reinvestment Zone Number Three, City of Edinburg, Texas Tax Increment Fund."
22. "Tax Increment Payment" means the amount of the Tax Increment that a Participating Taxing Entity is required to deposit annually into the Tax Increment Fund in accordance with this Agreement and the Project Plan.
23. The "term of the ZONE" has the meaning set forth in Section III.B below.
24. "ZONE" means Tax Increment Reinvestment Zone Number Three, City of Edinburg, Texas, created by the CITY over the Zone Area on November 18, 2008, by Ordinance No. 08-3323, as amended on December 2, 2008 by Ordinance No. 08-3325, description of which is contained in Exhibit "B", attached hereto.
25. "ZONE BOARD" has the meaning set forth in Section I.A.1 above.

III. BACKGROUND

A. The CITY, the COUNTY, the City of Edinburg, Texas Local Government Corporation, a nonprofit local government corporation created by the CITY), and DEVELOPER entered into the Economic Development Agreement, which set forth the rights and obligations of the parties relating to a mixed-use commercial and residential development being constructed by the DEVELOPER, which is commonly known as "La Sienna" or the "La Sienna Project."

B. A Resolution passed and approved by City Commission of CITY on September 16, 2008, expressed the CITY's intent to create a tax increment financing reinvestment zone to support revitalization activities for the ZONE, commonly known as "La Sienna" or the "La Sienna Project", pursuant to Chapter 311, Texas Tax Code. On November 18, 2008, the City Commission of CITY passed and approved Ordinance No. 08-3323, as amended by Ordinance No. 08-3325 approved by the City Commission of CITY on December 2, 2008, which created the ZONE. The ZONE will provide funding for public improvements within the ZONE. The ZONE is projected to terminate on December 31, 2037, unless earlier termination occurs under this Agreement (the "term of the ZONE").

C. The ZONE BOARD adopted the Project Plan on May 5, 2009. The CITY approved the Project Plan and Project Financing Plan on July 7, 2009. The CITY and the COUNTY agree to participate in the ZONE and to deposit their respective Tax Increment Payments to the Tax Increment Fund, in accordance with the terms, and in consideration for the agreements, set forth herein. The Tax Increment Fund was authorized by Ordinance No. 08-3323, as amended by Ordinance No. 08-3325, attached hereto as Exhibit "B." The COUNTY hereby acknowledges receipt of notice of the initial creation of the ZONE. The CITY represents and warrants that it complied with all legal requirements and notice requirements in the creation of the ZONE.

D. The Parties hereto agree that, other than Bonds or notes issued pursuant to §311.015 of the Texas Tax Code, no tax-supported public debt instrument will be issued by the City of Edinburg or the ZONE BOARD to finance any costs or improvements on the Project.

IV. RIGHTS AND OBLIGATIONS OF THE COUNTY

A. Tax Increment Participation by the COUNTY

1. Subject to the limitations set out in this Agreement, the COUNTY agrees to participate in the ZONE by contributing to the Tax Increment Fund an amount equal to 100% of the revenue generated from its M&O tax rate as assessed and collected on the tax increment for the respective tax year. For the purpose of this Agreement the M&O tax rate shall be calculated as set forth in section IV(B)(9) of

this Agreement. In no event shall the COUNTY contribution to the Tax Increment Fund over the life of the ZONE (beginning with the 2009 tax year) be greater than **SEVENTEEN MILLION FOUR HUNDRED THOUSAND DOLLARS (\$17,400,000)** for costs actually incurred by the DEVELOPER to construct Residential-Related Public Infrastructure (as defined and described in the Economic Development Agreement, plus interest on unreimbursed costs for an outstanding DEVELOPER debt attributable to the Residential-Related Public Infrastructure costs, calculated at the lesser of (A) the rate of 6.00% per annum, or (B) the actual rate incurred by the DEVELOPER in connection with such indebtedness. The following calculation will be used to calculate the County's Tax Increment Reinvestment Zone payment amount.

Tax Increment Reinvestment Zone (TIRZ) Payment Calculation	EXAMPLE
TIRZ Real Property Certified Taxable Value as of January 31 (Provided by Hidalgo County Appraisal District (HCAD))	\$ 100,000.00
(Multiplied by) Hidalgo County Current (GHD) Tax Rate (.59/100)	0.0059
GHD Actual Tax Levy for all real property tax accounts located within the TIRZ	\$ 590.00
TIRZ Real Property Certified Taxable Value as of January 31 (Provided by Hidalgo County Appraisal District (HCAD))	\$ 100,000.00
(Less) Base Year Real Property Certified Appraised Value for Tax Accounts located within the TIRZ (Provided by HCAD)	\$ 10,000.00
Captured Appraised Value	\$ 90,000.00
Captured Appraised Value	\$ 90,000.00
(multiplied by) Contribution Rate (The lesser of actual tax year M&O rate or rate specified on agreement) (.51/100)	0.0051
Tax Levy Due to TIRZ	\$ 459.00
TIRZ Collections (for February 1 through January 31) as per Collections Reports provided by Hidalgo County Tax Office	\$ 300.00
(divided) GHD Actual Tax Levy for all Real Property tax accounts located within the TIRZ	\$ 590.00
Percent Collected of Actual Levy	50.85%
Tax Levy Due to TIRZ	\$ 459.00
(Multiplied by) Percent Collected of Actual Levy	50.85%
TIRZ PAYMENT AMOUNT	\$ 233.39

2. The Parties hereto agree that the COUNTY's contribution to the Tax Increment Fund shall be used to fund Project Costs including construction of public infrastructure improvements for "Residential-Related Public Infrastructure" (as defined and described in the Economic Development Agreement) to support the development and revitalization efforts in the ZONE. The COUNTY's contributions to the Tax Increment Fund shall end when it has contributed the maximum total contribution provided for herein of SEVENTEEN MILLION FOUR HUNDRED THOUSAND DOLLARS (\$17,400,000) plus allowable interest, or when it has made contributions of all Tax Increment Payments, as specified in the Project Plan, attributable to all periods through the end of the COUNTY's fiscal year 2037 (ending on December 31, 2037), whichever occurs first.

B. Tax Increment Payment

1. COUNTY's obligation to contribute its Tax Increment Payment to the Tax Increment Fund, as provided in Section IV.A of this Agreement, shall accrue as the COUNTY collects its Tax Increment. The Parties hereto agree that all ad valorem property taxes collected each year by the COUNTY that are attributable to real property in the ZONE shall first constitute taxes on the Tax Increment Base and after the total amount of taxes on the Tax Increment Base have been collected, then the remaining ad valorem taxes collected shall constitute the Tax Increment. COUNTY agrees to deposit its first Tax Increment Payment to the Tax Increment Fund for tax year 2009 once all tax accounts have been coded by the Hidalgo County Appraisal District, the Hidalgo County Tax Office has received the list of tax accounts, collection reports have been provided to the Auditor's Office, the information required under section 311.016 of the Tax Code and the fully executed Interlocal Agreement has been received by the County. The amount of the first Tax Increment Payment shall be based on the Tax Increments that were received up to January 31, 2010, but only for tax year 2009 beginning October 1, 2009. For subsequent payments, the COUNTY agrees to contribute its yearly Tax Increment Payment to the Tax Increment Fund annually not later than the 90th day after the delinquency date for the COUNTY's property taxes (or the first business day thereafter) following the end of each tax year. The amount of each Tax Increment Payment shall be based on the Tax Increments that are received up to January 31st following the end of the tax year, but which have not been previously deposited in the Tax Increment Fund, during the annual periods preceding each deposit date. Under no circumstances shall the COUNTY be required to participate in the ZONE with taxes attributable to periods after 2037.

2. One month prior to a payment required under Section IV.B. of this Agreement, the CITY shall provide to the COUNTY an updated fact sheet that includes detail as to what portion of the Project has been completed to date, a schedule of what portion of the Project is to be completed in the following year and a current roster of the ZONE's board members, including the term of each board member, the entity that appointed the board member and the date for the next annual meeting. In addition to and as part of the CITY's fact sheet, the CITY shall supply the COUNTY with all information as required under section 311.016 of the Texas Tax Code on or before the 90th day following the end of the fiscal year of the CITY. The CITY shall also request collection reports from the Hidalgo County Tax Assessor Collector and provide a copy of those reports and a payment request to the COUNTY one month prior to a payment required under Section IV.B of this agreement.

3. Pursuant to Chapter 311 of the Texas Tax Code, in the event there is a conflict between the Parties in regards to the amount of the Tax Increment owed by the COUNTY, the Hidalgo County Auditor will make the final determination as to the amount of any Tax Increment owed by the COUNTY under this Agreement. The annual Captured Appraised Value for the real property contained within the ZONE shall be determined by the Hidalgo County Appraisal District on the assessed appraised values and the Hidalgo County Tax Offices' verification of collections in regards to

the real property contained with the ZONE.

4. Any delinquent deposit by the COUNTY of a Tax Increment Payment under this Agreement shall be administered as provided in Section 311.013(c) of the Texas Tax Code, which states as follows:

“A taxing unit shall make a payment required by the Subsection (b) [Tax Increment Payment], not later than the 90th day after the delinquency date for the unit’s property taxes. A delinquent payment incurs a penalty of five percent of the amount delinquent and accrues interest at an annual rate of ten percent.”

The Parties expressly agree that the COUNTY shall not owe any penalty or interest on Tax Increments attributable to taxes that have been levied, but not received by the COUNTY. Further, the COUNTY shall not be liable for the payment of any penalties or interest if the fact sheet required under section IV.B.2 and the report required under section §311.016 of the Texas Tax Code is not timely submitted to the COUNTY or in any situation in which the CITY is not obligated to pay penalties and interest.

5. The CITY agrees to comply with the Project Plan. The CITY and the ZONE agree to provide prior written notice to all Participating Taxing Entities of a proposed material change (by which is meant any change that would constitute at least a twenty percent (20%) increase or decrease in either the Project Cost or the scope and scale of the Project) to the Project Plan; provided that any change that is not approved by the COUNTY shall not change the amount of Tax Increment Payments due from the COUNTY. The CITY shall have the right to amend and modify the Project Plan without providing prior written notice to the Participating Taxing Entities so long as such amendment or modification does not constitute a material change.

6. If the CITY materially breaches this Agreement, then a Participating Taxing Entity may provide written notice to the CITY, and the ZONE (with a copy to any other Participating Taxing Entity still contributing Tax Increment Payments) stating its intent to terminate its participation in the Zone and detailing its objection(s) or concern(s). If the objections and/or concerns, as set out in the notice, are not resolved within 90 business days from the date of such notice, then COUNTY may discontinue its Tax Increment Payments and terminate its participation in the ZONE.

7. Except for contributing its respective Tax Increment Payments to the Tax Increment Fund as set out in this Agreement, the COUNTY shall not have any obligation or responsibility for any costs or expenses associated with the development of the ZONE or the implementation of the Project Plan, including, without limitation, any obligation to pay or repay any bond or other debt issued by another Participating Taxing Entity, the ZONE or the ZONE BOARD relating to the ZONE or any costs associated with the operation of ZONE, the Project or any other projects relating thereto.

8. Notwithstanding anything herein to the contrary, the COUNTY’s total Tax Increment Payment to the Tax Increment Fund over the term of the ZONE shall not exceed SEVENTEEN MILLION FOUR HUNDRED THOUSAND DOLLARS (\$17,400,000) plus interest on DEVELOPER debt, as described in Section IV(A)(1) above, plus Administrative Costs not in excess of the COUNTY’s Administrative Costs Cap, plus any applicable penalty and/or interest allowed in section 311.013 of the Tax Code, subject to the limitations on Section IV(B)(4). Eligible interest payments on DEVELOPER debt will be paid by the ZONE BOARD from the tax increment payment by the COUNTY and will only be paid when DEVELOPER provides to the ZONE BOARD and the COUNTY supporting documentation showing the interest due. Interest payments on DEVELOPER debt will not constitute a portion of the COUNTY’s maximum total contribution of SEVENTEEN MILLION FOUR HUNDRED THOUSAND DOLLARS (\$17,400,000.00).

9. The COUNTY agrees to participate at one hundred percent (100%) of its COUNTY Maintenance and Operation (M&O) tax rate equal to \$0.5127 per \$100 valuation on the Captured Appraised Value. In the event that the COUNTY M&O tax rate is less than \$0.5127 per \$100 valuation on the captured appraised value during any of the years 2009 through 2037, then the maximum tax increment paid by the COUNTY into the Tax Increment Fund shall not exceed the designated percentage of the total amount of taxes collected by the COUNTY at the actual M&O tax rate during the year the COUNTY tax rate is less than \$0.5127 per \$100 valuation. In the event that the COUNTY M&O tax rate is greater than \$0.5127 per \$100 valuation on the captured appraised value during any of the years 2009 through 2037, the COUNTY shall retain all taxes collected above the maximum amount of tax increment deposited in the Tax Increment Fund at the designated percentage of the COUNTY'S M&O contribution equal to a tax rate of \$0.5127 per \$100 valuation on the captured appraised value. The Captured Appraised Value will be the value provided to COUNTY by the Hidalgo County Appraisal District as of January 31st of the year the tax increment payment is due for such tax roll. If the certified taxable value changes after the initial tax increment payment has been made, the change in value will not be included in the tax increment payment in the upcoming years. COUNTY taxes that are delinquent for more than five years will be considered uncollectible and shall not be included in the tax increment payment.

10. The COUNTY agrees the ZONE may reimburse Administrative Costs from the COUNTY's Tax Increment Payment up to the COUNTY's Administrative Costs Cap as set forth herein. The COUNTY's Tax Increment Payments shall not be allocated to any payment for Administrative Costs prior to the issuance of Bonds. Once Bonds are issued, \$5,000.00 of the COUNTY's Tax Increment Payment each year beginning with the year in which Bonds are issued through the end of the term of the ZONE shall be allocated to Administrative Costs. Notwithstanding anything to the contrary set forth in Section V.D.2. below, no Administrative Costs incurred more than six (6) months prior to the date of issuance of the Bonds will be eligible to be reimbursed from the COUNTY's Tax Increment Payments. Nothing contained in this Agreement shall be deemed to allow the incurrence of costs with respect to the issuance of Bonds in excess of any caps imposed by applicable law.

C. Management of the ZONE

1. The ZONE shall in all respects be managed by the ZONE BOARD, including the Director appointed by the COUNTY. The ZONE BOARD shall have all powers allowed under Chapter 311 of the Texas Tax Code to manage the ZONE and carry out the Project Plan. The Participating Taxing Entities, during the term of this Agreement, may inspect the Project site and review Project plans and drawings at times and intervals that will not interfere with ongoing operations.

2. The ZONE BOARD shall be composed of six (6) members, as allowed under Section 311.009(a) of the Texas Tax Code. The COUNTY shall have the right to appoint one member of the ZONE BOARD.

D. Expansion of the ZONE

Notwithstanding anything to the contrary contained herein, the obligation of the COUNTY to participate in the ZONE is limited to the description of the ZONE in Exhibit "B" attached hereto and is subject to the terms of this Agreement. The COUNTY's participation shall not extend to the Tax

Increment on any additional real property added to the ZONE by the CITY unless the COUNTY approves such participation in writing.

V. RIGHTS AND OBLIGATIONS OF CITY AND ZONE

A. Tax Increment Participation by the CITY

Subject to the terms of this Agreement and the City agrees to participate in the ZONE by contributing to the Tax Increment Fund one hundred percent (100%) of its Tax Increment each year during the term of this Agreement, beginning with the 2009 tax year. The CITY's contributions to the Tax Increment Fund shall end when the CITY has contributed the maximum total contribution provided for herein or when it has contributed all Tax Increments attributable to periods before the ZONE termination date in 2037, whichever occurs first. Notwithstanding anything herein to the contrary, the total CITY Tax Increment Payments over the term of the ZONE shall not exceed **SIXTEEN MILLION FIVE HUNDRED THOUSAND DOLLARS (\$16,500,000)** for costs actually incurred by the DEVELOPER to finance and construct "Commercial/Regional-Related Public Infrastructure" (as defined and described in the Economic Development Agreement), plus up to an additional **SIXTEEN MILLION FIVE HUNDRED THOUSAND DOLLARS (\$16,500,000)** for interest on unreimbursed costs for all outstanding debt incurred by the DEVELOPER of the La Sienna Project that is attributable to such Commercial/Regional-Related Public Infrastructure costs, calculated at the lesser of (A) the rate of 6.00% per annum, or (B) the actual rate on indebtedness incurred by the DEVELOPER to finance such Commercial/Regional-Related Public Infrastructure.

B. Tax Increment Payment

1. The CITY's obligation to contribute its Tax Increment Payment to the Tax Increment Fund as provided above in Section V of this Agreement shall accrue as the CITY collects its Tax Increment. The CITY agrees to deposit its first Tax Increment Payment to the Tax Increment Fund for tax year 2009 by June 30, 2010. The amount of the first Tax Increment Payment shall be based on the Tax Increments that were received through January 31, 2010, but only for the tax year 2009 beginning January 1, 2009. For subsequent Tax Increment Payments, the CITY agrees to contribute its Tax Increment Payment to the Tax Increment Fund annually on or before April 30 of each tax year. The amount of each Tax Increment Payment shall be based on the Tax Increments that are received up to January 31st following the end of the tax year, but which have not been previously deposited in the Tax Increment Fund, during the annual periods preceding each deposit date. Any delinquent deposit of a Tax Increment Payment by the CITY under this Agreement shall be administered as provided in Section 311.013(c) of the Texas Tax Code (or its successor provision).

2. The CITY agrees to participate at one hundred percent (100%) of its CITY Maintenance and Operation (M&O) tax rate equal to \$0.52 per \$100 valuation on the Captured Appraised Value. In the event that the CITY M&O tax rate is less than \$0.52 per \$100 valuation on the captured appraised value during any of the years 2009 through 2037, then the maximum tax increment paid by the CITY into the Tax Increment Fund shall not exceed the designated percentage of the total amount of taxes collected by the CITY at the actual M&O tax rate during the year the CITY tax rate is less than \$0.52 per \$100 valuation. In the event that the CITY M&O tax rate is greater than \$0.52 per \$100 valuation on the captured appraised value during any of the years 2009 through 2037, the CITY shall retain all taxes collected above the maximum amount of tax increment deposited in the Tax Increment Fund at the designated percentage of the CITY'S M&O contribution equal to a tax rate of \$0.52 per \$100 valuation on the captured appraised value. The Captured Appraised Value will be the value provided to CITY by the Hidalgo County Appraisal District as of January 31st of the year the tax increment payment is due for such tax roll. If the certified taxable

value changes after the initial tax increment payment has been made, the change in value will not be included in the tax increment payment in the upcoming years.

3. The COUNTY, the CITY and the ZONE expressly agree that the COUNTY and the CITY shall not owe any interest on Tax Increments that have been levied, but not received by the COUNTY or the CITY by the delinquency dates specified herein.

C. Financing of Project Costs

Each Participating Taxing Entity shall participate in the payment of Project Costs only to the extent described herein. The CITY and the ZONE shall be entitled to enter into any other agreements for the CITY or the ZONE to pay Project Costs and other reasonable expenses from the Tax Increments paid into the Tax Increment Fund without the consent of any other Participating Taxing Entity, but they will provide notice of such agreement(s) to each Participating Taxing Entity.

D. Disbursement of Funds in the Tax Increment Fund

1. Each Participating Taxing Entity agrees the ZONE BOARD shall administer the Tax Increment Fund on behalf of the ZONE, pursuant to Ordinance No. 08-3323, as amended by Ordinance No. 08-3325, passed and approved by City Council of the CITY on November 18, 2008 and December 2, 2008, respectively. No funds shall be disbursed from the Tax Increment Fund without the prior written approval of the ZONE BOARD, and notice of use and disbursement of funds by the ZONE shall be given at least annually to the COUNTY.

2. The CITY agrees to cause the aggregate Administrative Costs to not exceed the Administrative Cost Cap. The CITY agrees to make Administrative Costs payments to the Zone, which payments shall be in the amount of the CITY's Administrative Cost Cap. With respect to Administrative Costs incurred by the CITY for which the CITY requests reimbursement by the ZONE, the CITY agrees and understands that during any fiscal year it shall not be reimbursed by the ZONE for its Administrative Costs that exceed the Administrative Costs Cap set forth in Section II.2 above and, with respect to any Administrative Cost reimbursement allocated to the COUNTY, in accordance with the additional terms set forth in Section IV.D.10 above. In the event the CITY's Administrative Costs during any fiscal year exceeds the aggregate Administrative Costs Cap, any Administrative Costs not able to be paid during a fiscal year due to such costs being in excess of the Administrative Costs Cap shall carry forward to subsequent years and shall be reimbursed to the extent such costs are within the subsequent year's Administrative Costs Cap until paid in full to the CITY, subject to the provisions of Section IV.D.10. above. Administrative Costs not reimbursed at the end of the term shall be paid from the Tax Increment Fund to the extent allowed pursuant to applicable law and to the extent funds are available therein, and any amounts not so reimbursed shall be the sole responsibility of the CITY. Administrative Costs incurred by the Edinburg Economic Development Corporation shall be paid as part of the CITY's Administrative Costs and shall be considered Administrative Costs of the CITY for purposes of determining whether Administrative Costs are within the Administrative Costs Cap. In the event that at the end of the term of the Zone, the ZONE has received payments from the CITY and the COUNTY for Administrative Costs in excess of the Administrative Costs incurred and reimbursed pursuant to this Agreement, such excess shall be refunded to the CITY and the COUNTY in proportion to the amount of Administrative Costs payments made by the CITY and the COUNTY during the term of the ZONE .

3. In addition to Project Costs and any other allowable costs, the CITY and ZONE represent and warrant that they will use funds in the Tax Increment Fund to pay annual expenditures in the following order or priority of payment: (i) payment of any debt service on any Bonds issued with

respect to the ZONE under Section 311.015 of the Texas Tax Code; and (ii) to reimburse eligible Administrative Costs incurred by each Participating Taxing Entity or by the Edinburg Economic Development Corporation on behalf of the City. No funds will be paid from the Tax Increment Fund to a Participating Taxing Entity for its financial or legal services incurred in any dispute arising under this Agreement with another Participating Taxing Entity or Participating Taxing Entities.

VI. RIGHTS AND OBLIGATIONS OF DEVELOPER

The DEVELOPER'S obligations hereunder are set forth in the Economic Development Agreement, including Article V, Sections 5.1, 5.2, 5.4, and Article VI, Sections 6.1, 6.2, and 6.3.

VII. TERM AND TERMINATION

A. Agreement Term and Termination

This Agreement shall become effective as of the last date of execution by the Parties hereto, and shall remain in effect until December 31, 2037, unless earlier terminated as provided herein (the "Agreement Term"). Subject to the terms of this Agreement, the COUNTY agrees to participate under this Agreement, beginning with the 2009 tax year and ending in accordance with the terms provided herein. Notwithstanding anything to the contrary contained in this Agreement, the Parties agree and understand that the COUNTY's Tax Increment Payments will not be made after December 31, 2037.

B. Early Termination

Neither the CITY nor the ZONE BOARD shall take any action to terminate the ZONE earlier than the duration of the ZONE as specified herein.

C. Disposition of Tax Increments

Upon expiration or termination of the ZONE and after all Bonds have been paid and all reimbursements have been made, any money remaining in the Tax Increment Fund shall be paid to the Participating Taxing Entities on a pro rata basis in accordance with Section 311.014(d) of the Texas Tax Code, or any successor thereto. Accounting to determine the pro rata distribution of remaining funds to the respective taxing entities shall be conducted according to generally accepted accounting principles, and shall be subject to review and audit by the COUNTY upon reasonable request. In the event a discrepancy occurs between the reviews conducted by the CITY and COUNTY, said dispute will be resolved by the respective audit offices of the CITY and COUNTY. In the event the dispute cannot be resolved it shall be submitted to mediation under the rules of the American Mediation Association with a mediator agreed upon by the County Judge of the COUNTY and the Mayor of the CITY.

VIII. MISCELLANEOUS

A. Understanding

Any and all costs incurred by the CITY are not, and shall never become, general obligations or debt of any Participating Taxing Entity other than the CITY. With respect to the CITY's costs, only

eligible Project Costs and other allowable expenses under applicable law, if any, incurred by the CITY shall be payable from the Tax Increment Fund in the manner and priority provided in this Agreement and only to the extent that funds become available in the Tax Increment Fund. The Parties agree and understand that under no circumstance shall the eligible costs exceed the maximum specified in the final finance plan passed and approved in accordance with Ordinance No. 09-3368 on July 7, 2009. The CITY and the COUNTY are not obligated above and beyond what is actually collected as tax increment funds.

B. Severability

In the event any term, covenant or condition herein contained shall be held to be invalid by any court of competent jurisdiction, such invalidity shall not affect any other term, covenant or condition herein contained.

C. Entire Agreement

This Agreement merges the prior negotiations and understandings of the Parties hereto and embodies the entire agreement of the Parties. There are no other agreements, assurances, conditions, covenants (express or implied), or other terms with respect to the covenants, whether written or verbal, antecedent or contemporaneous, with the execution hereof.

Upon the occurrence of any event that allows the CITY to terminate hereunder, the COUNTY shall have the right to withhold tax increment payments under this Agreement until such time as such event is cured, and the COUNTY shall not incur any penalties or interest with respect to any such withheld payments notwithstanding any provision herein to the contrary. With respect to the COUNTY's obligations, to the extent there is any discrepancy between this Agreement and any exhibit hereto, the terms of this Agreement shall control.

D. Written Amendment

This Agreement may be changed or amended only by a written instrument duly executed on behalf of each Party hereto. All Parties to this Agreement understand and recognize that only the City Council of CITY and only the Commissioners Court of the COUNTY have authority to approve a change or amendment to this Agreement on behalf of the CITY or the COUNTY, respectively.

E. Notices

All notices required or permitted hereunder shall be in writing and delivered by personal delivery, facsimile or United States Postal Service (certified mail, return receipt requested) and addressed to the respective other Party at the address prescribed in Section I of this Agreement, or at such other address as the receiving Party may have theretofore prescribed by notice to the sending Party. Such notices shall be deemed delivered the earlier of: (i) when actually received by personal delivery or facsimile if received during normal business hours and on the next business day if received after normal business hours; or (ii), if sent by the United States Postal Service, on the date indicated by the United States Postal Service on the return receipt as the date on which it was received by the respective other Party.

F. Non-Waiver

Failure of any Party hereto to insist on the strict performance of any of the agreements herein or to exercise any rights or remedies accruing hereunder upon default or failure of performance shall not be considered a waiver of the right to insist on, or to enforce by any appropriate remedy, strict compliance with any other obligation hereunder or to exercise any right or remedy occurring as a result of any future default or failure of performance.

G. Assignment

All Parties to this Agreement understand and recognize that only the City Council of the CITY and only the Commissioners Court of the COUNTY have authority to approve a delegation or assignment of the COUNTY's or the CITY's rights in this Agreement on behalf of the CITY or the COUNTY, respectively.

H. Successors

This Agreement shall bind and benefit the Parties and their legal successors or assigns. This Agreement does not create any personal liability on the part of any trustee, officer, owner, partner, principal, employee, elected official or agent of a Party to this Agreement.

I. Project Plan

The COUNTY acknowledges that it was provided with a copy of the initial preliminary finance plan for review and comment before the Project Plan was finalized and approved by the City Council of the CITY. The Parties agree a material change to the Project Plan shall not apply to the COUNTY unless the COUNTY approves the amendment as provided herein if such amendment to the Project Plan (i) has the effect of directly or indirectly increasing the percentage or amount of Tax Increment to be contributed by the COUNTY to the Tax Increment Fund; or (ii) increases or reduces the geographical area of the ZONE set forth in the Project Plan.

J. Access to Financial Information

The ZONE agrees to conduct or to cause to be conducted, at a minimum, an annual financial review, a copy of which will be provided to the COUNTY. Furthermore, each Party to this Agreement shall have reasonable access to financial information and audit reports regarding the operation of the ZONE, contribution of Tax Increment Payments to the Tax Increment Fund, and expenditures from the Tax Increment Fund for Project Costs. In addition, the CITY agrees, during the term of this Agreement, to prepare and deliver an annual report to the COUNTY in accordance with Section 311.016 and 311.0101(c), Texas Tax Code. The COUNTY shall have the right to withhold or delay payments to the Tax Increment Fund until such time as it has received the financial report from the CITY for the applicable tax year, and shall not incur any penalties or interest with respect to any such withheld or delayed payments notwithstanding any provision herein to the contrary.

K. ZONE Designation

The CITY represents that its designation of the ZONE meets the criteria of Section 311.005(a), Texas Tax Code.

IN WITNESS HEREOF, the CITY OF EDINBURG, HIDALGO COUNTY, REINVESTMENT ZONE NUMBER THREE, CITY OF EDINBURG, AND BURNS BROTHERS, LTD., have made and executed this Agreement in quadruplicate originals on this 21st day of December, 2010.

CITY OF EDINBURG



Ramiro Garza
City Manager

ATTEST/SEAL:



Myra L. Ayala Garza
City Secretary



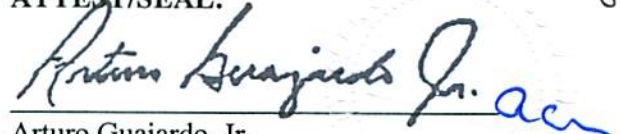
HIDALGO COUNTY


By: _____
Ramon Garcia
County Judge

Approved by Commissioners' Court

on 12/21/10

ATTEST/SEAL:



Arturo Guajardo, Jr.
County Clerk

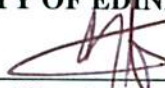
APPROVED AS TO FORM FOR
HIDALGO COUNTY:

Atlas & Hall, LLP

By: 

Stephen L. Crain
Atlas & Hall, L.L.P.

REINVESTMENT ZONE NUMBER THREE,
CITY OF EDINBURG, TEXAS



Presiding Officer

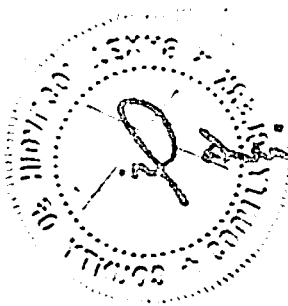
**APPROVED BY
COMMISSIONERS' COURT**

ON: 12/21/10

DEVELOPER, BURNS BROTHERS LTD.



President



John J. ...

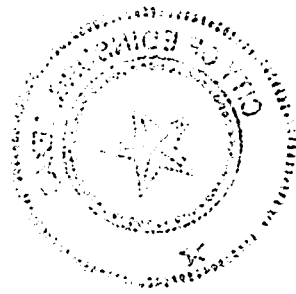


Exhibit A
City of Edinburg Tax Increment Reinvestment Zone Number Three
Project Plan and Financing Plan

Exhibit B
City of Edinburg Ordinance Nos. 08-3323 and 08-3325