

AT 1:00 FILED O'CLOCK P M  
OCT 17 2017  
ARTURO GUAJARDO, JR. COUNTY CLERK  
HIDALGO COUNTY, TEXAS  
BY [Signature] DEPUTY

**ORDER APPROVING FIRST AMENDMENT TO INTERLOCAL AGREEMENT BETWEEN HIDALGO COUNTY AND TAX INCREMENT REINVESTMENT ZONE NUMBER ONE, CITY OF DONNA**

*WHEREAS*, the CITY OF DONNA, TEXAS (the "*City*") has advised HIDALGO COUNTY, TEXAS (the "*County*") that REINVESTMENT ZONE NUMBER ONE, CITY OF DONNA, TEXAS (the "*Zone*"), created by the City in 2006, was prevented from performing according to original projections due to the economic conditions that occurred in 2008;

*WHEREAS*, the board of the Zone and the City extended the term of the Zone and revised the project plan and the finance plan (as so revised (the "*Amended Plan*") in order to allow for the economic development originally planned for the ZONE to now occur;

*WHEREAS*, the City, the Zone, Grande Valley Homes, LLC (inadvertently referenced as Garden Valley Homes, LLC) d/b/a Casa Linda Homes ("*CLH*") and the County had entered into that certain Interlocal Agreement (the "*Original Interlocal Agreement*") dated 2008, concerning the County's participation in the Zone;

*WHEREAS*, the City and the Zone have advised the County that CLH's rights under the Original Interlocal Agreement were assigned to CITY OF DONNA ECONOMIC DEVELOPMENT CORPORATION (hereinafter "*DEDC*");

*WHEREAS*, a dispute had arisen among the parties as to whether the conditions were met for a payment to be due from the County in part because of a purported dissolution of the Zone and in part due to interpretation of the Original Interlocal Agreement concerning whether evidence of compliance with the project plan needed to be delivered to the County prior to such payment; and

*WHEREAS*, the City has confirmed that the conditions for dissolution of the ZONE had not been met and that the Zone has continued, and the parties have agreed to amend the Original Interlocal Agreement to remove the source of dispute, and provide for agreed terms for the payment;

*WHEREAS*, based on the benefits for economic development that will be generated through the proposed project in the Zone, the parties now deem it necessary and appropriate to enter into an amendment to the Original Interlocal Agreement for the purposes of establishing their obligations with respect to the payment of tax increment revenues generated from certain ad valorem taxes levied within the Zone for an extended period and to resolve the dispute, all as set forth in that certain *First Amendment to Interlocal Agreement between Hidalgo County and Reinvestment Zone Number One, City of Donna, Texas*, which is among the City, the County, the DEDC and the Zone relating to the Zone (the "*1<sup>st</sup> Amendment*"); and

*WHEREAS*, the final draft of the 1<sup>st</sup> Amendment,, which is attached hereto as Exhibit "I", has been presented by the City to, and reviewed by, the staff and the Commissioners Court of the County, and the Commissioners Court of the County has determined that it is necessary

and appropriate to assist with financing the project, and will be beneficial to the Zone, by approving the 1<sup>st</sup> Amendment to accomplish the purposes set forth therein;

**NOW THEREFORE:**

***BE IT ORDERED BY THE COMMISSIONERS COURT OF HIDALGO COUNTY TEXAS:***

**SECTION 1. APPROVAL OF 1<sup>ST</sup> AMENDMENT.** The 1<sup>st</sup> Amendment is hereby approved in the form attached hereto as Exhibit "I", and each Commissioner or the County is authorized to execute, and the County Clerk of the County is authorized to attest, the 1<sup>st</sup> Amendment on behalf of the County and deliver same, and when executed and delivered by all of the parties thereto, the 1<sup>st</sup> Amendment shall become a valid and binding obligation of the County in accordance with its terms.

**SECTION 2. ENFORCEABILITY OF ORDER.** If any section, paragraph, clause, or provision of this Order shall be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Order. In case any obligation of the County authorized or established by this Order or the Interlocal Agreement is held to be in violation of law as applied to any person or any circumstance, such obligation shall be deemed to be the obligation of the County to the fullest extent permitted by law.

**SECTION 3. INCORPORATION OF RECITALS.** The Commissioners Court hereby finds that the statements set forth in the recitals of this Order are true and correct, and the Commissioners Court hereby incorporates such recitals as a part of this Order.

**SECTION 4. EFFECTIVE DATE.** This Order shall become effective immediately on the date of its passage by the Commissioners Court.

**PASSED, APPROVED and ADOPTED this 17<sup>th</sup> day of October, 2017.**

**HIDALGO COUNTY, TEXAS**

By: Ed N. C.

ATTEST:

Arturo Guajardo, Jr.  
Arturo Guajardo, Jr.  
Hidalgo County Clerk



APPROVED BY  
COMMISSIONERS' COURT  
ON: 10/17/17 ms

**EXHIBIT I TO COUNTY ORDER**

**FIRST AMENDMENT TO  
INTERLOCAL AGREEMENT BETWEEN HIDALGO COUNTY  
AND  
REINVESTMENT ZONE NUMBER ONE, CITY OF DONNA, TEXAS**

**FIRST AMENDMENT TO  
INTERLOCAL AGREEMENT BETWEEN HIDALGO COUNTY  
AND  
REINVESTMENT ZONE NUMBER ONE, CITY OF DONNA, TEXAS**

This First Amendment (the “1<sup>st</sup> Amendment”) is hereby made by and among (i) the **CITY OF DONNA, TEXAS** (hereinafter the “CITY”); (ii) the **CITY OF DONNA ECONOMIC DEVELOPMENT CORPORATION** (hereinafter “DEDC”); (iii) **REINVESTMENT ZONE NUMBER ONE, CITY OF DONNA, TEXAS**, a tax increment reinvestment zone created pursuant to Texas Tax Code Chapter 311 (hereinafter “ZONE”), by and through its duly authorized Board of Directors (hereinafter “Board of Directors for the ZONE” or “ZONE BOARD”); and (iv) **HIDALGO COUNTY**, a political subdivision of the State of Texas (hereinafter “COUNTY”); (hereinafter collectively the “Parties” or in the singular a “Party”) to that certain Interlocal Agreement (the “Original Interlocal Agreement”) dated 2008, by and between the CITY, Grande Valley Homes, LLC (inadvertently referenced as Garden Valley Homes, LLC) d/b/a Casa Linda Homes (hereinafter, “CLH”); the ZONE; and the COUNTY for the purpose of reconfirming the Original Interlocal Agreement, and making amendments thereto set forth below (the Original Interlocal Agreement, as so amended, the “Agreement”):

**RECITALS**

**WHEREAS**, on August 8, 2006, the City Council of the CITY passed, approved and adopted Ordinance No. PL-2006-07-10, which created the ZONE, authorized the Tax Increment Fund, and established a termination date for the ZONE of August 8, 2031;

**WHEREAS**, the Original Interlocal Agreement established an earlier termination date for participation in the ZONE pursuant to the Original Interlocal Agreement of December 1, 2026 (the “Original Termination Date”); and

**WHEREAS**, the CITY approved the original Project Plan and the original Financing Plan (as each such term is defined in the Original Interlocal Agreement) on November 7, 2006, which provided for participation by the COUNTY and the CITY through the Original Termination Date of the ZONE; and

**WHEREAS**, the CITY approved the Original Interlocal Agreement by Resolution No 2006-10-03 on October 17, 2006, the ZONE BOARD approved the Original Interlocal Agreement by Resolution TIRZ#1 R:2006-3 passed and approved on September 27, 2006 and ratified on February 1, 2017, the DEVELOPER approved the Original Interlocal Agreement, and during 2008, and the CITY, the ZONE and the DEVELOPER each executed the Original Interlocal Agreement in which the COUNTY agreed to participate in the ZONE pursuant to the Financing Plan through the Original Termination Date by contributing to the ZONE with a maximum contribution not to exceed \$970,863.81 (the “COUNTY’s Maximum Contribution”); and

**WHEREAS**, the projections contained in the Financing Plan for the ZONE were based on past market conditions, and did not foresee the collapse of the economy that occurred in 2008, which triggered a financial crisis that prevented the ZONE from performing according to the

original projections, and which have caused a need to extend the term of the ZONE to allow for the economic development originally planned for the ZONE to now occur; and

**WHEREAS**, DEDC is the assignee of CLH's rights and obligations under the Original Interlocal Agreement and the Development Agreement (as defined in the Original Interlocal Agreement);

**WHEREAS**, the Board of Directors for the Zone on November 15, 2016, amended both the Financing Plan and the Project Plan by approving an amended project and financing plan (the "Amended Project and Finance Plan"), which is attached hereto as Exhibit A, to extend the term of the ZONE to its new termination date of August 1, 2041 (the term of the ZONE as so amended, the "Actual Extended Zone Term"), and the City Council of the CITY passed Ordinance No. 2016-32, which approved the Amended Project and Finance Plan; and

**WHEREAS**, on November 15<sup>th</sup>, 2016 the CITY passed and approved and on December 19, 2016, the CITY passed, approved and adopted Ordinance No. 2016-32, which extended the termination date of the ZONE until August 8, 2041 (such date, the "Actual Zone Termination Date"), and pledged the CITY's participation in the ZONE at 100% of its tax increment through such date; and

**WHEREAS**, the CITY has requested the COUNTY continue to participate in the ZONE through beyond the Original Termination Date by agreeing to amend the Original Interlocal Agreement as set forth below to provide that the COUNTY will continue to contribute 100% of its Available Tax Increment in the ZONE up to, but not exceeding, the COUNTY Maximum Contribution, through December 31, 2036 as if such date was the termination date of the Zone (the "Deemed Zone Termination Date"); and

**WHEREAS**, the COUNTY policy on participation in reinvestment zones allows for the COUNTY to agree to extended participation in the ZONE through the Deemed Zone Termination Date, provided certain conditions are met, including that the extended participation will not exceed the COUNTY's Maximum Contribution; and

**WHEREAS**, a dispute had arisen among the parties as to whether the conditions were met for a payment to be due from the COUNTY in part because of a purported dissolution of the ZONE and in part due to interpretation of the Original Interlocal Agreement concerning whether evidence of compliance with the Project Plan needed to be delivered to the COUNTY prior to such payment; and

**WHEREAS**, as set forth in Ordinance 2017-09 (the "Non-Dissolution Ordinance"), the CITY has confirmed that the conditions for dissolution of the ZONE had not been met and that the ZONE has continued, and the parties have agreed to amend the Original Interlocal Agreement to remove the source of dispute, and provide for the payment to be made on the terms contained in this 1<sup>st</sup> Amendment;

**NOW THEREFORE**, the Parties agree as follows:

## **I. AGREEMENT**

**1.0** Entire Agreement. This 1<sup>st</sup> Amendment is made to modify the Original Interlocal Agreement between the Parties, and it is the express intent of the Parties that the Original Interlocal Agreement, as amended hereby, shall remain in full force and effect and binding on the Parties without interruption in accordance with its terms. A copy of the Original Interlocal Agreement is attached hereto as Exhibit "E".

**1.1** Definitions. All defined terms used in this 1<sup>st</sup> Amendment that are not otherwise defined in this 1<sup>st</sup> Amendment shall have the meanings assigned to such terms in the Original Interlocal Agreement.

**1.2** Purpose and Overview of 1<sup>st</sup> Amendment. This 1<sup>st</sup> Amendment extends the termination date of the ZONE for purposes of the Agreement from December 31, 2026 to December 31, 2036, extends participation by the CITY through such date, and extends participation by the COUNTY through such date up to, but not exceeding, the amount of the COUNTY's Maximum Contribution. This 1<sup>st</sup> Amendment and the Amended Project and Finance Plan outline the changes to the project and the changes to the financing of the project. As further described in the Amended Project and Finance Plan, until the Actual Zone Termination Date, the CITY will contribute 100% of its Available Tax Increment and as set forth in this Agreement until the Deemed Zone Termination Date the COUNTY will contribute 100% of its Available Tax Increment up to the COUNTY's Maximum Contribution. This 1<sup>st</sup> Amendment also resolves the dispute regarding the COUNTY's next payment to the Tax Increment Fund.

**1.3** Assignment by CLH. The CITY, the ZONE and DDEC represent and warrant to the COUNTY that CLH is no longer a party to this Agreement or to the Development Agreement, having properly assigned its rights to DDEC, and that DDEC is now the "DEVELOPER" as such term is used in the Agreement.

**1.4** Pending Payment to Tax Increment Fund. Notwithstanding anything to the contrary in the Original Interlocal Agreement, including the Project Plan or the Financing Plan, or in this First Amendment, the parties agree that the next payment by the COUNTY to the Tax Increment Fund pursuant to the Agreement is due on the later of (a) November 30, 2017 and (b) thirty (30) days following execution and delivery of this 1<sup>st</sup> Amendment by the CITY, the COUNTY, the ZONE and the DDEC. For the avoidance of doubt, the COUNTY acknowledges receipt of all documentation required for such payment other than delivery to the COUNTY of a fully executed original of this 1<sup>st</sup> Amendment. The Parties acknowledge that, provided the payment is made in accordance with the provisions of this 1<sup>st</sup> Amendment, penalties and interest are not and will not be due from the COUNTY with respect to such payment.

## II. AMENDMENT

**2.0** Sections 8, 9, 10, 15 and 16 of Article II of the Original Interlocal Agreement are deleted and replaced with the following:

8. “DEVELOPER” has the meaning set forth in Section I.A.1 above, and includes its successors and assigns. Effective November 1, 2016, the DEVELOPER is **CITY OF DONNA ECONOMIC DEVELOPMENT CORPORATION**, as assignee of Grande Valley Homes, LLC, the original developer of the Project, which is sometimes inadvertently referenced as Garden Valley Homes, LLC.

9. “Development Agreement” means the agreement among the DEVELOPER, the ZONE and the CITY as amended and attached hereto as Exhibit C.

10. “Financing Plan” means the final financing plan for ZONE as adopted by the ZONE BOARD on or about September 27, 2006, and approved by City Council of CITY (sometimes referred to herein as the “CITY Council” or “City Council”) on October 17, 2006 and adopted on November 7, 2006, and as amended by the ZONE BOARD on November 15, 2016 and ratified by the ZONE BOARD on February 1, 2017, and approved by the City Council on November 15, 2016, which amended Financing Plan is attached hereto as part of Exhibit “A”.

15. “Project Plan” means the final project plan for the ZONE as adopted by the ZONE BOARD along with the Financing Plan and as approved and amended by the City Council of the CITY (to reflect the Extended Term). The Project Plan is attached hereto as part of Exhibit “A”.

16. “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 from the COUNTY’s M&O Tax Rate.

**2.1** Article II of the Original Interlocal Agreement is further amended by inserting the following new definitions in the respective order:

3A. “Amended Plan” means the Project Plan and Financing Plan, which is attached hereto as Exhibit “A”.

7A. “COUNTY’s Maximum Contribution” is the lesser of (i) nine hundred seventy thousand, eight hundred sixty-three dollars and eighty-one cents (\$970,863.81) and (ii) the CITY’s aggregate contribution to the Tax Increment Fund.

7B. “COUNTY’s Applicable M&O Tax Rate” for any given year means the lesser of (i) the Base Year M&O Tax Rate and (ii) the County M&O Tax Rate for the given year. The Base Year M&O Tax Rate was \$0.5200 per \$100 dollars of valuation.

7C. "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 is subject to change by the COUNTY in accordance with applicable law.

10A. "Extended Term" means the original term of the ZONE, commencing on the creation of the Zone, as extended through the new deemed termination date of December 31, 2036.

10B. "Extended Termination Date" has the meaning set forth in Section III.A. below.

10C. "First Amendment" means that certain amendment to this Agreement dated January 10, 2017, entered into by the Parties to amend the termination date of the Zone to the Extended Termination Date, among other changes.

**2.2** Sections A and B of Article III of the Original Interlocal Agreement is deleted and replaced with the following:

A. 1. Resolution of Intent No. 2006-03-02, passed and approved by the City Council of the CITY on March 7, 2006, expressed the CITY's intent to create a tax increment financing reinvestment zone to support revitalization and development activities for the ZONE, commonly known as the Red River Development Project, pursuant to Chapter 311, Texas Tax Code. On August 8, 2006, the City Council of the CITY passed, approved and adopted Ordinance No. PL-2006-07-10, which created the ZONE, and by Resolution No 2006-10-03, passed, approved and adopted on October 17, 2006, the City Council of the City authorized and directed the execution of this Agreement, each pursuant to Section 311.013 of the Texas Tax Code.

2. The Project is located in the northwest sector of the CITY. The Project generally is located along Business Highway 281. The Project is in the Donna Independent School District and encompasses approximately 39.125 acres. The Project is more specifically described in the Project Plan.

3. The total Project Costs are estimated to be:

- (i) one million two hundred twenty-one thousand one hundred forty-seven dollars and sixty-seven cents (\$1,221,147.67), plus
- (ii) one hundred thousand dollars (\$100,000.00) in legal and formation fees, plus
- (iii) nine hundred forty-six thousand eight hundred eighty-seven dollars and one cent (\$946,887.01) in applicable qualifying interest, plus
- (iv) the CITY's portion of Administrative Costs in the amount of two hundred forty-four thousand three hundred dollars (\$264,300.00), plus
- (v) the COUNTY's portion of Administrative Costs in the amount of forty-six thousand dollars (\$46,000.00)

for a total projected cost of two million five hundred seventy-eight thousand three hundred thirty-four dollars and sixty-eight cents (\$2,578,334.68).

4. The original DEVELOPER had been working to develop the Project since the creation of the ZONE, but the economic collapse that occurred in 2008 and from which the CITY is still recovering has hampered the development of the Project. The Parties acknowledge that the COUNTY is not a party to any assignments relating to the DEVELOPER or the Development Agreement. The CITY, ZONE and DEVELOPER represent and warrant that prior to execution of the First Amendment, City of Donna Economic Development Corporation became the DEVELOPER as the assignee of Grande Valley Homes, LLC. In order to allow the full economic benefit to occur within the Project, as set forth in the original project plan and the original financing plan (which have now been amended as referenced in Section II above), the ZONE needed to be extended by the CITY and the ZONE from the original actual termination date of August 8, 2031 to an actual termination date of August 8, 2041. This Agreement, as in effect prior to the adoption of the First Amendment, provided for the ZONE to terminate on December 31, 2026. The Parties have agreed to the extension of the COUNTY's participation in the ZONE for an addition ten years until December 31, 2036 (the "Extended Termination Date"). While the actual termination date of ZONE is now projected to occur on December 31, 2041, unless earlier terminating in accordance with applicable law, for purposes of this Agreement the ZONE is deemed to terminate on December 31, 2036, or on such earlier date as the ZONE actually terminates. Accordingly, as used in this Agreement, the "term of the ZONE" means the period commencing on the creation of the ZONE and terminating on the Extended Termination Date, unless earlier terminating as set forth herein.

**B.** 1. The ZONE BOARD adopted the original project plan and finance plan for the ZONE on or about September 27, 2006, which was approved by the CITY by Ordinance No. F-2006-10-28 passed and approved on October 17, 2006 and passed, approved and adopted on November 7, 2006. Due to the economic challenges reference above, the original project plan and finance plan was revised. By Resolution TIRZ # R:2016-1 passed and approved by the ZONE BOARD on November 15, 2016, and ratified by the ZONE BOARD on February 1, 2017, the ZONE BOARD adopted the Amended Plan, which revised the original plans. By Ordinance 2016-32, passed and approved on November 15, 2016 and passed, approved and adopted on December 19, 2016, the City Council authorized preparation of the Amended Plan.

2. 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. PL-2006-07-10, attached hereto as Exhibit "B."

3. Due to the economic issues referenced above, the CITY had decided to terminate the ZONE subject to certain conditions. As explained in Ordinance 2017-09, a certified copy of which is attached hereto as Exhibit "D", the CITY represents and warrants that, as the conditions necessary for termination of the ZONE did not occur, the ZONE was not dissolved and remains in existence.

4. 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, extending the duration of the ZONE and adoption and approval of the Amended Plan.

2.3 Section A of Article IV of the Agreement is deleted and replaced with the following:

**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 one hundred percent (100%) of the revenue generated from the COUNTY's Applicable M&O Tax Rate as assessed and collected on the Captured Appraised Value for each respective tax year during the term of the ZONE. For the purpose of this Agreement the COUNTY M&O Tax Rate shall be calculated as set forth in Section IV(B) of this Agreement. In no event shall the COUNTY contribution to the Tax Increment Fund be greater than the COUNTY's Maximum Contribution over the term of the ZONE beginning with the 2007 tax year.

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 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 of nine hundred seventy thousand five hundred seventy-four dollars and forty five cents (\$970,574.45), 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 2036 (ending on December 31, 2036), whichever occurs first. The COUNTY's continued contribution to the Tax Increment Fund is conditioned upon the DEVELOPER's continuing and full compliance with the Development Agreement and the existence of the ZONE and in the event the DEVELOPER is not in compliance with the Development Agreement, the COUNTY may withhold its contributions without incurring penalty or interest.

2.4 Sections B.1, B.2, B.4, B.6, B.8 and B.9 of Article IV of the Original Interlocal Agreement are deleted and replaced with the following:

1. a. The 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 Available 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.

b. The Parties acknowledge that the COUNTY has not contributed its Tax Increment to the Tax Increment Fund prior to execution of the First Amendment and that the COUNTY's first payment pursuant to this Agreement will be due in accordance with to Section IV.B1.c below.

c. The COUNTY agrees to deposit its first Tax Increment Payment to the Tax Increment Fund for tax years 2007 through 2016 by the later to occur of:

- (i) November 30, 2017;
- (ii) collection reports having been provided to the Hidalgo County Auditor's Office;
- (iii) the information required under Section 311.016 of the Tax Code having been provided to the County;
- (iv) the valuation dispute between the Developer and the COUNTY having been resolved between such Parties; and
- (v) thirty (30) days after the full execution and delivery of the First Amendment by all Parties.

For the avoidance of doubt, the amount of the first Tax Increment Payment pursuant to this Agreement shall be based on the Tax Increments that were received on or before January 31, 2017, but only for tax years 2007, beginning January 1, 2007, through 2016.

d. For subsequent payments, the COUNTY agrees to contribute its yearly Tax Increment Payment to the Tax Increment Fund annually not later than the later of:

- (i) the 90<sup>th</sup> day after the delinquency date for the COUNTY's property taxes (or the first business day thereafter) following the end of each tax year.
- (ii) thirty (30) days after collection reports and any other information required under this Agreement have been provided to the Hidalgo County Auditor's Office and/or the County; and
- (iii) the information required under Section 311.016 of the Tax Code having been provided to the County.

The amount of each Tax Increment Payment shall be based on the Tax Increments that are received up to January 31<sup>st</sup> 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.

e. Under no circumstances shall the COUNTY be required to participate in the ZONE with taxes attributable to periods after 2036.

f. The County's Administrative Costs incurred but not previously reimbursed will be reimbursed to the County by deduction from the annual payment made to the Tax Increment Fund.

g. The City shall request collection reports from the Hidalgo County Tax Assessor Collector and provide a copy of these reports along with a payment request detailing the payment calculation as illustrated in the chart in Subsection h. below to the County one month prior to a payment required to be made under this Agreement.

h. The chart below is an example of the calculation of the County's Tax Increment Payment.

Assuming for the purpose of this example, the tax value of the ZONE is \$100,000.00, the base value is \$10,000.00, the Administrative Costs are \$10.00 per year, the applicable COUNTY's Applicable M&O Tax Rate is .51/100, and the overall COUNTY tax rate is \$.0059.

<b>Tax Increment Reinvestment Zone (TIRZ Payment Calculation)</b>	<b>EXAMPLE</b>
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 Level for all real property tax accounts located within the TIRZ	<b>\$590.00</b>
TIRZ Real Property Certified Taxable Value as of January 31 (Provided by Hidalgo County Appraisal District (HCAD))	\$100,000.00
(less) Tax Increment Base	\$10,000.00
	<b>\$90,000.00</b>
Captured Appraised Value	\$90,000.00
(multiplied by) Contribution Rate (County Applicable M&O Tax Rate) (.51/100)	0.0051
Tax Levy Due to TIRZ	<b>\$459.00</b>
Tax Increment (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	<b>50.85%</b>
Tax Levy Due to TIRZ	\$459.00
(multiplied by) Percent Collected of Actual Levy	50.85%
Purposed Payment Amount	\$233.40
(less) Administration Costs (as per Agreement)	\$10.00
<b>TAX INCREMENT PAYMENT AMOUNT DUE TO TAX INCREMENT FUND</b>	<b>\$223.40</b>

2. One month prior to a payment required under Section IV.B. of this Agreement, the CITY shall provide to the COUNTY the ZONE annual audit report, 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, the date for the next annual meeting and a formal request for payment. 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 90<sup>th</sup> day following the end of the fiscal year of the CITY.

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) and (c-1) of the Texas Tax Code, which state as follows:

(c) Notwithstanding any termination of the reinvestment zone under Section 311.017(a) and unless otherwise specified by an agreement between the taxing unit and the municipality or county that created the zone, a taxing unit shall

make a payment required by the Subsection (b) [Tax Increment Payment], not later than the 90<sup>th</sup> day after the later of:

(1) the delinquency date for the unit's property taxes or

(2) the date the municipality or county that created the zone submits to the taxing unit an invoice specifying the tax increment produced by the taxing unit and the amount the taxing unit is required to pay into the tax increment fund for the zone.

(c-1) A delinquent payment incurs a penalty of five percent of the amount delinquent and accrues interest at an annual rate of 10 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 report required to be filed by the CITY under section 311.016 of the Texas Tax Code is not filed timely; or if the fact sheet, the ZONE's annual audit report, and/or payment request are not provided to the County timely, or under any other situation in which the CITY does not pay interest or penalties.

6. If the CITY, the DEVELOPER or the ZONE BOARD materially breaches this Agreement, then the COUNTY may provide written notice to the CITY, the DEVELOPER and the ZONE (with a copy to any other Participating Taxing Entity still contributing Tax Increment Payments) demanding that all breaches must be resolved within ninety (90) days. If the objections and/or concerns, as set out in the notice, are not resolved within ninety (90) days from the date of such notice, then the COUNTY may discontinue its Tax Increment Payments and terminate its participation in the ZONE.

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 the COUNTY's Maximum Contribution, plus any applicable penalty and/or interest allowed in Section 311.013 of the Tax Code, subject to the limitations in Section IV.B.4.

9. a. General Provisions. The COUNTY agrees to participate at one hundred percent (100%) of the COUNTY's Applicable M&O Tax Rate (100% of the COUNTY's Applicable M&O Tax Rate as of 2016 equaling \$0.5200 per \$100 valuation on the Captured Appraised Value) for real property in the ZONE.

b. Greater COUNTY M&O Tax Rate. If the COUNTY M&O Tax Rate for any given year is greater than the COUNTY's Applicable M&O Tax Rate during any year during the term of the ZONE, the COUNTY shall retain all taxes collected in excess of 100% of the COUNTY's Applicable M&O Tax Rate per \$100 valuation on the Captured Appraised Value and to the extent any such excess has been contributed into the Tax Increment Fund, such excess shall be promptly refunded to the COUNTY. (The Parties acknowledge, for example, that in 2016 the COUNTY M&O Tax Rate is \$0.5225 per \$100 valuation, which is higher than the COUNTY's Applicable M&O Tax Rate.)

**2.5** Section B of Article IV of the Original Interlocal Agreement is further amended by adding the following new section B.10 at the end thereof:

*10. County taxes that are delinquent for more than five years will be considered un-collectible and shall not be included in the Tax Increment Payment.*

**2.6** Section A of Article V of the Original Interlocal Agreement is deleted and replaced with the following:

**A. Tax Increment Participation by the CITY**

*Subject to the terms of this Agreement and the Development Agreement, 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 Agreement Term, beginning with the 2006 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 2036, whichever occurs first. Notwithstanding anything herein to the contrary, the total CITY Tax Increment Payments over the term of the ZONE shall not exceed one million six hundred twenty-seven thousand six hundred fifty-eight dollars (\$1,627,658.11) in the aggregate.*

**2.7** Section A. of Article VII the Original Interlocal Agreement is deleted and replaced with the following:

**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 2007 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.*

**2.8** Section A. of Article VIII the Original Interlocal Agreement is deleted and replaced with the following:

**A. Understanding**

*Any and all costs incurred by the DEVELOPER are not, and shall never become, general obligations or debt of any Participating Taxing Entity. With respect to the DEVELOPER's costs, only eligible Project Costs and other allowable expenses under applicable law, if any, incurred by the DEVELOPER 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 Financing Plan approved by the CITY in 2016, and attached hereto as part of Exhibit A. The CITY and the COUNTY are not obligated above and beyond what is actually collected as tax increment funds. There shall also be no recourse against any Participating Taxing Entity, public official, ZONE, or ZONE BOARD if all or part of the DEVELOPER contributions or costs are not reimbursed due to insufficient tax revenue generated by the ZONE.*

**2.9** As of the effective date hereof, Exhibit “A” to the Original Interlocal Agreement is deleted and replaced with the Amended Project and Finance Plan attached hereto as Exhibit “A”, and, unless the context otherwise requires, references to the Project Plan or to the Financing Plan in the Agreement shall be deemed to be to the respective portions of the Amended Project and Finance Plan.

**2.10** Exhibit “B” to the Original Interlocal Agreement, which contained blanks, is deleted and replaced with the complete version of Ordinance No. PL-2006-07-10, which is attached to this 1<sup>st</sup> Amendment as Exhibit “B”.

**2.11** The amended development agreement for the ZONE among the CITY, the Board of Directors for the ZONE and the DEVELOPER, is attached hereto as Exhibit “C” (the “Amended Development Agreement”). As of the effective date hereof, Exhibit “C” to the Original Interlocal Agreement is deleted and replaced with the Amended Development Agreement, which is attached hereto as Exhibit “C”, and, unless the context otherwise requires, references to the Development Agreement in the Agreement shall be deemed to be to the respective portions of the Amended Development Agreement.

**2.12** The Non-Dissolution Ordinance is attached hereto as Exhibit “D” and is added to the Agreement as new Exhibit “D”. The list of Exhibits included as part of Section I.B of the Original Interlocal Agreement is amended to include the following at the end thereof:

*Exhibit “D”                      Non-Dissolution Ordinance (City of Donna Ordinance No 2017-09, passed and approved by CITY on August 1, 2017*

**2.13** The initial addresses for the Parties set forth in Section I.A.2 of the Agreement are updated as follows:

**a.      If to the City, to:**

**With a copy to:**

City of Donna  
307 S. 12<sup>th</sup> St.  
Donna, TX 78537  
Attention: City Manager  
Phone: (956) 464-3314  
Fax: (956) 464-9923

City of Donna  
307 S. 12th St.  
Donna, TX 78537  
Attention: Mayor  
Phone: (956) 464-3314  
Fax: (956) 464-9923

**b. If to the County, to:**

Hidalgo County  
100 E. Cano, 2<sup>nd</sup> Floor  
Edinburg, TX 78539  
Re: Donna TIRZ #1 (Red  
River)  
Attention: Ramon Garcia,  
County Judge  
Phone: (956) 318-2600  
Fax: (956) 318-2699

**With a copy to:**

Atlas, Hall & Rodriguez, LLP  
818 Pecan Blvd.  
McAllen, TX 78501  
Re: Donna TIRZ #1 (Red  
River)  
Attention: Stephen L. Crain  
Phone: (956) 682-5501  
Fax: (956) 686-6109

**And to:**

Hidalgo County Auditor  
2808 South Business Hwy 281  
Edinburg, Texas 78539  
Re: Donna TIRZ #1 (Red  
River)  
Attention: Ray Eufrazio, CPA  
Phone: (956) 318-2511  
Fax: (956) 318-2577

**c. If to the ZONE or the ZONE BOARD, to:**

Reinvestment Zone Number  
One, City of Donna, Texas  
c/o City of Donna  
307 S. 12<sup>th</sup> St.  
Donna, TX 78537  
Attention: Jon Billman,  
Presiding Officer  
Phone: (956) 464-3314  
Fax: (956) 464-9923

**With a copy to:**

Earl & Associates, P.C.  
601 NW Loop 410, Ste. 390  
San Antonio, TX 78216  
Phone: (210) 222-1500  
Fax: (210) 222-9100

**d. If to the DEVELOPER to:**

City of Donna Economic  
Development Corporation as  
Assignee of Grande Valley  
Homes, LLC, d/b/a Casa  
Linda Homes  
307 S. 12th St.  
Donna, TX 78537  
Cell Phone: (956) 373-6939  
Fax: (956) 464-6921

### III. RATIFICATION

3.0 As amended and supplemented hereby, the Agreement is ratified and shall remain in full force and effect. In the event of a conflict between this 1st Amendment and the Original Interlocal Agreement, this 1st Amendment shall control. The parties agree that a facsimile copy or electronic copy (including PDF copy) of the signature of the person executing this 1st Amendment on any party's behalf shall be effective as an original signature and shall cause the facsimile copy or electronic copy (including PDF copy) of this 1st Amendment to be legally binding and effective as an execution counterpart hereof.

*[Signature Page Follows]*

**THIS 1<sup>st</sup> AMENDMENT IS EXECUTED AND EFFECTIVE ON THIS 17<sup>th</sup> DAY OF OCTOBER, 2017.**

**CITY OF DONNA**

By: \_\_\_\_\_  
Irene Muñoz, Mayor

**ATTEST/SEAL:**

\_\_\_\_\_  
Martha Alvarado  
City Secretary

**CITY OF DONNA ECONOMIC DEVELOPMENT CORPORATION,  
ASSIGNEE OF GRANDE VALLEY HOMES, LLC d/b/a CASA LINDA HOMES**

By: \_\_\_\_\_  
Marga Lopez, Executive Director

**REINVESTMENT ZONE NUMBER ONE,  
CITY OF DONNA, TEXAS**

By: \_\_\_\_\_  
Jon Billman, Chairman

**HIDALGO COUNTY**

By: \_\_\_\_\_

**ATTEST/SEAL:**

\_\_\_\_\_  
Arturo Guajardo, Jr.  
County Clerk

**APPROVED AS TO FORM FOR HIDALGO COUNTY  
Atlas, Hall, & Rodriguez, LLP**

By: \_\_\_\_\_  
Stephen L. Crain

**Exhibit A**  
Amended Plan

(Attached 26 pages)

**Reinvestment Zone Number One**  
**City of Donna, Texas**  
**Amended Project & Finance Plan**  
**Red River Tax Increment Reinvestment Zone- TIRZ**  
 Amended November 15, 2016  
 2nd Reading & Approval December 19, 2016  
**Summary Fact Sheet**

**Background**

Date Zone Created by Ordinance PL-2006-07-10	8/8/2006
Original Termination Date	8/8/2031
Amended Termination Date by Ordinance 2016-32	8/8/2041

**Finance & Project Plan**

Maximum Contribution by Hidalgo County	\$	970,863.81	
Maximum Contribution by City of Donna	\$	1,627,658.11	
Maximum TIRZ Revenue	\$	2,598,521.92	
TIRZ Area		39.125	Acres
Phase I Development Area		28.130	Acres
Base Value 2003	\$	420,000	
Average Home Price	\$	75,000	

Project: 112 S-F Homes

Year	Units	Type
2006	30	S-F Homes
2007	30	S-F Homes
2008	30	S-F Homes
2009	22	S-F Homes
Total	112	

Experience of Developer Experienced

Performance Bonds: As Required By Code  
 Payment Bonds: As Required By Code

Assumptions		
Captured Value	\$	9,816,726.74
Growth Factor		2.50%
Collection Rate		97.50%
Estimated Total TIF Revenues	\$	3,218,727.06
Estimated Reimbursements & Expenses	\$	2,578,334.68
Estimated TIF Life		35 Years

Note: Original Finance and Project Plan remains in effect to the extent not amended hereby.

**DONNA TIRZ #1 AMENDED FINANCE PLAN - REVENUE PROJECTIONS**

YEAR	INCREMENT VALUE	CITY TAX RATE	ESTIMATED* CITY CONTRIBUTION	COUNTY TAX RATE	ESTIMATED* COUNTY CONTRIBUTION	ANNUAL REVENUE	CUMULATIVE REVENUE
2007	\$ 3,244,851.00	0.989999	\$ 32,123.99	0.51910	\$ 16,844.02	\$ 48,968.01	\$ 48,968.01
2008	\$ 4,203,586.00	0.989999	\$ 41,615.46	0.51910	\$ 21,820.81	\$ 63,436.27	\$ 112,404.29
2009	\$ 4,189,288.00	1.038320	\$ 43,498.22	0.51270	\$ 21,478.48	\$ 64,976.69	\$ 177,380.98
2010	\$ 3,248,081.00	1.125979	\$ 36,572.71	0.51070	\$ 16,587.95	\$ 53,160.66	\$ 230,541.64
2011	\$ 3,045,509.00	1.252376	\$ 38,141.22	0.52000	\$ 15,836.65	\$ 53,977.87	\$ 284,519.51
2012	\$ 3,504,511.00	1.252376	\$ 43,889.65	0.52000	\$ 18,223.46	\$ 62,113.11	\$ 346,632.63
2013	\$ 4,109,634.00	1.252376	\$ 51,468.07	0.52000	\$ 21,370.10	\$ 72,838.17	\$ 419,470.79
2014	\$ 4,863,868.00	1.142421	\$ 55,565.85	0.52000	\$ 25,292.11	\$ 80,857.96	\$ 500,328.75
2015	\$ 4,995,964.70	0.982828	\$ 49,101.74	0.52000	\$ 25,979.02	\$ 75,080.76	\$ 575,409.51
2016	\$ 5,131,363.82	0.982828	\$ 50,432.48	0.52000	\$ 26,683.09	\$ 77,115.57	\$ 652,525.08
2017	\$ 5,270,147.91	0.982828	\$ 51,796.49	0.52000	\$ 27,404.77	\$ 79,201.26	\$ 731,726.34
2018	\$ 5,412,401.61	0.982828	\$ 53,194.60	0.52000	\$ 28,144.49	\$ 81,339.09	\$ 813,065.43
2019	\$ 5,558,211.65	0.982828	\$ 54,627.66	0.52000	\$ 28,902.70	\$ 83,530.36	\$ 896,595.79
2020	\$ 5,707,666.94	0.982828	\$ 56,096.55	0.52000	\$ 29,679.87	\$ 85,776.42	\$ 982,372.21
2021	\$ 5,860,858.62	0.982828	\$ 57,602.16	0.52000	\$ 30,476.46	\$ 88,078.62	\$ 1,070,450.83
2022	\$ 6,017,880.08	0.982828	\$ 59,145.41	0.52000	\$ 31,292.98	\$ 90,438.39	\$ 1,160,889.22
2023	\$ 6,178,827.08	0.982828	\$ 60,727.24	0.52000	\$ 32,129.90	\$ 92,857.14	\$ 1,253,746.36
2024	\$ 6,343,797.76	0.982828	\$ 62,348.62	0.52000	\$ 32,987.75	\$ 95,336.37	\$ 1,349,082.73
2025	\$ 6,512,892.70	0.982828	\$ 64,010.53	0.52000	\$ 33,867.04	\$ 97,877.58	\$ 1,446,960.31
2026	\$ 6,686,215.02	0.982828	\$ 65,713.99	0.52000	\$ 34,768.32	\$ 100,482.31	\$ 1,547,442.62
2027	\$ 6,863,870.40	0.982828	\$ 67,460.04	0.52000	\$ 35,692.13	\$ 103,152.17	\$ 1,650,594.78
2028	\$ 7,045,967.16	0.982828	\$ 69,249.74	0.52000	\$ 36,639.03	\$ 105,888.77	\$ 1,756,483.55
2029	\$ 7,232,616.34	0.982828	\$ 71,084.18	0.52000	\$ 37,609.60	\$ 108,693.78	\$ 1,865,177.33
2030	\$ 7,423,931.74	0.982828	\$ 72,964.48	0.52000	\$ 38,604.45	\$ 111,568.92	\$ 1,976,746.26
2031	\$ 7,620,030.04	0.982828	\$ 74,891.79	0.52000	\$ 39,624.16	\$ 114,515.95	\$ 2,091,262.20
2032	\$ 7,821,030.79	0.982828	\$ 76,867.28	0.52000	\$ 40,669.36	\$ 117,536.64	\$ 2,208,798.84
2033	\$ 8,027,056.56	0.982828	\$ 78,892.16	0.52000	\$ 41,740.69	\$ 120,632.85	\$ 2,329,431.70
2034	\$ 8,238,232.97	0.982828	\$ 80,967.66	0.52000	\$ 42,838.81	\$ 123,806.47	\$ 2,453,238.17
2035	\$ 8,454,688.80	0.982828	\$ 83,095.05	0.52000	\$ 43,964.38	\$ 127,059.43	\$ 2,580,297.60
2036	\$ 8,676,556.02	0.982828	\$ 85,275.62	0.52000	\$ 45,118.09	\$ 130,393.71	\$ 2,710,691.31
2037	\$ 8,893,469.92	0.982828	\$ 87,407.51	0.52000	\$ 46,246.04	\$ 133,653.56	\$ 2,844,344.87
2038	\$ 9,115,806.67	0.982828	\$ 89,592.70	0.52000	\$ 2,347.10	\$ 91,939.80	\$ 2,936,284.67
2039	\$ 9,343,701.83	0.982828	\$ 91,832.52	0.52000	\$ -	\$ 91,832.52	\$ 3,028,117.19
2040	\$ 9,577,294.38	0.982828	\$ 94,128.33	0.52000	\$ -	\$ 94,128.33	\$ 3,122,245.52
2041	\$ 9,816,726.74	0.982828	\$ 96,481.54	0.52000	\$ -	\$ 96,481.54	\$ 3,218,727.06
<b>TOTALS</b>	<b>\$ 9,816,726.74</b>		<b>\$ 2,247,863.25</b>		<b>970,863.81</b>		<b>\$ 3,218,727.06</b>

\*Contribution by Hidalgo County will not exceed the amount of \$970,863.81, and contribution by City of Donna will not exceed 1,627,658.00, unless additional participation is authorized by action of the governing body of the taxing entity.

## Red River Subdivision - Tax Increment Reinvestment Zone #1

### Sources & Uses

**Sources of Funds**

TIF Revenues \$ 3,218,727.06

**Total TIF Proceed Funds**

\$ 3,218,727.06

**Uses of Funds**

Total Units Begin Construction Units	Phase I 112 Units				Total Infrastructure Improvements
	2006	2007	2008	2009	
	30	30	30	22	

**Public Improvements**

**Hard Project Costs**

Paving Improvements	\$ 84,040.79	\$ 84,040.79	\$ 84,040.79	\$ 61,629.91	\$ 313,752.28
Drainage	\$ 29,540.36	\$ 29,540.36	\$ 29,540.36	\$ 21,662.93	\$ 110,284.01
Water	\$ 35,866.07	\$ 35,866.07	\$ 35,866.07	\$ 26,301.79	\$ 133,900.00
Sewer	\$ 48,022.10	\$ 48,022.10	\$ 48,022.10	\$ 35,216.21	\$ 179,282.51
Landscaping					
Irrigation Improvements	\$ 20,295.27	\$ 20,295.27	\$ 20,295.27	\$ 14,883.20	\$ 75,769.01
Fencing	\$ 3,458.47	\$ 3,458.47	\$ 3,458.47	\$ 2,536.29	\$ 12,911.70
Street Lights/Signs	\$ 535.71	\$ 535.71	\$ 535.71	\$ 392.86	\$ 1,999.99
Fire Hydrant Markers	\$ 40.18	\$ 40.18	\$ 40.18	\$ 29.46	\$ 150.00

**Soft Project Costs**

City Inspection Fee	\$ 4,355.29	\$ 4,355.29	\$ 4,355.29	\$ 3,193.88	\$ 16,259.75
TCEQ Permit Fee	\$ 26.79	\$ 26.79	\$ 26.79	\$ 19.64	\$ 100.01
NAWSC Fees	\$ 26,102.67	\$ 26,102.67	\$ 26,102.67	\$ 19,141.97	\$ 97,449.98
Park Fees	\$ 7,500.00	\$ 7,500.00	\$ 7,500.00	\$ 5,500.00	\$ 28,000.00
Filing fees and exclusions	\$ 401.79	\$ 401.79	\$ 401.79	\$ 294.64	\$ 1,500.01
Engineering-Surveying-Other	\$ 21,733.67	\$ 21,733.67	\$ 21,733.67	\$ 15,938.02	\$ 81,139.03
Contingency	\$ 10,888.23	\$ 10,888.23	\$ 10,888.23	\$ 7,984.70	\$ 40,649.39
Construction Management	\$ 32,000.00	\$ 32,000.00	\$ 32,000.00	\$ 32,000.00	\$ 128,000.00

**Total Public Improvements**

\$ 324,807.39 \$ 324,807.39 \$ 324,807.39 \$ 246,725.50 \$ 1,221,147.67

Legal and Formation Fees

\$ 100,000.00 \$ 100,000.00

**Subtotal**

\$ 424,807.39 \$ 324,807.39 \$ 324,807.39 \$ 246,725.50 \$ 1,321,147.67

**Total Infrastructure**

\$ 1,321,147.67

**Interest Cost**

\$ 946,887.01

**Total Payments to Red River Subdivision TIF**

\$ 2,268,034.68

**Total City & County Admin. Expenses**

\$ 310,300.00

**Grand Total**

\$ 2,578,334.68

**Project Financing Surplus**

(Shortage) \$ 640,392.38

## RED RIVER SUBDIVISION TIRZ

### Administrative Fee Summary

Fiscal Year Ending	TIF Revenue	Cumulative TIF Revenues	City Admin Expenses	County Admin Expenses
2006	\$ -	\$ -	0.00	0.00
2007	\$ 48,968.01	\$ 48,968.01	\$ 20,100.00	\$ 2,000.00
2008	\$ 63,436.27	\$ 112,404.29	\$ 20,100.00	\$ 2,000.00
2009	\$ 64,976.69	\$ 177,380.98	\$ 40,100.00	\$ 2,000.00
2010	\$ 53,160.66	\$ 230,541.64	\$ 5,000.00	\$ 2,000.00
2011	\$ 53,977.87	\$ 284,519.51	\$ 5,000.00	\$ 2,000.00
2012	\$ 62,113.11	\$ 346,632.63	\$ 5,000.00	\$ 2,000.00
2013	\$ 72,838.17	\$ 419,470.79	\$ 5,000.00	\$ 2,000.00
2014	\$ 80,857.96	\$ 500,328.75	\$ 5,000.00	\$ 2,000.00
2015	\$ 75,080.76	\$ 575,409.51	\$ 5,000.00	\$ 2,000.00
2016	\$ 77,115.57	\$ 652,525.08	\$ 5,000.00	\$ 2,000.00
2017	\$ 79,201.26	\$ 731,726.34	\$ 5,000.00	\$ 2,000.00
2018	\$ 81,339.09	\$ 813,065.43	\$ 5,000.00	\$ 2,000.00
2019	\$ 83,530.36	\$ 896,595.79	\$ 5,000.00	\$ 2,000.00
2020	\$ 85,776.42	\$ 982,372.21	\$ 5,000.00	\$ 2,000.00
2021	\$ 88,078.62	\$ 1,070,450.83	\$ 5,000.00	\$ 2,000.00
2022	\$ 90,438.39	\$ 1,160,889.22	\$ 5,000.00	\$ 2,000.00
2023	\$ 92,857.14	\$ 1,253,746.36	\$ 5,000.00	\$ 2,000.00
2024	\$ 95,336.37	\$ 1,349,082.73	\$ 5,000.00	\$ 2,000.00
2025	\$ 97,877.58	\$ 1,446,960.31	\$ 5,000.00	\$ 2,000.00
2026	\$ 100,482.31	\$ 1,547,442.62	\$ 5,000.00	\$ 2,000.00
2027	\$ 103,152.17	\$ 1,650,594.78	\$ 5,000.00	\$ 2,000.00
2028	\$ 105,888.77	\$ 1,756,483.55	\$ 5,000.00	\$ 2,000.00
2029	\$ 108,693.78	\$ 1,865,177.33	\$ 5,000.00	\$ 2,000.00
2030	\$ 111,568.92	\$ 1,976,746.26	\$ 5,000.00	\$ 2,000.00
2031	\$ 114,515.95	\$ 2,091,262.20	\$ 5,000.00	\$ 2,000.00
2032	\$ 117,536.64	\$ 2,208,798.84	\$ 5,000.00	\$ 2,000.00
2033	\$ 120,632.85	\$ 2,329,431.70	\$ 5,000.00	\$ 2,000.00
2034	\$ 123,806.47	\$ 2,453,238.17	\$ 5,000.00	\$ 2,000.00
2035	\$ 127,059.43	\$ 2,580,297.60	\$ 5,000.00	\$ 2,000.00
2036	\$ 130,393.71	\$ 2,710,691.31	\$ 5,000.00	\$ 2,000.00
2037	\$ 133,653.56	\$ 2,844,344.87	\$ 5,000.00	\$ 2,000.00
2038	\$ 91,939.80	\$ 2,936,284.67	\$ 5,000.00	\$ 2,000.00
2039	\$ 91,832.52	\$ 3,028,117.19	\$ 5,000.00	\$ 2,000.00
2040	\$ 94,128.33	\$ 3,122,245.52	\$ 5,000.00	\$ 2,000.00
2041	\$ 96,481.54	\$ 3,218,727.06	\$ 5,000.00	\$ 2,000.00
<b>TOTALS</b>			<b>240,300.00</b>	<b>70,000.00</b>

APR:	6.0%
Total amount financed:	\$ 1,321,147.67
Total payments:	\$ 2,268,034.68
Finance charge*	\$ 946,887.01
Amortization method:	Normal

## Red River Phase I SECTION 1 – PROJECT SUMMARY

### Overview of Plan

Tax Increment Reinvestment Zone Number One, City of Donna, Texas also known as the Red River Phase I (the "Zone") represents an important opportunity for the City of Donna to promote and encourage construction of market rate and affordable single family housing in an area of the City that has had significant impediments to development. Situated along Business Hwy 281 on the Northwest side of the city limits of Donna, the creation of the Zone will: 1. Help to increase the households of the area by increasing the number of single-family owner occupied homes in Donna by 3%, 2. Provide Donna with an opportunity to invest in public infrastructure needs on its northwest city limits, 3. Offer employment opportunities to Donna residents, and 4. Remove low valued vacant land from the tax rolls and replace it with higher value homes.

As the City has matured, certain tracts of land have remained vacant for two reasons: 1. Either the costs associated with developing the land prohibited the efficient use of the property or 2. The property was unavailable for development when development should have occurred and current development costs are uneconomical. In these areas, developing new market rate and affordable single-family subdivisions is difficult because of the increased costs associated with off-site utility extensions, on-site street and utility extensions and the construction of a new main road.

The Zone is located in the northwest sector of the City on Business Highway 281 and Valley View Road. Please see Exhibit "1" for a detailed map of the property.

### Development Goals and Objectives

The Board of Directors for the Zone has adopted development goals and directives, which they expect, will meet the specific needs of the Zone:

- Provide for employment opportunities for area residents
- Work to enhance and increase the population within the area
- Enhance the quality of life within the neighborhood through landscaping and increased recreational opportunities
- Enhance the quality of life for Donna residents using the recreational facilities
- Provide for new public park amenities for Donna residents.
- Increase owner-occupied single-family housing opportunities in Donna by 3%

The following specific objectives set the framework for the planned public improvements within the Zone:

- Complete the infrastructure for 112 new single-family lots
- Improve the pedestrian environment through landscaping, and lighting.

The Red River Phase I Tax Increment Reinvestment Zone, City of Donna, Texas Project Plan (the "Project Plan") and Reinvestment Zone Financing Plan (the "Financing Plan") provides a long term program to increase employment opportunities and population within the Zone, using tax increment financing to pay for the required public improvements. Utilizing this program to encourage public infrastructure improvements, the economics of developing affordable and market rate housing in the Donna area is greatly improved.

### **Planned Private Development**

The Zone's development program includes:

- 112 single-family owner-occupied homes
- Increase of owner-occupied single-family housing opportunities in Donna by 3%

The total private investment is forecasted to be in excess of \$8,400,000.00.

## **Public Improvements**

The public improvements enumerated in the Project Plan provide for approximately \$1,221,147.67 including streets and utilities. The improvements planned for the Zone are designed to fully meet the long-term needs to secure growth and investment in the area.

## **Financing Plan**

The Financing Plan provides approximately \$1,221,147.67 of planned public improvements to be paid for with tax increment funds. The Financing Plan provides for incremental financing and predicts revenues for the Zone.

## **Conclusions**

Based upon a set of conservative assumptions and analysis of the Zone's Project Plan and Financing Plan, the Zone's Board of Directors has concluded that the Zone's Project Plan and Financing Plan are feasible. The success of the redevelopment project to create new single-family affordable and market rate housing will support future growth in residential, retail, manufacturing and office development in the area.

## **Framework of Plan**

Section 1 contains the Project Summary of the Zone's Project Plan and Financing Plan.

Section 2, PROJECT PLAN, contains background information, a description of the planning process, development goals and objectives, a description of the Zone including maps of current land use and zoning, and the Zone boundaries. Also included are general program concepts and the market feasibility study.

Section 3, PROJECT PLAN IMPROVEMENTS, provides a description of the planned public improvements, including a project budget. The near term and long term expectations for private development are also included.

Section 4, FINANCING PLAN, includes an explanation of the increment financing, the financing strategy and the assumptions on which the Project Plan for the Zone is based. The financial feasibility of the Zone is examined along with financial policies, which have been adapted by the Board of Directors.

An APPENDIX has been compiled which includes other supporting material.

## **Red River Phase I SECTION 2 – PROJECT PLAN**

### **Background**

The City Council recognizing the need for additional economic development including market rate and affordable housing passed Resolution 2006-03-02 on March 7, 2006 in support of the creation of a Tax Increment Reinvestment Zone within the City of Donna.

### **Planning Process**

Casa Linda Homes and Earl & Associates, P.C. approached the City of Del Donna in April 2006 with a proposed new subdivision that would target housing needs in the City that were not being met through existing economic development. The proposed subdivision would address new single-family owner-occupied housing in the \$70,000 to \$80,000 price range, a product not widely available in the City. A preliminary finance plan for the project was developed. The City Council approved a "Resolution of Intent" to create Red River Phase I Tax Increment Reinvestment Zone, City of Donna through Resolution 2006-03-02 on March 7, 2006. Meetings were held with the other taxing entities in Hidalgo County on the following dates:

- Hidalgo County Commissioners Court Tuesday, May 16, 2006
- Donna Independent School District May 25, 2006
- A consolidated meeting with all taxing entities was held in Council Chambers on June 14, 2006

On August 8, 2006 the Council voted to create the Zone with Ordinance PL – 2006-07-10 and on August 8, 2006 the Council appointed a Board of Directors for the Zone with Resolution 2006-07-02.

### **Program Concepts**

The Zone represents an important opportunity for the City of Donna to develop an attractive, master-planned and viable long-range revitalization plan for an area of the City, which has lacked a wide range of housing opportunities. New affordable and market rate single-family home construction is the key component of the revitalization plan.

Preliminary figures based upon the average household size for owner-occupied housing from the 2000 census for Donna indicate an increase in population of 397 persons for Donna from the Zone. While some of the new occupants will be from the immediate surrounding area, experience with past affordable and market rate projects indicates that occupants will come from all areas of the County and surrounding Counties.

Increased employment opportunities for Donna residents will be enhanced through the development of the single-family lots and the home construction. The National Association of Homebuilders reports that the construction of a typical single-family home generates 1 job for 1 year, 1/2 of that job is on-site and the other 1/2 is in the manufacture and distribution of the materials going into the home. Using these statistics the Zone should generate 15 construction jobs per year over the four years of home construction and an additional 15 jobs per year in the local manufacturing and distribution sectors of the economy. Red River Phase I will create a total of 30 jobs per year over a five-year period. There will be additional jobs generated through the completion of the public infrastructure; however, there is no meaningful way of estimating these jobs.

### **Development Goals and Objectives**

The Board of Directors for the Zone has adopted development goals, which they expect will meet the specific needs of the Zone.

- Create opportunities for first time home ownership
- Provide credit management counseling to assist in home ownership
- Reduce crime through elimination of vacant overgrown land
- Provide for safe, affordable and market rate housing
- Increase recreational opportunities in the Zone

The following specific objectives set the framework for the planned public improvements within the Zone:

- Complete the infrastructure for 112 new single family homes

The Project Plan and Financing Plan provides a long term program to begin neighborhood revitalization using tax increment financing to pay for these improvements. Utilizing this program to encourage public infrastructure improvements, the economics of developing market rate and affordable housing in the Zone area and attracting more commercial investment is greatly improved.

### **Description of Zone**

The Zone is located on the northwest side at the intersection of Business Highway 281 and Valley View Road in Donna. The property is vacant and is located in an area of the City that has seen some new single-family housing but not housing that is reflective of the median family income for a Donna resident. The property is 28.13 acres in size and the Hidalgo County Appraisal District tax account number for the property is V2200-00-001-0000-01, V2200-00-001-0000-07, and H3475-00-219-0000-15. A survey with field notes is attached as an exhibit.

### **Existing Uses**

The area in which the Zone is located is primarily composed of farmland and vacant land. Donna Middle School is located across Valley View Road and the Red River Phase I Development Project. Currently, the land is used as farmland and for other agricultural uses.

### **Zoning**

The Zone property is currently zoned single-family residential "District R-1" and no change in zoning is anticipated.

## SECTION 3 – PROJECT PLAN IMPROVEMENTS

### Public Improvements

The Project Plan provides approximately \$1,221,147.67 for single-family infrastructure, off-site sewer and gas extensions, sidewalk construction, street trees and landscaping, and fencing. 112 new lots and single-family homes are to be developed in addition to new park improvements for area residents. The planned improvements are designed to begin to meet the long-term needs to secure growth and investment in the area. Planned improvements include:

<b><u>Hard Project Costs</u></b>	
Paving Improvements	\$ 313,752.28
Drainage	\$ 110,284.01
Water	\$ 133,900.00
Sewer	\$ 179,282.51
Irrigation Improvements	\$ 75,769.01
Fencing	\$ 12,911.70
Street Lights/Signs	\$ 1,999.99
Fire Hydrant Markers	\$ 150.00
<b><u>Soft Project Costs</u></b>	
City Inspection Fee	\$ 16,259.75
TCEQ Permit Fee	\$ 100.01
NAWSC Fees	\$ 97,449.98
Park Fees	\$ 28,000.00
Filing fees and exclusions	\$ 1,500.01
Engineering-Surveying-Other	\$ 81,139.03
Contingency	\$ 40,649.39
Construction Management	\$ 128,000.00
<b>Total Public Improvements</b>	<b>\$ 1,221,147.67</b>
Interest Cost	\$ 1,061,299.78
Legal and Formation Fees	\$ 100,000.00
Total City & County Admin. Expenses	\$ 215,300.00
<b>Grand Total</b>	<b><u>\$ 2,597,747.45</u></b>

These costs are only an estimate, and funds may be moved between the line items, provided that the total amount of Project Costs does not exceed the amount shown on this chart. The Proposed Project Improvements and Uses are reflected on Exhibit 2.

## **Planned Private Improvements**

Casa Linda Homes will build 112 homes over the period 2006 through 2007. Homes will range in size from 1030 square feet to 1,944 square feet and in price from \$70,000 to \$115,000. Homes consist of Level 1 and Level 2 homes. A Level 1 home has a brick front with siding on the other three sides. A Level 2 home is an all brick home. Any home can be either level 1 or level 2 despite the square footage of the house. Construction of 30 homes is planned in 2006, 30 homes in 2007, 30 homes in 2008 and the balance will be completed in 2009. Homes will be single-family and will feature a wide range of amenities and consumer upgrades. Homeowners Association will be formed in order to insure compliance with building restrictions and to insure the long-range sustainability of the subdivision. Over \$8,400,000 in private improvements is planned for the project. No persons will be displaced by redevelopment activity within the Zone. Relocation policies are not applicable to this project

## SECTION 4 – FINANCING PLAN

### Tax Increment Financing

The Tax Increment Financing Act (Chapter 311 f the Tax Code), provides for municipalities to create "reinvestment zones" within which various public works and improvements can be undertaken, using tax increment revenues, bonds or notes, to pay for those improvements. At the time an area is designated as a tax increment reinvestment zone, the existing total of appraised value of real property in the tax increment reinvestment zone is identified and designated as the "tax increment base." Taxing units levying taxes in the tax increment reinvestment zone during its life are limited to revenues from this base.

Public improvements are made in the area to attract private development that would not otherwise occur. As the costs of new development are added to the tax rolls, property values will rise. This rise in new value is called the "captured appraised value." Then the taxes that are collected by the participating taxing jurisdictions on the increment between the frozen value and the new higher value, the "tax increment", are deposited into a Tax Increment Financing Fund ("TIF Fund"), which is used to pay for the public improvements. Once the public improvements are completed and paid for, the tax increment reinvestment zone is dissolved and the full amounts of the taxes collected are kept by the taxing jurisdictions. In effect, the taxing jurisdictions are "investing" future earnings to receive the benefit of higher tax revenues from new development. Taxing jurisdictions are not restricted from raising their tax rate during the life of the tax increment reinvestment zone.

### Financing Plan

The Financing Plan developed by the Board of Directors for the Zone provides that approximately \$1,321,147.67 of public improvements will be paid for with TIF Funds. The attached Financing Plan also projects incremental funds for financing and revenues for the Zone.

Financing Method: The cost of the Public Infrastructure Improvements and all other Qualifying Costs associated with the Project shall be paid for through one or more of the following:

- a. **DEVELOPER'S** funds obtained by **DEVELOPER** from:
  - i. **DEVELOPER'S CAPITAL INVESTMENT;**
  - ii. Loans or Lines of Credit secured by **DEVELOPER;**
  - iii. Venture Capital raised by or on behalf of **DEVELOPER;**
  - iv. The offering or sell of Partnership Shares;
  - v. The sale by **DEVELOPER** of property owned by **DEVELOPER** within the **ZONE;**  
or
  - vi. Other funds lawfully obtained by or on behalf of **DEVELOPER** or the General or Limited Partners of **DEVELOPER;**

To the extent costs are paid for from sources (i) through (vi) above, **CITY** and Board of Directors of **ZONE** pledge to use Available Tax Increment funds, up to the maximum

amount provided herein, to reimburse **DEVELOPER** for Project Costs. In order to obtain such reimbursement, **DEVELOPER** must complete the improvements in compliance with this Agreement and promptly submit a Certificate of Completion and Payment Request to the **ZONE**. Upon verification of completion, the **ZONE** shall promptly reimburse the **DEVELOPER** from the Tax Increment Fund using collected tax increment, bond funds, or other available funds; or

- b. Direct payments from the **ZONE** to Contractors managed by **ZONE** or **DEVELOPER** for work performed or improvements constructed, provided such work performed and/or improvements constructed were done properly in compliance with this Agreement and all applicable regulations of **CITY and ZONE**; and which are the subject of a valid Certificate of Completion and proper Payment Request submitted to **ZONE**. Payments made under this sub-section shall be made using funds from the Tax Increment Fund. Direct payments made under this sub-section shall have priority over payments for reimbursement to **DEVELOPER** in situations where the Tax Increment Fund does not contain sufficient funds to make the Direct Payment and the reimbursement payment to **DEVELOPER**. **DEVELOPER** shall be entitled to receive interest as allowed by Chapter 311 of the Tax Code (not to exceed the interest rate for the TIRZ Bonds at time of issuance for the respective phase of the Project in which the reimbursement is approved) for all delayed reimbursements until they are paid. Interest on delayed reimbursement shall not accrue for more than five (5) years from the time the **ZONE** approves the reimbursements to **DEVELOPER**; or
- c. Other sources obtained at the discretion of **ZONE, DEVELOPER, or CITY**.

**DEVELOPER** may use any or part of the Zone Property owned by **DEVELOPER** as collateral for construction loan(s), loans, or other sources of financing as required for the financing of the Project. **DEVELOPER** may also use its rights to reimbursements under this Agreement for such purposes provided they are solely related to providing funds for construction of improvements within the **ZONE**.

Bonds issued under this section shall be secured only by Tax Increment Reinvestment Zone Number One available increment Funds (including sales tax), and City shall not be required to pledge any other funds from any other sources outside the Tax Increment Fund established by City for purposes of developing this Project.

Financing Policy: The goal of the Red River TIRZ is to issue bonds only after 75% of the project is completed to ensure future development in other areas of the City of Donna.

Timing of Debt: The bonds required for critical improvements are anticipated to be issued after 75% of the project is completed.

### **Financial Assumptions**

No tax rate changes or inflation has been factored into the financial pro forma's for the Zone. All projections assume that taxable appraised value and tax rates will remain unchanged over the entire 22-

year life of the Zone. It has also been assumed that the taxing entities will continue to collect tax revenues at the same rate and that homestead and other exemption rates will remain unchanged.

### **Project Feasibility**

The feasibility of any development has two aspects that must be looked at, financial feasibility and market feasibility. The first aspect is market feasibility. Are there consumers for the product to be built? Secondly, is the project financially feasible and can it be developed and brought to market at a price that allows for market rate product to be built?

#### *Market Feasibility*

Market feasibility addresses issues relating to product absorption, type of product and demand. The City of Donna is located between two of South Texas' fastest growing Metropolitan Statistical Areas: McAllen-Edinburg-Mission MSA and Brownsville-Harlingen-San Benito MSA. The tremendous growth in these MSA is fueling the housing market in South Texas. Because Donna is strategically located between these two communities, it provides a central location for individuals wanting to live outside the city limits of the large metro areas.

Projected population growth for the McAllen-Edinburg-Mission MSA is nearly 37% from 2000 to 2009. Compared to an estimated statewide growth of 19% in the same years. Donna is projected to grow an estimated 20% between 2000 and 2009, slightly above the statewide average. Consequently, the 18% above average growth of the surrounding MSA provides Donna with an opportunity to capture a household market that is underserved by the MEMMSA. Moreover, Donna is poised to grow at a slightly higher rate than the State of Texas only signaling the need for additional housing to meet existing demand in the city.

Housing unit growth in the MEMMSA was an estimated 32% and Owner occupied units grew by 34% during the same period. Housing units in Donna grew and estimated 11% between 2000 and 2009. The State of Texas growth in housing units was approximately 13% from 2000 – 2009. There is a need for additional housing around the MEMMSA to support the above average growth. Donna is positioned to capture that market. The demand for additional single-family housing in the communities around the MEMMSA and Donna make this project a necessity for the city and its citizens.

Projected population growth for the Brownsville-Harlingen-San Benito MSA is nearly 27% from 2000 to 2009. Compared to an estimated statewide growth of 19% in the same years. Again, the 8% above average growth in the BHSBMSA offers Donna an opportunity to capture homeowners wanting a small town feel, but working in the large metro areas.

The U.S. Census estimates Donna's population for 2005 at 16,216 and increase of 10% from 2000. The increase in population coincides with a demand for owner occupied housing. Although below average growth is present, the populations of the MEMMSA above average growth can serve as an additional component for demand of single-family housing in Donna.

Finally, the City of Donna is currently negotiating the construction of a new international bridge crossing. The bridge estimates an approximate 11,000 cars using the Donna Bridge. Along with the construction of the bridge, Donna is poised to attract several major companies to use the new facilities. The additional anticipated jobs will create a demand for housing.

Based upon the increase in population in Donna, the surrounding MSAs, the construction of a new international bridge and the increase in households, there is adequate demand for the types of housing being produced in the price ranges planned for the development.

### *Financial Feasibility*

The private development plans and, public improvement program, budgets and general financing strategy and financial assumptions are addressed in the Financing Plan.

Based upon a set of conservative assumptions and analysis of the Financing Plan, the Zone's Board of Directors has concluded that the Financing Plan is feasible.

### **Financial Policies**

The Zone's Board of Directors has adopted rules governing the management of the Zone. These rules are designed to insure conformity with all City of Donna rules and regulations regarding bidding of public works projects. Additional guidelines and requirements are contained in the participation agreements (the "Interlocal Agreements") between Hidalgo County, the City of Donna and the Zone.

The Zone's Board of Directors may from time-to-time recommend amendments to these financial policies, which will affect the operation of the Zone.

### **Duration of Zone**

The duration of the Zone will be 22 years.

### **Conclusions**

Based upon a set of conservative assumptions and analysis of the Red River Phase I Tax Increment Reinvestment Zone, City of Donna, Texas Project Plan and Reinvestment Zone Financing Plan, the Board of Directors for the Zone has concluded that the Project Plan and Reinvestment Zone Financing Plan is feasible.

The success of Red River Phase I Tax Increment Reinvestment Zone, City of Donna, Texas Project Plan and Reinvestment Zone Financing Plan will encourage other mixed-use residential market rate and affordable housing tax increment reinvestment zones. The new residential population base will support an expanding retail base, will supplement the existing job market, will attract additional private development into the Zone area and will serve to stabilize and enhance future property values.

### **Data Sources**

All statistics not cited but used in this report are from the 2000 Census or from SitesonTexas.com ®.

## APPENDIX A

### TAX INCREMENT REINVESTMENT ZONE REQUIREMENTS

Section 311 of the Texas Tax Code (the "Tax Increment Financing Act") specifies that tax increment reinvestment zone projects and reinvestment zone financing plans meet certain requirements. These requirements are listed below, along with a reference indicating where these elements can be located in the plan.

#### **Project Plan**

- |  |                |
|--|----------------|
| 1. Map of existing uses and conditions   | Exhibit 1      |
| 2. Map of proposed improvements and uses | Exhibit 2      |
| 3. Survey and Field Notes of Property    | Exhibit 3      |
| 4. Project Feasibility                   | Page 6         |
| 5. Proposed Zoning Changes               | None           |
| 6. Map of Existing Zoning                | Exhibit 4      |
| 7. Estimated Non-Project Costs           | None Claimed   |
| 8. Relocation Plan for current residents | Not Applicable |

#### **Financing Plan**

- |   |                                    |
|---|------------------------------------|
| 1. Detailed estimate of project costs.          | Sources and Uses Page Finance Plan |
| 2. Proposed public improvements                 | Sources and Uses Page Finance Plan |
| 3. Project Timeline                             | Summary Page Finance Plan          |
| 4. Estimated amount of bonded indebtedness      | Revenue Page Finance Plan          |
| 5. Time when costs/obligations will be incurred | Sources and Uses Page Finance Plan |
| 6. Methods of financing, sources of Revenue     | Revenue Page Finance Plan          |
| 7. Current total appraised value.               | Summary Page Finance Plan          |
| 8. Estimated captured appraised value           | Revenue Page Finance Plan          |
| 9. Duration of Zone                             | Revenue Page Finance Plan          |

**City of Donna**  
**Planned Project Improvements**  
**Red River Phase I Subdivision - TIF**

**Summary Fact Sheet**  
**July 17, 2006**

Finance Plan

Site Area		28.130	Acres
Base Value 2003	\$	420,000	
Average Home Price	\$	75,000	

Project: 112 S-F Homes

Year

	Units	Type
2006	30	S-F Homes
2007	30	S-F Homes
2008	30	S-F Homes
2009	22	S-F Homes

Total 112

Experience of Developer

Experienced

Performance Bonds:

As Required By Code

Payment Bonds:

As Required By Code

Assumptions

Captured Value	\$	8,400,000.00	
Growth Factor		0.00%	
Collection Rate		97.50%	
Estimated Total TIF Revenues	\$	2,598,521.91	
Estimated TIF Life		22	Years

# City of Donna -- Red River Subdivision Tax Increment Reinvestment Zone

## Taxing Entity Participation

Entity	Tax Rate	Level of Participation	Tax Rate Based on Participation	% of Project	TIF Revenues	TIF Expenses
City of Donna	0.9891380	100%	0.9891380	62.64%	\$ 1,627,658.11	\$ 1,627,173.00
Hidalgo County	0.5900000	100%	0.5900000	37.36%	\$ 970,863.81	\$ 970,574.45
<b>TOTAL</b>	<b>1.5791380</b>		<b>1.5791380</b>	<b>100.00%</b>	<b>\$ 2,598,521.91</b>	<b>\$ 2,597,747.45</b>

## Projected New Value of Tax Increment

Year	Phase I				Cumulative Total
	Unit 1	Unit 2	Unit 3	Unit 4	
2006	\$ 2,250,000.00				\$ 2,250,000.00
2007		\$ 2,250,000.00			\$ 4,500,000.00
2008			\$ 2,250,000.00		\$ 6,750,000.00
2009				\$ 1,650,000.00	\$ 8,400,000.00
2010				-	\$ 8,400,000.00
2011				-	\$ 8,400,000.00
2012				-	\$ 8,400,000.00
2013				-	\$ 8,400,000.00
2014				-	\$ 8,400,000.00
2015				-	\$ 8,400,000.00
2016				-	\$ 8,400,000.00
2017				-	\$ 8,400,000.00
2018				-	\$ 8,400,000.00
	<b>\$ 2,250,000.00</b>	<b>\$ 2,250,000.00</b>	<b>\$ 2,250,000.00</b>	<b>\$ 1,650,000.00</b>	<b>\$ 8,400,000.00</b>

# City of Donna -- Red River Subdivision Tax Increment Reinvestment Zone

## Taxing Entity Participation

Entity	Tax Rate	Level of Participation	Tax Rate Based on Participation	% of Project	TIF Revenues	TIF Expenses
City of Donna	0.9891380	100%	0.9891380	62.64%	\$ 1,627,658.11	\$ 1,627,173.00
Hidalgo County	0.5900000	100%	0.5900000	37.36%	\$ 970,863.81	\$ 970,574.45
<b>TOTAL</b>	<b>1.5791380</b>		<b>1.5791380</b>	<b>100.00%</b>	<b>\$ 2,598,521.91</b>	<b>\$ 2,597,747.45</b>

## Projected Uses of Tax Increment Construction Completed Cost

Year	Phase I				Total
	Unit 1	Unit 2	Unit 3	Unit 4	
2005	\$ 424,807.39				\$ 424,807.39
2006		\$ 324,807.39			\$ 324,807.39
2007			\$ 324,807.39		\$ 324,807.39
2008				\$ 246,725.50	\$ 246,725.50
2009					-
2010					-
2011					-
2012					-
2013					-
2014					-
2015					-
2016					-
<b>TOTAL</b>	<b>\$ 424,807.39</b>	<b>\$ 324,807.39</b>	<b>\$ 324,807.39</b>	<b>\$ 246,725.50</b>	<b>\$ 1,321,147.67</b>

**Red River Phase I - TIF Reinvestment Zone**  
**Projected Tax Increment Revenue**

Tax Year	Tax Increment Zone				
	Beginning Assessed Value	Annual Value of New Development	Projected Year-End Assessed Value	Projected Captured Value	Projected Captured Value
2006	\$ 420,000	\$ 2,250,000	\$ 2,670,000	\$ 2,250,000	\$ 2,250,000
2007	\$ 2,670,000	\$ 2,250,000	\$ 4,920,000	\$ 4,500,000	\$ 4,500,000
2008	\$ 4,920,000	\$ 2,250,000	\$ 7,170,000	\$ 6,750,000	\$ 6,750,000
2009	\$ 7,170,000	\$ 1,650,000	\$ 8,820,000	\$ 8,400,000	\$ 8,400,000
2010	\$ 8,820,000	\$ -	\$ 8,820,000	\$ 8,400,000	\$ 8,400,000
2011	\$ 8,820,000	\$ -	\$ 8,820,000	\$ 8,400,000	\$ 8,400,000
2012	\$ 8,820,000	\$ -	\$ 8,820,000	\$ 8,400,000	\$ 8,400,000
2013	\$ 8,820,000	\$ -	\$ 8,820,000	\$ 8,400,000	\$ 8,400,000
2014	\$ 8,820,000	\$ -	\$ 8,820,000	\$ 8,400,000	\$ 8,400,000
2015	\$ 8,820,000	\$ -	\$ 8,820,000	\$ 8,400,000	\$ 8,400,000
2016	\$ 8,820,000	\$ -	\$ 8,820,000	\$ 8,400,000	\$ 8,400,000
2017	\$ 8,820,000	\$ -	\$ 8,820,000	\$ 8,400,000	\$ 8,400,000
2018	\$ 8,820,000	\$ -	\$ 8,820,000	\$ 8,400,000	\$ 8,400,000
2019	\$ 8,820,000	\$ -	\$ 8,820,000	\$ 8,400,000	\$ 8,400,000
2020	\$ 8,820,000	\$ -	\$ 8,820,000	\$ 8,400,000	\$ 8,400,000
2021	\$ 8,820,000	\$ -	\$ 8,820,000	\$ 8,400,000	\$ 8,400,000
2022	\$ 8,820,000	\$ -	\$ 8,820,000	\$ 8,400,000	\$ 8,400,000
2023	\$ 8,820,000	\$ -	\$ 8,820,000	\$ 8,400,000	\$ 8,400,000
2024	\$ 8,820,000	\$ -	\$ 8,820,000	\$ 8,400,000	\$ 8,400,000
2025	\$ 8,820,000	\$ -	\$ 8,820,000	\$ 8,400,000	\$ 8,400,000
2026	\$ 8,820,000	\$ -	\$ 8,820,000	\$ 8,400,000	\$ 8,400,000
2027	\$ 8,820,000	\$ -	\$ 8,820,000	\$ 8,400,000	\$ 8,400,000
2028	\$ 8,820,000	\$ -	\$ 8,820,000	\$ 8,400,000	\$ 8,400,000
\$ 8,400,000 Existing Annual Value Growth Factors					0.00%
Years 2000-2004 Thereafter					0.00%
Combined Compound Growth Rate					0.00%

# Red River Phase I - TIF Reinvestment Zone

## Projected Tax Increment Revenue

Tax Year	City of Donna				Hidalgo County				Combined TIF Collections	Fiscal Year Ending																													
	Captured Taxable Value	Tax Rate Contribution	Tax Increments		Captured Taxable Value	Tax Rate Contribution	Tax Increments																																
2006	0.00	0.9891380	\$		0.00	0.5900000	\$			2006																													
2007	2,250,000	0.9891380	\$	21,699.21	2,250,000	0.5900000	\$	12,943.13	34,642.34	2007																													
2008	4,500,000	0.9891380	\$	43,398.43	4,500,000	0.5900000	\$	25,886.25	69,284.68	2008																													
2009	6,750,000	0.9891380	\$	65,097.64	6,750,000	0.5900000	\$	38,829.38	103,927.02	2009																													
2010	8,400,000	0.9891380	\$	81,010.40	8,400,000	0.5900000	\$	48,321.00	129,331.40	2010																													
2011	8,400,000	0.9891380	\$	81,010.40	8,400,000	0.5900000	\$	48,321.00	129,331.40	2011																													
2012	8,400,000	0.9891380	\$	81,010.40	8,400,000	0.5900000	\$	48,321.00	129,331.40	2012																													
2013	8,400,000	0.9891380	\$	81,010.40	8,400,000	0.5900000	\$	48,321.00	129,331.40	2013																													
2014	8,400,000	0.9891380	\$	81,010.40	8,400,000	0.5900000	\$	48,321.00	129,331.40	2014																													
2015	8,400,000	0.9891380	\$	81,010.40	8,400,000	0.5900000	\$	48,321.00	129,331.40	2015																													
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2017	8,400,000	0.9891380	\$	81,010.40	8,400,000	0.5900000	\$	48,321.00	129,331.40	2017																													
2018	8,400,000	0.9891380	\$	81,010.40	8,400,000	0.5900000	\$	48,321.00	129,331.40	2018																													
2019	8,400,000	0.9891380	\$	81,010.40	8,400,000	0.5900000	\$	48,321.00	129,331.40	2019																													
2020	8,400,000	0.9891380	\$	81,010.40	8,400,000	0.5900000	\$	48,321.00	129,331.40	2020																													
2021	8,400,000	0.9891380	\$	81,010.40	8,400,000	0.5900000	\$	48,321.00	129,331.40	2021																													
2022	8,400,000	0.9891380	\$	81,010.40	8,400,000	0.5900000	\$	48,321.00	129,331.40	2022																													
2023	8,400,000	0.9891380	\$	81,010.40	8,400,000	0.5900000	\$	48,321.00	129,331.40	2023																													
2024	8,400,000	0.9891380	\$	81,010.40	8,400,000	0.5900000	\$	48,321.00	129,331.40	2024																													
2025	8,400,000	0.9891380	\$	81,010.40	8,400,000	0.5900000	\$	48,321.00	129,331.40	2025																													
2026	8,400,000	0.9891380	\$	81,010.40	8,400,000	0.5900000	\$	48,321.00	129,331.40	2026																													
2027	8,400,000	0.9891380	\$	81,010.40	8,400,000	0.5900000	\$	48,321.00	129,331.40	2027																													
2028	8,400,000	0.9891380	\$	81,010.40	8,400,000	0.5900000	\$	48,321.00	129,331.40	2028																													
<b>\$ 2,598,521.91</b>																																							
<b>\$ 970,863.81</b>																																							
<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 30%;">Participation Level</td> <td style="width: 10%;">100%</td> <td style="width: 10%;"></td> <td style="width: 10%;"></td> <td style="width: 10%;"></td> <td style="width: 10%;"></td> <td style="width: 10%;"></td> <td style="width: 10%;"></td> <td style="width: 10%;"></td> <td style="width: 10%;"></td> </tr> <tr> <td>Tax Rate Growth Factor</td> <td>0.00%</td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Tax Rate Collection Factor</td> <td>97.50%</td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> </table>										Participation Level	100%									Tax Rate Growth Factor	0.00%									Tax Rate Collection Factor	97.50%								
Participation Level	100%																																						
Tax Rate Growth Factor	0.00%																																						
Tax Rate Collection Factor	97.50%																																						

## Red River Subdivision - Tax Increment Reinvestment Zone

### Sources & Uses

**Sources of Funds**

TIF Revenues \$ 2,598,521.91

**Total TIF Proceed Funds**

\$ 2,598,521.91

**Uses of Funds**

Total Units Begin Construction Units	Phase 1 112 Units				Total Infrastructure Improvements
	2006	2007	2008	2009	
	30	30	30	22	

**Public Improvements**

Hard Project Costs

Paving Improvements	\$ 84,040.79	\$ 84,040.79	\$ 84,040.79	\$ 61,629.91	\$ 313,752.28
Drainage	\$ 29,540.36	\$ 29,540.36	\$ 29,540.36	\$ 21,662.93	\$ 110,284.01
Water	\$ 35,866.07	\$ 35,866.07	\$ 35,866.07	\$ 26,301.79	\$ 133,900.00
Sewer	\$ 48,022.10	\$ 48,022.10	\$ 48,022.10	\$ 35,216.21	\$ 179,282.51
Landscaping					
Irrigation Improvements	\$ 20,295.27	\$ 20,295.27	\$ 20,295.27	\$ 14,883.20	\$ 75,769.01
Fencing	\$ 3,458.47	\$ 3,458.47	\$ 3,458.47	\$ 2,536.29	\$ 12,911.70
Street Lights/Signs	\$ 535.71	\$ 535.71	\$ 535.71	\$ 392.86	\$ 1,999.99
Fire Hydrant Markers	\$ 40.18	\$ 40.18	\$ 40.18	\$ 29.46	\$ 150.00

Soft Project Costs

City Inspection Fee	\$ 4,355.29	\$ 4,355.29	\$ 4,355.29	\$ 3,193.88	\$ 16,259.75
TCEQ Permit Fee	\$ 26.79	\$ 26.79	\$ 26.79	\$ 19.64	\$ 100.01
NAWSC Fees	\$ 26,102.67	\$ 26,102.67	\$ 26,102.67	\$ 19,141.97	\$ 97,449.98
Park Fees	\$ 7,500.00	\$ 7,500.00	\$ 7,500.00	\$ 5,500.00	\$ 28,000.00
Filing fees and exclusions	\$ 401.79	\$ 401.79	\$ 401.79	\$ 294.64	\$ 1,500.01
Engineering-Surveying-Other	\$ 21,733.67	\$ 21,733.67	\$ 21,733.67	\$ 15,938.02	\$ 81,139.03
Contingency	\$ 10,888.23	\$ 10,888.23	\$ 10,888.23	\$ 7,984.70	\$ 40,649.39
Construction Management	\$ 32,000.00	\$ 32,000.00	\$ 32,000.00	\$ 32,000.00	\$ 128,000.00

**Total Public Improvements**

\$ 324,807.39 \$ 324,807.39 \$ 324,807.39 \$ 246,725.50 \$ 1,221,147.67

Legal and Formation Fees

\$ 100,000.00 \$ 100,000.00

**Subtotal**

\$ 424,807.39 \$ 324,807.39 \$ 324,807.39 \$ 246,725.50 \$ 1,321,147.67

**Total Infrastructure**

\$ 1,321,147.67

**Interest Cost**

\$ 1,061,299.78

**Total Payments to Red River Subdivision TIF**

\$ 2,382,447.45

**Total City & County Admin. Expenses**

\$ 215,300.00

**Grand Total**

\$ 2,597,747.45

**Project Financing Surplus**

(Shortage) \$ 774.46

**RED RIVER SUBDIVISION TIRZ**  
**Reimbursement for Public Improvements**

Fiscal Year Ending	TIF Revenue	Cumulative TIF Revenues	City Admin. Expenses	County Admin. Expenses
1-Sep-06	2006			
1-Sep-07	2007 \$ 34,642.34	\$ 34,642.34	\$ 20,100.00	\$ 2,000.00
1-Sep-08	2008 \$ 69,284.68	\$ 103,927.02	\$ 20,100.00	\$ 2,000.00
1-Sep-09	2009 \$ 103,927.02	\$ 207,854.04	\$ 40,100.00	\$ 2,000.00
1-Sep-10	2010 \$ 129,331.40	\$ 337,185.44	\$ 5,000.00	\$ 2,000.00
1-Sep-11	2011 \$ 129,331.40	\$ 466,516.84	\$ 5,000.00	\$ 2,000.00
1-Sep-12	2012 \$ 129,331.40	\$ 595,848.25	\$ 5,000.00	\$ 2,000.00
1-Sep-13	2013 \$ 129,331.40	\$ 725,179.65	\$ 5,000.00	\$ 2,000.00
1-Sep-14	2014 \$ 129,331.40	\$ 854,511.05	\$ 5,000.00	\$ 2,000.00
1-Sep-15	2015 \$ 129,331.40	\$ 983,842.45	\$ 5,000.00	\$ 2,000.00
1-Sep-16	2016 \$ 129,331.40	\$ 1,113,173.85	\$ 5,000.00	\$ 2,000.00
1-Sep-17	2017 \$ 129,331.40	\$ 1,242,505.26	\$ 5,000.00	\$ 2,000.00
1-Sep-18	2018 \$ 129,331.40	\$ 1,371,836.66	\$ 5,000.00	\$ 2,000.00
1-Sep-19	2019 \$ 129,331.40	\$ 1,501,168.06	\$ 5,000.00	\$ 2,000.00
1-Sep-20	2020 \$ 129,331.40	\$ 1,630,499.46	\$ 5,000.00	\$ 2,000.00
1-Sep-21	2021 \$ 129,331.40	\$ 1,759,830.87	\$ 5,000.00	\$ 2,000.00
1-Sep-22	2022 \$ 129,331.40	\$ 1,889,162.27	\$ 5,000.00	\$ 2,000.00
1-Sep-23	2023 \$ 129,331.40	\$ 2,018,493.67	\$ 5,000.00	\$ 2,000.00
1-Sep-24	2024 \$ 129,331.40	\$ 2,147,825.07	\$ 5,000.00	\$ 2,000.00
1-Sep-25	2025 \$ 129,331.40	\$ 2,277,156.47	\$ 5,000.00	\$ 2,000.00
1-Sep-26	2026 \$ 129,331.40	\$ 2,406,487.88	\$ 5,000.00	\$ 2,000.00
1-Sep-27	2027 \$ 129,331.40	\$ 2,535,819.28	\$ 5,000.00	\$ 2,000.00
1-Sep-28	2028 \$ 129,331.40	\$ 2,665,150.68	\$ 5,000.00	\$ 2,000.00
	\$ 2,665,150.68		\$ 175,300.00	\$ 40,000.00

APR:	6.0%
Total amount financed:	\$ 1,321,147.67
Total payments:	\$ 2,382,447.45
Finance charge*	\$ 1,061,299.78
Amortization method:	Normal

**Exhibit B**  
Ordinance LP-2006-07-10  
(creation ordinance)

(Attached 5 pages)

*City of*  
**Donna**  
*The Heart of the Valley*

STATE OF TEXAS

CERTIFICATION OF COPY  
OF PUBLIC RECORD

CITY OF DONNA

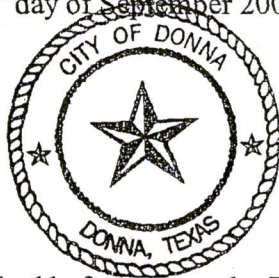
Before me, the undersigned authority, personally appeared Martha Alvarado, who, being by me duly sworn deposed as follows:

My name is Martha Alvarado. I am of sound mind, capable of making this affidavit, and personally acquainted with the facts herein stated.

I am a custodian of the records of the City of Donna, Hidalgo County, Texas. Attached hereto is a copy of Ordinance No. PL-2006-07-10 approved by the Donna City Council at a Special Meeting held on August 8, 2006.

I further certify, in the performance of the functions of my office that said minutes are an official record from the public office of the City Secretary, City of Donna, Hidalgo County, Texas, and are public records, which are kept in said office and appear of record in said office.

In witness whereof, I have hereunto set my hand and affixed the official seal of said office this the 7<sup>th</sup> day of September 2006.

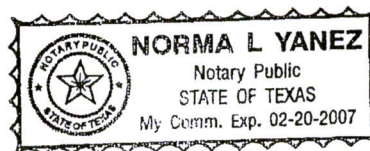


Martha Alvarado  
Martha Alvarado  
City Secretary

Sworn to and subscribed before me on the 7<sup>th</sup> day of September 2006.

Norma L. Yanez  
Notary Public, State of Texas

My Commission Expires: 02-20-2007



**ORDINANCE NO. PL-2006-07-10**

**AN ORDINANCE OF THE CITY OF DONNA DESIGNATING THE RED RIVER PHASE I DEVELOPMENT PROJECT AREA LOCATED AT THE SOUTHWEST QUADRANT OF VALLEY VIEW ROAD AND NORTH AVENUE AS A TAX INCREMENT REINVESTMENT ZONE; DESCRIBING THE BOUNDARIES OF THE ZONE; CREATING A BOARD OF DIRECTORS FOR THE ZONE; PROVIDING FOR AN EFFECTIVE DATE AND A TERMINATION DATE FOR THE ZONE; NAMING THE ZONE "REINVESTMENT ZONE NUMBER ONE, CITY OF DONNA, TEXAS"; ESTABLISHING A TAX INCREMENT FUND; AND CONTAINING OTHER PROVISIONS RELATED THERETO.**

**WHEREAS**, the City Council of the City of Donna, Texas desires to support revitalization activities for the RED RIVER (PHASE I) Development Project, to be funded in whole or in part through the creation of a Tax Increment Reinvestment Zone, as hereinafter more specifically defined and named, and with boundaries as hereinafter provided, pursuant to the provisions of the Tax Increment Financing Act, Texas Tax Code, Chapter 311; and

**WHEREAS**, the City received a petition for Zone designation by owners representing over 50% of the appraised value of the land in the proposed Zone; and the City agrees to create the Zone by petition; and

**WHEREAS**, the proposed public improvements for the area may include the design and construction of streets with curbs, sidewalks, drainage, sewer, water, utilities, street lights and other public improvements which may be provided for in the Development Agreement to be considered by Council at a later date; and

**WHEREAS**, pursuant to the Act, the City may designate a contiguous geographic area within the jurisdiction of the City to be a Zone if the area satisfies certain sections of the Act; and

**WHEREAS**, §311.0031 of the Act states that an area designated as an enterprise zone under Chapter 2303 of the Government Code constitutes designation of the area as a reinvestment zone without further hearing or other procedural requirements.

**WHEREAS**, on March 7, 2006, the Council adopted Resolution No. 2006-03-02, expressing its intent to create the proposed Zone in order to encourage the growth and development of new housing opportunities within the City limits; and

**WHEREAS**, pursuant to §311.003(e) of the Act, the City sent written notice to the governing body of each taxing unit that levies real property taxes in the proposed Zone of the City's intent to create a Tax Increment Reinvestment Zone within the corporate limits of the City to reimburse those certain costs associated with the Project, providing 60-days notice or requesting waiver of the notice requirement prior to the public hearing, as required by the Act; and

**WHEREAS**, pursuant to §311.003(b) of the Act, the City has distributed a copy of the Preliminary Finance Plan to the governing body of each taxing unit that levies taxes on real property in the proposed Zone; and

**WHEREAS**, pursuant to §311.0031 of the Act a public hearing is not required because the City of Donna is an enterprise zone under Chapter 2303 of the Government Code; and

**WHEREAS**, it is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public, and public notice of the time, place and purpose of said meeting was given, all as required by Chapter 551, Texas Government Code; **NOW THEREFORE:**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DONNA:**

**SECTION 1. DESIGNATING THE AREA AS A REINVESTMENT ZONE.** The area locate in the Southwest quadrant of Valley View Road and North Avenue and being commonly referred to as the "RED RIVER (PHASE I) Development Project", with the boundaries as more specifically described in Section 2 below, and officially assigned the name as designated in Section 5 below (which reinvestment Zone so described, named and designated is hereinafter referred to as the "Zone"), is hereby designated as a Tax Increment Reinvestment Zone.

**SECTION 2. DESCRIPTION OF THE BOUNDARIES OF THE REINVESTMENT ZONE.** Attached hereto as Exhibits "A" & "B" which are incorporated herein as if a part hereof, is a field note description and a map depicting the boundaries of the Zone, which consists of approximately 39.125 acres of real property within the corporate limits of the City;

**SECTION 3. CREATION AND COMPOSITION OF A BOARD OF DIRECTORS FOR THE ZONE.** There is hereby created a Board of Directors (the "Board") for the Zone, with all the rights, powers and duties as provided by the Act, including but not limited to §311.010, to such Boards or by action of the City Council. Pursuant to §311.009(b), as amended effective June 18, 1999, the Board shall consist of nine (9) members.

**SECTION 4. EFFECTIVE DATE AND TERMINATION DATE OF THE ZONE.** The Zone shall take effect on August 8th, 2006, and continue until its termination date of August 8th, 2031, unless otherwise terminated earlier as a result of payment in full of all project costs, tax increment bonds, if any, including interest on said bonds, or as authorized or permitted by law.

Council further acknowledges and declares that this Zone may be dissolved at any time by the City should no other taxing entity participate in Zone; should all other taxing entities withdraw participation; should there be no Development Agreement reached with applicant or other entities in order to leverage private assets to City's benefit; should any development agreements fail for whatever reason.

**SECTION 5. ASSIGNING A NAME TO THE ZONE.** The Zone created hereby is assigned the name of "REINVESTMENT ZONE NUMBER ONE, CITY OF DONNA, TEXAS."

**SECTION 6. TAX INCREMENT BASE.** The Tax Increment Base for the Zone is the total appraised value of all real property taxable by the City and located in Zone, determined as of January 1, 2006, the year in which the Zone was designated as a Tax Increment Reinvestment Zone (the "Tax Increment Base").

**SECTION 7. ESTABLISHMENT OF A TAX INCREMENT FUND.** There is hereby created and established in the depository bank of the City, a fund to be called the "REINVESTMENT ZONE NUMBER ONE, CITY OF DONNA, TEXAS TAX INCREMENT FUND" (herein call the "Tax Increment Fund"). Money in the Tax Increment Fund, from whatever source, may be disbursed from the Tax Increment Fund, invested, and paid as permitted by the Act or by any agreements entered into pursuant to the Act, or as otherwise authorized by law.

**SECTION 8. FINDINGS.** The City hereby finds and declares that: (a) improvements in the Zone will significantly enhance the value of all the taxable real property in the Zone and will be of general benefit to the City; and (b) the Zone area meets the requirements of Section 311.005(a)(5) of the Act, being that the Zone area:

(1) is an area described in a petition requesting that the area be designated as a reinvestment zone, if the petition is submitted to the governing body of the municipality by the owners of property constituting at least 50 percent of the appraised value of the property in the area according to the most recent certified appraisal roll for the county in which the area is located.

The City, pursuant to the Act, further finds and declares that:

- (1) the proposed Zone is a contiguous geographical area located wholly within the corporate limits of the City of Donna;
- (2) the total appraised value of the taxable real property in the proposed Zone or in existing reinvestment zones, if any, does not exceed fifteen (15%) of the total appraised value of taxable real property in the City and in industrial districts created by the City;
- (3) the proposed Zone does not contain more than fifteen (15%) of the appraised value of real property taxable by Hidalgo County or by the Donna Independent School District; and
- (4) development or redevelopment within the boundaries of the proposed Zone will not occur solely through private investment in the reasonably foreseeable future.

**SECTION 9. INCORPORATION OF RECITALS.** The Council hereby finds that the statements set forth in the recitals of this Ordinance are true and correct, and the Council hereby incorporates such recitals as a part of this Ordinance.

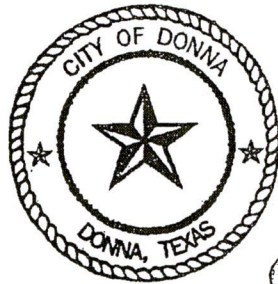
**SECTION 10. SEVERABILITY.** If any provision of this Ordinance or the application thereof to any circumstances shall be held to be invalid, the remainder of this Ordinance and the

application thereof to other circumstances shall nevertheless be valid, as if such invalid provision had never appeared herein, and this governing body hereby declares that this Ordinance would have been enacted without such invalid provision.

**SECTION 11. EFFECTIVE DATE.** The Zone shall take effect immediately upon second passage of this ordinance, pursuant to §311.004(a)(3) of the Act.

**Passed and Approved** upon first reading on this 18<sup>th</sup> day of **July 2006**.

**Passed, Approved and Adopted** upon second and final reading on this 8<sup>th</sup> day of **August 2006**.



*Ricardo L. Morales*

**Ricardo Morales**  
Mayor

Attest:

*Martha Alvarado*  
**Martha Alvarado**  
City Secretary

Approved as to form and substance:

*Javier Villalobos*  
**Javier Villalobos**  
City Attorney

**Exhibit C**  
Amended Development Agreement

(Attached 22 pages)

**FIRST AMENDMENT TO  
DEVELOPMENT AGREEMENT BETWEEN THE CITY OF DONNA, TEXAS  
AND RHODES ENTERPRISES, INC. AND REINVESTMENT ZONE  
NUMBER TWO, CITY OF DONNA, TEXAS**

This First Amendment ("1<sup>st</sup> Amendment") is hereby made to that certain Development Agreement ("Agreement"), executed and effective as of June 19<sup>th</sup>, 2008, by and between the CITY OF DONNA, TEXAS (hereinafter called "CITY"); Rhodes Enterprises, Inc., a Texas corporation, or assigns (hereinafter referred to as "DEVELOPER"); and REINVESTMENT ZONE NUMBER TWO, CITY OF DONNA, TEXAS, a tax increment reinvestment zone created pursuant to Texas Tax Code Chapter 311 (hereinafter called "ZONE"), by and through its duly authorized Board of Directors ("Board of Directors for the ZONE") (hereinafter collectively the "Parties" or in the singular a "Party") for the purpose of reconfirming the Agreement, and making modifications thereto:

**RECITALS**

**WHEREAS** on May 19<sup>th</sup>, 2008, the City Council of the CITY passed and approved Ordinance No. 2008-05-64, which created the ZONE and authorized the Tax Increment Fund; and

**WHEREAS** the CITY approved the original Project and Finance plan on July 22, 2008; and

**WHEREAS** on June 19, 2008, the CITY, the COUNTY OF HIDALGO, the ZONE, and the DEVELOPER approved and executed the Original Development Agreement; and

**WHEREAS** on October 18, 2016 the City amended the original Project and Finance Plan by approving an Amended Project and Financing Plan; and

**WHEREAS** on December 19, 2016 the City passed Ordinance No. P-2016-27, which extended the termination date of the TIRZ until May 28, 2048, and pledged the City's participation in the TIRZ at 100% of its tax increment through such date;

**WHEREAS** the CITY has requested the County to continue to contribute 50% of its available tax increment through the extended term of the TIRZ, up to, but not exceeding the dollar amount agreed to in the Development Agreement;

**THEREFORE** the Parties agree as follows:

**I. AGREEMENT**

**1.0** Entire Agreement. This 1<sup>st</sup> Amendment is made to supplement or modify the Agreement between the Parties, and it is the express intent of the Parties that the Agreement, as amended hereby, shall remain in full force and effect and binding on the Parties without interruption.

**1.1** Definitions. All defined terms used in this 1<sup>st</sup> Amendment that are not otherwise defined in this 1<sup>st</sup> Amendment shall have the meanings assigned to such terms in the Agreement.

1.2 Purpose and Overview of 1<sup>st</sup> Amendment. This 1<sup>st</sup> Amendment extends the termination date of the ZONE from May 28, 2038 to May 28, 2048, and extends participation of the City and County through such date. This 1<sup>st</sup> Amendment and the Amended Project and Finance Plan outline the changes to the project and the changes to the financing of the project. As further described in the Amended Project and Finance Plan, the CITY will contribute 100% and the COUNTY will contribute 50% of their respective Available Tax Increment from the year 2016 through May 28, 2048, or until the maximum amount pledged by each respective taxing entity has been contributed.

## II. AMENDMENT

2.0 The following Sections of the Agreement are hereby modified and amended as follows:

### XIX. EFFECTIVE DATE

19.1 This Agreement shall become effective from the date of execution. This Agreement shall terminate on the earlier of: (i) the date DEVELOPER receives the final payment for completing the Project; (ii) the date of a termination by default (provided that all existing warranties on the Project shall survive termination of this Agreement); or (iii) expiration of the ZONE tax increment finance district pursuant to the ordinance of the City creating the Zone, or as amended.

## III. RATIFICATION

3.0 As amended and supplemented hereby, the Agreement is ratified and shall remain in full force and effect. In the event of a conflict between this 1st Amendment and the Development Agreement, this 1st Amendment shall control. The parties agree that a facsimile copy or electronic copy (including PDF copy) of the signature of the person executing this 1st Amendment on any party's behalf shall be effective as an original signature and shall cause the facsimile copy or electronic copy (including PDF copy) of this 1st Amendment to be legally binding and effective as an execution counterpart hereof.

THIS 1<sup>st</sup> AMENDMENT IS EXECUTED AND EFFECTIVE ON THIS 18th DAY OF OCTOBER, 2016.

*{Signatures on next page}*

CITY OF MCALLEN

By: Irene Muñoz  
Irene Muñoz, Mayor

RHODES ENTERPRISES, INC.

By: Michael Rhodes  
Michael Rhodes, President

TAX REINVESTMENT ZONE NUMBER TWO,  
CITY OF MCALLEN, TEXAS

By: Michael Rhodes  
Michael Rhodes, Chairman

**DEVELOPMENT AGREEMENT WITH THE CITY OF DONNA, TEXAS AND  
CASA LINDA HOMES, LTD. AND REINVESTMENT ZONE NUMBER ONE,  
CITY OF DONNA, TEXAS**

This Development Agreement ("Agreement"), pursuant to Resolution 2006-10-02, effective as of October 17, 2006, is entered into by and between the **CITY OF DONNA**, Hidalgo County, Texas (hereinafter called "**CITY**"); **GRANDE VALLEY HOMES, LLC d/b/a CASA LINDA HOMES**, an entity created in the State of Texas (hereinafter referred to as "**DEVELOPER**"); and **REINVESTMENT ZONE NUMBER ONE, CITY OF DONNA, TEXAS**, a tax increment financing zone created pursuant to Texas Tax Code Chapter 311 (hereinafter called "**ZONE**"), by and through its duly authorized Board of Directors;

**WITNESSETH:**

**WHEREAS**, **CITY** recognizes the importance of its continued role in economic development; and

**WHEREAS**, By Ordinance Number Ordinance PL – 2006-07-10, dated August 8, 2006, and Resolution 2006-07-02, dated August 8, 2006 pursuant to Chapter 311 of the Texas Tax Code (as amended), **CITY** created the **ZONE** and established a Board of Directors for the **ZONE**.

**WHEREAS**, the **ZONE** was created to promote development and redevelopment in the **ZONE** through the use of tax increment financing, which development and redevelopment would not otherwise occur solely through private investment in the reasonably foreseeable future; and

**WHEREAS**, Chapter 311 authorizes the expenditure of funds derived from a Tax Increment Reinvestment Zone, the payment of expenditures made or estimated to be made, and the payment of monetary obligations incurred or estimated to be incurred, by a municipality in establishing a Tax Increment Reinvestment Zone, the payment of costs of public works or public improvements in the zone, plus other costs incidental to those expenditures and obligations, consistent with the project plan of the tax increment reinvestment zone, which expenditures and monetary obligations constitute project costs, as defined in the Act ("Project Costs"); and

**WHEREAS**, on September 27, 2006, by a Board Resolution, the Board of Directors for the **ZONE** adopted and approved a Project Plan and a Reinvestment Zone Financing Plan ("Project and Financing Plan") providing for development of the Zone Property as shown

on Exhibit A and recommending to City Council that they give approval by Ordinance of a Project Plan and a Reinvestment Zone Financing Plan; and

**WHEREAS**, **CITY** approved the Project and Financing Plan for the **ZONE** by Ordinance Number F-2006-10-28, on November 7, 2006; and

**WHEREAS**, Pursuant to the Texas Tax Code, Chapter 311 (as amended), the Board of Directors for the **ZONE** has authority to enter into agreements that it considers necessary or convenient to implement the Project and Financing Plan and to achieve the purposes of developing the Zone Property; and

**WHEREAS**, pursuant to said authority above, the Board of Directors for **ZONE** desires to enter into a binding agreement with **CITY** and **DEVELOPER** for **DEVELOPER** to develop the Zone Property as specified in the Project and Financing Plan and as specified in this Agreement; and

**NOW, THEREFORE**, in consideration of the mutual promises, covenants, obligations, and benefits contained in this Agreement, **CITY**, the Board of Directors for **ZONE**, and **DEVELOPER** hereby agree as follows:

## I. DEFINITIONS

1.1 "Act" shall mean the Tax Increment Financing Act, Chapter 311, Texas Tax Code, Vernon's Texas Codes, as amended.

1.2 "Agreement" shall mean this document by and between **CITY**, **ZONE** and **DEVELOPER**, which agreement may be amended from time to time, pursuant to the provisions contained herein.

1.3 "Available Tax Increment" shall mean the "Tax Increment" as defined in Section 311.012 (a) of the Act, less the administrative costs of the participating taxing entities for organizing and/or managing the **ZONE**;

1.4 "Certificate of Completion" shall mean a written acknowledgement by **DEVELOPER** that public improvements were constructed as specified in the Project and Financing Plan and in this Agreement and that said improvements comply with all **CITY** codes and published standards for the particular type of improvement in question.

1.5 "**CITY**", "Board of Directors for **ZONE**", and "**DEVELOPER**" shall have the meanings specified above.

1.6 "Completion" shall mean construction of a public improvement in the Zone Property substantially in accordance with the Project and Financing Plan and with this Agreement so that the particular improvement can be used and maintained for its intended purpose.

1.7 "Construction Schedule" shall mean the timetable for constructing the improvements specified in the Project Plan, Financing Plan and this Agreement as may be amended, more particularly set forth in Exhibit B.

1.8 "Contract Progress Payment Request" shall mean a request for payment due to **DEVELOPER** for successfully completed work on a specific improvement in the Zone Property, accompanied by documentation satisfactory to **CITY** and **ZONE** including the name and address of the entity that performed the work, a description of the contract pursuant to which the payment is made, the amount of such payment, the original contract amount, total payments made to date on such contract, cancelled checks and invoices for said payments, if available, an estimate of remaining work to be completed on the specific improvement, the cost of such remaining work, and any customary lien and/or subcontractor releases.

1.9 "Development Agreement" shall mean this document among **CITY**, **ZONE**, and **DEVELOPER**, as it may be amended.

1.10 "Financing Plan" shall mean the final financing plan as defined in the Act, as approved and as may be amended from time to time by Board of Directors for **ZONE** and **CITY**.

1.11 "Participating Taxing Entity" shall mean any governmental entity recognized as such by Texas law that is participating in this Project.

1.12 "Phase" shall mean a portion of the Project that is being constructed by Developer normally being a set number of units and/or acres out of the Zone Property being constructed together during a specific timeline.

1.13 "Project" shall mean the design, construction, assembly, installation and implementation of the improvements and/or activities as more specifically detailed in the Project and Financing Plan and in this Agreement as (either or both) may be amended from time to time.

1.14 "Project and Financing Plan" shall mean the Project and Financing Plan for **ZONE**, as approved by the Board of Directors for **ZONE** and by **CITY**, as may be amended from time to time by the Board of Directors for **ZONE** and **CITY**.

1.15 "Project Costs" shall mean the items set forth and described in Section 311.002(1), Texas Tax Code (as said Code may be amended from time to time), that are included in the Project Plan for the Project. The Project Costs include public infrastructure improvements and related capital costs, including streets, streetlights, drainage, utilities, sidewalks, landscaping and rights-of-way, and other costs including, but not limited to, engineering, architectural, and legal and other professional services incidental to those expenditures and obligations. The Project Costs for public improvements are estimated at one million three hundred twenty-one thousand one

hundred forty seven dollars and sixty-seven cents (\$1,321,147.67) in the aggregate for the life of ZONE, plus one million sixty-one thousand two hundred ninety-nine dollars and seventy-eight cents (\$1,061,299.78) in applicable qualifying project costs and administrative costs for a total of two million five hundred eighty-seven thousand five hundred eighty-one dollars and thirty-five cents (\$2,587,581.35).

1.16 "Public Infrastructure Improvements" shall have the meaning specified in Paragraph 3.2 of this Agreement, and as more specifically detailed in Exhibit C, the Project Plan and Financing Plan as (either or both) may be amended from time to time.

1.17 "TIF" shall mean tax increment financing pursuant to the Act.

1.18 "Tax Increment Fund" means the tax increment fund created by CITY for the deposit of Available Tax Increments for ZONE entitled "Reinvestment Zone Number One (1), City of Donna, Texas Tax Increment Fund."

1.19 "Zone Property" shall mean the real property subject to the Project Plan and Financing Plan.

1.20 Singular and Plural: Words used herein in the singular, where the context so permits, also includes the plural and vice versa, unless otherwise specified.

## II. REPRESENTATIONS

2.1 CITY, the Board of Directors for ZONE, and DEVELOPER represent each to the others that CITY and the Board of Directors for ZONE shall use only Available Tax Increment funds to pay DEVELOPER up to a maximum total payment of two million three hundred and eight two thousand four hundred forty-seven dollars and forty-five cents (\$2,382,447.45) as full compensation for designing and constructing the public infrastructure improvements designated under the Project and Financing Plan and this Agreement, pursuant to Article VI, Compensation to Developer.

2.3 DEVELOPER represents that it understands that any contributions made by DEVELOPER in anticipation of reimbursement from tax increments shall not be, nor construed to be, financial obligations of CITY, other taxing entities, or ZONE. DEVELOPER shall bear all risks associated with reimbursement from incorrect estimates of tax increment, changes in tax rates or tax collections, changes in market or economic conditions impacting the project, changes in interest rates or capital markets, changes in development code requirements for which the Project does not enjoy statutory or constitutional vested rights, unanticipated effects covered under legal doctrine of *force majeure*, and/or other unanticipated factors.

## III. THE PROJECT

3.1 **The Project.** The Project shall constitute and include the design, construction, assembly, installation and implementation of a single-family residential development built pursuant to City of Donna development standards prescribed by City of Donna Code of Ordinances. The TIF funds will pay for Public Infrastructure Improvements, Project Costs and related costs only (the "Costs"). The TIF funds are the taxes on that amount of value assessed to the property within the Zone that is in excess of its value on January 1, 2005, the year the Zone was created or the base year. Taxes on the assessed value as of the base year will still go to the participating taxing entities; it is only the taxes on the increased value that funds the Project. The taxes on that additional increment of value are collected only until the earlier of payment of the agreed-upon amount of Project Costs or the termination of the ZONE pursuant to the City's Ordinance Number PL – 2006-07-10, dated August 3, 2006.

3.2 **The Public Infrastructure Improvements.** The public infrastructure improvements to be reimbursed with Available Tax Increment funds shall consist of the following items: street excavation and installation, curbing, sidewalks, drainage, lighting, traffic control, highway improvements, signage and fencing, off-site sewer, utilities, landscaping and other public improvements allowed under Chapter 311 of the Texas Tax Code, as more fully described in Section 1.15 and on Exhibit C.

3.3 **Construction of Public Improvements.** Project Costs eligible for reimbursement through TIF proceeds shall be publicly bid in general compliance with the requirements of the Texas Local Government Code.

3.4 **Financing.** The cost of the Public Infrastructure Improvements and all other Qualifying Costs associated with the Project shall be paid for through one of more of the following:

- a. **DEVELOPER'S** funds obtained by **DEVELOPER** from:
  - i. **DEVELOPER'S CAPITAL INVESTMENT;**
  - ii. Loans or Lines of Credit secured by **DEVELOPER;**
  - iii. Venture Capital raised by or on behalf of **DEVELOPER;**
  - iv. The offering or sell of Partnership Shares;
  - v. The sale by **DEVELOPER** of property owned by **DEVELOPER** within the **ZONE;** or
  - vi. Other funds lawfully obtained by or on behalf of **DEVELOPER** or the General or Limited Partners of **DEVELOPER;**

To the extent costs are paid for from sources (i) through (vi) above, **CITY** and Board of Directors of **ZONE** pledge to use Available Tax Increment funds, up to the maximum amount provided herein, to reimburse **DEVELOPER** for Project Costs. In order to obtain such reimbursement, **DEVELOPER** must complete the improvements in compliance with this Agreement and promptly submit a Certificate of Completion and Payment Request to the **ZONE**. Upon verification of completion, the **ZONE** shall promptly reimburse the

**DEVELOPER** from the Tax Increment Fund using collected tax increment, bond funds, or other available funds; or

- b. Direct payments from the **ZONE** to Contractors managed by **ZONE** or **DEVELOPER** for work performed or improvements constructed, provided such work performed and/or improvements constructed were done properly in compliance with this Agreement and all applicable regulations of **CITY and ZONE**; and which are the subject of a valid Certificate of Completion and proper Payment Request submitted to **ZONE**. Payments made under this sub-section shall be made using funds from the Tax Increment Fund. Direct payments made under this sub-section shall have priority over payments for reimbursement to **DEVELOPER** in situations where the Tax Increment Fund does not contain sufficient funds to make the Direct Payment and the reimbursement payment to **DEVELOPER**. **DEVELOPER** shall be entitled to receive interest as allowed by Chapter 311 of the Tax Code (not to exceed the interest rate for the TIRZ Bonds at time of issuance for the respective phase of the Project in which the reimbursement is approved) for all delayed reimbursements until they are paid; or
- c. Other sources obtained at the discretion of **ZONE, DEVELOPER, or CITY**.

3.5 **DEVELOPER** may use any or part of the Zone Property owned by **DEVELOPER** as collateral for construction loan(s), loans, or other sources of financing as required for the financing of the Project. **DEVELOPER** may also use its rights to reimbursements under this Agreement for such purposes provided they are solely related to providing funds for construction of improvements within the **ZONE**.

#### IV. DUTIES AND OBLIGATIONS OF DEVELOPER

4.1 Subject to the consideration from **CITY and ZONE, DEVELOPER** agrees to complete, or cause to be completed, the improvements described in the Project and Financing Plan and in this Agreement which includes, but is not limited to, street excavation and installation, curbing, sidewalks, drainage, lighting, traffic control, highway improvements, signage and fencing, off-site sewer, utilities, landscaping. **DEVELOPER** agrees to provide, or cause to be provided, all materials, labor and services for completing the Project. **DEVELOPER** also agrees, when required in connection with improving the Project, to obtain or cause to be obtained, all necessary permits and approvals from **CITY** and/or all other governmental agencies having jurisdiction over the construction of improvements in **ZONE**. All improvements will be completed in accordance with the Project and Financing Plans and this Agreement. Developer shall complete the above improvements during the term of the Project.

4.2 **DEVELOPER** shall be responsible for paying, or causing to be paid, to **CITY** and all other governmental agencies the cost of all applicable permit fees and licenses

required for construction of the Project.

4.3 **DEVELOPER** agrees to start and complete the Project in accordance with the Construction Schedule set forth in this Agreement in Exhibit B.

4.4 **DEVELOPER** shall submit to **CITY** and to the Board of Directors for **ZONE** written annual reports, starting twelve months from the commencement of construction and annually thereafter through the duration of the Project, on its construction progress and expenses.

4.5 **DEVELOPER** shall diligently work to successfully complete, or have completed, any and all required improvements that are not completed before the **ZONE** terminates in accordance with the terms of Ordinance No that created it. Such completion shall be at no additional cost to **ZONE**, **CITY** or any other taxing entity participating in the **ZONE**. **DEVELOPER** is only required to construct such improvements to the extent the Tax Increment Fund is reasonably anticipated to be sufficient to reimburse the cost of such improvements pursuant to Chapter 311 of the Texas Tax Code.

4.6 **DEVELOPER** shall prepare, or cause to be prepared, plans and specifications for each Phase of Public Infrastructure Improvements prior to starting any construction in said Phase. Furthermore, **DEVELOPER** shall not commence any construction on the Project until the plans and specifications for a Phase have been approved in writing by the appropriate department of **CITY**.

4.7 **DEVELOPER** agrees to supervise the construction of the Project and cause the construction to be performed substantially in accordance with the Project Plan, Financing Plan and the plans and specifications approved by the appropriate department of **CITY**. **DEVELOPER** also agrees to provide periodic reports of such construction to **CITY** upon reasonable request.

4.8 If substantial completion of the Project is delayed by reason of war, civil commotion, acts of God, inclement weather, governmental restrictions, regulations, fire or other casualty, court injunction, necessary condemnation proceedings, interference by third parties, or any circumstances reasonably beyond **DEVELOPER's** control, then following written request of **DEVELOPER**, the deadlines set forth in the Construction Schedule shall be extended by the period of each such delay.

## V. DUTIES AND OBLIGATIONS OF CITY AND ZONE.

5.1 **CITY** and **ZONE** shall use only Available Tax Increment funds to pay **DEVELOPER** up to a maximum total payment of two million three hundred eighty-two four hundred forty seven dollars and forty-five cents (\$2,382,447.45) as full reimbursement for designing and constructing the improvements required under the Project and Financing Plan and this Agreement. This payment includes infrastructure

improvements and other qualifying project costs. CITY shall deposit its Available Tax Increment into the Tax Increment Fund established pursuant to the Interlocal Agreements with the other Participating Taxing Entities at the same time those other Participating Taxing Entities are required to make their deposits of Available Tax Increment.

5.2 **Issuance of Bonds.** CITY and ZONE acknowledge that reimbursing developer for public improvements necessary and essential to the successful completion of the Project, and to generation of Tax Increment benefits the CITY's goal of continued economic development. As such, CITY and ZONE agree to cause Bonds to be issued after 75% of the project is completed under the authority granted by Chapter 311 of the Texas Tax Code to accelerate the reimbursement of the public improvements, and to take all other reasonable and necessary steps to cooperate with DEVELOPER.

It is further agreed by ZONE and CITY that the CITY shall, subject to legislative and underwriting limitations, and approval of the City Council, issue at least \$3 million in ZONE bonds for use in accelerating reimbursements to the DEVELOPER. CITY, ZONE, and DEVELOPER shall fully cooperate to assure that all public improvements meet the criteria of the CITY, ZONE and Chapter 311 of the Texas Local Government Code.

5.3 If Available Tax Increment funds do not exist in an amount sufficient to make such payments in full when the payments are due to DEVELOPER under this Agreement, CITY shall make partial payments to DEVELOPER and pay the remainder as Available Tax Increment funds become available. No interest, fees, costs, expenses, or penalties shall be paid to DEVELOPER on any late payment. The CITY is not obligated above and beyond what is actually collected as tax increment funds. There shall also be no recourse against any Participating Taxing Entity, public official, ZONE, or ZONE BOARD if all or part of the DEVELOPER contributions or costs are not reimbursed due to insufficient tax revenue generated by the Zone.

5.4 CITY agrees to recognize this agreement as a permit, pursuant to Texas Local Government Code Chapter 245.

5.5 City agrees that the City shall provide gas service to the Zone.

5.6 City shall provide and acknowledge the waivers and variances to the City of Donna Development Requirements and Building Codes as identified in Exhibit D to facilitate the development and construction of the Project.

## VI. INSURANCE

6.1 DEVELOPER's financial integrity is of interest to CITY; therefore, subject to DEVELOPER's right to maintain reasonable deductibles in such amounts as are approved by CITY, DEVELOPER shall obtain and maintain in full force during all

public infrastructure construction required by the Project Plan, and any extension hereof, at DEVELOPER's sole expense, insurance coverage written on an occurrence basis, except for professional liability coverage, by companies authorized and admitted to do business in the State of Texas and rated A - or better by A.M. Best Company and/or otherwise acceptable to CITY, in the following types and amounts:

<u>Type</u>	<u>Amount</u>
(1) Worker's Compensation & Employer's Liability	Statutory \$500,000/\$500,000/\$500,000
(2) Commercial General Liability (Including Broad Form Coverage, Contractual Liability, Bodily and Personal Injury, and Completed Operations	Combined limits of \$500,000 per occurrence and \$7500,000 in the aggregate or its equivalent in umbrella or excess liability coverage
(3) Business Automobile Liability (any auto, including employer's non-owned and hired auto coverage)	\$2500,000 combined single limit per occurrence

6.2 CITY shall be entitled, upon request and without expense, to receive copies of the policies and all endorsements thereto as they apply to the limits required by CITY and may make a reasonable request for deletion, revision or modification of particular policy terms, conditions, limitations or exclusions (except where policy provisions are established by law or regulation binding upon either of the parties hereto or the underwriter of any such policies). Upon such request by CITY, DEVELOPER shall exercise reasonable efforts to accomplish such changes in policy coverage and shall pay the cost thereof.

6.3 With the exception of the workers' compensation and professional liability policies, DEVELOPER agrees that with respect to the above-required insurance, all insurance contracts and Certificate(s) of Insurance shall include CITY as an additional insured with respect to operations and activities of, or on behalf of, the named insured that are performed under agreement with CITY.

6.4 If DEVELOPER fails to maintain the aforementioned insurance or fails to secure and maintain the aforementioned endorsements, CITY may obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement; however, procuring of said insurance by CITY is an alternative to other remedies CITY may have and is not the exclusive remedy for failure of DEVELOPER to maintain said insurance or to secure such endorsement. In addition to any other remedies CITY may have upon DEVELOPER's failure to provide and maintain any insurance or policy endorsements to the extent and within the time herein

required, CITY shall have the right to order DEVELOPER to stop work hereunder and/or to withhold any payment(s) that become due to DEVELOPER hereunder until DEVELOPER demonstrates compliance with the requirements hereof.

6.5 Nothing herein contained shall be construed as limiting in any way the extent to which DEVELOPER may be held responsible for payments of damages to persons or property resulting from DEVELOPER's or its subcontractors' performance of the work covered under this Agreement.

**6.6 DEVELOPER SHALL ALSO INDEMNIFY CITY, ZONE, THE BOARD OF DIRECTORS FOR ZONE, AND ALL OTHER TAXING ENTITIES PARTICIPATING IN ZONE AND THEIR RESPECTIVE OFFICIALS AND EMPLOYEES FROM AND AGAINST ANY AND ALL CLAIMS, LOSSES, DAMAGES, CAUSES OF ACTIONS, SUITS AND LIABILITIES ARISING OUT OF DEVELOPER'S AND DEVELOPER'S SUBCONTRACTORS' ACTIONS RELATED TO THE PERFORMANCE OF THIS AGREEMENT AND THE CONSTRUCTION OF PUBLIC INFRASTRUCTURE IMPROVEMENTS.**

6.7 DEVELOPER shall also require each of its subcontractors working on this Project to indemnify the Board of Directors for ZONE, CITY and all other taxing entities participating in ZONE and their respective officials and employees from and against any and all claims, losses, damages, causes of actions, suits and liabilities arising out of their actions related to the performance of this Agreement, utilizing the same indemnification language contained herein, in its entirety.

## VII. DEFAULT

7.1 In the event that DEVELOPER fails to commence construction of the Project, fails to complete construction of the Project, or fails to perform any other obligation pursuant to the terms of this Agreement, CITY and the Board of Directors for ZONE may terminate this Agreement if DEVELOPER does not take adequate steps to cure its failure within ninety (90) calendar days after receiving written notice from CITY and/or the ZONE requesting the failure be cured. In the event the DEVELOPER fails to cure a default within ninety (90) calendar days after receiving notice, this Agreement may be terminated by CITY. If this Agreement or the ZONE is terminated and the DEVELOPER has incurred expenditures for public infrastructure that were specifically approved by the Board of Directors of the ZONE and such infrastructure has been completed, then DEVELOPER shall be reimbursed for such expenditures out of the Tax Increment Fund, despite termination of this Agreement or ZONE.

## VII. INDEMNIFICATION

**8.2 DEVELOPER COVENANTS AND AGREES TO FULLY INDEMNIFY AND**

HOLD HARMLESS, CITY, ZONE, THE BOARD OF DIRECTORS FOR ZONE AND THE OTHER TAXING ENTITIES PARTICIPATING IN ZONE 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 THE CITY, ZONE, THE BOARD OF DIRECTORS FOR ZONE AND THE OTHER TAXING ENTITIES PARTICIPATING IN ZONE DIRECTLY OR INDIRECTLY ARISING OUT OF, RESULTING FROM OR RELATED TO DEVELOPER'S ACTIVITIES UNDER THIS DEVELOPMENT AGREEMENT, INCLUDING ANY ACTS OR OMISSIONS OF DEVELOPER, ANY AGENT, OFFICER, DIRECTOR, REPRESENTATIVE, EMPLOYEE, CONSULTANT OR SUBCONTRACTOR OF DEVELOPER, AND THEIR RESPECTIVE OFFICERS, AGENTS, EMPLOYEES, DIRECTORS AND REPRESENTATIVES WHILE IN THE EXERCISE OF PERFORMANCE OF THE RIGHTS OR DUTIES UNDER THIS DEVELOPER AGREEMENT. THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM THE NEGLIGENCE OF CITY, ZONE, THE BOARD OF DIRECTORS FOR ZONE AND THE OTHER TAXING ENTITIES PARTICIPATING IN ZONE. IN THE EVENT DEVELOPER AND CITY ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE CITY, ZONE, THE BOARD OF DIRECTORS FOR ZONE AND THE OTHER TAXING ENTITIES PARTICIPATING IN ZONE UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW. THE PROVISIONS OF THIS INDEMNIFICATION 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. DEVELOPER SHALL PROMPTLY ADVISE THE CITY IN WRITING OF ANY CLAIM OR DEMAND AGAINST THE CITY OR DEVELOPER KNOWN TO DEVELOPER RELATED TO OR ARISING OUT OF DEVELOPER'S ACTIVITIES UNDER THIS AGREEMENT.

#### IX. SITE INSPECTION

9.1 DEVELOPER shall allow CITY and/or the Board of Directors for ZONE reasonable access to the Project site for inspections during and upon completion of construction of the Project, and to documents and records necessary for CITY and/or the Board of Directors for ZONE to assess DEVELOPER'S compliance with this Agreement.

9.2 All personnel supplied or used by DEVELOPER in the performance of this

Agreement shall be deemed employees, contractors or subcontractors of **DEVELOPER** and shall not be considered employees, agents or subcontractors of **CITY**, **ZONE**, the Board of Directors for **ZONE**, or of any other taxing Entities participating in **ZONE** for any purpose whatsoever. **DEVELOPER** shall be solely responsible for the compensation of all such personnel.

9.3 The directors, officers, elected or appointed officials, employees and agents of **CITY**, **ZONE**, the Board of Directors for **ZONE**, and any other taxing entities participating in **ZONE** shall be protected from personal responsibility for any liability arising under or growing out of the Agreement.

## **X. EXAMINATION OF RECORDS**

10.1 **CITY** reserves the right to conduct examinations, during regular business hours and following notice to the Board of Directors for **ZONE** and **DEVELOPER**, of the books and records related to the Agreement (including such items as contracts, paper, correspondence, copy, books, accounts, billings and other information related to the performance of the Board of Directors for **ZONE** and/or **DEVELOPER**'s services hereunder) no matter where books and records are located. **CITY** also reserves the right to perform any and all additional audit tests relating to the Board of Directors for **ZONE** and/or **DEVELOPER**'s services, provided that such audit tests are related to those services performed by the Board of Directors for **ZONE** and/or **DEVELOPER** for **CITY**. These examinations shall be conducted at the offices maintained by the Board of Directors for **ZONE** and/or **DEVELOPER**.

## **XI. NON-WAIVER**

11.1 Any provision of this Agreement may be amended or waived if done in writing and is signed by **CITY**, through an ordinance passed and approved by its City Council, the Board of Directors for **ZONE**, and **DEVELOPER**.

## **XII. ENTIRE AGREEMENT**

12.1 This written Agreement embodies the final and entire agreement between the parties hereto and may not be contradicted by evidence of prior, contemporaneous, or subsequent oral agreements of the parties.

12.2 The exhibits attached to this Agreement are incorporated herein and shall be considered a part of this Agreement for the purposes stated herein, 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.

### **XIII. CHANGES AND AMENDMENTS**

13.1 Except when the terms of this Agreement expressly provide otherwise, any alterations, additions, or deletions to the terms hereof shall be by amendment in writing executed by **CITY, ZONE** and **DEVELOPER** and evidenced by passage of a subsequent **CITY** ordinance, as to **CITY's** approval.

13.2 It is understood and agreed by the parties hereto that changes in local, state and federal rules, regulations or laws applicable to the **ZONE** and **DEVELOPER's** services hereunder may occur during the term of this Agreement and the parties agree to amend this Agreement to reflect such changes in rules, regulations or laws.

### **XIV. SEVERABILITY**

14.1 If any clause or provision of this Agreement is held invalid, illegal or unenforceable under present or future federal, state or local laws, including but not limited to City Code or ordinances of the **CITY**, then and in that event it is the intention of the parties hereto that such invalidity, illegality or unenforceability shall not affect any other clause or provision hereof and that the remainder of this Agreement shall be construed as if such invalid, illegal or unenforceable clause or provision was never contained herein; it is also the intention of the parties hereto that in lieu of each clause or provision of this Agreement that is invalid, illegal or unenforceable, there be added as a part of the Agreement a clause or provision as similar as may be possible to such invalid, illegal or unenforceable clause or provision that is legal, valid and enforceable.

### **XV. VENUE AND GOVERNING LAW**

15.1 **THIS CONTRACT SHALL BE CONSTRUED UNDER AND IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS.**

15.2 Any legal action or proceeding brought or maintained, directly or indirectly, as a result of this Contract shall be heard and determined in Hidalgo County, Texas. **CITY** acknowledges that any legal action or proceeding brought or maintained, directly or indirectly, as a result of this Contract results in **CITY's** waiver of liability and suit under the terms of this Contract and under Texas law. The parties agree that any dispute that may arise under this Agreement shall first be submitted to mediation, or to alternative dispute resolution proceedings, before litigation is filed.

### **XVI. TAXES**

16.1 **DEVELOPER** shall pay, on or before their respective due dates to the appropriate collecting authority, all Federal, State, and local taxes and fees that are now

or may hereafter be levied upon its property.

## XVII. NOTICE

17.1 Any notice sent under this Agreement (except as otherwise expressly required) must be written and mailed with sufficient postage, sent by certified mail, return receipt requested, or delivered personally to an officer of the receiving party at the following addresses:

**CITY:**

City of Donna  
307 S. 12<sup>th</sup> Street  
Donna, Texas 78537  
Phone: (956) 464-3314  
Fax: (956) 464-9923  
(with copies being sent to both the  
Mayor and the City Manager)

**DEVELOPER:**

GRANDE Valley Homes, LLC d/b/a  
Casa Linda Homes.  
c/o Mr. Lewis Kilbourne  
President  
1409 Main  
McAllen, TX 78501  
Phone: (956) 631-6196  
Fax:

**ZONE:**

Luis Zamora  
Presiding Officer  
Reinvestment Zone Number One  
c/o City of Donna  
307 S. 12<sup>th</sup> Street  
Donna, Texas 78537  
Phone: (956) 464-3314  
Fax: (956) 464-9923

17.2 Each party may change its address by written notice in accordance with this Article. Any communication delivered by facsimile transmission shall be deemed delivered when such transmission is made if during normal business hours or at the beginning of the next business day if the transmission is made after normal business hours. Any communication delivered in person shall be deemed received when receipted for by or actually received by an officer of the party to whom the communication is properly addressed.

## XVIII. CAPTIONS

18.1 All captions used herein are only for the convenience of reference and shall not be construed to have any effect or meaning as to the agreement between the parties hereto.

**XIX. EFFECTIVE DATE**

19.1 This Agreement shall become effective from the date of execution. This Agreement shall terminate on the earlier of: (i) the date **DEVELOPER** receives the final payment for completing the Project; (ii) the date of a termination by default (provided that all existing warranties on the Project shall survive termination of this Agreement); or (iii) expiration of the **ZONE** tax increment finance district pursuant to the ordinance of the City creating the Zone.

IN WITNESS THEREOF, the parties hereto have caused this instrument to be duly executed this \_\_\_\_\_ day of \_\_\_\_\_ 2006.


**CITY OF DONNA**

By:   
P. R. Avila II, City Manager

**GRANDE VALLEY HOMES, LLC. d/b/a  
CASA LINDA HOMES**

By:   
Mark Dizdar

**REINVESTMENT ZONE NUMBER ONE,  
CITY OF DONNA, TEXAS**

By:   
Luis Zamora, Presiding Officer  
JUAN CORONA

**EXHIBIT A**

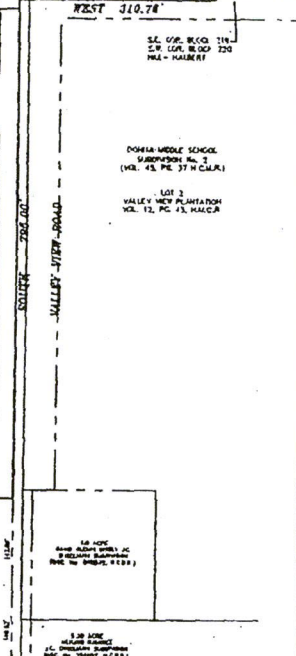
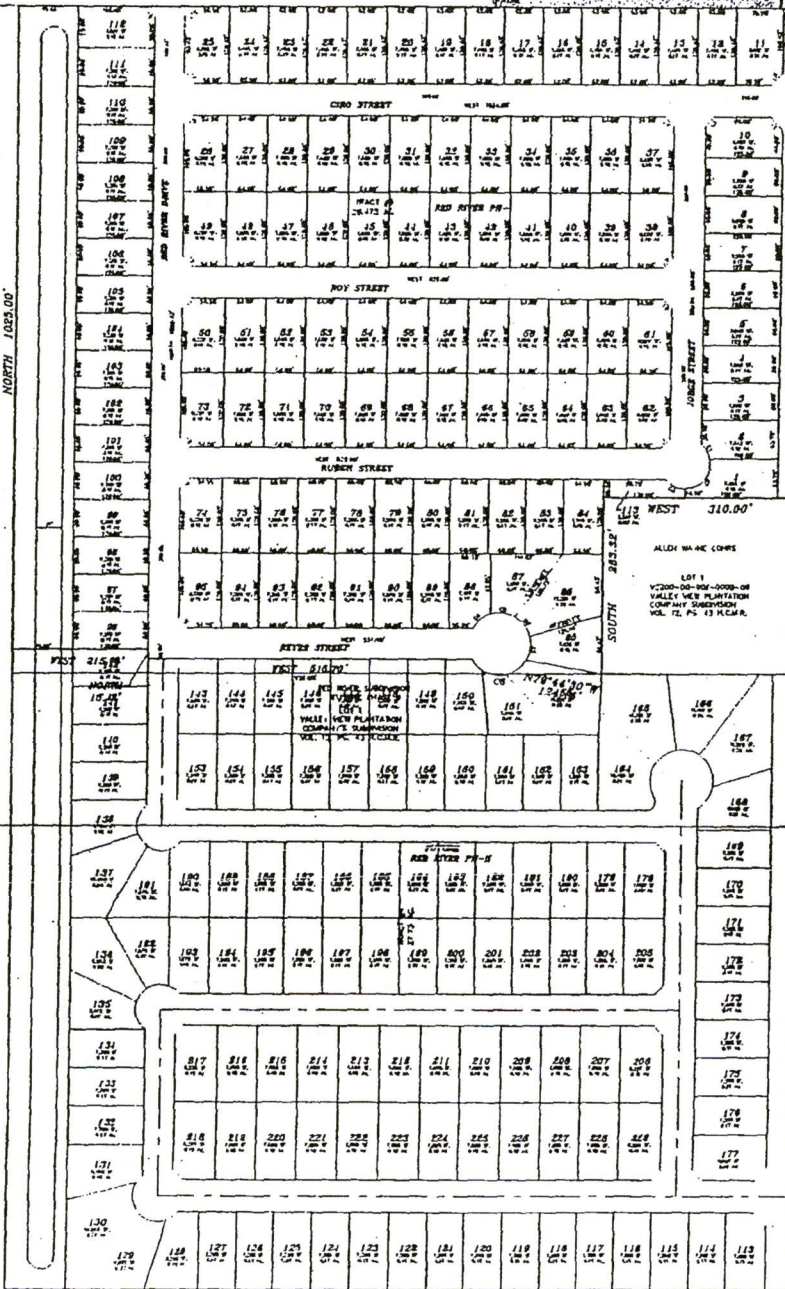
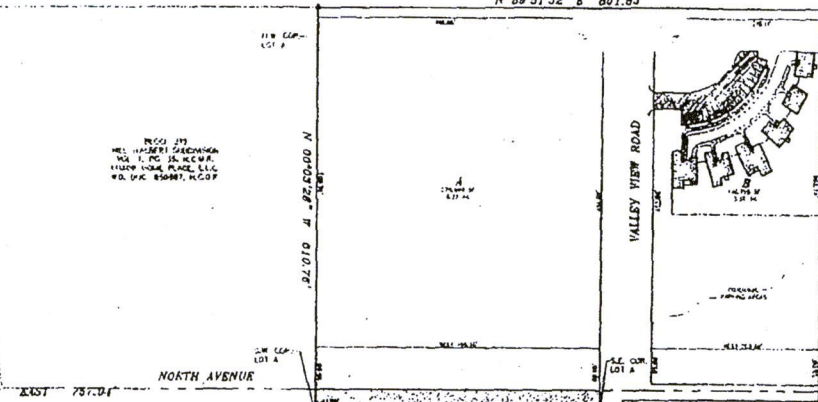
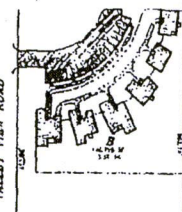
Zone Property



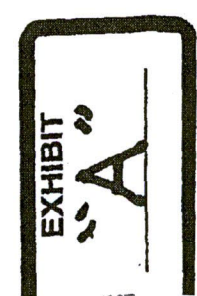
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N 80°51'32" E 801.83'

NO. 379  
MR. ROBERT GREENBERG  
1001 N. W. 10th St., Ft. Lauderdale, Fla.  
33304-1001, FLA. U.S. MAIL  
FD-350 (REV. 11-15-83)

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April 8, 2004

**METES AND BOUNDS DESCRIPTION  
39.125 ACRES OF LAND  
LOT 1, VALLEY VIEW PLANTATION CO. SUBDIVISION  
BLOCK 219, 220, HILL-HALBERT SUBDIVISION  
HIDALGO COUNTY, TEXAS**

A tract of land containing 39.125 acres situated in the County of Hidalgo, Texas, consisting of 28.140 acres out of LOT 1, VALLEY VIEW PLANTATION COMPANY'S SUBDIVISION, according to the plat thereof recorded in Volume 12, Page 43, Hidalgo County Map Records, and 10.985 acres out of BLOCKS 219 AND 220, HILL-HALBERT SUBDIVISION, according to the plat thereof recorded in Volume 1, Page 35, Hidalgo County Map Records, said 39.125 acres also being more particularly described as follows:

**BEGINNING** at the intersection point of the North line of said Lot 1, Valley View Plantation and the existing West right-of-way line of Valley View Road for an inside corner of this tract, said point bears West a distance of 15.00 feet from a cotton picker spindle found at the Northeast corner of said Lot 1;

**THENCE**, South along the West right-of-way line of Valley View Road, at a distance of 15.00 feet pass a #4 rebar found for the existing South right-of-way line of North Avenue, continuing a total distance of 795.00 feet to a #4 rebar found for an outside corner of this tract;

**THENCE**, West a distance of 310.00 feet to a #4 rebar found for an inside corner of this tract;

**THENCE**, South at a distance of 142.80 feet pass a #4 rebar found in line, continuing a total distance of 283.32 feet to a #4 rebar set for the southernmost Southeast corner of this tract;

**THENCE**, N 79° 44' 30" W a distance of 124.15 feet to a #4 rebar set for an inside corner of this tract;

**THENCE**, In a westerly direction along a curve to the right, with a central angle of 118° 56' 53", a radius of 50.00 feet, an arc length of 103.80 feet, a tangent of 84.80 feet, and a chord that bears N 89° 28' 26" W a distance of 88.14 feet to a #4 rebar set for an inside corner of this tract;

**THENCE**, West a distance of 515.70 feet to a #4 rebar set for the easternmost Southwest corner of this tract;

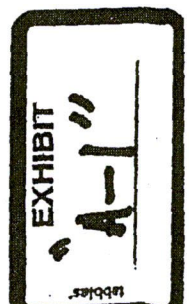
**THENCE**, North a distance of 15.42 feet to a #4 rebar set for an inside corner of this tract;

**THENCE**, West at a distance of 120.00 feet pass a #4 rebar set in line, continuing a total distance of 215.00 feet to the westernmost Southwest corner of this tract;

**THENCE**, North along the East line of the Donna Irrigation District West Main Canal right-of-way, a distance of 1025.00 feet to the westernmost Northwest corner of this tract;

**THENCE**, East along the South right-of-way line of North Avenue, at a distance of 20.00 feet pass a #4 rebar found in line, at a distance of 95.00 feet pass a #4 rebar set in line, continuing a total distance of 757.94 feet to a #4 rebar set for an inside corner of this tract;

**THENCE**, N 00° 03' 28" E at a distance of 15.00 feet pass the North line of Lot 1, Valley View Plantation Company Subdivision and the South line of Block 219, Hill-Halbert



Subdivision, continuing a total distance of 810.76 feet to a No.4 rebar found on the South right-of-way line of U.S. Expressway 83, for the easternmost Northwest corner of this tract;

THENCE, N 89° 51' 32" E along the South right-of-way line of U.S. Expressway 83, at a distance of 740.11 feet pass the East line of Block 219 and the West line of Block 220, Hill-Halbert Subdivision, continuing a total distance of 801.83 feet to a No.4 rebar found for the Northeast corner of this tract;

THENCE, S 00° 03' 28" E at a distance of 397.57 feet pass the East line of Block 219 and the West line of Block 220, Hill-Halbert Subdivision, continuing a total distance of 597.74 feet to the South line of said Block 219, for the easternmost Southeast corner of this tract;

THENCE, West along the South line of Block 219, Hill-Halbert Subdivision, the North line of Lot 2, Valley View Plantation Company Subdivision, and within the right-of-way of North Avenue, a distance of 310.76 feet to the POINT OF BEGINNING, and containing 39.125 acres of land, more or less.

**Exhibit D**  
Ordinance 2017-09  
(Non-dissolution ordinance)

(Attached 3 pages)

**ORDINANCE NO. 2017-09**

**AN ORDINANCE OF THE CITY OF DONNA, TEXAS RESCINDING CITY OF DONNA, TEXAS ORDINANCE NO. F-2014-12-204 (ATTEMPTING TO DISSOLVE TAX INCREMENT REINVESTMENT ZONE NUMBER ONE), AND AFFIRMING THE CONTINUING EXISTENCE AND OPERATION OF SAID TAX INCREMENT REINVESTMENT ZONE NUMBER ONE.**

**WHEREAS**, pursuant to Ordinance No. PL-2006-07-10 (“Creation Ordinance”) dated August 8, 2006, the City Council of the City of Donna, Texas (the “City”) created Reinvestment Zone Number One, City of Donna (the “TIRZ”) pursuant to Chapter 311, Texas Tax Code (the “Code”);

**WHEREAS**, pursuant to (i) the Development Agreement (the “Development Agreement”) between the City and Grande Valley Homes, LLC d/b/a Casa Linda Homes (the “Developer”) and the TIRZ and (ii) the Interlocal Agreement among the City, Hidalgo County (the “County”), the TIRZ and the Developer (together with the Development Agreement, the “Agreements”), the Developer was required to develop the infrastructure in the Red River Project-Phase I (the “Project”) as described in the Development Agreement;

**WHEREAS**, the Developer constructed, paid for, and dedicated the required Project infrastructure to the City, and the City accepted such dedications, providing the Developer with the right to seek reimbursement for the cost thereof prior to the economic crisis that occurred in 2008;

**WHEREAS**, as a result of said economic crisis, and related events, the Developer was required to assign its interest in the reimbursement rights under the Development Agreement to the Law Office of Ramon Garcia (“Assignee”) for the purpose of satisfying claims and other matters, and said Assignee now wishes to fulfill the rights and legal obligations between the City and the Developer in relation to the operation of the TIRZ and the pursuit of the rights of reimbursement thereunder;

**WHEREAS**, pursuant to Section 4 of the Creation Ordinance, the TIRZ terminates on August 8, 2031, unless terminated or dissolved earlier as specified therein;

**WHEREAS**, due to issues with the TIRZ, the City Council adopted Resolution 2014-23 concerning giving notice of intent to dissolve the TIRZ (the “Dissolution Resolution”);

**WHEREAS**, the City Council subsequently adopted Ordinance No. F-2014-12-204 (the “Dissolution Ordinance”), to dissolve the TIRZ, which Dissolution Ordinance specified it would take effect upon approval and withdrawal of its participation by the County;

**WHEREAS**, in accordance with the terms of Section 6 of the Dissolution Ordinance, the Dissolution Ordinance never became effective because the City did not secure the County's approval or the County's withdraw from participation in the TIRZ as required for the Dissolution Ordinance to take effect;

**WHEREAS**, the City never terminated or dissolved the TIRZ because the Dissolution Ordinance never became effective;

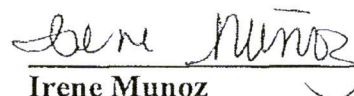
**WHEREAS**, the City determined that dissolving the TIRZ pursuant to the Dissolution Resolution may conflict with the City's obligations under the Agreements and adopted Resolution No. 2015-32 rescinding the Dissolution Resolution and recognizing the continued existence, without interruption from the date of creation, of the TIRZ;

**WHEREAS**, a new Board of Directors (the "Board") has been installed for the TIRZ by the City and will fulfill the legal obligations of the Project and the Agreements, and the City desires to rescind the Dissolution Ordinance, declare the said Ordinance No. F-2014-12-204 void ab initio and reaffirm the existence of the TIRZ.

**NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DONNA, TEXAS THAT:**

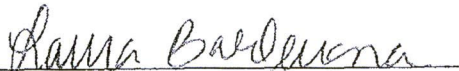
1. Ordinance No. F-2014-12-204 is hereby rescinded, declared to be void ab initio and of no effect, and Reinvestment Zone Number One, City of Donna is hereby recognized as continuing in existence, without interruption, from the date of creation.
2. The Council hereby finds that the statements set forth in the recitals of this Ordinance are true and correct, and the council hereby incorporates such recitals as part of this ordinance.
3. If any provision of this ordinance or the application thereof to any circumstances shall be held invalid, the remainder of this Ordinance and the application thereof to other circumstances shall nevertheless be valid, as if such invalid provision had never appeared herein, and this governing body hereby declares that this Ordinance would have been enacted without such invalid provisions.
4. It is hereby officially found and determined that the meeting at which this Ordinance was adopted open to the public, and public notice of time, place, and purpose of said meeting was given, all as required by Chapter 551, Texas Government Code, as amended.

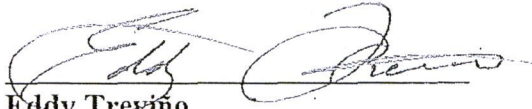
**PASSED AND APPROVED THIS 1<sup>st</sup> day of August, 2017.**

  
\_\_\_\_\_  
**Irene Munoz**  
**Mayor**

Attest:

Approved As To Form and Substance:

  
\_\_\_\_\_  
Laura Balderrama  
City Secretary

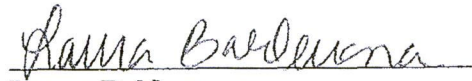
  
\_\_\_\_\_  
Eddy Treviño  
City Attorney

**Exhibit E**  
Original Interlocal Agreement

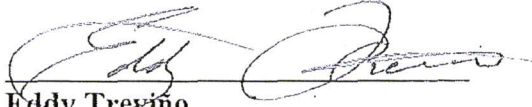
(Attached 61 pages)

Attest:

Approved As To Form and Substance:



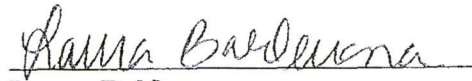
Laura Balderrama  
City Secretary



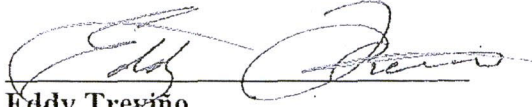
Eddy Treviño  
City Attorney

Attest:

Approved As To Form and Substance:



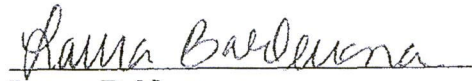
Laura Balderrama  
City Secretary



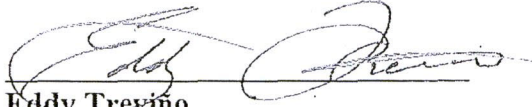
Eddy Treviño  
City Attorney

Attest:

Approved As To Form and Substance:



Laura Balderrama  
City Secretary



Eddy Treviño  
City Attorney

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 2006, the base year of the ZONE.

6. "CITY" has the meaning set forth in Section I.A.1 above, and includes its successors and assigns.

7. "COUNTY" has the meaning set forth in Section I.A.1 above.

8. "DEVELOPER" has the meaning set forth in Section I.A.1 above, and includes its successors and assigns.

9. "Development Agreement" means the agreement among the DEVELOPER, the ZONE and the CITY attached hereto as Exhibit C.

10. "Financing Plan" means the Final Financing Plan for ZONE as adopted by the Board of Directors of ZONE on September 27, 2006, and approved by City Council of CITY on October 17, 2006, and attached hereto as Exhibit "A".

11. "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.

12. "Parties" has the meaning given such term in Section I.A.1 above.

13. "Project" means the Red River Development Project, as that project is more specifically identified in the Financing and Project Plan.

14. "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; golf course and related facilities; railroad facilities; fencing; and rights-of-way. The Project Costs in the aggregate for the life of ZONE are estimated to be one million two hundred twenty-one thousand one hundred forty-seven dollars and sixty-seven cents (\$1,221,147.67), as more completely set forth in Exhibit "A".

15. "Project Plan" means the Final Project Plan for the ZONE as adopted by the Board of Directors of the ZONE on September 27, 2006 and approved by the CITY Council of the CITY on October 17, 2006 and attached hereto as Exhibit "A".

16. "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.

17. "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, 2006, the year in which the ZONE was designated.

18. "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 One (1), City of Donna, Texas Tax Increment Fund."

19. "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.

20. The "term of the ZONE" has the meaning set forth in Section III.A. below.

21. "ZONE" means Tax Increment Reinvestment Zone Number One, City of Donna, Texas, created by the CITY over the Zone Area on August 8, 2006, by Ordinance No. PL - 2006-07-10, a description of which is contained in Exhibit "B", attached hereto.

22. "ZONE BOARD" has the meaning set forth in Section I.A.1 above.

### III. BACKGROUND

A. Resolution of Intent No. 2006-03-02, passed and approved by the City Council of the CITY on March 7, 2006, expressed the CITY's intent to create a tax increment financing reinvestment zone to support revitalization and development activities for the ZONE, commonly known as the Red River Development Project, pursuant to Chapter 311, Texas Tax Code. On August 8, 2006, the City Council of the CITY passed and approved Ordinance No. PL-2006-07-10, which created the ZONE and by which the CITY agreed to be bound to this Agreement pursuant to Section 311.013 of the Texas Tax Code. The Project is located in the northwest sector of the CITY. The Project generally is located along Business Highway 281. The Project is more specifically described on Exhibit A. The Project is in the Donna Independent School District and encompasses approximately 39.125 acres. The ZONE BOARD will provide funding for public improvements and other Project Costs within the area of the Project. The Tax Increment Base for the ZONE is four hundred twenty thousand dollars (\$420,000.00), and the projected Captured Appraised Value of all the taxable real property in the ZONE at the end of the Agreement Term is eight million four hundred thousand dollars (\$8,400,000.00). Bonds will be issued pursuant to §311.015 of the Texas Tax Code once the DEVELOPER completes 75% of the Project. The Bonds will be secured by revenue from the Tax Increment as provided for in Section 311.015 and Section 311.0123 of the Texas Tax Code. The Project includes the construction of public infrastructure that will serve a 28.13-acre development. Construction will be carried out in phases as specified in the Development Agreement and Project Financing Agreement, with the last phase commencing in 2009. The total Project Costs is estimated to be two million five hundred ninety-seven thousand seven hundred forty-seven dollars and forty-five cents (\$2,597,747.45). The ZONE terminates on December 31, 2026, unless earlier termination occurs under this Agreement (the period of January 01, 2007 through such termination, the "term of the ZONE").

B. The ZONE BOARD adopted the Project Plan on September 27, 2006. The CITY approved the Project Plan and Project Financing Plan on October 17, 2006. 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. PL-2006-07-10, 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.

C. 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 a Participating Taxing Entity 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 one hundred percent (100%) of its respective Tax Increments equal to its Maintenance and Operation (M&O) tax rate, as more fully described in Section IV.B.9 of this Agreement, for the life of the ZONE beginning with the 2007 tax year.

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 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, 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 2027 (ending on December 31, 2027), 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 2007 by the later of September 30, 2008 and 30 days after the full execution and delivery of this Agreement by all Parties. The amount of the first Tax Increment Payment shall be based on the Tax Increments that were received up to January 31, 2008, but only for tax year 2007 beginning January 1, 2007. For subsequent payments, the COUNTY agrees to contribute its yearly Tax Increment Payment to the Tax Increment Fund annually on or before April 30th (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 31<sup>st</sup> 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. The Parties agree that the COUNTY's obligation to deposit Tax Increment Payments after 2026, shall only be for taxes collected and received after such date that are attributable to the time period during which the COUNTY agreed to participate. Under no circumstances shall the COUNTY be required to participate in the ZONE with taxes attributable to periods after 2026.

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.

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 90<sup>th</sup> 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.

5. The CITY agrees to comply with the Project Plan and the Development Agreement. 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 a twenty percent (20%) increase or decrease in either the Project Cost or the scope and scale of the Project) to the Project Plan or the Development Agreement; 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 and the Development Agreement 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, the DEVELOPER and the ZONE (with a copy to any other Participating Taxing Entity still contributing Tax Increment Payments) demanding that all breaches must be resolved within ninety (90) days.

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 nine hundred seventy thousand eight hundred sixty-three dollars eighty-one cents (\$970,863.81) in the aggregate, plus any applicable penalty and/or interest allowed in section 311.013(c) of the Tax Code.

9. Notwithstanding anything herein to the contrary, the maximum amount of Tax Increment deposited in the Tax Increment Fund by the COUNTY shall not exceed the amount of taxes collected by the COUNTY in any year during the Agreement Term with respect to any period during the term of the ZONE at a County Maintenance and Operation (M&O) tax rate of \$0.520000 per \$100 valuation on the Captured Appraised Value. In the event that the County M&O tax rate is less than \$0.520000 per \$100 valuation on the captured appraised value during any year during the term of the ZONE, then the maximum tax increment paid by the COUNTY into the Tax Increment Fund shall not exceed 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 \$0.520000 per \$100 valuation. In the event that the COUNTY M&O tax rate is greater than \$0.520000 per \$100 valuation on the captured appraised value in any year during the term of the Zone, the COUNTY shall retain all taxes collected above the maximum amount of tax increment deposited in the Tax Increment Fund at a COUNTY M&O tax rate of \$0.520000 per \$100 valuation on the captured appraised value.

#### **C. School District Provisions**

The COUNTY understands that the Project is located in the Donna Independent School District. The City and the Zone represent to the COUNTY that the Donna Independent School District is not participating in the ZONE.

**D. 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 and Finance Plan. The Participating Taxing Entities, during the Agreement Term, 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 nine (9) members, as allowed under Section 311.009(b) of the Texas Tax Code. The COUNTY shall have the right to appoint one member of the ZONE BOARD.

**E. 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 Development Agreement, 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 Agreement Term, beginning with the 2006 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 of 2029, whichever occurs first. Notwithstanding anything herein to the contrary, the total CITY Tax Increment Payments over the term of the ZONE shall not exceed one million six hundred twenty-seven thousand six hundred fifty-eight dollars and eleven cents (\$1,627,658.11) in the aggregate.

**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 2006 by March 31, 2007. The amount of the first Tax Increment Payment shall be based on the Tax Increments that were received through January 31, 2007, but only for the tax year 2006 beginning January 1, 2006. For subsequent Tax Increment Payments, the CITY agrees to contribute its Tax Increment Payment to the Tax Increment Fund semi-annually on or before March 10 and August 10 (or the first business day thereafter) of each tax year. 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 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. PL-2006-07-10, passed and approved by City Council of the CITY on August 8, 2006. 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 parties agree and understand that under no circumstances shall Administrative Costs, in the aggregate, exceed the amount set out and described in Section II.1 above.

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; (ii) to reimburse eligible initial startup Administrative Costs incurred by each Participating Taxing Entity, except that if there are insufficient funds for the full reimbursement of Administrative Costs to each Participating Taxing Entity, then the Administrative Costs of each Participating Taxing Entity shall be reimbursed on a pro rata basis based on each taxing entity's total tax increment payment to the ZONE and (iii) to reimburse the DEVELOPER for public improvements, including financing costs, as provided in the Development Agreement and in the Project Plan to the extent that funds are available for this purpose. The Development Agreement is attached hereto as Exhibit "C". The foregoing notwithstanding, 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.

**E. Disadvantaged Businesses**

To the extent applicable pursuant to Section 311.0101 of the Texas Tax Code, the Zone shall develop a program pursuant to Section 311.0101(c) of the Texas Tax Code for the purchase of supplies, materials, services, and equipment and that the board of the ZONE shall compile a report on an annual basis listing the total number and dollar amount of contracts awarded to disadvantaged businesses during the previous year as well as the total number and dollar amount of all contracts awarded. Such annual report shall be available for inspection by the general public during regular business hours.

**VI. RIGHTS AND OBLIGATIONS OF DEVELOPER**

**A. Agreement by Developer**

In return for the covenants and agreements made by the CITY, the COUNTY, and the ZONE, the DEVELOPER agrees to faithfully perform its obligations under this Agreement and the Development Agreement.

**B. Rights of Developer**

1. The CITY, the COUNTY, and the ZONE agree and acknowledge that DEVELOPER is making the commitments identified herein in reliance on the commitments made by the CITY and the COUNTY to timely contribute their respective Tax Increments to the Tax Increment Fund as they become due, and on the commitment of the ZONE to properly process payments and reimbursements for proper work completed by the DEVELOPER and/or its assigns, contractors or subcontractors.

2. The DEVELOPER shall have the right to serve as Project Manager for the construction and installation of all public improvements and public infrastructure identified in the Project Plan and Project Financing Agreement.

3. DEVELOPER shall have the right to adjust or prioritize the schedule of construction of improvements within each Phase of the Project, provided that such adjustment or prioritization does not cause a material change in the Project Financing Agreement.

4. DEVELOPER shall have the right to use anticipated reimbursements and other rights under this Agreement and the Development Agreement to obtain financing for funding required to construct improvements within the development, including the use of such reimbursements or rights as collateral, or the factoring of such rights and obligations to third parties.

**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, 2027, 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 2007 tax year (provided that it is understood that 2006 is the base year and no tax increment shall be due with respect to such year) and ending in accordance with the terms provided herein. The Parties agree and understand that the COUNTY's Tax Increment Payments will not be made after December 31, 2027, except as set out in Sections IV.A.2. and IV.B.1. of this Agreement.

**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 in Section IV.B. above, except the CITY may terminate the ZONE if the DEVELOPER ceases to undertake said improvements as set out in the Development Agreement or the DEVELOPER fails, for three (3) consecutive years or more, to (i) commence as scheduled in the Project Plan construction activities on any remaining improvements in the Project that are specified in the Development Agreement to be a part of the Project; or (ii) timely make any public infrastructure improvements that qualify as Project Costs, as defined in Section 311 of the Texas Tax Code, that are specified in the Development Agreement to be a part of the Project. Termination of the ZONE or participation in the ZONE by a taxing unit shall be subject to Section 311.013 of the Texas Tax Code.

**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.

## VIII. MISCELLANEOUS

### A. Understanding

Any and all costs incurred by the DEVELOPER are not, and shall never become, general obligations or debt of any Participating Taxing Entity. With respect to the DEVELOPER's costs, only eligible Project Costs and allowable expenses incurred by the DEVELOPER shall be payable from the Tax Increment Fund in the manner and priority provided in this Agreement and only to the extent that tax increment funds become available. 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. F-2006-10-28 dated October 17, 2006. The CITY and the COUNTY are not obligated above and beyond what is actually collected as tax increment funds. There shall also be no recourse against any Participating Taxing Entity, public official, ZONE, or ZONE BOARD if all or part of the DEVELOPER contributions or costs are not reimbursed due to insufficient tax revenue generated by the ZONE.

### 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 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) on the third business day following deposit in a United States Postal Service post office or receptacle with proper postage affixed (certified mail, return receipt requested) 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.

**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 agreement term, 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. Development Agreement**

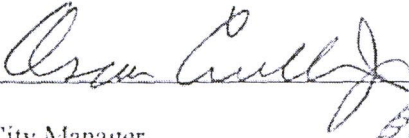
The CITY has entered into a written Development Agreement with the DEVELOPER that is binding on the CITY and the ZONE BOARD related to the Project and the development of the ZONE, a copy of which is attached hereto and incorporated herein as Exhibit "C." The CITY hereby represents and warrants that it will enforce and follow the provisions of this Agreement, as required, including, to the extent contained in the Development Agreement, the DEVELOPER's compliance with all applicable building codes and ordinances, as modified or amended and all applicable federal, state, and local laws, rules, regulations, statutes, ordinances, orders and codes, as amended. The CITY and the ZONE agree to provide the COUNTY with a copy of any notice of default that is delivered or sent to any party under the Development Agreement within five (5) business days after receipt of the notice by the CITY or the ZONE.

**M. ZONE Designation**

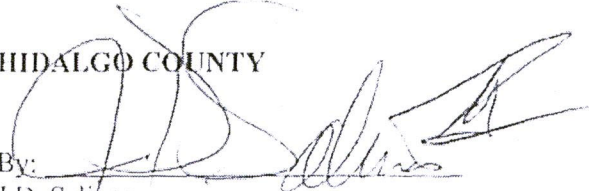
The CITY represents that its designation of the ZONE meets the criteria of Section 311.005(a), Texas Tax Code.

IN WITNESS HEREOF, the CITY OF DONNA; HIDALGO COUNTY; MUNICIPAL DEVELOPMENT ADVISORS; AND TAX INCREMENT REINVESTMENT ZONE NUMBER ONE (1), CITY OF DONNA, TEXAS have made and executed this Agreement in quadruplicate originals on this \_\_\_\_ day of \_\_\_\_\_, 2008.

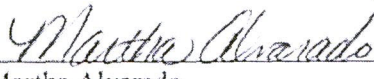
CITY OF DONNA

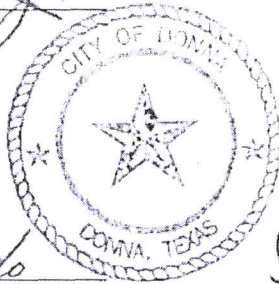
  
\_\_\_\_\_  
City Manager

HIDALGO COUNTY

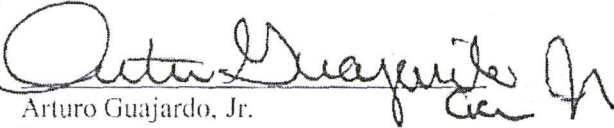
  
By: \_\_\_\_\_  
J.D. Salinas  
County Judge

ATTEST/SEAL:

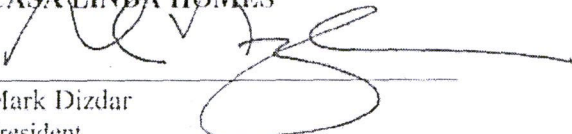
  
\_\_\_\_\_  
Martha Alvarado  
City Secretary



ATTEST/SEAL:

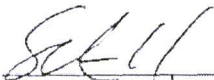
  
\_\_\_\_\_  
Arturo Guajardo, Jr.  
County Clerk

DEVELOPER, GARDEN VALLEY HOMES, LLC d/b/a  
CASALINDA HOMES

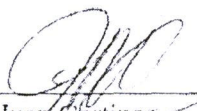
  
\_\_\_\_\_  
Mark Dizdar  
President

APPROVED AS TO FORM FOR  
HIDALGO COUNTY:

Atlas & Hall, L.L.P.

By:   
\_\_\_\_\_  
Stephen L. Crain

REINVESTMENT ZONE NUMBER ONE,  
CITY OF DONNA, TEXAS  
(Red River Development Project)

  
\_\_\_\_\_  
Juan Cortinas  
Presiding Officer

**Exhibit A**  
**Red River Development Project**  
**Project Plan and Financing Plan**

## Red River Phase I SECTION 1 – PROJECT SUMMARY

### Overview of Plan

Tax Increment Reinvestment Zone Number One, City of Donna, Texas also known as the Red River Phase I (the "Zone") represents an important opportunity for the City of Donna to promote and encourage construction of market rate and affordable single family housing in an area of the City that has had significant impediments to development. Situated along Business Hwy 281 on the Northwest side of the city limits of Donna, the creation of the Zone will: 1. Help to increase the households of the area by increasing the number of single-family owner occupied homes in Donna by 3%, 2. Provide Donna with an opportunity to invest in public infrastructure needs on its northwest city limits, 3. Offer employment opportunities to Donna residents, and 4. Remove low valued vacant land from the tax rolls and replace it with higher value homes.

As the City has matured, certain tracts of land have remained vacant for two reasons: 1. Either the costs associated with developing the land prohibited the efficient use of the property or 2. The property was unavailable for development when development should have occurred and current development costs are uneconomical. In these areas, developing new market rate and affordable single-family subdivisions is difficult because of the increased costs associated with off-site utility extensions, on-site street and utility extensions and the construction of a new main road.

The Zone is located in the northwest sector of the City on Business Highway 281 and Valley View Road. Please see Exhibit "1" for a detailed map of the property.

### Development Goals and Objectives

The Board of Directors for the Zone has adopted development goals and directives, which they expect, will meet the specific needs of the Zone:

- Provide for employment opportunities for area residents
- Work to enhance and increase the population within the area
- Enhance the quality of life within the neighborhood through landscaping and increased recreational opportunities
- Enhance the quality of life for Donna residents using the recreational facilities
- Provide for new public park amenities for Donna residents.
- Increase owner-occupied single-family housing opportunities in Donna by 3%

The following specific objectives set the framework for the planned public improvements within the Zone:

- Complete the infrastructure for 112 new single-family lots
- Improve the pedestrian environment through landscaping, and lighting.

The Red River Phase I Tax Increment Reinvestment Zone, City of Donna, Texas Project Plan (the "Project Plan") and Reinvestment Zone Financing Plan (the "Financing Plan") provides a long term program to increase employment opportunities and population within the Zone, using tax increment financing to pay for the required public improvements. Utilizing this program to encourage public infrastructure improvements, the economics of developing affordable and market rate housing in the Donna area is greatly improved.

### **Planned Private Development**

The Zone's development program includes:

- 112 single-family owner-occupied homes
- Increase of owner-occupied single-family housing opportunities in Donna by 3%

The total private investment is forecasted to be in excess of \$8,400,000.00.

## **Public Improvements**

The public improvements enumerated in the Project Plan provide for approximately \$1,221,147.67 including streets and utilities. The improvements planned for the Zone are designed to fully meet the long-term needs to secure growth and investment in the area.

## **Financing Plan**

The Financing Plan provides approximately \$1,221,147.67 of planned public improvements to be paid for with tax increment funds. The Financing Plan provides for incremental financing and predicts revenues for the Zone.

## **Conclusions**

Based upon a set of conservative assumptions and analysis of the Zone's Project Plan and Financing Plan, the Zone's Board of Directors has concluded that the Zone's Project Plan and Financing Plan are feasible. The success of the redevelopment project to create new single-family affordable and market rate housing will support future growth in residential, retail, manufacturing and office development in the area.

## **Framework of Plan**

Section 1 contains the Project Summary of the Zone's Project Plan and Financing Plan.

Section 2, PROJECT PLAN, contains background information, a description of the planning process, development goals and objectives, a description of the Zone including maps of current land use and zoning, and the Zone boundaries. Also included are general program concepts and the market feasibility study.

Section 3, PROJECT PLAN IMPROVEMENTS, provides a description of the planned public improvements, including a project budget. The near term and long term expectations for private development are also included.

Section 4, FINANCING PLAN, includes an explanation of the increment financing, the financing strategy and the assumptions on which the Project Plan for the Zone is based. The financial feasibility of the Zone is examined along with financial policies, which have been adapted by the Board of Directors.

An APPENDIX has been compiled which includes other supporting material.

## **Red River Phase I SECTION 2 – PROJECT PLAN**

### **Background**

The City Council recognizing the need for additional economic development including market rate and affordable housing passed Resolution 2006-03-02 on March 7, 2006 in support of the creation of a Tax Increment Reinvestment Zone with in the City of Donna.

### **Planning Process**

Casa Linda Homes and Earl & Associates, P.C. approached the City of Del Donna in April 2006 with a proposed new subdivision that would target housing needs in the City that were not being met through existing economic development. The proposed subdivision would address new single-family owner-occupied housing in the \$70,000 to \$80,000 price range, a product not widely available in the City. A preliminary finance plan for the project was developed. The City Council approved a "Resolution of Intent" to create Red River Phase I Tax Increment Reinvestment Zone, City of Donna through Resolution 2006-03-02 on March 7, 2006. Meetings were held with the other taxing entities in Hidalgo County on the following dates:

- Hidalgo County Commissioners Court Tuesday, May 16, 2006
- Donna Independent School District May 25, 2006
- A consolidated meeting with all taxing entities was held in Council Chambers on June 14, 2006

On August 8, 2006 the Council voted to create the Zone with Ordinance PL – 2006-07-10 and on August 8, 2006 the Council appointed a Board of Directors for the Zone with Resolution 2006-07-02.

### **Program Concepts**

The Zone represents an important opportunity for the City of Donna to develop an attractive, master-planned and viable long-range revitalization plan for an area of the City, which has lacked a wide range of housing opportunities. New affordable and market rate single-family home construction is the key component of the revitalization plan.

Preliminary figures based upon the average household size for owner-occupied housing from the 2000 census for Donna indicate an increase in population of 397 persons for Donna from the Zone. While some of the new occupants will be from the immediate surrounding area, experience with past affordable and market rate projects indicates that occupants will come from all areas of the County and surrounding Counties.

Increased employment opportunities for Donna residents will be enhanced through the development of the single-family lots and the home construction. The National Association of Homebuilders reports that the construction of a typical single-family home generates 1 job for 1 year, 1/2 of that job is on-site and the other 1/2 is in the manufacture and distribution of the materials going into the home. Using these statistics the Zone should generate 15 construction jobs per year over the four years of home construction and an additional 15 jobs per year in the local manufacturing and distribution sectors of the economy. Red River Phase I will create a total of 30 jobs per year over a five-year period. There will be additional jobs generated through the completion of the public infrastructure; however, there is no meaningful way of estimating these jobs.

### **Development Goals and Objectives**

The Board of Directors for the Zone has adopted development goals, which they expect will meet the specific needs of the Zone.

- Create opportunities for first time home ownership
- Provide credit management counseling to assist in home ownership
- Reduce crime through elimination of vacant overgrown land
- Provide for safe, affordable and market rate housing
- Increase recreational opportunities in the Zone

The following specific objectives set the framework for the planned public improvements within the Zone:

- Complete the infrastructure for 112 new single family homes

The Project Plan and Financing Plan provides a long term program to begin neighborhood revitalization using tax increment financing to pay for these improvements. Utilizing this program to encourage public infrastructure improvements, the economics of developing market rate and affordable housing in the Zone area and attracting more commercial investment is greatly improved.

### **Description of Zone**

The Zone is located on the northwest side at the intersection of Business Highway 281 and Valley View Road in Donna. The property is vacant and is located in an area of the City that has seen some new single-family housing but not housing that is reflective of the median family income for a Donna resident. The property is 28.13 acres in size and the Hidalgo County Appraisal District tax account number for the property is V2200-00-001-0000-01, V2200-00-001-0000-07, and H3475-00-219-0000-15. A survey with field notes is attached as an exhibit.

### **Existing Uses**

The area in which the Zone is located is primarily composed of farmland and vacant land. Donna Middle School is located across Valley View Road and the Red River Phase I Development Project. Currently, the land is used as farmland and for other agricultural uses.

### **Zoning**

The Zone property is currently zoned single-family residential "District R-1" and no change in zoning is anticipated.

## SECTION 3 – PROJECT PLAN IMPROVEMENTS

### Public Improvements

The Project Plan provides approximately \$1,221,147.67 for single-family infrastructure, off-site sewer and gas extensions, sidewalk construction, street trees and landscaping, and fencing. 112 new lots and single-family homes are to be developed in addition to new park improvements for area residents. The planned improvements are designed to begin to meet the long-term needs to secure growth and investment in the area. Planned improvements include:

<b><u>Hard Project Costs</u></b>	
Paving Improvements	\$ 313,752.28
Drainage	\$ 110,284.01
Water	\$ 133,900.00
Sewer	\$ 179,282.51
Irrigation Improvements	\$ 75,769.01
Fencing	\$ 12,911.70
Street Lights/Signs	\$ 1,999.99
Fire Hydrant Markers	\$ 150.00
<b><u>Soft Project Costs</u></b>	
City Inspection Fee	\$ 16,259.75
TCEQ Permit Fee	\$ 100.01
NAWSC Fees	\$ 97,449.98
Park Fees	\$ 28,000.00
Filing fees and exclusions	\$ 1,500.01
Engineering-Surveying-Other	\$ 81,139.03
Contingency	\$ 40,649.39
Construction Management	\$ 128,000.00
<b>Total Public Improvements</b>	<b>\$ 1,221,147.67</b>
Interest Cost	\$ 1,061,299.78
Legal and Formation Fees	\$ 100,000.00
Total City & County Admin. Expenses	\$ 215,300.00
<b>Grand Total</b>	<b><u>\$ 2,597,747.45</u></b>

These costs are only an estimate, and funds may be moved between the line items, provided that the total amount of Project Costs does not exceed the amount shown on this chart. The Proposed Project Improvements and Uses are reflected on Exhibit 2.

### **Planned Private Improvements**

Casa Linda Homes will build 112 homes over the period 2006 through 2007. Homes will range in size from 1030 square feet to 1,944 square feet and in price from \$70,000 to \$115,000. Homes consist of Level 1 and Level 2 homes. A Level 1 home has a brick front with siding on the other three sides. A Level 2 home is an all brick home. Any home can be either level 1 or level 2 despite the square footage of the house. Construction of 30 homes is planned in 2006, 30 homes in 2007, 30 homes in 2008 and the balance will be completed in 2009. Homes will be single-family and will feature a wide range of amenities and consumer upgrades. Homeowners Association will be formed in order to insure compliance with building restrictions and to insure the long-range sustainability of the subdivision. Over \$8,400,000 in private improvements is planned for the project. No persons will be displaced by redevelopment activity within the Zone. Relocation policies are not applicable to this project

## SECTION 4 – FINANCING PLAN

### Tax Increment Financing

The Tax Increment Financing Act (Chapter 311 f the Tax Code), provides for municipalities to create "reinvestment zones" within which various public works and improvements can be undertaken, using tax increment revenues, bonds or notes, to pay for those improvements. At the time an area is designated as a tax increment reinvestment zone, the existing total of appraised value of real property in the tax increment reinvestment zone is identified and designated as the "tax increment base." Taxing units levying taxes in the tax increment reinvestment zone during its life are limited to revenues from this base.

Public improvements are made in the area to attract private development that would not otherwise occur. As the costs of new development are added to the tax rolls, property values will rise. This rise in new value is called the "captured appraised value." Then the taxes that are collected by the participating taxing jurisdictions on the increment between the frozen value and the new higher value, the "tax increment", are deposited into a Tax Increment Financing Fund ("TIF Fund"), which is used to pay for the public improvements. Once the public improvements are completed and paid for, the tax increment reinvestment zone is dissolved and the full amounts of the taxes collected are kept by the taxing jurisdictions. In effect, the taxing jurisdictions are "investing" future earnings to receive the benefit of higher tax revenues from new development. Taxing jurisdictions are not restricted from raising their tax rate during the life of the tax increment reinvestment zone.

### Financing Plan

The Financing Plan developed by the Board of Directors for the Zone provides that approximately \$1,321,147.67 of public improvements will be paid for with TIF Funds. The attached Financing Plan also projects incremental funds for financing and revenues for the Zone.

Financing Method: The cost of the Public Infrastructure Improvements and all other Qualifying Costs associated with the Project shall be paid for through one or more of the following:

- a. **DEVELOPER'S** funds obtained by **DEVELOPER** from:
  - i. **DEVELOPER'S CAPITAL INVESTMENT;**
  - ii. Loans or Lines of Credit secured by **DEVELOPER;**
  - iii. Venture Capital raised by or on behalf of **DEVELOPER;**
  - iv. The offering or sell of Partnership Shares;
  - v. The sale by **DEVELOPER** of property owned by **DEVELOPER** within the **ZONE;**  
or
  - vi. Other funds lawfully obtained by or on behalf of **DEVELOPER** or the General or Limited Partners of **DEVELOPER;**

To the extent costs are paid for from sources (i) through (vi) above, **CITY** and Board of Directors of **ZONE** pledge to use Available Tax Increment funds, up to the maximum

amount provided herein, to reimburse **DEVELOPER** for Project Costs. In order to obtain such reimbursement, **DEVELOPER** must complete the improvements in compliance with this Agreement and promptly submit a Certificate of Completion and Payment Request to the **ZONE**. Upon verification of completion, the **ZONE** shall promptly reimburse the **DEVELOPER** from the Tax Increment Fund using collected tax increment, bond funds, or other available funds; or

- b. Direct payments from the **ZONE** to Contractors managed by **ZONE** or **DEVELOPER** for work performed or improvements constructed, provided such work performed and/or improvements constructed were done properly in compliance with this Agreement and all applicable regulations of **CITY and ZONE**; and which are the subject of a valid Certificate of Completion and proper Payment Request submitted to **ZONE**. Payments made under this sub-section shall be made using funds from the Tax Increment Fund. Direct payments made under this sub-section shall have priority over payments for reimbursement to **DEVELOPER** in situations where the Tax Increment Fund does not contain sufficient funds to make the Direct Payment and the reimbursement payment to **DEVELOPER**. **DEVELOPER** shall be entitled to receive interest as allowed by Chapter 311 of the Tax Code (not to exceed the interest rate for the TIRZ Bonds at time of issuance for the respective phase of the Project in which the reimbursement is approved) for all delayed reimbursements until they are paid. Interest on delayed reimbursement shall not accrue for more than five (5) years from the time the **ZONE** approves the reimbursements to **DEVELOPER**; or
- c. Other sources obtained at the discretion of **ZONE, DEVELOPER, or CITY**.

**DEVELOPER** may use any or part of the Zone Property owned by **DEVELOPER** as collateral for construction loan(s), loans, or other sources of financing as required for the financing of the Project. **DEVELOPER** may also use its rights to reimbursements under this Agreement for such purposes provided they are solely related to providing funds for construction of improvements within the **ZONE**.

Bonds issued under this section shall be secured only by Tax Increment Reinvestment Zone Number One available increment Funds (including sales tax), and City shall not be required to pledge any other funds from any other sources outside the Tax Increment Fund established by City for purposes of developing this Project.

Financing Policy: The goal of the Red River TIRZ is to issue bonds only after 75% of the project is completed to ensure future development in other areas of the City of Donna.

Timing of Debt: The bonds required for critical improvements are anticipated to be issued after 75% of the project is completed.

### **Financial Assumptions**

No tax rate changes or inflation has been factored into the financial pro forma's for the Zone. All projections assume that taxable appraised value and tax rates will remain unchanged over the entire 22-

year life of the Zone. It has also been assumed that the taxing entities will continue to collect tax revenues at the same rate and that homestead and other exemption rates will remain unchanged.

### **Project Feasibility**

The feasibility of any development has two aspects that must be looked at, financial feasibility and market feasibility. The first aspect is market feasibility. Are there consumers for the product to be built? Secondly, is the project financially feasible and can it be developed and brought to market at a price that allows for market rate product to be built?

#### *Market Feasibility*

Market feasibility addresses issues relating to product absorption, type of product and demand. The City of Donna is located between two of South Texas' fastest growing Metropolitan Statistical Areas: McAllen-Edinburg-Mission MSA and Brownsville-Harlingen-San Benito MSA. The tremendous growth in these MSA is fueling the housing market in South Texas. Because Donna is strategically located between these two communities, it provides a central location for individuals wanting to live outside the city limits of the large metro areas.

Projected population growth for the McAllen-Edinburg-Mission MSA is nearly 37% from 2000 to 2009. Compared to an estimated statewide growth of 19% in the same years. Donna is projected to grow an estimated 20% between 2000 and 2009, slightly above the statewide average. Consequently, the 18% above average growth of the surrounding MSA provides Donna with an opportunity to capture a household market that is underserved by the MEMMSA. Moreover, Donna is poised to grow at a slightly higher rate than the State of Texas only signaling the need for additional housing to meet existing demand in the city.

Housing unit growth in the MEMMSA was an estimated 32% and Owner occupied units grew by 34% during the same period. Housing units in Donna grew and estimated 11% between 2000 and 2009. The State of Texas growth in housing units was approximately 13% from 2000 – 2009. There is a need for additional housing around the MEMMSA to support the above average growth. Donna is positioned to capture that market. The demand for additional single-family housing in the communities around the MEMMSA and Donna make this project a necessity for the city and its citizens.

Projected population growth for the Brownsville-Harlingen-San Benito MSA is nearly 27% from 2000 to 2009. Compared to an estimated statewide growth of 19% in the same years. Again, the 8% above average growth in the BHSBMSA offers Donna an opportunity to capture homeowners wanting a small town feel, but working in the large metro areas.

The U.S. Census estimates Donna's population for 2005 at 16,216 and increase of 10% from 2000. The increase in population coincides with a demand for owner occupied housing. Although below average growth is present, the populations of the MEMMSA above average growth can serve as an additional component for demand of single-family housing in Donna.

Finally, the City of Donna is currently negotiating the construction of a new international bridge crossing. The bridge estimates an approximate 11,000 cars using the Donna Bridge. Along with the construction of the bridge, Donna is poised to attract several major companies to use the new facilities. The additional anticipated jobs will create a demand for housing.

Based upon the increase in population in Donna, the surrounding MSAs, the construction of a new international bridge and the increase in households, there is adequate demand for the types of housing being produced in the price ranges planned for the development.

### *Financial Feasibility*

The private development plans and, public improvement program, budgets and general financing strategy and financial assumptions are addressed in the Financing Plan.

Based upon a set of conservative assumptions and analysis of the Financing Plan, the Zone's Board of Directors has concluded that the Financing Plan is feasible.

### **Financial Policies**

The Zone's Board of Directors has adopted rules governing the management of the Zone. These rules are designed to insure conformity with all City of Donna rules and regulations regarding bidding of public works projects. Additional guidelines and requirements are contained in the participation agreements (the "Interlocal Agreements") between Hidalgo County, the City of Donna and the Zone.

The Zone's Board of Directors may from time-to-time recommend amendments to these financial policies, which will affect the operation of the Zone.

### **Duration of Zone**

The duration of the Zone will be 22 years.

### **Conclusions**

Based upon a set of conservative assumptions and analysis of the Red River Phase I Tax Increment Reinvestment Zone, City of Donna, Texas Project Plan and Reinvestment Zone Financing Plan, the Board of Directors for the Zone has concluded that the Project Plan and Reinvestment Zone Financing Plan is feasible.

The success of Red River Phase I Tax Increment Reinvestment Zone, City of Donna, Texas Project Plan and Reinvestment Zone Financing Plan will encourage other mixed-use residential market rate and affordable housing tax increment reinvestment zones. The new residential population base will support an expanding retail base, will supplement the existing job market, will attract additional private development into the Zone area and will serve to stabilize and enhance future property values.

### **Data Sources**

All statistics not cited but used in this report are from the 2000 Census or from SitesonTexas.com ©.

## APPENDIX A

### TAX INCREMENT REINVESTMENT ZONE REQUIREMENTS

Section 311 of the Texas Tax Code (the "Tax Increment Financing Act") specifies that tax increment reinvestment zone projects and reinvestment zone financing plans meet certain requirements. These requirements are listed below, along with a reference indicating where these elements can be located in the plan.

#### **Project Plan**

- |  |                |
|--|----------------|
| 1. Map of existing uses and conditions   | Exhibit 1      |
| 2. Map of proposed improvements and uses | Exhibit 2      |
| 3. Survey and Field Notes of Property    | Exhibit 3      |
| 4. Project Feasibility                   | Page 6         |
| 5. Proposed Zoning Changes               | None           |
| 6. Map of Existing Zoning                | Exhibit 4      |
| 7. Estimated Non-Project Costs           | None Claimed   |
| 8. Relocation Plan for current residents | Not Applicable |

#### **Financing Plan**

- |   |                                    |
|---|------------------------------------|
| 1. Detailed estimate of project costs.          | Sources and Uses Page Finance Plan |
| 2. Proposed public improvements                 | Sources and Uses Page Finance Plan |
| 3. Project Timeline                             | Summary Page Finance Plan          |
| 4. Estimated amount of bonded indebtedness      | Revenue Page Finance Plan          |
| 5. Time when costs/obligations will be incurred | Sources and Uses Page Finance Plan |
| 6. Methods of financing, sources of Revenue     | Revenue Page Finance Plan          |
| 7. Current total appraised value.               | Summary Page Finance Plan          |
| 8. Estimated captured appraised value           | Revenue Page Finance Plan          |
| 9. Duration of Zone                             | Revenue Page Finance Plan          |

**City of Donna**  
**Planned Project Improvements**  
**Red River Phase I Subdivision - TIF**

**Summary Fact Sheet**  
**July 17, 2006**

Finance Plan

Site Area		28.130	Acres
Base Value 2003	\$	420,000	
Average Home Price	\$	75,000	

Project: 112 S-F Homes

Year

	Units	Type
2006	30	S-F Homes
2007	30	S-F Homes
2008	30	S-F Homes
2009	22	S-F Homes

Total 112

Experience of Developer Experienced

Performance Bonds: As Required By Code  
 Payment Bonds: As Required By Code

Assumptions

Captured Value	\$	8,400,000.00	
Growth Factor		0.00%	
Collection Rate		97.50%	
Estimated Total TIF Revenues	\$	2,598,521.91	
Estimated TIF Life		22	Years

# City of Donna -- Red River Subdivision Tax Increment Reinvestment Zone

## Taxing Entity Participation

Entity	Tax Rate	Level of Participation	Tax Rate Based on Participation	% of Project	TIF Revenues	TIF Expenses
City of Donna	0.9891380	100%	0.9891380	62.64%	\$ 1,627,658.11	\$ 1,627,173.00
Hidalgo County	0.5900000	100%	0.5900000	37.36%	\$ 970,863.81	\$ 970,574.45
<b>TOTAL</b>	<b>1.5791380</b>		<b>1.5791380</b>	<b>100.00%</b>	<b>\$ 2,598,521.91</b>	<b>\$ 2,597,747.45</b>

## Projected New Value of Tax Increment

Year	Phase I				Cumulative Total
	Unit 1	Unit 2	Unit 3	Unit 4	
2006	\$ 2,250,000.00				\$ 2,250,000.00
2007	\$ 2,250,000.00				\$ 4,500,000.00
2008		\$ 2,250,000.00			\$ 6,750,000.00
2009			\$ 1,650,000.00		\$ 8,400,000.00
2010				-	\$ 8,400,000.00
2011				-	\$ 8,400,000.00
2012				-	\$ 8,400,000.00
2013				-	\$ 8,400,000.00
2014				-	\$ 8,400,000.00
2015				-	\$ 8,400,000.00
2016				-	\$ 8,400,000.00
2017				-	\$ 8,400,000.00
2018				-	\$ 8,400,000.00
	\$ 2,250,000.00	\$ 2,250,000.00	\$ 2,250,000.00	\$ 1,650,000.00	\$ 8,400,000.00

# City of Donna -- Red River Subdivision Tax Increment Reinvestment Zone

## Taxing Entity Participation

Entity	Tax Rate	Level of Participation	Tax Rate Based on Participation	% of Project	TIF Revenues	TIF Expenses
City of Donna	0.9891380	100%	0.9891380	62.64%	\$ 1,627,658.11	\$ 1,627,173.00
Hidalgo County	0.5900000	100%	0.5900000	37.36%	\$ 970,863.81	\$ 970,574.45
<b>TOTAL</b>	<b>1.5791380</b>		<b>1.5791380</b>	<b>100.00%</b>	<b>\$ 2,598,521.91</b>	<b>\$ 2,597,747.45</b>

## Projected Uses of Tax Increment Construction Completed Cost

Year	Phase I				Total
	Unit 1	Unit 2	Unit 3	Unit 4	
2005	\$ 424,807.39				\$ 424,807.39
2006	\$	324,807.39			\$ 324,807.39
2007			\$ 324,807.39		\$ 324,807.39
2008				\$ 246,725.50	\$ 246,725.50
2009					-
2010					-
2011					-
2012					-
2013					-
2014					-
2015					-
2016					-
	<b>\$ 424,807.39</b>	<b>\$ 324,807.39</b>	<b>\$ 324,807.39</b>	<b>\$ 246,725.50</b>	<b>\$ 1,321,147.67</b>

**Red River Phase I - TIF Reinvestment Zone**  
**Projected Tax Increment Revenue**

Tax Year	Tax Increment Zone				
	Beginning Assessed Value	Annual Value of New Development	Projected Year-End Assessed Value	Projected Captured Value	Projected Captured Value
2006	\$ 420,000	\$ 2,250,000	\$ 2,670,000	\$ 2,250,000	\$ 2,250,000
2007	\$ 2,670,000	\$ 2,250,000	\$ 4,920,000	\$ 4,500,000	\$ 4,500,000
2008	\$ 4,920,000	\$ 2,250,000	\$ 7,170,000	\$ 6,750,000	\$ 6,750,000
2009	\$ 7,170,000	\$ 1,650,000	\$ 8,820,000	\$ 8,400,000	\$ 8,400,000
2010	\$ 8,820,000	\$ -	\$ 8,820,000	\$ 8,400,000	\$ 8,400,000
2011	\$ 8,820,000	\$ -	\$ 8,820,000	\$ 8,400,000	\$ 8,400,000
2012	\$ 8,820,000	\$ -	\$ 8,820,000	\$ 8,400,000	\$ 8,400,000
2013	\$ 8,820,000	\$ -	\$ 8,820,000	\$ 8,400,000	\$ 8,400,000
2014	\$ 8,820,000	\$ -	\$ 8,820,000	\$ 8,400,000	\$ 8,400,000
2015	\$ 8,820,000	\$ -	\$ 8,820,000	\$ 8,400,000	\$ 8,400,000
2016	\$ 8,820,000	\$ -	\$ 8,820,000	\$ 8,400,000	\$ 8,400,000
2017	\$ 8,820,000	\$ -	\$ 8,820,000	\$ 8,400,000	\$ 8,400,000
2018	\$ 8,820,000	\$ -	\$ 8,820,000	\$ 8,400,000	\$ 8,400,000
2019	\$ 8,820,000	\$ -	\$ 8,820,000	\$ 8,400,000	\$ 8,400,000
2020	\$ 8,820,000	\$ -	\$ 8,820,000	\$ 8,400,000	\$ 8,400,000
2021	\$ 8,820,000	\$ -	\$ 8,820,000	\$ 8,400,000	\$ 8,400,000
2022	\$ 8,820,000	\$ -	\$ 8,820,000	\$ 8,400,000	\$ 8,400,000
2023	\$ 8,820,000	\$ -	\$ 8,820,000	\$ 8,400,000	\$ 8,400,000
2024	\$ 8,820,000	\$ -	\$ 8,820,000	\$ 8,400,000	\$ 8,400,000
2025	\$ 8,820,000	\$ -	\$ 8,820,000	\$ 8,400,000	\$ 8,400,000
2026	\$ 8,820,000	\$ -	\$ 8,820,000	\$ 8,400,000	\$ 8,400,000
2027	\$ 8,820,000	\$ -	\$ 8,820,000	\$ 8,400,000	\$ 8,400,000
2028	\$ 8,820,000	\$ -	\$ 8,820,000	\$ 8,400,000	\$ 8,400,000
	\$ 8,400,000				
Years 2000-2004	Existing Annual Value Growth Factors				
Thereafter	0.00%				
Combined Compound Growth Rate	0.00%				

# Red River Phase I - TIF Reinvestment Zone

## Projected Tax Increment Revenue

Tax Year	City of Donna				Hidalgo County				Fiscal Year Ending	
	Captured Taxable Value	Tax Rate Contribution	Tax Increments		Captured Taxable Value	Tax Rate Contribution	Tax Increments			
2006	\$ 0.00	0.9891380	\$ -		0.00	0.5900000	\$ -		2006	
2007	\$ 2,250,000	0.9891380	\$ 21,699.21		\$ 2,250,000	0.5900000	\$ 12,943.13		2007	
2008	\$ 4,500,000	0.9891380	\$ 43,398.43		\$ 4,500,000	0.5900000	\$ 25,886.25		2008	
2009	\$ 6,750,000	0.9891380	\$ 65,097.64		\$ 6,750,000	0.5900000	\$ 38,829.38		2009	
2010	\$ 8,400,000	0.9891380	\$ 81,010.40		\$ 8,400,000	0.5900000	\$ 48,321.00		2010	
2011	\$ 8,400,000	0.9891380	\$ 81,010.40		\$ 8,400,000	0.5900000	\$ 48,321.00		2011	
2012	\$ 8,400,000	0.9891380	\$ 81,010.40		\$ 8,400,000	0.5900000	\$ 48,321.00		2012	
2013	\$ 8,400,000	0.9891380	\$ 81,010.40		\$ 8,400,000	0.5900000	\$ 48,321.00		2013	
2014	\$ 8,400,000	0.9891380	\$ 81,010.40		\$ 8,400,000	0.5900000	\$ 48,321.00		2014	
2015	\$ 8,400,000	0.9891380	\$ 81,010.40		\$ 8,400,000	0.5900000	\$ 48,321.00		2015	
2016	\$ 8,400,000	0.9891380	\$ 81,010.40		\$ 8,400,000	0.5900000	\$ 48,321.00		2016	
2017	\$ 8,400,000	0.9891380	\$ 81,010.40		\$ 8,400,000	0.5900000	\$ 48,321.00		2017	
2018	\$ 8,400,000	0.9891380	\$ 81,010.40		\$ 8,400,000	0.5900000	\$ 48,321.00		2018	
2019	\$ 8,400,000	0.9891380	\$ 81,010.40		\$ 8,400,000	0.5900000	\$ 48,321.00		2019	
2020	\$ 8,400,000	0.9891380	\$ 81,010.40		\$ 8,400,000	0.5900000	\$ 48,321.00		2020	
2021	\$ 8,400,000	0.9891380	\$ 81,010.40		\$ 8,400,000	0.5900000	\$ 48,321.00		2021	
2022	\$ 8,400,000	0.9891380	\$ 81,010.40		\$ 8,400,000	0.5900000	\$ 48,321.00		2022	
2023	\$ 8,400,000	0.9891380	\$ 81,010.40		\$ 8,400,000	0.5900000	\$ 48,321.00		2023	
2024	\$ 8,400,000	0.9891380	\$ 81,010.40		\$ 8,400,000	0.5900000	\$ 48,321.00		2024	
2025	\$ 8,400,000	0.9891380	\$ 81,010.40		\$ 8,400,000	0.5900000	\$ 48,321.00		2025	
2026	\$ 8,400,000	0.9891380	\$ 81,010.40		\$ 8,400,000	0.5900000	\$ 48,321.00		2026	
2027	\$ 8,400,000	0.9891380	\$ 81,010.40		\$ 8,400,000	0.5900000	\$ 48,321.00		2027	
2028	\$ 8,400,000	0.9891380	\$ 81,010.40		\$ 8,400,000	0.5900000	\$ 48,321.00		2028	
				\$ 1,627,658.11					\$ 970,863.81	
				Participation Level					100%	
				Tax Rate Growth Factor					0.00%	
				Tax Rate Collection Factor					97.50%	
									<b>\$ 2,598,521.91</b>	

## Red River Subdivision - Tax Increment Reinvestment Zone

### Sources & Uses

<b>Sources of Funds</b>							
TIF Revenues	\$	2,598,521.91					
<b>Total TIF Proceed Funds</b>	<b>\$</b>	<b>2,598,521.91</b>					
<b>Uses of Funds</b>							
Total Units			<b>Phase I</b>			<b>Total</b>	
Begin Construction		2006	2007	2008	2009	Infrastructure	
Units		30	30	30	22	Improvements	
<b>Public Improvements</b>							
<u>Hard Project Costs</u>							
Paving Improvements	\$	84,040.79	\$ 84,040.79	\$ 84,040.79	\$ 61,629.91	\$ 313,752.28	
Drainage	\$	29,540.36	\$ 29,540.36	\$ 29,540.36	\$ 21,662.93	\$ 110,284.01	
Water	\$	35,866.07	\$ 35,866.07	\$ 35,866.07	\$ 26,301.79	\$ 133,900.00	
Sewer	\$	48,022.10	\$ 48,022.10	\$ 48,022.10	\$ 35,216.21	\$ 179,282.51	
Landscaping							
Irrigation Improvements	\$	20,295.27	\$ 20,295.27	\$ 20,295.27	\$ 14,883.20	\$ 75,769.01	
Fencing	\$	3,458.47	\$ 3,458.47	\$ 3,458.47	\$ 2,536.29	\$ 12,911.70	
Street Lights/Signs	\$	535.71	\$ 535.71	\$ 535.71	\$ 392.86	\$ 1,999.99	
Fire Hydrant Markers	\$	40.18	\$ 40.18	\$ 40.18	\$ 29.46	\$ 150.00	
<u>Soft Project Costs</u>							
City Inspection Fee	\$	4,355.29	\$ 4,355.29	\$ 4,355.29	\$ 3,193.88	\$ 16,259.75	
TCEQ Permit Fee	\$	26.79	\$ 26.79	\$ 26.79	\$ 19.64	\$ 100.01	
NAWSC Fees	\$	26,102.67	\$ 26,102.67	\$ 26,102.67	\$ 19,141.97	\$ 97,449.98	
Park Fees	\$	7,500.00	\$ 7,500.00	\$ 7,500.00	\$ 5,500.00	\$ 28,000.00	
Filing fees and exclusions	\$	401.79	\$ 401.79	\$ 401.79	\$ 294.64	\$ 1,500.01	
Engineering-Surveying-Other	\$	21,733.67	\$ 21,733.67	\$ 21,733.67	\$ 15,938.02	\$ 81,139.03	
Contingency	\$	10,888.23	\$ 10,888.23	\$ 10,888.23	\$ 7,984.70	\$ 40,649.39	
Construction Management	\$	32,000.00	\$ 32,000.00	\$ 32,000.00	\$ 32,000.00	\$ 128,000.00	
<b>Total Public Improvements</b>	<b>\$</b>	<b>324,807.39</b>	<b>\$ 324,807.39</b>	<b>\$ 324,807.39</b>	<b>\$ 246,725.50</b>	<b>\$ 1,221,147.67</b>	
Legal and Formation Fees	\$	100,000.00					\$ 100,000.00
<b>Subtotal</b>	<b>\$</b>	<b>424,807.39</b>	<b>\$ 324,807.39</b>	<b>\$ 324,807.39</b>	<b>\$ 246,725.50</b>	<b>\$ 1,321,147.67</b>	
<hr/>							
<b>Total Infrastructure</b>	<b>\$</b>	<b>1,321,147.67</b>					
<b>Interest Cost</b>	<b>\$</b>	<b>1,061,299.78</b>					
<b>Total Payments to Red River Subdivision TIF</b>	<b>\$</b>	<b>2,382,447.45</b>					
<b>Total City &amp; County Admin. Expenses</b>	<b>\$</b>	<b>215,300.00</b>					
<b>Grand Total</b>	<b>\$</b>	<b>2,597,747.45</b>					
<hr/>							
<b>Project Financing Surplus (Shortage)</b>	<b>\$</b>	<b>774.46</b>					

**RED RIVER SUBDIVISION TIRZ**  
**Reimbursement for Public Improvements**

	Fiscal Year Ending	TIF Revenue	Cumulative TIF Revenues	City Admin. Expenses	County Admin. Expenses
1-Sep-06	2006				
1-Sep-07	2007	\$ 34,642.34	\$ 34,642.34	\$ 20,100.00	\$ 2,000.00
1-Sep-08	2008	\$ 69,284.68	\$ 103,927.02	\$ 20,100.00	\$ 2,000.00
1-Sep-09	2009	\$ 103,927.02	\$ 207,854.04	\$ 40,100.00	\$ 2,000.00
1-Sep-10	2010	\$ 129,331.40	\$ 337,185.44	\$ 5,000.00	\$ 2,000.00
1-Sep-11	2011	\$ 129,331.40	\$ 466,516.84	\$ 5,000.00	\$ 2,000.00
1-Sep-12	2012	\$ 129,331.40	\$ 595,848.25	\$ 5,000.00	\$ 2,000.00
1-Sep-13	2013	\$ 129,331.40	\$ 725,179.65	\$ 5,000.00	\$ 2,000.00
1-Sep-14	2014	\$ 129,331.40	\$ 854,511.05	\$ 5,000.00	\$ 2,000.00
1-Sep-15	2015	\$ 129,331.40	\$ 983,842.45	\$ 5,000.00	\$ 2,000.00
1-Sep-16	2016	\$ 129,331.40	\$ 1,113,173.85	\$ 5,000.00	\$ 2,000.00
1-Sep-17	2017	\$ 129,331.40	\$ 1,242,505.26	\$ 5,000.00	\$ 2,000.00
1-Sep-18	2018	\$ 129,331.40	\$ 1,371,836.66	\$ 5,000.00	\$ 2,000.00
1-Sep-19	2019	\$ 129,331.40	\$ 1,501,168.06	\$ 5,000.00	\$ 2,000.00
1-Sep-20	2020	\$ 129,331.40	\$ 1,630,499.46	\$ 5,000.00	\$ 2,000.00
1-Sep-21	2021	\$ 129,331.40	\$ 1,759,830.87	\$ 5,000.00	\$ 2,000.00
1-Sep-22	2022	\$ 129,331.40	\$ 1,889,162.27	\$ 5,000.00	\$ 2,000.00
1-Sep-23	2023	\$ 129,331.40	\$ 2,018,493.67	\$ 5,000.00	\$ 2,000.00
1-Sep-24	2024	\$ 129,331.40	\$ 2,147,825.07	\$ 5,000.00	\$ 2,000.00
1-Sep-25	2025	\$ 129,331.40	\$ 2,277,156.47	\$ 5,000.00	\$ 2,000.00
1-Sep-26	2026	\$ 129,331.40	\$ 2,406,487.88	\$ 5,000.00	\$ 2,000.00
1-Sep-27	2027	\$ 129,331.40	\$ 2,535,819.28	\$ 5,000.00	\$ 2,000.00
1-Sep-28	2028	\$ 129,331.40	\$ 2,665,150.68	\$ 5,000.00	\$ 2,000.00
		\$ 2,665,150.68		\$ 175,300.00	\$ 40,000.00

APR:	6.0%
Total amount financed:	\$ 1,321,147.67
Total payments:	\$ 2,382,447.45
Finance charge*	\$ 1,061,299.78
Amortization method:	Normal

**Exhibit B**  
**Red River Development Project**  
**City of Donna Ordinance No. PL-2006-07-10**

## ORDINANCE NO. PL-2006-07-10

**AN ORDINANCE OF THE CITY OF DONNA DESIGNATING THE RED RIVER PHASE I DEVELOPMENT PROJECT AREA LOCATED AT THE SOUTHWEST QUADRANT OF VALLEY VIEW ROAD AND NORTH AVENUE AS A TAX INCREMENT REINVESTMENT ZONE; DESCRIBING THE BOUNDARIES OF THE ZONE; CREATING A BOARD OF DIRECTORS FOR THE ZONE; PROVIDING FOR AN EFFECTIVE DATE AND A TERMINATION DATE FOR THE ZONE; NAMING THE ZONE "REINVESTMENT ZONE NUMBER ONE, CITY OF DONNA, TEXAS"; ESTABLISHING A TAX INCREMENT FUND; AND CONTAINING OTHER PROVISIONS RELATED THERETO.**

**WHEREAS**, the City Council of the City of Donna, Texas desires to support revitalization activities for the RED RIVER (PHASE I) Development Project, to be funded in whole or in part through the creation of a Tax Increment Reinvestment Zone, as hereinafter more specifically defined and named, and with boundaries as hereinafter provided, pursuant to the provisions of the Tax Increment Financing Act, Texas Tax Code, Chapter 311; and

**WHEREAS**, the City received a petition for Zone designation by owners representing over 50% of the appraised value of the land in the proposed Zone; and the City agrees to create the Zone by petition; and

**WHEREAS**, the proposed public improvements for the area may include the design and construction of streets with curbs, sidewalks, drainage, sewer, water, utilities, street lights and other public improvements which may be provided for in the Development Agreement to be considered by Council at a later date; and

**WHEREAS**, pursuant to the Act, the City may designate a contiguous geographic area within the jurisdiction of the City to be a Zone if the area satisfies certain sections of the Act; and

**WHEREAS**, §311.0031 of the Act states that an area designated as an enterprise zone under Chapter 2303 of the Government Code constitutes designation of the area as a reinvestment zone without further hearing or other procedural requirements.

**WHEREAS**, on March 7, 2006, the Council adopted Resolution No. 2006-03-02, expressing its intent to create the proposed Zone in order to encourage the growth and development of new housing opportunities within the City limits; and

**WHEREAS**, pursuant to §311.003(e) of the Act, the City sent written notice to the governing body of each taxing unit that levies real property taxes in the proposed Zone of the City's intent to create a Tax Increment Reinvestment Zone within the corporate limits of the City to reimburse those certain costs associated with the Project, providing 60-days notice or requesting waiver of the notice requirement prior to the public hearing, as required by the Act; and

**WHEREAS**, pursuant to §311.003(b) of the Act, the City has distributed a copy of the Preliminary Finance Plan to the governing body of each taxing unit that levies taxes on real property in the proposed Zone; and

**WHEREAS**, pursuant to §311.0031 of the Act a public hearing is not required because the City of Donna is an enterprise zone under Chapter 2303 of the Government Code; and

**WHEREAS**, it is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public, and public notice of the time, place and purpose of said meeting was given, all as required by Chapter 551, Texas Government Code; **NOW THEREFORE:**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DONNA:**

**SECTION 1. DESIGNATING THE AREA AS A REINVESTMENT ZONE.** The area locate in the Southwest quadrant of Valley View Road and North Avenue and being commonly referred to as the "RED RIVER (PHASE I) Development Project", with the boundaries as more specifically described in Section 2 below, and officially assigned the name as designated in Section 5 below (which reinvestment Zone so described, named and designated is hereinafter referred to as the "Zone"), is hereby designated as a Tax Increment Reinvestment Zone.

**SECTION 2. DESCRIPTION OF THE BOUNDARIES OF THE REINVESTMENT ZONE.** Attached hereto as Exhibits "A" & "B" which are incorporated herein as if a part hereof, is a field note description and a map depicting the boundaries of the Zone, which consists of approximately 39.125 acres of real property within the corporate limits of the City;

**SECTION 3. CREATION AND COMPOSITION OF A BOARD OF DIRECTORS FOR THE ZONE.** There is hereby created a Board of Directors (the "Board") for the Zone, with all the rights, powers and duties as provided by the Act, including but not limited to §311.010, to such Boards or by action of the City Council. Pursuant to §311.009(b), as amended effective June 18, 1999, the Board shall consist of nine (9) members.

**SECTION 4. EFFECTIVE DATE AND TERMINATION DATE OF THE ZONE.** The Zone shall take effect on \_\_\_\_\_, 2006, and continue until its termination date of \_\_\_\_\_, 2031, unless otherwise terminated earlier as a result of payment in full of all project costs, tax increment bonds, if any, including interest on said bonds, or as authorized or permitted by law.

Council further acknowledges and declares that this Zone may be dissolved at any time by the City should no other taxing entity participate in Zone; should all other taxing entities withdraw participation; should there be no Development Agreement reached with applicant or other entities in order to leverage private assets to City's benefit; should any development agreements fail for whatever reason.

**SECTION 5. ASSIGNING A NAME TO THE ZONE.** The Zone created hereby is assigned the name of "REINVESTMENT ZONE NUMBER ONE, CITY OF DONNA, TEXAS."

**SECTION 6. TAX INCREMENT BASE.** The Tax Increment Base for the Zone is the total appraised value of all real property taxable by the City and located in Zone, determined as of January 1, 2006, the year in which the Zone was designated as a Tax Increment Reinvestment Zone (the "Tax Increment Base").

**SECTION 7. ESTABLISHMENT OF A TAX INCREMENT FUND.** There is hereby created and established in the depository bank of the City, a fund to be called the "REINVESTMENT ZONE NUMBER ONE, CITY OF DONNA, TEXAS TAX INCREMENT FUND" (herein call the "Tax Increment Fund"). Money in the Tax Increment Fund, from whatever source, may be disbursed from the Tax Increment Fund, invested, and paid as permitted by the Act or by any agreements entered into pursuant to the Act, or as otherwise authorized by law.

**SECTION 8. FINDINGS.** The City hereby finds and declares that: (a) improvements in the Zone will significantly enhance the value of all the taxable real property in the Zone and will be of general benefit to the City; and (b) the Zone area meets the requirements of Section 311.005(a)(5) of the Act, being that the Zone area:

(1) is an area described in a petition requesting that the area be designated as a reinvestment zone, if the petition is submitted to the governing body of the municipality by the owners of property constituting at least 50 percent of the appraised value of the property in the area according to the most recent certified appraisal roll for the county in which the area is located.

The City, pursuant to the Act, further finds and declares that:

- (1) the proposed Zone is a contiguous geographical area located wholly within the corporate limits of the City of Donna;
- (2) the total appraised value of the taxable real property in the proposed Zone or in existing reinvestment zones, if any, does not exceed fifteen (15%) of the total appraised value of taxable real property in the City and in industrial districts created by the City;
- (3) the proposed Zone does not contain more than fifteen (15%) of the appraised value of real property taxable by Hidalgo County or by the Donna Independent School District; and
- (4) development or redevelopment within the boundaries of the proposed Zone will not occur solely through private investment in the reasonably foreseeable future.

**SECTION 9. INCORPORATION OF RECITALS.** The Council hereby finds that the statements set forth in the recitals of this Ordinance are true and correct, and the Council hereby incorporates such recitals as a part of this Ordinance.

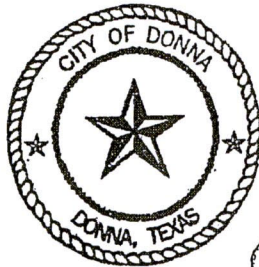
**SECTION 10. SEVERABILITY.** If any provision of this Ordinance or the application thereof to any circumstances shall be held to be invalid, the remainder of this Ordinance and the

application thereof to other circumstances shall nevertheless be valid, as if such invalid provision had never appeared herein, and this governing body hereby declares that this Ordinance would have been enacted without such invalid provision.

**SECTION 11. EFFECTIVE DATE.** The Zone shall take effect immediately upon second passage of this ordinance, pursuant to §311.004(a)(3) of the Act.

Passed and Approved upon first reading on this 18<sup>th</sup> day of July 2006.

Passed, Approved and Adopted upon second and final reading on this 8<sup>th</sup> day of August 2006.



Ricardo J. Morales  
Ricardo Morales  
Mayor

Attest:

Martha Alvarado  
Martha Alvarado  
City Secretary

Approved as to form and substance:

Javier Villalobos  
Javier Villalobos  
City Attorney

**Exhibit C**  
**Red River Development Project**  
**Development Agreement**

**DEVELOPMENT AGREEMENT WITH THE CITY OF DONNA, TEXAS AND  
CASA LINDA HOMES, LTD. AND REINVESTMENT ZONE NUMBER ONE,  
CITY OF DONNA, TEXAS**

This Development Agreement ("Agreement"), pursuant to Resolution 2006-10-02, effective as of October 17, 2006, is entered into by and between the **CITY OF DONNA**, Hidalgo County, Texas (hereinafter called "**CITY**"); **GRANDE VALLEY HOMES, LLC d/b/a CASA LINDA HOMES**, an entity created in the State of Texas (hereinafter referred to as "**DEVELOPER**"); and **REINVESTMENT ZONE NUMBER ONE, CITY OF DONNA, TEXAS**, a tax increment financing zone created pursuant to Texas Tax Code Chapter 311 (hereinafter called "**ZONE**"), by and through its duly authorized Board of Directors;

**WITNESSETH:**

**WHEREAS**, **CITY** recognizes the importance of its continued role in economic development; and

**WHEREAS**, By Ordinance Number Ordinance PL – 2006-07-10, dated August 8, 2006, and Resolution 2006-07-02, dated August 8, 2006 pursuant to Chapter 311 of the Texas Tax Code (as amended), **CITY** created the **ZONE** and established a Board of Directors for the **ZONE**.

**WHEREAS**, the **ZONE** was created to promote development and redevelopment in the **ZONE** through the use of tax increment financing, which development and redevelopment would not otherwise occur solely through private investment in the reasonably foreseeable future; and

**WHEREAS**, Chapter 311 authorizes the expenditure of funds derived from a Tax Increment Reinvestment Zone, the payment of expenditures made or estimated to be made, and the payment of monetary obligations incurred or estimated to be incurred, by a municipality in establishing a Tax Increment Reinvestment Zone, the payment of costs of public works or public improvements in the zone, plus other costs incidental to those expenditures and obligations, consistent with the project plan of the tax increment reinvestment zone, which expenditures and monetary obligations constitute project costs, as defined in the Act ("Project Costs"); and

**WHEREAS**, on September 27, 2006, by a Board Resolution, the Board of Directors for the **ZONE** adopted and approved a Project Plan and a Reinvestment Zone Financing Plan ("Project and Financing Plan") providing for development of the Zone Property as shown

on Exhibit A and recommending to City Council that they give approval by Ordinance of a Project Plan and a Reinvestment Zone Financing Plan; and

**WHEREAS**, **CITY** approved the Project and Financing Plan for the **ZONE** by Ordinance Number F-2006-10-28, on November 7, 2006; and

**WHEREAS**, Pursuant to the Texas Tax Code, Chapter 311 (as amended), the Board of Directors for the **ZONE** has authority to enter into agreements that it considers necessary or convenient to implement the Project and Financing Plan and to achieve the purposes of developing the Zone Property; and

**WHEREAS**, pursuant to said authority above, the Board of Directors for **ZONE** desires to enter into a binding agreement with **CITY** and **DEVELOPER** for **DEVELOPER** to develop the Zone Property as specified in the Project and Financing Plan and as specified in this Agreement; and

**NOW, THEREFORE**, in consideration of the mutual promises, covenants, obligations, and benefits contained in this Agreement, **CITY**, the Board of Directors for **ZONE**, and **DEVELOPER** hereby agree as follows:

## I. DEFINITIONS

1.1 "Act" shall mean the Tax Increment Financing Act, Chapter 311, Texas Tax Code, Vernon's Texas Codes, as amended.

1.2 "Agreement" shall mean this document by and between **CITY**, **ZONE** and **DEVELOPER**, which agreement may be amended from time to time, pursuant to the provisions contained herein.

1.3 "Available Tax Increment" shall mean the "Tax Increment" as defined in Section 311.012 (a) of the Act, less the administrative costs of the participating taxing entities for organizing and/or managing the **ZONE**;

1.4 "Certificate of Completion" shall mean a written acknowledgement by **DEVELOPER** that public improvements were constructed as specified in the Project and Financing Plan and in this Agreement and that said improvements comply with all **CITY** codes and published standards for the particular type of improvement in question.

1.5 "**CITY**", "Board of Directors for **ZONE**", and "**DEVELOPER**" shall have the meanings specified above.

1.6 "Completion" shall mean construction of a public improvement in the Zone Property substantially in accordance with the Project and Financing Plan and with this Agreement so that the particular improvement can be used and maintained for its intended purpose.

1.7 "Construction Schedule" shall mean the timetable for constructing the improvements specified in the Project Plan, Financing Plan and this Agreement as may be amended, more particularly set forth in Exhibit B.

1.8 "Contract Progress Payment Request" shall mean a request for payment due to **DEVELOPER** for successfully completed work on a specific improvement in the Zone Property, accompanied by documentation satisfactory to **CITY** and **ZONE** including the name and address of the entity that performed the work, a description of the contract pursuant to which the payment is made, the amount of such payment, the original contract amount, total payments made to date on such contract, cancelled checks and invoices for said payments, if available, an estimate of remaining work to be completed on the specific improvement, the cost of such remaining work, and any customary lien and/or subcontractor releases.

1.9 "Development Agreement" shall mean this document among **CITY**, **ZONE**, and **DEVELOPER**, as it may be amended.

1.10 "Financing Plan" shall mean the final financing plan as defined in the Act, as approved and as may be amended from time to time by Board of Directors for **ZONE** and **CITY**.

1.11 "Participating Taxing Entity" shall mean any governmental entity recognized as such by Texas law that is participating in this Project.

1.12 "Phase" shall mean a portion of the Project that is being constructed by Developer normally being a set number of units and/or acres out of the Zone Property being constructed together during a specific timeline.

1.13 "Project" shall mean the design, construction, assembly, installation and implementation of the improvements and/or activities as more specifically detailed in the Project and Financing Plan and in this Agreement as (either or both) may be amended from time to time.

1.14 "Project and Financing Plan" shall mean the Project and Financing Plan for **ZONE**, as approved by the Board of Directors for **ZONE** and by **CITY**, as may be amended from time to time by the Board of Directors for **ZONE** and **CITY**.

1.15 "Project Costs" shall mean the items set forth and described in Section 311.002(1), Texas Tax Code (as said Code may be amended from time to time), that are included in the Project Plan for the Project. The Project Costs include public infrastructure improvements and related capital costs, including streets, streetlights, drainage, utilities, sidewalks, landscaping and rights-of-way, and other costs including, but not limited to, engineering, architectural, and legal and other professional services incidental to those expenditures and obligations. The Project Costs for public improvements are estimated at one million three hundred twenty-one thousand one

hundred forty seven dollars and sixty-seven cents (\$1,321,147.67) in the aggregate for the life of ZONE, plus one million sixty-one thousand two hundred ninety-nine dollars and seventy-eight cents (\$1,061,299.78) in applicable qualifying project costs and administrative costs for a total of two million five hundred eighty-seven thousand five hundred eighty-one dollars and thirty-five cents (\$2,587,581.35).

1.16 "Public Infrastructure Improvements" shall have the meaning specified in Paragraph 3.2 of this Agreement, and as more specifically detailed in Exhibit C, the Project Plan and Financing Plan as (either or both) may be amended from time to time.

1.17 "TIF" shall mean tax increment financing pursuant to the Act.

1.18 "Tax Increment Fund" means the tax increment fund created by CITY for the deposit of Available Tax Increments for ZONE entitled "Reinvestment Zone Number One (1), City of Donna, Texas Tax Increment Fund."

1.19 "Zone Property" shall mean the real property subject to the Project Plan and Financing Plan.

1.20 Singular and Plural: Words used herein in the singular, where the context so permits, also includes the plural and vice versa, unless otherwise specified.

## II. REPRESENTATIONS

2.1 CITY, the Board of Directors for ZONE, and DEVELOPER represent each to the others that CITY and the Board of Directors for ZONE shall use only Available Tax Increment funds to pay DEVELOPER up to a maximum total payment of two million three hundred and eight two thousand four hundred forty-seven dollars and forty-five cents (\$2,382,447.45) as full compensation for designing and constructing the public infrastructure improvements designated under the Project and Financing Plan and this Agreement, pursuant to Article VI, Compensation to Developer.

2.3 DEVELOPER represents that it understands that any contributions made by DEVELOPER in anticipation of reimbursement from tax increments shall not be, nor construed to be, financial obligations of CITY, other taxing entities, or ZONE. DEVELOPER shall bear all risks associated with reimbursement from incorrect estimates of tax increment, changes in tax rates or tax collections, changes in market or economic conditions impacting the project, changes in interest rates or capital markets, changes in development code requirements for which the Project does not enjoy statutory or constitutional vested rights, unanticipated effects covered under legal doctrine of *force majeure*, and/or other unanticipated factors.

## III. THE PROJECT

3.1 **The Project.** The Project shall constitute and include the design, construction, assembly, installation and implementation of a single-family residential development built pursuant to City of Donna development standards prescribed by City of Donna Code of Ordinances. The TIF funds will pay for Public Infrastructure Improvements, Project Costs and related costs only (the "Costs"). The TIF funds are the taxes on that amount of value assessed to the property within the Zone that is in excess of its value on January 1, 2005, the year the Zone was created or the base year. Taxes on the assessed value as of the base year will still go to the participating taxing entities; it is only the taxes on the increased value that funds the Project. The taxes on that additional increment of value are collected only until the earlier of payment of the agreed-upon amount of Project Costs or the termination of the ZONE pursuant to the City's Ordinance Number PL – 2006-07-10, dated August 3, 2006.

3.2 **The Public Infrastructure Improvements.** The public infrastructure improvements to be reimbursed with Available Tax Increment funds shall consist of the following items: street excavation and installation, curbing, sidewalks, drainage, lighting, traffic control, highway improvements, signage and fencing, off-site sewer, utilities, landscaping and other public improvements allowed under Chapter 311 of the Texas Tax Code, as more fully described in Section 1.15 and on Exhibit C.

3.3 **Construction of Public Improvements.** Project Costs eligible for reimbursement through TIF proceeds shall be publicly bid in general compliance with the requirements of the Texas Local Government Code.

3.4 **Financing.** The cost of the Public Infrastructure Improvements and all other Qualifying Costs associated with the Project shall be paid for through one of more of the following:

- a. **DEVELOPER'S** funds obtained by **DEVELOPER** from:
  - i. **DEVELOPER'S CAPITAL INVESTMENT;**
  - ii. Loans or Lines of Credit secured by **DEVELOPER;**
  - iii. Venture Capital raised by or on behalf of **DEVELOPER;**
  - iv. The offering or sell of Partnership Shares;
  - v. The sale by **DEVELOPER** of property owned by **DEVELOPER** within the **ZONE;** or
  - vi. Other funds lawfully obtained by or on behalf of **DEVELOPER** or the General or Limited Partners of **DEVELOPER;**

To the extent costs are paid for from sources (i) through (vi) above, **CITY** and Board of Directors of **ZONE** pledge to use Available Tax Increment funds, up to the maximum amount provided herein, to reimburse **DEVELOPER** for Project Costs. In order to obtain such reimbursement, **DEVELOPER** must complete the improvements in compliance with this Agreement and promptly submit a Certificate of Completion and Payment Request to the **ZONE**. Upon verification of completion, the **ZONE** shall promptly reimburse the

**DEVELOPER** from the Tax Increment Fund using collected tax increment, bond funds, or other available funds; or

- b. Direct payments from the **ZONE** to Contractors managed by **ZONE** or **DEVELOPER** for work performed or improvements constructed, provided such work performed and/or improvements constructed were done properly in compliance with this Agreement and all applicable regulations of **CITY and ZONE**; and which are the subject of a valid Certificate of Completion and proper Payment Request submitted to **ZONE**. Payments made under this sub-section shall be made using funds from the Tax Increment Fund. Direct payments made under this sub-section shall have priority over payments for reimbursement to **DEVELOPER** in situations where the Tax Increment Fund does not contain sufficient funds to make the Direct Payment and the reimbursement payment to **DEVELOPER**. **DEVELOPER** shall be entitled to receive interest as allowed by Chapter 311 of the Tax Code (not to exceed the interest rate for the TIRZ Bonds at time of issuance for the respective phase of the Project in which the reimbursement is approved) for all delayed reimbursements until they are paid; or
- c. Other sources obtained at the discretion of **ZONE, DEVELOPER, or CITY**.

3.5 **DEVELOPER** may use any or part of the Zone Property owned by **DEVELOPER** as collateral for construction loan(s), loans, or other sources of financing as required for the financing of the Project. **DEVELOPER** may also use its rights to reimbursements under this Agreement for such purposes provided they are solely related to providing funds for construction of improvements within the **ZONE**.

#### IV. DUTIES AND OBLIGATIONS OF DEVELOPER

4.1 Subject to the consideration from **CITY and ZONE, DEVELOPER** agrees to complete, or cause to be completed, the improvements described in the Project and Financing Plan and in this Agreement which includes, but is not limited to, street excavation and installation, curbing, sidewalks, drainage, lighting, traffic control, highway improvements, signage and fencing, off-site sewer, utilities, landscaping. **DEVELOPER** agrees to provide, or cause to be provided, all materials, labor and services for completing the Project. **DEVELOPER** also agrees, when required in connection with improving the Project, to obtain or cause to be obtained, all necessary permits and approvals from **CITY** and/or all other governmental agencies having jurisdiction over the construction of improvements in **ZONE**. All improvements will be completed in accordance with the Project and Financing Plans and this Agreement. Developer shall complete the above improvements during the term of the Project.

4.2 **DEVELOPER** shall be responsible for paying, or causing to be paid, to **CITY** and all other governmental agencies the cost of all applicable permit fees and licenses

required for construction of the Project.

4.3 **DEVELOPER** agrees to start and complete the Project in accordance with the Construction Schedule set forth in this Agreement in Exhibit B.

4.4 **DEVELOPER** shall submit to **CITY** and to the Board of Directors for **ZONE** written annual reports, starting twelve months from the commencement of construction and annually thereafter through the duration of the Project, on its construction progress and expenses.

4.5 **DEVELOPER** shall diligently work to successfully complete, or have completed, any and all required improvements that are not completed before the **ZONE** terminates in accordance with the terms of Ordinance No that created it. Such completion shall be at no additional cost to **ZONE**, **CITY** or any other taxing entity participating in the **ZONE**. **DEVELOPER** is only required to construct such improvements to the extent the Tax Increment Fund is reasonably anticipated to be sufficient to reimburse the cost of such improvements pursuant to Chapter 311 of the Texas Tax Code.

4.6 **DEVELOPER** shall prepare, or cause to be prepared, plans and specifications for each Phase of Public Infrastructure Improvements prior to starting any construction in said Phase. Furthermore, **DEVELOPER** shall not commence any construction on the Project until the plans and specifications for a Phase have been approved in writing by the appropriate department of **CITY**.

4.7 **DEVELOPER** agrees to supervise the construction of the Project and cause the construction to be performed substantially in accordance with the Project Plan, Financing Plan and the plans and specifications approved by the appropriate department of **CITY**. **DEVELOPER** also agrees to provide periodic reports of such construction to **CITY** upon reasonable request.

4.8 If substantial completion of the Project is delayed by reason of war, civil commotion, acts of God, inclement weather, governmental restrictions, regulations, fire or other casualty, court injunction, necessary condemnation proceedings, interference by third parties, or any circumstances reasonably beyond **DEVELOPER**'s control, then following written request of **DEVELOPER**, the deadlines set forth in the Construction Schedule shall be extended by the period of each such delay.

## V. DUTIES AND OBLIGATIONS OF CITY AND ZONE.

5.1 **CITY** and **ZONE** shall use only Available Tax Increment funds to pay **DEVELOPER** up to a maximum total payment of two million three hundred eighty-two four hundred forty seven dollars and forty-five cents (\$2,382,447.45) as full reimbursement for designing and constructing the improvements required under the Project and Financing Plan and this Agreement. This payment includes infrastructure

improvements and other qualifying project costs. CITY shall deposit its Available Tax Increment into the Tax Increment Fund established pursuant to the Interlocal Agreements with the other Participating Taxing Entities at the same time those other Participating Taxing Entities are required to make their deposits of Available Tax Increment.

5.2 **Issuance of Bonds.** CITY and ZONE acknowledge that reimbursing developer for public improvements necessary and essential to the successful completion of the Project, and to generation of Tax Increment benefits the CITY's goal of continued economic development. As such, CITY and ZONE agree to cause Bonds to be issued after 75% of the project is completed under the authority granted by Chapter 311 of the Texas Tax Code to accelerate the reimbursement of the public improvements, and to take all other reasonable and necessary steps to cooperate with DEVELOPER.

It is further agreed by ZONE and CITY that the CITY shall, subject to legislative and underwriting limitations, and approval of the City Council, issue at least \$3 million in ZONE bonds for use in accelerating reimbursements to the DEVELOPER. CITY, ZONE, and DEVELOPER shall fully cooperate to assure that all public improvements meet the criteria of the CITY, ZONE and Chapter 311 of the Texas Local Government Code.

5.3 If Available Tax Increment funds do not exist in an amount sufficient to make such payments in full when the payments are due to DEVELOPER under this Agreement, CITY shall make partial payments to DEVELOPER and pay the remainder as Available Tax Increment funds become available. No interest, fees, costs, expenses, or penalties shall be paid to DEVELOPER on any late payment. The CITY is not obligated above and beyond what is actually collected as tax increment funds. There shall also be no recourse against any Participating Taxing Entity, public official, ZONE, or ZONE BOARD if all or part of the DEVELOPER contributions or costs are not reimbursed due to insufficient tax revenue generated by the Zone.

5.4 CITY agrees to recognize this agreement as a permit, pursuant to Texas Local Government Code Chapter 245.

5.5 City agrees that the City shall provide gas service to the Zone.

5.6 City shall provide and acknowledge the waivers and variances to the City of Donna Development Requirements and Building Codes as identified in Exhibit D to facilitate the development and construction of the Project.

## VI. INSURANCE

6.1 DEVELOPER's financial integrity is of interest to CITY; therefore, subject to DEVELOPER's right to maintain reasonable deductibles in such amounts as are approved by CITY, DEVELOPER shall obtain and maintain in full force during all

public infrastructure construction required by the Project Plan, and any extension hereof, at **DEVELOPER**'s sole expense, insurance coverage written on an occurrence basis, except for professional liability coverage, by companies authorized and admitted to do business in the State of Texas and rated A - or better by A.M. Best Company and/or otherwise acceptable to **CITY**, in the following types and amounts:

<u>Type</u>	<u>Amount</u>
(1) Worker's Compensation & Employer's Liability	Statutory \$500,000/\$500,000/\$500,000
(2) Commercial General Liability (Including Broad Form Coverage, Contractual Liability, Bodily and Personal Injury, and Completed Operations	Combined limits of \$500,000 per occurrence and \$7500,000 in the aggregate or its equivalent in umbrella or excess liability coverage
(3) Business Automobile Liability (any auto, including employer's non-owned and hired auto coverage)	\$2500,000 combined single limit per occurrence

6.2 **CITY** shall be entitled, upon request and without expense, to receive copies of the policies and all endorsements thereto as they apply to the limits required by **CITY** and may make a reasonable request for deletion, revision or modification of particular policy terms, conditions, limitations or exclusions (except where policy provisions are established by law or regulation binding upon either of the parties hereto or the underwriter of any such policies). Upon such request by **CITY**, **DEVELOPER** shall exercise reasonable efforts to accomplish such changes in policy coverage and shall pay the cost thereof.

6.3 With the exception of the workers' compensation and professional liability policies, **DEVELOPER** agrees that with respect to the above-required insurance, all insurance contracts and Certificate(s) of Insurance shall include **CITY** as an additional insured with respect to operations and activities of, or on behalf of, the named insured that are performed under agreement with **CITY**.

6.4 If **DEVELOPER** fails to maintain the aforementioned insurance or fails to secure and maintain the aforementioned endorsements, **CITY** may obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement; however, procuring of said insurance by **CITY** is an alternative to other remedies **CITY** may have and is not the exclusive remedy for failure of **DEVELOPER** to maintain said insurance or to secure such endorsement. In addition to any other remedies **CITY** may have upon **DEVELOPER**'s failure to provide and maintain any insurance or policy endorsements to the extent and within the time herein

required, CITY shall have the right to order DEVELOPER to stop work hereunder and/or to withhold any payment(s) that become due to DEVELOPER hereunder until DEVELOPER demonstrates compliance with the requirements hereof.

6.5 Nothing herein contained shall be construed as limiting in any way the extent to which DEVELOPER may be held responsible for payments of damages to persons or property resulting from DEVELOPER's or its subcontractors' performance of the work covered under this Agreement.

6.6 DEVELOPER SHALL ALSO INDEMNIFY CITY, ZONE, THE BOARD OF DIRECTORS FOR ZONE, AND ALL OTHER TAXING ENTITIES PARTICIPATING IN ZONE AND THEIR RESPECTIVE OFFICIALS AND EMPLOYEES FROM AND AGAINST ANY AND ALL CLAIMS, LOSSES, DAMAGES, CAUSES OF ACTIONS, SUITS AND LIABILITIES ARISING OUT OF DEVELOPER'S AND DEVELOPER'S SUBCONTRACTORS' ACTIONS RELATED TO THE PERFORMANCE OF THIS AGREEMENT AND THE CONSTRUCTION OF PUBLIC INFRASTRUCTURE IMPROVEMENTS.

6.7 DEVELOPER shall also require each of its subcontractors working on this Project to indemnify the Board of Directors for ZONE, CITY and all other taxing entities participating in ZONE and their respective officials and employees from and against any and all claims, losses, damages, causes of actions, suits and liabilities arising out of their actions related to the performance of this Agreement, utilizing the same indemnification language contained herein, in its entirety.

## VII. DEFAULT

7.1 In the event that DEVELOPER fails to commence construction of the Project, fails to complete construction of the Project, or fails to perform any other obligation pursuant to the terms of this Agreement, CITY and the Board of Directors for ZONE may terminate this Agreement if DEVELOPER does not take adequate steps to cure its failure within ninety (90) calendar days after receiving written notice from CITY and/or the ZONE requesting the failure be cured. In the event the DEVELOPER fails to cure a default within ninety (90) calendar days after receiving notice, this Agreement may be terminated by CITY. If this Agreement or the ZONE is terminated and the DEVELOPER has incurred expenditures for public infrastructure that were specifically approved by the Board of Directors of the ZONE and such infrastructure has been completed, then DEVELOPER shall be reimbursed for such expenditures out of the Tax Increment Fund, despite termination of this Agreement or ZONE.

## VII. INDEMNIFICATION

### 8.2 DEVELOPER COVENANTS AND AGREES TO FULLY INDEMNIFY AND

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Agreement shall be deemed employees, contractors or subcontractors of **DEVELOPER** and shall not be considered employees, agents or subcontractors of **CITY**, **ZONE**, the Board of Directors for **ZONE**, or of any other taxing Entities participating in **ZONE** for any purpose whatsoever. **DEVELOPER** shall be solely responsible for the compensation of all such personnel.

9.3 The directors, officers, elected or appointed officials, employees and agents of **CITY**, **ZONE**, the Board of Directors for **ZONE**, and any other taxing entities participating in **ZONE** shall be protected from personal responsibility for any liability arising under or growing out of the Agreement.

## **X. EXAMINATION OF RECORDS**

10.1 **CITY** reserves the right to conduct examinations, during regular business hours and following notice to the Board of Directors for **ZONE** and **DEVELOPER**, of the books and records related to the Agreement (including such items as contracts, paper, correspondence, copy, books, accounts, billings and other information related to the performance of the Board of Directors for **ZONE** and/or **DEVELOPER**'s services hereunder) no matter where books and records are located. **CITY** also reserves the right to perform any and all additional audit tests relating to the Board of Directors for **ZONE** and/or **DEVELOPER**'s services, provided that such audit tests are related to those services performed by the Board of Directors for **ZONE** and/or **DEVELOPER** for **CITY**. These examinations shall be conducted at the offices maintained by the Board of Directors for **ZONE** and/or **DEVELOPER**.

## **XI. NON-WAIVER**

11.1 Any provision of this Agreement may be amended or waived if done in writing and is signed by **CITY**, through an ordinance passed and approved by its City Council, the Board of Directors for **ZONE**, and **DEVELOPER**.

## **XII. ENTIRE AGREEMENT**

12.1 This written Agreement embodies the final and entire agreement between the parties hereto and may not be contradicted by evidence of prior, contemporaneous, or subsequent oral agreements of the parties.

12.2 The exhibits attached to this Agreement are incorporated herein and shall be considered a part of this Agreement for the purposes stated herein, 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.

required, CITY shall have the right to order DEVELOPER to stop work hereunder and/or to withhold any payment(s) that become due to DEVELOPER hereunder until DEVELOPER demonstrates compliance with the requirements hereof.

6.5 Nothing herein contained shall be construed as limiting in any way the extent to which DEVELOPER may be held responsible for payments of damages to persons or property resulting from DEVELOPER's or its subcontractors' performance of the work covered under this Agreement.

6.6 DEVELOPER SHALL ALSO INDEMNIFY CITY, ZONE, THE BOARD OF DIRECTORS FOR ZONE, AND ALL OTHER TAXING ENTITIES PARTICIPATING IN ZONE AND THEIR RESPECTIVE OFFICIALS AND EMPLOYEES FROM AND AGAINST ANY AND ALL CLAIMS, LOSSES, DAMAGES, CAUSES OF ACTIONS, SUITS AND LIABILITIES ARISING OUT OF DEVELOPER'S AND DEVELOPER'S SUBCONTRACTORS' ACTIONS RELATED TO THE PERFORMANCE OF THIS AGREEMENT AND THE CONSTRUCTION OF PUBLIC INFRASTRUCTURE IMPROVEMENTS.

6.7 DEVELOPER shall also require each of its subcontractors working on this Project to indemnify the Board of Directors for ZONE, CITY and all other taxing entities participating in ZONE and their respective officials and employees from and against any and all claims, losses, damages, causes of actions, suits and liabilities arising out of their actions related to the performance of this Agreement, utilizing the same indemnification language contained herein, in its entirety.

## VII. DEFAULT

7.1 In the event that DEVELOPER fails to commence construction of the Project, fails to complete construction of the Project, or fails to perform any other obligation pursuant to the terms of this Agreement, CITY and the Board of Directors for ZONE may terminate this Agreement if DEVELOPER does not take adequate steps to cure its failure within ninety (90) calendar days after receiving written notice from CITY and/or the ZONE requesting the failure be cured. In the event the DEVELOPER fails to cure a default within ninety (90) calendar days after receiving notice, this Agreement may be terminated by CITY. If this Agreement or the ZONE is terminated and the DEVELOPER has incurred expenditures for public infrastructure that were specifically approved by the Board of Directors of the ZONE and such infrastructure has been completed, then DEVELOPER shall be reimbursed for such expenditures out of the Tax Increment Fund, despite termination of this Agreement or ZONE.

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6.5 Nothing herein contained shall be construed as limiting in any way the extent to which DEVELOPER may be held responsible for payments of damages to persons or property resulting from DEVELOPER's or its subcontractors' performance of the work covered under this Agreement.

6.6 DEVELOPER SHALL ALSO INDEMNIFY CITY, ZONE, THE BOARD OF DIRECTORS FOR ZONE, AND ALL OTHER TAXING ENTITIES PARTICIPATING IN ZONE AND THEIR RESPECTIVE OFFICIALS AND EMPLOYEES FROM AND AGAINST ANY AND ALL CLAIMS, LOSSES, DAMAGES, CAUSES OF ACTIONS, SUITS AND LIABILITIES ARISING OUT OF DEVELOPER'S AND DEVELOPER'S SUBCONTRACTORS' ACTIONS RELATED TO THE PERFORMANCE OF THIS AGREEMENT AND THE CONSTRUCTION OF PUBLIC INFRASTRUCTURE IMPROVEMENTS.

6.7 DEVELOPER shall also require each of its subcontractors working on this Project to indemnify the Board of Directors for ZONE, CITY and all other taxing entities participating in ZONE and their respective officials and employees from and against any and all claims, losses, damages, causes of actions, suits and liabilities arising out of their actions related to the performance of this Agreement, utilizing the same indemnification language contained herein, in its entirety.

## VII. DEFAULT

7.1 In the event that DEVELOPER fails to commence construction of the Project, fails to complete construction of the Project, or fails to perform any other obligation pursuant to the terms of this Agreement, CITY and the Board of Directors for ZONE may terminate this Agreement if DEVELOPER does not take adequate steps to cure its failure within ninety (90) calendar days after receiving written notice from CITY and/or the ZONE requesting the failure be cured. In the event the DEVELOPER fails to cure a default within ninety (90) calendar days after receiving notice, this Agreement may be terminated by CITY. If this Agreement or the ZONE is terminated and the DEVELOPER has incurred expenditures for public infrastructure that were specifically approved by the Board of Directors of the ZONE and such infrastructure has been completed, then DEVELOPER shall be reimbursed for such expenditures out of the Tax Increment Fund, despite termination of this Agreement or ZONE.

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**EXHIBIT A**

Zone Property

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Subdivision, continuing a total distance of 610.76 feet to a No.4 rebar found on the South right-of-way line of U.S. Expressway 83, for the easternmost Northwest corner of this tract;

THENCE, N 89° 51' 32" E along the South right-of-way line of U.S. Expressway 83, at a distance of 740.11 feet pass the East line of Block 219 and the West line of Block 220, Hill-Halbert Subdivision, continuing a total distance of 801.83 feet to a No.4 rebar found for the Northeast corner of this tract;

THENCE, S 00° 03' 28" E at a distance of 397.57 feet pass the East line of Block 219 and the West line of Block 220, Hill-Halbert Subdivision, continuing a total distance of 597.74 feet to the South line of said Block 219, for the easternmost Southeast corner of this tract;

THENCE, West along the South line of Block 219, Hill-Halbert Subdivision, the North line of Lot 2, Valley View Plantation Company Subdivision, and within the right-of-way of North Avenue, a distance of 310.76 feet to the POINT OF BEGINNING, and containing 39.125 acres of land, more or less.