

THE STATE OF TEXAS
COUNTY OF BEXAR

§ **VERANO TIRZ**
§
§ **BEXAR COUNTY**

THIRD AMENDMENT TO INTERLOCAL AGREEMENT

AN INTERLOCAL AGREEMENT (the “Agreement”) was made by and between the **CITY OF SAN ANTONIO, TEXAS** (the “City”), a Texas Municipal Corporation, acting through its City Manager pursuant to Ordinance No. 2008-11-20-1016 passed and approved by the City Council on the 20th day of November, 2008, **BEXAR COUNTY** (the “County”), a political subdivision of the State of Texas, acting through its County Judge pursuant to authority granted by the Bexar County Commissioners Court on the 16th day of December, 2008, and by the **BOARD OF DIRECTORS FOR TAX INCREMENT REINVESTMENT ZONE NUMBER TWENTY-EIGHT, CITY OF SAN ANTONIO, TEXAS** (the “Board”), on the 5th day of December, 2008 and whom together may be referred to as the “Parties.” This Agreement was subsequently amended twice, pursuant to Ordinance 2008-11-20-1016 and Ordinance 2010-06-24-0621, passed and approved by City Council on the November 20, 2008 and June 24, 2010 respectively, the County acting through its County Judge pursuant to authority granted by Bexar County Commissioners Court on the June 2, 2009 and August 10th 2010 respectively, and by the Board on April 14, 2009 and June 9, 2010 respectively.

NOW THE FOLLOWING THIRD AMENDMENT TO THE Agreement is made by and between the City, acting through its City Manager pursuant to Ordinance No. 2016-__-__-__ passed and approved by the City Council on _____2016, the County, acting through its County Judge pursuant to authority granted by the Bexar County Commissioners Court on the _____2016, and by the Board on _____2016.

RECITALS

WHEREAS, by Ordinance 2007-12-06-1257, dated December 6, 2007, the City created Reinvestment Zone Number Twenty-Eight (the “TIRZ”) in accordance with the Act to promote development and redevelopment within the TIRZ through the use of tax increment financing, in which development and redevelopment would not otherwise occur solely through private investment in the reasonably foreseeable future, and established a Board of Directors for the TIRZ, and authorized the Board to exercise all rights, powers, and duties as provided to such boards under the Act; and

WHEREAS, City, Board, and County entered into an Interlocal Agreement, an Amendment to Interlocal Agreement, and a Second Amendment to Interlocal Agreement (the “Agreement”) authorized by City of San Antonio Ordinance No. 2008-11-20-1016, and Ordinance No. 2010-06-24-0621 passed and approved on November 20, 2008, and June 24, 2010 respectively and attached hereto as EXHIBIT A.; and

WHEREAS, the City and the Board seek to extend the term of the TIRZ; and

WHEREAS, prior to this THIRD AMENDMENT, the Agreement was in full effect and, subject to the terms of this THIRD AMENDMENT, all parties were in compliance with all terms and conditions of the Agreement; and

WHEREAS, the Parties, now seek to amend the terms and conditions of the Agreement as stated in this Third Amendment and affirm that all other provisions of the Agreement remain in full force and effect; and

NOW THEREFORE, in consideration of the mutual promises, covenants, obligations, and benefits contained in the Agreement, the City, the Board, and the County hereby agree to amend the Agreement as follows except as herein modified or amended, the recitals, provisions, conditions and terms of the Agreement are hereby ratified and confirmed and shall remain in full force and effect as of the date hereof:

AMENDMENT

1. Amendment. The Parties hereby mutually agree to amend the Agreement as follows:

(A) Under **“AGREEMENT”**, the Agreement is amended by deleting the first paragraph and replacing it with the following:

“THIS INTERLOCAL AGREEMENT (“the Agreement”), pursuant to Ordinance No. 2008-11-20-1016 passed and approved by the City Council on the 20th day of November, 2008, and subsequently amended pursuant to Ordinances Nos. 2010-06-24-0621 and 2016-__-__-____, passed and approved by the City Council on the ____ day of _____, 2016, is made by and between the **CITY OF SAN ANTONIO, TEXAS** (hereafter referred to as “City”), a Texas Municipal Corporation, acting through its City Manager or her designee, **BEXAR COUNTY** (hereafter referred to as “County”), a political subdivision of the State of Texas, acting through its County Judge pursuant to authority granted by the Bexar County Commissioners Court on the 16th day of December, 2008, June 1st, 2009, August 2nd 2010 and for the third amendment approved on the ____ day of _____, 2016, and by the **BOARD OF DIRECTORS FOR TAX INCREMENT REINVESTMENT ZONE NUMBER TWENTY-EIGHT, CITY OF SAN ANTONIO, TEXAS** (hereafter referred to as “Board”) on the 5th day of December, 2008 and for the amendment on the ____ day of _____, 2016, a reinvestment zone created by the City pursuant to Chapter 311, Texas Tax Code (hereafter referred to as “the Act”). The City, the County, and the Board may be referred to singularly as a “Party” or collectively as “Parties.” This Agreement is made pursuant to Chapter 311, Texas Tax Code for the participation of the City and the County in the Verano TIRZ.

(B) Under **“RECITALS”** the Agreement is amended by deleting the first and second WHEREAS lines and substituting the following in its place respectively:

“**WHEREAS**, by Ordinance Number 2007-12-06-1257, dated December 6, 2007, the City created Reinvestment Zone Number Twenty-Eight (the “TIRZ”) in accordance with the Act, and subsequently extended the boundary of the TIRZ and the term by Ordinance Number 2008-11-20-1015 and Ordinance Number 2016-__-__-____ respectively , to promote development and redevelopment within the TIRZ through the use of tax increment financing, in which development and redevelopment would not otherwise occur solely through private investment in the reasonably foreseeable future, and established a Board of Directors for the TIRZ, and authorized the Board to exercise all the rights, powers, and duties as provided to such boards under the Act; and

“**WHEREAS**, the Board and the County support the City in development activities within the TIRZ, and the County intends to participate in the TIRZ by contributing seventy percent (70%) of the maintenance and operations portion of its respective Tax Increments for tax years 2008-2044 up to a total of Eighty-One Million Three Hundred Ninety-three Thousand Six Hundred and Ninety-two Dollars (\$81,393,692.00).”

(C) Under Article I, Subsection B., “Parts Incorporated”, the Agreement is amended by adding the following:

“4. The Development Agreement between the City, the County, the Developer, and the Board, approved and all subsequent amendments and future amendments approved by City Ordinances Nos. 2008-11-20-1016, and 2010-06-24-0621, and Ordinance No. 2016- __-__-____ and effective on the ____ day of _____2016.”

(C-1) Under Article I, Subsection B., “Parts Incorporated”, the Agreement is amended adding a subsection 5 as follows:

“5. City of San Antonio Ordinance No. 2016-__-__-____, dated _____, 2016, which extended the term of the TIRZ, and adopted the amended Project and Financing Plans.”

(D) Under Article II, “DEFINITIONS”, the Agreement is amended by deleting the third, fourth and fifth lines of subsection 1., and Subsection A and B, and substituting the following in its place respectively:

“The initial startup Administrative Cost for the City is Twenty-eight thousand two hundred and seventy-nine and forty-seven cents (\$28,279.47) of which the City has received and Bexar County has agreed to waive its initial startup Administrative Costs as well as its annual Administrative Costs until Fiscal Year 2016. .”

“The Parties also agree that the ongoing annual Administrative Costs for the City and the County starting in Fiscal Year 2016 shall be as follows:

“A. The City: (\$120,000.00) per year

“B. The County: (\$5,388.00) per year

“The total Administrative Costs including City startup Administrative Costs to be paid out of the Tax Increment Fund to the City and the County are estimated to be Three Million Seven Hundred and Eighty-Nine Thousand Nine Hundred and Nineteen Dollars and Forty-Seven Cents (\$3,789,919.47) in the aggregate for the life of the TIRZ.”

(E) Under Article II, “DEFINITIONS”, the Agreement is amended by deleting subsection 2, and substituting the following in its place:

“The “Board” means the Board of Directors of the TIRZ established to to manage, and/or operate the TIRZ pursuant to Sections 311.0091 and 311.010 of the Act, as well as to implement the Project, as described in City of San Antonio Ordinance No. 2007-12-06-1257, dated December 6, 2007, as amended by Ordinance No. 2008-11-20-1016, dated November 20, 2008, and as amended by Ordinance No. 2016-__-__-_____.

(F) Under Article II, “DEFINITIONS”, the Agreement is amended by deleting subsection 5, and substituting the following in its place:

““The Developer’ means Verano Land Group, LP”

(G) Under Article II, “DEFINITIONS”, the Agreement is amended by deleting subsection 6, and substituting the following in its place:

““The Development Agreement’ means the agreement entered into between the City, Bexar County, the Developer and the Board which was approved by the Board on the 19th day of November, 2008, by the City Council on the 20th day of November, 2008, and by the County on the ___th day of December, 2008,the First Amendment to the Development Agreement approved by the Board on _____, by City Council on _____, and the County on _____, the Second Amendment to the Development Agreement approved by the Board on_____, by the City on _____, and the County on_____, and the Amended and Restated Development Agreement approved by the Board on_____, by City Council on_____, and by the County on_____.”

(H) Under Article II, “DEFINITIONS”, the Agreement is amended by deleting subsection 7 in its entirety.

(I) Under Article II, “DEFINITIONS”, the Agreement is amended by deleting subsection 8, and substituting the following in its place:

“‘Financing Plan’ means the Reinvestment Zone Financing Plan for the TIRZ as adopted by the Board on the 19th day of November and by the City Council on the 20th day of November, 2008, and as amended and approved by the Board on _____ and by the City Council on _____, the 2010 amended Financing Plan approved by the Board on _____ and the City Council on _____, the 2016 amended Financing Plan approved by the Board on _____ and the City Council on _____, and all future amendments as approved by the Board and the City.”

(J) Under Article II, “DEFINITIONS”, the Agreement is amended by deleting subsection 10, and substituting the following in its place:

“‘Participating Taxing Entity’ or ‘Participating Taxing Entities’ means, singularly, a taxing unit participating in the TIRZ, and collectively, all taxing units participating in the TIRZ, and shall include the City, Bexar County, Alamo Colleges and the River Authority.”

(K) Under Article II, “DEFINITIONS”, the Agreement is amended by deleting subsection 11, and substituting the following in its place:

“‘Project’ means a mixed-use community to be built on property within the TIRZ owned or controlled by the Donor based on the concept of a walkable, integrated urban village surrounding a major institution of higher learning and designed using Form-Based zoning in part. The Project is projected to include a town center, 2,500 multi-family apartment units, 2,461 single-family residences and 750 condominiums/townhomes within urban settings and master-planned hamlets. In addition, there are projected to be 925,000 square feet of office space, 665,000 square feet of retail, restaurants, and other commercial structures, a 1,225,000 square foot industrial area and 200,000 square feet of Institutional support structures including day care, active living facilities and assisted living centers. The project may include various sports facilities, trails, pocket parks and a linear park, all as described in more detail in the Project Plan. Public Improvements within the Project include streets, streetscapes, streetscape enhancements, drainage/retention, water, sewer, telecom, gas, non-potable water, drainage & detention facilities, streetlights, street signs, dry utilities, electric utilities, linear parks, parks/plazas, public parking garages, drainage, off site drainage, and associated engineering, surveying,

geotechnical, architect/landscape, construction management, environmental review, storm water pollution plans, storm water pollution prevention, park fees, planning/zoning fees, impact fees, sewer/water impact fees, and environmental support, and contingency, all as described in more detail in or contemplated by the Financing Plan and Construction Schedule or all other approved Project Costs as per the TIF Act.”

(L) Under Article II, “DEFINITIONS”, the Agreement is amended by deleting the last sentence of subsection 12, and substituting the following in its place:

“The Project Costs for public improvements made by the Developer are estimated at Four Hundred and Fifty-Six Million Five Hundred and Twenty-Three Thousand Six Hundred and Twenty-Two Dollars and Eighty-Three Cents (\$456,523,622.83) for the life of the TIRZ. The total Project Costs for public improvements including those public improvements made by the Developer are estimated at Four Hundred and Sixty-Four Million Eight Hundred and Forty-Five Thousand One Hundred and Five Dollars and Thirty-Three Cents (\$464,845,105.33).”

(M) Under Article II, “DEFINITIONS”, the Agreement is amended by deleting subsection 13, and substituting the following in its place:

“‘Project Plan’ means the Reinvestment Zone Project Plan for the TIRZ as adopted by the Board on the 19th day of November and by the City Council on the 20th day of November, 2008, and as amended and approved by the Board on _____ and by the City Council on _____ the 2010 amended Project Plan approved by the Board on _____ and the City Council on _____, the 2016 amended Project Plan approved by the Board on _____ and the City Council on _____, and all and all future amendments as approved by the Board and the City.”

(N) Under Article II, “DEFINITIONS”, the Agreement is amended by deleting subsection 18, and substituting the following in its place:

“TIRZ means Reinvestment Zone Number Twenty-Eight (28), City of San Antonio, Texas, created by the City on December 6, 2007, by Ordinance No. 2007-12-06-1257, boundary extended by the City on November 20, 2008, by Ordinance No. 2008-11-20-1015 and extended the term by the City on _____, 2016, by Ordinance No. 2016-__-__-____.”

(O) Under Article II, “DEFINITIONS”, the Agreement is amended by adding a new subsection 19, as follows:

“‘Palo Alto College Entrance Signage Project’ means the option of the District to design and construct entrance signage for Palo Alto College. The Palo Alto College Entrance Signage Project Costs reimbursable from the TIRZ shall not exceed \$150,000.00.”

(P) Under Article II, “DEFINITIONS”, the Agreement is amended by adding a new subsection 20, as follows:

“‘Utility Service Agreement’ means the Agreement between the San Antonio Water System and the Developer as recognized by the City, the Board, the San Antonio Water System and the Developer in the Consent Agreement and the amended Consent Agreement executed pursuant to Ordinance No. 2009-08-20-0662 and Ordinance No. 2016-__-__-____.”

(Q) Under Article II, “DEFINITIONS”, the Agreement is amended by adding a new subsection 21, as follows:

“‘Palo Alto College Entrance Signage Project’ means the option of the District to design and construct entrance signage for Palo Alto College. The Palo Alto College Entrance Signage Project Costs reimbursable from the TIRZ shall not exceed \$150,000.00.”

(R) Under Article II, “DEFINITIONS”, the Agreement is amended by adding a new subsection 22, as follows:

“22. ‘Zachary Parcel’ means the approximately 23.626 acre parcel to be conveyed to Alamo Colleges inclusive of Loop 410 frontage. The actual property to be conveyed will be subject to a survey to be produced at Alamo Colleges cost and accurately identifying the complete property being conveyed and including an insurable legal description.”

(S) Under Article III, “BACKGROUND”, the Agreement is amended by adding to the end of first paragraph in Subsection A. “City Action” the following:

“On _____2016 the City extended the term of the TIRZ until September 30, 2045 by Ordinance No. 2016-__-__-____.”

(T) Under Article III, “BACKGROUND”, the Agreement is amended by deleting the first paragraph in Subsection C. “TIRZ Value” and replacing it with the following:

“After the 2008 expansion of the boundaries and the 2016 term extension of the TIRZ, the Tax Increment Base for the TIRZ as determined by the Bexar Appraisal District is Twelve Million Eight Hundred and Ninety-One Thousand Six Hundred and Two Dollars (\$12,891,602.00) and the

projected Captured Appraised Value net of exemptions of all taxable real property in the TIRZ at the end of the Agreement term is estimated to be Two Billion Seven Hundred and Eighty Million Five Hundred and Ninety-Two Thousand Four Hundred and Thirty-One Dollars and Thirteen Cents (\$2,780,592,431.13).”

(U) Under Article III, “TIRZ Phasing and Duration”, the Agreement is amended by deleting the first paragraph in Subsection D. “TIRZ Phasing and Duration” and substituting the following in its place:

“The Project includes the construction of approximately 2,461 single-family detached homes, 2,500 multi-family units, 750 condominiums or town homes, 3,015,000 square feet of commercial development, Construction will be carried out in (13) phases as specified in the Development Agreement. The TIRZ is projected to terminate on September 30, 2045.

(V) Under Article IV, “RIGHTS AND OBLIGATIONS OF THE COUNTY”, the Agreement is amended by deleting the first sentence in Subsection A. 1. “Tax Increment Participation by the County” and substituting the following in its place:

“Subject to the limitations set out in this Agreement, the County agrees to participate in the TIRZ by contributing to the Tax Increment Fund seventy percent (70%) of the maintenance and operation portion of the County’s general fund on the Captured Appraised Value for each tax year, beginning with 2008 tax year, and ending with the 2044 tax year.”

(W) Under Article IV, “RIGHTS AND OBLIGATIONS OF THE COUNTY”, the Agreement is amended by deleting the second and third sentence in Subsection A. 2. “Tax Increment Participation by the County” and substituting the following in its place:

“The County’s contributions to the Tax Increment Fund shall end when it has contributed the maximum total contribution of Eighty-One Million Three Hundred Ninety-three Thousand Six Hundred and Ninety-two Dollars (\$81,393,692.00), on the TIRZ termination date of September 30, 2045, upon earlier termination of the TIRZ, or termination of this Agreement or the Development Agreement by any party, whichever occurs first.”

“Notwithstanding anything herein to the contrary, the total County Tax Increment Payments to the Tax Increment Fund shall not exceed Eighty-One Million Three Hundred Ninety-three Thousand Six Hundred and Ninety-two Dollars (\$81,393,692.00).”

(X) Under Article IV, “RIGHTS AND OBLIGATIONS OF THE COUNTY”, the Agreement is amended by deleting all of the Subsection D. 2. “Management of the TIRZ” and substituting the following in its place:

“The Board shall be composed of thirteen (13) members, as provided by Section 311.0091(b) of the Texas Tax Code. Accordingly, The County shall have the right to appoint four (4) members to the Board. The Parties acknowledge and agree that the City is entitled to appoint eight (8) members but shall waive its right to appoint one member for seven (7) total appointees. Upon Alamo Colleges waiving its right to appoint a Board member, the City shall be entitled to appoint eight (8) members to the Board.”

(Y) Under Article V. “RIGHTS AND OBLIGATIONS OF CITY AND BOARD”, the Agreement is amended by deleting the first sentence in Subsection A. 1. “Tax Increment Participation by City” and substituting the following in its place respectively:

“Subject to limitations set out in this Agreement, the City agrees to participate in the TIRZ by contributing to the Tax Increment Fund seventy-five percent (75%) of the City’s Tax Increment for each tax year beginning with the 2008 tax year and ending with the 2044 tax year.”

(Z) Under Article V. “RIGHTS AND OBLIGATIONS OF CITY AND BOARD”, the Agreement is amended by deleting the second and third sentences in Subsection A. 2. “Tax Increment Participation by City” and substituting the following in its place respectively:

“The City’s Contributions to the Tax Increment Fund shall end when the City has contributed the maximum total contribution of One Hundred and Eighteen Million Nine Hundred and Ninety-Two Thousand Four Hundred and Seventy Six Dollars (\$118,992,476.00) or on the TIRZ termination date of September 30, 2045, whichever occurs first.”

“Notwithstanding anything herein to the contrary, the total City Tax Increment Payments to the Tax Increment Fund shall not exceed One Hundred and Eighteen Million Nine Hundred and Ninety-Two Thousand Four Hundred and Seventy Six Dollars (\$118,992,476.00) in the aggregate.”

(AA) Under Article V. “RIGHTS AND OBLIGATIONS OF CITY AND BOARD”, the Agreement is amended by deleting all of Subsection D. 3. “Disbursement of Funds in the Tax Increment Fund”, and substituting the following in its place:

“The County further agrees that the City and Board may disburse funds in the Tax Increment Fund to pay expenditures in the following order or priority of payment:

- (i) The initial startup Administrative Costs of \$28,279.47 for the City, all reimbursement for which has been received by the city in Fiscal Years 2009 and 2014;
- (ii) to pay all other ongoing Administrative Costs to the Participating Taxing Entities for administering the Tax Increment Fund and or the TIRZ, except that if there are insufficient funds to reimburse of ongoing Administrative Costs to the Participating Taxing Entity, then the ongoing Administrative Costs of each Participating Taxing Entity shall be reimbursed on a pro rata basis based on each Participating Taxing Entity’s level of participation in the TIRZ;
- (iii) to reimburse the City for costs of repair, replacement, or re-construction of public infrastructure and associated costs as described in Section 5.12 of the Development Agreement;
- (iv) to reimburse the City maintenance expenses, if any, pursuant to Article III of the Development Agreement;
- (v) to reimburse a Participating Taxing Entity under any reclaim of funds pursuant to Article X of the Development Agreement;
- (vi) to reimburse Alamo Community College District up to \$150,000.00 for public improvements associated with Palo Alto College Signage Project to the extent that Alamo Community College District’ tax increment funds are available;
- (vii) to reimburse the San Antonio Water System (“SAWS”) for **(i)** for the design and construction of wastewater improvements that have been completed and that were funded by SAWS pursuant to the Prior Utilities Services Agreement (the “SAWS-Funded Wastewater Improvements”) up to \$2,131,618.50; **(ii)** actual costs incurred by SAWS if and to the extent it is necessary for SAWS to repair or reconstruct any wastewater infrastructure designed or constructed by Developer within two (2) years from the date of completion of such infrastructure, as and to the extent set forth in the Utility Services Agreement and contemplated in the Amedned and Restated Consent Agreement; and **(iii)** the actual amount of water and wastewater impact fees attributable to certain water and wastewater capacity reserved and allocated to TAMU-SA in the Utility Service Agreement (i.e., 100 EDUs for water service to the tract identified as the

“ITC Tract” in the Prior Utility Services Agreement, and 2,783 EDUs for wastewater service to the tract identified as the “TAMU-SA Tract” in the Prior Utility Services Agreement) until the earlier of (A) August 2034 or (B) such time as the water service EDUs reserved and allocated to TAMU-SA for the ITC Tract under the Utility Services Agreement (i.e., a maximum of 100 EDUs of water service) and the wastewater service EDUs reserved and allocated to TAMU-SA for the TAMU-SA Tract under the Utility Services Agreement (i.e., a maximum of 2,783 EDUs of wastewater service) are committed or utilized, as and to the extent set forth in the Utility Services Agreement and contemplated in the Amended and Restated Consent Agreement.

- (viii) to reimburse the City up to one million eight hundred eighty-five thousand dollars (\$1,885,000.00) for value of the Zachary Parcel conveyed to Alamo Community College District at a maximum rate of \$1,000,000.00 per year and to the extent that Alamo Community college Districts’ tax increment funds are available;
- (ix) to reimburse the Developer for Project Costs of Public Improvements, in accordance with the Development Agreement, this Agreement, any applicable interlocal agreement, the Project Plan, and to the extent that funds in the Tax Increment Fund are available for this purpose. .

The foregoing notwithstanding, no funds will be paid from the Tax Increment Fund to a Participating Taxing Entity for its financial or legal services in any dispute arising under this Agreement with another Participating taxing Entity or Participating Taxing Entities.”

(BB) Under Article VI. “TERM AND TERMINATION”, the Agreement is amended by deleting any reference to September 30, 2037 in Subsection A. “Agreement Term and Termination” and replacing it with the following:

“September 30, 2045”

2. Effective Date. This Third Amendment shall be effective after the passage of a duly authorized ordinance of the City Council of the City of San Antonio which shall be attached hereto and made a part of this Third Amendment and upon the Effective Date listed on the signature page.
3. No Other Changes. Except as specifically set forth in this Third Amendment, all of the terms and conditions of the Agreement shall remain the same and are hereby ratified and confirmed. The Agreement shall continue in full force and effect and with this Third Amendment shall be read and construed as one instrument.
4. Choice of Law. This Third Amendment shall be construed in accordance with and governed by the laws of the State of Texas.

5. Counterparts. This Third Amendment may be executed in any number of counterparts, but all such counterparts shall together constitute but one instrument. In making proof of this Third Amendment it shall not be necessary to produce or account for more than one counterpart signed by each party hereto by and against which enforcement hereof is sought.

WITNESS HEREOF, the parties hereto have executed in triplicate originals this Third Amendment on the _____ day of _____ 2016. (the "Effective Date")

**CITY OF SAN ANTONIO,
a Texas municipal corporation**

**BOARD OF DIRECTORS OF
TAX INCREMENT
REINVESTMENT ZONE #28,
CITY OF SAN ANTONIO,
TEXAS**

Sheryl L. Sculley
City Manager or designee

Chairman, Board of Directors

Date: _____

Date: _____

ATTEST:

ATTEST:

Leticia Vacek
City Clerk

Name:
Title:

COUNTY:
Bexar County

By _____,
Name:
Title:

ATTEST (if required):

Name:
Title:

APPROVED AS TO FORM:

Martha G. Sepeda
Acting City Attorney

Date:_____

EXHIBIT A

THE STATE OF TEXAS
COUNTY OF BEXAR

§ VERANO TIRZ
§
§ BEXAR COUNTY

INTERLOCAL AGREEMENT

THIS INTERLOCAL AGREEMENT (the "Agreement") is made by and between the **CITY OF SAN ANTONIO, TEXAS** (hereafter referred to as "City"), a Texas Municipal Corporation, acting through its City Manager pursuant to Ordinance No. 2008-11-20-1016 passed and approved by the City Council on the 20th day of November, 2008, **BEXAR COUNTY** (hereafter referred to as "County"), a political subdivision of the State of Texas, acting through its County Judge pursuant to authority granted by the Bexar County Commissioners Court on the 16th day of December, 2008, and by the **BOARD OF DIRECTORS FOR TAX INCREMENT REINVESTMENT ZONE NUMBER TWENTY-EIGHT, CITY OF SAN ANTONIO, TEXAS** (hereafter referred to as "Board") on the 5th day of December, 2008, a reinvestment created by the City pursuant to Chapter 311, Texas Tax Code (hereafter referred to as "the Act"). The City, the County, and the Board may be referred to singularly as a "Party" or collectively as "Parties." This Agreement is made pursuant to Chapter 311, Texas Tax Code for the participation of the City and the County in the Verano TIRZ.

RECITALS:

WHEREAS, by Ordinance Number 2007-12-06-1257, dated December 6, 2007, the City created Reinvestment Zone Number Twenty-Eight (the "TIRZ") in accordance with the Act, to promote development and redevelopment within the TIRZ through the use of tax increment financing, in which development and redevelopment would not otherwise occur solely through private investment in the reasonably foreseeable future, and established a Board of Directors for the TIRZ, and authorized the Board to exercise all the rights, powers, and duties as provided to such boards under the Act; and

WHEREAS, the Board and the County support the City in development activities within the TIRZ, and the County intends to participate in the TIRZ by contributing seventy percent (70%) of the maintenance and operations portion of its respective Tax Increments for tax years 2008-2037 up to a total of ninety-four million eight hundred seventy-four thousand one hundred eight dollars (\$94,874,108.00); and

WHEREAS, pursuant to said authority above, the Board, the City and the County each hereby enters into a binding agreement with the others to develop and/or redevelop the TIRZ as specified in the Project Plan, Financing Plan, the Development Agreement, and the District Development Agreement; and

NOW, THEREFORE, in consideration of the mutual promises, covenants, obligations, and benefits contained in this Agreement, the City, the Board, and the County hereby agree as follows:

I. CONTENTS

A. Table

This Agreement consists of the following articles:

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B. Parts Incorporated

The following documents and their future amendments are hereby incorporated into this Agreement by this reference for all purposes:

1. City of San Antonio Ordinance No. 2007-12-06-1257, dated December 6, 2007, which designated the TIRZ;
2. City of San Antonio Ordinance No. 2008-11-20-1016, dated November 20, 2008, which among other things expanded the boundary of the TIRZ, adopted the Project and Financing Plans; and
3. The Development Agreement between the City, the County, the Developer and the Board, approved by Ordinance No. 2008-11-20-1016 and effective on the ___th, day of _____, 2008.

II. DEFINITIONS

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

1. "Administrative Costs" means reasonable costs directly incurred by a Participating Taxing Entity (as hereinafter defined) related to its agreement to participate in the development of the TIRZ, as described in this Agreement. These costs include, but are not limited to, reasonable costs and expenses for legal review and financial analysis related to the TIRZ incurred prior to entering into this Agreement, as well as any such costs and expenses incurred after this Agreement becomes effective. The initial startup Administrative Costs for the City is forty-three thousand one hundred seventy-six dollars (\$43,176.00) and for the County is twenty-eight thousand eight hundred twenty-four dollars (\$28,824.00). The Parties also agree that

the minimum Administrative Costs during the life of the TIRZ are anticipated to be as follows:

- A. The City: Three million six hundred twenty-five thousand dollars
(\$3,625,000.00)
- B. The County: One hundred fifty-six thousand two hundred fifty-two dollars
(\$156,252.00)

The total Administrative Costs to be paid out of the Tax Increment Fund to the City and the County are estimated to be a minimum of three million eight hundred fifty-six thousand two hundred fifty-one dollars and ninety-three cents (\$3,856,251.93) in the aggregate for the life of the TIRZ. The minimum total Administrative Costs do not include any escalation in the City's or the County's Administrative Costs due to changes in the Consumer Price Index.

- 2. The "Board" means the Board of Directors of the TIRZ established to manage, and/or operate the TIRZ pursuant to Sections 311.0091 and 311.010 of the Act, as well as to implement the Project, as initially described in City of San Antonio Ordinance No. 2007-12-06-1257, dated December 6, 2007.
- 3. "Captured Appraised Value" means the captured appraised value of the TIRZ, as defined by Section 311.012(b), Texas Tax Code (and as said Code may be amended from time to time).
- 4. "Construction Schedule" means the timetable for constructing the public improvements specified in the Project Plan, Financing Plan and the Development Agreement, which timetable is more particularly set forth as "Exhibit A" to the Development Agreement, attached and incorporated in this Agreement for all purposes and which timetable may be amended by the parties from time to time in accordance with this Agreement and the Development Agreement.
- 5. The Developer means VTLM Texas, LP, a Texas limited partnership.
- 6. "Development Agreement" means the agreement entered into between the City, Bexar County, the Developer and the Board which was approved by the Board on the 19th day of November, 2008, by the City Council on the 20th day of November, 2008, and by the County on the __th day of December, 2008.
- 7. "District Development Agreement" means a future agreement entered into between the City, the Alamo Community College District and the Board concerning the construction undertaken by the Alamo Community College District within the TIRZ.
- 8. "Financing Plan" means the Final Reinvestment Zone Financing Plan for the TIRZ as adopted by the Board on the 19th day of November, 2008 and by the City Council on the 20th day of November, 2008, and as amended.

9. "Material Change" means any change in the phasing of the Construction Schedule which would result in an increase to the maximum contribution of the City or any other Participating Taxing Entity or any change deemed a Material Change by the director of the City department overseeing the TIRZ ("Director").
10. "Participating Taxing Entity" or "Participating Taxing Entities" means, singularly, a taxing unit participating in the TIRZ, and collectively, all taxing units participating in the TIRZ, and shall include the City, the County, the San Antonio River Authority, and the Alamo Community College District.
11. "Project" means a mixed-use community to be built on property within the TIRZ surrounding a major institution of higher learning and designed using Form-Based zoning. The Project is projected to include a town center, 3,375 multi-family apartment units, 2,542 single-family residences and 1,021 condominiums/townhomes, 1,395,440 square feet of office space, 1,245,439 square feet of retail, restaurants, and other commercial structures, a 3,136,321 square foot industrial area and 200,000 square feet of institutional support structures including day care, active living facilities, assisted living centers, sports facilities, trails, pocket parks, a linear park and related public improvements including streets, streetscape enhancements, drainage/retention, water, sewer, telecom, gas, drainage & detention facilities, streetlights, street signs, electric utilities, storm water pollution prevention, and associated engineering, surveying, geotechnical, and environmental support, all as more specifically set forth in the Financing Plan, Construction Schedule, Project Plan, the Development Agreement, and/or any other agreement or future agreement related to the Project (as defined herein).
12. "Project Costs" means the items set forth and described in Section 311.002(1) of the Act (which may be amended from time to time), which are included in the Project Plan. The Project Costs include public infrastructure improvements and related capital costs including: fees (platting, drainage impact, water impact, and sewer impact), surveying and engineering, geo-technical, architect, storm water pollution prevention plan, streets, drainage, water, non-potable water, sewer, dry utilities, streetscape, linear parks, parks/plazas, construction management, and contingency. The Project Costs for public improvements made by the Developer are estimated at five hundred one million four hundred forty-one thousand six hundred sixty-nine dollars (\$501,441,669.00) for the life of the TIRZ.
13. "Project Plan" means the Final Reinvestment Zone Project Plan for the TIRZ as adopted by the Board on the 19th day of November, 2008 and by the City Council on the 20th day of November, 2008, and as amended.
14. "Tax Increment" means the total amount of ad valorem taxes levied and collected each year by a Participating Taxing Entity on the Captured Appraised Value of taxable real property in the TIRZ. The Parties also acknowledge and agree that this Agreement is entered into subject to the rights of the holders of any outstanding bonds of the County, and the County is not obligating any portion of the County's ad valorem taxes which are dedicated to any

outstanding bond indebtedness or are otherwise excluded pursuant to the terms of this Agreement.

15. "Tax Increment Base" has the meaning assigned by section 311.012 of the Texas Tax Code, and means the total appraised value of all real property taxable by a Participating Taxing Entity and located in the TIRZ as of January 1, 2007, the year in which the TIRZ was designated.
16. "Tax Increment Fund" means the tax increment fund created by the City for the deposit of the Tax Increment for the TIRZ, entitled "Reinvestment Zone Number Twenty-Eight (28), City of San Antonio, Texas Tax Increment Fund."
17. "Tax Increment Payment" means the amount of the Tax Increment that a Participating Taxing Entity agrees to deposit annually into the Tax Increment Fund in accordance with this Agreement, the Project Plan and the Financing Plan.
18. "TIRZ" means Reinvestment Zone Number Twenty-Eight (28), City of San Antonio, Texas, created by the City on December 6, 2007, by Ordinance No. 2007-12-06-1257.

III. BACKGROUND

A. City Action

On September 6, 2007 the City Council approved a Memorandum of Understanding as part of Ordinance 2007-09-06-0947 that expressed the City's intent to investigate the creation of a tax increment reinvestment zone in accordance with Chapter 311, Texas Tax Code, to support development of the Verano project. On December 6, 2007, the City Council of the City passed and approved Ordinance No. 2007-12-06-1257, which created the TIRZ. On June 19, 2008, the City further resolved to participate in the financing of public improvements in Tax Increment Reinvestment Zone Number Twenty-Eight, City of San Antonio, Texas through Resolution No. 2008-06-19-0031R.

B. TIRZ Location

The TIRZ is located in the southern sector of the City of San Antonio, abutting Interstate Highway SW Loop 410, including the Palo Alto College campus and some adjacent parcels north of Loop 410, as well as, 2700 acres south of Loop 410 bounded on the west by Zaramora Road, on the east by Pleasanton Road and/or the Missouri Pacific Railroad right of way, and by Mauremann Road to the south. The TIRZ is in parts of four Independent School Districts: Harlandale, South San Antonio, Southside, and Southwest and encompasses approximately 3,100 acres or 4.8 square miles.

C. TIRZ Value

After the 2008 expansion of the TIRZ, the Tax Increment Base for the TIRZ as determined by the Bexar Appraisal District is forty-six million five hundred sixty-four three hundred twelve dollars (\$46,564,312.00) and the projected Captured Appraised Value net of exemptions of all the taxable real property in the TIRZ at the end of the Agreement term is estimated to be three billion three hundred twenty million nine hundred thirty-three thousand thirty-four dollars (\$3,320,933,034.00).

D. TIRZ Phasing and Duration

The Project includes the construction of approximately 2,542 single-family detached homes, 3,375 multi-family units, 1,021 condominiums or town homes, 5,977,200 square feet of commercial development, Construction will be carried out in thirteen (13) phases as specified in the Development Agreement. The TIRZ is projected to terminate on September 30, 2037.

E. Mutual Agreement

The City and the County agree to participate in the TIRZ, and to deposit their respective Tax Increment Payments to the Tax Increment Fund, in accordance with the terms, and in consideration of the agreements, set forth herein. The County hereby acknowledges receipt of notice of the initial creation of the TIRZ. No Tax Increment Payment contributed by the County will be used to reimburse the Alamo Community College District for either the reconstruction of Villaret Boulevard or new entry signage for Palo Alto College.

The Parties hereto agree that the Project does not include the issuance of tax increment bonds. The Parties hereto further agree that no tax-supported public debt instrument will be issued by any Participating Taxing Entity or the Board to finance any costs or improvements of the Project with the exception of City issued certificates of obligation as authorized under Ordinances 2007-12-06-1258 and 2008-11-20-1017 to reimburse Developer for design and construction of certain public improvements within the TIRZ, as more specifically detailed in the Developer Participation Contract for North-South Connector Road Construction Project entered into and effective as of November ____, 2008 providing for University Way (the north/south boulevard). Further the City anticipates entering into a future funding agreement with the Developer for the major thoroughfare street running east/west, only to the extent there is an unused balance in the fourteen million five hundred thousand dollars (\$14,500,000.00) of the certificates of obligation initially issued for University Way, as the City will not issue any additional tax supported debt for 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 TIRZ by contributing to the Tax Increment Fund seventy percent (70%) of the

maintenance and operation portion of the County's general fund on the Captured Appraised Value for each tax year, beginning with the 2008 tax year, and ending with the 2037 tax year. The County specifically excludes from its Tax Increment Payment any other tax, including Bexar County Hospital District taxes, Flood Control District taxes and the debt service portion of taxes collected by County.

2. The Parties agree that the County's contribution to the Tax Increment Fund shall only be used to fund public improvements to support the development and revitalization efforts in the TIRZ, limited to eligible Project Costs of the Developer. The County's contributions to the Tax Increment Fund shall end when it has contributed the maximum total contribution provided for herein, on the TIRZ termination date of September 30, 2037, or upon termination of this Agreement or the Development Agreement by any party, whichever occurs first. Notwithstanding anything herein to the contrary, the total County Tax Increment Payments to the Tax Increment Fund, including recoverable Administrative Costs, shall not exceed ninety-four million eight hundred seventy-four thousand one hundred eight dollars (\$94,874,108.00).

B. Tax Increment Payment

1. The County's obligation to contribute its Tax Increment Payment to the Tax Increment Fund, as provided in Article IV, Paragraph A.1 of this Agreement, shall accrue as the County collects its Tax Increment. The Parties hereto agree that all real property taxes collected each year by the County that are attributable to real property in the TIRZ shall first constitute taxes on the Tax Increment Base and after the total amount of taxes on the Tax Increment Base have been collected, shall then, except as may be excepted herein, constitute the Tax Increment. The County agrees to deposit its Tax Increment Payments to the Tax Increment Fund on or before April 15 and September 15 (or the first business day thereafter) of each year. The amount of the first Tax Increment Payment shall be based on the Tax Increments that were received from January 1, 2008 through January 31, 2009. The amount of each subsequent Tax Increment Payment shall be based on the Tax Increments that were received by the County, and not previously deposited, during the semi-annual periods preceding each deposit date (For example, the deposit on September 15, 2009 shall be for Tax Increments received, and not previously deposited, through June 30, 2009.)
2. One month prior to a payment required under Article IV, paragraph B.1 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 TIRZ board members, including the term of each board member, the entity that appointed the board member and the date for the annual meeting. The update shall also include a summary of requests for reimbursements that have been submitted to the City and a report showing Board or City approved expenses. Also prior to the County's payment, the City shall provide to the County a statement of Tax Increment Fund activity, including a tally of requests for reimbursement, City and Board approved payments, payments not

approved by the City or the Board, outstanding balance due, or if the maximum contribution has been reached, the pro-rata balance due to each Participating Taxing Entity.

3. In the event there is a conflict between the Parties in regards to the amount of the Tax Increment owed by the County, the Parties agree that the County will make a reasonable determination as to the amount of any Tax Increment owed by the County under this Agreement and the County will be responsible for reasonably determining which tax collections will be apportioned for purposes of determining the County Tax Increment. The annual total appraised value of all real property taxable by the County located in the TIRZ shall be determined through an independent third-party verification obtained from the Bexar Appraisal District. For the City, the City Tax Assessor will verify taxes levied and collected in regards to the property contained within the TIRZ.
4. The Parties expressly agree that the County shall not owe any penalty or interest on Tax Increments that have been levied, but not received, by the County. In addition, the County shall not be obligated to contribute its Tax Increment Payments from any non-Tax Increment revenue source. Furthermore, the County shall have no further obligation to contribute its Tax Increment Payment to the Tax Increment Fund if any Participating Taxing Entity, other than the County, discontinues its required contribution (except as otherwise agreed to in this Agreement) or fails to fully contribute its entire contribution to the Tax Increment Fund during the term of this Agreement unless the discontinuance is in compliance with and authorized by a written amendment to this Agreement.
5. The City and the Board agree to the extent permitted by law to comply with the Project Plan and any development agreements. The City and the Board agree to provide prior written notice to all Participating Taxing Entities of any proposed change to the Construction Schedule ("Notice") and such Notice shall indicate whether a proposed change constitutes a Material Change as defined herein. The Participating Taxing Entities shall have a period of thirty (30) calendar days from the date of receipt of Notice to provide comment(s) and objection(s) to the proposed change and:

(a) for non-Material Changes, the Parties will attempt to address any written objections or comments raised during the thirty (30) calendar day review period. At the conclusion of the thirty (30) calendar day review period, the Construction Schedule may be amended by approval of the Board and the City, as evidenced by an agreement in writing between the Board and the Director.

(b) for Material Changes, if there are no written objections or comments during the thirty (30) calendar day review period from any Participating Taxing Entity, the Construction Schedule may be amended by approval of the Board and the City, as evidenced by an agreement in writing between the Board and the Director. If a Participating Taxing Entity provides written notice to the City that it objects to the proposed material change and the objection, as set out in the notice, is not resolved within forty-five (45) business days from the date of such notice and the

City approves such Material Change, then the Participating Taxing Entity providing the objection may thereafter discontinue its Tax Increment Payments and terminate its participation in the TIRZ.

The absence of written objections or comments by a Participating Taxing Entity to the City shall constitute approval of the proposed change by that Participating Taxing Entity.

6. 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 TIRZ or implementation of the Project Plan; including without limitation, any obligation to pay or repay any debt issued by another Participating Taxing Entity, the TIRZ, or Board relating to the TIRZ or any costs associated with the operation of the TIRZ, the Project, or any other projects relating thereto.

C. School District Provisions

The County understands that the TIRZ is located in parts of four (4) Independent School Districts: Harlandale, South San Antonio, Southside and Southwest. The County further understands that no school district is participating in the TIRZ.

D. Management of the TIRZ

1. The City is the only Participating Taxing Entity with any responsibility for managing or administering the TIRZ. The Participating Taxing Entities, during the term of this Agreement, may inspect the Project site and review Project plans and drawings upon reasonable notice.
2. The Board shall be composed of thirteen (13) members, as provided by Section 311.0091(c) of the Texas Tax Code. Accordingly, the County shall have the right to appoint four (4) members to the Board.

E. Expansion of the TIRZ

The obligation of the County to participate in the TIRZ is limited to the description of the TIRZ contained in the Final Project and Financing Plans. The County's participation shall not extend to the Tax Increment on any additional property added to the TIRZ by the City unless the County approves in writing such participation.

V. RIGHTS AND OBLIGATIONS OF CITY AND BOARD

A. Tax Increment Participation by City

1. Subject to the limitations set out in this Agreement, the City agrees to participate in the TIRZ by contributing to the Tax Increment Fund seventy five percent (75%) of the City's

Tax Increment for each tax year beginning with the 2008 tax year and ending with the 2037 tax year.

2. The Parties agree that the City's contribution to the Tax Increment Fund shall be used to fund public improvements to support the development and revitalization efforts in the TIRZ, limited to eligible Project Costs. The City's contributions to the Tax Increment Fund shall end when the City has contributed the maximum total contribution provided for herein or on the TIRZ termination date of September 30, 2037, whichever occurs first. Notwithstanding anything herein to the contrary, the total City Tax Increment Payments to the Tax Increment Fund to reimburse Developer shall not exceed one hundred thirty-five million dollars (\$135,000,000.00) 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 Article V, paragraph A.1 of this Agreement shall accrue as the City collects its Tax Increment. The City agrees to deposit its Tax Increment Payment to the Tax Increment Fund on or before April 15 and September 15 (or the first business day thereafter) of each year. The amount of the first Tax Increment Payment shall be based on the Tax Increments that were received from January 1, 2008 through January 31, 2009. The amount of each subsequent Tax Increment Payment shall be based on the Tax Increments that were received by the City, and not previously deposited, during the semi-annual periods preceding each deposit date (For example, the deposit on September 15, 2009 shall be for Tax Increments received, and not previously deposited, through June 30, 2009.)
2. The Parties expressly agree that the City shall not owe any penalty or interest on Tax Increments that have been levied, but not received by the City. In addition, the City shall not be obligated to contribute its Tax Increment Payments from any non-Tax Increment revenue sources.
3. The Parties agree that payment for the performance of governmental functions or services under this Agreement shall only be made from current revenues available to the paying Party. In other words, a Party is not obligated to perform said services or functions if said Party lacks current revenues to pay for said services or functions.
4. With the exception of City issued certificates of obligations as authorized under Ordinances 2007-12-06-1258 and 2008-11-20-1017 to reimburse Developer for design and construction of certain public improvements within the TIRZ., the City shall not have any obligation or responsibility for any costs or expenses associated with the development of the TIRZ or the implementation of the Project Plan, including, without limitation, any obligation to pay or repay any debt issued by another Participating Taxing Entity, the TIRZ, or Board relating to the TIRZ or any costs associated with the operation of the TIRZ, the Project, or any other projects relating thereto.

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 Board shall be entitled to enter into any other agreements to pay Project Costs and other reasonable expenses from the Tax Increments paid into the Tax Increment Fund by the City without the consent of any other Participating Taxing Entity, but will provide written notice of such agreement(s) when entered into (and upon written request, will provide copies of such agreement(s) and all applicable exhibits) to each Participating Taxing Entity. However neither the Board nor the City shall ever use any Tax Increment Payments contributed by a Participating Taxing Entity, other than that contributed by the City, to make payments on bonds, certificates of obligations, or other similar debt instruments without the prior written authorization by, and consent of, all Participating Taxing Entities.

D. Disbursement of Funds in the Tax Increment Fund

1. Each Participating Taxing Entity agrees that the City shall administer the Tax Increment Fund on behalf of the Board, pursuant to Ordinance No. 94468, passed and approved by the City Council on August 30, 2001. No funds shall be disbursed from the Tax Increment Fund without the prior written approval of the Board and the City; EXCEPT if the City or County is entitled to reclaim of funds pursuant to Article X of the Development Agreement, then no approval is necessary.
2. The Parties agree that the City and the Board may, to the extent funds are available in the Tax Increment Fund and to the extent allowed by law, use such funds to reimburse the City and the County for their Administrative Costs, if the City and the County provide an invoice for Administrative Costs with their requests to the Board for reimbursement. If it is determined during the term of this Agreement that reimbursement of Administrative Costs is not allowed under law, the Parties agree that the Board shall set the amount which the City and the County may withhold as Administrative Costs from their respective Tax Increment Payment based on the best evidence available to the Board to make such projections, including but not limited to invoices reflecting Administrative Costs incurred by the City and the County. The Parties agree and understand that Administrative Costs, in the aggregate, may exceed the amount set out and described in Article II, paragraph 1 of this Agreement because Administrative Costs for the City and County may escalate in relation to the Consumer Price Index as noted in the Finance Plan.
3. The County further agrees that the City and the Board may disburse funds in the Tax Increment Fund to pay expenditures in the following order or priority of payment:
 - (i) to fully reimburse eligible startup Administrative Costs incurred by each Participating Taxing Entity;

- (ii) to pay all other ongoing Administrative Costs to the Participating Taxing Entities for administering the Tax Increment Fund and/or the TIRZ, except that if there are insufficient funds for the full reimbursement of ongoing Administrative Costs to the Participating Taxing Entity, then the ongoing Administrative Costs of each Participating Taxing Entity shall be reimbursed on a pro rata basis based on each Participating Taxing Entity's level of participation in the TIRZ;
- (iii) to reimburse the City for costs of repair, replacement, or re-construction of public infrastructure and associated costs as described in Section 5.12 of the Development Agreement;
- (iv) to reimburse the City maintenance expenses, if any, pursuant to Article III of the Development Agreement;
- (v) to reimburse a Participating Taxing Entity under any reclaim of funds pursuant to Article X of the Development Agreement;
- (vi) to reimburse the Alamo Community College District for public improvements as provided in the District Development Agreement and in the Project Plan in accordance with the limitations set forth in this Agreement;
- (vii) to reimburse the City \$5,500,000.00 in the event the Texas A&M University System (TAMUS) announces it will not build TAMU-SA or the TAMU-SA site reverts to its donor in accordance with the controlling Memorandum of Understanding; and
- (viii) to reimburse Developer for public improvements as provided in the Development Agreement and in the Project Plan to the extent that funds in the Tax Increment Fund are available for this purpose.

The foregoing notwithstanding, no funds will be paid from the Tax Increment Fund to a Participating Taxing Entity for its financial or legal services in any dispute arising under this Agreement with another Participating Taxing Entity or Participating Taxing Entities.

VI. 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 September 30, 2037, unless earlier terminated as provided herein. Subject to the terms of this Agreement, the County agrees to participate under this Agreement, beginning with the 2008 tax year and ending in accordance with the terms provided herein. The Parties agree and understand that Tax Increment Payments will not be made after September 30, 2037, as set out in Article IV, paragraph A.2 and Article V, paragraph A.2 of this Agreement.

B. Early Termination

1. The City may terminate the TIRZ for any of the reasons listed in the Development Agreement. The termination of the Development Agreement also terminates this Interlocal Agreement. No Party shall be required to pay any Tax Increment into the Tax Increment Fund of the TIRZ unless the conditions of Section 311.013(d) of the Act are met. Either party may terminate this Agreement for a breach of contract.
2. After giving any required notice, with subsequent failure to cure as provided for below, the County may terminate its participation in the TIRZ and shall not be required to deposit any further Tax Increment Payment into the Tax Increment Fund as required by this Agreement if: (i) a Party breaches a term, covenant, condition or representation contained in this Agreement; (ii) the County determines that a breach of a term, covenant, condition or representation contained in the Development Agreement has occurred; (iii) the City and/or TIRZ Board declares that a breach of a term, covenant, condition or representation contained in the Development Agreement has occurred; (iv) pursuant to Article IV, paragraph B.4 of this Agreement; or (v) a party to this Agreement or the Development Agreement initiates, pursues or otherwise engages in litigation or any type of adversarial proceeding related to the TIRZ and against or involving the County.
3. Prior to terminating its participation in the TIRZ, the County shall provide written notice to the Developer, the TIRZ Board and any other Participating Taxing Unit still contributing Tax Increment Payments, stating its intent to terminate its participation in the TIRZ and detailing its objection(s) or concern(s). If the objection and/or concern as set out in the County's notice is not resolved within ninety (90) calendar days from the date of such notice, then the County may terminate its participation in the TIRZ.
4. All Parties acknowledge that the County may seek repayment from the Developer for Tax Increment contributed by the County pursuant to Article X of the Development Agreement, and in the amounts set forth therein, in the event of an uncured Developer breach or, to the extent any County Tax Increment remains in the Tax Increment Fund, from the Tax Increment Fund.

C. Disposition of Tax Increments

Upon expiration or termination of the TIRZ, 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 Act, in the order of priority described above. In addition, any payments returned to the City by a developer pursuant to a development agreement shall also be distributed to Participating Taxing Entities on a pro rata basis.

VII. MISCELLANEOUS

A. Understanding

1. Any and all costs incurred by the Developer are not, and shall never become, general obligations or debts of any Participating Taxing Entity. The eligible public improvement infrastructure costs incurred by a developer shall be payable solely 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 Project Plan nor shall the County ever be required to contribute Tax Increment in excess of its stated maximum contribution. No Participating Taxing Entity shall be obligated above and beyond what is actually collected as tax increment funds.
2. The City and the Board each represent and the Developer and the County understand and agree that:
 - (a) the Project Plan does not forecast sufficient tax revenues in the Tax Increment Fund to reimburse the Developer for all estimated contributions or costs; and
 - (b) the City, per the Development Agreement, will only process payments to the Developer based on submittal of receipts per Phase or Plat, as defined in the Development Agreement. The City will not recommend approval of Developer reimbursement for a Plat or Phase until the Phase or Plat is complete in its entirety and Developer has submitted all the required paperwork relevant to that specific Phase or Plat.

B. Severability

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 the charter, code, or ordinances of the City, then and in that event it is the intent of the Parties to this Agreement that such invalidity, illegality or unenforceability shall not affect any other clause or provision of this Agreement and that the remainder of this Agreement shall be construed as if such invalid, illegal or unenforceable clause or provision was never contained in this Agreement. It is also the intent of the parties to this Agreement that in lieu of each clause or provision of this Agreement that is invalid, illegal, or unenforceable, there be added as a part of this Agreement a clause or provision as similar in terms to such invalid, illegal or unenforceable clause or provision as may be possible, legal, valid and enforceable.

C. Entire Agreement

This Agreement, which shall include the Project Plan, Financing Plan, and the Development Agreement as incorporated hereinabove, 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 thereof.

D. Written Amendment

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

E. Notices

1. The initial addresses of the Parties are listed below. Each Party may designate a different address by giving the other Parties ten (10) days' prior written notice.

CITY

Sheryl Sculley
City Manager
City of San Antonio
100 Military Plaza
San Antonio, Texas 78205
Re: Verano TIRZ

THE DISTRICT

Honorable Nelson W. Wolff
The County Judge
Bexar County Courthouse
100 Dolorosa Street
San Antonio, Texas 78221-9614
Re: Verano TIRZ

With copies to:

David G. Garza
Director
Housing and Neighborhood Services
and Development Programs
1400 So. Flores St.
San Antonio, Texas 78204
Re: Verano TIRZ

Attorney's Office – Civil Section
Criminal Justice Center
300 Dolorosa Street
San Antonio, Texas, 78205
Re: Verano TIRZ

Aurora M. Sanchez
Executive Director, Bexar County Department of
Community Investment
233 N. Pecos, Suite 590
San Antonio, Texas 78207
Re: Verano TIRZ

And:

BOARD

Presiding Officer/Chairperson
"Reinvestment Zone Number Twenty-Eight,
City of San Antonio, Texas"
c/o Housing and Neighborhood Services Department
1400 So. Flores St.
San Antonio, Texas 78204

2. 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; or (iii) on the date of receipt if mailed by certified mail, return receipt requested, addressed to the respective other Party at the address prescribed in Article VII, paragraph E.1 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 breach or failure of performance shall not be considered a waiver of the right to insist on, and 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 breach or failure of performance.

G. Assignment

Except for the City's right to assign and delegate this Agreement and the performance of obligations to the Board, no Party shall assign this Agreement at law or otherwise without the prior written consent of the other Parties and no Party shall delegate any portion of its performance under this Agreement without the written consent of the other Parties. All Parties to this Agreement understand and recognize that only the City Council of the City and only the Commissioners Court of Bexar County have authority to approve a delegation or assignment (of any kind) of 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. This Agreement does not by itself create any personal liability on the part of any trustee, officer, employee, elected official, or agent of a Party to this Agreement.

I. Project Plan

The County acknowledges that it was permitted to review and comment upon the Project Plan before it was submitted to the Board and the City Council for approval. The Parties agree an amendment 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 TIRZ set forth in the Project Plan.

J. No Waiver of Immunity

No Party hereto waives or relinquishes any immunity or defense on behalf of itself, its trustees, officers, employees, and agents as a result of its execution of this Agreement and performance or non-performance of the covenants contained herein.

K. Access to Financial Information

The Board agrees to conduct or to cause to be conducted, at a minimum, an annual audit, 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 TIRZ, contribution of Tax Increment Payments to the Tax Increment Fund, and expenditures from the Tax Increment Fund for Project Costs. In addition, the City agrees, during the term of this Agreement, to prepare and deliver an annual report to the County in accordance with Section 311.016, Texas Tax Code.

L. Development Agreement

1. The City, the County, and the Board have entered into a written Development Agreement with the Developer related to the Project and the development of the TIRZ and may enter into future development agreements. The City hereby represents that it will enforce the provisions of the Development Agreement, as required, including, to the extent contained in the Development Agreement, the Developer's compliance with (i) applicable building codes and ordinances, including but not limited to flood, subdivision, building, electrical, plumbing, fire, and life safety codes and ordinances, as amended; all applicable federal, state, and local laws, rules, regulations, statutes, ordinances, orders, and codes, as amended; and rules and codes that govern development over the Edwards Aquifer Recharge Zone (if applicable); (ii) the 2006 Tax Increment Financing Program Policy and Implementation Manual and the Construction Schedule, as may be amended; and (iii) to the extent applicable, competitive bidding processes, payment of prevailing wages, payment and performance bonding procedures and use of minority/small businesses. The City and the Board agree to provide the County with a copy of any notice that is delivered or sent to any Party under this Agreement or the any development agreement as soon as reasonably practical.

2. For any City-controlled construction contracts for new development or public improvements in the TIRZ advertised for bid after the effective date of this Agreement, the City agrees that, to the extent allowed by law, it will include in the bid specifications for said construction contracts a statement encouraging both general contractors and subcontractors to provide access to some form of affordable basic health insurance for permanent fulltime employees and their dependents.

M. TIRZ Designation

The City represents that its designation of the TIRZ meets the criteria of Section 311.005(a), Texas Tax Code, and that said designation also complies with Texas Attorney General Opinion No. JC-0152 issued December 8, 1999.

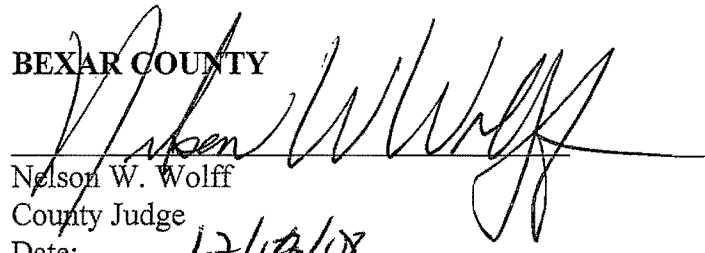
IN WITNESS HEREOF, THE CITY OF SAN ANTONIO; BEXAR COUNTY; AND REINVESTMENT ZONE NUMBER TWENTY-EIGHT (28), CITY OF SAN ANTONIO, TEXAS have made and executed this Agreement in triplicate originals on the date of the last signature below.

CITY OF SAN ANTONIO


Sheryl Sculley
City Manager

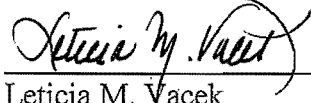
Date: 12/9/08

BEXAR COUNTY


Nelson W. Wolff
County Judge

Date: 12/10/08

ATTEST/SEAL:


Leticia M. Vacek
City Clerk

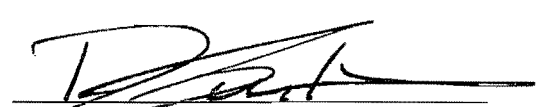
Date: 12-10-08

ATTEST/SEAL:

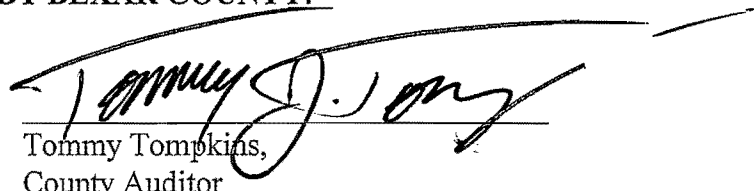

Gerard Rickoff
County Clerk

Date: 12/17/08

APPROVED AS TO FINANCIAL CONTENT BY BEXAR COUNTY:


David Smith, Budget Officer and
Executive Director of Planning and
Resource Management

Date: _____


Tommy Tompkins,
County Auditor

Date: 12/12/08

APPROVED AS TO FORM:

APPROVED AS TO FORM:

Agathe Webe
for Michael D. Bernard
City Attorney
Date: 10 DECEMBER 2008

Larry Roberson
Larry Roberson
Assistant Criminal District Attorney
Civil Section
Date: 12/4/08

BOARD OF DIRECTORS

Verano TIRZ

S. Marcus Jahns
Name: S. Marcus Jahns
Presiding Officer, Board of Directors
Date: 12/12/2008

THE STATE OF TEXAS

§ VERANO TIRZ

COUNTY OF BEXAR

§

§ BEXAR COUNTY

SECOND AMENDMENT TO INTERLOCAL AGREEMENT

AN INTERLOCAL AGREEMENT (the “Agreement”) was made by and between the **CITY OF SAN ANTONIO, TEXAS** (hereafter referred to as “City”), a Texas Municipal Corporation, acting through its City Manager pursuant to Ordinance No. 2008-11-20-1016 passed and approved by the City Council on the 20th day of November, 2008, **BEXAR COUNTY** (hereafter referred to as “County”), a political subdivision of the State of Texas, acting through its County Judge pursuant to authority granted by the Bexar County Commissioners Court on the 16th day of December, 2008, and by the **BOARD OF DIRECTORS FOR TAX INCREMENT REINVESTMENT ZONE NUMBER TWENTY-EIGHT, CITY OF SAN ANTONIO, TEXAS** (hereafter referred to as “Board”) on the 5th day of December, 2008, a reinvestment zone created by the City pursuant to Chapter 311, Texas Tax Code (hereafter referred to as “the Act”). This Agreement was subsequently amended, also pursuant to Ordinance No. 2008-11-20-1016, passed and approved by City Council on the 20th day of November, 2008, the County acting through its County Judge pursuant to authority granted by the Bexar County Commissioners Court on the 21st day of June, 2009, and by the Board on the 25th day of March, 2009. The City, the County, and the Board may be referred to singularly as a “Party” or collectively as “Parties.” The Agreement was made pursuant to Chapter 311, Texas Tax Code for the participation of the City and the County in the Verano TIRZ.

NOW THE FOLLOWING AMENDMENT TO THE Agreement is made by and between the City, acting through its City Manager pursuant to Ordinance No. 2010-06-24-0621 passed and approved by the City Council on the 24th day of June, 2010, the County, acting through its County Judge pursuant to authority granted by the Bexar County Commissioners Court on the 10 th day of August, 2010, and by the Board on the 9th day of June 2010.

RECITALS:

WHEREAS, by Ordinance Number 2007-12-06-1257, dated December 6, 2007, the City created Reinvestment Zone Number Twenty-Eight (the “TIRZ”) in accordance with the Act, to promote development and redevelopment within the TIRZ through the use of tax increment financing, in which development and redevelopment would not otherwise occur solely through private investment in the reasonably foreseeable future, and established a Board of Directors for the TIRZ, and authorized the Board to exercise all the rights, powers, and duties as provided to such boards under the Act; and

WHEREAS, pursuant to said authority above, the Board, the City and the County each hereby entered into a binding agreement with the others to develop and/or redevelop the TIRZ as specified in the Project Plan, Financing Plan, the Development Agreement, and the District Development Agreement; and

WHEREAS, the Parties seek consistency between the Project Plan, the Financing Plan, the Development Agreement, the District Development Agreement, and the other two Interlocal Agreements necessary for advancement of the Project;

NOW, THEREFORE, in consideration of the mutual promises, covenants, obligations, and benefits contained in the Agreement, the City, the Board, and the County hereby agree to amend the Agreement as follows except as herein modified or amended, the recitals, provisions, conditions and terms of the Agreement are hereby ratified and confirmed and shall remain in full force and effect as of the date thereof;

Add the following text at the end of Article III.E:

Notwithstanding the Parties agreement not to finance any costs or improvements of the Project with a tax-supported public debt instrument, the Parties agree to allow the construction and operation of a soccer complex on approximately thirty-five (35) acres of the Project which may be financed from County's issuance of tax-exempt bonds and taxable bonds or from a short term vehicle rental tax.

Eliminate the text of Article V Paragraph D.3 and replace with the following text:

The County further agrees that the City and the Board may disburse funds in the Tax Increment Fund to pay expenditures in the following order or priority of payment:

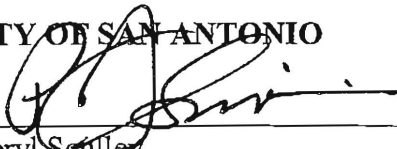
- (i) to fully reimburse eligible startup Administrative Costs incurred by each Participating Taxing Entity;
- (ii) to pay all other ongoing Administrative Costs to the Participating Taxing Entities for administering the Tax Increment Fund and/or the TIRZ, except that if there are insufficient funds for the full reimbursement of ongoing Administrative Costs to the Participating Taxing Entity, then the ongoing Administrative Costs of each Participating Taxing Entity shall be reimbursed on a pro rata basis based on each Participating Taxing Entity's level of participation in the TIRZ;
- (iii) to reimburse the City for costs of repair, replacement, or re-construction of public infrastructure and associated costs: 1) as described in Section 5.12 of the Development Agreement, and 2) those same costs as detailed in the District Development Agreement;
- (iv) to reimburse the City maintenance expenses, if any, pursuant to Article III of the Development Agreement;
- (v) to reimburse a Participating Taxing Entity under any reclaim of funds pursuant to Article X of the Development Agreement;

- (vi) to reimburse the Alamo Community College District for public improvements as provided in the District Development Agreement and in the Project Plan in accordance with the limitations set forth in this Agreement;
- (vii) to reimburse the San Antonio Water System for water and wastewater infrastructure and related impact fees due the San Antonio Water System under its Utility Service Agreement with the Developer as recognized by the City, the Board, the San Antonio Water System and the Developer in the Consent Agreement executed pursuant to Ordinance No. 2009-08-20-0662;
- (viii) to reimburse the City up to one million eight hundred eighty-five thousand dollars (\$1,885,000.00) for the value of the Zachry Parcel conveyed to the District at a maximum rate of \$1,000,000.00 per year should the District choose not to reconstruct Villaret Boulevard by October 1, 2018 ; and
- (ix) to reimburse Developer for public improvements as provided in the Development Agreement and in the Project Plan to the extent that funds in the Tax Increment Fund are available for this purpose.

The foregoing notwithstanding, no funds will be paid from the Tax Increment Fund to a Participating Taxing Entity for its financial or legal services in any dispute arising under this Agreement with another Participating Taxing Entity or Participating Taxing Entities.

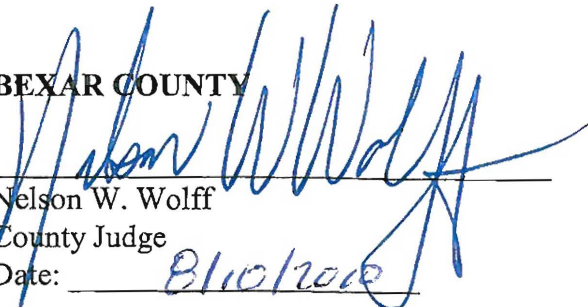
IN WITNESS HEREOF, THE CITY OF SAN ANTONIO; BEXAR COUNTY; AND REINVESTMENT ZONE NUMBER TWENTY-EIGHT (28), CITY OF SAN ANTONIO, TEXAS have made and executed this amendment to the original Agreement in triplicate originals on the date of the last signature below.

CITY OF SAN ANTONIO



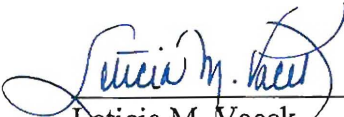
 Sheryl Sculley
 City Manager
 Date: _____

BEXAR COUNTY

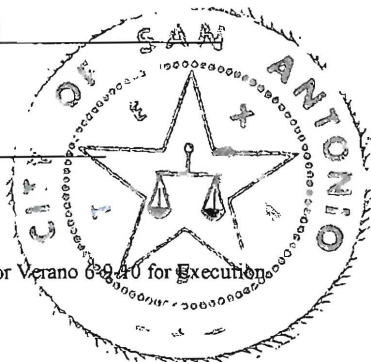


 Nelson W. Wolff
 County Judge
 Date: 8/10/2010

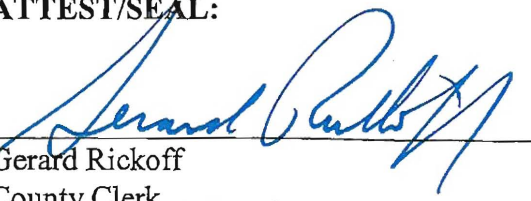
ATTEST/SEAL:



 Deticia M. Vacek
 City Clerk
 Date: 7-30-10

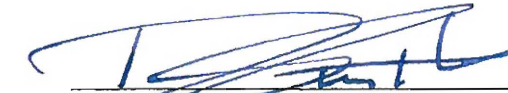


ATTEST/SEAL:



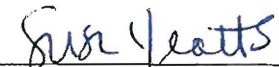
 Gerard Rickoff
 County Clerk
 Date: 8/11/2010

APPROVED AS TO FINANCIAL CONTENT BY BEXAR COUNTY:



David Smith, Budget Officer and
Executive Director of Planning and
Resource Management *MCS*

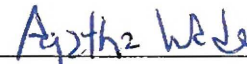
Date: 8.6.10



Susan Yeatts,
County Auditor

Date: 8.4.2010

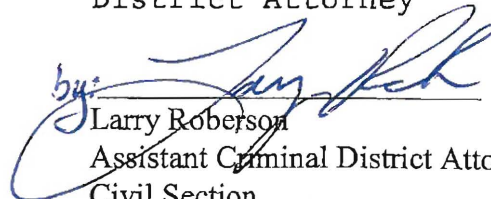
APPROVED AS TO FORM:

for 

Michael D. Bernard
City Attorney

Date: 7/16/2010

**APPROVED AS TO FORM:
SUSAN D. REED, Crininal
District Attorney**

by: 

Larry Roberson
Assistant Criminal District Attorney
Civil Section

Date: 8/2/10

**BOARD OF DIRECTORS
Verano TIRZ**



Marcus Jahns
Presiding Officer, Board of Directors

Date: 7/30/2010