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Form **990**Department of the Treasury
Internal Revenue Service**Return of Organization Exempt From Income Tax**

Under section 501(c), 527, or 4947(a)(1) of the Internal Revenue Code (except black lung benefit trust or private foundation)

▶ The organization may have to use a copy of this return to satisfy state reporting requirements.

OMB No 1545-0047

2009Open to Public
Inspection**A For the 2009 calendar year, or tax year beginning and ending**

B Check if applicable: <input checked="" type="checkbox"/> Address change <input type="checkbox"/> Name change <input type="checkbox"/> Initial return <input type="checkbox"/> Terminated <input type="checkbox"/> Amended return <input type="checkbox"/> Application pending	C Name of organization THE BURKITT FOUNDATION		D Employer identification number 74-6053270
	Doing Business As		E Telephone number 915-533-4020
	Number and street (or P.O. box if mail is not delivered to street address) Room/suite P.O. BOX 272 520		
	City or town, state or country, and ZIP + 4 EL PASO, TX 79943-0272		G Gross receipts \$ 5,185,610.
	F Name and address of principal officer: BOB WEISS SAME AS C ABOVE		H(a) Is this a group return for affiliates? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No H(b) Are all affiliates included? <input type="checkbox"/> Yes <input type="checkbox"/> No If "No," attach a list. (see instructions) H(c) Group exemption number ▶
I Tax-exempt status: <input checked="" type="checkbox"/> 501(c) (3) (insert no) <input type="checkbox"/> 4947(a)(1) or <input type="checkbox"/> 527			
J Website: ▶ N/A			
K Form of organization: <input checked="" type="checkbox"/> Corporation <input type="checkbox"/> Trust <input type="checkbox"/> Association <input type="checkbox"/> Other ▶			
L Year of formation: 1962		M State of legal domicile: TX	

Part I Summary

Activities & Governance	1	Briefly describe the organization's mission or most significant activities: TO RECEIVE AND ADMINISTER PROPERTY ACQUIRED BY GIFT, GRANT, PURCHASE OR OTHERWISE TO PRIMARILY		
	2	Check this box <input type="checkbox"/> if the organization discontinued its operations or disposed of more than 25% of its net assets.		
	3	Number of voting members of the governing body (Part VI, line 1a)	3	9
	4	Number of independent voting members of the governing body (Part VI, line 1b)	4	9
	5	Total number of employees (Part V, line 2a)	5	0
	6	Total number of volunteers (estimate if necessary)	6	0
	7a	Total gross unrelated business revenue from Part VIII column (C), line 12	7a	0.
	b	Net unrelated business taxable income from Form 990-T, line 34	7b	0.
Revenue	8	Contributions and grants (Part VIII, line 1h)	Prior Year	Current Year
	9	Program service revenue (Part VIII, line 2g)	0.	
	10	Investment income (Part VIII, column (A), lines 3, 4, and 7d)	0.	
	11	Other revenue (Part VIII, column (A), lines 5, 6d, 8c, 9c, 10c, and 11e)	<222,928.>	<213,333.>
	12	Total revenue - add lines 8 through 11 (must equal Part VIII, column (A), line 12)	183,549.	332,443.
Expenses	13	Grants and similar amounts paid (Part IX, column (A), lines 1-3)	<39,379.>	119,110.
	14	Benefits paid to or for members (Part IX, column (A), line 4)	1,070,000.	595,000.
	15	Salaries, other compensation, employee benefits (Part IX, column (A), lines 5-10)		
	16a	Professional fundraising fees (Part IX, column (A), line 11e)		
	b	Total fundraising expenses (Part IX, column (D), line 25) ▶		
	17	Other expenses (Part IX, column (A), lines 11a-11d, 11f-24f)	592,095.	506,862.
	18	Total expenses. Add lines 13-17 (must equal Part IX, column (A), line 25)	1,662,095.	1,101,862.
Net Assets or Fund Balances	19	Revenue less expenses. Subtract line 18 from line 12	<1,701,474.>	<982,752.>
	20	Total assets (Part X, line 16)	Beginning of Current Year	End of Year
	21	Total liabilities (Part X, line 26)	11,287,357.	12,805,380.
	22	Net assets or fund balances. Subtract line 21 from line 20	210,403.	1,901.
			11,076,954.	12,803,479.

Part II Signature Block

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than officer) is based on all information of which preparer has any knowledge.				
Sign Here	Signature of officer	Date 7/29/2010		
	BOB WEISS, PRESIDENT Type or print name and title			
Paid Preparer's Use Only	Preparer's signature	Date	Check if self-employed <input type="checkbox"/>	Preparer's identifying number (see instructions)
	Firm's name (or yours if self-employed), address, and ZIP + 4 STRICKLER & PRIETO, LLP 201 E. MAIN, SUITE 500 EL PASO, TX 79901-1397	7-20-10		EIN ▶ Phone no. ▶ (915) 532-2901

May the IRS discuss this return with the preparer shown above? (see instructions)

☒ Yes ☐ No

932001 02-04-10

LHA For Privacy Act and Paperwork Reduction Act Notice, see the separate instructions.

Form **990** (2009)**SEE SCHEDULE O FOR ORGANIZATION MISSION STATEMENT CONTINUATION**

gic 11

Part III Statement of Program Service Accomplishments

- 1 Briefly describe the organization's mission **SEE SCHEDULE O FOR CONTINUATION TO RECEIVE AND ADMINISTER PROPERTY ACQUIRED BY GIFT, GRANT, PURCHASE OR OTHERWISE TO PRIMARILY FOSTER AND PROMOTE THE INTERESTS OF CATHOLIC EDUCATIONAL ORGANIZATIONS, PRIMARILY IN THE STATE OF TEXAS AND IN THE SOUTHWESTERN UNITED STATES. THE GOAL IS TO MAKE ANNUAL GRANTS IN THE**
- 2 Did the organization undertake any significant program services during the year which were not listed on the prior Form 990 or 990-EZ? ☐ Yes ☒ No
If "Yes," describe these new services on Schedule O
- 3 Did the organization cease conducting, or make significant changes in how it conducts, any program services? ☒ Yes ☐ No
If "Yes," describe these changes on Schedule O.
- 4 Describe the exempt purpose achievements for each of the organization's three largest program services by expenses. Section 501(c)(3) and 501(c)(4) organizations and section 4947(a)(1) trusts are required to report the amount of grants and allocations to others, the total expenses, and revenue, if any, for each program service reported.

4a (Code:) (Expenses \$ **614,025.** including grants of \$ **595,000.**) (Revenue \$)
THE MAKING OF GRANTS TO AND THROUGH EL PASO COMMUNITY FOUNDATION TO FURTHER THE PURPOSES OF THE FOUNDATION WHICH ARE DESCRIBED IN PART III - LINE 1.

4b (Code:) (Expenses \$ including grants of \$) (Revenue \$)

4c (Code:) (Expenses \$ including grants of \$) (Revenue \$)

4d Other program services (Describe in Schedule O)
 (Expenses \$ including grants of \$) (Revenue \$)

4e Total program service expenses **\$ 614,025.**

Part IV Checklist of Required Schedules

	Yes	No
1 Is the organization described in section 501(c)(3) or 4947(a)(1) (other than a private foundation)? <i>If "Yes," complete Schedule A</i>	X	
2 Is the organization required to complete Schedule B, Schedule of Contributors?		X
3 Did the organization engage in direct or indirect political campaign activities on behalf of or in opposition to candidates for public office? <i>If "Yes," complete Schedule C, Part I</i>		X
4 Section 501(c)(3) organizations. Did the organization engage in lobbying activities? <i>If "Yes," complete Schedule C, Part II</i>		X
5 Section 501(c)(4), 501(c)(5), and 501(c)(6) organizations. Is the organization subject to the section 6033(e) notice and reporting requirement and proxy tax? <i>If "Yes," complete Schedule C, Part III</i>		
6 Did the organization maintain any donor advised funds or any similar funds or accounts where donors have the right to provide advice on the distribution or investment of amounts in such funds or accounts? <i>If "Yes," complete Schedule D, Part I</i>		X
7 Did the organization receive or hold a conservation easement, including easements to preserve open space, the environment, historic land areas, or historic structures? <i>If "Yes," complete Schedule D, Part II</i>		X
8 Did the organization maintain collections of works of art, historical treasures, or other similar assets? <i>If "Yes," complete Schedule D, Part III</i>		X
9 Did the organization report an amount in Part X, line 21; serve as a custodian for amounts not listed in Part X; or provide credit counseling, debt management, credit repair, or debt negotiation services? <i>If "Yes," complete Schedule D, Part IV</i>		X
10 Did the organization, directly or through a related organization, hold assets in term, permanent, or quasi-endowments? <i>If "Yes," complete Schedule D, Part V</i>		X
11 Is the organization's answer to any of the following questions "Yes"? <i>If so, complete Schedule D, Parts VI, VII, VIII, IX, or X as applicable</i>	X	
• Did the organization report an amount for land, buildings, and equipment in Part X, line 10? <i>If "Yes," complete Schedule D, Part VI</i>		
• Did the organization report an amount for investments - other securities in Part X, line 12 that is 5% or more of its total assets reported in Part X, line 16? <i>If "Yes," complete Schedule D, Part VII</i>		
• Did the organization report an amount for investments - program related in Part X, line 13 that is 5% or more of its total assets reported in Part X, line 16? <i>If "Yes," complete Schedule D, Part VIII</i>		
• Did the organization report an amount for other assets in Part X, line 15 that is 5% or more of its total assets reported in Part X, line 16? <i>If "Yes," complete Schedule D, Part IX</i>		
• Did the organization report an amount for other liabilities in Part X, line 25? <i>If "Yes," complete Schedule D, Part X</i>		
• Did the organization's separate or consolidated financial statements for the tax year include a footnote that addresses the organization's liability for uncertain tax positions under FIN 48? <i>If "Yes," complete Schedule D, Part X</i>		
12 Did the organization obtain separate, independent audited financial statements for the tax year? <i>If "Yes," complete Schedule D, Parts XI, XII, and XIII</i>	X	
12A Was the organization included in consolidated, independent audited financial statements for the tax year? <i>If "Yes," completing Schedule D, Parts XI, XII, and XIII is optional</i>	X	
13 Is the organization a school described in section 170(b)(1)(A)(ii)? <i>If "Yes," complete Schedule E</i>		X
14a Did the organization maintain an office, employees, or agents outside of the United States?		X
b Did the organization have aggregate revenues or expenses of more than \$10,000 from grantmaking, fundraising, business, and program service activities outside the United States? <i>If "Yes," complete Schedule F, Part I</i>		X
15 Did the organization report on Part IX, column (A), line 3, more than \$5,000 of grants or assistance to any organization or entity located outside the United States? <i>If "Yes," complete Schedule F, Part II</i>		X
16 Did the organization report on Part IX, column (A), line 3, more than \$5,000 of aggregate grants or assistance to individuals located outside the United States? <i>If "Yes," complete Schedule F, Part III</i>		X
17 Did the organization report a total of more than \$15,000 of expenses for professional fundraising services on Part IX, column (A), lines 6 and 11e? <i>If "Yes," complete Schedule G, Part I</i>		X
18 Did the organization report more than \$15,000 total of fundraising event gross income and contributions on Part VIII, lines 1c and 8a? <i>If "Yes," complete Schedule G, Part II</i>		X
19 Did the organization report more than \$15,000 of gross income from gaming activities on Part VIII, line 9a? <i>If "Yes," complete Schedule G, Part III</i>		X
20 Did the organization operate one or more hospitals? <i>If "Yes," complete Schedule H</i>		X

Part IV Checklist of Required Schedules (continued)

	Yes	No
21 Did the organization report more than \$5,000 of grants and other assistance to governments and organizations in the United States on Part IX, column (A), line 1? <i>If "Yes," complete Schedule I, Parts I and II</i>	21 X	
22 Did the organization report more than \$5,000 of grants and other assistance to individuals in the United States on Part IX, column (A), line 2? <i>If "Yes," complete Schedule I, Parts I and II</i>	22	X
23 Did the organization answer "Yes" to Part VII, Section A, line 3, 4, or 5 about compensation of the organization's current and former officers, directors, trustees, key employees, and highest compensated employees? <i>If "Yes," complete Schedule J</i>	23 X	
24a Did the organization have a tax-exempt bond issue with an outstanding principal amount of more than \$100,000 as of the last day of the year, that was issued after December 31, 2002? <i>If "Yes," answer lines 24b through 24d and complete Schedule K. If "No," go to line 25</i>	24a	X
b Did the organization invest any proceeds of tax-exempt bonds beyond a temporary period exception?	24b	
c Did the organization maintain an escrow account other than a refunding escrow at any time during the year to defease any tax-exempt bonds?	24c	
d Did the organization act as an "on behalf of" issuer for bonds outstanding at any time during the year?	24d	
25a Section 501(c)(3) and 501(c)(4) organizations. Did the organization engage in an excess benefit transaction with a disqualified person during the year? <i>If "Yes," complete Schedule L, Part I</i>	25a	X
b Is the organization aware that it engaged in an excess benefit transaction with a disqualified person in a prior year, and that the transaction has not been reported on any of the organization's prior Forms 990 or 990-EZ? <i>If "Yes," complete Schedule L, Part I</i>	25b	X
26 Was a loan to or by a current or former officer, director, trustee, key employee, highly compensated employee, or disqualified person outstanding as of the end of the organization's tax year? <i>If "Yes," complete Schedule L, Part II</i>	26	X
27 Did the organization provide a grant or other assistance to an officer, director, trustee, key employee, substantial contributor, or a grant selection committee member, or to a person related to such an individual? <i>If "Yes," complete Schedule L, Part III</i>	27	X
28 Was the organization a party to a business transaction with one of the following parties, (see Schedule L, Part IV instructions for applicable filing thresholds, conditions, and exceptions):		
a A current or former officer, director, trustee, or key employee? <i>If "Yes," complete Schedule L, Part IV</i>	28a X	
b A family member of a current or former officer, director, trustee, or key employee? <i>If "Yes," complete Schedule L, Part IV</i>	28b X	
c An entity of which a current or former officer, director, trustee, or key employee of the organization (or a family member) was an officer, director, trustee, or direct or indirect owner? <i>If "Yes," complete Schedule L, Part IV</i>	28c X	
29 Did the organization receive more than \$25,000 in non-cash contributions? <i>If "Yes," complete Schedule M</i>	29	X
30 Did the organization receive contributions of art, historical treasures, or other similar assets, or qualified conservation contributions? <i>If "Yes," complete Schedule M</i>	30	X
31 Did the organization liquidate, terminate, or dissolve and cease operations? <i>If "Yes," complete Schedule N, Part I</i>	31	X
32 Did the organization sell, exchange, dispose of, or transfer more than 25% of its net assets? <i>If "Yes," complete Schedule N, Part II</i>	32	X
33 Did the organization own 100% of an entity disregarded as separate from the organization under Regulations sections 301.7701-2 and 301.7701-3? <i>If "Yes," complete Schedule R, Part I</i>	33	X
34 Was the organization related to any tax-exempt or taxable entity? <i>If "Yes," complete Schedule R, Parts II, III, IV, and V, line 1</i>	34 X	
35 Is any related organization a controlled entity within the meaning of section 512(b)(13)? <i>If "Yes," complete Schedule R, Part V, line 2</i>	35	X
36 Section 501(c)(3) organizations. Did the organization make any transfers to an exempt non-charitable related organization? <i>If "Yes," complete Schedule R, Part V, line 2</i>	36	X
37 Did the organization conduct more than 5% of its activities through an entity that is not a related organization and that is treated as a partnership for federal income tax purposes? <i>If "Yes," complete Schedule R, Part VI</i>	37	X
38 Did the organization complete Schedule O and provide explanations in Schedule O for Part VI, lines 11 and 19?	38 X	

Note. All Form 990 filers are required to complete Schedule O.

Part V Statements Regarding Other IRS Filings and Tax Compliance

		Yes	No
1a	Enter the number reported in Box 3 of Form 1096, Annual Summary and Transmittal of U.S. Information Returns. Enter -0- if not applicable	0	
1b	Enter the number of Forms W-2G included in line 1a. Enter -0- if not applicable	0	
c	Did the organization comply with backup withholding rules for reportable payments to vendors and reportable gaming (gambling) winnings to prize winners?	1c	
2a	Enter the number of employees reported on Form W-3, Transmittal of Wage and Tax Statements, filed for the calendar year ending with or within the year covered by this return	0	
b	If at least one is reported on line 2a, did the organization file all required federal employment tax returns? Note. If the sum of lines 1a and 2a is greater than 250, you may be required to e-file this return. (see instructions)	2b	
3a	Did the organization have unrelated business gross income of \$1,000 or more during the year covered by this return?	3a	X
b	If "Yes," has it filed a Form 990-T for this year? If "No," provide an explanation in Schedule O	3b	
4a	At any time during the calendar year, did the organization have an interest in, or a signature or other authority over, a financial account in a foreign country (such as a bank account, securities account, or other financial account)?	4a	X
b	If "Yes," enter the name of the foreign country: See the instructions for exceptions and filing requirements for Form TD F 90-22.1, Report of Foreign Bank and Financial Accounts.		
5a	Was the organization a party to a prohibited tax shelter transaction at any time during the tax year?	5a	X
b	Did any taxable party notify the organization that it was or is a party to a prohibited tax shelter transaction?	5b	X
c	If "Yes," to line 5a or 5b, did the organization file Form 8886-T, Disclosure by Tax-Exempt Entity Regarding Prohibited Tax Shelter Transaction?	5c	
6a	Does the organization have annual gross receipts that are normally greater than \$100,000, and did the organization solicit any contributions that were not tax deductible?	6a	X
b	If "Yes," did the organization include with every solicitation an express statement that such contributions or gifts were not tax deductible?	6b	
7	Organizations that may receive deductible contributions under section 170(c).		
a	Did the organization receive a payment in excess of \$75 made partly as a contribution and partly for goods and services provided to the payor?	7a	X
b	If "Yes," did the organization notify the donor of the value of the goods or services provided?	7b	
c	Did the organization sell, exchange, or otherwise dispose of tangible personal property for which it was required to file Form 8282?	7c	X
d	If "Yes," indicate the number of Forms 8282 filed during the year	7d	
e	Did the organization, during the year, receive any funds, directly or indirectly, to pay premiums on a personal benefit contract?	7e	X
f	Did the organization, during the year, pay premiums, directly or indirectly, on a personal benefit contract?	7f	X
g	For all contributions of qualified intellectual property, did the organization file Form 8899 as required?	7g	X
h	For contributions of cars, boats, airplanes, and other vehicles, did the organization file a Form 1098-C as required?	7h	X
8	Sponsoring organizations maintaining donor advised funds and section 509(a)(3) supporting organizations. Did the supporting organization, or a donor advised fund maintained by a sponsoring organization, have excess business holdings at any time during the year?	8	
9	Sponsoring organizations maintaining donor advised funds.		
a	Did the organization make any taxable distributions under section 4966?	9a	
b	Did the organization make a distribution to a donor, donor advisor, or related person?	9b	
10	Section 501(c)(7) organizations. Enter:		
a	Initiation fees and capital contributions included on Part VIII, line 12	10a	
b	Gross receipts, included on Form 990, Part VIII, line 12, for public use of club facilities	10b	
11	Section 501(c)(12) organizations. Enter:		
a	Gross income from members or shareholders	11a	
b	Gross income from other sources (Do not net amounts due or paid to other sources against amounts due or received from them.)	11b	
12a	Section 4947(a)(1) non-exempt charitable trusts. Is the organization filing Form 990 in lieu of Form 1041?	12a	
b	If "Yes," enter the amount of tax-exempt interest received or accrued during the year	12b	

Form 990 (2009)

Part VI Governance, Management, and Disclosure For each "Yes" response to lines 2 through 7b below, and for a "No" response to line 8a, 8b, or 10b below, describe the circumstances, processes, or changes in Schedule O. See instructions.

Section A. Governing Body and Management

	Yes	No
1a Enter the number of voting members of the governing body	9	
b Enter the number of voting members that are independent	9	
2 Did any officer, director, trustee, or key employee have a family relationship or a business relationship with any other officer, director, trustee, or key employee?		X
3 Did the organization delegate control over management duties customarily performed by or under the direct supervision of officers, directors or trustees, or key employees to a management company or other person?		X
4 Did the organization make any significant changes to its organizational documents since the prior Form 990 was filed?	X	
5 Did the organization become aware during the year of a material diversion of the organization's assets?		X
6 Does the organization have members or stockholders?	X	
7a Does the organization have members, stockholders, or other persons who may elect one or more members of the governing body?	X	
b Are any decisions of the governing body subject to approval by members, stockholders, or other persons?		X
8 Did the organization contemporaneously document the meetings held or written actions undertaken during the year by the following:		
a The governing body?	X	
b Each committee with authority to act on behalf of the governing body?	X	
9 Is there any officer, director, trustee, or key employee listed in Part VII, Section A, who cannot be reached at the organization's mailing address? If "Yes," provide the names and addresses in Schedule O	X	

Section B. Policies (This Section B requests information about policies not required by the Internal Revenue Code.)

	Yes	No
10a Does the organization have local chapters, branches, or affiliates?		X
b If "Yes," does the organization have written policies and procedures governing the activities of such chapters, affiliates, and branches to ensure their operations are consistent with those of the organization?		
11 Has the organization provided a copy of this Form 990 to all members of its governing body before filing the form?	X	
11A Describe in Schedule O the process, if any, used by the organization to review this Form 990.		
12a Does the organization have a written conflict of interest policy? If "No," go to line 13	X	
b Are officers, directors or trustees, and key employees required to disclose annually interests that could give rise to conflicts?	X	
c Does the organization regularly and consistently monitor and enforce compliance with the policy? If "Yes," describe in Schedule O how this is done	X	
13 Does the organization have a written whistleblower policy?		X
14 Does the organization have a written document retention and destruction policy?		X
15 Did the process for determining compensation of the following persons include a review and approval by independent persons, comparability data, and contemporaneous substantiation of the deliberation and decision?		
a The organization's CEO, Executive Director, or top management official		X
b Other officers or key employees of the organization		X
If "Yes" to line 15a or 15b, describe the process in Schedule O. (See instructions.)		
16a Did the organization invest in, contribute assets to, or participate in a joint venture or similar arrangement with a taxable entity during the year?		X
b If "Yes," has the organization adopted a written policy or procedure requiring the organization to evaluate its participation in joint venture arrangements under applicable federal tax law, and taken steps to safeguard the organization's exempt status with respect to such arrangements?		

Section C. Disclosure

17 List the states with which a copy of this Form 990 is required to be filed **NONE**

18 Section 6104 requires an organization to make its Forms 1023 (or 1024 if applicable), 990, and 990-T (501(c)(3)s only) available for public inspection. Indicate how you make these available. Check all that apply.
☐ Own website ☐ Another's website ☒ Upon request

19 Describe in Schedule O whether (and if so, how), the organization makes its governing documents, conflict of interest policy, and financial statements available to the public.

20 State the name, physical address, and telephone number of the person who possesses the books and records of the organization: **EL PASO COMMUNITY FOUNDATION - (915)533-4020**
123 W. MILLS STE 520, EL PASO, TX 79901

Part VII Compensation of Officers, Directors, Trustees, Key Employees, Highest Compensated Employees, and Independent Contractors**Section A. Officers, Directors, Trustees, Key Employees, and Highest Compensated Employees**

1a Complete this table for all persons required to be listed. Report compensation for the calendar year ending with or within the organization's tax year. Use Schedule J-2 if additional space is needed.

• List all of the organization's **current** officers, directors, trustees (whether individuals or organizations), regardless of amount of compensation. Enter -0- in columns (D), (E), and (F) if no compensation was paid.

• List all of the organization's **current** key employees. See instructions for definition of "key employee."

• List the organization's five **current** highest compensated employees (other than an officer, director, trustee, or key employee) who received reportable compensation (Box 5 of Form W-2 and/or Box 7 of Form 1099-MISC) of more than \$100,000 from the organization and any related organizations.

• List all of the organization's **former** officers, key employees, and highest compensated employees who received more than \$100,000 of reportable compensation from the organization and any related organizations.

• List all of the organization's **former** directors or trustees that received, in the capacity as a former director or trustee of the organization, more than \$10,000 of reportable compensation from the organization and any related organizations.

List persons in the following order: individual trustees or directors; institutional trustees; officers; key employees; highest compensated employees; and former such persons.

☐ Check this box if the organization did not compensate any current officer, director, or trustee.

(A) Name and Title	(B) Average hours per week	(C) Position (check all that apply)						(D) Reportable compensation from the organization (W-2/1099-MISC)	(E) Reportable compensation from related organizations (W-2/1099-MISC)	(F) Estimated amount of other compensation from the organization and related organizations
		Individual trustee or director	Institutional trustee	Officer	Key employee	Highest compensated employee	Former			
CARL E. RYAN - PRESIDENT (1/1/09-5/27/09)	2.00	X		X				83,020.	0.	0.
RICHARD P. DALY, C.S.C. PRES (5/27/09-10/13/09)	2.00	X		X				0.	0.	0.
BOB WEISS - PRESIDENT (10/13/09-12/31/09)	8.00	X		X				0.	0.	0.
FRANK W. GORMAN, JR-VP/T (1/1/09-10/13/09)	2.00	X		X				0.	0.	0.
JOANNE BURT - VP (10/13/09-12/31/09)	2.00	X		X				0.	0.	0.
CAROLYN L. MORA - SEC/AS (1/1/09-10/13/09)	2.00	X		X				0.	0.	0.
ROGER G. ORTIZ - SECRETARY (10/13/09-12/31/09)	2.00	X		X				0.	0.	0.
JOHN A. SIEGER - TREASURER (10/13/09-12/31/09)	2.00	X		X				0.	0.	0.
MARYLEE WARWICK JURECKY (1/1/09-4/22/09)	2.00	X						0.	0.	0.
CARL E. RYAN - DIRECTOR (1/1/09-10/13/09)	2.00	X						0.	0.	0.
BARBARA SPINNER	2.00	X						0.	0.	0.
MARGIE MELBY	2.00	X						0.	0.	0.
TOM D. PORTER	2.00	X						0.	0.	0.
ROBERT B. AGUIRRE	2.00	X						0.	0.	0.
CARMEN MONTES	2.00	X						0.	0.	0.

Part VII Section A. Officers, Directors, Trustees, Key Employees, and Highest Compensated Employees (continued)

(A) Name and title	(B) Average hours per week	(C) Position (check all that apply)						(D) Reportable compensation from the organization (W-2/1099-MISC)	(E) Reportable compensation from related organizations (W-2/1099-MISC)	(F) Estimated amount of other compensation from the organization and related organizations
		Individual trustee or director	Institutional trustee	Officer	Key employee	Highest compensated employee	Former			
1b Total								83,020.	0.	0.

2 Total number of individuals (including but not limited to those listed above) who received more than \$100,000 in reportable compensation from the organization **0**

- 3** Did the organization list any **former** officer, director or trustee, key employee, or highest compensated employee on line 1a? If "Yes," complete Schedule J for such individual
- 4** For any individual listed on line 1a, is the sum of reportable compensation and other compensation from the organization and related organizations greater than \$150,000? If "Yes," complete Schedule J for such individual
- 5** Did any person listed on line 1a receive or accrue compensation from any unrelated organization for services rendered to the organization? If "Yes," complete Schedule J for such person

	Yes	No
3		X
4		X
5	X	

Section B. Independent Contractors

- 1** Complete this table for your five highest compensated independent contractors that received more than \$100,000 of compensation from the organization.

(A) Name and business address	(B) Description of services	(C) Compensation
AINSA HUTSON, LLP 5809 ACACIA CIRCLE, EL PASO, TX 79901	LEGAL SERVICES	221,341.

- 2** Total number of independent contractors (including but not limited to those listed above) who received more than \$100,000 in compensation from the organization **1**

Part VIII Statement of Revenue

				(A) Total revenue	(B) Related or exempt function revenue	(C) Unrelated business revenue	(D) Revenue excluded from tax under sections 512, 513, or 514
Contributions, gifts, grants and other similar amounts	1 a Federated campaigns	1a					
	b Membership dues	1b					
	c Fundraising events	1c					
	d Related organizations	1d					
	e Government grants (contributions)	1e					
	f All other contributions, gifts, grants, and similar amounts not included above	1f					
	g Noncash contributions included in lines 1a-1f \$						
	h Total. Add lines 1a-1f						
Program Service Revenue	2 a _____ Business Code _____						
	b _____						
	c _____						
	d _____						
	e _____						
	f All other program service revenue ...						
	g Total. Add lines 2a-2f						
	Other Revenue	3 Investment income (including dividends, interest, and other similar amounts)			465,235.	465,235.	
4 Income from investment of tax-exempt bond proceeds							
5 Royalties				20,231.	20,231.		
6 a Gross Rents		(i) Real	(ii) Personal				
b Less: rental expenses							
c Rental income or (loss)							
d Net rental income or (loss)							
7 a Gross amount from sales of assets other than inventory		(i) Securities	(ii) Other				
b Less: cost or other basis and sales expenses				4387932.			
c Gain or (loss)				5066500.			
d Net gain or (loss)				<678568.>	<678,568.>	<678,568.>	
8 a Gross income from fundraising events (not including \$ _____ of contributions reported on line 1c). See Part IV, line 18							
b Less: direct expenses							
c Net income or (loss) from fundraising events							
9 a Gross income from gaming activities. See Part IV, line 19							
b Less: direct expenses							
c Net income or (loss) from gaming activities							
10 a Gross sales of inventory, less returns and allowances							
b Less: cost of goods sold							
c Net income or (loss) from sales of inventory							
Miscellaneous Revenue			Business Code				
11 a LEASE BONUS INCOME			211110	310,776.	310,776.		
b MISC INCOME			211110	1,436.	1,436.		
c _____							
d All other revenue							
e Total. Add lines 11a-11d				312,212.			
12 Total revenue. See instructions.				119,110.	119,110.	0.	0.

Part IX Statement of Functional Expenses

Section 501(c)(3) and 501(c)(4) organizations must complete all columns.

All other organizations must complete column (A) but are not required to complete columns (B), (C), and (D).

Do not include amounts reported on lines 6b, 7b, 8b, 9b, and 10b of Part VIII.	(A) Total expenses	(B) Program service expenses	(C) Management and general expenses	(D) Fundraising expenses
1 Grants and other assistance to governments and organizations in the U.S. See Part IV, line 21	595,000.	595,000.		
2 Grants and other assistance to individuals in the U.S. See Part IV, line 22				
3 Grants and other assistance to governments, organizations, and individuals outside the U.S. See Part IV, lines 15 and 16				
4 Benefits paid to or for members				
5 Compensation of current officers, directors, trustees, and key employees				
6 Compensation not included above, to disqualified persons (as defined under section 4958(f)(1)) and persons described in section 4958(c)(3)(B)				
7 Other salaries and wages				
8 Pension plan contributions (include section 401(k) and section 403(b) employer contributions)				
9 Other employee benefits				
10 Payroll taxes				
11 Fees for services (non-employees):				
a Management	20,000.	16,817.	3,183.	
b Legal	355,500.		355,500.	
c Accounting	24,111.		24,111.	
d Lobbying				
e Professional fundraising services. See Part IV, line 17				
f Investment management fees	71,290.		71,290.	
g Other	22,877.		22,877.	
12 Advertising and promotion				
13 Office expenses	968.		968.	
14 Information technology				
15 Royalties				
16 Occupancy				
17 Travel	4,028.		4,028.	
18 Payments of travel or entertainment expenses for any federal, state, or local public officials				
19 Conferences, conventions, and meetings	2,393.		2,393.	
20 Interest				
21 Payments to affiliates				
22 Depreciation, depletion, and amortization				
23 Insurance	2,727.		2,727.	
24 Other expenses. Itemize expenses not covered above. (Expenses grouped together and labeled miscellaneous may not exceed 5% of total expenses shown on line 25 below.)				
a AD VALOREM TAXES	2,208.	2,208.		
b BOARD TRAINING	500.		500.	
c BANK SERVICE CHARGES	260.		260.	
d				
e				
f All other expenses				
25 Total functional expenses. Add lines 1 through 24f	1,101,862.	614,025.	487,837.	0.
26 Joint costs. Check here <input type="checkbox"/> if following SOP 98-2. Complete this line only if the organization reported in column (B) joint costs from a combined educational campaign and fundraising solicitation				

Part X Balance Sheet

		(A) Beginning of year		(B) End of year
Assets	1 Cash - non-interest-bearing	66,686.	1	7,895.
	2 Savings and temporary cash investments	633,889.	2	428,606.
	3 Pledges and grants receivable, net		3	
	4 Accounts receivable, net	61,115.	4	72,002.
	5 Receivables from current and former officers, directors, trustees, key employees, and highest compensated employees. Complete Part II of Schedule L		5	
	6 Receivables from other disqualified persons (as defined under section 4958(f)(1)) and persons described in section 4958(c)(3)(B). Complete Part II of Schedule L		6	
	7 Notes and loans receivable, net		7	
	8 Inventories for sale or use		8	
	9 Prepaid expenses and deferred charges	2,524.	9	6,464.
	10a Land, buildings, and equipment: cost or other basis. Complete Part VI of Schedule D	10a 166,836.		
	b Less: accumulated depreciation	10b 373,355.	10c	166,836.
	11 Investments - publicly traded securities	7,961,229.	11	11,201,118.
	12 Investments - other securities. See Part IV, line 11	1,333,787.	12	843,853.
	13 Investments - program-related. See Part IV, line 11		13	
	14 Intangible assets		14	
	15 Other assets. See Part IV, line 11	854,772.	15	78,606.
	16 Total assets. Add lines 1 through 15 (must equal line 34)	11,287,357.	16	12,805,380.
Liabilities	17 Accounts payable and accrued expenses	210,403.	17	1,901.
	18 Grants payable		18	
	19 Deferred revenue		19	
	20 Tax-exempt bond liabilities		20	
	21 Escrow or custodial account liability. Complete Part IV of Schedule D		21	
	22 Payables to current and former officers, directors, trustees, key employees, highest compensated employees, and disqualified persons. Complete Part II of Schedule L		22	
	23 Secured mortgages and notes payable to unrelated third parties		23	
	24 Unsecured notes and loans payable to unrelated third parties		24	
	25 Other liabilities. Complete Part X of Schedule D		25	
	26 Total liabilities. Add lines 17 through 25	210,403.	26	1,901.
Net Assets or Fund Balances	Organizations that follow SFAS 117, check here <input checked="" type="checkbox"/> and complete lines 27 through 29, and lines 33 and 34.			
	27 Unrestricted net assets	11,076,954.	27	12,803,479.
	28 Temporarily restricted net assets		28	
	29 Permanently restricted net assets		29	
	Organizations that do not follow SFAS 117, check here <input type="checkbox"/> and complete lines 30 through 34.			
	30 Capital stock or trust principal, or current funds		30	
	31 Paid-in or capital surplus, or land, building, or equipment fund		31	
	32 Retained earnings, endowment, accumulated income, or other funds		32	
	33 Total net assets or fund balances	11,076,954.	33	12,803,479.
	34 Total liabilities and net assets/fund balances	11,287,357.	34	12,805,380.

Form 990 (2009)

Part XI Financial Statements and Reporting

1 Accounting method used to prepare the Form 990: ☐ Cash ☒ Accrual ☐ Other _____

If the organization changed its method of accounting from a prior year or checked "Other," explain in Schedule O.

2a Were the organization's financial statements compiled or reviewed by an independent accountant?

b Were the organization's financial statements audited by an independent accountant?

c If "Yes" to line 2a or 2b, does the organization have a committee that assumes responsibility for oversight of the audit, review, or compilation of its financial statements and selection of an independent accountant?

If the organization changed either its oversight process or selection process during the tax year, explain in Schedule O.

d If "Yes" to line 2a or 2b, check a box below to indicate whether the financial statements for the year were issued on a consolidated basis, separate basis, or both:

☒ Separate basis ☐ Consolidated basis ☐ Both consolidated and separate basis

3a As a result of a federal award, was the organization required to undergo an audit or audits as set forth in the Single Audit Act and OMB Circular A-133?

b If "Yes," did the organization undergo the required audit or audits? If the organization did not undergo the required audit or audits, explain why in Schedule O and describe any steps taken to undergo such audits.

	Yes	No
2a		X
2b	X	
2c	X	
3a		X
3b		

Form 990 (2009)

SCHEDULE A
(Form 990 or 990-EZ)

Department of the Treasury
Internal Revenue Service

Public Charity Status and Public Support

Complete if the organization is a section 501(c)(3) organization or a section 4947(a)(1) nonexempt charitable trust.

▶ Attach to Form 990 or Form 990-EZ. ▶ See separate instructions.

OMB No. 1545-0047

2009

Open to Public
Inspection

Name of the organization

THE BURKITT FOUNDATION

Employer identification number

74-6053270

Part I Reason for Public Charity Status (All organizations must complete this part.) See instructions.

The organization is not a private foundation because it is: (For lines 1 through 11, check only one box.)

- 1 ☐ A church, convention of churches, or association of churches described in **section 170(b)(1)(A)(i).**
- 2 ☐ A school described in **section 170(b)(1)(A)(ii).** (Attach Schedule E.)
- 3 ☐ A hospital or a cooperative hospital service organization described in **section 170(b)(1)(A)(iii).**
- 4 ☐ A medical research organization operated in conjunction with a hospital described in **section 170(b)(1)(A)(iii).** Enter the hospital's name, city, and state: _____
- 5 ☐ An organization operated for the benefit of a college or university owned or operated by a governmental unit described in **section 170(b)(1)(A)(iv).** (Complete Part II.)
- 6 ☐ A federal, state, or local government or governmental unit described in **section 170(b)(1)(A)(v).**
- 7 ☐ An organization that normally receives a substantial part of its support from a governmental unit or from the general public described in **section 170(b)(1)(A)(vi).** (Complete Part II.)
- 8 ☐ A community trust described in **section 170(b)(1)(A)(vi).** (Complete Part II.)
- 9 ☐ An organization that normally receives: (1) more than 33 1/3% of its support from contributions, membership fees, and gross receipts from activities related to its exempt functions - subject to certain exceptions, and (2) no more than 33 1/3% of its support from gross investment income and unrelated business taxable income (less section 511 tax) from businesses acquired by the organization after June 30, 1975. See **section 509(a)(2).** (Complete Part III.)

10 ☐ An organization organized and operated exclusively to test for public safety. See **section 509(a)(4).**

11 ☒ An organization organized and operated exclusively for the benefit of, to perform the functions of, or to carry out the purposes of one or more publicly supported organizations described in **section 509(a)(1)** or **section 509(a)(2).** See **section 509(a)(3).** Check the box that describes the type of supporting organization and complete lines 11e through 11h.

a ☐ Type I b ☐ Type II c ☐ Type III - Functionally integrated d ☒ Type III - Other

e ☐ By checking this box, I certify that the organization is not controlled directly or indirectly by one or more disqualified persons other than foundation managers and other than one or more publicly supported organizations described in **section 509(a)(1)** or **section 509(a)(2).**

f If the organization received a written determination from the IRS that it is a Type I, Type II, or Type III supporting organization, check this box ☐

g Since August 17, 2006, has the organization accepted any gift or contribution from any of the following persons?

- (i) A person who directly or indirectly controls, either alone or together with persons described in (ii) and (iii) below, the governing body of the supported organization?
- (ii) A family member of a person described in (i) above?
- (iii) A 35% controlled entity of a person described in (i) or (ii) above?

	Yes	No
11g(i)		<input checked="" type="checkbox"/>
11g(ii)		<input checked="" type="checkbox"/>
11g(iii)		<input checked="" type="checkbox"/>

h Provide the following information about the supported organization(s).

(i) Name of supported organization	(ii) EIN	(iii) Type of organization (described on lines 1-9 above or IRC section (see instructions))	(iv) Is the organization in col. (i) listed in your governing document?		(v) Did you notify the organization in col. (i) of your support?		(vi) Is the organization in col. (i) organized in the U.S.?		(vii) Amount of support
			Yes	No	Yes	No	Yes	No	
EL PASO COMMUNITY FOUNDATION	74-18395367		<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>		595,000.
Total									595,000.

LHA For Privacy Act and Paperwork Reduction Act Notice, see the Instructions for Form 990 or 990-EZ.

Schedule A (Form 990 or 990-EZ) 2009

Part II Support Schedule for Organizations Described in Sections 170(b)(1)(A)(iv) and 170(b)(1)(A)(vi)

(Complete only if you checked the box on line 5, 7, or 8 of Part I.)

Section A. Public Support

Calendar year (or fiscal year beginning in) ▶	(a) 2005	(b) 2006	(c) 2007	(d) 2008	(e) 2009	(f) Total
1 Gifts, grants, contributions, and membership fees received. (Do not include any "unusual grants.") ...						
2 Tax revenues levied for the organization's benefit and either paid to or expended on its behalf ...						
3 The value of services or facilities furnished by a governmental unit to the organization without charge ...						
4 Total. Add lines 1 through 3 ...						
5 The portion of total contributions by each person (other than a governmental unit or publicly supported organization) included on line 1 that exceeds 2% of the amount shown on line 11, column (f) ...						
6 Public support. Subtract line 5 from line 4 ...						

Section B. Total Support

Calendar year (or fiscal year beginning in) ▶	(a) 2005	(b) 2006	(c) 2007	(d) 2008	(e) 2009	(f) Total
7 Amounts from line 4 ...						
8 Gross income from interest, dividends, payments received on securities loans, rents, royalties and income from similar sources ...						
9 Net income from unrelated business activities, whether or not the business is regularly carried on ...						
10 Other income. Do not include gain or loss from the sale of capital assets (Explain in Part IV.) ...						
11 Total support. Add lines 7 through 10 ...						
12 Gross receipts from related activities, etc. (see instructions) ...						
13 First five years. If the Form 990 is for the organization's first, second, third, fourth, or fifth tax year as a section 501(c)(3) organization, check this box and stop here ...						

Section C. Computation of Public Support Percentage

14 Public support percentage for 2009 (line 6, column (f) divided by line 11, column (f)) ...	14	%
15 Public support percentage from 2008 Schedule A, Part II, line 14 ...	15	%
16a 33 1/3% support test - 2009. If the organization did not check the box on line 13, and line 14 is 33 1/3% or more, check this box and stop here. The organization qualifies as a publicly supported organization ...		
b 33 1/3% support test - 2008. If the organization did not check a box on line 13 or 16a, and line 15 is 33 1/3% or more, check this box and stop here. The organization qualifies as a publicly supported organization ...		
17a 10% -facts-and-circumstances test - 2009. If the organization did not check a box on line 13, 16a, or 16b, and line 14 is 10% or more, and if the organization meets the "facts-and-circumstances" test, check this box and stop here. Explain in Part IV how the organization meets the "facts-and-circumstances" test. The organization qualifies as a publicly supported organization ...		
b 10% -facts-and-circumstances test - 2008. If the organization did not check a box on line 13, 16a, 16b, or 17a, and line 15 is 10% or more, and if the organization meets the "facts-and-circumstances" test, check this box and stop here. Explain in Part IV how the organization meets the "facts-and-circumstances" test. The organization qualifies as a publicly supported organization ...		
18 Private foundation. If the organization did not check a box on line 13, 16a, 16b, 17a, or 17b, check this box and see instructions ...		

Schedule A (Form 990 or 990-EZ) 2009

Part III Support Schedule for Organizations Described in Section 509(a)(2) (Complete only if you checked the box on line 9 of Part I.)**Section A. Public Support**

Calendar year (or fiscal year beginning in) ▶	(a) 2005	(b) 2006	(c) 2007	(d) 2008	(e) 2009	(f) Total
1 Gifts, grants, contributions, and membership fees received. (Do not include any "unusual grants.")						
2 Gross receipts from admissions, merchandise sold or services performed, or facilities furnished in any activity that is related to the organization's tax-exempt purpose						
3 Gross receipts from activities that are not an unrelated trade or business under section 513						
4 Tax revenues levied for the organization's benefit and either paid to or expended on its behalf						
5 The value of services or facilities furnished by a governmental unit to the organization without charge						
6 Total. Add lines 1 through 5						
7a Amounts included on lines 1, 2, and 3 received from disqualified persons						
b Amounts included on lines 2 and 3 received from other than disqualified persons that exceed the greater of \$5,000 or 1% of the amount on line 13 for the year						
c Add lines 7a and 7b						
8 Public support (Subtract line 7c from line 6)						

Section B. Total Support

Calendar year (or fiscal year beginning in) ▶	(a) 2005	(b) 2006	(c) 2007	(d) 2008	(e) 2009	(f) Total
9 Amounts from line 6						
10a Gross income from interest, dividends, payments received on securities loans, rents, royalties and income from similar sources						
b Unrelated business taxable income (less section 511 taxes) from businesses acquired after June 30, 1975						
c Add lines 10a and 10b						
11 Net income from unrelated business activities not included in line 10b, whether or not the business is regularly carried on						
12 Other income. Do not include gain or loss from the sale of capital assets (Explain in Part IV.)						
13 Total support (Add lines 9, 10c, 11, and 12)						
14 First five years. If the Form 990 is for the organization's first, second, third, fourth, or fifth tax year as a section 501(c)(3) organization, check this box and stop here ▶ <input type="checkbox"/>						

Section C. Computation of Public Support Percentage

15 Public support percentage for 2009 (line 8, column (f) divided by line 13, column (f))	15	%
16 Public support percentage from 2008 Schedule A, Part III, line 15	16	%

Section D. Computation of Investment Income Percentage

17 Investment income percentage for 2009 (line 10c, column (f) divided by line 13, column (f))	17	%
18 Investment income percentage from 2008 Schedule A, Part III, line 17	18	%

19a 33 1/3% support tests - 2009. If the organization did not check the box on line 14, and line 15 is more than 33 1/3%, and line 17 is not more than 33 1/3%, check this box and **stop here**. The organization qualifies as a publicly supported organization ▶ ☐

b 33 1/3% support tests - 2008. If the organization did not check a box on line 14 or line 19a, and line 16 is more than 33 1/3%, and line 18 is not more than 33 1/3%, check this box and **stop here**. The organization qualifies as a publicly supported organization ▶ ☐

20 Private foundation. If the organization did not check a box on line 14, 19a, or 19b, check this box and see instructions ▶ ☐

Schedule D
(Form 990)

Department of the Treasury
Internal Revenue Service

Supplemental Financial Statements

- ▶ Complete if the organization answered "Yes," to Form 990,
Part IV, line 6, 7, 8, 9, 10, 11, or 12.
▶ Attach to Form 990. ▶ See separate instructions.

OMB No 1545-0047

2009

Open to Public
Inspection

Name of the organization

THE BURKITT FOUNDATION

Employer identification number
74-6053270

Part I Organizations Maintaining Donor Advised Funds or Other Similar Funds or Accounts. Complete if the organization answered "Yes" to Form 990, Part IV, line 6.

	(a) Donor advised funds	(b) Funds and other accounts
1 Total number at end of year		
2 Aggregate contributions to (during year)		
3 Aggregate grants from (during year)		
4 Aggregate value at end of year		
5 Did the organization inform all donors and donor advisors in writing that the assets held in donor advised funds are the organization's property, subject to the organization's exclusive legal control?		<input type="checkbox"/> Yes <input type="checkbox"/> No
6 Did the organization inform all grantees, donors, and donor advisors in writing that grant funds can be used only for charitable purposes and not for the benefit of the donor or donor advisor, or for any other purpose conferring impermissible private benefit?		<input type="checkbox"/> Yes <input type="checkbox"/> No

Part II Conservation Easements. Complete if the organization answered "Yes" to Form 990, Part IV, line 7.

1 Purpose(s) of conservation easements held by the organization (check all that apply).

<input type="checkbox"/> Preservation of land for public use (e.g., recreation or pleasure)	<input type="checkbox"/> Preservation of an historically important land area
<input type="checkbox"/> Protection of natural habitat	<input type="checkbox"/> Preservation of a certified historic structure
<input type="checkbox"/> Preservation of open space	

2 Complete lines 2a through 2d if the organization held a qualified conservation contribution in the form of a conservation easement on the last day of the tax year.

	Held at the End of the Tax Year
a Total number of conservation easements	2a
b Total acreage restricted by conservation easements	2b
c Number of conservation easements on a certified historic structure included in (a)	2c
d Number of conservation easements included in (c) acquired after 8/17/06	2d

3 Number of conservation easements modified, transferred, released, extinguished, or terminated by the organization during the tax year ▶

4 Number of states where property subject to conservation easement is located ▶

5 Does the organization have a written policy regarding the periodic monitoring, inspection, handling of violations, and enforcement of the conservation easements it holds? ☐ Yes ☐ No

6 Staff and volunteer hours devoted to monitoring, inspecting, and enforcing conservation easements during the year ▶

7 Amount of expenses incurred in monitoring, inspecting, and enforcing conservation easements during the year ▶ \$

8 Does each conservation easement reported on line 2(d) above satisfy the requirements of section 170(h)(4)(B)(i) and section 170(h)(4)(B)(ii)? ☐ Yes ☐ No

9 In Part XIV, describe how the organization reports conservation easements in its revenue and expense statement, and balance sheet, and include, if applicable, the text of the footnote to the organization's financial statements that describes the organization's accounting for conservation easements.

Part III Organizations Maintaining Collections of Art, Historical Treasures, or Other Similar Assets.

Complete if the organization answered "Yes" to Form 990, Part IV, line 8.

- 1a If the organization elected, as permitted under SFAS 116, not to report in its revenue statement and balance sheet works of art, historical treasures, or other similar assets held for public exhibition, education, or research in furtherance of public service, provide, in Part XIV, the text of the footnote to its financial statements that describes these items.
- b If the organization elected, as permitted under SFAS 116, to report in its revenue statement and balance sheet works of art, historical treasures, or other similar assets held for public exhibition, education, or research in furtherance of public service, provide the following amounts relating to these items:
- | | |
|--|------|
| (i) Revenues included in Form 990, Part VIII, line 1 | ▶ \$ |
| (ii) Assets included in Form 990, Part X | ▶ \$ |
- 2 If the organization received or held works of art, historical treasures, or other similar assets for financial gain, provide the following amounts required to be reported under SFAS 116 relating to these items:
- | | |
|--|------|
| a Revenues included in Form 990, Part VIII, line 1 | ▶ \$ |
| b Assets included in Form 990, Part X | ▶ \$ |

Part III Organizations Maintaining Collections of Art, Historical Treasures, or Other Similar Assets (continued)

3 Using the organization's acquisition, accession, and other records, check any of the following that are a significant use of its collection items (check all that apply):

a ☐ Public exhibition

d ☐ Loan or exchange programs

b ☐ Scholarly research

e ☐ Other _____

c ☐ Preservation for future generations

4 Provide a description of the organization's collections and explain how they further the organization's exempt purpose in Part XIV.

5 During the year, did the organization solicit or receive donations of art, historical treasures, or other similar assets

to be sold to raise funds rather than to be maintained as part of the organization's collection?

☐ Yes

☐ No

Part IV Escrow and Custodial Arrangements. Complete if organization answered "Yes" to Form 990, Part IV, line 9, or reported an amount on Form 990, Part X, line 21.

1a Is the organization an agent, trustee, custodian or other intermediary for contributions or other assets not included on Form 990, Part X?

☐ Yes

☐ No

b If "Yes," explain the arrangement in Part XIV and complete the following table:

	Amount
1c	
1d	
1e	
1f	

c Beginning balance

d Additions during the year

e Distributions during the year

f Ending balance

2a Did the organization include an amount on Form 990, Part X, line 21?

☐ Yes

☐ No

b If "Yes," explain the arrangement in Part XIV.

Part V Endowment Funds. Complete if the organization answered "Yes" to Form 990, Part IV, line 10.

	(a) Current year	(b) Prior year	(c) Two years back	(d) Three years back	(e) Four years back
1a Beginning of year balance					
b Contributions					
c Net investment earnings, gains, and losses					
d Grants or scholarships					
e Other expenditures for facilities and programs					
f Administrative expenses					
g End of year balance					

2 Provide the estimated percentage of the year end balance held as:

a Board designated or quasi-endowment ☐ %

b Permanent endowment ☐ %

c Term endowment ☐ %

3a Are there endowment funds not in the possession of the organization that are held and administered for the organization by

(i) unrelated organizations

(ii) related organizations

	Yes	No
3a(i)		
3a(ii)		
3b		

b If "Yes" to 3a(ii), are the related organizations listed as required on Schedule R?

4 Describe in Part XIV the intended uses of the organization's endowment funds

Part VI Investments - Land, Buildings, and Equipment. See Form 990, Part X, line 10.

Description of investment	(a) Cost or other basis (investment)	(b) Cost or other basis (other)	(c) Accumulated depreciation	(d) Book value
1a Land	166,836.			166,836.
b Buildings				
c Leasehold improvements				
d Equipment				
e Other				
Total. Add lines 1a through 1e. (Column (d) must equal Form 990, Part X, column (B), line 10(c).)				166,836.

Schedule D (Form 990) 2009

Part VII Investments - Other Securities. See Form 990, Part X, line 12.

(a) Description of security or category (including name of security)	(b) Book value	(c) Method of valuation: Cost or end-of-year market value
Financial derivatives		
Closely-held equity interests		
Other		
MINERAL INTEREST	843,853.	END-OF-YEAR MARKET VALUE
Total. (Col (b) must equal Form 990, Part X, col (B) line 12.)	843,853.	

Part VIII Investments - Program Related. See Form 990, Part X, line 13.

(a) Description of investment type	(b) Book value	(c) Method of valuation: Cost or end-of-year market value
Total. (Col (b) must equal Form 990, Part X, col (B) line 13.)		

Part IX Other Assets. See Form 990, Part X, line 15.

(a) Description	(b) Book value
Total. (Column (b) must equal Form 990, Part X, col (B) line 15.)	

Part X Other Liabilities. See Form 990, Part X, line 25.

1. (a) Description of liability	(b) Amount
Federal income taxes	
Total. (Column (b) must equal Form 990, Part X, col (B) line 25.)	

2. FIN 48 Footnote. In Part XIV, provide the text of the footnote to the organization's financial statements that reports the organization's liability for uncertain tax positions under FIN 48.

Part XI Reconciliation of Change in Net Assets from Form 990 to Audited Financial Statements

1	Total revenue (Form 990, Part VIII, column (A), line 12)	1	119,110.
2	Total expenses (Form 990, Part IX, column (A), line 25)	2	1,101,862.
3	Excess or (deficit) for the year. Subtract line 2 from line 1	3	<982,752.>
4	Net unrealized gains (losses) on investments	4	2,709,277.
5	Donated services and use of facilities	5	
6	Investment expenses	6	
7	Prior period adjustments	7	
8	Other (Describe in Part XIV.)	8	
9	Total adjustments (net). Add lines 4 through 8	9	2,709,277.
10	Excess or (deficit) for the year per audited financial statements. Combine lines 3 and 9	10	1,726,525.

Part XII Reconciliation of Revenue per Audited Financial Statements With Revenue per Return

1	Total revenue, gains, and other support per audited financial statements	1	2,757,097.
2	Amounts included on line 1 but not on Form 990, Part VIII, line 12:		
a	Net unrealized gains on investments	2a	2,709,277.
b	Donated services and use of facilities	2b	
c	Recoveries of prior year grants	2c	
d	Other (Describe in Part XIV.)	2d	
e	Add lines 2a through 2d	2e	2,709,277.
3	Subtract line 2e from line 1	3	47,820.
4	Amounts included on Form 990, Part VIII, line 12, but not on line 1:		
a	Investment expenses not included on Form 990, Part VIII, line 7b	4a	71,290.
b	Other (Describe in Part XIV.)	4b	
c	Add lines 4a and 4b	4c	71,290.
5	Total revenue. Add lines 3 and 4c. (This must equal Form 990, Part I, line 12.)	5	119,110.

Part XIII Reconciliation of Expenses per Audited Financial Statements With Expenses per Return

1	Total expenses and losses per audited financial statements	1	1,030,572.
2	Amounts included on line 1 but not on Form 990, Part IX, line 25:		
a	Donated services and use of facilities	2a	
b	Prior year adjustments	2b	
c	Other losses	2c	
d	Other (Describe in Part XIV.)	2d	
e	Add lines 2a through 2d	2e	0.
3	Subtract line 2e from line 1	3	1,030,572.
4	Amounts included on Form 990, Part IX, line 25, but not on line 1:		
a	Investment expenses not included on Form 990, Part VIII, line 7b	4a	71,290.
b	Other (Describe in Part XIV.)	4b	
c	Add lines 4a and 4b	4c	71,290.
5	Total expenses. Add lines 3 and 4c. (This must equal Form 990, Part I, line 18.)	5	1,101,862.

Part XIV Supplemental Information

Complete this part to provide the descriptions required for Part II, lines 3, 5, and 9; Part III, lines 1a and 4; Part IV, lines 1b and 2b; Part V, line 4; Part X, line 2; Part XI, line 8; Part XII, lines 2d and 4b; and Part XIII, lines 2d and 4b. Also complete this part to provide any additional information.

Part III Grants and Other Assistance to Individuals in the United States. Complete if the organization answered "Yes" to Form 990, Part IV, line 22.
Use Part IV and Schedule I-1 (Form 990) if additional space is needed

(a) Type of grant or assistance	(b) Number of recipients	(c) Amount of cash grant	(d) Amount of non-cash assistance	(e) Method of valuation (book, FMV, appraisal, other)	(f) Description of non-cash assistance

Part IV Supplemental Information. Complete this part to provide the information required in Part I, line 2, and any other additional information**PART II, LINE 1, COLUMN (H):**

NAME OF ORGANIZATION OR GOVERNMENT: EL PASO COMMUNITY FOUNDATION

(H) PURPOSE OF GRANT OR ASSISTANCE: TO FOSTER AND PROMOTE THE INTERESTS

OF THE CATHOLIC EDUCATIONAL ORGANIZATIONS, PRIMARILY IN THE STATE OF

TEXAS AND IN THE SOUTHWESTERN UNITED STATES WITH PROJECTED ANNUAL GRANTS

OF APPROXIMATELY SIXTY-SIX AND TWO-THIRDS PERCENT (66 2/3%) MADE TO

CATHOLIC EDUCATIONAL ORGANIZATIONS AND APPROXIMATELY THIRTY THREE AND

ONE-THIRD PERCENT (33 1/3%) MADE TO SUPPORT ORGANIZATIONS FOR CHARITABLE

PURPOSES.

**SCHEDULE J
(Form 990)**

Department of the Treasury
Internal Revenue Service

Compensation Information

For certain Officers, Directors, Trustees, Key Employees, and Highest
Compensated Employees

▶ Complete if the organization answered "Yes" to Form 990,
Part IV, line 23.

▶ Attach to Form 990. ▶ See separate instructions.

OMB No 1545-0047

2009

Open to Public
Inspection

Name of the organization

THE BURKITT FOUNDATION

Employer identification number

74-6053270

Part I Questions Regarding Compensation

1a Check the appropriate box(es) if the organization provided any of the following to or for a person listed in Form 990,
Part VII, Section A, line 1a. Complete Part III to provide any relevant information regarding these items.

- | | |
|--|--|
| <input type="checkbox"/> First-class or charter travel | <input type="checkbox"/> Housing allowance or residence for personal use |
| <input type="checkbox"/> Travel for companions | <input type="checkbox"/> Payments for business use of personal residence |
| <input type="checkbox"/> Tax indemnification and gross-up payments | <input type="checkbox"/> Health or social club dues or initiation fees |
| <input type="checkbox"/> Discretionary spending account | <input type="checkbox"/> Personal services (e.g., maid, chauffeur, chef) |

b If any of the boxes on line 1a are checked, did the organization follow a written policy regarding payment or
reimbursement or provision of all of the expenses described above? If "No," complete Part III to explain

2 Did the organization require substantiation prior to reimbursing or allowing expenses incurred by all officers, directors,
trustees, and the CEO/Executive Director, regarding the items checked in line 1a?

3 Indicate which, if any, of the following the organization uses to establish the compensation of the organization's
CEO/Executive Director. Check all that apply.

- | | |
|--|--|
| <input type="checkbox"/> Compensation committee | <input type="checkbox"/> Written employment contract |
| <input type="checkbox"/> Independent compensation consultant | <input type="checkbox"/> Compensation survey or study |
| <input type="checkbox"/> Form 990 of other organizations | <input type="checkbox"/> Approval by the board or compensation committee |

4 During the year, did any person listed in Form 990, Part VII, Section A, line 1a, with respect to the filing
organization or a related organization:

a Receive a severance payment or change-of-control payment?

b Participate in, or receive payment from, a supplemental nonqualified retirement plan?

c Participate in, or receive payment from, an equity-based compensation arrangement?

If "Yes" to any of lines 4a-c, list the persons and provide the applicable amounts for each item in Part III.

Only section 501(c)(3) and 501(c)(4) organizations must complete lines 5-9.

5 For persons listed in Form 990, Part VII, Section A, line 1a, did the organization pay or accrue any compensation
contingent on the revenues of:

a The organization?

b Any related organization?

If "Yes" to line 5a or 5b, describe in Part III.

6 For persons listed in Form 990, Part VII, Section A, line 1a, did the organization pay or accrue any compensation
contingent on the net earnings of:

a The organization?

b Any related organization?

If "Yes" to line 6a or 6b, describe in Part III.

7 For persons listed in Form 990, Part VII, Section A, line 1a, did the organization provide any non-fixed payments
not described in lines 5 and 6? If "Yes," describe in Part III

8 Were any amounts reported in Form 990, Part VII, paid or accrued pursuant to a contract that was subject to the
initial contract exception described in Regs. section 53.4958-4(a)(3)? If "Yes," describe in Part III

9 If "Yes" to line 8, did the organization also follow the rebuttable presumption procedure described in
Regulations section 53.4958-6(c)?

Yes No

1b

2

4a

4b

4c

5a

5b

6a

6b

7

8

9

X

X

X

X

X

X

X

X

X

Page 1

Note. The sum of columns (B)(i)-(iii) must equal the applicable column (D) or column (E) amounts on Form 990, Part VII, line 1a.

[illegible]

Part III Supplemental Information

Complete this part to provide the information, explanation, or descriptions required for Part I, lines 1a, 1b, 4c, 5a, 5b, 6a, 6b, 7, and 8. Also complete this part for any additional information.

CARL E. RYAN - FORMER PRESIDENT AND DIRECTOR OF THE
ORGANIZATION IS A PARTNER IN THE LAW FIRM RYAN, SANDERS & GLUTH, LLP. FOR
LEGAL SERVICES PROVIDED DURING 2009, RYAN, SANDERS & GLUTH, LLP BILLED THE
ORGANIZATION \$83,020.

Department of the Treasury
Internal Revenue Service

► Complete if the organization answered "Yes" on Form 990, Part IV, line 25a, 25b, 26, 27, 28a, 28b, or 28c, or Form 990-EZ, Part V, line 38a or 40b.
► Attach to Form 990 or Form 990-EZ. ► See separate instructions.

OMB No 1545-0047

2009

Open To Public Inspection

Name of the organization

THE BURKITT FOUNDATION

Employer identification number

74-6053270

Part I

Excess Benefit Transactions (section 501(c)(3) and section 501(c)(4) organizations only).

Complete if the organization answered "Yes" on Form 990, Part IV, line 25a or 25b, or Form 990-EZ, Part V, line 40b

[illegible]

2 Enter the amount of tax imposed on the organization managers or disqualified persons during the year under section 4958

3 Enter the amount of tax, if any, on line 2, above, reimbursed by the organization

Part II

Loans to and/or From Interested Persons.

Complete if the organization answered "Yes" on Form 990, Part IV, line 26, or Form 990-EZ, Part V, line 38a

(a) Name of interested person and purpose	(b) Loan to or from the organization?		(c) Original principal amount	(d) Balance due	(e) In default?		(f) Approved by board or committee?		(g) Written agreement?	
	To	From			Yes	No	Yes	No	Yes	No
Total				\$						

Part III

Grants or Assistance Benefiting Interested Persons.

Complete if the organization answered "Yes" on Form 990, Part IV, line 27.

[illegible]

Part IV

Business Transactions Involving Interested Persons.

Complete if the organization answered "Yes" on Form 990, Part IV, line 28a, 28b, or 28c.

(a) Name of interested person	(b) Relationship between interested person and the organization	(c) Amount of transaction	(d) Description of transaction	(e) Sharing of organization's revenues?	
				Yes	No
CARL E. RYAN	FORMER PRESIDENT OF	83,020.	CARL E. RYAN		X
FRANCIS S. AINSA, JR.	BROTHER OF MICHAEL	221,341.	FRANCIS S.		X

LHA For Privacy Act and Paperwork Reduction Act Notice, see the Instructions for Form 990 or 990-EZ.

Schedule L (Form 990 or 990-EZ) 2009

SEE SCHEDULE O FOR SCHEDULE L CONTINUATIONS

SCHEDULE O
(Form 990)

Department of the Treasury
Internal Revenue Service

Supplemental Information to Form 990

Complete to provide information for responses to specific questions on
Form 990 or to provide any additional information.
▶ Attach to Form 990.

OMB No 1545-0047

2009

Open to Public
Inspection

Name of the organization

THE BURKITT FOUNDATION

Employer identification number

74-6053270

FORM 990, PART I, LINE 1, DESCRIPTION OF ORGANIZATION MISSION:

**FOSTER AND PROMOTE THE INTERESTS OF CATHOLIC EDUCATIONAL ORGANIZATIONS,
PRIMARILY IN THE STATE OF TEXAS AND IN THE SOUTHWESTERN UNITED STATES.**

THE GOAL IS TO MAKE ANNUAL GRANTS IN THE FOLLOWING AMOUNTS: SIXTY-SIX

AND TWO-THIRDS PERCENT (66 2/3%) MADE TO CATHOLIC EDUCATIONAL

ORGANIZATIONS AND THIRTY THREE AND ONE-THIRD PERCENT (33 1/3%) MADE TO

SUPPORT ORGANIZATIONS FOR CHARITABLE PURPOSES.

FORM 990, PART III, LINE 1, DESCRIPTION OF ORGANIZATION MISSION:

FOLLOWING AMOUNTS: SIXTY-SIX AND TWO-THIRDS PERCENT (66 2/3%) MADE TO

CATHOLIC EDUCATIONAL ORGANIZATIONS AND THIRTY THREE AND ONE-THIRD

PERCENT (33 1/3%) MADE TO SUPPORT ORGANIZATIONS FOR CHARITABLE

PURPOSES.

FORM 990, PART III, LINE 3, CHANGES IN PROGRAM SERVICES:

AS NOTED IN THE 2008 FORM 990 FILED BY THE BURKITT FOUNDATION, THE

BURKITT FOUNDATION ENTERED INTO A MEDIATED SETTLEMENT AGREEMENT DATED

SEPTEMBER 17, 2009 WHICH RESOLVED, AMONG OTHER ISSUES, AN INVESTIGATION

OF ITS ACTIVITIES BY THE TEXAS ATTORNEY GENERAL. PURSUANT TO THE

MEDIATED SETTLEMENT AGREEMENT, THE BURKITT FOUNDATION AMENDED ITS

ARTICLES OF INCORPORATION, BYLAWS, SUPPORTING ORGANIZATION AGREEMENT

AND INSTRUMENT OF GIFT. THOSE DOCUMENTS ARE ATTACHED HERETO.

PURSUANT TO SECTION 5A OF THE MEDIATED SETTLEMENT AGREEMENT, ALL BOARD

MEMBERS AND DIRECTORS OF THE BURKITT FOUNDATION RESIGNED FROM THE

BURKITT FOUNDATION, EFFECTIVE OCTOBER 13, 2009 AND CAN NEVER SERVE THE

BURKITT FOUNDATION IN ANY CAPACITY AGAIN. THE PRESENT BURKITT

SCHEDULE O
(Form 990)

Department of the Treasury
Internal Revenue Service

Supplemental Information to Form 990

Complete to provide information for responses to specific questions on
Form 990 or to provide any additional information.
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OMB No 1545-0047

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THE BURKITT FOUNDATION

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74-6053270

FOUNDATION DIRECTORS AND OFFICERS HAVE NO CONNECTION TO THE PREVIOUS MEMBERS, DIRECTORS AND OFFICERS AND THUS HAVE NO PERSONAL KNOWLEDGE OF THE ACTIVITIES ENGAGED IN BY THE BURKITT FOUNDATION PRIOR TO THEIR RESPECTIVE APPOINTMENT OR ELECTION. AS A CONSEQUENCE, ANY REPRESENTATIONS MADE IN THIS FORM 990 WITH RESPECT TO PART IV, PART VI, PART VII AND PART IX BY THE PRESENT DIRECTORS AND OFFICERS ARE MADE ONLY AS TO THE ACTIVITIES OF THE BURKITT FOUNDATION FROM OCTOBER 13, 2009 FORWARD.

THE 2008 FORM 990 WAS EXECUTED ON SEPTEMBER 22, 2009 AND APPROVED BY THE PREVIOUS DIRECTORS AND OFFICERS. THE BURKITT FOUNDATION 2009 FINANCIAL STATEMENTS WERE AUDITED BY AN INDEPENDENT AUDITOR AND THE AUDITOR'S OPINION WAS AN UNQUALIFIED OPINION FOR 2009. THE CURRENT DIRECTORS AND OFFICERS OF THE BURKITT FOUNDATION HAVE NOT BEEN MADE AWARE OF ANY FINANCIAL INACCURACIES.

FORM 990, PART VI, SECTION A, LINE 4: AS NOTED IN THE 2008 FORM 990 FILED BY THE BURKITT FOUNDATION, THE BURKITT FOUNDATION ENTERED INTO A MEDIATED SETTLEMENT AGREEMENT DATED SEPTEMBER 17, 2009 WHICH RESOLVED, AMONG OTHER ISSUES, AN INVESTIGATION OF ITS ACTIVITIES BY THE TEXAS ATTORNEY GENERAL. PURSUANT TO THE MEDIATED SETTLEMENT AGREEMENT, THE BURKITT FOUNDATION AMENDED ITS ARTICLES OF INCORPORATION, BYLAWS, SUPPORTING ORGANIZATION AGREEMENT AND INSTRUMENT OF GIFT. THOSE DOCUMENTS ARE ATTACHED HERETO.

PURSUANT TO SECTION 5A OF THE MEDIATED SETTLEMENT AGREEMENT, ALL BOARD MEMBERS AND DIRECTORS OF THE BURKITT FOUNDATION RESIGNED FROM THE BURKITT FOUNDATION, EFFECTIVE OCTOBER 13, 2009 AND CAN NEVER SERVE THE BURKITT

LHA For Privacy Act and Paperwork Reduction Act Notice, see the Instructions for Form 990.

Schedule O (Form 990) 2009

932211
02-03-10

SCHEDULE O
(Form 990)

Department of the Treasury
Internal Revenue Service

Supplemental Information to Form 990

Complete to provide information for responses to specific questions on
Form 990 or to provide any additional information.
▶ Attach to Form 990.

OMB No. 1545-0047

2009

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THE BURKITT FOUNDATION

Employer identification number
74-6053270

FOUNDATION IN ANY CAPACITY AGAIN.

FORM 990, PART VI, SECTION A, LINE 6: THE BURKITT FOUNDATION HAD MEMBERS WHO ELECTED DIRECTORS OF THE GOVERNING BODY UNTIL ITS BYLAWS AND ARTICLES OF INCORPORATION WERE REVISED EFFECTIVE OCTOBER 8, 2009.

FORM 990, PART VI, SECTION A, LINE 7A: THE BURKITT FOUNDATION HAD MEMBERS WHO ELECTED DIRECTORS OF THE GOVERNING BODY UNTIL ITS BYLAWS AND ARTICLES OF INCORPORATION WERE REVISED EFFECTIVE OCTOBER 8, 2009.

FORM 990, PART VI, SECTION B, LINE 11: THE BURKITT FOUNDATION'S BOARD OF DIRECTORS REVIEWS THE DRAFT FORM 990 AND THE FINAL FORM 990 AND ACCEPTS THE FILING OF THE FORM 990 BY MOTION DULY ADOPTED.

FORM 990, PART VI, SECTION A, LINE 9. ADDRESS FOR OFFICERS, DIRECTORS, OR TRUSTEES NOT REACHED AT ORGANIZATION'S MAILING ADDRESS.

CARL E. RYAN, 310 N. MESA ST., EL PASO, TX 79901

FRANK W. GORMAN, JR., 1606 DEDE LANE, EL PASO, TX 79902

CAROLYN L. MORA, 501 E. RIO GRANDE AVE., EL PASO TX 79902

RICHARD P. DALY, 1101 ST. EDWARDS DR., AUSTIN, TX 78704

MARILEE WARWICK JURECKY, 732 LIVE OAK, EL PASO, TX 79932

FORM 990, PART VI, SECTION B, LINE 12C: THE BURKITT FOUNDATION HAS A WRITTEN CONFLICT OF INTEREST POLICY. OFFICERS AND DIRECTORS ARE REQUIRED TO FILE A WRITTEN "CONFLICT OF INTEREST STATEMENT" NO LATER THAN MARCH 31 OF EACH YEAR. EACH OFFICER AND DIRECTOR IS REQUIRED TO DISCLOSE OTHER

SCHEDULE O
(Form 990)

Department of the Treasury
Internal Revenue Service

Supplemental Information to Form 990

Complete to provide information for responses to specific questions on
Form 990 or to provide any additional information.
▶ Attach to Form 990.

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Name of the organization

THE BURKITT FOUNDATION

Employer identification number

74-6053270

POSITIONS HELD AS OFFICERS, DIRECTORS, PARTNERS, MANAGERS, OR FIDUCIARIES
IN OTHER BUSINESS ORGANIZATIONS, CHARITABLE ORGANIZATIONS, AND
ORGANIZATIONS DOING BUSINESS WITH THE FOUNDATION. THEY ARE ALSO REQUIRED TO
DISCLOSE ANY POTENTIAL CONFLICT OF INTEREST WHICH IS THEN ADDRESSED BY THE
REMAINING BOARD MEMBERS.

FORM 990, PART VI, SEC. B, LINE 13:

PURSUANT TO THE MEDIATED SETTLEMENT AGREEMENT, ALL BOARD MEMBERS AND
DIRECTORS OF THE BURKITT FOUNDATION RESIGNED EFFECTIVE OCTOBER 13, 2009.
THE CURRENT BURKITT FOUNDATION DIRECTORS AND OFFICERS DID NOT FIND A
WRITTEN WHISTLEBLOWER POLICY FOR THE FOUNDATION. THE WHISTLEBLOWER POLICY
WAS ADOPTED DURING A BOARD OF DIRECTOR'S MEETING ON MAY 13, 2010.

FORM 990, PART VI, SEC. B, LINE 14:

PURSUANT TO THE MEDIATED SETTLEMENT AGREEMENT, ALL BOARD MEMBERS AND
DIRECTORS OF THE BURKITT FOUNDATION RESIGNED EFFECTIVE OCTOBER 13, 2009.
THE CURRENT BURKITT FOUNDATION DIRECTORS AND OFFICERS DID NOT FIND A
DOCUMENT-RETENTION POLICY FOR THE FOUNDATION. THE DOCUMENT-RETENTION POLICY
WAS ADOPTED DURING A BOARD OF DIRECTOR'S MEETING ON MAY 13, 2010.

FORM 990, PART VI, SECTION B, LINE 15:

THE BURKITT FOUNDATION DOES NOT HAVE ANY EMPLOYEES. ADMINISTRATIVE AND
ACCOUNTING FUNCTIONS ARE CONDUCTED BY THE RELATED ORGANIZATION, EL PASO
COMMUNITY FOUNDATION, FOR WHICH THEY ARE REIMBURSED BY THE BURKITT
FOUNDATION AS DETAILED IN SCHEDULE R, PART V, LINE 2.

SCHEDULE O

(Form 990)

Department of the Treasury
Internal Revenue Service**Supplemental Information to Form 990**Complete to provide information for responses to specific questions on
Form 990 or to provide any additional information.

▶ Attach to Form 990.

OMB No 1545-0047

2009Open to Public
Inspection

Name of the organization

THE BURKITT FOUNDATION

Employer identification number

74-6053270

FORM 990, PART VI, SECTION C, LINE 19: PURSUANT TO ARTICLE 1396-2.23A OF THE TEXAS NONPROFIT CORPORATION ACT, IF THE BURKITT FOUNDATION RECEIVES A REQUEST TO INSPECT OR COPY ITS FORM 990, IT WILL ALLOW THE PERSON MAKING THE REQUEST TO INSPECT AND /OR COPY THE RECORD DURING REGULAR BUSINESS HOURS AT THE LOCATION WHERE SUCH RECORDS ARE KEPT. DEPENDING ON THE NUMBER OF COPIES REQUESTED, THE BURKITT FOUNDATION MAY CHARGE A REASONABLE FEE FOR COPYING.

THE BURKITT FOUNDATION DOES NOT ROUTINELY MAKE ITS NON-PUBLIC GOVERNING DOCUMENTS AVAILABLE TO THE PUBLIC FOR INSPECTION. THE RESTATED ARTICLES OF INCORPORATION ARE A PUBLIC DOCUMENT AND A COPY CAN BE OBTAINED FROM THE TEXAS SECRETARY OF STATE. BURKITT'S BYLAWS, CONFLICT OF INTERSET POLICIES, AND ITS AGREEMENT WITH EL PASO COMMUNITY FOUNDATION ARE NOT PUBLIC DOCUMENTS. HOWEVER, IF A REQUEST IS RECEIVED FROM A PERSON OR ENTITY TO INSPECT OR COPY SUCH A DOCUMENT, THE REQUEST WILL BE REVIEWED BY THE BOARD OF DIRECTORS AND A DETERMINATION WILL BE MADE.

SCH L, PART IV, BUSINESS TRANSACTIONS INVOLVING INTERESTED PERSONS:

(A) NAME OF PERSON: CARL E. RYAN

(B) RELATIONSHIP BETWEEN INTERESTED PERSON AND ORGANIZATION:

FORMER PRESIDENT OF THE BURKITT FOUNDATION

(C) AMOUNT OF TRANSACTION \$ 83020.

(D) DESCRIPTION OF TRANSACTION: CARL E. RYAN HAS A PARTNERSHIP INTEREST IN RYAN SANDERS & GLUTH, LLP. DURING THE YEAR ENDED DECEMBER 31, 2009, THE BURKITT FOUNDATION PAID \$83,020 IN LEGAL FEES TO RYAN, SANDERS & GLUTH, LLP.

SCHEDULE O
(Form 990)

Department of the Treasury
Internal Revenue Service

Supplemental Information to Form 990

Complete to provide information for responses to specific questions on
Form 990 or to provide any additional information.
▶ Attach to Form 990.

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(E) SHARING OF ORGANIZATION REVENUES? = NO

(A) NAME OF PERSON: FRANCIS S. AINSA, JR.

(B) RELATIONSHIP BETWEEN INTERESTED PERSON AND ORGANIZATION:

BROTHER OF MICHAEL AINSA-FORMER MEMBER OF THE BURKITT FOUNDATION

(C) AMOUNT OF TRANSACTION \$ 221341.

(D) DESCRIPTION OF TRANSACTION: FRANCIS S. AINSA, JR AND MICHAEL AINSA

ARE PARTNERS IN AINSA HUTSON, LLP. THE BURKITT FOUNDATION PAID \$221,341

IN LEGAL FEES TO AINSA HUTSON, LLP FOR THE YEAR ENDED DECEMBER 31, 2009.

THIS AMOUNT IS ALSO REPORTED ON FORM 990 PART VII, SECTION B, INDEPENDENT

CONTRACTORS RECEIVING MORE THAT \$100,000 COMPENSATION FROM THE BURKITT

FOUNDATION.

(E) SHARING OF ORGANIZATION REVENUES? = NO

Related Organizations and Unrelated Partnerships

▶ Complete if the organization answered "Yes" to Form 990, Part IV, line 33, 34, 35, 36, or 37. ▶ Attach to Form 990. ▶ See separate instructions.

Name of the organization

THE BURKITT FOUNDATION

Employer identification number
74-6053270

74-6053270

Part I Identification of Disregarded Entities (Complete if the organization answered "Yes" to Form 990, Part IV, line 33.)

[illegible]

Part II. Identification of Related Tax-Exempt Organizations (Complete if the organization answered "Yes" to Form 990, Part IV, line 34 because it had one or more related tax-exempt organizations during the tax year)

[illegible]

Part V Transactions With Related Organizations (Complete if the organization answered "Yes" to Form 990, Part IV, line 34, 35, or 36.)**Note.** Complete line 1 if any entity is listed in Parts II, III, or IV of this schedule.**1** During the tax year, did the organization engage in any of the following transactions with one or more related organizations listed in Parts II-IV?

	Yes No	
	1a	1b
a Receipt of (i) interest (ii) annuities (iii) royalties or (iv) rent from a controlled entity		X
b Gift, grant, or capital contribution to other organization(s)		X
c Gift, grant, or capital contribution from other organization(s)		X
d Loans or loan guarantees to or for other organization(s)		X
e Loans or loan guarantees by other organization(s)		X
f Sale of assets to other organization(s)		X
g Purchase of assets from other organization(s)		X
h Exchange of assets		X
i Lease of facilities, equipment, or other assets to other organization(s)		X
j Lease of facilities, equipment, or other assets from other organization(s)		X
k Performance of services or membership or fundraising solicitations for other organization(s)		X
l Performance of services or membership or fundraising solicitations by other organization(s)		X
m Sharing of facilities, equipment, mailing lists, or other assets		X
n Sharing of paid employees		X
o Reimbursement paid to other organization for expenses		X
p Reimbursement paid by other organization for expenses		X
q Other transfer of cash or property to other organization(s)		X
r Other transfer of cash or property from other organization(s)		X

2 If the answer to any of the above is "Yes," see the instructions for information on who must complete this line, including covered relationships and transaction thresholds.

	(a) Name of other organization(s)	(b) Transaction type (a-r)	(c) Amount involved
(1) EL PASO COMMUNITY FOUNDATION		B	595,000.
(2) EL PASO COMMUNITY FOUNDATION		O	20,000.
(3)			
(4)			
(5)			
(6)			

Corporations Section
P.O.Box 13697
Austin, Texas 78711-3697



Hope Andrade
Secretary of State

Office of the Secretary of State

CERTIFICATE OF RESTATED ARTICLES OF

THE BURKITT FOUNDATION
18926501

The undersigned, as Secretary of State of Texas, hereby certifies that the Restated Articles for the above named entity have been received in this office and have been found to conform to law.

ACCORDINGLY the undersigned, as Secretary of State, and by virtue of the authority vested in the Secretary by law hereby issues this Certificate of Restated Articles.

Dated: 10/08/2009

Effective: 10/08/2009



A handwritten signature in cursive script, appearing to read "Hope Andrade".

Hope Andrade
Secretary of State

Phone: (512) 463-5555
Prepared by: Lisa Sartin

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**SECOND RESTATED ARTICLES OF INCORPORATION
(WITH AMENDMENTS)**

OF

THE BURKITT FOUNDATION

FILED
In the Office of the
Secretary of State of Texas

OCT 08 2009

Corporations Section

1. THE BURKITT FOUNDATION (the "Corporation"), pursuant to the provisions of Article 1396-4.06, Texas Non-Profit Corporation Act, hereby adopts Second Restated Articles of Incorporation (With Amendments) which accurately copy the Articles of Incorporation and all amendments thereto that were in effect until September 30, 1999, and as further amended by Restated Articles of Incorporation dated as of September 30, 1999, and as further amended by these Second Restated Articles of Incorporation as hereinafter set forth, and which contain no other changes in any provision thereof, except as permitted by said Article.

2. The Articles of Incorporation of the Corporation and the Restated Articles of Incorporation are amended by these Second Restated Articles of Incorporation as follows:

Those portions of the original charter which preceded Article I and Article VII were deleted by the Restated Articles of Incorporation as being no longer in effect; Articles VIII, IX, X and XI of the original charter were renumbered by the Restated Articles of Incorporation as Articles Seven, Eight, Nine and Ten; Articles One, Four, Five, Six and Eight, as renumbered, have been amended; the text of the articles as amended and added by these Second Restated Articles of Incorporation is set forth in paragraph number four (4) below.

3. Each such amendment made by the Second Restated Articles of Incorporation (With Amendments) has been effected in conformity with the provisions of the Texas Non-Profit Corporation Act and the Second Restated Articles of Incorporation (With Amendments) and each amendment made by the Second Restated Articles of Incorporation (With Amendments) were adopted at a meeting of the Board of Directors of the Corporation held on October 6, 2009, in El Paso, Texas, and received the vote of a majority of the directors in office, there being no members having voting rights in respect thereof.

4. The Articles of Incorporation and all amendments thereto and the Restated Articles of Incorporation are hereby superseded by the following Second Restated Articles of Incorporation (With Amendments) which accurately copy the entire text thereof including any previous amendments and as amended as set forth above.

ARTICLE ONE

The name of the Corporation is THE BURKITT FOUNDATION and it shall not have members.

ARTICLE TWO

The Corporation is a non-profit corporation.

ARTICLE THREE

The period of its duration is perpetual unless terminated, dissolved, or wound up in accordance with applicable laws and the provisions of ARTICLE EIGHT below.

ARTICLE FOUR

The purpose or purposes for which the Corporation is organized are as follows:

1. To operate as a supporting organization under section 509(a)(3) of the Internal Revenue Code of 1986 (the "Code") exclusively for the benefit of EL PASO COMMUNITY FOUNDATION ("EPCF"), an organization exempt from Federal income tax under section 501(c)(3) of the Code and not a private foundation by reason of its status as an organization described in section 509(a)(1) of the Code;

2. To receive and administer property acquired by gift, grant, purchase, or otherwise to primarily foster and promote the interests of Catholic educational organizations and other Catholic activities, primarily in the state of Texas and in the southwestern United States.

3. To make grants or other payments to EPCF; and

4. At all times and within such purposes, to operate exclusively for charitable educational and scientific purposes, within the meaning of section 501(c)(3) of the Code.

The Corporation shall also be empowered to perform and transact such other business as may be permitted corporations exempt from tax under section 501(c)(3) of the Code and incorporated under the Texas Non-Profit Corporation Act.

ARTICLE FIVE

The street address of the registered office of the Corporation is 123 W. Mills, Suite 520, El Paso, Texas 79901, and the name of its registered agent at such address is Virginia S. Martinez.

ARTICLE SIX

The number of directors constituting the Board of Directors of the Corporation shall be as set by the Bylaws of the Corporation, and the names and addresses of the persons who are presently serving as the Directors are:

<u>Name</u>	<u>Address</u>
Brother Richard Daly	1101 St. Edwards Drive Austin, TX 78704
Frank Gorman Jr.	1606 Dede Lane El Paso, TX 79902
Carl E. Ryan	Ryan, Sanders & Gluth, LLP Cortez Building, Suite 300 310 N. Mesa El Paso, Texas 79901
Carolyn L. Mora	503 E. Rio Grande Avenue El Paso, Texas 79902

In addition to any other requirements of law, these Second Amended Articles of Incorporation may not be amended unless any such amendment receives the affirmative vote of at least seven (7) of the nine (9) members of the Board of Directors as provided in the Bylaws. Each member of the Board of Directors shall familiarize herself or himself with the needs and goals of the Catholic educational organizations in Texas and the Southwest that have applied for grants from the Corporation and any other charitable organizations that have applied for grants from the Corporation.

ARTICLE SEVEN

No part of the net earnings of the Corporation shall inure to the benefit of or be distributed to its directors, officers, or any other private person or individual whomsoever, except that the Corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in Article Four hereof. No substantial part of the activities of the Corporation shall be the carrying on of propaganda, or otherwise attempting, to influence legislation, and the Corporation shall not participate in, or intervene in (including the publishing or distribution of statements) any political campaign on behalf of any candidate for public office. Notwithstanding any other provision of these Articles, the Corporation shall not carry on any other activities not permitted to be carried on by a corporation exempt from Federal income tax under section 501(c)(3) of the Code (or the corresponding provision of any future United States internal revenue law).

ARTICLE EIGHT

The affirmative vote of at least seven (7) of the nine (9) members of the Board of Directors of the Corporation shall be required to approve the voluntary dissolution of the Corporation. Upon the dissolution of the Corporation, the Board of Directors shall, after paying or making provision for the payment of all of the liabilities of the Corporation,

dispose of all of the assets of the Corporation exclusively to EPCF, if it then exists and is qualified to receive same. If it does not then exist or if it is disqualified to receive these assets, the Board of Directors shall distribute such assets exclusively for the purposes of the Corporation, in such manner, or to such organization or organizations organized and operated exclusively for charitable, educational, literary, or scientific purposes as shall at the time qualify as an exempt organization or organizations under section 501(c)(3) of the Code (or the corresponding provisions of any future United States internal revenue law), as the Board of Directors shall determine. Any of such assets not so disposed of shall be disposed of by the district court of the county in which the registered office of the Corporation is then located, exclusively for such purposes or to such organization or organizations as said court shall determine which are organized and operated exclusively for such purposes. In no event shall any portion of such assets revert to or vest in any donor, incorporator, Director, officer, agent or custodian of said Corporation or any private person or individual whomsoever. If EPCF then exists and is qualified to receive the assets of the Corporation upon dissolution, it shall establish a separate fund for 66 2/3% of the Corporation's assets, the use of which will be restricted to supporting Catholic educational organizations and other Catholic activities primarily in the State of Texas and the southwestern United States. EPCF shall also create a separate fund for 33 1/3% of the Corporation's assets that is not restricted and from which annual grants will be made to support organizations for general charitable purposes; provided, however, that these funds cannot be used for EPCF's operating expenses. However, EPCF may charge such administrative fees to the funds provided for herein as are customary in accordance with EPCF policies and procedures.

ARTICLE NINE

In accordance with the authority granted the Corporation by Texas Miscellaneous Corporation Laws Act, Article 1302-7.06, Vernon's Annotated Civil Statutes of Texas, no Director of the Corporation shall be liable to the Corporation or its members for monetary damages for an act or omission in the Director's capacity as a Director except for:

1. A breach of a Director's duty of loyalty to the Corporation;
2. An act or omission not in good faith or that involves intentional misconduct or a knowing violation of the law;
3. A transaction from which a Director received an improper benefit, whether or not the benefit resulted from an action taken within the scope of the Director's office; or
4. An act or omission for which the liability of a Director is expressly provided for by an applicable statute.

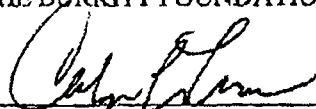
ARTICLE TEN

In the event that the Corporation shall ever be deemed to be a private foundation as described in Section 509 of the Code (or the corresponding provision of any future United States Internal Revenue law), then while such status as a private foundation exists, these Articles of Incorporation shall be deemed to contain the provisions set out in Article 1396-2.27(a), Vernon's Annotated Civil Statutes of Texas, and the Corporation shall be subject to the duties and obligations therein set out.

Executed in duplicate originals this 8th day of October, 2009.

THE BURKITT FOUNDATION

By:



Carolyn L. Mora, Secretary

AMENDED BYLAWS
OF THE BURKITT FOUNDATION

October 8, 2009

ARTICLE I

NAME, LOCATION & OFFICES

1.01. Name. The name of this Corporation is **THE BURKITT FOUNDATION**.

1.02. Principal Office. The principal office of the Corporation is located in El Paso, Texas, with the registered office of the Corporation being 123 W. Mills, Suite 520, El Paso, Texas 79901. For the purpose of these Amended Bylaws (the "Bylaws"), any reference to the "principal office" of the Corporation shall be deemed to refer to such location as may be determined by the Board of Directors and set forth in a resolution duly adopted. The Corporation may have such other offices, either within or without the state of Texas, as the business of the Corporation may require and the Board of Directors may determine.

ARTICLE II

SEAL

No corporate seal shall be required.

ARTICLE III

BUSINESS OF THE CORPORATION

3.01. Purpose. The purpose or purposes for which the Corporation is organized are as follows:

1. To operate as a supporting organization under section 509(a)(3) of the Internal Revenue Code of 1986 (the "Code") exclusively for the benefit of and to carry out the purposes of **EL PASO COMMUNITY FOUNDATION**, an organization exempt under section 501(c)(3) of the Code and not a private foundation by reason of its status as an organization described in section 509(a)(1) of the Code;

2. To receive and administer property acquired by gift, grant, purchase or otherwise to primarily foster and promote the interests of Catholic educational organizations and other Catholic activities, primarily in the state of Texas and in the southwestern United States.

3. To make grants or other payments to EL PASO COMMUNITY FOUNDATION; and

4. At all times and within such purposes, to operate exclusively for charitable, educational and scientific purposes, within the meaning of section 501(c)(3) of the Internal Revenue Code of 1986 ("the Code").

The Corporation shall also be empowered to perform and transact such other business as may be permitted corporations exempt from tax under section 501(c)(3) of the Code and incorporated under the Texas Non-Profit Corporation Act.

3.02. Powers. The Corporation shall possess all corporate powers provided by the Texas Non-Profit Corporation Act and shall be entitled to engage in any legitimate pursuit not in contravention of the laws of the state of Texas and permitted corporations exempt from tax under section 501(c)(3) of the Code.

ARTICLE IV

NO MEMBERS

The Corporation shall have no members.

ARTICLE V

[INTENTIONALLY OMITTED]

ARTICLE VI

BOARD OF DIRECTORS

6.01. General Powers. The business and affairs of the Corporation shall be managed by its Board of Directors. The Board of Directors may adopt such rules and regulations for the conduct of their meetings and management of the business and affairs of the Corporation as they may deem proper, not inconsistent with the laws of the state of Texas, the Articles of Incorporation of this Corporation, these Bylaws or that Second Amended and Restated Agreement Establishing Supporting Organization Relationship between the Corporation and EL PASO COMMUNITY FOUNDATION, executed as of October 8, 2009. The Board of Directors shall cause an examination to be made annually of the books and records of the Corporation by an accountant or other qualified person to be selected by the Board of Directors.

6.02. Selection And Number.

A. Clergy Directors and EPCF Directors. The number of Directors of the Corporation shall be nine (9), chosen as follows: Four (4) of the nine Directors will be chosen, one each, by the Bishop of the Diocese of El Paso, the Archbishop of the Archdiocese of Galveston-Houston, the Archbishop of the Archdiocese of San Antonio,

and the Director of the Texas Catholic Conference. Subject to the provisions of Section 6.13 below, the Archbishops and Bishop and the Director of the Texas Catholic Conference may appoint themselves to serve for a term. These four Directors are sometimes collectively identified herein as the "Clergy Directors." Of the Clergy Directors, one will serve for a three year term, two will serve for two year terms, and one will serve for a one year term. Such term assignments shall be chosen at random by the Directors. Following the conclusion of these specified terms, the Clergy Directors shall serve as provided in Section 6.13. Four of the nine Directors will be appointed by El Paso Community Foundation (the "EPCF Directors"). Of the EPCF Directors, one will serve for a three year term, one will serve for a two year term, and two will serve for a one year term. Such term assignments shall be chosen at random by the Directors. Following the conclusion of these specified terms, the EPCF Directors shall serve as provided in Section 6.13. The ninth Board Director shall be the Public Director, as further described in Section 6.02B below. The initial ninth Director shall be elected in accordance with the terms of that Mediated Settlement Agreement, dated September 17, 2009, to which the Corporation is a party.

B. Public Director. Prior to the conclusion of each three year term served by the Public Director, the Board shall establish a Nominating Committee, composed of two Clergy Directors and two EPCF Directors. The Nominating Committee shall propose the names of three potential candidates who meet the following qualifications: prior non-profit service and experience in the fields of education or finance or human resources management. The full Board shall vote on the election of the Public Director by secret ballot, and the Public Director shall be elected by a simple majority. Thereafter, the Public Director shall be chosen every three years by the same procedure; provided that, the Public Director may serve two consecutive three year terms.

C. Effect of Delayed Appointment and Other Matters. In the case of the expiration of the term of a Clergy Director or an EPCF Director, the incumbent shall continue to serve until his or her successor is appointed by the pertinent Clergy office holder or by EPCF. Provided, however, if the relevant successor is not appointed within thirty (30) days after the expiration of his or her term, a successor shall be elected using the same procedure as for the Public Director described in Section B above. When a successor director is appointed or elected as provided above, his or her term shall run from the date of expiration of the predecessor's term and shall expire on the third anniversary of the day immediately following the expiration of the predecessor's term. In the case of the termination of the term of a Clergy Director or an EPCF Director due to death, resignation or removal, the appointment of their successor shall be only for the remaining unexpired period of the predecessor's term. If a successor is appointed for an unexpired term as provided immediately above, that term shall not count as a term of service for purposes of Section 6.13 below, unless the remaining unexpired term at the time of his or her appointment is greater than twelve (12) months.

6.03. Annual Meeting. The annual meeting of the Board of Directors shall be held during the first two (2) weeks of the month of October in each year, at such time and place as may be specified in the notice of the meeting. The purpose of such annual meeting shall be the election of officers and the transaction of such other business as may come before the meeting. The annual meeting of the Directors shall be called by the President or any two Directors of the Corporation. The Board of Directors may provide, by resolution, the time and place, either within or without the state of Texas, for the

holding of additional regular meetings without other notice than such resolution.

6.04. Special Meetings. Special meetings of the Board of Directors may be called at the request of the President or any Director. The President may fix any place, either within or without the state of Texas, as the place for holding any special meeting of the Board of Directors called by them.

6.05. Notice. Notice of the annual or any special meeting shall be given at least ten (10) days previously thereto by written notice delivered personally or mailed to each Director at his or her business address, by mail, by electronic mail, by facsimile transmission or by telegram by or at the direction of the President, or the Secretary, or the officers or persons calling the meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail so addressed, with postage thereon prepaid. If transmitted by electronic mail, notice is deemed to be delivered upon a successful send of the electronic mail to the last known electronic address of the Director. If transmitted by facsimile, notice is deemed to be delivered on successful transmission of the facsimile. If notice be given by telegram, such notice shall be deemed to be delivered when the telegram is delivered to the telegraph company. Any Director may waive notice of any meeting. The attendance of a Director at any meeting shall constitute a waiver of notice of such meeting, except where a Director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular meeting or special meeting of the Board of Directors need be specified in the notice or waiver notice of such meeting.

6.06 Quorum. Subject to the provisions of Section 6.07 and ARTICLE TWELVE hereof, Section 10 of the El Paso Community Foundation Donor Advised Fund Amended Instrument of Gift of October 8, 2009, as well as Section 5(b) of the Second Amended and Restated Agreement Establishing Supporting Organization Relationship referred to hereinabove, a simple majority of the Directors shall constitute a quorum for the transaction of business at any meeting of the Board of Directors, provided, that if less than a majority of such number of Directors are present at said meeting, a majority of the Directors present may adjourn the meeting from time to time without further notice.

6.07. Manner of Acting. The act of the majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board of Directors, except that any amendment to these By-Laws, any amendment to the Articles of Incorporation (or, as it will later be termed, the Certificate of Formation), or any voluntary dissolution of the Corporation shall require the affirmative vote of at least seven (7) of the nine (9) Directors.

6.08. Action by Telephone or Other Electronic Means. Directors may participate in and hold meetings by means of conference telephone or similar communication equipment, or another suitable electronic communications system, including videoconferencing technology or the Internet, or any combination, if the telephone or other equipment or system permits each person participating in the meeting to communicate with all other persons participating in the meeting and each Director present consents to meeting by such means. If voting is to take place at the meeting, reasonable measures must be implemented to verify that every Director voting at the

meeting by means of remote communications is sufficiently identified, and a record of any vote or other action taken must be kept. Participation in such a meeting shall constitute the presence of that person for the purpose of voting on the proposed action, except where a person participates in the meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

6.09. Informal Action by Directors. Unless specifically prohibited by the Articles of Incorporation of this Corporation or these Bylaws, any action required to be taken at a meeting of the Board of Directors, or any other action which may be taken at such a meeting may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all the Directors entitled to vote with respect to the subject matter thereof as the case may be. Any such consent signed by all the Directors shall have the same effect as a unanimous vote at a meeting, and may be stated as such in any document filed. An electronic mail transmission constitutes a valid consent to vote on a particular issue and must be recorded and maintained by the Secretary in the minutes of such meeting. Any photographic, photostatic, facsimile, or similarly reliable reproduction of a consent in writing signed by a Director may be substituted or used instead of the original writing for any purpose for which the original writing could be used, if the reproduction is a complete reproduction of the entire original writing. Advance notice is not required to be given to any action by written consent.

6.10. Vacancies. Any vacancy occurring in the Board of Directors by reason of the resignation, removal or death of a Director shall be filled by the method of selection provided for in Section 6.02 above. A Director so selected to fill a vacancy shall be selected for the unexpired term of his or her predecessor in office.

6.11. Compensation. Directors shall not receive compensation for their services as such, but may be reimbursed for bona fide expenses incurred and arising out of attendance at Board or committee meetings. By resolution of the Board, the Directors may be reimbursed for all such expenses as well as any additional expenses associated with their duties as Directors so long as such expenses have been pre-approved by the Board.

6.12. Presumption of Assent. A Director of the Corporation who is present at a meeting of the Board of Directors at which action on any corporate matter is taken shall be conclusively presumed to have assented to the action taken unless his or her dissent shall be entered in the minutes of the meeting or unless he or she shall file his or her written dissent to such action with the person acting as the secretary of the meeting before the adjournment thereof or shall forward such dissent by certified mail to the Secretary of the Corporation immediately after the adjournment of the meeting. Such right to dissent shall not apply to a Director who voted in favor of such action.

6.13. Terms and Limitation on Service. Each Director shall serve his or her term until the selection and qualification of his or her successor, or until his or her earlier death, resignation or removal. Following the conclusion of the terms of the Clergy Directors and the EPCF Directors as provided in Section 6.02.A above, each Director shall serve a three year term, so that approximately one-third (1/3) of the Directors shall be selected each year. Except as provided in the next sentence, no Director who has served a full term may be appointed for another term without an interval of six years, and

each Director may serve only a maximum of two (2) three year terms. The initial Public Director, selected as provided in Section 6.02.B above, may be elected by the Board of Directors to serve a second consecutive three year term. With the exception of Mr. Gary Williams, no person who has served as a member, Director, or officer of Burkitt prior to October 8, 2009, or any member of his/her immediate family, shall ever again serve in any capacity for Burkitt.

ARTICLE VII

OFFICERS

7.01. Number. The officers of the Corporation shall be a President, one or more Vice-Presidents (the number thereof to be determined by the Board of Directors), a Treasurer, and a Secretary, and such assistant treasurers, assistant secretaries or other officers as may be elected or appointed by the Board of Directors. Any two (2) or more offices may be held by the same person, except the offices of President and Secretary.

7.02. Election and Term of Office. The officers of the Corporation shall be elected annually by the Board of Directors at the annual meeting of the Board of Directors. If the election of officers shall not be held at such meeting, such election shall be held as soon thereafter as conveniently may be. Vacancies may be filled or new offices filled at any meeting of the Board of Directors. Each officer shall hold office until his or her successor shall have been duly elected and shall have qualified or until his or her death or until he or she shall resign or shall have been removed in the manner hereinafter set forth for that purpose. Election or appointment of an officer or agent shall not of itself create contract rights.

7.03. Removal. Any officer or agent elected or appointed by the Board of Directors may be removed by the Board of Directors whenever in its judgment the best interests of the Corporation would be served thereby.

7.04. Vacancies. A vacancy in any office because of death, resignation, removal, disqualification or otherwise shall be filled by the Board of Directors for the unexpired portion of the term.

7.05. President. The President shall be the principal executive officer of the Corporation and shall call and preside over meetings of the Board of Directors. The President shall exercise such powers as may be delegated to him or her by the Board of Directors and shall in general supervise and control all of the business and affairs of the Corporation. He or she may sign, with the Secretary or any other proper officer of the Corporation thereunto authorized by the Board of Directors, any deeds, mortgages, bonds, contracts or other instruments which the Board of Directors has authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the Board of Directors or by these Bylaws to some other officer or agent of the Corporation, or shall be required by law to be otherwise signed or executed; and in general shall perform all duties incident to the office of president and such other duties as may be prescribed by the Board of Directors from time to time. The President shall have authority to employ any person on behalf of the Corporation and to fix their

compensation, subject to the annual budget of the Corporation, provided such employment is also subject to the provisions of Section 6.13 hereof.

7.06. Vice-Presidents. In the absence of the President or in the event of his or her inability or refusal to act, the Vice-President (or in the event there be more than one vice-president, the vice-presidents in the order designated, or in the absence of any designation, then in the order of their election) shall perform the duties of the President, and when so acting, shall have all the powers of and be subject to all the restrictions upon the President. Any vice-president may sign any instruments the Board of Directors has authorized to be executed, with the Secretary or any assistant secretary; and shall perform such other duties as from time to time may be assigned to him or her by the President or by the Board of Directors.

7.07. Treasurer. The Treasurer shall:

A. Have charge and custody of and be responsible for all funds and securities of the Corporation; receive and give receipts for moneys due and payable to the Corporation from any source whatsoever, and deposit all such moneys in the name of the Corporation in such banks, trust companies or other depositories as shall be selected in accordance with the provisions of Article 8.04 of these Bylaws; and

B. In general, perform all the duties incident to the office of Treasurer and such other duties as from time to time may be assigned to him or her by the President or by the Board of Directors.

7.08. Secretary. The Secretary shall:

A. Keep the minutes of the meetings of the Board of Directors in one or more books provided for that purpose;

B. See that all notices are duly given in accordance with the provisions of these Bylaws, or as required by law;

C. Be custodian of the Corporation records; and

D. In general, perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned to him or her by the President or by the Board of Directors.

7.09. Salaries. Officers shall not receive compensation for their services as such, but may be reimbursed for bona fide expenses incurred and arising out of attendance at Board or committee meetings. The officers may be reimbursed for all such expenses by resolution of the Board.

ARTICLE VIII

CONTRACTS. LOANS. CHECKS & DEPOSITS

8.01. Contracts. Contracts entered into in the ordinary course of business may be signed by the President of the Corporation; provided further, however, that any contract which is executed on behalf of the Corporation which is not in the ordinary course of business shall first be authorized by the Board of Directors and shall be signed by the President of the Corporation. The Board of Directors may authorize by resolution any officer or officers, agent or agents, to enter into any contract or execute and deliver any instrument which is in the ordinary course of business in the name of and on behalf of the Corporation, and such authority may be general or confined to specific instances.

8.02. Loans. No loans shall be contracted on behalf of the Corporation and no evidence of indebtedness shall be issued in its name unless authorized by a resolution of the Board of Directors. Such authority may be general or confined to specific instances.

8.03. Checks and Drafts. All payments from corporate funds shall be made by check to be signed by the President or by any other person duly designated by a resolution passed by the Board of Directors, or by an employee of the Corporation who may be designated by a resolution passed by the Board of Directors.

8.04. Deposits. All funds of the Corporation not otherwise employed shall be deposited from time to time to the credit of the Corporation in such banks, trust companies or other depositories as the Board of Directors may select.

ARTICLE IX

COMMITTEES

9.01. Membership. The Board of Directors, by resolution adopted by it at a regularly scheduled meeting, may designate one (1) or more committees, each of which shall have and may exercise all of the authority delegated to it by the Board in such resolution. Each committee so designated shall consist of three (3) or more persons, a majority of whom are Directors of the Corporation. The remaining members of the committee need not be Directors. The designation of such committees and the delegation thereto of authority shall not operate to relieve the Board of Directors, or any member thereof, of any responsibility imposed upon it by law.

9.02. Creation of Other Committees. The Board may also create other committees not having and exercising any delegated authority of the Board in the management of the Corporation. In this case, membership on such committees may but need not be limited to Directors and a majority of members need not consist of Directors.

9.03. Term of Office. Each member of a committee shall continue as such until the next annual meeting of the Directors of the Corporation and until his or her successor is appointed, unless the committee shall be sooner terminated, or unless such member be removed from such committee, or unless such member shall cease to qualify as a member thereof.

9.04. **Chairman.** One member of each committee shall be appointed chairman by the person or persons authorized to appoint the members thereof.

9.05. **Vacancies.** Vacancies in the membership of any committee may be filled by appointments made in the same manner as provided in the case of the original appointments.

9.06. **Quorum.** Unless otherwise provided in the resolution of the Board of Directors designating a committee, a majority of the whole committee shall constitute a quorum and the act of a majority of the members present at a meeting at which a quorum is present shall be the act of the committee.

9.07. **Rules.** Each committee may adopt rules for its own governance not inconsistent with these Bylaws or with rules adopted by the Board of Directors.

ARTICLE X

INDEMNIFICATION OF DIRECTORS AND OFFICERS

10.01. **Right to Indemnification.** The Corporation shall indemnify any person who was, is, or is threatened to be made a named defendant or respondent in a proceeding, whether civil, criminal, administrative, arbitral, or investigative, including all appeals, by reason of the fact that that person is or was a Director, officer, employee or agent of the Corporation. Indemnification shall be against all reasonable expenses, including without limitation, attorneys' fees, court costs, expert witness fees, judgments, decrees, fines, penalties, and reasonable expenses actually incurred by the person in connection with the proceeding, except that if the person is found liable to the Corporation or is found liable on the basis that he or she improperly received personal benefit, indemnification shall be limited to reasonable expenses actually incurred by the person in connection with the proceeding, and shall not be made in respect of any proceeding in which the person shall have been found liable for willful or intentional misconduct in the performance of his or her duty to the Corporation.

10.02. Limitations on Indemnification.

A. No indemnification shall be made for obligations resulting from a proceeding in which the person is found liable on the basis that personal benefit was improperly received by him or her, or from a proceeding in which the person is found liable to the Corporation.

B. Indemnification under this Bylaw shall be available only after a determination has been made that the person acted in good faith and:

(1) In the case of conduct in an official capacity, reasonably believed his or her conduct to be in the best interests of the Corporation, or

(2) In all other cases, reasonably believed his or her conduct to be at least not opposed to the best interests of the Corporation.

The termination of any action, suit, or proceeding by judgment, order, settlement, conviction, or on a plea of *nolo contendere* or its equivalent, shall not of itself be determinative that the person failed to act in accordance with these requirements. A person shall be deemed to have been found liable in respect of any claim, issue, or matter only after the person shall have been so adjudged by a court of competent jurisdiction after exhaustion of all appeals from the judgment.

C. The determination of indemnification required by Paragraph (b) above, must be made:

(1) By majority vote of a quorum of Directors not named as defendants or respondents in the proceeding; or

(2) If such a quorum cannot be obtained, by a majority vote of a committee of the Board of Directors, designated by majority vote of all Directors, consisting of two or more Directors not named defendants or respondents in the proceeding; or

(3) By special legal counsel selected by the Board of Directors or by a committee of the Board by vote as set forth in Subparagraphs (1) or (2) above, or if such a quorum cannot be obtained and such a committee cannot be established, by a majority vote of all Directors.

Authorization of indemnification and determination of reasonableness of expenses shall be made in the same manner as the determination that indemnification is permissible, except that if the determination that indemnification is permissible is made by special legal counsel, authorization of indemnification and determination of reasonableness of expenses shall be made in the manner specified in subparagraph (3) above, for the selection of special legal counsel.

10.03. Indemnity for Successful Defense. In spite of any limitations set forth in Paragraphs 10.01 and 10.02, above, to the extent that any person has been wholly successful on the merits or otherwise in defense of any proceeding referred to in those paragraphs, that person shall be indemnified against all reasonable expenses incurred by him or her, including, without limitation, attorneys' fees, court costs, and expert witness fees.

10.04. Reimbursement of Expenses. Notwithstanding anything to the contrary contained herein, the Corporation shall pay or reimburse the expenses incurred by a Director in connection with his or her appearance as a witness or other participation in a proceeding at a time when he or she is not a named defendant or respondent in the proceeding.

10.05. Advancement of Expenses. Reasonable expenses incurred by a Director,

officer, employee, or agent of the Corporation who was, is, or is threatened to be made a named defendant or respondent in an action, suit, or proceeding may be paid or reimbursed by the Corporation in advance of the final disposition as authorized by the Board of Directors. Before authorizing the advance, the Board of Directors must determine that under the facts then known indemnification would not be precluded under these Bylaws. In addition, the Board must receive:

A. A written affirmation by the Director, officer, employee, or agent involved of that person's good faith belief that he or she had met the standard of conduct necessary under these Bylaws for indemnification; and

B. A written undertaking by or on behalf of the Director, officer, or employee involved to repay the expenses if it is ultimately determined that he or she had not met the standard of conduct necessary under these Bylaws for indemnification.

10.06. Indemnification Not Exclusive. The indemnification provided by this Article shall not be deemed to be exclusive of any other rights to which any person indemnified may be entitled under any regulation, agreement, vote of the disinterested Directors or otherwise. The indemnification provided by this Article shall not be deemed exclusive of any other power to indemnify or right to indemnification that the Corporation or any person referred to in this Article may have or acquire under the laws of the state of Texas. Indemnification shall continue and inure to the benefit of the heirs, executors, and administrators of any person entitled to indemnification under this Article.

10.07. Insurance. The Corporation may purchase and maintain insurance or another arrangement on behalf of any person who is or was a Director, officer, employee, or designated agent of the Corporation or who is or was serving at the request of the Corporation as a Director, officer, partner, venturer, proprietor, Director, employee, agent, or similar functionary of another foreign or domestic corporation, partnership, joint venture, sole proprietorship, trust, employee benefit plan, or other enterprise, against any liability asserted against and incurred by that person in his or her status as such, whether or not the Corporation would have the power to indemnify him or her under the provisions of this Article. If the insurance or other arrangement is with a person or entity that is not regularly engaged in the business of insurance coverage, the insurance or arrangement may provide for payment of a liability with respect to which the Corporation would not have the power to indemnify the person only if including coverage for the additional liability has been approved by the Directors. Without limiting the Corporation's power to procure or maintain any kind of insurance or other arrangement, the Corporation, for the benefit of persons it has indemnified, may (1) create a trust fund; (2) establish any form of self-insurance; (3) secure its indemnity obligation by grant of a security interest or other lien on the Corporation's assets or (4) establish a letter of credit, guaranty, or surety arrangement. The insurance or other arrangement may be procured, maintained, or established within the Corporation or with any insurer or other person deemed appropriate by the Board of Directors regardless of whether all or part of the stock or other securities of the insurer or other person are owned in whole or in part by the Corporation. In the absence of fraud, the judgment of

the Board of Directors as to the terms and conditions of the insurance or other arrangements and the identity of the insurer or other person participating in an arrangement shall be conclusive, and the insurance or arrangement shall not be voidable and shall not subject the Directors approving the insurance or arrangement to liability, on any ground, regardless of whether Directors participating in the approval are beneficiaries of the insurance or arrangement.

10.08. Report of Indemnity or Advance. Any indemnification of or advance of expenses to a Director in accordance with this Article shall be reported in writing to both the members and the Directors of the Corporation: (i) with or before the notice or waiver of notice of the next meeting of members; (ii) with or before the next submission to members of a consent to action without a meeting; and (iii) in any case, within the twelve (12) month period immediately following the date of the indemnification or advance.

ARTICLE XI

FISCAL YEAR

The fiscal year of the Corporation shall end on the last day of the month of December of each year.

ARTICLE XII

AMENDMENTS

These Bylaws may be altered, amended or repealed and new Bylaws adopted at any meeting of the Board of Directors of the Corporation by the affirmative vote of at least seven (7) of the nine (9) Directors. It is further provided that no proposed bylaw amendment which affects the existence, maintenance or continuation of the supporting organization relationship between the Corporation and **EL PASO COMMUNITY FOUNDATION** shall be effective unless and until notice is given to the Charitable Trusts Section of the Office of the Attorney General for the State of Texas and approved by the Board of Directors of **EL PASO COMMUNITY FOUNDATION**.

ARTICLE XIII

GENERAL PROVISIONS

13.01. Construction. If any provisions of these Bylaws shall be held illegal, invalid or inoperative, then, so far as is reasonable and possible (i) the remainder of the Bylaws shall be and remain legal, valid and operative and (ii) effect shall be given the intent manifested by the provision held illegal, invalid or inoperative and to that end, such illegal, invalid or inoperative provision shall be deemed to have been replaced by a provision that is as similar to such illegal, invalid or inoperative provisions as possible and still be legal, valid and operative.

13.02. Headings. Headings used in these Bylaws have been inserted for administrative convenience only and do not constitute matter to be construed in interpretation of the substantive provisions of these Bylaws.

DATED this 8th day of October, 2009.

I, **Carolyn L. Mora**, Secretary of the said Corporation, do hereby certify that the foregoing is a true and correct copy of the Amended Bylaws of the Corporation duly adopted by the Board of Directors as of the date so stated.


Carolyn L. Mora, Secretary

**SECOND AMENDED AND RESTATED
AGREEMENT ESTABLISHING SUPPORTING
ORGANIZATION RELATIONSHIP**

This Second Amended and Restated Agreement Establishing Supporting Organization Relationship (this "Agreement"), made and entered into as of October 8, 2009, is between THE BURKITT FOUNDATION ("Burkitt") and EL PASO COMMUNITY FOUNDATION ("EPCF"), both of which are Texas nonprofit corporations.

RECITALS

1. EPCF is a publicly supported charitable organization described in sections 170(b)(1)(A)(vi), 501(c)(3) and 509(a)(1) of the Internal Revenue Code of 1986 (the "Code") and has its principal place of business in El Paso County, Texas. EPCF is a community trust within the meaning of Treas. Reg. § 1.170A-9(e).

2. One of the purposes of EPCF is to raise and manage endowment funds to sustain the operating and capital requirements of EPCF and that class of publicly supported organizations for whose benefit EPCF exists, in perpetuity. One class of publicly supported organizations for whose benefit EPCF exists is educational organizations. Because a large percentage of the population which EPCF serves is Catholic, many of the educational organizations which EPCF benefits are also Catholic institutions.

3. Burkitt was established through incorporation as a Texas nonprofit corporation on December 27, 1962 and funded by lifetime and testamentary contributions from Elizabeth Burkitt Crane. Its primary purpose is to foster and promote the interests of Catholic educational organizations and other Catholic activities, primarily in the state of Texas and in the southwestern United States.

4. Burkitt was classified as a private foundation after 1969, but was, pursuant to one certain Agreement Establishing Supporting Organization Relationship between the parties, dated effective September 30, 1999 (the "Original Supporting Organization Agreement") reclassified as an organization described in Section 509(a)(3) of the Code, to be operated exclusively to support and benefit EPCF and specifically to assist EPCF, such assistance being to primarily foster and promote the interests of Catholic educational organizations and other Catholic activities, primarily in the state of Texas and in the southwestern United States. In furtherance thereof, the parties also executed that one certain Instrument of Transfer between the parties, dated effective September 30, 1999, such Instrument of Transfer creating the Burkitt Foundation Perpetual Fund (the "Fund").

5. Burkitt and EPCF entered into an Amended and Restated Agreement Establishing Supporting Organization Relationship dated October 30, 2001 (the "Amended Agreement"), whereby the parties affirmed their supporting organization relationship and agreed to certain additional provisions governing their relationship,

including that the supporting organization relationship would exist in perpetuity. In connection with the Amended Agreement, the parties also entered into that one certain Memorandum of Agreement dated October 30, 2001, by and between Burkitt, EPCF and the Attorney General of the State of Texas, a copy of which is attached hereto as Exhibit A. The parties additionally entered into that one certain Mediated Settlement Agreement of September 17, 2009, by, between and among the Office of the Attorney General of the State of Texas, EPCF, Burkitt, Carl E. Ryan, individually, the law firm of Ryan, Sanders & Gluth, LLP, the Estate of C. O. Ryan, deceased and Medmarc Casualty Insurance Company (the "Settlement Agreement") which is attached hereto as Exhibit B. The parties hereto agree to abide by the terms and conditions of the Settlement Agreement and, except insofar as the agreements and documents negotiated pursuant to the Settlement Agreement, including but not limited to, this Agreement, may contain different agreed upon verbiage, the parties hereto agree that the terms and conditions of the Settlement Agreement shall control.

6. The parties desire that Burkitt continue to qualify as a supporting organization under section 509(a)(3) of the Code to and for the benefit of EPCF, based upon the terms and conditions set forth herein, it being understood and agreed that the terms and provisions of this Agreement shall amend and supersede the Original Supporting Organization Agreement and the Amended Agreement.

NOW, THEREFORE, the parties agree as follows:

1. **Burkitt to Be Organized as a Supporting Organization.** The parties agree that Burkitt was heretofore organized as a supporting organization to EPCF as defined in section 509(a)(3) of the Code, commencing as of October 1, 1999. The parties further agree that EPCF shall be the only specified publicly supported organization which Burkitt shall support. It is specifically recognized by the parties that, contemporaneously with the execution of the Original Supporting Organization Agreement (i.e., effective September 30, 1999), Burkitt (i) executed the Instrument of Transfer creating the Fund and (ii) transferred an initial grant of \$10,000.00 to the Fund. The Fund shall continue to be held and administered pursuant to the terms of this Agreement and to the terms of the Amended Instrument of Gift attached hereto as Exhibit C (the "Amended Instrument of Gift"). Without limitation upon the foregoing, it is further agreed by the parties that any and all future grants by Burkitt to EPCF (including, by way of example only and without limitation, those described in paragraph 2(c) hereof) shall likewise be deposited into the Fund.

2. **Burkitt To Be Operated as a Supporting Organization.** The parties agree that Burkitt has since October 1, 1999, and shall hereafter be operated in connection with EPCF in a manner necessary to meet the requirements of the responsiveness test and the integral part test as will qualify Burkitt as "operated in connection with" EPCF within the meaning of Section 509(a)(3)(B)(iii) of the Code, Section 509(f) of the Code, Section 4943(f)(5) of the Code, Treas. Reg. § 1.509(a)-4(i), or such other regulations promulgated thereunder:

(a) At no time shall Burkitt be controlled, directly or indirectly, by persons described in Section 509(f) of the Code or any regulations promulgated thereunder; or by disqualified persons to Burkitt, within the meaning of Section 4946(a) of the Code and the regulations promulgated thereunder, except those individuals who attain such status solely by reason of their appointment as foundation managers of Burkitt.

(b) The Board of Directors of EPCF shall be responsible for: (i) overseeing and monitoring the investment policies of Burkitt, the timing and manner of making grants, the selection of recipients of grants, and in otherwise directing the use of Burkitt's assets (as provided in Treas. Reg. § 1.509(a)-4(i)(2)(ii)(d)) for the purpose of insuring that Burkitt maintains its status as a supporting organization under section 509(a)(3) of the Code; (ii) maintaining a close and continuous working relationship between the two organizations; and (iii) insuring that Burkitt constitutes at the very least an integral part of EPCF so as to maintain a significant involvement by Burkitt in the operation of EPCF (as provided in Treas. Reg. § 1.509(a)-4(i)(3)) as it carries out its public purposes. Burkitt and its officers and directors shall maintain a close and continuous working relationship (as provided in Treas. Reg. § 1.509(a)-4(i)(2)(ii)(c)) with EPCF and its officers and directors.

(c) The parties specifically contemplate that Burkitt shall assist EPCF in serving Catholic educational organizations and other Catholic activities, primarily in the state of Texas and in the southwestern United States, in perpetuity. Unless otherwise ordered by a court of competent jurisdiction, Burkitt shall assist EPCF in such purpose by paying annually to the Fund not less than the greater of 5% of the aggregate fair market value of the assets of Burkitt or eighty-five percent (85%) of Burkitt's net income. The parties recognize that, but for the involvement of Burkitt in this project, the activity would have to be undertaken directly by EPCF.

(d) The Second Restated Articles of Incorporation (With Amendments) of Burkitt dated October 8, 2009, will be filed with the Secretary of State of Texas and are the current articles of incorporation of Burkitt (the "Burkitt Articles"). Burkitt has provided a true and correct copy of the Burkitt Articles to EPCF. No amendment or restatement will be made to the Burkitt Articles which affects the existence, maintenance, or continuation of the supporting organization relationship between Burkitt and EPCF without the prior approval of the Board of Directors of EPCF. Burkitt further represents to EPCF that the Amended Bylaws of Burkitt dated October 8, 2009, are the current bylaws of Burkitt (the "Burkitt Bylaws"). Burkitt has provided a true and correct copy of the Burkitt Bylaws to EPCF. No amendment or restatement will be made to the Burkitt Bylaws which affects the existence, maintenance, or continuation of the supporting organization relationship between Burkitt and EPCF without the prior approval of the Board of Directors of EPCF.

(e) The parties specifically contemplate that, unless Burkitt is dissolved in accordance with state law and/or the provisions of this Agreement, Burkitt shall remain a Type III supporting organization of EPCF within the meaning of subsections 509(a)(3) and 509(f) of the Internal Revenue Code.

(f) EPCF agrees that no principal or income of the Fund shall be used, directly or indirectly, to support the Plaza Theatre in El Paso, Texas or the Plaza Theatre Corporation. Further, in keeping with the overall mission and purpose of Burkitt, as set forth in the Burkitt Articles, EPCF agrees to distribute sixty six and two-thirds percent (66 2/3%) of the annual grants from the assets of the Fund to Catholic educational organizations and other Catholic activities in the State of Texas and in the southwestern United States. EPCF agrees to distribute the remaining thirty three and one-third percent (33 1/3%) of the annual grants from the assets of the Fund to support organizations for general charitable purposes. Grantees and amounts received by grantees will be published on EPCF's website after its annual audit is completed.

3. **Required Reports.** Not less often than annually, Burkitt shall make a written report to EPCF containing at least the following information for the reporting period covered by the report:

(a) All the assets on hand at the beginning of the period covered by such report, with their carrying value and their then market value;

(b) All purchases and sales of investments during the period showing any gains or losses;

(c) All exchanges or transactions not involving any gain or loss;

(d) All income collected and distributed;

(e) All charges to principal and income;

(f) All assets on hand at the close of such report, with their carrying value and their then market value;

(g) A statement that Burkitt has not engaged in any activity which would give rise to liability for tax imposed under sections 4941, 4943, 4944, or 4945 of the Code if Burkitt were a private foundation; and

(h) An estimated budget for administrative and operational expenses of Burkitt for the following year.

4. **Accounting.** The parties acknowledge that this Agreement is legally binding under the laws of the state of Texas and the EPCF or any other interested party may compel an accounting of Burkitt pursuant to Subchapter E of Chapter 113 of the

Texas Trust Code. The parties acknowledge that the relationship created under this Agreement is a trust relationship subject to the Texas Trust Code under which EPCF is the beneficiary.

5. Termination, Amendment, or Other Modification.

(a) Subject to the provisions of paragraph 5(b) below, this Agreement shall remain in effect as long as: (i) both Burkitt and EPCF remain exempt organizations under section 501(c)(3) of the Code; (ii) EPCF remains a publicly supported charitable organization under section 509(a)(1) of the Code; (iii) both Burkitt and EPCF retain their respective status as Texas nonprofit corporations; and (iv) Burkitt satisfies the requirements of section 509(a)(3) of the Code as a supporting organization to EPCF. Prior to any termination under this provision, the non-defaulting party shall have the right to seek the cure of the default by exercising its specific performance remedy against the defaulting party granted by paragraph 6 hereof. Each party represents to the other that it will use its best efforts to comply with the terms of this paragraph. Burkitt and EPCF further represent that they have no knowledge of any present default in any material terms.

(b) Without limitation upon the termination provisions of paragraph 5(a) above, the parties hereto may terminate, amend, or otherwise modify this Agreement upon the parties' then mutual written agreement that this Agreement shall be terminated, amended, or otherwise modified, but only if the parties mutually conclude that either: (i) the relationship contemplated and memorialized by this Agreement is either no longer possible or practical or is undesirable in the performance of the parties' respective public functions; or (ii) the operation of Burkitt as a supporting organization to EPCF is not consistent with EPCF's primary purpose to serve effectively the current charitable and educational needs of the area described in the Amended Instrument of Gift. NOTWITHSTANDING THE FOREGOING PROVISIONS OF THIS PARAGRAPH 5(b), HOWEVER, any amendment of this Agreement, the Burkitt Bylaws, the Burkitt Articles or the Amended Instrument of Gift shall require the affirmative vote of at least seven (7) of the nine (9) Directors of Burkitt, and no termination, amendment, or other modification pursuant to this Paragraph 5(b) shall commence until after thirty (30) days written notice thereof shall have been provided to the Charitable Trusts Section of the Office of the Attorney General for the State of Texas.

(c) Upon any termination of this Agreement, Burkitt shall have the right, in accordance with applicable law and regulations, to continue operations as either a public charity or private foundation consistent with its organization and operations or may discontinue its operations and dissolve. Upon the dissolution of Burkitt, its assets shall be distributed exclusively to EPCF. EPCF shall create a separate fund for 66-2/3% of Burkitt's assets that is restricted to supporting Catholic educational organizations and other Catholic activities primarily in the state of Texas and in the southwestern United States. EPCF shall also create a

separate fund for 33-1/3% of Burkitt's assets that is not restricted and from which annual grants will be made to support organizations for general charitable purposes; provided, however, that these funds cannot be used for EPCF's operational expenses. Notwithstanding the foregoing sentence, EPCF may charge such administrative fees to the funds as are customary in accordance with EPCF's policies and procedures.

(d) Subject to the termination, amendment, or other modification provisions hereof, this Agreement shall be valid and enforceable, in perpetuity.

6. **Specific Performance.** The parties acknowledge that the damages caused by a breach or violation of this Agreement will be impossible to calculate and determine. Therefore, in the event of a breach or threatened breach of any of the provisions of this Agreement by either party, the other party shall be entitled to seek specific performance or injunctive relief preventing or restraining any such breach by the other party or its members, directors, trustees, officers, agents, representatives, servants or employees.

EXECUTED effective the 8 day of OCTOBER, 2009.

EL PASO COMMUNITY FOUNDATION

By: Virginia A. Martinez
Name: VIRGINIA S. MARTINEZ
Title: President

THE BURKITT FOUNDATION

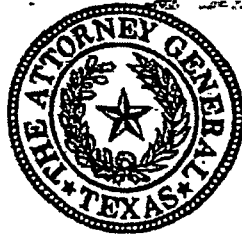
By: Carolyn L. Mora
Name: CAROLYN L. MORA
Title: SEC. & ADJT. TREAS.

ATTACHMENTS:

Exhibit A - Memorandum of Agreement dated October 30, 2001

Exhibit B - Mediated Settlement Agreement

Exhibit C - Amended Instrument of Gift



Office of the Attorney General Memorandum of Agreement

WHEREAS, The Charitable Trusts Section of the Office of the Attorney General for the State of Texas ("CTS") has pursuant to its legal and regulatory oversight functions conducted an investigation of activities, administration and management during the period December 27, 1962 through September 19, 2001, of the Burkitt Foundation, a Texas non-profit corporation ("Burkitt"); and,

WHEREAS, CTS and BURKITT have additionally engaged in discussions regarding the future status of BURKITT in its relationship with the EL PASO COMMUNITY FOUNDATION ("EPCF"); and

WHEREAS, CTS has brought final closure to its investigation of BURKITT for the period December 27, 1962 through September 19, 2001, in order to facilitate discussions and finalize agreements among CTS, BURKITT, and EPCF; and,

WHEREAS, CTS, BURKITT, and EPCF have reached certain agreements, memorialized in this Memorandum of Agreement, or further memorialized in additional documents to which reference is made in this Memorandum of Agreement which are fully incorporated by reference and adopted herein for all purposes; and,

THEREFORE, the undersigned hereby agree as follows:

1. CTS has brought final closure to its investigation of BURKITT for the period December 27, 1962 through September 19, 2001. Neither BURKITT nor EPCF will represent, directly or indirectly, to the public the closure of this investigation by CTS constitutes any approval or endorsement by CTS of any of BURKITT's management, administration, or activities for the period investigated.
2. BURKITT will pay to the Office of the Attorney General attorneys' fees and expenses in the total sum of \$60,992.00, which sum will be paid in two installments. The first installment is paid upon date hereof (i.e., upon October 30, 2001) by BURKITT's mailing same, postage prepaid (as hereinafter provided), in the amount of \$30,992.00, and the second installment will be paid on or before October 30, 2002,

in the amount of \$30,000.00. Payments will be (or have been upon date hereof) made to the Charitable Trust Section, Office of the Attorney General for the State of Texas and remitted to P.O. Box 12548, MC010, Austin, Texas 78711-2548, each payment referring to Burkitt Foundation AG#981016462.

3. CTS agrees with the action whereby BURKITT and EPCF have, effective upon October 30, 2001, executed an Amended and Restated Supporting Organization Agreement, which specifically converts a prior temporary relationship of BURKITT as a supporting organization status to EPCF into a more permanent relationship as therein provided in such Amended and Restated Agreement. This Amended and Restated Agreement was approved by EPCF Board resolution on September 19, 2001, and by BURKITT Board resolution on October 30, 2001.
4. The executed Amended and Restated Agreement Establishing the Supporting Organization Relationship between BURKITT and EPCF is hereby adopted by reference and incorporated herein for all purposes.
5. Without limitation upon the other provisions of the Amended and Restated Agreement Establishing the Supporting Organization Relationship between BURKITT and EPCF (including, by way of example only, the termination, amendment, modification, and related notice provisions thereof), BURKITT'S charitable purpose to primarily foster and promote the interests of Catholic educational organizations and other Catholic activities primarily in the State of Texas and in the southwestern United States" remains unchanged by such Amended and Restated Agreement Establishing the Supporting Organization Relationship and by the Instrument of Transfer between Burkitt and EPCF.
6. BURKITT and EPCF fully recognize and agree the consideration which supports this Memorandum of Agreement, in addition to the Agreements hereinabove stated, include the additional agreements fulfilling the matters stated within Board Resolutions of BURKITT and EPCF, as stated in the Certificates of the respective Secretaries of BURKITT and EPCF and approval by Resolution by the respective Boards. Such Certificates and such resolutions as approved by the Board of Directors of BURKITT and EPCF are adopted by reference and incorporated herein for all purposes to memorialize further this Memorandum of Agreement among CTS, BURKITT and EPCF.
7. The Charitable Trusts Section of the Office of the Attorney General of the State of Texas, the Burkitt Foundation, and the El Paso Community Foundation affirm this Memorandum of Agreement in furtherance of the public interest, the charitable intent of Elizabeth Burkitt Crane, deceased, and the Mission Statements of both foundations signatory to this Memorandum of Agreement.
8. This Memorandum of Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which shall constitute but one and the same document.

DATED AND SIGNED ON THIS 30TH DAY OF OCTOBER, 2001.


APPROVED AS TO SUBSTANCE AND FORM:

THE BURKITT FOUNDATION

EL PASO COMMUNITY FOUNDATION

BY:

BY:



C.O. RYAN, Its President



JANICE W. WINDLE, Its President

JOHN CORNYN
Attorney General of Texas

HOWARD G. BALDWIN, JR.
First Assistant Attorney General

JEFFREY S. BOYD
Deputy Attorney General for Litigation

PAUL D. CARMONA
Chief, Consumer Protection Division

SUSAN K. STARICKA
Chief, Charitable Trusts Section

JAMES L. ANTHONY
State Bar No. 01269000
Assistant Attorney General
Consumer Protection Division

Charitable Trusts Section
P. O. Box 12548
Austin, Texas 78711-2548
(512) 475-4178
(512) 322-0578 (fax)

EXHIBIT B

MEDIATED SETTLEMENT AGREEMENT

This Mediated Settlement Agreement (the "MSA" or "this MSA") is made on the date last entered and is between The Burkitt Foundation, which includes its current members, directors, officers and attorneys ("Burkitt"), the El Paso Community Foundation, which includes its current directors, officers and attorneys ("EPCF"), the Office of the Attorney General of the State of Texas (the "OAG"), Carl E. Ryan, individually ("Mr. Ryan"), the Law Firm of Ryan, Sanders & Gluth, LLP (and its predecessors) (the "Firm"), the Estate of C. O. Ryan, deceased (the "Estate"), and Medmarc Casualty Insurance Company ("Medmarc") (herein collectively referred to as the "Parties" or singularly as "a Party") and is as follows:

Recitals

EPCF and Mr. Ryan have been involved in a dispute. In connection with this dispute, EPCF filed a lawsuit against Mr. Ryan under Cause No. 2009-1406, which is pending in the 34th District Court of El Paso County, Texas ("Lawsuit No. 1"); and

The OAG instituted an investigation of Burkitt and has made claims against Burkitt, Burkitt's current directors and Mr. Ryan; and,

Burkitt, EPCF and the OAG have been involved in a dispute. In connection with this dispute, Burkitt filed a Declaratory Judgment action involving EPCF and the OAG, which is pending in the 168th District Court in El Paso County, Texas under Cause No. 2009-2514 ("Lawsuit No. 2). EPCF and the OAG filed answers and counterclaims; and,

The Estate has filed a Declaratory Judgment action, which is pending in the Statutory Probate Court No. 2 in El Paso, Texas under Cause No. 2007-2-P- 01026-A ("Lawsuit No. 3"); and,

All of the parties dispute the allegations and claims, if any, made against them and, in the interests of judicial economy and to avoid the costs of further litigation, have engaged in mediation and have agreed in this MSA to compromise and settle all of the disputes and Lawsuits Nos. 1, 2 and 3 as provided below; and,

In order to memorialize their understanding, Burkitt, EPCF, the OAG, Mr. Ryan, the Firm, the Estate and Medmarc agree as follows:

1. **Payment to EPCF and the OAG:** On the Closing Date, Burkitt, Mr. Ryan, the Firm, the Estate, and Medmarc (on behalf of its insureds) agree to collectively pay EPCF and the OAG the total sum of four hundred twenty three thousand and 00/100 Dollars (\$423,000) in cash (the "Settlement Amount"). Each of the aforementioned Parties is contributing an agreed part of the Settlement Amount. Of the Settlement Amount, \$23,000 shall be paid to EPCF, \$150,000 shall be paid to the OAG in payment of attorneys' fees and costs, and \$250,000 shall be paid to the OAG on behalf of the public interest in charity. These latter funds shall be redistributed by the

OAG to charitable organizations selected from Burkitt's 2009 grant applicants recommended by EPCF's grant coordinator for consideration. EPCF and the OAG agree to accept the Settlement Amount in full satisfaction of all of their monetary claims against Burkitt (including its members, current directors, officers and attorneys), Mr. Ryan, the Firm and the Estate in connection with the disputes described herein.

2. **Mutual Release between Burkitt, EPCF, Mr. Ryan, the Firm, the Estate:** On the Closing Date, each of Burkitt, EPCF, Mr. Ryan, the Firm, and the Estate for himself or itself and his or its agents, officers, directors, members, employees, owners, representatives, partners, law firm, successors and assigns, and anyone claiming through, by or under them, release and discharge forever each other and their respective agents, officers, directors, members, employees, owners, representatives, partners, law firm, insurers (including Medmarc and its program manager, Administrators for the Professions of Delaware, Inc.), reinsurers, successors and assigns from any and all manner of claims, demands, liability or causes of action that exist as of the date of this Agreement, whether fixed or contingent, known or unknown, suspected or unsuspected, based in contract, tort or otherwise arising, statutory or at common law, state or federal, it being the intention of each of Burkitt, EPCF, Mr. Ryan, the Firm, and the Estate to release any and all damages, claims and actions against each other. With respect to Burkitt, EPCF, Mr. Ryan, the Firm, and the Estate, this is intended to be a global release of all claims whatsoever, known or unknown.

Without limitation of the global release set forth above, Burkitt, EPCF, Mr. Ryan, the Firm, and the Estate for himself or itself and his or its officers, directors, members, successors, assigns, representatives and agents, and anyone claiming through, by or under them, release and discharge forever each other and their agents, officers, directors, members, employees, owners, representatives, partners, law firm, insurers (including Medmarc and its program manager, Administrators for the Professions of Delaware, Inc.), reinsurers, successors and assigns from any and all manner of claims, demands, liability or causes of action that exist as of the date of this Agreement, whether fixed or contingent, known or unknown, and suspected or unsuspected:

a. arising in any way from Mr. Ryan's or Mr. C. O. Ryan's relations with Burkitt and/or EPCF at any time prior to the date of this Agreement, whether as attorney, member, director, officer, agent, employee, contractor, consultant or as an individual, including but not limited to all claims and causes of action, whether asserted or not, arising from or in connection with the claims and allegations set forth in the following lawsuits:

- i. Lawsuit No. 1; and,
- ii. Lawsuit No. 2; and,
- iii. Lawsuit No. 3; and,

b. Except for the obligations expressly created under this Agreement, and compliance with the terms thereof, as further consideration for this Agreement, Burkitt, EPCF, Mr. Ryan, the Firm, and the Estate agree never to bring either a suit in any court or claim before

any administrative body against any released Party with respect to any of the matters released hereby.

c. Burkitt, EPCF, Mr. Ryan, the Firm, Medmarc, and the Estate shall each bear their respective attorneys' fees and costs.

3. **Release by the OAG:** Effective as of the Closing Date, the OAG shall release and discharge forever all claims which were, or could have been, asserted by the OAG against Burkitt, its current members, directors and officers, Mr. Ryan, the Firm, and the Estate arising from or related to its 2000-2001 and its 2008-2009 investigation of Burkitt, and Lawsuit No. 2 and Lawsuit No. 3. This release does not include any claim that may arise from breach of this MSA. On the Closing Date, the OAG shall close its pending investigation of Burkitt, its current members, directors and officers, Mr. Ryan, the Firm, and the Estate.

4. **Dismissal of Lawsuits Nos. 1, 2 and 3:** On the Closing Date, EPCF shall dismiss Lawsuit No 1 with prejudice, each Party to bear its attorneys' fees and costs. On the Closing Date, Burkitt shall dismiss Lawsuit No. 2 with prejudice, each Party to bear its attorneys' fees and costs. On or before the Closing Date, the Estate shall dismiss Lawsuit No 3 with prejudice, each Party to bear its attorneys' fees and costs.

5. **Restructure of Supporting Organization relationship:** On the Closing Date, Burkitt and EPCF shall enter into a new Agreement for Administrative Services (the "Administrative Services Agreement") and amend, restate and execute the Second Amended and Restated Agreement Establishing Supporting Organization Relationship (the "Supporting Organization Agreement"), the Amended Instrument of Transfer, the Second Restated Articles of Incorporation (with amendments) of the Burkitt Foundation, and the Second Amended Burkitt Bylaws, to provide for the following modifications:

(a) Burkitt shall have a nine person board of directors comprised of the following persons: one of the nine members will be appointed by the Bishop of the Diocese of El Paso, one of the nine members will be appointed by the Archbishop of the Archdiocese of Galveston-Houston, one of the nine members will be appointed by the Archbishop of the Archdiocese of San Antonio, and one of the nine members will be appointed by the Director of the Texas Catholic Conference. The Archbishops and the Bishop and the Director of the Catholic Conference may appoint themselves to serve for a term. The four members are sometimes collectively identified as the "Clergy members". Of the Clergy members, one will serve for a three year term, two will serve for a two year term and one will serve for a one year term. The term allocations shall be determined at random by the Burkitt board on the date of their first meeting, which shall be October 14, 2009 (the "First Meeting Date").

Four of the nine members will be appointed by EPCF. These four members are collectively called the "EPCF members". Of the EPCF members, one will serve for a three year term, two will serve for a two year term and one will serve for a one year term. The term allocations shall be determined at random by the Burkitt board at their meeting on the First Meeting Date.

One member shall be initially and indirectly appointed by the OAG using the following procedure: The OAG will recommend three qualified persons to the Clergy members and to the EPCF members. The OAG agrees to use its best efforts to recommend only potential directors to Burkitt who meet the following qualifications: Prior non-profit service and experience in the fields of education or finance or human resources management. The Clergy Members shall have the right to strike one of the three persons recommended by the OAG. The EPCF Members shall also have the right to strike one of the three persons recommended by the OAG. Except as provided in the next paragraph, the remaining person recommended by the OAG will be the ninth member of the Burkitt board and shall serve for a three year term. Thereafter, prior to the conclusion of each three year term of the ninth Burkitt board member, the Burkitt board shall establish a Nominating Committee composed of two Clergy Members and two EPCF Members. The Nominating Committee shall propose the names of three potential candidates who meet the qualifications set forth above. The full board shall vote by secret ballot, and the ninth member shall be elected by a simple majority. Notwithstanding the term limitations provided above, the ninth Burkitt board member may serve for two consecutive three year terms.

All Clergy members and EPCF members shall be appointed no later than September 28, 2009 and their names provided to the OAG. The OAG shall send each new member the resumes of the three OAG nominees. The Clergy members shall meet by conference call on a date convenient to them no later than September 30, 2009 to determine the name they wish to strike. The EPCF members shall do the same. Each group shall make their decision known to the OAG by contacting Susan Staricka, Chief of Charitable Trusts Section, no later than 5 p.m. on September 30, 2009. If one nominee remains, the OAG will contact that person. If two nominees remain, the OAG will make the determination of which shall serve as the ninth member and shall contact that person. The ninth member shall be announced to the Burkitt Board, to the EPCF board and to the new Burkitt board by letter no later than October 1, 2009. On the First Meeting Date, the new Burkitt board shall meet for board orientation and fall 2009 grant determinations.

(b) In order to achieve a fresh start, all current Burkitt members, officers, and directors shall submit their resignations on the Closing Date, to be effective immediately prior to the First Meeting Date. Except for Gary Williams, no person who has served as a member, director, or officer of Burkitt, or any member of his/her immediate family, shall ever again serve in any capacity for Burkitt. This provision is an agreement between Burkitt and EPCF only and none of the lawyers signing this Agreement have agreed to restrict any lawyer's practice of law in any way.

(c) The Burkitt Bylaws shall be amended to provide for staggered terms for directors of three years as provided in subparagraph (a) above. Except as provided in the next sentence, a director who has served a full term may be appointed for only one additional term and then only after an interval of at least two terms. The ninth board member may be elected to serve two consecutive three-year terms as provided in subparagraph (a) above.

(d) The dissolution clause in the Articles of Incorporation shall provide that, upon dissolution, Burkitt's assets will be distributed exclusively to EPCF. EPCF shall create a separate fund for 66- 2/3% of Burkitt's assets that is restricted to supporting Catholic educational organizations and other Catholic activities primarily in the State of Texas and in the southwestern United States. EPCF shall also create a separate fund for 33 1/3% of Burkitt's assets that is not restricted and from which annual grants will be made to support organizations for general charitable purposes; provided, however, that these funds cannot be used for EPCF's operational expenses. Notwithstanding the foregoing sentence, EPCF may charge such administrative fees to the funds as are customary in accordance with EPCF policies and procedures.

(e) The Articles of Incorporation shall be amended to provide that the Burkitt board cannot dissolve the corporation without an affirmative vote of at least seven of the members of the board.

(f) Burkitt shall remain a Type III supporting organization to EPCF but its organizational documents shall be amended to provide that it shall not have members.

(g) Burkitt's primary purpose shall be reconfirmed and restated in the Amended Articles of Incorporation as it appears in the Memorandum of Agreement, dated October 30, 2001, signed by Burkitt, EPCF and the OAG.

(h) The Instrument of Transfer shall be amended to provide that the assets of Burkitt shall never be used, directly or indirectly, to support the Plaza Theatre or the Plaza Theatre Corporation and that the assets of Burkitt shall be used only as provided in paragraph 5 (k) below.

(i) The Burkitt Second Restated Articles of Incorporation, the Amended Instrument of Transfer, the Second Amended Bylaws and the Supporting Organization Agreement shall provide that they cannot be amended without an affirmative vote of at least seven of the members of the Burkitt board.

(j) The Administrative Services Agreement shall provide that all administrative services currently being performed by EPCF, Mr. Ryan, and the Firm shall be performed by EPCF for an annual fee of \$20,000 and that the administrative fee will remain unchanged for a period of five years. After the 5 year period described above, EPCF may, at its discretion, increase the fee provided that the new fee is comparable to administrative fees charged by other community foundations of a similar size performing the same or similar services for a supporting organization. EPCF agrees not to discriminate against Burkitt by increasing its administrative fee and not increasing the fees charged to other supporting organizations unless there is a sound business or legal reason to do so. The termination clause in the Administrative Services Agreement shall contain termination language similar to that found in the Supporting Organization Agreement.

(k) The Instrument of Transfer will be amended to provide that sixty-six and two-thirds percent (66 2/3%) of the annual grants shall be made to Catholic educational organizations and other Catholic activities primarily in the State of Texas and in the southwestern United States, and that thirty-three and one-third percent (33 1/3%) of the annual grants will be made to support organizations for general charitable purposes. Unless otherwise ordered by a court of competent jurisdiction, annual grants shall be in an amount equal to no less than five percent (5%) of Burkitt assets. The grantees and amounts received by each grantee will be published on EPCF's website after its annual audit has been completed.

(l) Burkitt's Second Restated Articles of Incorporation shall contain a provision requiring the Burkitt board to familiarize itself with the needs and goals of the Catholic educational organizations in Texas and the Southwest that have applied for grants from Burkitt and to familiarize itself with the needs and goals of the charitable organizations that have also applied for grants from Burkitt.

(m) The First Meeting of the new Burkitt board described in this section shall be held in El Paso, Texas, at a place and time as designated by EPCF.

6. **Burkitt Records:** EPCF acknowledges that all Burkitt records shall remain the property of Burkitt and shall be stored at Commercial Records Center, 205 Ange, El Paso, Texas 79901 under the control of Burkitt. Not later than the Closing Date, Mr. Ryan, the Firm, Mr. Ainsa and Ms Carolyn Mora and any other current member, officer, director or attorney of Burkitt who has Burkitt records in his/her possession or control, shall deliver such Burkitt records to the location designated by Burkitt. Burkitt records including historical records, inventories of property, corporate documents, the Burkitt checkbook, bank statements and financial records, correspondence, agreements, memoranda and any and all documents generated by Burkitt and its representatives or received by Burkitt and its representatives. EPCF understands that some of the Burkitt records include documents that contain information that is protected from disclosure by the attorney client privilege and that such information cannot be released to EPCF without the prior consent of Burkitt. Prior to the Closing Date, Burkitt shall furnish its existing inventory of all Burkitt documents to EPCF and to the OAG. Notwithstanding the foregoing, EPCF shall be entitled to receive such Burkitt records as are reasonably required by EPCF to administer Burkitt in accordance with the Supporting Organization Agreement and the Administrative Services Agreement (the "Administrative Records"). Burkitt agrees to deliver the Administrative Records to EPCF on or before the Closing Date. Administrative Records are :

- (a) the original Burkitt checkbook that is currently in the possession of Carolyn Mora;
- (b) original bank statements that are currently in the possession of Carolyn Mora;
- (c) copies of invoices paid by Burkitt since it took control of its checkbook in September 2008;

(d) originals of invoices in the possession of Carolyn Mora or any Burkitt representative that have not been paid by Burkitt;

(e) a copy of the agreement between Burkitt and D. Link Grimes together with his most recent minerals report, all 2008 and 2009 correspondence to or from D. Link Grimes and a current inventory of property being managed by D. Link Grimes. In addition Burkitt shall provide copies of all deeds, leases, agreements and correspondence pertaining to its surface real property interests, its mineral interests, its oil and gas interests, and its timber interests.

(f) a copy of the agreement between Burkitt and UBS together with a copy of its most recent report and all 2009 correspondence to or from UBS;

(g) copies of all agreements between Burkitt and any person or entity that are still in force together with any 2008 and 2009 correspondence to or from such persons and entities; and

(h) copies of minutes of meetings of the Burkitt board during 2008 and 2009. These minutes will be redacted to remove all privileged information that is protected from disclosure by the attorney client privilege or any other applicable privilege under Texas law. The minutes shall be provided to EPCF with a letter from Counsel for Burkitt, addressed to Burkitt's auditors, stating that any redactions are only of information that is privileged under applicable Texas law.

7. **Required Documents.** Burkitt, EPCF, the OAG, Mr. Ryan, the Firm, Medmarc, and the Estate agree that they will prepare and agree upon the form and content of all the documents described in paragraphs 2-5 above and the mutual release, motions and orders to dismiss Lawsuits Nos. 1, 2 and 3 by the Closing Date. In this connection, Burkitt, EPCF, the OAG, Mr. Ryan, the Firm, Medmarc, and the Estate agree that the settlement described herein shall not become effective until all documents described in the MSA have been prepared and approved as follows: (a) by the Burkitt board, (b) by the EPCF board, (c) by the Attorney General or his First Assistant, (d) by Mr. Ryan, (e) by the Firm; (f) by the Estate, and (g) by Medmarc. On the Closing Date, each Party shall provide all other Parties with appropriate certificates or other reasonable evidence that the person signing the documents described in this MSA has been authorized to do so.

8. **IRS Approval:** After the Closing Date, Burkitt shall notify the Internal Revenue Service (the "IRS") of the new organizational structure described herein.

9. **Approval of 2008 Form 990 and 2008 Audited Financial Statements:** Prior to September 18, 2009, Burkitt shall review, approve and file the 2008 Form 990 and shall review and approve the 2008 audited financial statements. No later than September 18, 2009, Burkitt shall deliver to EPCF a written and electronic version of (i) the 2008 Form 990 to be filed by Burkitt and (ii) the 2008 audited financial statement prepared by Lauterbach Borschow & Co., P.C.

10. **Settlement Date and Closing Date:** The Settlement Date is the date on which the the MSA will be signed by all parties and shall be no later than September 17, 2009. All documents described in this Mediated Settlement Agreement that are to signed on the Closing

Date shall be prepared and approved by all parties not later than September 23, 2009. The Closing Date shall be October 8, 2009.

11. **Interim Operations:** Burkitt and EPCF shall continue to operate under the Addendum to the Agreement to Provide Administrative Services until the Closing Date except that no administrative or legal work shall be performed by Mr. Ryan or the Firm and no fees shall be paid for any legal or administrative work performed by Mr. Ryan or the Firm after June 8, 2009. Mr. Ryan acknowledges and agrees that he has relinquished his indemnification rights against Burkitt for fees, costs, expenses and any amounts paid by him related to the investigation, disputes, or any related administrative actions set out herein or to consummate this settlement.

12. **Distribution of funds under the control of EPCF:** EPCF agrees that it shall distribute all funds or other assets on hand in either the Canyon Partners Fund No. 682 (with a balance as of July 31, 2009 of \$106.25) or the Ryan, Sanders and Gluth Fund No. 898 (with a balance as of July 31, 2009 of \$1,1501.41) to Temple Mt. Sinai, of El Paso, Texas upon receipt of a written request to do so from Carl E. Ryan. Notwithstanding the above, if Temple Mt. Sinai should fail to accept the transfer of said assets, the assets of the funds shall be distributed to such other charitable institution as shall be agreed upon by Ryan and EPCF. EPCF further agrees to terminate the Cornelius O. Ryan Fund No. 931 (with a balance as of July 31, 2009 of \$2,097.78) and distribute any remaining assets presently on hand in such fund for its general charitable granting purposes. EPCF agrees to amend the Instrument of Transfer creating the Ryan Family Fund No. 828 (with a balance as of July 31, 2009 of \$ 68,060.32) and convert it to a designated fund supporting KTEP's classical music programs. The fund shall be named The Fund for Classical Music Programs at KTEP. EPCF will not advertise, promote or otherwise utilize the name of Cornelius O. Ryan in any of its fundraising or public relations materials in the future. Ryan and the Estate both represent that all distributions or contributions required to be made to the Ryan Family Fund or EPCF pursuant to the last will of Cornelius O. Ryan or the Cornelius O. Ryan Revocable Trust have been made. Both parties agree to take such actions as may be necessary to finalize the transfers described in this Section 12.

13. **Administrative Actions:** EPCF agrees not to object to any dismissal of any administrative matter(s) that may currently be pending involving any or all of the Parties before any governmental or quasi-governmental body or to any other disposition that may result from a hearing on any such administrative matter(s).

14. **No Admission of liability:** It is expressly understood by the Parties that this Agreement constitutes a settlement and compromise of disputed claims, as set forth herein, and shall not constitute or be construed as an admission of liability or fault.

15. **Applicable law:** This MSA shall be construed under the laws of the State of Texas. Should any provision of this MSA be held unenforceable by a court of law, the remaining provisions of this agreement shall remain effective and enforceable.

16. **Entirety of Agreement:** This MSA contains the entire understanding of the Parties with respect to the subject matter described herein and supersedes any and all prior agreements, arrangements and understandings between and among the Parties relating to the

subject matter of this Agreement. The Parties agree that there are no oral agreements, representations or statements regarding the subject matter of this MSA that are enforceable. The Parties further acknowledge that they are not relying upon any promise, representation or statement that has not been set forth in writing in this MSA. This MSA shall not be modified except with a written amendment that has been signed by all Parties.

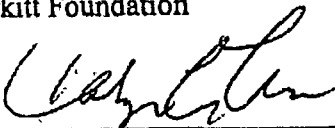
17. **Attorneys' fees:** If a dispute arises with respect to a Party's rights or obligations under this MSA, prior to filing suit the aggrieved Parties shall engage in mediation. Except as provided in the next sentence, if any Party is required to engage an attorney to file suit to enforce its rights under this MSA and prevails, such Party shall be entitled to recover its reasonable attorneys' fees, costs of suit and the reasonable costs of prosecuting the action. If the OAG becomes a party to any suit, its liability for attorneys' fees, if any, shall be determined by the Court.

18. **OAG Reporting Requirements:** Burkitt and EPCF shall each provide to the OAG copies of its 2008, 2009, 2010, and 2011 Annual Audit and IRS Form 990. These documents shall be provided following their review by each respective board of directors. A verification confirming such review shall accompany the documents. EPCF shall immediately provide to the OAG all current policies pertaining to its Supporting Organizations. For three years from the Closing Date, all revisions to such policies shall be provided by EPCF to the OAG upon approval by its Board of Directors or appropriate Committee of the Board of Directors. These documents shall be sent to the attention of: Section Chief, Charitable Trusts Section, Consumer Protection and Public Health Division, Office of the Attorney General, P. O. Box 12548, Austin, Texas 78711-2548.

19. **Counterparts:** This Mediated Settlement Agreement may be executed in multiple counterparts, each of which shall be deemed an original for all purposes and all of which when taken together shall constitute a single counterpart instrument. Executed signature pages to any counterpart instrument may be detached and affixed to a single counterpart, which single counterpart with multiple executed signature pages affixed thereto shall constitute the original counterpart instrument. All of these counterpart pages shall be read as one and shall have the same force and effect as if all of the parties had executed a single signature page. Parties and attorneys who are not physically in El Paso, Texas agree to sign this Mediated Settlement Agreement and send their signature pages by electronic mail or by facsimile to El Paso Community Foundation as follows: jaypatricia@sbcglobal.net or (915) 532-0716. Each party and attorney who sends his/her signature page by electronic mail or by facsimile agrees to send the original signature page to the El Paso Community Foundation, 123 W. Mills, Suite 520, El Paso, Texas 79901.

Dated this 17th day of September 2009.

The Burkitt Foundation

By: 
Name: Carolyn L. Mora
Authorized Director

El Paso Community Foundation

By: _____
Virginia S. Martinez,
President

GREG ABBOTT
Attorney General of Texas

C. ANDREW WEBER
First Assistant Attorney General

DAVID S. MORALES
Deputy Attorney General for Civil Litigation

PAUL D. CARMONA
Consumer Protection and
Public Health Division

MARSHA L. ACOCK
State Bar No. 24006132
Assistant Attorney General
Consumer Protection and Public Health Division
Charitable Trusts Section
(512) 463-1294 - Direct Line
(512) 322-0578 - Fax
ATTORNEYS ON BEHALF OF THE
PUBLIC INTEREST IN CHARITY

SIGNED SUBJECT TO THE APPROVAL OF
THE ATTORNEY GENERAL OR HIS FIRST
ASSISTANT

The Burkitt Foundation

By: _____
Name: Carolyn L. Mora
Authorized Director

El Paso Community Foundation

By: Virginia S. Martinez
Virginia S. Martinez,
President

GREG ABBOTT
Attorney General of Texas

C. ANDREW WEBER
First Assistant Attorney General

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The Burkitt Foundation

By: _____
Name: Carolyn L. Mora
Authorized Director

El Paso Community Foundation

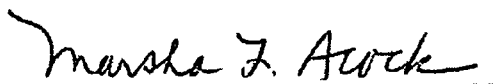
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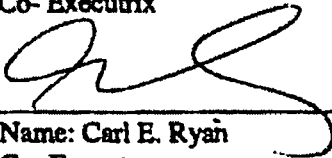
Carl E. Ryan

Ryan, Sanders & Gluth, L.L.P.

By: _____
Name: Alan Gluth
Title: Partner

Estate of C. O. Ryan

By: _____
Name: Mary Louise Ryan Ray
Co- Executrix

By: 

Name: Carl E. Ryan
Co- Executor

Medmarc Casualty Insurance Company

By: _____
Ashley Frizzell
Title: Authorized Agent

Approved:

Francis S. Ainsa, Jr.
Attorney for The Burkitt Foundation

Larry York
Attorney for The Burkitt Foundation

Paul James counsel for and with permission of
Carl E. Ryan

Ryan, Sanders & Gluth, L.L.P.

By: 

Name: Alan Gluth
Title: Partner

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Name: Carl E. Ryan
Co- Executor

Medmarc Casualty Insurance Company

By: _____
Ashley Enzell
Title: Authorized Agent

Approved:

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Attorney for The Burkitt Foundation

Larry York
Attorney for The Burkitt Foundation

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Title: Partner

Estate of C. O. Ryan

By: _____
Name: Mary Louise Ryan Ray
Co- Executrix

By: _____
Name: Carl E. Ryan
Co- Executor

Medmarc Casualty Insurance Company

By: Ashley Frizzell
Ashley Frizzell
Title: Authorized Agent / Counsel

Approved:

Francis S. Ainsa, Jr.
Attorney for The Burkitt Foundation

Larry York
Attorney for The Burkitt Foundation

Carl E. Ryan

Ryan, Sanders & Gluth, L.L.P.

By: _____
Name: Alan Gluth
Title: Partner

Estate of C. O. Ryan

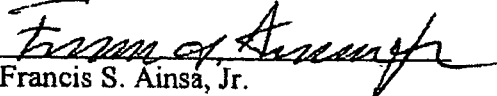
By: _____
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Co- Executrix

By: _____
Name: Carl E. Ryan
Co- Executor

Medmarc Casualty Insurance Company

By: _____
Ashley Frizzell
Title: Authorized Agent

Approved:


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Attorney for The Burkitt Foundation

Larry York
Attorney for The Burkitt Foundation

Carl E. Ryan

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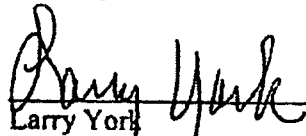
By: _____
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Medmarc Casualty Insurance Company

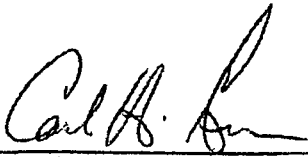
By: _____
Ashley Frizzell
Title: Authorized Agent

Approved:

Francis S. Ainsa, Jr.
Attorney for The Burkitt Foundation

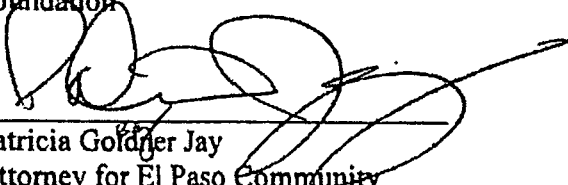


Larry York
Attorney for The Burkitt Foundation



Carl H. Green
Attorney for El Paso Community
Foundation

Broadus Spivey
Attorney for El Paso Community
Foundation



Patricia Goldner Jay
Attorney for El Paso Community
Foundation

Fred O. Haiman
Attorney for Estate of C. O. Ryan



David Jeans
Attorney for Carl E. Ryan

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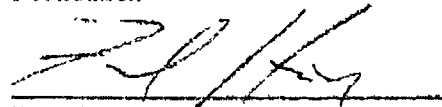
David Jeans
Attorney for Carl E. Ryan

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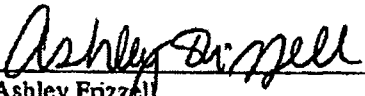

Ashley Frizzle
Attorney for Mednarc Casualty Insurance Company

EXHIBIT C

EL PASO COMMUNITY FOUNDATION
DONOR ADVISED FUND
AMENDED INSTRUMENT OF GIFT

THIS AGREEMENT (the "Agreement") is made and entered into on this 8th day of October, 2009, by and between the Burkitt Foundation ("Burkitt"), and EL PASO COMMUNITY FOUNDATION, a Texas non-profit corporation, having its principal place of business in El Paso County, Texas ("EPCF") and shall be upon the following terms and conditions:

1. **Amount of Gift/Amendment to Initial Instrument of Transfer.** Burkitt has previously assigned, transferred and delivered to EPCF irrevocable gifts from Burkitt pursuant to an Instrument of Transfer dated September 30, 1999 (the 1999 Instrument of Transfer), a copy of which is attached hereto as Exhibit "A". All such gifts previously assigned, transferred and delivered by Burkitt to EPCF have been distributed and there are no remaining assets in the fund established by the 1999 Instrument of Transfer. The parties hereto desire that all future gifts from Burkitt to EPCF, as well as any additions thereto or income earned thereon (sometimes referred to as the "Property") shall be held, administered and distributed as set forth in this Amended Instrument of Gift. As a consequence, the 1999 Instrument of Transfer is hereby amended, terminated and replaced in its entirety by the terms of this Amended Instrument of Gift. The EPCF welcomes additional contributions to the Fund (as hereinafter defined) established by this Amended Instrument of Gift. Burkitt agrees to execute such other documents and to perform such other acts as may be reasonably necessary or desirable to effectuate the transfer contemplated herein. The execution of this Agreement is in connection with that certain Second Amended and Restated Agreement Establishing Supporting Organization Relationship dated October 8, 2009, between Burkitt and EPCF (the "Supporting Organization Agreement"). There are no assets or benefits being transferred or distributed to Burkitt from the Burkitt advised fund previously established by the 1999 Instrument of Transfer.

2. **Name of Fund.** The Property hereby transferred shall be held by the EPCF under the name of **THE BURKITT FOUNDATION PERPETUAL FUND** (the "Fund").

3. **Investment and Management of Gift.** The Property of the Fund shall be held, managed and administered by EPCF, either directly or through the use of agency, custodial, trust or other similar agreements between EPCF and a corporate fiduciary or investment advisor, as EPCF may deem appropriate, from time to time. EPCF shall collect the income and shall pay and disburse the net income and principal therefrom in accordance with the terms of this Agreement and exclusively for general charitable uses and purposes in accordance with the provisions specified in the Articles of Incorporation, the Bylaws of EPCF, the Gift Acceptance Policy and any other policies promulgated in accordance therewith (collectively, "Governing Documents"). (The phrase "charitable uses and purposes" shall be defined as all of those activities, uses and purposes described in Section 501(c)(3) of the Internal Revenue Code of 1986 (the "Code").) The Governing Documents and their provisions, as they may be amended from time to time, are hereby incorporated by reference and conclusively assented to and adopted. The terms of this Agreement shall be interpreted and applied in a manner consistent with the Governing Documents, the Code (and Treasury Regulations promulgated thereunder) and Texas law.

The Property may be commingled with other EPCF assets held by EPCF or may be segregated in a special account, upon the sole discretion of the Board of Directors of EPCF.

EPCF will allocate to the Fund a reasonable share of investment income and appreciation earned by the commingled property, using a reasonable allocation formula or method as EPCF determines. EPCF shall charge the Fund for services and expenses incurred in association with EPCF's management of the Fund at least annually in accordance with EPCF policy as it exists from time to time and in accordance with the Supporting Organization Agreement.

4. **Use of Gift/Restrictions.** The Fund shall be held by and established on the books of EPCF and shall be reinvested or may be distributed to such organizations or individuals, as the Board of Directors of EPCF may deem appropriate, in the exercise of its sole discretion, consistent with the terms of the Supporting Organization Agreement. The principal of the Fund shall continue to be held by EPCF or may be distributed at such times and in such amounts as the Board of Directors of EPCF may deem appropriate, in the exercise of its sole discretion. Notwithstanding the above, EPCF agrees that no principal or income of the Fund shall be used, directly or indirectly, to support the Plaza Theatre in El Paso, Texas or the Plaza Theatre Corporation. Further, in keeping with the overall mission and purpose of Burkitt, as set forth in its Second Restated Articles of Incorporation (with Amendments), EPCF agrees to distribute sixty six and two-thirds percent (66 2/3%) of the Fund to Catholic educational organizations and other Catholic activities in the State of Texas and in the southwestern United States. EPCF agrees to distribute the remaining thirty three and one-third percent (33 1/3%) of the Fund to support organizations for general charitable purposes. Grantees and amounts received by grantees will be published on EPCF's website after its annual audit is completed.

5. **Advised Fund.** Burkitt hereby reserves the right to advise and consult with the directors, officers and agents of EPCF concerning the distribution and recipients of the Fund. It is understood that EPCF will not be bound by such offered advice, but will act independently in furtherance of its exempt status and in accordance with the rules, procedures and policies of EPCF for the establishment and administration of advised funds, as they may be adopted or amended from time to time by the Board of Directors of EPCF. Moreover, EPCF will make all distributions only upon an impartial investigation of the distributees, and only for purposes consistent with the grant making guidelines of EPCF and subject to Section 4 above.

6. **Ultimate Control.** Burkitt understands that the Governing Documents of EPCF and applicable laws require that EPCF have ultimate control over the donated property. Burkitt further understands that if the Board of EPCF, in its sole judgment, determines that the purpose for which the gift is designated or restricted: (i) is no longer possible or practical, (ii) is undesirable in the performance of its public functions, or (iii) that the suggestions and recommendations are not consistent with EPCF's primary purpose to serve effectively the current charitable and educational needs in the state of Texas and the southwestern United States, EPCF may designate an alternate use or uses similar to the original request of Burkitt and that no restrictions or conditions may be imposed upon the administration of this Fund which prevent EPCF from freely and effectively employing the transferred assets or income therefrom in furtherance of its exempt status.

7. **Component Part and Restrictions.** The Fund shall be a component part of EPCF as defined in Section 1.170A-9(f)(11) of the Income Tax Regulations and nothing in this Agreement shall affect the status of EPCF as an organization (i) described in Section 501(c)(3) of the Code and (ii) which is not a private foundation within the meaning of Section 509(a) of the Code. The Fund shall meet the requirements of a "donor advised fund" as defined in Section

4966 of the Code. Among other things, the Fund shall not (i) make distributions to individuals, private non-operating foundations, certain supporting organizations or to any organization for a non-charitable purpose; (ii) maintain excess business holdings as described under Section 4943(e) of the Code; (iii) engage in excess benefit transactions as described under Section 4958 of the Code; or (iv) provide prohibited benefits as described under Section 4967 of the Code. This Agreement shall be interpreted in a manner consistent with the foregoing intention and to conform to the requirements of the foregoing provisions of the Federal tax laws and any regulations issued thereunder.

8. **EPCF's Conditions.** All transfers of property under this Agreement are subject to the condition that the EPCF, as of the date of transfer, is classified in good standing by the Internal Revenue Service as an organization (i) described in Section 501(c)(3) of the Code and (ii) which is not a private foundation as defined in Section 509(a) of the Code.

9. **Perpetuity.** Pursuant to the terms of the Supporting Organization Agreement and except as specifically provided therein, EPCF shall hold this Amended Instrument of Gift in perpetuity.

10. **Texas Law.** To the extent not superseded by federal law, the Fund created by this Agreement shall be administered in and under the laws of the State of Texas, and this Agreement and the validity thereof shall be governed by and construed in accordance with the laws of the State of Texas.

11. **Amendment.** This Amended Instrument of Gift may not be further amended without the affirmative vote of at least seven (7) of the nine (9) Directors of Burkitt.

THIS AGREEMENT IS EXECUTED as of the 8th day of October, 2009.

THE BURKITT FOUNDATION

By: _____

Its: _____

ATTEST:

EL PASO COMMUNITY FOUNDATION

Secretary

By: _____
President

EXHIBIT A

INSTRUMENT OF TRANSFER

THIS AGREEMENT, made and entered into on this 30th day of September, 1999, between THE BURKITT FOUNDATION, a Texas nonprofit corporation having its principal place of business in Harris County, Texas ("Donor"), and EL PASO COMMUNITY FOUNDATION, a Texas nonprofit corporation, having its principal place of business in El Paso County, Texas (the "Foundation"), shall be upon the following terms and conditions:

WITNESSETH:

1. Amount of Gift. The Donor hereby assigns, transfers and delivers to the Foundation initial funding of this permanent fund (the "Fund") in the sum of Ten Thousand dollars (\$10,000) in cash, as an irrevocable gift from Donor. All property and any additions thereto, hereinafter sometimes referred to as the "Property" shall be held, administered and distributed as set forth herein.

2. Investment and Management of Gift. The Property constituting the subject of this gift, together with any additions thereto, shall be held, managed and administered by the Foundation, either directly or through the use of agency, custodial, trust or other similar agreements between the Foundation and a corporate fiduciary or investment advisor, as the Foundation may deem appropriate, from time to time.

3. Segregation of Fund. The Property hereby transferred shall be held by the Foundation under the name of "THE BURKITT FOUNDATION PERPETUAL FUND" and the income and principal of the Fund may be either commingled with other Foundation assets held by the Foundation or may be segregated in a separate account.

4. Use of Gift. The principal of this Fund shall be held and administered as a permanent endowment fund. Both the income and principal of the Fund shall be reinvested or may be distributed to such organizations or individuals as the Board of Directors of the Foundation deems appropriate in the exercise of its discretion. In keeping with the overall mission and purpose of the Donor, as set out in its Amended and Restated Articles of Incorporation, the Board of Directors of the Foundation shall distribute the assets of the Fund primarily to foster and promote the interests of Catholic educational organizations and other Catholic activities in the state of Texas and in the southwestern United States (the "Area").

5. Advised Fund. Those persons who from time to time hold the office of Directors of The Burkitt Foundation shall serve as an advisory committee (the "Committee") to the Foundation. This Committee shall have the right to advise and consult with the directors, officers and agents of the Foundation concerning the distribution of and the recipients of the funds the subject of this gift or hereafter transferred to the Fund. It is understood that the Foundation will not be bound by such offered advice, but will act independently in furtherance of its exempt status

and in accordance with the rules, procedures and policies of the Foundation for the establishment and administration of advised funds (the "Policies"), as they may be adopted or amended from time to time by the Board of Directors of the Foundation. Moreover, the Foundation will make all distributions from the Fund only upon an impartial investigation of the distributee, and only for purposes consistent with the grantmaking guidelines of the Foundation. The advisory relationship between the Donor and the Foundation shall be effective regardless of the size of the Fund from time to time and shall continue in perpetuity, notwithstanding any provisions in the Policies to the contrary, or until such relationship terminates for any reason.

6. Ultimate Control. The Donor understands that the Bylaws of the Foundation and applicable laws require that the Board of Directors of the Foundation have ultimate control over the donated property; that if the Board of Directors of the Foundation determines that the purpose for which the gift is designated or restricted: (i) is no longer possible or practical, (ii) is undesirable in the performance of its public functions, or (iii) that the suggestions and recommendations are not consistent with the Foundation's primary purpose to serve effectively the current charitable and educational needs of the Area, the Foundation may designate an alternate use or uses similar to the original request of the Donor and that no restrictions or conditions may be imposed upon the administration of this Fund which prevent the Foundation from freely and effectively employing the transferred assets or income therefrom in furtherance of its exempt status.

WITNESS THE EXECUTION HEREOF as of the 30th day of September, 1999.

THE BURKETT FOUNDATION

By: [Signature]

Name: C. O. Ryan

Title: PRESIDENT

DONOR

EL PASO COMMUNITY FOUNDATION

By: [Signature]

Name: JANICE W. WINDLE

Title: President

FOUNDATION