

**ORDINANCE NO. 2020-\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS APPROVING THE CHANGE OF BOUNDARIES OF REINVESTMENT ZONE NUMBER ONE, CITY OF NEW BRAUNFELS, TEXAS; AMENDING THE PROJECT PLAN AND REINVESTMENT ZONE FINANCING PLAN; APPROVING AND EXECUTING AN AMENDMENT TO THE TAX INCREMENT PARTICIPATION INTERLOCAL AGREEMENT AND AN AMENDMENT TO THE PHASE II TAX INCREMENT PARTICIPATION INTERLOCAL AGREEMENT; AND OTHER MATTERS IN CONNECTION THEREWITH.**

**WHEREAS**, the City Council (the "Council") of the City of New Braunfels, Texas (the "City") adopted Ordinance No. 2007-45 on May 29, 2007, which designated Reinvestment Zone Number One, City of New Braunfels, Texas (the "Zone") pursuant to Section 311.005(a) of the Tax Increment Finance Act, Texas Tax Code, Chapter 311, as amended (the "Act"); and

**WHEREAS**, the Council adopted Ordinance No. 2007-59 on July 9, 2007, which adopted the Project Plan and Reinvestment Zone Financing Plan for the Zone (the "Project and Financing Plan"); and

**WHEREAS**, the Council adopted Ordinance No. 2010-85 on November 22, 2010, which enlarged the boundaries of the Zone by approximately 18 acres; and

**WHEREAS**, the Council adopted Ordinance No. 2019-10 on January 28, 2019, which enlarged the boundaries of the Zone by approximately 4.5 acres for the purpose of constructing the City's fire station and fire training facility thereon; and

**WHEREAS**, the Council has determined that a certain geographic area outside the Zone consisting of approximately 35.452 acres is more appropriately suited for the location of the City's fire station and fire training facility; and

**WHEREAS**, the City desires to alter the boundaries of the Zone by adding approximately 35.452 acres to the Zone for the location of the City's fire station and fire training facility so that the boundaries of the Zone encompass the area depicted on the attached Exhibit A pursuant to 311.007 of the Act; and

**WHEREAS**, the City desires to amend the Project and Financing Plan to: (i) include approximately 35.452 acres to the Zone for the location of the City's fire station and fire training facility so that the boundaries of the Zone encompass the area depicted on the attached Exhibit A pursuant to Section 311.007 of the Act; and (ii) include the anticipated costs and estimates associated with the relocation of the City's fire station and fire training facility and other related facilities as set forth and further described in the amended Project and Financing Plan (the "Amended Project and Financing Plan") attached as Exhibit B; and

**WHEREAS**, the City entered into a Tax Increment Participation Interlocal Agreement for the Zone with Comal County, Texas (the "County"), the Board of Directors of the Zone (the "Zone Board"), and A-L 95 Creekside Town Center, L.P., a Texas limited partnership (the "Developer") on July 26, 2007 pursuant to Section 311.013 of the Act (as amended, the "Tax Increment Participation Interlocal Agreement") to permit the taxing units within the Zone to pay into the Tax Increment Fund tax increment produced from property located within the entirety of the Zone; and

**WHEREAS**, pursuant to Section 311.013 of the Act, the City desires to approve and execute an amendment to the Tax Increment Participation Interlocal Agreement (the "Tax Increment Participation Interlocal Agreement Amendment") to reflect the change of boundaries of the Zone attached hereto as Exhibit C; and

**WHEREAS**, the City entered into a Phase II Tax Increment Participation Interlocal Agreement with the County, Zone Board, and Developer (the "Phase II Tax Increment Participation Interlocal Agreement") to permit the taxing units within the Zone to pay into the Phase II Tax Increment Fund, to the extent funds are lawfully available and all obligations have been satisfied, tax increment produced from property located within the boundaries of the Phase II Project; and

**WHEREAS**, pursuant to Section 311.013 of the Act, the City desires to approve and execute an amendment to the Phase II Tax Increment Participation Interlocal Agreement (the "Tax Increment Participation Interlocal Agreement Amendment") to reflect the change of boundaries of the Zone attached hereto as Exhibit D; and

**WHEREAS**, on July 28, 2020, the Zone Board adopted the Amended Project and Financing Plan and recommended that the City approve the change of boundaries of the Zone and approve the Amended Project and Financing Plan pursuant to the Resolution attached hereto as Exhibit E; and

**WHEREAS**, pursuant to the Act, the City must amend the Project and Financing Plan by ordinance; and

**WHEREAS**, notice of a public hearing to be held on August 10, 2020, was duly published in the *New Braunfels Herald-Zeitung* in its issue dated August 1, 2020, in compliance with Section 311.003(c) of the Act; and

**WHEREAS**, a public hearing was held on August 10, 2020, at 6:00 p.m. in City Hall, New Braunfels, Texas (the "Hearing") to consider the amendment to the Project and Financing Plan at which time the City provided a reasonable opportunity for protest in accordance with Section 311.003(d) of the Act; and

**WHEREAS**, the Council hereby finds and determines that the adoption of this Ordinance is in the best interests of the citizens of New Braunfels, Texas; and

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

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS:**

**SECTION 1.** The City, after conducting the Hearing and having heard such evidence and testimony, has made the following findings and determinations based upon the testimony presented:

- (a) That the Hearing on the proposed Amended Project and Financing Plan has been properly called, held and conducted and that notices of the Hearing have been published at least seven (7) days before the Hearing in the *New Braunfels Herald-Zeitung*, a newspaper of general circulation in the City.
- (b) That the boundaries of the Zone should be altered to include approximately 35.452 acres to the Zone for the location of the City's fire station and fire training facility pursuant to Section 311.007 of the Act.

**SECTION 2.** The Project and Financing Plan is hereby amended to: (i) include approximately 35.452 acres to the Zone for the location of the City's fire station and fire training facility so that the boundaries of the Zone encompass the area depicted on the attached Exhibit A pursuant to Section 311.007 of the Act; and (ii) include the anticipated costs and estimates associated with the relocation of the City's fire station and fire training facility as set forth and further described in the Amended Project and Financing Plan attached as Exhibit B.

**SECTION 3.** The Council hereby approves the Amended Project and Financing Plan for the Zone, as amended herein.

**SECTION 4.** The execution by the City of the Tax Increment Participation Interlocal Agreement Amendment and the Phase II Tax Increment Participation Interlocal Agreement Amendment is hereby authorized.

**SECTION 5.** The officers of the City are authorized to take any and all action necessary to carry out and consummate the transactions described in or contemplated by the documents approved hereby or otherwise to give effect to the actions authorized hereby and the intent hereof.

**SECTION 6.** The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Ordinance for all purposes and are adopted as a part of the judgment and findings of the Council.

**SECTION 7.** All ordinances and resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters resolved herein.

**SECTION 8.** This Ordinance shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

**SECTION 9.** If any provision of this Ordinance or the application thereof to any circumstance shall be held to be invalid, the remainder of this Ordinance and the application thereof to other circumstances shall nevertheless be valid, as if such invalid provision had never appeared herein, and this governing body hereby declares that this Ordinance would have been enacted without such invalid provision.

**SECTION 10.** It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given, all as required by Chapter 551, as amended, Texas Government Code.

**SECTION 11.** This Ordinance shall be in force and effect from and after its final passage and it is so ordained.

*[The remainder of this page intentionally left blank.]*

FIRST READING on the 10th day of August, 2020.

SECOND AND FINAL READING, PASSED, AND ADOPTED on the 24th day of August, 2020.

CITY OF NEW BRAUNFELS

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Mayor

ATTEST:

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City Secretary  
(City Seal)

APPROVED AS TO LEGALITY:

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City Attorney

**EXHIBIT A**

[Map and Boundaries of Reinvestment Zone No. 1]



**EXHIBIT B**

[Amended Project and Financing Plan]

**Amended Project Plan & Reinvestment Zone Financing Plan  
Tax Increment Reinvestment Zone No.1  
City of New Braunfels, Texas**

**Amended Project Plan and Reinvestment Zone  
Financing Plan**

1. Summary of Amendment

2. Exhibits

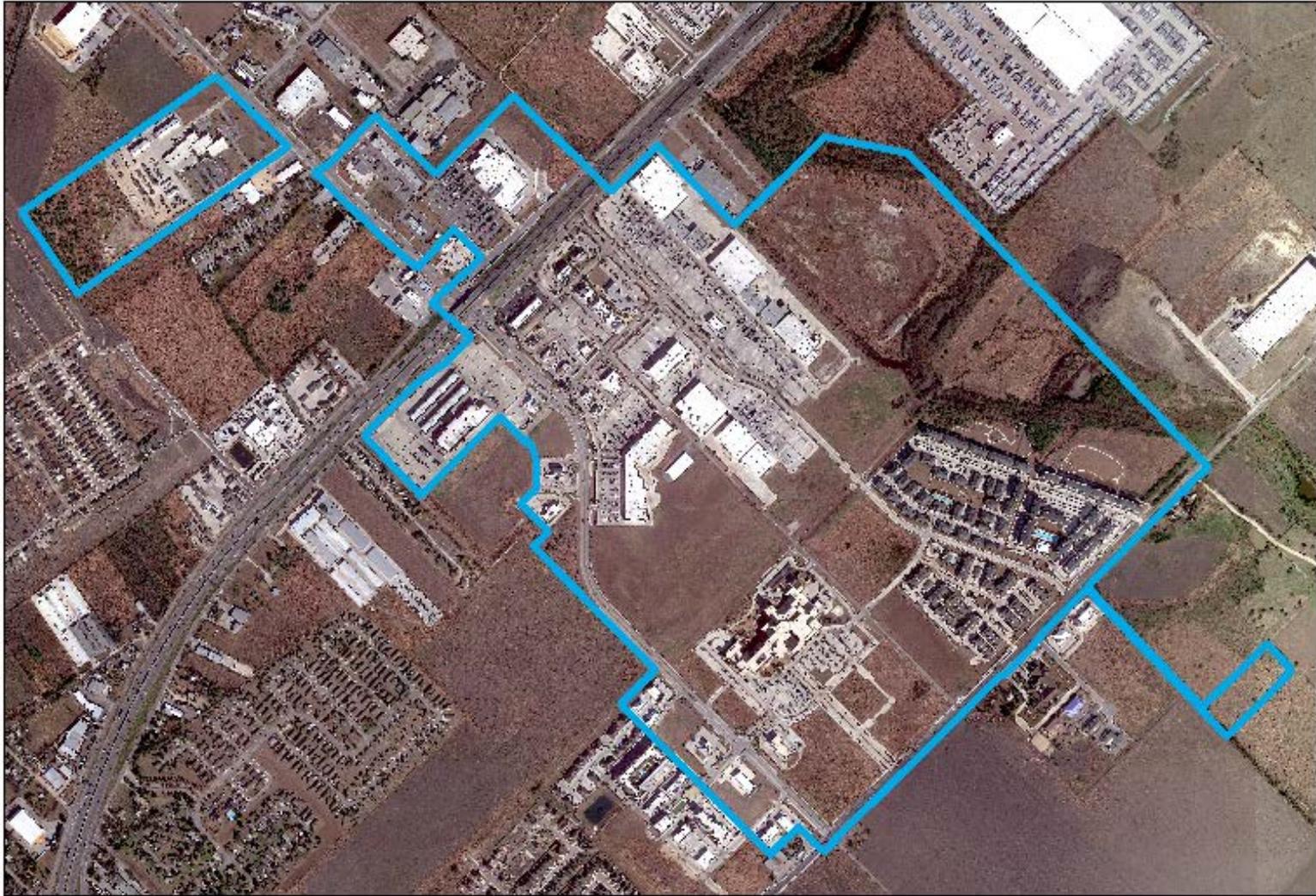
### **Summary of Amendment**

Pursuant to Section 311.011(e), Texas Tax Code, an Amended Project Plan and Reinvestment Zone Financing Plan (the "Amended Project and Financing Plan") was adopted by the City of New Braunfels, Texas (the "City") on August 24, 2020 to add approximately 35.452 acres of land to the Tax Increment Reinvestment Zone No. 1, City of New Braunfels, Texas (the "TIRZ") for the new location of the City's fire station and fire training facility. The total TIRZ acreage after the described change in boundaries will be approximately 545 acres. The boundaries of the TIRZ now encompass the area depicted on the attached **Exhibit A**. The Amended Project and Financing Plan includes the anticipated projects and estimated costs associated with the change in boundaries of the TIRZ and the relocation of the site for the City's fire station and fire training facility and all facilities related thereto including, but not limited to, the design and construction of drainage systems necessary to support the City's fire station and fire training facility and surrounding area, attached hereto as **Exhibit B**, such costs expected to be approximately \$13,000,000.

In connection with the addition of land and the anticipated projects and costs associated therewith, the exhibits attached hereto shall be incorporated into the Amended Project and Financing Plan. Except as amended by the revised exhibits attached hereto, the Project Plan and Reinvestment Zone Financing Plan for the TIRZ remains unchanged and in full force and effect.

**EXHIBIT A**

[Amendment to Map and Boundaries of Reinvestment Zone No. 1]



Document Path:  
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**TIRZ**

Source: City of New Braunfels GIS  
Date: 1/24/2020



**DISCLAIMER:** The map and information contained herein are provided exclusively for use by the City of New Braunfels. Any use or reliance on this map by anyone other than the City of New Braunfels is at their own risk and is not the responsibility of the City of New Braunfels, its officials or employees or any subcontractors, agents, or licensees of the City.

**EXHIBIT B**

[Anticipated Project Improvements and Project Costs Related to the City's Fire Station and Fire Training Facility]

<b><u>Type of Project</u></b>	<b><u>Cost Estimate</u></b>
Fire Station Design and Construction	\$7,900,000
Fire Training Facility Design and Construction	\$5,000,000
Overall Site and Drainage Master Plan	\$100,000

[Amendment to Table 1 – Proposed Distribution of Public Improvement Costs (City Improvements)]

**EXHIBIT C**

[Tax Increment Participation Interlocal Agreement Amendment]

**AMENDMENT TO TAX INCREMENT PARTICIPATION INTERLOCAL  
AGREEMENT FOR REINVESTMENT ZONE NUMBER ONE**

This amendment (the "Amendment") is made to be effective as of the [\_\_] day of [\_\_\_\_], 2020 by and between the City of New Braunfels, Texas (the "City"), a municipal corporation and home-rule city of the State of Texas principally situated in the County of Comal, acting by and through its City Manager pursuant to Ordinance No. 2020-[\_\_], passed and approved by the City Council on [\_\_\_\_], 2020; Comal County (the "County"), a political subdivision of the State of Texas, acting by and through its County Judge pursuant to authority granted by the Comal County Commissioners Court on [\_\_\_\_], 2020; and the Board of Directors for Reinvestment Zone Number One (1), City of New Braunfels, Texas (the "Zone Board"), a Reinvestment Zone created by the City pursuant to Chapter 311 of the Texas Tax Code; and A-L 95 Creekside Town Center, L.P., a Texas Limited Partnership (the "Developer"), acting through the manager of its general partner A-L 95, L.C., a Texas Limited Liability Company. The City, County, Zone Board, and Developer may be referred to herein singularly as a "Party" or collectively as the "Parties."

**RECITALS**

**WHEREAS**, on July 26, 2007, the Parties entered into a Tax Increment Participation Interlocal Agreement for Reinvestment Zone Number One (the "Agreement") providing for payments into the Tax Increment Fund of Tax Increments produced from property located in Reinvestment Zone Number One pursuant to Chapter 311 of the Texas Tax Code; and

**WHEREAS**, the Council adopted Ordinance No. 2010-85 on November 22, 2010, which enlarged the boundaries of the Zone by approximately 18 acres; and

**WHEREAS**, the City has agreed to alter the boundaries of the Zone by adding approximately 35.452 acres to the Zone for the location of the City's fire station and fire training facility so that the boundaries of the Zone encompass the area depicted on the attached Exhibit "A" pursuant to 311.007 of the Texas Tax Code; and

**WHEREAS**, the Agreement should be amended to reflect the increase of the geographic boundaries of the Zone; and

**NOW, THEREFORE**, in consideration of the foregoing, and for other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

**SECTION 1. AMENDMENTS.**

1.1.The following Definitions in Article II are amended as stated herein:

"Project Plan" means the Project Plan and Reinvestment Zone Financing Plan for the Reinvestment Zone initially approved by the City Council of the City on May 29, 2007, and as amended by the City Council of the City on November 22, 2010, January 28, 2019, and [\_\_\_\_], 2020 to reflect

the change of boundaries of the Zone and to include the anticipated projects and estimated costs associated therewith, attached and incorporated into this agreement for all purposes as Exhibit "B."

"Reinvestment Zone" means Reinvestment Zone Number One, City of New Braunfels, Texas created by the City on May 14, 2007, by Ordinance No. 2007-45, and as later amended by (i) Ordinance No. 2010-85; (ii) Ordinance No. 2019-10; and (iii) Ordinance No. 2020-[\_] to reflect the change of boundaries of the Zone, attached and incorporated into this Agreement for all purposes as Exhibit "A."

1.2 The Agreement is amended by adding the attached Exhibit "A" to the Agreement as depicted in Exhibit "A" herein.

1.3 Article IV, Section C is amended as follows:

The obligation of the County to participate in the Reinvestment Zone is limited to the area described in the Creation Ordinance and as later amended by Ordinance No. 2010-85, Ordinance No. 2019-10, and Ordinance No. 2020-[\_] to reflect the change of boundaries of the Zone, attached hereto as Exhibit "A." The County's participation shall not extend to the Tax Increment on any additional property added to the Reinvestment Zone by the City unless the County approves the participation in writing.

**SECTION 2. COUNTERPARTS.** This Amendment may be executed in any number of counterparts, each of such counterparts shall for all purposes be deemed to be an original, and all such counterparts shall together constitute one and the same instrument.

**SECTION 3. CAPTIONS.** The section headings appearing in this Amendment are for convenience of reference only and are not intended, to any extent and for any purpose, to limit or define the text of any section or any subsection hereof.

**SECTION 4. INCORPORATION OF PREAMBLE RECITALS.** The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Amendment for all purposes and are adopted as a part of the judgment and findings of the Commissioners Court, the City Council and the Board of Directors of the Zone Board.

**SECTION 5. INCONSISTENT PROVISIONS.** The Agreement is amended only to the extent of the changes herein. All ordinances and resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Amendment are hereby repealed to the extent of such conflict, and the provisions of this Amendment shall be and remain controlling as to the matters provided herein.

**SECTION 6. GOVERNING LAW.** This Amendment shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

**SECTION 7. SEVERABILITY.** In the event any term, covenant or condition herein contained shall be held to be invalid by any court of competent jurisdiction, such invalidity shall not affect any other term, covenant or condition herein contained, provided that such invalidity

does not materially prejudice the Parties in their respective rights and obligations contained in the valid terms, covenants or conditions hereof.

**SECTION 8. CONSTRUCTION.** Unless the context requires otherwise, words of the masculine gender shall be construed to include correlative words of the feminine and neuter genders and vice versa, and words of the singular number shall be construed to include correlative words of the plural number and vice versa. This Amendment and all the terms and provisions hereof shall be construed to effectuate the purposes set forth herein and to sustain the validity of this Amendment.

**SECTION 9. COMPLIANCE WITH TEXAS OPEN MEETINGS ACT.** It is officially found, determined, and declared that the meeting of each of the City, the County and the Zone Board at which this Amendment is adopted was open to the public and public notice of the time, place and subject matter of the public business was considered at such meeting, including this Amendment, was given, all as required by Chapter 551, as amended, Texas Government Code.

**SECTION 10. TEXAS ETHICS COMMISSION FORM 1295.** Unless otherwise exempt, the Developer has delivered to the City, County and Zone Board a Certificate of Interested Parties Form 1295 ("Form 1295") and certification of filing generated by the Texas Ethics Commission's (the "TEC") electronic portal, signed by an authorized agent of each respective entity prior to the execution of this Amendment by the Parties. The Parties understand and agree that, with the exception of information identifying the City, County and Zone Board, and the contract identification number in each Form 1295, with respect to an exemption from the filing requirement of a Form 1295, the Developer is solely responsible for its claim of exemption, and neither the City, County nor Zone Board, nor its consultants, are responsible for a determination made by the Developer that the Developer is exempt from filing a Form 1295, or for the information contained in any Form 1295 and neither the City, County nor Zone Board, nor its consultants, have verified such information.

**SECTION 11. VERIFICATION PURSUANT TO CHAPTER 2271 OF THE TEXAS GOVERNMENT CODE.** The Developer represents and warrants, for purposes of Chapter 2271 of the Texas Government Code, that at the time of execution and delivery of this Amendment, neither the Developer, nor any parent company, wholly- or majority-owned subsidiaries or affiliates of the same, if any, boycotts Israel or will boycott Israel. The foregoing verification is made solely to comply with Section 2271.002, Texas Government Code, and to the extent such Section does not contravene applicable Federal law. As used in the foregoing verification, "boycotts Israel" and "boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes. The Developer understands "affiliate" to mean an entity that controls, is controlled by, or is under common control with the Developer and exists to make a profit.

**SECTION 12. VERIFICATION PURSUANT TO CHAPTER 2252 OF THE TEXAS GOVERNMENT CODE.** The Developer represents that, neither the Developer, nor any parent company, wholly- or majority-owned subsidiaries or affiliates of the same, if any, are companies identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 2252.153 or Section 2270.0201, Texas Government Code, and posted on any of the following pages of such officer's internet website: <https://comptroller.texas.gov/purchasing/docs/sudanlist.pdf>; <https://comptroller.texas.gov/purchasing/docs/iran-list.pdf>, or <https://comptroller.texas.gov/purchasing/docs/ftolist.pdf>. The foregoing representation is made solely to comply with Section 2252.152, Texas Government Code, and to the extent such Section does not contravene applicable Federal law and excludes the Developer and each parent company, wholly- or majority-owned subsidiaries, and other affiliates of the same, if any, that the United States government has affirmatively declared to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization. The Developer understands "affiliate" to mean any entity that controls, is controlled by, or is under common control with the Developer and exists to make a profit.

[Signature of Parties on Next Page]

**IN WITNESS HEREOF**, the City, the County, the Zone Board and the Developer have made and executed this Agreement, as of \_\_\_\_\_, 2020.

CITY OF NEW BRAUNFELS, TEXAS,

a home rule municipality

\_\_\_\_\_  
City Mayor

\_\_\_\_\_  
Date

ATTEST:

\_\_\_\_\_  
City Secretary

(Seal of City)

REINVESTMENT ZONE NUMBER ONE,  
CITY OF NEW BRAUNFELS, TEXAS,

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Chairperson, Board of Directors      Date

ATTEST:

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Secretary, Board of Directors

(Seal of City)

COMAL COUNTY

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: County Judge

APPROVED AS TO FORM:

\_\_\_\_\_  
District Attorney

DEVELOPER:

A-L 95 Creekside Town Center, L.P.,  
A Texas limited partnership

By: A-L 95, L.C., a Texas limited liability Company,  
General Partner

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT A**

[Map and Boundaries of Reinvestment Zone No. 1]

**EXHIBIT B**

[Amended Project and Financing Plan]

**EXHIBIT D**

[Phase II Tax Increment Participation Interlocal Agreement Amendment]

**AMENDMENT TO PHASE II TAX INCREMENT PARTICIPATION INTERLOCAL  
AGREEMENT FOR REINVESTMENT ZONE NUMBER ONE**

This amendment (the "Amendment") is made to be effective as of the [\_\_] day of [\_\_\_\_], 2020 by and between the City of New Braunfels, Texas (the "City"), a municipal corporation and home-rule city of the State of Texas principally situated in the County of Comal, acting by and through its City Manager pursuant to Ordinance No. 2020-[\_\_], passed and approved by the City Council on [\_\_\_\_], 2020; Comal County (the "County"), a political subdivision of the State of Texas, acting by and through its County Judge pursuant to authority granted by the Comal County Commissioners Court on [\_\_\_\_], 2020; and the Board of Directors for Reinvestment Zone Number One (1), City of New Braunfels, Texas (the "Zone Board"), a Reinvestment Zone created by the City pursuant to Chapter 311 of the Texas Tax Code; and A-L 95 Creekside Town Center, L.P., a Texas Limited Partnership (the "Developer"), acting through the manager of its general partner A-L 95, L.C., a Texas Limited Liability Company. The City, County, Zone Board, and Developer may be referred to herein singularly as a "Party" or collectively as the "Parties."

**RECITALS**

**WHEREAS**, on July 26, 2007, the Parties entered into a Tax Increment Participation Interlocal Agreement for Reinvestment Zone Number One (the "Phase I Agreement") providing for payments into the Tax Increment Fund of Tax Increments produced from property located in Reinvestment Zone Number One (the "Zone") pursuant to Chapter 311 of the Texas Tax Code; and

**WHEREAS**, the Developer completed the Project and Project Improvements as defined in the Phase I Agreement and was reimbursed the full Reimbursement Amount, set forth in the Phase I Agreement, from Zone revenues in accordance with the terms of the Phase I Agreement; and

**WHEREAS**, the Developer will construct an additional mixed use phase totaling up to 500,000 square feet with an estimated construction cost of approximately \$3,005,830 within the existing Zone (the "Phase II Project"); and

**WHEREAS**, the Parties entered into a Phase II Tax Increment Participation Interlocal Agreement for Reinvestment Zone Number One (the "Phase II Agreement") to supplement the Phase I Agreement and establish the Phase II Tax Increment and Phase II Tax Increment Fund and reflect the increase of the geographic boundaries of the Zone, all as set forth in the Phase II Agreement; and

**WHEREAS**, the City has agreed to alter the boundaries of the Zone by adding approximately 35.452 acres to the Zone for the location of the City's fire station and fire training facility so that the boundaries of the Zone encompass the area depicted on the attached Exhibit "A" pursuant to 311.007 of the Texas Tax Code; and

**WHEREAS**, the Phase II Agreement should be amended to reflect the increase of the geographic boundaries of the Zone; and

**NOW, THEREFORE**, in consideration of the foregoing, and for other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

**SECTION 1. AMENDMENTS.**

1.1. The following Definitions in Article II are amended as stated herein:

"Project Plan" means the Project Plan and Reinvestment Zone Financing Plan for the Reinvestment Zone initially approved by the City Council of the City on May 29, 2007, and as amended by the City Council of the City on November 22, 2010, January 28, 2019, and [\_\_\_\_\_], 2020 to reflect the change of boundaries of the Zone and to include the anticipated projects and estimated costs associated therewith, attached and incorporated into this agreement for all purposes as Exhibit "B."

"Reinvestment Zone" means Reinvestment Zone Number One, City of New Braunfels, Texas created by the City on May 14, 2007, by Ordinance No. 2007-45, and as later amended by (i) Ordinance No. 2010-85; (ii) Ordinance No. 2019-10; and (iii) Ordinance No. 2020-[\_\_] to reflect the change of boundaries of the Zone, attached and incorporated into this Agreement for all purposes as Exhibit "A."

1.2 The Phase II Agreement is amended by adding the attached Exhibit "A" to the Phase II Agreement as depicted in Exhibit "A" herein.

**SECTION 2. PHASE II TAX INCREMENT.** This Amendment does not modify the Developer's entitlement to reimbursement of the Phase II Project Costs from the Phase II Tax Increment collected in the Phase II Tax Increment Fund to the extent such funds are lawfully available, all as set forth and further described in the Phase II Agreement.

**SECTION 3. COUNTERPARTS.** This Amendment may be executed in any number of counterparts, each of such counterparts shall for all purposes be deemed to be an original, and all such counterparts shall together constitute one and the same instrument.

**SECTION 4. CAPTIONS.** The section headings appearing in this Amendment are for convenience of reference only and are not intended, to any extent and for any purpose, to limit or define the text of any section or any subsection hereof.

**SECTION 5. INCORPORATION OF PREAMBLE RECITALS.** The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Amendment for all purposes and are adopted as a part of the judgment and findings of the Commissioners Court, the City Council and the Board of Directors of the Zone Board.

**SECTION 6. INCONSISTENT PROVISIONS.** The Agreement is amended only to the extent of the changes herein. All ordinances and resolutions, or parts thereof, which are in conflict

or inconsistent with any provision of this Amendment are hereby repealed to the extent of such conflict, and the provisions of this Amendment shall be and remain controlling as to the matters provided herein.

**SECTION 7. GOVERNING LAW.** This Amendment shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

**SECTION 8. SEVERABILITY.** In the event any term, covenant or condition herein contained shall be held to be invalid by any court of competent jurisdiction, such invalidity shall not affect any other term, covenant or condition herein contained, provided that such invalidity does not materially prejudice the Parties in their respective rights and obligations contained in the valid terms, covenants or conditions hereof.

**SECTION 9. CONSTRUCTION.** Unless the context requires otherwise, words of the masculine gender shall be construed to include correlative words of the feminine and neuter genders and vice versa, and words of the singular number shall be construed to include correlative words of the plural number and vice versa. This Amendment and all the terms and provisions hereof shall be construed to effectuate the purposes set forth herein and to sustain the validity of this Amendment.

**SECTION 10. COMPLIANCE WITH TEXAS OPEN MEETINGS ACT.** It is officially found, determined, and declared that the meeting of each of the City, the County and the Zone Board at which this Amendment is adopted was open to the public and public notice of the time, place and subject matter of the public business was considered at such meeting, including this Amendment, was given, all as required by Chapter 551, as amended, Texas Government Code.

**SECTION 11. TEXAS ETHICS COMMISSION FORM 1295.** Unless otherwise exempt, the Developer has delivered to the City, County and Zone Board a Certificate of Interested Parties Form 1295 ("Form 1295") and certification of filing generated by the Texas Ethics Commission's (the "TEC") electronic portal, signed by an authorized agent of each respective entity prior to the execution of this Amendment by the Parties. The Parties understand and agree that, with the exception of information identifying the City, County and Zone Board, and the contract identification number in each Form 1295, with respect to an exemption from the filing requirement of a Form 1295, the Developer is solely responsible for its claim of exemption, and neither the City, County nor Zone Board, nor its consultants, are responsible for a determination made by the Developer that the Developer is exempt from filing a Form 1295, or for the information contained in any Form 1295 and neither the City, County nor Zone Board, nor its consultants, have verified such information.

**SECTION 12. VERIFICATION PURSUANT TO CHAPTER 2271 OF THE TEXAS GOVERNMENT CODE.** The Developer represents and warrants, for purposes of Chapter 2271 of the Texas Government Code, that at the time of execution and delivery of this Amendment, neither the Developer, nor any parent company, wholly- or majority-owned subsidiaries or affiliates of the same, if any, boycotts Israel or will boycott Israel. The foregoing verification is made solely to comply with Section 2271.002, Texas Government Code, and to the extent such Section does not contravene applicable Federal law. As used in the foregoing verification,

"boycotts Israel" and "boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes. The Developer understands "affiliate" to mean an entity that controls, is controlled by, or is under common control with the Developer and exists to make a profit.

**SECTION 13. VERIFICATION PURSUANT TO CHAPTER 2252 OF THE TEXAS GOVERNMENT CODE.** The Developer represents that, neither the Developer, nor any parent company, wholly- or majority-owned subsidiaries or affiliates of the same, if any, are companies identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 2252.153 or Section 2270.0201, Texas Government Code, and posted on any of the following pages of such officer's internet website: <https://comptroller.texas.gov/purchasing/docs/sudanlist.pdf>; <https://comptroller.texas.gov/purchasing/docs/iran-list.pdf>, or <https://comptroller.texas.gov/purchasing/docs/ftolist.pdf>. The foregoing representation is made solely to comply with Section 2252.152, Texas Government Code, and to the extent such Section does not contravene applicable Federal law and excludes the Developer and each parent company, wholly- or majority-owned subsidiaries, and other affiliates of the same, if any, that the United States government has affirmatively declared to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization. The Developer understands "affiliate" to mean any entity that controls, is controlled by, or is under common control with the Developer and exists to make a profit.

[Signature of Parties on Next Page]

**IN WITNESS HEREOF**, the City, the County, the Zone Board and the Developer have made and executed this Agreement, as of \_\_\_\_\_, 2020.

CITY OF NEW BRAUNFELS, TEXAS,

a home rule municipality

\_\_\_\_\_  
City Mayor

\_\_\_\_\_  
Date

ATTEST:

\_\_\_\_\_  
City Secretary

(Seal of City)

REINVESTMENT ZONE NUMBER ONE,  
CITY OF NEW BRAUNFELS, TEXAS,

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Chairperson, Board of Directors      Date

ATTEST:

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Secretary, Board of Directors

(Seal of City)

COMAL COUNTY

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: County Judge

APPROVED AS TO FORM:

\_\_\_\_\_  
District Attorney

DEVELOPER:

A-L 95 Creekside Town Center, L.P.,  
A Texas limited partnership

By: A-L 95, L.C., a Texas limited liability Company,  
General Partner

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT A**

[Map and Boundaries of Reinvestment Zone No. 1]

**EXHIBIT B**

[Amended Project and Financing Plan]

**EXHIBIT E**

[Resolution of the Board of Directors of Reinvestment Zone No. 1  
Adopting Amended Project and Financing Plan]

**REINVESTMENT ZONE NUMBER ONE RESOLUTION 2020-R1**

**ADOPTING AMENDED PROJECT PLAN AND REINVESTMENT ZONE FINANCING PLAN FOR REINVESETMENT ZONE NUMBER ONE, CITY OF NEW BRAUNFELS, TEXAS; APPROVING AND EXECUTING AN AMENDMENT TO THE TAX INCREMENT PARTICIPATION INTERLOCAL AGREEMENT AND AN AMENDMENT TO THE PHASE II TAX INCREMENT PARTICIPATION INTERLOCAL AGREEMENT; RECOMMENDING THAT THE CITY OF NEW BRAUNFELS, TEXAS APPROVE THE CHANGE OF BOUNDARIES OF THE ZONE AND APPROVE THE AMENDED PROJECT PLAN AND REINVESTMENT ZONE FINANCING PLAN; RECOMMENDING THAT THE CITY OF NEW BRAUNFELS, TEXAS APPROVE AN AMENDMENT TO THE TAX INCREMENT PARTICIPATION INTERLOCAL AGREEMENT AND AN AMENDMENT TO THE PHASE II TAX INCREMENT PARTICIPATION INTERLOCAL AGREEMENT; AND OTHER MATTERS IN CONNECTION THEREWITH.**

**WHEREAS**, the City Council (the "Council") of the City of New Braunfels, Texas (the "City") adopted Ordinance No. 2007-45 on May 29, 2007, which designated Reinvestment Zone Number One, City of New Braunfels, Texas (the "Zone") pursuant to Section 311.005(a) of the Tax Increment Finance Act, Texas Tax Code, Chapter 311, as amended (the "Act"); and

**WHEREAS**, the Board of Directors of the Zone (the "Zone Board") prepared and adopted a Project Plan and Reinvestment Zone Financing Plan (the "Project and Financing Plan") for the Zone in Reinvestment Zone Number One Resolution 2007-R01 pursuant to Section 311.011 of the Act; and

**WHEREAS**, the Council adopted Ordinance No. 2007-59 on July 9, 2007, which gave effect to the Project and Financing Plan pursuant to Section 311.011(d) of the Act; and

**WHEREAS**, the Council adopted Ordinance No. 2010-85 on November 22, 2010, which enlarged the boundaries of the Zone by approximately 18 acres; and

**WHEREAS**, the Council adopted Ordinance No. 2019-10 on January 28, 2019, which enlarged the boundaries of the Zone by approximately 4.5 acres for the purpose of constructing the City's fire station and fire training facility thereon; and

**WHEREAS**, the Council has determined that a certain geographic area outside the Zone consisting of approximately 35.452 acres is more appropriately suited for the location of the City's fire station and fire training facility; and

**WHEREAS**, the Zone Board desires to alter the boundaries of the Zone by adding approximately 35.452 acres to the Zone for the location of the City's fire station and fire training facility so that the boundaries of the Zone encompass the area depicted on the attached Exhibit A pursuant to 311.007 of the Act; and

**WHEREAS**, pursuant to Section 311.011(e) of the Act, the Zone Board at any time may adopt an amendment to the Project and Financing Plan consistent with the requirements and limitations of the Act, which shall take effect upon approval by the Council in accordance with Section 311.011(e) of the Act; and

**WHEREAS**, the Zone Board desires to amend the Project and Financing Plan to: (i) include approximately 35.452 acres to the Zone for the location of the City's fire station and fire training facility so that the boundaries of the Zone encompass the area depicted on the attached Exhibit A pursuant to Section 311.007 of the Act; and (ii) include the anticipated projects and cost estimates associated with the relocation of the site for the City's fire station and fire training facility and all related facilities as set forth and further described in the amended Project and Financing Plan (the "Amended Project and Financing Plan") attached as Exhibit B; and

**WHEREAS**, the Zone Board entered into a Tax Increment Participation Interlocal Agreement for the Zone with the City, A-L 95 Creekside Town Center, L.P., a Texas limited partnership (the "Developer"), and Comal County, Texas (the "County"), on July 26, 2007 pursuant to Section 311.013 of the Act (as amended, the "Tax Increment Participation Interlocal Agreement") to permit the taxing units within the Zone to pay into the Tax Increment Fund tax increment produced from property located within the entirety of the Zone; and

**WHEREAS**, pursuant to Section 311.013 of the Act, the Zone Board desires to approve and execute an amendment to the Tax Increment Participation Interlocal Agreement (the "Tax Increment Participation Interlocal Agreement Amendment") to reflect the alteration of the geographic boundaries of the Zone attached hereto as Exhibit C; and

**WHEREAS**, the Zone Board executed a Phase II Tax Increment Participation Interlocal Agreement with the City, Developer, and County (the "Phase II Tax Increment Participation Interlocal Agreement") to permit the taxing units within the Zone to pay into the Phase II Tax Increment Fund, to the extent funds are lawfully available and all obligations have been satisfied, tax increment produced from property located within the boundaries of the Phase II Project; and

**WHEREAS**, pursuant to Section 311.013 of the Act, the Zone Board desires to approve and execute an amendment to the Phase II Tax Increment Participation Interlocal Agreement (the "Tax Increment Participation Interlocal Agreement Amendment") to reflect the alteration of the geographic boundaries of the Zone attached hereto as Exhibit D; and

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF REINVESTMENT ZONE NUMBER ONE, CITY OF NEW BRAUNFELS, TEXAS:**

**SECTION 1. ADOPTING THE AMENDED PROJECT AND FINANCING PLAN.** The Zone Board hereby adopts the Amended Project and Financing Plan for the Zone with modifications to conform to the final business terms as agreed to by the City Manager and directs its submission to the Council for approval.

**SECTION 2. AUTHORIZING THE EXECUTION OF THE TAX INCREMENT PARTICIPATION INTERLOCAL AGREEMENT AMENDMENT.** The Zone Board hereby authorizes the execution of the Tax Increment Participation Interlocal Agreement Amendment with modifications to conform to the final business terms as agreed to by the City Manager.

**SECTION 3. AUTHORIZING THE EXECUTION OF THE PHASE II TAX INCREMENT PARTICIPATION INTERLOCAL AGREEMENT AMENDMENT.** The Zone Board hereby authorizes the execution of the Phase II Tax Increment Participation Interlocal Agreement Amendment with modifications to conform to the final business terms as agreed to by the City Manager.

**SECTION 4. RECOMMENDING THE CITY APPROVE THE CHANGE OF BOUNDARIES OF THE ZONE AND APPROVE THE AMENDED PROJECT AND FINANCING PLAN.** The Zone Board recommends that the City: (i) approve the change of boundaries of the Zone by adding approximately 35.452 acres to the Zone for the location of the City's fire station and fire training facility so that the boundaries of the Zone encompass the area depicted on the attached Exhibit A pursuant to 311.007 of the Act; and (ii) approve the Amended Project and Financing Plan reflecting the change of boundaries of the Zone and the anticipated projects and cost estimates associated with the relocation of the site for the City's fire station and fire training facility and all related facilities.

**SECTION 5. RECOMMENDING THE CITY APPROVE THE TAX INCREMENT PARTICIPATION INTERLOCAL AGREEMENT AMENDMENT AND THE PHASE II TAX INCREMENT PARTICIPATION INTERLOCAL AGREEMENT AMENDMENT.** The Zone Board recommends that the City approve the Tax Increment Participation Interlocal Agreement Amendment and the Phase II Tax Increment Participation Interlocal Agreement Amendment in accordance with Section 311.011(e) of the Act, each as may be modified to conform to the final business terms as agreed to by the City Manager.

**SECTION 6. FURTHER PROCEEDINGS.** The Zone Board is authorized to take any and all action necessary to carry out and consummate the transactions described in or contemplated by the documents approved hereby or otherwise to give effect to the actions authorized hereby and the intent hereof including revising any necessary documents to conform to the terms hereof or State law.

**SECTION 7. INCORPORATION OF RECITALS.** The Zone Board hereby finds that the statements set forth in the recitals of this Resolution are true and correct, and the Zone Board hereby incorporates such recitals as part of this Resolution.

**SECTION 8. SEVERABILITY.** If any provision of this Resolution or the application thereof to any circumstance shall be held to be invalid, the remainder of this Resolution and the application thereof to other circumstances shall nevertheless be valid, as if such invalid provision had never appeared herein, and the Zone Board hereby declares that this Resolution would have been enacted without such invalid provision.

*[The remainder of this page intentionally left blank.]*

PASSED AND APPROVED THIS 28TH DAY OF JULY, 2020.

By: \_\_\_\_\_  
Chairperson, Board of Directors

**EXHIBIT A**

[Map and Boundaries of Reinvestment Zone No. 1]

**EXHIBIT B**

[Amended Project and Financing Plan]

**EXHIBIT C**

[Tax Increment Participation Interlocal Agreement Amendment]

**EXHIBIT D**

[Phase II Tax Increment Participation Interlocal Agreement Amendment]