

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION RELATING TO ESTABLISHING THE CITY'S INTENTION TO REIMBURSE ITSELF FOR THE PRIOR LAWFUL EXPENDITURE OF FUNDS RELATING TO CONSTRUCTING VARIOUS CITY IMPROVEMENTS FROM THE PROCEEDS OF TAX-EXEMPT OBLIGATIONS TO BE ISSUED BY THE CITY FOR AUTHORIZED PURPOSES; AUTHORIZING OTHER MATTERS INCIDENT AND RELATED THERETO; AND PROVIDING AN EFFECTIVE DATE**

WHEREAS, the City Council (the "Governing Body") of the City of New Braunfels, Texas (the "Issuer") has entered into or will enter into various contracts pertaining to the expenditure of lawfully available funds of the Issuer to finance (i) the costs associated with City parks and other recreation facilities projects approved at a bond election held in the Issuer on May 11, 2013 (the "Recreation Facilities Construction Costs"), (ii) the costs associated with City road and drainage projects approved a bond election held in the Issuer on May 11, 2013 (the "Road Construction Costs" and together with the Recreation Facilities Construction Costs, the "Construction Costs"); (iii) the payment of various engineering costs, including design testing, design engineering, and construction inspection related to the Construction Costs (the "Engineering Cost"), (iv) the payment of various architectural costs, including preparation of plans and specifications and various other plans and drawings related to the Construction Costs (the "Architectural Costs"), and (v) the payment of various administrative costs, including the fees of bond counsel, financial advisor, project manager, project consultant, other professionals, and bond printer (the "Administrative Costs") [the Construction Costs, the Engineering Costs, the Architectural Costs, and the Administrative Costs collectively constitute the costs of the Issuer's projects that are the subject of this Resolution (the "Project")]; and

WHEREAS, the provisions of Section 1201.042, as amended, Texas Government Code ("Section 1201.042") provide that the proceeds from the sale of obligations issued to finance the acquisition, construction, equipping, or furnishing of any project or facilities, such as the Project, may be used to reimburse the Issuer for costs attributable to such project or facilities paid or incurred before the date of issuance of such obligations; and

WHEREAS, the United States Department of Treasury (the "Department") released Regulation Section 1.150-2 (the "Regulations") which establishes when the proceeds of obligations are spent and therefore are no longer subject to various federal income tax restrictions contained in the Internal Revenue Code of 1986, as amended (the "Code"); and

WHEREAS, the Issuer intends to reimburse itself an amount not to exceed \$7,991,000, within eighteen months from the later of the date of expenditure or the date the property financed is placed in service (but in no event more than three years after the original expenditures are paid), for the prior lawful capital expenditure of any funds from the proceeds of one or more series of tax-exempt obligations (the "Obligations") that the Issuer currently contemplates issuing in the aggregate principal amount not to exceed \$28,060,000 to finance a portion of the costs of the Project; and

WHEREAS, under the Regulations, to fund such reimbursement with proceeds of the Obligations, the Issuer must declare its expectation ultimately to make such reimbursement before making the expenditures; and

WHEREAS, the Issuer hereby finds and determines that the reimbursement for the prior expenditure of funds of the Issuer is not inconsistent with the Issuer's budgetary and financial

circumstances; and

WHEREAS, the Governing Body hereby finds and determines that the adoption of this Resolution is in the best interests of the residents of the Issuer; now, therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS THAT:

Section 1. This Resolution is a declaration of intent to establish the Issuer's reasonable, official intent under section 1.150-2 of the Regulations and Section 1201.042 to reimburse itself from certain of the proceeds of the Obligations for any capital expenditures previously incurred (not more than 60 days prior to the date hereof) or to be incurred with respect to the Project from the Issuer's General Fund or other lawfully available funds of the Issuer.

Section 2. The Issuer intends to issue the Obligations and allocate within 30 days after the date of issuance of the Obligations the proceeds therefrom to reimburse the Issuer for prior lawful expenditures with respect to the Project in a manner to comply with the Regulations.

Section 3. The reimbursed expenditure will be a type properly chargeable to a capital account (or would be so chargeable with a proper election) under general federal income tax principles.

Section 4. The Issuer intends to otherwise comply, in addition to those matters addressed within this Resolution, with all the requirements contained in the Regulations.

Section 5. This Resolution may be relied upon by the appropriate officials at the Office of the Attorney General for the State of Texas and establishes compliance by the Issuer with the requirements of Texas law and the Regulations.

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 Resolution for all purposes and are adopted as a part of the judgment and findings of the Governing Body.

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

Section 8. If any provision of this Resolution or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Resolution and the application of such provision to other persons and circumstances shall nevertheless be valid, and the Governing Body hereby declares that this Resolution would have been enacted without such invalid provision.

Section 9. It is officially found, determined, and declared that the meeting at which this Resolution 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 Resolution, was given, all as required by Chapter 551, as amended, Texas Government Code.

Section 10. This Resolution shall be in force and effect from and after its final passage, and it is so resolved.

PASSED, ADOPTED AND APPROVED on this the 26th day of February, 2018.

CITY OF NEW BRAUNFELS, TEXAS

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Mayor

ATTEST:

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City Secretary

(CITY SEAL)

