

ORDINANCE NO. 2019-____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS ENLARGING THE BOUNDARIES OF REINVESTMENT ZONE NUMBER ONE, CITY OF NEW BRAUNFELS, TEXAS; AMENDING THE PROJECT PLAN AND FINANCE PLAN FOR THE ZONE TO REFLECT THE INCREASED BOUNDARIES AND INCLUDE THE PHASE II PROJECT; AMENDING AN ECONOMIC DEVELOPMENT AGREEMENT BETWEEN THE CITY OF NEW BRAUNFELS, TEXAS AND A-L 95 CREEKSIDE TOWN CENTER, L.P. TO INCLUDE THE PHASE II PROJECT IMPROVEMENTS AND ESTIMATED COSTS RELATED THERETO; AUTHORIZING THE EXECUTION OF A 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 Finance 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 City desires to further enlarge the boundaries of the Zone by adding a certain geographic area for 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

WHEREAS, the City desires to amend the Project and Financing Plan to include the increase of the geographic boundaries of the Zone for the City's fire station and fire training facility as depicted on the attached Exhibit A and the Phase II Project Improvements and estimates of Phase II Project Costs as set forth in the Amended Project and Financing Plan attached as Exhibit B; and

WHEREAS, A-L 95 Creekside Town Center, L.P., a Texas limited partnership (the "Developer") has completed the Project and the Project Improvements as such terms are defined in the Economic Development Agreement between the City and the Developer dated March 12, 2007 (the "Economic Development Agreement") and described herein as the Phase I Project; and

WHEREAS, the City desires to amend the Economic Development Agreement to include an additional mixed-use phase totaling up to 500,000 square feet, with estimated construction costs and aggregate reimbursement to the Developer from lawfully available Zone revenues in an amount not to exceed \$3,500,000, plus reimbursement of the Developer's interest on any

expenditure authorized in the Amended Project and Financing Plan for a period of up to two years after the expenditure of funds by the Developer, located within the Zone boundaries ("Phase II Project") and establish a Phase II Tax Increment Fund related thereto which will only be funded from lawfully available funds after satisfaction of all currently existing obligations of the Zone, including any outstanding bonds of the Zone, as set forth in the Amendment to Economic Development Agreement attached as Exhibit D; 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 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, the City desires to execute a Phase II Tax Increment Participation Interlocal Agreement with the County, Zone Board and Developer (the "Phase II Agreement" attached hereto as Exhibit E) 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, accrued or generated from property located within the boundaries of the Phase II Project as depicted in Exhibit C; and

WHEREAS, on January 10, 2019, the Zone Board adopted an amendment to the Project and Financing Plan (the "Amended Project and Financing Plan," attached herein as Exhibit F), increasing the geographic area of the zone for the City's fire station and training facility as depicted on the attached Exhibit A, and approved the Amended Project and Financing Plan; and

WHEREAS, on January 10, 2019, the Zone Board recommended that the City adopt the Amended Project and Financing Plan; 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 January 28, 2019, was duly published in the *New Braunfels Herald-Zeitung* in its issue dated January 18, 2019, in compliance with Section 311.003(c) of the Act; and

WHEREAS, a public hearing was held on January 28, 2019, at 6 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 a newspaper of general circulation in the City.
- (b) That the boundaries of the Zone should be increased by adding approximately 4.5 acres of land to the Zone so that the boundaries of the Zone encompass the area depicted on the attached Exhibit A.

SECTION 2. The Project and Financing Plan is hereby amended to: (i) reflect the increase of the geographic boundaries of the Zone for the City's fire station and fire training facility as depicted on the attached Exhibit A and (ii) incorporate the addition of the Phase II Project.

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

SECTION 4. The Economic Development Agreement is hereby amended to include the Phase II Project and costs related thereto and establish a Phase II Tax Increment Fund.

SECTION 5. The execution by the City of the Phase II Agreement is hereby authorized.

SECTION 6. 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 7. 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 8. 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 9. This Ordinance shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

SECTION 10. 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 11. 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 12. 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 28th day of January, 2019.

SECOND AND FINAL READING, PASSED, AND ADOPTED on the __ day of _____, 2019.

CITY OF NEW BRAUNFELS

Barron Casteel, Mayor

ATTEST:

Patrick Aten, City Secretary
(City Seal)

APPROVED AS TO LEGALITY:

Valeria Acevedo, City Attorney

EXHIBIT A

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

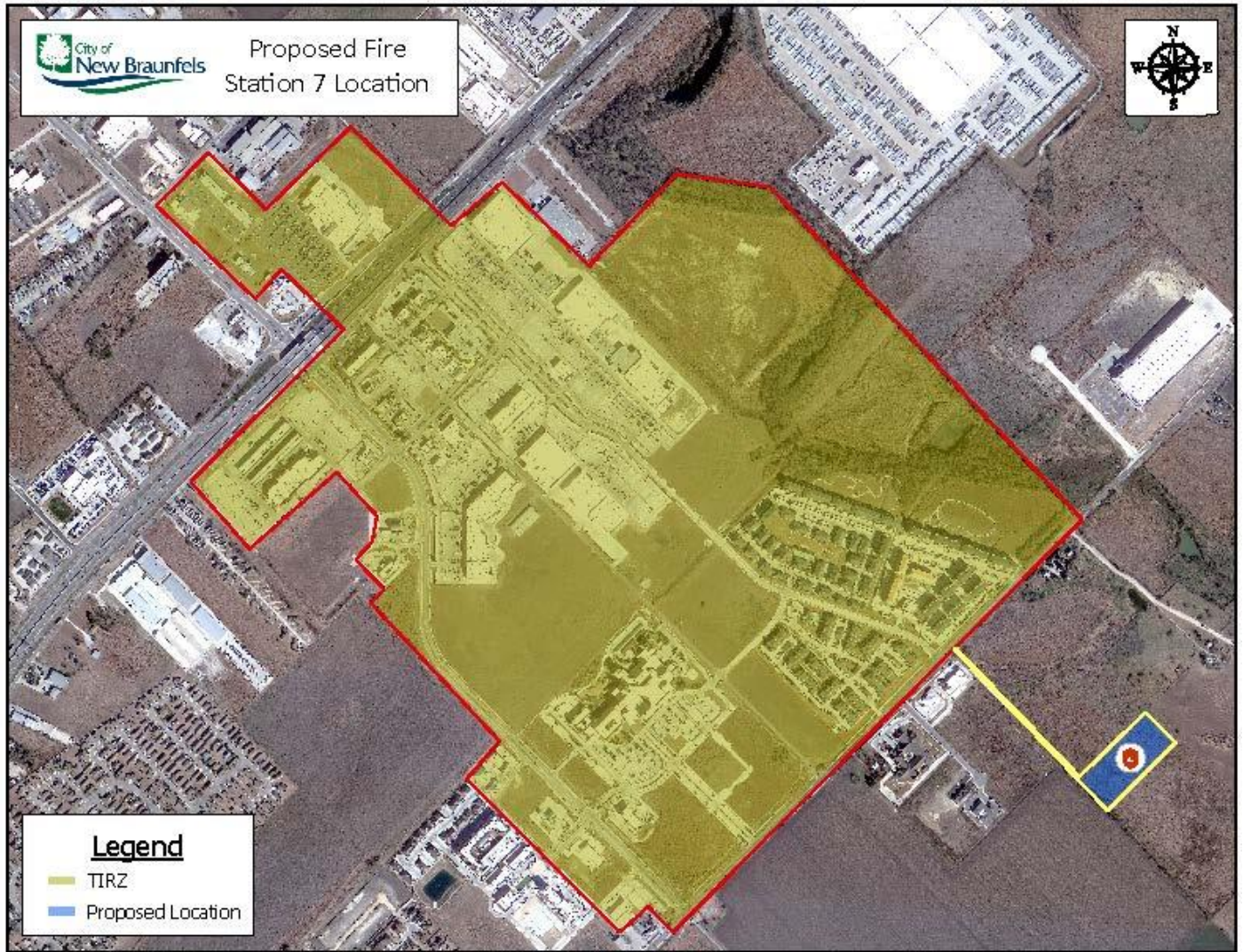


EXHIBIT B

[Amended Project and Financing Plan]

EXHIBIT C

[Boundaries of Phase II Project]

DEVELOPMENT SPONSOR				
SPONSOR	LOT	ACRES	SQ. FT.	ACRES
10001	10001	1.00	100,000	2.28
10002	10002	1.00	100,000	2.28
10003	10003	1.00	100,000	2.28
10004	10004	1.00	100,000	2.28
10005	10005	1.00	100,000	2.28
10006	10006	1.00	100,000	2.28
10007	10007	1.00	100,000	2.28
10008	10008	1.00	100,000	2.28
10009	10009	1.00	100,000	2.28
10010	10010	1.00	100,000	2.28
10011	10011	1.00	100,000	2.28
10012	10012	1.00	100,000	2.28
10013	10013	1.00	100,000	2.28
10014	10014	1.00	100,000	2.28
10015	10015	1.00	100,000	2.28
10016	10016	1.00	100,000	2.28
10017	10017	1.00	100,000	2.28
10018	10018	1.00	100,000	2.28
10019	10019	1.00	100,000	2.28
10020	10020	1.00	100,000	2.28
10021	10021	1.00	100,000	2.28
10022	10022	1.00	100,000	2.28
10023	10023	1.00	100,000	2.28
10024	10024	1.00	100,000	2.28
10025	10025	1.00	100,000	2.28
10026	10026	1.00	100,000	2.28
10027	10027	1.00	100,000	2.28
10028	10028	1.00	100,000	2.28
10029	10029	1.00	100,000	2.28
10030	10030	1.00	100,000	2.28
10031	10031	1.00	100,000	2.28
10032	10032	1.00	100,000	2.28
10033	10033	1.00	100,000	2.28
10034	10034	1.00	100,000	2.28
10035	10035	1.00	100,000	2.28
10036	10036	1.00	100,000	2.28
10037	10037	1.00	100,000	2.28
10038	10038	1.00	100,000	2.28
10039	10039	1.00	100,000	2.28
10040	10040	1.00	100,000	2.28
10041	10041	1.00	100,000	2.28
10042	10042	1.00	100,000	2.28
10043	10043	1.00	100,000	2.28
10044	10044	1.00	100,000	2.28
10045	10045	1.00	100,000	2.28
10046	10046	1.00	100,000	2.28
10047	10047	1.00	100,000	2.28
10048	10048	1.00	100,000	2.28
10049	10049	1.00	100,000	2.28
10050	10050	1.00	100,000	2.28
10051	10051	1.00	100,000	2.28
10052	10052	1.00	100,000	2.28
10053	10053	1.00	100,000	2.28
10054	10054	1.00	100,000	2.28
10055	10055	1.00	100,000	2.28
10056	10056	1.00	100,000	2.28
10057	10057	1.00	100,000	2.28
10058	10058	1.00	100,000	2.28
10059	10059	1.00	100,000	2.28
10060	10060	1.00	100,000	2.28
10061	10061	1.00	100,000	2.28
10062	10062	1.00	100,000	2.28
10063	10063	1.00	100,000	2.28
10064	10064	1.00	100,000	2.28
10065	10065	1.00	100,000	2.28
10066	10066	1.00	100,000	2.28
10067	10067	1.00	100,000	2.28
10068	10068	1.00	100,000	2.28
10069	10069	1.00	100,000	2.28
10070	10070	1.00	100,000	2.28
10071	10071	1.00	100,000	2.28
10072	10072	1.00	100,000	2.28
10073	10073	1.00	100,000	2.28
10074	10074	1.00	100,000	2.28
10075	10075	1.00	100,000	2.28
10076	10076	1.00	100,000	2.28
10077	10077	1.00	100,000	2.28
10078	10078	1.00	100,000	2.28
10079	10079	1.00	100,000	2.28
10080	10080	1.00	100,000	2.28
10081	10081	1.00	100,000	2.28
10082	10082	1.00	100,000	2.28
10083	10083	1.00	100,000	2.28
10084	10084	1.00	100,000	2.28
10085	10085	1.00	100,000	2.28
10086	10086	1.00	100,000	2.28
10087	10087	1.00	100,000	2.28
10088	10088	1.00	100,000	2.28
10089	10089	1.00	100,000	2.28
10090	10090	1.00	100,000	2.28
10091	10091	1.00	100,000	2.28
10092	10092	1.00	100,000	2.28
10093	10093	1.00	100,000	2.28
10094	10094	1.00	100,000	2.28
10095	10095	1.00	100,000	2.28
10096	10096	1.00	100,000	2.28
10097	10097	1.00	100,000	2.28
10098	10098	1.00	100,000	2.28
10099	10099	1.00	100,000	2.28
10100	10100	1.00	100,000	2.28



SP-554		SP-554	
LOT	ACRES	LOT	ACRES
10001	1.00	10001	1.00
10002	1.00	10002	1.00
10003	1.00	10003	1.00
10004	1.00	10004	1.00
10005	1.00	10005	1.00
10006	1.00	10006	1.00
10007	1.00	10007	1.00
10008	1.00	10008	1.00
10009	1.00	10009	1.00
10010	1.00	10010	1.00
10011	1.00	10011	1.00
10012	1.00	10012	1.00
10013	1.00	10013	1.00
10014	1.00	10014	1.00
10015	1.00	10015	1.00
10016	1.00	10016	1.00
10017	1.00	10017	1.00
10018	1.00	10018	1.00
10019	1.00	10019	1.00
10020	1.00	10020	1.00
10021	1.00	10021	1.00
10022	1.00	10022	1.00
10023	1.00	10023	1.00
10024	1.00	10024	1.00
10025	1.00	10025	1.00
10026	1.00	10026	1.00
10027	1.00	10027	1.00
10028	1.00	10028	1.00
10029	1.00	10029	1.00
10030	1.00	10030	1.00
10031	1.00	10031	1.00
10032	1.00	10032	1.00
10033	1.00	10033	1.00
10034	1.00	10034	1.00
10035	1.00	10035	1.00
10036	1.00	10036	1.00
10037	1.00	10037	1.00
10038	1.00	10038	1.00
10039	1.00	10039	1.00
10040	1.00	10040	1.00
10041	1.00	10041	1.00
10042	1.00	10042	1.00
10043	1.00	10043	1.00
10044	1.00	10044	1.00
10045	1.00	10045	1.00
10046	1.00	10046	1.00
10047	1.00	10047	1.00
10048	1.00	10048	1.00
10049	1.00	10049	1.00
10050	1.00	10050	1.00
10051	1.00	10051	1.00
10052	1.00	10052	1.00
10053	1.00	10053	1.00
10054	1.00	10054	1.00
10055	1.00	10055	1.00
10056	1.00	10056	1.00
10057	1.00	10057	1.00
10058	1.00	10058	1.00
10059	1.00	10059	1.00
10060	1.00	10060	1.00
10061	1.00	10061	1.00
10062	1.00	10062	1.00
10063	1.00	10063	1.00
10064	1.00	10064	1.00
10065	1.00	10065	1.00
10066	1.00	10066	1.00
10067	1.00	10067	1.00
10068	1.00	10068	1.00
10069	1.00	10069	1.00
10070	1.00	10070	1.00
10071	1.00	10071	1.00
10072	1.00	10072	1.00
10073	1.00	10073	1.00
10074	1.00	10074	1.00
10075	1.00	10075	1.00
10076	1.00	10076	1.00
10077	1.00	10077	1.00
10078	1.00	10078	1.00
10079	1.00	10079	1.00
10080	1.00	10080	1.00
10081	1.00	10081	1.00
10082	1.00	10082	1.00
10083	1.00	10083	1.00
10084	1.00	10084	1.00
10085	1.00	10085	1.00
10086	1.00	10086	1.00
10087	1.00	10087	1.00
10088	1.00	10088	1.00
10089	1.00	10089	1.00
10090	1.00	10090	1.00
10091	1.00	10091	1.00
10092	1.00	10092	1.00
10093	1.00	10093	1.00
10094	1.00	10094	1.00
10095	1.00	10095	1.00
10096	1.00	10096	1.00
10097	1.00	10097	1.00
10098	1.00	10098	1.00
10099	1.00	10099	1.00
10100	1.00	10100	1.00

NEW BRAUNFELS TOWN CENTER AT CREEKSIDE (SP-554)

EXHIBIT
NEC OF INTERSTATE HIGHWAY 35 & F.M. 306
NEW BRAUNFELS, TEXAS

NewQuest
8825 W. Sam Houston Parkway N
Suite 200 | Houston, Texas 77060
281.477.6300 www.newquest.com

EXHIBIT D

[Amendment to Economic Development Agreement]

EXHIBIT E

[Phase II Tax Increment Participation Interlocal Agreement for Reinvestment Zone Number One]

EXHIBIT F

[Reinvestment Zone No. 1 Resolution Adopting Amended Project and Financing Plan]