



ORDER NO. 522

AN ORDER APPROVING AN AMENDMENT TO THE PROJECT PLAN AND REINVESTMENT ZONE FINANCING PLAN FOR REINVESTMENT ZONE NUMBER ONE, CITY OF NEW BRAUNFELS, TEXAS; 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 the Project and Financing Plan by 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, Comal County, Texas (the "County") entered into a Tax Increment Participation Interlocal Agreement for the Zone with the City, the Zone Board, and the Developer (defined herein) 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 Council adopted Ordinance No. 2010-85 on November 22, 2010, which enlarged the boundaries of the Zone by approximately 18 acres and approved an amendment to the Project and Financing Plan for the Zone adopted to reflect the addition of such land and the amendment of certain exhibits in connection therewith; 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 approved an Amended Project Plan and Reinvestment Zone Financing Plan for the Zone to reflect the addition of such land and include the Phase II Project Improvements and estimates of the Phase II Project Costs with an aggregate reimbursement to A-L 95 Creekside Town Center, L.P., a Texas limited partnership (the "Developer") from lawfully available Zone revenues held within the Phase II Tax Increment Fund in an amount not to exceed \$3,500,000 (the "Phase II Project") pursuant to the Amendment to Economic Development Agreement by and between the City and the Developer entered into on February 11, 2019 (the "Amendment to Economic Development Agreement"); and

WHEREAS, the County entered into a Phase II Tax Increment Participation Interlocal Agreement with the City, 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, the Council adopted Ordinance No. 20-533 on August 10, 2020, which enlarged the boundaries of the Zone by approximately 35.452 acres for the purpose of constructing the City's fire station and fire training facility thereon after determining such site was more appropriately suited for those purposes and approved an Amended Project Plan and Reinvestment Zone Financing Plan for the Zone to reflect the addition of such land and include the anticipated costs and estimates associated with the relocation of the City's fire station and fire training facility and other related facilities; and

WHEREAS, the Council adopted Ordinance No. 2021-53 on June 28, 2021, which modified the City's sales and use tax contribution collected within the Zone from $\frac{1}{2}$ of 1% to $\frac{3}{8}$ of 1% (which included 100% of the New Braunfels Economic Development Corporation sales tax contribution within the Zone), approved an Amended Project Plan and Reinvestment Zone Financing Plan for the Zone to reflect the same, and approved an amendment to the Economic Development Agreement executed by and between the City and the Developer (the "Second Amendment to Development Agreement"); and

WHEREAS, the Council adopted Ordinance No. 2023-05 on February 27, 2023, which approved an amendment to the Project and Financing Plan to: (i) add approximately 130.47 acres to the Zone and remove approximately 8.07 acres of land owned by the City from the Zone pursuant to Section 311.007 of the Act; and (ii) include the anticipated projects and project cost estimates associated with certain public improvements to be constructed within the Zone and all related facilities as set forth and further described in the amended Project and Financing; and

WHEREAS, the Developer desires to invest approximately Eighteen Million and No/100 Dollars (\$18,000,000.00) cumulatively into land and construction costs for a facility of approximately 34,000 square feet, including machinery and equipment, furniture, fixtures and equipment and all associated infrastructure in connection with the construction of a Topgolf sports entertainment facility (hereinafter referred to as the "Top Golf Project"), all to be located within the Zone; and

WHEREAS, pursuant to Section 311.010(b) and Section 311.010(h) of the Act, the Zone Board desires to reimburse the Developer for certain public improvement costs related to the Top Golf Project from funds held in the Tax Increment Fund in the amount not to exceed One Million Five Hundred Thousand and No/100 Dollars (\$1,500,000.00) on a reimbursement basis consistent with the conditions and limitations set forth in the Reimbursement Agreement (defined herein) and to provide for the efficient and effective implementation of certain aspects of the Project and Financing Plan; and

WHEREAS, Topgolf USA NBR, LLC, a Delaware limited liability company (the "Company") will provide for the efficient and effective implementation of certain aspects of the

Project and Financing Plan, and the Zone Board desires to make a grant to the Company for the public purposes authorized pursuant to Section 311.010(h) of the Act related to the Top Golf Project from funds held in the Tax Increment Fund in the amount not to exceed One Million Five Hundred Thousand and No/100 Dollars (\$1,500,000.00) consistent with the conditions and limitations set forth in the Incentive Agreement (defined herein); and

WHEREAS, the City and Zone Board have approved and adopted an amendment to the Project and Financing Plan to increase the total estimated project costs related to public works or public improvements to be financed by the Zone in connection with the Top Golf Project, all as set forth and further described in the amendment to Project and Financing Plan (the "Amendment to Project and Financing Plan") attached hereto as Exhibit A; and

WHEREAS, pursuant to Section 311.010(b) and Section 311.010(h) of the Act and in connection with the Topgolf Project and the Amendment to Project and Financing Plan, the Zone Board and the City Council have approved the execution of a Reimbursement Agreement to be entered into by and between the Zone Board and the Developer (the "Reimbursement Agreement") to reimburse the Developer for certain public improvement costs in an amount not to exceed One Million Five Hundred Thousand and No/100 Dollars (\$1,500,000.00) from funds held in the Tax Increment Fund, on a reimbursement basis consistent with the terms set forth in the Reimbursement Agreement, and to provide for the efficient and effective implementation of certain aspects of the Project and Financing Plan; and

WHEREAS, pursuant to Section 311.010(h) of the Act and in connection with the Topgolf Project and the Amendment to Project and Financing Plan, the Zone Board and the City Council have approved the execution of an Incentive Agreement to be entered into by and between the Zone Board and the Company (the "Incentive Agreement") to make a grant to the Company for the public purposes authorized pursuant to Section 311.010(h) of the Act in an amount not to exceed One Million Five Hundred Thousand and No/100 Dollars (\$1,500,000.00) from funds held in the Tax Increment Fund, consistent with the terms set forth in the Incentive Agreement; and

WHEREAS, the Commissioners Court of Comal County, Texas (the "Commissioners Court") desires to approve the Amendment to Project and Financing Plan, as approved by the City and the Zone Board and attached hereto as Exhibit A; and

WHEREAS, the Court hereby finds and determines that the adoption of this Order is in the best interests of the residents of the County; and

WHEREAS, it is hereby officially found and determined that the meeting at which this Order 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.

BE IT ORDERED BY THE COMMISSIONERS COURT OF COMAL COUNTY, TEXAS THAT:

SECTION 1. The County hereby approves the Amendment to Project and Financing Plan for the Zone attached as Exhibit A to increase the total estimated project costs related to public

works or public improvements to be financed by the Zone, all as set forth and further described in the Amendment to Project and Financing Plan attached as Exhibit A.

SECTION 2. The officers of the County 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 including revising any necessary documents to conform to the terms hereof or State law.

SECTION 3. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Order for all purposes and are adopted as a part of the judgment and findings of the County.

SECTION 4. All orders and resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Order are hereby repealed to the extent of such conflict, and the provisions of this Order shall be and remain controlling as to the matters resolved herein.

SECTION 5. This Order shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

SECTION 6. If any provision of this Order or the application thereof to any circumstance shall be held to be invalid, the remainder of this Order 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 Order would have been enacted without such invalid provision.

SECTION 7. It is officially found, determined, and declared that the meeting at which this Order 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 Order, was given, all as required by Chapter 551, as amended, Texas Government Code.

SECTION 8. This Order 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.]

PASSED AND ADOPTED on the 18th day of July, 2024.

COMAL COUNTY, TEXAS



County Judge

ATTEST:



County Clerk



PASSED AND ADOPTED on the 18th day of July, 2024.

COMAL COUNTY, TEXAS



County Judge

ATTEST:



County Clerk

(SEAL OF COMMISSIONERS COURT)



PASSED AND ADOPTED on the 18th day of July, 2024.

COMAL COUNTY, TEXAS



County Judge

ATTEST:



County Clerk

(SEAL OF COMMISSIONERS COURT)



PASSED AND ADOPTED on the 18th day of July, 2024.

COMAL COUNTY, TEXAS



County Judge

ATTEST:

Bobbie Kepp

County Clerk

(SEAL OF COMMISSIONERS COURT)



EXHIBIT A

[Amendment to Project and Financing Plan]

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

**Amendment to Project Plan and Reinvestment Zone
Financing Plan**

1. Summary of Amendment
2. Exhibits

Summary of Prior Amendments

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 "TIRZ") pursuant to Section 311.005(a) of the Tax Increment Finance Act, Texas Tax Code, Chapter 311, as amended (the "Act"). The Board of Directors of the TIRZ (the "TIRZ Board") prepared and adopted a Project Plan and Reinvestment Zone Financing Plan (the "Project and Financing Plan") for the TIRZ in Reinvestment Zone Number One Resolution 2007-R01 pursuant to Section 311.011 of the Act. 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. Thereafter, the Council adopted Ordinance No. 2010-85 on November 22, 2010, which enlarged the boundaries of the TIRZ by approximately 18 acres and approved an Amended Project Plan and Reinvestment Zone Financing Plan for the TIRZ adopted to reflect the addition of such land and the amendment of certain exhibits in connection therewith. The Council adopted Ordinance No. 2019-10 on January 28, 2019, which enlarged the boundaries of the TIRZ by approximately 4.5 acres for the purpose of constructing the City's fire station and fire training facility thereon and approved an Amended Project Plan and Reinvestment Zone Financing Plan for the TIRZ to reflect the addition of such land and include the Phase II Project Improvements and estimates of the Phase II Project Costs pursuant to the Amendment to Economic Development Agreement by and between the City and A-L 95 Creekside Town Center, L.P., a Texas limited partnership (the "Developer"), entered into on February 11, 2019 (the "Amendment to Economic Development Agreement"). The Council adopted Ordinance No. 20-533 on August 10, 2020, which enlarged the boundaries of the TIRZ by approximately 35.452 acres for the purpose of constructing the City's fire station and fire training facility thereon and approved an Amended Project Plan and Reinvestment Zone Financing Plan for the Zone to reflect the addition of such land and include the anticipated costs and estimates associated with the relocation of the City's fire station and fire training facility and other related facilities. The Council adopted Ordinance No. 2021-53 on June 28, 2021, which modified the City's sales and use tax contribution collected within the TIRZ from $\frac{1}{2}$ of 1% to $\frac{3}{8}$ of 1% (which included 100% of the New Braunfels Economic Development Corporation sales tax contribution within the TIRZ), and approved an Amended Project Plan and Reinvestment Zone Financing Plan for the TIRZ to reflect City's adjusted sales and use tax contribution and supplement certain exhibits to the Project and Financing Plan to associated with such adjustment, including, but not limited to, the TIRZ increment revenue and project sales tax revenue within the TIRZ. The Council adopted Ordinance No. 2023-05 on February 13, 2023 to add approximately 130.47 acres of land to the TIRZ for certain transportation and park and recreational public improvements benefiting the TIRZ to be constructed thereon. The amendment additionally removed approximately 5.58 acres owned by the City from the boundaries of the TIRZ. The total TIRZ acreage after the described change in boundaries is approximately 680.20 acres.

Summary of Amendment

Pursuant to Section 311.011(e) of the Act, an Amendment to the Project Plan and Reinvestment Zone Financing Plan (the "Amendment to Project and Financing Plan") was adopted and approved by the City on July 8, 2024 to increase the total estimated project costs related to public works or public improvements to be financed by the TIRZ as depicted on the attached Exhibit A. The Amendment to Project and Financing Plan includes the anticipated projects and estimated project costs associated with the construction of certain public works and public improvements by the Developer, and include, but are not limited to, the design and construction of the public improvements depicted on the attached Exhibit A.

In connection with the Amendment to the Project and Financing Plan, the exhibits attached hereto shall be incorporated into and supplement the 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

[Supplements Project Overview and Costs on Page 6]

The supplement to the Proposed Distribution of Public Improvement Costs table attached hereto as **Exhibit A** is provided to show the additional public improvements and costs proposed for the TIRZ in connection with the Top Golf Project (defined herein).

Proposed Distribution of Public Improvement Costs

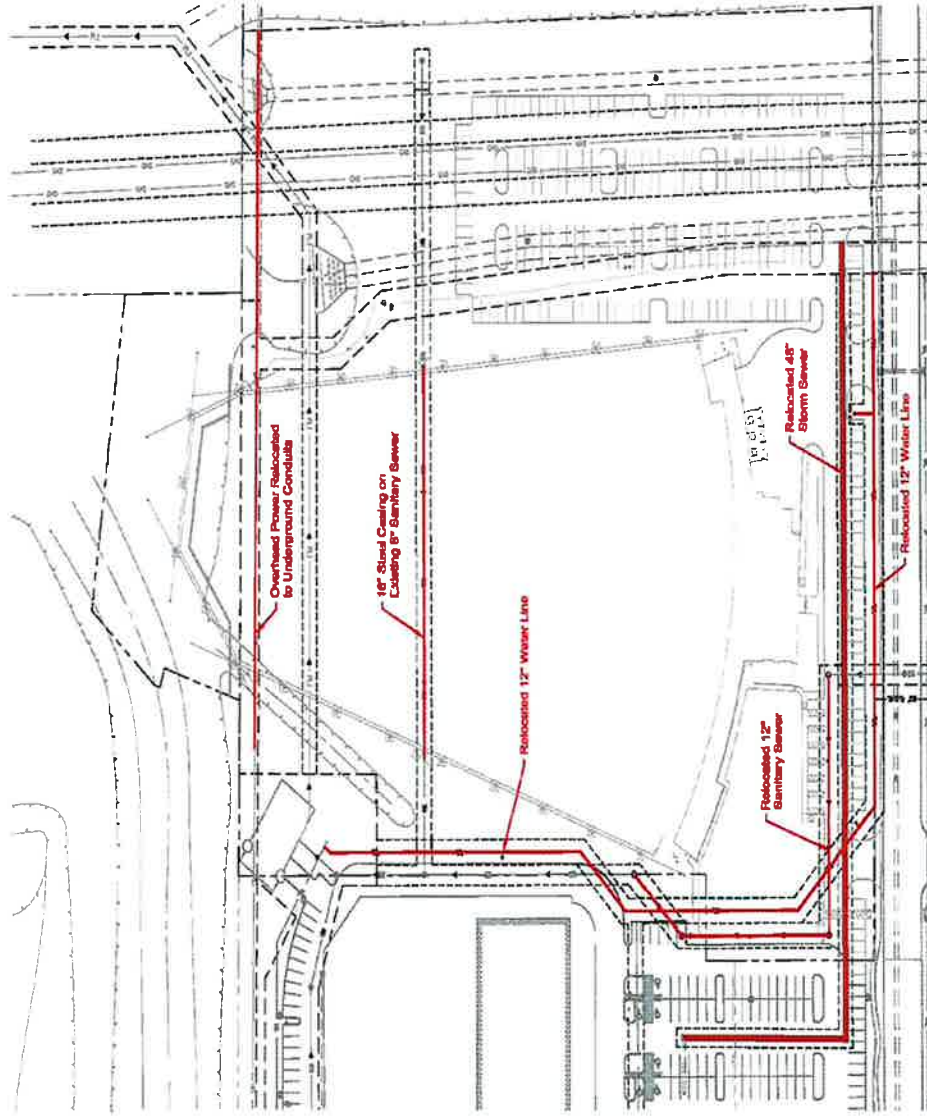
<u>Infrastructure Projects</u>	<u>Cost Estimate</u>
Water Improvements	\$277,950
Sewer Improvements	\$192,250
Drainage	\$489,785
Power Conduits	\$150,000
General Conditions	\$285,000
Total	\$1,394,985

Top Golf Project – The scope of this project includes the public improvements set forth in this **Exhibit A**. A-L 95 Creekside Town Center, L.P., a Texas limited partnership (the "Developer"), desires to invest approximately Eighteen Million and No/100 Dollars (\$18,000,000.00) cumulatively into land and construction costs for a facility of approximately 34,000 square feet, including machinery and equipment, furniture, fixtures and equipment and all associated infrastructure in connection with the construction of a Topgolf sports entertainment facility (hereinafter referred to as the "Top Golf Project"), all to be located within the TIRZ. Pursuant to Section 311.010(b) of the Act and in connection with this Amendment to the Project and Financing Plan, the TIRZ Board will enter into a Reimbursement Agreement with the Developer to reimburse the Developer for certain public improvement costs in an amount not to exceed One Million Five Hundred Thousand and No/100 Dollars (\$1,500,000.00) from funds held in the Tax Increment Fund, on a reimbursement basis consistent with the terms set forth in the Reimbursement Agreement. The TIRZ Board will additionally enter into an Incentive Agreement with Topgolf USA NBR, LLC, a Delaware limited liability company (the "Company"), to make a grant to the Company for the public purposes authorized pursuant to Section 311.010(h) of the Act related to the Top Golf Project in an amount not to exceed One Million Five Hundred Thousand and No/100 Dollars (\$1,500,000.00) from funds held in the Tax Increment Fund, consistent with the terms set forth in the Incentive Agreement. The Top Golf Project will be owned and operated by the Company.

The total estimated funding contribution from the TIRZ is \$3,000,000. Reimbursements to the Developer and grants to the Company shall be only from the Tax Increment Fund, subject to the conditions and limitations set out in the Reimbursement Agreement and the Incentive Agreement, respectively.

EXHIBIT B

[Supplements Map Showing Proposed Improvements on Page 10]



Top Golf Project Improvements. This map shows the location of the proposed improvements related to the Top Golf Project that may be funded through the TIRZ.

**TOP GOLF AT CREEKSIDE TOWN CENTER
UTILITY RELOCATIONS**

CERTIFICATE FOR ORDER

THE STATE OF TEXAS

§

COUNTY OF COMAL

§

§

We, the undersigned officials of Comal County, Texas (the "County"), hereby certify as follows:

1. The Commissioners Court of the County convened in a REGULAR SCHEDULED MEETING ON THE 18th DAY OF JULY, 2024, at the County Courthouse (the "Meeting"), and the roll was called of the duly constituted Commissioners Court of the County, to-wit:

- Sherman Krause, County Judge
- Donna Eccleston, Commissioner, Precinct 1
- Scott Haag, Commissioner, Precinct 2
- Kevin Webb, Commissioner, Precinct 3
- Jen Crownover, Commissioner, Precinct 4

and all of the persons were present, thus constituting a quorum. Whereupon, among other business, the following was transacted at the Meeting: a written

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was duly introduced for the consideration of the Commissioners Court. It was then duly moved and seconded that the Order be passed; and, after due discussion, said motion carrying with it the passage of the Order, prevailed and carried by the following vote:

AYES: 5

NOES: 0

2. A true, full and correct copy of the Order passed at the Meeting described in the above and foregoing paragraph is attached to and follows this Certificate; that the Order has been duly recorded in the Commissioners Court's minutes of the Meeting; that the above and foregoing paragraph is a true, full and correct excerpt from the Commissioner Court's minutes of the Meeting pertaining to the passage of the Order; that the persons named in the above and foregoing paragraph are the duly chosen, qualified and acting county officials as indicated therein; that each of the elected officials and members of the Commissioners Court was duly and sufficiently notified officially and personally, in advance, of the time, place and purpose of the Meeting, and that the Order would be introduced and considered for passage at the Meeting, and each of the elected officials and members consented, in advance, to the holding of the Meeting

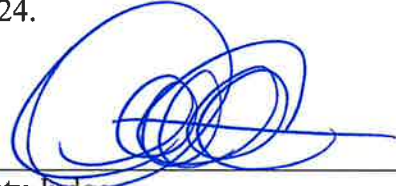
for such purpose, and that the Meeting was open to the public and public notice of the time, place and purpose of the meeting was given, all as required by Chapter 551, Government Code, as amended.

3. The County Judge of the County has approved and hereby approves the Order; that the County Judge and the County Clerk of the County have duly signed the Order; and that the County Judge and the County Clerk of the County hereby declare that their signing of this Certificate shall constitute the signing of the attached and following copy of the Order for all purposes.

SIGNED AND SEALED the 18th day of July, 2024.

Bobbie Keepp

County Clerk



County Judge



SIGNED AND SEALED the 18th day of July, 2024.

Bobbie Kepp
County Clerk

[Signature]
County Judge

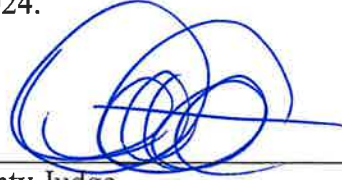
[COUNTY SEAL]



SIGNED AND SEALED the 18th day of July, 2024.

Bobbie Kepp

County Clerk



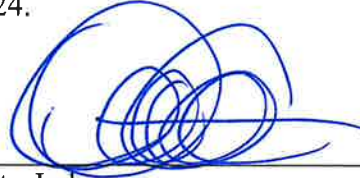
County Judge



SIGNED AND SEALED the 18th day of July, 2024.

Bobbie Koepf

County Clerk



County Judge

[COUNTY SEAL]



Filed and Recorded
Official Public Records
Bobbie Koepf, County Clerk
Comal County, Texas
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Bobbie Koepf



Comal County TX
Honorable Bobbie Koepp, Comal County Clerk
150 N. Seguin, Suite 1037
New Braunfels, TX 78130
(830) 221-1230

Receipt for Services

Cashier	TRACY	Batch #	990850		
Customer Name	COMAL COUNTY	Date:	07/22/2024	Time:	10:40:10AM

Date	Instrument No	Document Type	Transaction Type	GF Number	Pg/Amt
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Fee Total:					\$0.00