

A RESOLUTION AUTHORIZING THE SECOND AMENDMENT TO THE INTERLOCAL COOPERATIVE AGREEMENT BETWEEN THE BULVERDE AREA RURAL LIBRARY DISTRICT AND COMAL COUNTY, TEXAS RELATING TO THE ANTICIPATED TRANSFER OF CERTAIN PROCEEDS OF THE SALES AND USE TAX RECEIVED BY THE DISTRICT TO THE COUNTY TO PROVIDE FOR THE PAYMENT OR REIMBURSEMENT OF CERTAIN COSTS RELATING TO THE CONSTRUCTION OF A 2017 EXPANSION OF THE PUBLIC LIBRARY BUILDING IN THE COUNTY AND THE PAYMENT OF THE DEBT SERVICE REQUIREMENTS ON THE COUNTY'S 2017 CERTIFICATES OF OBLIGATIONS ISSUED TO FINANCE THE CONSTRUCTION OF THIS 2017 EXPANSION OF THE PUBLIC LIBRARY FACILITY; RECONFIRMING, REESTABLISHING, RESTATING, AND DOCUMENTING THE RIGHTS, DUTIES, OBLIGATIONS, AND RESPONSIBILITIES CONCERNING THE OWNERSHIP AND OPERATION OF THIS 2017 EXPANSION OF THE PUBLIC LIBRARY FACILITY AND THE CONVEYANCE BY THE COUNTY TO THE DISTRICT OF THIS 2017 EXPANSION OF THE PUBLIC LIBRARY FACILITY WHEN THE COUNTY'S SERIES 2017 CERTIFICATES OF OBLIGATION ARE NO LONGER OUTSTANDING; AND OTHER MATTERS IN CONNECTION THEREWITH

WHEREAS, the Commissioners Court of Comal County, Texas (the *County*) and the Board of Trustees of the Bulverde Area Rural Library District (the *District*), acting through their respective governing bodies, previously entered into an interlocal cooperative agreement on November 30, 2006 (the *Agreement*), as amended by a First Amendment (the *First Amendment*) effective as of April 24, 2014, as amended by a Second Amendment (the *Second Amendment*) effective January 26, 2017; and

WHEREAS, the County and the District desire to enter into this Second Amendment (the *Second Amendment*) to the Agreement for the purposes set forth in the Second Amendment that is attached as Exhibit A hereto and incorporated by reference for all purposes; and

WHEREAS, the County hereby finds and determines that the adoption of this resolution is in the best interest of the residents of the County; now, therefore,

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

SECTION 1. The Second Amendment is hereby approved by the Commissioners Court, and the County Judge and County Clerk of the Commissioners Court are hereby authorized to execute the Second Amendment.

SECTION 2. 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 Commissioners Court.

SECTION 3. All orders 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 4. This Resolution shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

SECTION 5. 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 Commissioners Court hereby declares that this Resolution would have been enacted without such invalid provision.

SECTION 6. 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 7. This Resolution shall be in force and effect from and after the date of its adoption, and it is so resolved.

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PASSED AND APPROVED, this the 26th day of January, 2017.

COMAL COUNTY, TEXAS



County Judge

ATTEST:



County Clerk and Ex-Officio Clerk of the
Commissioners Court of Comal County, Texas

(SEAL OF COMMISSIONERS COURT)



EXHIBIT A

**Second Amendment to
Interlocal Cooperative Agreement**

See Tab No. __

**SECOND AMENDMENT TO THE INTERLOCAL COOPERATIVE AGREEMENT BY
AND BETWEEN THE BULVERDE AREA RURAL LIBRARY DISTRICT AND COMAL
COUNTY, TEXAS**

Comal County, Texas, a political subdivision of the State of Texas, acting by and through its Commissioners Court (the *County*), and the Bulverde Area Rural Library District, a political subdivision of the State of Texas, acting by and through its Board of Trustees (the *District*), have heretofore entered into AN INTERLOCAL COOPERATIVE AGREEMENT BETWEEN THE BULVERDE AREA RURAL LIBRARY DISTRICT AND COMAL COUNTY, TEXAS (the *Agreement*), pursuant to the provisions of Chapter 791, as amended, Texas Government Code, originally dated as of November 30, 2006, as amended by a First Amendment effective as of April 24, 2014, as amended by a Second Amendment effective as of January 26, 2017.

RECITALS

WHEREAS, the Agreement sets out the provisions governing the County's and District's duties in connection with the construction and equipment of the original public library building (the *Original Project*), including the payment of the debt service requirements on the County's 2006 certificates of obligations, as amended, issued to finance a portion of the construction of the Original Project, the establishment of the rights, duties, obligations, and responsibilities concerning the ownership and operation of the Original Project, and the conveyance by the County to the District of the Original Project when the County's 2006 certificates of obligation are no longer outstanding; and

WHEREAS, the Agreement contemplated the issuance of obligations of the County designated as "Comal County, Texas Combination Tax and Revenue Certificates of Obligation, Series 2006" (the *2006 Certificates*) dated November 15, 2006, in the original principal amount of \$4,700,000 to pay for a portion of the construction of the Original Project; and

WHEREAS, the Certificates were issued by the County on December 19, 2006 and were sold on a private placement basis to Broadway National Bank (the *Purchaser*); and

WHEREAS, the District previously requested and the Purchaser agreed to change the maturity schedule for the 2006 Certificates to lower the interest rates on the 2006 Certificates in order to realize debt service savings; and

WHEREAS, the District and the Commissioners Court of the County adopted a first amendment (the *First Amendment*) to the Agreement that was approved pursuant to a resolution adopted by the Commissioners Court on April 24, 2014 to recognize the new maturity schedule agreed to by the County, the District, and the Purchaser; and

WHEREAS, the Board of Trustees of the District approved the First Amendment to the Interlocal Cooperative Agreement pursuant to a resolution that was adopted by the Board of Trustees on March 31, 2014; and

WHEREAS, the Board of Trustees of the District has now requested that the Commissioners Court of the County authorize the issuance of another series of obligations designated as “Comal County, Texas Adjustable Rate Combination Tax and Revenue Certificates of Obligation, Series 2017 (Bulverde Area Rural Library District Project)”, in the principal amount of not to exceed \$7,000,000 (the *2017 Certificates*) for a term of up to twenty years to construct an expansion of the Original Project (the *2017 Project*) that will be controlled by the Agreement, as amended, and the Ground Lease; and

WHEREAS, the 2017 Certificates are contemplated to be issued by the County by the Commissioners Court pursuant to an order to be adopted on January 26, 2017 to be sold on a private placement basis to Broadway National Bank; and

WHEREAS, in order to issue the 2017 Certificates, the Interlocal Cooperative Agreement between the County and the District must be amended to recognize the issuance of the 2017 Certificates, that the Ground Lease remains effective, and that a Second Amendment (the *Second Amendment*) must be approved by the County and the District; and

WHEREAS, the Board of Trustees of the District approved this Second Amendment at its meeting on January 9, 2017; and

WHEREAS, the Commissioners Court hereby approves the Second Amendment pursuant to the adoption of this Resolution; and

WHEREAS, Section 4 of the Agreement provides for these amendments; and

WHEREAS, the adoption of this Second Amendment to the Agreement is hereby found and determined to be in the best interest of the residents of the County and the District;

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: SECTION 1 of the Agreement is hereby modified as follows:

SECTION 1. Duties of the County. The County hereby agrees to perform the following duties:

1.1 The County will own the 2017 Project; however, the County is **NOT** responsible for the construction, acquisition, design, upkeep, maintenance, or operation of the 2017 Project, except as set forth in this Agreement, as amended.

1.2 The County will issue the 2017 Certificates to provide the initial funds required to construct the 2017 Project. The County shall be solely responsible for making the annual payments of principal of and interest on this indebtedness pursuant to terms and conditions for the issuance of the 2017 Certificates.

1.3 Any Sales Tax proceeds transferred by the District to the County shall not be pledged to pay any indebtedness of the County in accordance with the provisions of Section 323.505, as amended, Texas Tax Code. Upon receipt of any Sales Tax proceeds from the District, the County may utilize any such funds for any lawful purpose in accordance with the provisions of this Agreement, as amended, and applicable law and the County intends to use this transferred portion of the Sales Tax to pay the debt service requirements and annual paying agent/registrar fees and expenses relating to the 2006 Certificates and the 2017 Certificates. To the extent the District transfers Sales Tax proceeds in an amount sufficient to redeem and defease the 2006 Certificates and the 2017 Certificates, the County will use the proceeds for such purpose.

1.4 When the 2006 Certificates and the 2017 Certificates are no longer outstanding, the County will immediately transfer the Original Project and the 2017 Project to the District pursuant to a deed (Building Only).

SECTION 2: SECTION 2 of the Agreement is hereby modified as follows:

SECTION 2. Duties of District. The District hereby agrees to perform the following duties:

2.1 The District will construct the 2017 Project and is responsible for all aspects of the construction, acquisition, design, upkeep, maintenance, or operation of the 2017 Project and in connection therewith, the District shall comply with all applicable law relating to the construction of public works, including, without limitation, the provisions of Chapter 2253, as amended, Texas Government Code (pertaining to public works performance and payment bonds).

2.2 In consideration of the County's agreement to undertake the actions set forth in Section 1 of the Second Amendment, the District shall transfer, on an annual cumulative basis, lawfully available Sales Tax proceeds to the County to pay the debt service requirements on the 2017 Certificates that are scheduled to be sold on January 26, 2017 and delivered on February 28, 2017, upon a determination by the Board of Trustees of the District that any and all financial obligations of the District for the then current fiscal year of the District have been provided for or otherwise satisfied. These obligations include, but are not limited to, the payment of all of the District's administrative expenses, the payment of all debt service requirements on any indebtedness issued by the District, and the funding of all debt service reserve or other funds created in any resolution authorizing the issuance of any indebtedness by the District. Accordingly, any transfer of Sales Tax proceeds to the County by the District shall only constitute the transfer of surplus Sales Tax proceeds. These findings must be confirmed by the Board of Trustees of the District prior to the transfer of any Sales Tax proceeds to the County. The District shall transfer to the County Auditor a portion of the Sales Tax on a monthly basis, as agreed upon by the County and the District, for deposit into the interest and sinking fund account established by the County for the 2006 Certificates and the 2017 Certificates in

order that the entire principal and interest payment obligations (and any pecuniary obligations with respect to the 2006 Certificates and the 2017 Certificates) for the next succeeding fiscal year shall be accumulated and be on deposit not later than September 1 of each year.

2.3 The Board of Trustees agrees to budget for the establishment of a General Fund balance of at least \$250,000 and will agree to establish rates and charges for providing library services or to utilize a portion of the Sales Tax to maintain this balance. Should this General Fund balance be decreased below \$150,000, based upon the most recent quarterly unaudited financial records of the District, for any reason the President of the Board of Trustees of the District will immediately notify the County Judge and County Auditor and explain the District's intended course of action to replenish this amount.

2.4 The District shall provide annually to the County for so long as the 2006 Certificates and the 2017 Certificates remain outstanding and unpaid within nine months after the end of each fiscal year ending in or after 2006, financial information and operating data with respect to the District; provided that such financial statements so to be provided shall be (1) prepared in accordance with the generally accepted accounting principles, or such other accounting principles as the District may be required to employ from time to time pursuant to Texas law or regulations, and (2) audited, if the District commissions an audit of such statements and the audit is completed within the period during which they must be provided. If the audit of such financial statements is not complete within such period, then the District shall provide (1) unaudited financial statements for the applicable fiscal year within nine months after the end of such fiscal year, and (2) audited financial statements for the applicable fiscal year to the County when and if the audit report on such statements become available.

2.5 The District shall provide annually to the County for so long as the 2006 Certificates and the 2017 Certificates remain outstanding, a true and correct copy of the District's annual fiscal year budget for each fiscal year within thirty (30) days of approval of this budget by the Board of Trustees of the District.

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 Second Amendment to the Agreement for all purposes and are adopted as a part of the judgment and finds of the respective governing body of each party hereto.

SECTION 4: This Second Amendment shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America and except for the First Amendment and the Second Amendment, the Agreement remains in full force and operation.

SECTION 5: It is officially found, determined, and declared that the meeting of each of the County and the District at which this Agreement 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 Second Amendment to the Agreement, was given, all as required by Chapter 551, as amended, Texas Government Code.

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement to be effective as of the date and year first above written.

BULVERDE AREA RURAL LIBRARY
DISTRICT

President, Board of Trustees

ATTEST:

Secretary, Board of Trustees

(District Seal)

COMAL COUNTY, TEXAS



County Judge

ATTEST:



County Clerk and Ex-Officio Officer of the
Commissioners Court of Comal County, Texas

(Seal of Commissioners Court)



EXHIBIT A

**Original Interlocal Cooperative Agreement, dated as of November 30, 2006,
as amended by a First Amendment to Interlocal Cooperative Agreement
effective as of April 24, 2014 and a Second Amendment to the Interlocal
Cooperative Agreement effective as of January 26, 2017**

CERTIFICATE OF COUNTY CLERK

THE STATE OF TEXAS §
 §
COUNTY OF COMAL §

THE UNDERSIGNED HEREBY CERTIFIES that:

1. The Commissioners Court (the *Court*) of Comal County, Texas (the *County*), convened on the 26th day of January, 2017 in a regular session of the Court in the County Courthouse (the *Meeting*), which Meeting was at all times open to the public, the duly constituted officers and members of the Court being as follows:

- | | |
|-----------------|------------------------------|
| Sherman Krause | County Judge |
| Donna Eccleston | Commissioner, Precinct No. 1 |
| Scott Haag | Commissioner, Precinct No. 2 |
| Kevin Webb | Commissioner, Precinct No. 3 |
| Jen Crownover | Commissioner, Precinct No. 4 |

and all of such persons were present at the public hearing, except the following: Donna Eccleston, thus constituting a quorum. Among other business considered at the public hearing, the attached resolution (the *Resolution*) entitled:

A RESOLUTION AUTHORIZING THE SECOND AMENDMENT TO THE INTERLOCAL COOPERATIVE AGREEMENT BETWEEN THE BULVERDE AREA RURAL LIBRARY DISTRICT AND COMAL COUNTY, TEXAS RELATING TO THE ANTICIPATED TRANSFER OF CERTAIN PROCEEDS OF THE SALES AND USE TAX RECEIVED BY THE DISTRICT TO THE COUNTY TO PROVIDE FOR THE PAYMENT OR REIMBURSEMENT OF CERTAIN COSTS RELATING TO THE CONSTRUCTION OF A 2017 EXPANSION OF THE PUBLIC LIBRARY BUILDING IN THE COUNTY AND THE PAYMENT OF THE DEBT SERVICE REQUIREMENTS ON THE COUNTY'S 2017 CERTIFICATES OF OBLIGATIONS ISSUED TO FINANCE THE CONSTRUCTION OF THIS 2017 EXPANSION OF THE PUBLIC LIBRARY FACILITY; RECONFIRMING, REESTABLISHING, RESTATING, AND DOCUMENTING THE RIGHTS, DUTIES, OBLIGATIONS, AND RESPONSIBILITIES CONCERNING THE OWNERSHIP AND OPERATION OF THIS 2017 EXPANSION OF THE PUBLIC LIBRARY FACILITY AND THE CONVEYANCE BY THE COUNTY TO THE DISTRICT OF THIS 2017 EXPANSION OF THE PUBLIC LIBRARY FACILITY WHEN THE COUNTY'S SERIES 2017 CERTIFICATES OF OBLIGATION ARE NO LONGER OUTSTANDING; AND OTHER MATTERS IN CONNECTION THEREWITH

was introduced for the due consideration of the Court. After presentation and discussion of the Resolution, a motion was made by Commissioner Haag that the Resolution be passed and adopted. The motion was seconded by Commissioner Webb and carried by the following vote:

4 voted "For" 0 voted "Against" 0 "Abstained"

all as shown in the official Minutes of the Court for the Meeting.

2. The attached Resolution is a true and correct copy of the original on file in the official records of the County; the duly qualified and acting members of the Court on the date of the public hearing are those persons shown above, and, according to the records of my office, each member of the Court was given actual notice of the time, place, and purpose of the public hearing and had actual notice that the Resolution would be considered; and the Meeting and deliberation of the aforesaid public business, including the subject of the Resolution, was open to the public and written notice of said public hearing, including the subject of the Resolution, was posted and given in advance thereof in compliance with the provisions of Chapter 551, as amended, Texas Government Code.

IN WITNESS WHEREOF, I have signed my name officially and affixed the seal of the Commissioners Court, this 26th day January, 2017.

Bobbie Koepf

County Clerk and Ex-Officio Clerk of the
Commissioners Court of Comal County,
Texas

(SEAL OF COMMISSIONERS COURT)

