2010-06-03-0025R

A RESOLUTION RELATING TO ESTABLISHING THE CITY'S INTENTION TO REIMBURSE ITSELF FOR THE PRIOR LAWFUL EXPENDITURE OF FUNDS FROM THE PROCEEDS OF ONE OR MORE SERIES OF TAX EXEMPT OR TAXABLE OBLIGATIONS TO BE ISSUED BY THE CITY FOR AUTHORIZED PURPOSES AND DESIGNATED AS "CITY OF SAN ANTONIO, TEXAS COMBINATION TAX AND REVENUE CERTIFICATES OF OBLIGATIONS", AS FURTHER DESIGNATED BY SERIES AND FEDERAL TAX TREATMENT; AUTHORIZING OTHER MATTERS INCIDENT AND RELATED THERETO; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the City Council (the *Governing Body*) of the City of San Antonio, 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 the costs associated with (i) acquiring, purchasing, improving, constructing, renovating, enlarging, extending, equipping, or repairing various City facilities, including fire station improvements, library improvements, maintenance facilities for City crews and operations (being, primarily, for solid waste services, public works street and storm water and fleet services), learning centers, parks and recreation (including Voelcker Park), parking (being, primarily, new garage, facility improvements, and technology upgrades), police facilities and equipment, police/public safety headquarters, San Antonio River and River Walk improvements, and various street improvement projects (the *Construction Costs*), (ii) the payment of various engineering costs, including design testing, design engineering, and construction inspection related to the Construction Costs (the *Engineering Costs*), (iii) 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 (iv) the payment of various administrative costs, including the fees of co-bond counsel, co-financial advisor, project manager, project consultant, other professionals, and printer (the *Administrative Costs)* [the Construction Costs, Engineering Costs, the Architectural Costs, and Administrative Costs collectively constitute costs of the project that is 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, 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 funds from the proceeds of one or more series of tax-exempt or taxable

obligations (the *Obligations*) that the Issuer currently contemplates issuing in an amount not to exceed the amount of $60,295,000 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 citizens of the Issuer; now, therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO 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 lawfully available general funds or other funds of the Issuer.

SECTION 2: The Issuer intends to issue the Obligations and allocate within 30 days after the date of issue 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: With respect to the proceeds of the Obligations allocated to reimburse the Issuer for prior expenditures, the Issuer shall not employ an abusive device under Treasury Regulation Section 1.148-10, including using within one year of the reimbursement allocation, the funds corresponding to the proceeds of the Obligations in a manner that results in the creation of replacement proceeds, as defined in Treasury Regulation Section 1.148-1, of the Obligations or another issue of tax-exempt obligations or refundable tax credit obligations.

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

SECTION 8: 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 9: This Resolution 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 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 11: 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 12: The effective date of this Resolution shall be governed by the provisions of Section 1-15 of the City Code of San Antonio, Texas. This Resolution shall take effect immediately if passed by eight (8) affirmative votes; otherwise, this Resolution shall take effect ten (10) days from the date of passage.

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PASSED AND APPROVED, this the 3rd day of June, 2010.

CITY OF SAN ANTONIO, TEXAS

Mayor
JULIÁN CASTRO

ATTEST:

City Clerk

(CITY SEAL)

I, the undersigned, City Attorney of the City of San Antonio, Texas, hereby certify that I read, passed upon, and approved as to form the foregoing Resolution prior to its adoption and passage as aforesaid.

Michael D. Bernard, City Attorney,
City of San Antonio, Texas

[Signature page to the Reimbursement Resolution pertaining to the "City of San Antonio, Texas Combination Tax and Revenue Certificates of Obligations"]

Request for COUNCIL ACTION

City of San Antonio

Agenda Voting Results - 28C

Name:	5, 6, 7, 8, 11, 12, 13, 14, 15, 18A, 19, 20, 21, 22B, 22C, 22D, 23B, 24, 25, 26, 27A, 27B, 28B, 28C, 28E, 29, 31, 32, 33
Date:	06/03/2010
Time:	09:22:09 AM
Vote Type:	Motion to Approve
Description:	A Resolution establishing the City's intention to reimburse itself for the prior lawful expenditure of funds from the proceeds of one or more series of tax exempt or taxable obligations to be issued by the city for authorized purposes and designated as "City of San Antonio, Texas Combination Tax and Revenue Certificates of Obligations", as further designated by series and federal tax treatment; authorizing other matters incident and related thereto; and providing an effective date.
Result:	Passed

Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Julián Castro	Mayor		x				
Mary Alice P. Cisneros	District 1		x				
Ivy R. Taylor	District 2		x				
Jennifer V. Ramos	District 3		x				
Philip A. Cortez	District 4		x				
David Medina Jr.	District 5		x				
Ray Lopez	District 6		x				
Justin Rodriguez	District 7		x				
W. Reed Williams	District 8		x				x
Elisa Chan	District 9	x					
John G. Clamp	District 10		x			x	