RESOLUTION NO.

A RESOLUTION OF THE CITY OF NEW BRAUNFELS, TEXAS, AUTHORIZING THE ACQUISITION IN FEE SIMPLE OF A TRACT OF LAND GENERALLY DEPICTED IN EXHIBITS "A", WHICH IS ATTACHED HERETO AND IS INCORPORATED HEREIN FOR ALL PURPOSES, AS PART OF THE KOHLENBERG ROAD IMPROVEMENTS PROJECT. SUCH ACQUISITIONS ARE NECESSARY TO ADVANCE AND ACHIEVE THE PUBLIC USES OF IMPROVING PEDESTRIAN SAFETY AND ADA ACCESSIBILITY BY PROVIDING SIDEWALKS ON BOTH SIDES OF THE ROAD; PROVIDING CONNECTIVITY TO MULTIPLE RESIDENTIAL AND COMMERCIAL AREAS; AND BUILDING ROAD IMPROVEMENTS TO ALLEVIATE TRAFFIC CONGESTION. THIS RESOLUTION AUTHORIZES THE INSTITUTION OF CONDEMNATION PROCEEDINGS TO ACQUIRE THE NECESSARY TO **EXTENT NEGOTIATIONS** LAND **RIGHTS** THE UNSUCCESSFUL.

WHEREAS, the City of New Braunfels, Texas ("City") has determined that a tract of privately owned land described in Exhibit "A" must be acquired in fee simple interest, for the construction of the Kohlenberg Road Improvements Project (the "Project"); and

WHEREAS, the acquisition of such property is necessary to complete the Project, to advance and achieve the public uses of improving pedestrian safety and ADA accessibility by providing sidewalks on both sides of the road; providing connectivity to multiple residential and commercial areas; and building road improvements to alleviate traffic congestion; and

WHEREAS, the Project is in the best interest of the health, safety, and welfare of the public;

WHEREAS, the City has been unable to acquire said land by negotiation and/or further negotiations may become futile, and therefore, the City may be compelled to exercise its power of eminent domain; and

WHEREAS, relating to the acquisition of such land, it may be necessary for the City or one of its agents or contractors to enter upon the property to investigate and survey the needed land so that they may be defined and described with specificity for inclusion in any deed, easement, or, if necessary, as part of any filings to institute proceedings in eminent domain to acquire the necessary land.

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

SECTION 1.

The above caption and recitals are incorporated herein for all purposes.

SECTION 2.

The City Council declares a public use and necessity for the City of New Braunfels to acquire fee simple interest of the property described in **Exhibit "A"** for the improvements needed for the Project.

SECTION 3.

The City Council declares that the acquisition of such property is necessary to complete the Project, which has the public uses of improving pedestrian safety and ADA accessibility by providing sidewalks on both sides of the road; providing connectivity to multiple residential and commercial areas; and building road improvements to alleviate traffic congestion.

The City Council authorizes the utilization of the power of eminent domain to acquire the necessary land located in the City of New Braunfels, to the extent that the City is unable to acquire said land by negotiation and/or further negotiations with the landowner become futile.

SECTION 4.

The City Council authorizes its authorized officers or their designees and retained attorneys, to create, execute, and deliver such further documents, instruments, certificates, opinions, consents, pleadings, and other papers, for and on behalf of the City, and to do and cause to be done such further acts and things as may be necessary, appropriate, or advisable to effect the intent of this Resolution, including, but not limited to (a) filing temporary injunctions or other causes of action necessary to obtain access to the property impacted by the acquisitions; (b) performing lineal surveys for metes and bounds purposes and conducting archaeological, species and environmental walk-throughs, inspections and/or testing (including obtaining water and soil samples, if necessary), as required by applicable state and federal laws (collectively the "Preliminary Surveys"), appraising, designing, planning, obtaining title information, and specifying the preparation, location, and routing or re-rerouting of the Project should such become necessary for any reason; (c) entering into good-faith negotiations with the landowner to make bona fide offer for the property; (d) appraising the property; (e) causing eminent domain proceedings to be filed should the bona-fide offer and good-faith negotiations fail; and (f) obtaining, or causing to be applied for and obtained, surety bonds as may be necessary or desirable regarding any eminent domain proceedings hereinabove authorized or any injunctive proceedings necessary or related to or as a condition precedent to any such eminent domain proceedings. Such documents, instruments, certificates, opinions, consents, pleadings, and other papers, and any amendments, supplements, or modifications thereto shall be in such form and contain such terms and conditions, whether material or non-material, as such officers, or any of them, shall deem

necessary, appropriate, or advisable, and all that such officers, their designees, employees, and retained attorneys have done or may do under or by reason of this and any foregoing resolutions are hereby approved, confirmed, and ratified. The City Council finds that it is in the best interest to obtain the fee simple interest (or an easement where necessary) from whomever holds legal and equitable title as identified according to the procedure adopted through this Resolution and if necessary, the Director of Finance is directed to disburse funds in accordance herewith.

SECTION 5.

The determination of necessity to exercise the power of eminent domain in this matter is made according to reason and judgment with due regard and consideration of the relevant facts, circumstances, and alternatives, and the knowledge, which existed at this time. Therefore, the City, acting by and through its contractual eminent domain attorneys, is hereby directed and authorized to institute and prosecute to conclusion all necessary proceedings in eminent domain to condemn the land described herein and to acquire such interest in land if the City is unable to acquire such through negotiation, and to take any other legal action necessary or incidental to such acquisition or eminent domain proceeding to investigate, survey, specify, define, and secure the necessary property right.

All acts and proceedings done or initiated by the employees, agents, and attorneys of the City for the acquisition of such land are hereby authorized, ratified, approved, confirmed and validated and declared to be valid in all respects as of the respective dates of such acts and proceedings, with and in regard to the grantors from whom such land is being purchased or acquired.

SECTION 6.

Severability: If any provision, section, subsection, sentence, clause, or phrase of this Resolution, or the application of the same to any person or set of circumstances is for any reason held to be unconstitutional, void, or invalid, the validity of the remaining portions of this Resolution shall not be affected thereby, it being the intent of the Commissioners Court in adopting this Resolution that no portion hereof, or provisions, or regulations contained herein, shall become inoperative or fail by reason of any unconstitutionality or invalidity of any other portion hereof and all provisions of this Resolution are declared to be severable for that purpose.

SECTION 7.

This Resolution shall become effective from	om and after its pa	assage.
PASSED AND APPROVED this the	day of	, 2025.
	Neal Linnartz	, Mayor
ATTEST:		

Gayle Wilkinson City Secretary Engineers · Planners · Scientists · Construction Managers

2806 W. Bitters Road, Suite 218 • San Antonio, Texas 78248 • Phone (210) 641-9999

FIELD NOTES FOR PARCEL 4 – FREDERICK FRUEHOLZ JR. KOHLENBERG ROAD R.O.W. 2.309 Acres (100,568 Square Foot)

Being a 2.309 acre (100,568 square foot) tract of land in the A.M. Esnaurizar Survey No. 98, of Comal County, Texas and being out of the called 239.708 acre tract recorded in Document No. 201306045302 of the Official Public Records (O.P.R.C.C.) of Comal County, Texas; and being more specifically out of the called 49.64 acre 1st Parcel of said 239.708 acres recorded as Volume 78, Page 399 - Tr. 2, O.P.R.C.C, said 2.309 acre tract being more particularly described by metes and bounds as follows:

COMMENCING at ½" iron rod found in the existing southwest right-of-way (ROW) line of Kohlenberg Road (variable width ROW); a second found ½" iron rod with Sherwood cap at the south corner of Lot 1, Block 1 of the Continental Nautilus Subdivision as shown on the plat recorded in Document No. 202106015426 of the Official Map Records (O.M.R.C.C.) of Comal County, Texas bears S 42°42'02" W – 1378.78 feet;

THENCE S 44°38'41" E, with said southwest ROW of Kohlenberg Road, for a distance of 347.78 feet to a set ½" iron rod with KCI plastic cap for the **POINT OF BEGINNING** at the north corner of this description;

THENCE S 44°38'41" E, continuing with said southwest ROW line of Kohlenberg Road, for a distance of 1302.05 feet to a set ½" iron rod with KCI plastic cap at the west existing right-of-way (ROW) cutback line of FM 1101;

THENCE S 00°22'39" E, with said cutback line, for a distance of 71.91 feet to a set ½" iron rod with KCI plastic cap;

THENCE with a curve to the left having a radius of 1168.28 feet and a central angle of 01°11'40", the chord bears S $46^{\circ}16'07$ " W -24.73 feet to a set ½" iron rod with KCI plastic cap;

THENCE S 45°40'17" W with the existing northwest ROW line of FM 1101 for a distance of 58.80 feet to a set 5/8" iron rod with aluminum cap stamped "TxDOT ROW" at the south corner of this description;

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RISE TO THE CHALLENGE WWW.KCI. COM

THENCE through the 239.708 acre tract for the following three (3) courses:

N 01°40'29" W for a distance of 69.85 feet to a set 5/8" iron rod with aluminum cap stamped "TxDOT ROW" for an angle point;

N 40°33'19" W for a distance of 178.02 feet to a set 5/8" iron rod with aluminum cap stamped "TxDOT ROW" for an angle point;

N 44°36'02" W for a distance of 1123.74 feet to a set 5/8" iron rod with aluminum cap stamped "TxDOT ROW" on the southeast line of the remainder of the Lynn Wohlfahrt 92.49 acre tract recorded in Document No. 200306025956 O.P.R.C.C., Comal County, Texas:

THENCE N 45°02'10" E with said southeast line for a distance of 72.55 feet to the **POINT OF BEGINNING**, and containing 2.309 acres (100,568 square foot) of land, more or less

• Bearings source is between the first and last two ½" iron rods described above found on the southeast line of Lot 1, Block 1, and shown as N 42°42'02" E as derived from GPS observation based on NAD 83(2011), Texas State Plane Coordinate System - South Central Zone (4203).

I hereby certify that this description conforms to the minimum standards set forth by the Texas Board of Professional Engineers and Land Surveyors according to an actual survey made on the ground by employees of KCI Technologies."

GARY B. NEILL

Date: October 23, 2014

Sany B Neill

Gary B. Neill R.P.L.S. #3964

Firm No. 101943-65

Warning: Only those copies with the Signature and Seal in red should be relied upon.

CONB Kohlenberg

Project Number: 45E0619602

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