

## **ORDINANCE NO. 1097-06-16**

**AN ORDINANCE OF THE CITY OF HONDO TEXAS ABANDONING A PORTION OF AVENUE H LOCATED BETWEEN 22<sup>ND</sup> STREET AND 26<sup>TH</sup> STREET IN THE CITY OF HONDO, MEDINA COUNTY TEXAS; RETAINING A UTILITY EASMENT THEREIN; DECLARING A PUBLIC PURPOSE; INCORPORATING RECITALS; PROVIDING A REPEALER; PROVIDING FOR SEVERABILITY AND DECLARING AN EFFECTIVE DATE.**

**WHEREAS**, upon the petition of the Hondo Independent School District ("HISD") ("petitioner") the City of Hondo during a public meeting on June 13, 2016 obtained public input to consider the abandonment of Avenue "H" between 22<sup>nd</sup> Street and 26<sup>th</sup> Street; and

**WHEREAS**, Section 1.07.033 of the City Code of Ordinances allows for the closure, vacating and abandonment of public right-of-way to a political subdivision; and

**WHEREAS**, for any closure, vacation, or abandonment approved by City Council, the political subdivision must pay the city a fee equal to the fair market value of the affected land, however the city may waive this requirement if HISD agrees that the land will be used by HISD for a purpose that benefits the public interest; and the title and right to possession of the land will revert back to the City if HISD ceases to use Avenue "H" in carrying out the public purpose; and

**WHEREAS**, all persons at the public hearing were allowed an opportunity to voice their opinion for or against the abandonment; and

**WHEREAS**, the City Council finds that it is in the best interest of the City to convey the Property to the HISD for a purpose that benefits the public that the HISD serves; and

**WHEREAS**, after receiving public input, the City of Hondo wishes to abandon this city property subject to the terms and conditions set forth below; now

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HONDO TEXAS:**

**SECTION 1. ABANDONMENT.** The following portions of the Public Right of Way of land more or less and described as:

Avenue "H" located between 22<sup>nd</sup> Street and 26<sup>th</sup> Street; being approximately 1.598 of an acre tract of land, as set forth in the metes and bounds description attached as Exhibit "A" and map attached as Exhibit "B" hereto, and which are made a part of this ordinance for all purposes; be, and are hereby abandoned, vacated and closed insofar as the right, title or easement of the City is concerned; save and except a' utility easement in gross reserved by and on behalf of the City, upon Avenue "H" being abandoned. The City shall have the right at any time after the abandonment of the properties described herein with or without notice to HISD to enter upon the land to survey, access and use its utility easement the rights which are reserved unto the City forever.

**SECTION 2. CONDITIONS FOR CONVEYANCE.** The City will abandon Avenue "H" located between 22<sup>nd</sup> Street and 26<sup>th</sup> Street and convey to HISD with the following conditions:

1. HISD will assume ownership of Avenue "H" located between 22<sup>nd</sup> Street and 26<sup>th</sup> Street;
2. HISD will assume responsibility of all future maintenance and repairs for Avenue "H" located between 22<sup>nd</sup> Street and 26<sup>th</sup> Street;
3. HISD will grant all utility easements at no cost to the City;
4. HISD will relocate and upgrade the existing water and sewer lines to the new City utility easement at no cost to the City;
5. HISD shall use the land donated for a purpose that benefits the public they serve;
6. HISD must maintain the public purpose for which the conveyance of land is made; and
7. The title and right to possession of the land will revert back to the City if HISD ceases to use the land in carrying out a purpose that benefits the public they serve.

**SECTION 3. FAIR MARKET VALUE.** The Fair Market value of Avenue H closure based on the appraised value is \$136,000. The engineers estimate for upgrading and relocating the waterline to the new City utility easement is \$108,905.60. The city waives this difference because HISD agrees that the land will be used a purpose that benefits the public interest in accordance with Section 1.07.033 of the City Code of Ordinances.

**SECTION 4. MUNICIPAL PURPOSE** That said portions of the Public Right of Way described in Section 1, save and except the utility easements described therein are no longer needed for municipal purposes and it is in the public interest of the City, to abandon said described portions of the Public Right of Way to HISD.

**SECTION 5. SCOPE.** That the abandonment provided for herein shall extend only to the public right, title and easement in and to the tracts of land described in Exhibit "A" of this ordinance, and shall be construed only to that interest the governing body of the City may legally and lawfully abandon.

**SECTION 6. AUTHORITY AND EXCEPTION.** In addition to the express reservations provided for in Section 1 hereof, the abandonment is made subject to any and all valid, conditions, easements, restrictions and the like identified in Section 2 hereof and filed of record in the real property records of Medina County Texas. The Mayor of the City or the City Manager as the case may be are authorized to quit claim and convey the interests described in Section 1 hereof to Hondo Independent School District.

**SECTION 7. INCORPORATION OF RECITALS.** The City Council finds the recitals contained in the preamble to this ordinance are true and correct and incorporates them as findings of fact.

**SECTION 8. REPEALING ORDINANCES IN CONFLICT.** All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**SECTION 9. SEVERABILITY.** If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional or illegal, such decision shall not affect the validity of the remaining sections of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each section, subsection, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared void.

**SECTION 10 EFFECTIVE DATE.** The Ordinance shall be effective immediately following its passage and approval by council.

**PASSED AND APPROVED** this 13th day of June 2016.

  
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**JAMES W. DANNER, SR., MAYOR**

**ATTEST:**

  
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**GLORIA COLBATH, CITY SECRETARY**

