

**ORDINANCE NO. 2013-11**

**AN ORDINANCE OF THE CITY OF BURNET, TEXAS, ABANDONING A RIGHT-OF-WAY HELD BY THE CITY OF BURNET IN FAVOR OF ELMER HINDS ON THE CONDITION THE CITY IS GRANTED AN EASEMENT IN AND TO ITS UTILITIES FOR PURPOSES OF MAINTAINING THE CITY'S UTILITIES.**

**WHEREAS**, it is believed the City of Burnet has a 25 feet wide strip of land in and to a 0.085 acre tract of land more fully described in Exhibit A;

**WHEREAS**, the aforementioned right-of-way contains utility improvements owned by the City of Burnet;

**WHEREAS**, it is for the benefit of the City for financial and maintenance aspects to abandon said right-of-way in favor of Elmer Hinds, however, the City must be granted an easement, in exchange for the abandonment of the right of way, to allow for utility maintenance;

**WHEREAS**, it is not necessary for the City to retain the right-of-way for its development;

**WHEREAS**, upon abandonment, the Elmer Hinds will be responsible for maintaining said right-of-way;

**WHEREAS**, it is essential that the City retain an easement in and to the abandoned right-of-way to maintain the City's utilities which currently exist or may exist in the future, Elmer Hinds therefore grants the City such easement necessary to retain, maintain, relocate, build, and improve, and alter the utilities upon said right-of-way;

**WHEREAS**, the City desires to carry out the logistics of said agreement by abandoning any interest it may have in and to said right-of-way in favor of Elmer Hinds on the condition that the City retain an easement to said right-of-way to maintain the City's easements.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS:**

**Section 1. Findings.** The findings and recitations set out hereinabove are found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes as findings of fact.

**Section 2. Abandonment of Right-of-Way.** The City of Burnet does hereby abandon any interest it has in and to a 25' right-of-way as part of a 0.085 acre tract of land; out of the Peter Kerr portion of the City of Burnet, Texas, and being a portion of the Watts Street right-of-way adjacent to and west of the west land of Lot 3, Block 43 of said Peter Kerr portion, said 0.085 acre (25'wide) strip of land being more particularly described by metes and bounds as described in Exhibit A.

**Section 3. Retention of Easement.** The City; however, shall retain an easement in and to the abandoned right-of-way as described in section 2 above and Exhibit A attached for purposes of maintaining its utilities.

**Section 4. Repeal of Conflicting Ordinances.** All Ordinances or parts thereof in conflict herewith are amended to the extent of such conflict only.

**Section 5. Severability.** If any provision of this ordinance or the application of any provision to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications hereof which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

**Section 6. Open Meetings.** It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551, Local Government Code.

**Section 7. Effective Date.** This ordinance shall take effect immediately upon its adoption by the City Council and publication as required by the Local Government Code.

**PASSED AND APPROVED** on First Reading this 11<sup>th</sup> day of June, 2013.

**FINALLY PASSED AND APPROVED** on this the 25<sup>th</sup> day of June, 2013.

**ATTEST:**

\_\_\_\_\_  
Kelly Dix, City Secretary

