

**AMENDED ORDER ADOPTING RULES AND REGULATIONS GOVERNING
THE USE AND OCCUPANCY OF THE DISTRICT'S RIGHTS-OF-WAY**

THE STATE OF TEXAS §
COUNTY OF DENTON §
FRISCO WEST WATER CONTROL AND IMPROVEMENT DISTRICT §
OF DENTON COUNTY

The Board of Directors of Frisco West Water Control and Improvement District of Denton County (the "District") met in regular session, open to the public, after due notice, at its office outside the boundaries of the District, on the date hereinafter set out; whereupon, the roll was called of the members of the Board of Directors, to-wit:

Jacob Walls	President
Alison Nugent	Vice President
Jeff Paeth	Secretary
Billy Logsdon	Assistant Secretary
Alfredo Heraldez	Assistant Secretary

All members of the Board were present.

WHEREUPON, among other business conducted by the Board, Director Walls introduced the Order set out below and moved its adoption, which motion was seconded by Director Logsdon and, after a full discussion and the question being put to the Board of Directors, said motion was carried by the following vote:

"Aye": 5; "No" 0.

The Order thus adopted is as follows:

WHEREAS, the District is charged with maintaining control of and access to the public rights-of-way in order to protect the health, safety and welfare of its citizens and the public; and

WHEREAS, the Board of Directors of the District has investigated and determined that work performed by right-of-way users in the public rights-of-way can significantly interfere with public use of the right-of-way and existing utility facilities, and negatively affect public safety, public resources, air quality, level of service on streets and sidewalks and community aesthetics; and

WHEREAS, there exists a need for certain rules and regulations to be set out governing the use of the public rights-of-way in a non-discriminatory and competitively neutral basis in accordance with applicable federal and state laws; and

WHEREAS, the District seeks to exercise its historical rights to control and manage its public rights-of-way and implement certain regulations in the use of those public rights-of-way. For purposes of this Order, the District's Representative shall mean Huitt-Zollars, Inc., which acts as the engineering consultant for the District ("District's Representative").

IT IS, THEREFORE ORDERED BY THE BOARD OF DIRECTORS OF FRISCO WEST WATER CONTROL AND IMPROVEMENT DISTRICT OF DENTON COUNTY THAT:

I. RIGHTS-OF-WAY FACILITIES CONSTRUCTION & INSTALLATION

A. Definitions. For the purpose of this Section, the following shall have the meaning as defined:

1. Facilities. Any and all wires, cables, fibers, duct spaces, manholes, poles, conduits, pipes, underground and overhead passageways, and other equipment, structures, plant and appurtenances, and all associated physical equipment placed in, on, under, or above, the public rights-of-way.
2. Permittee. Any individual, corporation, company, association, partnership, firm, limited liability company, joint venture, joint stock company, or association, or other such person or entity that has been given formal municipal consent through registration/permit to perform construction and installation of facilities in public rights-of-way.
3. Public Rights-of-Way. The area in, on, below, or above a public roadway, highway, street, sidewalk, alley, or waterway in which the District or its Representative has an interest by ownership.

B. Rights-of-Way Management. In the course of development, the services of private utility agencies may be required. This section provides regulations for the management of facilities placed in, on, under, or over the public rights-of-way in order to minimize congestion, inconvenience, visual impact, and other adverse effects and to minimize costs to the citizens of the District resulting from the placement of facilities within the public rights-of-way. The provisions of this section shall govern the use and occupancy of the public rights-of-way; conserve the limited physical capacity of the public rights-of-way held in public trust by the District; preserve the physical integrity of the streets and highways; control the orderly flow of vehicles and pedestrians; provide a means to track entities using the rights-of-way; and to protect the safety, security, appearance, and condition of the public rights-of-way.

C. Conditions of Public Rights-of-Way Occupancy. In the exercise of governmental functions, the District has first priority over all other uses of the public rights-of-way. The District reserves the right to lay water, sewer, and other pipelines and conduits, and to do underground and overhead work, and attachments, restructuring, or changes in aerial facilities in, across, along, over, or under a public street, alley, or other public rights-of-way occupied by a person and to change the curbs, sidewalks, or the grade of streets.

D. Registration. In order to protect the public health, safety, and welfare, ALL contractors working within the jurisdiction of the District must register with the District's Representative. Registration must be renewed every year while working within the District's jurisdiction. When any information provided on the registration form changes, the user must inform the District's Representative of the change immediately after the change is made. Information provided in application forms for construction permits shall not constitute notice of any changes in the registration information for the contractor/user. Registration shall include:

1. The name of the user of the rights-of-way;
2. The names, addresses, and telephone numbers of people who will be contact person(s) for the user;
3. The name, address, and telephone number of any contractor or subcontractor, if known, who will be working in the rights-of-way on behalf of the user;
4. The name(s) and telephone number(s) of an emergency contact who shall be available twenty-four (24) hours a day; and

E. Insurance. An applicant shall obtain and maintain insurance in the following amounts with a company authorized to do business in the State of Texas acceptable to the District and the District shall be listed as certificate holder.

TYPE OF INSURANCE	LIMIT
General Liability (including Contractual liability) written on an occurrence basis	General Aggregate \$1,000,000
	Prod./Comp Op. Agg. \$1,000,000
	Personal & Adv Injury \$600,000
	Each Occurrence \$600,000
Automobile Liability, including any auto, hired auto and non-owned autos	Combined Single Limit \$600,000
Excess Liability, Umbrella Form	Each Occurrence \$1,000,000
	Aggregate \$1,000,000
Worker's Compensation and Employer's Liability	Each Accident \$100,000
	Disease-Policy Limit \$500,000
	Disease-Each Empl. \$100,000

1. The District and its Representative reserve the right to review the insurance requirements and to reasonably adjust insurance coverage and limits when the District's Representative determines that changes in statutory law, court decisions, or the claims history of the industry or the provider requires adjustment of the coverage.

2. Each policy must include a cancellation provision in which the insurance company is required to notify the District and its Representative, in writing, not fewer than thirty (30) days before canceling, failing to renew, or reducing policy limits. Each policy must provide that notice of claims shall be provided to the District's Representative by certified mail.

3. The applicant must file the required original certificate of insurance prior to any commencement of work. The certificate must state the policy number; name of insurance company; name and address of the agent or authorized representative of the insurance company; name, address, and telephone number of insured; policy expiration date; and specific coverage amounts. The certificate must name the District and its Representatives, officers, employees, board members, and elected representatives as additional insureds for all applicable coverage.

4. Applicant must obtain, and maintain, at its sole cost and expense, and file with the District's Representative, a corporate surety bond in the amount of \$100,000 if using more than three (3) crews at any given time, both to guarantee timely construction and faithful adherence to all requirements of this ordinance. The bond must contain the following endorsement: It is hereby understood and agreed that this bond may not be cancelled by the surety nor any intention not to renew be exercised by the surety until thirty (30) days after receipt, by the District's Representative, of written notice of such intent. The bond must provide, but not be limited to, the following condition: There shall be recoverable by the District and its Representative, jointly and severally from the principal and the surety, any and all damages, loss, or costs suffered by the District or its Representative resulting from the failure of the applicant to satisfactorily construct facilities and adherence to all the requirements of this Order. The rights reserved to the District and its Representative, with respect to the bond, are in addition to all other rights of the District and its Representative, whether reserved by this Order or authorized by law; and no action, proceeding, or exercise of a right, with respect to such bond, shall affect any other rights the District and its Representative may have.

5. The District's Representative may waive or reduce the above requirements, taking into consideration both that the applicant has furnished the District and its Representative with reasonable documentation to evidence adequate financial resources substantially greater than the insurance and bonding requirements; and has demonstrated, in prior rights-of-way construction activity, prompt resolution of any claims and substantial compliance with all required applicable rules, regulations, codes, and ordinances.

F. Construction Permits.

1. Upon receipt of plans from the District's Representative or firms contracted by the District's Representative, the utility companies are required to verify the horizontal and vertical placement of their facilities in the rights-of-way,

determine where conflicts exist, and propose a relocation strategy. This information shall be plotted on the plans and provided to the District's Representative for review.

2. Any permittee seeking to place facilities on, in, under, or over the public rights-of-way shall first file an application for a construction permit with the District's Representative and shall abide by the terms and provisions of these rules pertaining to the use of the public rights-of-way. No permittee shall perform any construction or installation of facilities in the rights-of-way without first obtaining a construction permit. The permit must be completed, signed, and any and all fees paid by a representative of the owner of the facilities to be constructed prior to any work commencing.

3. A maximum amount of three (3) crews will be allowed to work on any one project at any given time, except additional crews may work upon written authorization from the District's Representative.

4. A maximum amount of four (4) open permits will be allowed at any given time.

5. The permit application shall state who is requesting it, location of work, location of facilities, and dates and times work is to take place. The documentation shall include, but not be limited to:

- a) Detail of the location of all rights-of-way and utility easements which applicant plans to use;
- b) The proposed location and route of all facilities to be constructed or installed and the applicant's plan for rights-of-way construction;
- c) Engineering plans in accordance with the requirements set by the District's Representative. Detail of all existing District utilities in relationship to applicant's proposed route;
- d) Detail of plans to remove and replace asphalt or concrete in streets;
- e) Drawings of any bores, trenches, hand-holes, manholes, switchgears, transformers, pedestals, etc., including depth profile, located in the public rights-of-way;
- f) Hand-hole and manhole typical of type of hand-holes and manholes applicant plans to use or access;
- g) Complete legend of drawings submitted by applicant;
- h) Three (3) sets of engineering plans must be submitted with permit application; and

i) The name, address, and telephone numbers of the contractor or subcontractor who will perform the actual construction, including the name and telephone number of an individual with the contractor who will be available at all times during construction. Such information shall be required prior to the commencement of any work.

6. The construction and installation methods to be employed for the protection of existing structures, fixtures, and facilities within or adjacent to the rights-of-way, and the dates and times work will occur, all of which (methods, dates, times, etc.) are subject to approval of the District's Representative. All construction and installation in the public rights-of-way shall be in accordance with the permit for the facilities.

7. Each set of construction plans submitted to the District's Representative for review and approval shall include a site-specific traffic control plan. The plan shall provide for the safe handling of traffic through and in the area of construction. Construction, signing, barricades, etc., shall be in conformance with the Texas Manual of Uniform Traffic Control Devices, where applicable.

G. Construction Obligations. A permittee is subject to reasonable regulations of the District to manage its public rights-of-way in connection with the construction, expansion, reconstruction, maintenance, or repair of facilities in the public rights-of-way, pursuant to the District and the District's Representatives rights, as a custodian of public property, based upon the District's historic rights under state and federal laws. Such regulations include, but are not limited to, the following:

1. Working hours within the District will be Monday through Friday from 7:00 am to 7:00 pm, Saturday from 8:00 am to 6:00 pm, and no work allowed on Sundays.

2. All installations must be directional boring; no open cutting will be allowed.

3. At the District's request, a permittee shall furnish the District's Representative accurate and complete information relating to the construction, reconstruction, removal, maintenance, operation, and repair of facilities performed by the permittee in the public rights-of-way.

4. A copy of the construction permit(s) and approved engineering plans shall be maintained at the construction site and made available for inspection by the District or its Representative at all times during construction or installation work. Additionally, a copy of any permit or approval issued by federal or state authorities for work in federal or state rights-of-way, located in the District, must be provided if requested by the District's Representative.

5. All construction or installation work authorized by permit must be completed in the time specified in the construction permit. If the work cannot be

completed in the specified time period, the permittee shall request an extension from the District's Representative.

6. All disturbed areas shall be restored to their original, or better condition, immediately after the completion of the work. The permittee may request an extension of this period when circumstances beyond permittee's control prohibit completion of restoration as requested. Users of the rights-of-way must restore property affected by construction of facilities to a condition that is equal to or better than the condition of the property prior to the performance of the work. Restoration must be to the reasonable satisfaction of the District's Representative and the property owner. The restoration shall include, but is not limited to:

- a) Replacing all ground cover with the type of ground cover damaged during work or better sod, as directed by the District's Representative;
- b) Installation of all manholes and hand-holes, as required;
- c) Backfilling all bore pits, potholes, trenches, or any other holes, or covering, daily, or unless other state or federal safety requirements are followed;
- d) Leveling and compacting of all trenches and backhoe lines;
- e) Restoration of excavation site to District specifications;
- f) Restoration of all landscaping, trees, ground cover, and sprinkler systems; and
- g) All locate flags and information signs must be removed during the cleanup process by the permittee and/or his contractor at the completion of the work.

7. The permittee shall be responsible for all maintenance costs incurred by the District as a result of any defects, impairments, or substandard condition in the street, alley, highway, public thoroughfare, District maintained easement, or public way caused by the construction, maintenance, or restoration work performed by the permittee or its contractor(s). The permittee or its contractor(s) will repair immediately (depending on the severity of the problem), any damages to the public rights-of-way cause by its maintenance, building, or construction. After five (5) working days of the District, the District or its Representative shall have the right to complete repairs and invoice the permittee for the costs of said repairs. The permittee shall reimburse the District in accordance with said invoice within thirty (30) days of receipt. No street, alley, highway, public thoroughfare, District maintained easement, or public way shall be encumbered for a period longer than shall be necessary to execute the work.

8. All construction and installation shall be in conformance with applicable local, state, and federal laws and is subject to review and acceptance by the District and its Representative.

9. All excavations and other construction in the public rights-of-way shall be conducted so as to minimize interference with the use of public and private property. A permittee shall follow all reasonable construction directions given by the District's Representative in order to minimize any such interference.

10. Erosion control measures and traffic control devices must be in place before work begins and should remain in place until completion of project.

11. Installation of facilities must not interfere with District utilities.

12. A permittee working in the rights-of-way is responsible for obtaining line locates from all affected utilities or others with facilities in the rights-of-way prior to any excavation.

13. If facilities are to be installed in an area which will influence roadway pavement for a District's maintained traffic route, the following requirements shall be adhered to:

a) Trenches twelve (12) inches in width or greater shall be backfilled in ten (10) inch (loose measure) lifts. Each lift shall be compacted to ninety-five (95) percent standard proctor density and the compaction effort shall be verified by tests conducted by an approved geotechnical firm. At a minimum, one (1) test shall be taken each two hundred (200) linear feet of trench.

b) Trenches less than twelve (12) inches in width shall be backfilled in ten (10) inch (loose measure) lifts. Each lift shall be tamped by mechanical apparatus or by hand. The backfill shall be compacted to the density of the adjacent soils. The District will perform inspection to the extent deemed appropriate by the District.

14. If a permittee is to place facilities in rights-of-way or easements belonging to the District, but not located under roadways, the following specifications shall apply:

a) When placing underground conduits, cables, and pipes in a trench of a width of twelve (12) inches or greater, a four (4) to six (6) inch width of backfill along both outer sides of a conduit must be Type A select fill, which may be sand, decomposed granite, or rock-free sandy loam; all free of stones or rocks larger than three-eighths (3/8) inch.

b) Backfilling and tamping of the fill alongside the conduits and pipes shall be done in layers not more than four (4) inches thick and compacted

by hand or pneumatic tampers. This backfill shall be placed to at least six (6) inches above the conduits, cables and pipes with tamping continuing.

c) After the initial six (6) inch cover of select backfill over the conduits, cables, and pipes has been placed, the next backfilling shall be twelve (12) inches thick and shall be tamped in six (6) inch lifts. The soil used for this backfill shall be of the same type as the initial fill and be free of large stones or lumps or other hard surfaces. This twelve (12) inch layer shall be tamped by hand or pneumatic tampers.

d) The final backfill to grade may be completed in a normal manner after consolidation and compaction of the eighteen (18) inch backfill cover over the conduit, cables and pipes. In all cases, the permittee shall restore all areas to as good or better condition than before construction began.

15. Prior to final acceptance the permittee shall furnish the District's Representative the original drawings revised to depict as-built conditions. The plans shall be marked "As Built" on each plan sheet and shall be signed and dated by the permittee's engineer. The engineer shall certify that the plans accurately show the work as actually constructed. The as-built plans shall include a certification that all lot, rights-of-way, and easement lines have been marked as evidenced by the setting of iron rods, except that easement lines parallel to staked lot and rights-of-way lines are not required to be marked by iron rods.,

16. The as-built plan requirement, may be waived, depending upon complexity, as determined by the District's Representative. Final acceptance is the formal approval by the District and its Representative. It will be reflected in the field report of the District's appropriate inspector based on the finding that the public rights-of-way have been properly restored and that all administrative requirements have been satisfied.

H. Remedies. If any of the provisions of these Rules and Regulations are not followed, a permit may be revoked by the District or its Representative. If a permittee has not followed the terms and conditions of these Rules and Regulations in work done pursuant to a prior permit, new permits may be denied or additional terms required.

I. Penalty. Any permittee, firm, or corporation who violates any provision of this Order will be subject to Section XIX below.

II. VIOLATIONS

A. Failure to adhere to these Rules and Regulations will occasion a fine of Two Hundred Fifty Dollars (\$250.00) for the first violation and Five Hundred Dollars (\$500.00) for the second and all subsequent violations, per day, to be paid by the builder, developer, corporation, or other entity or individual who violates the above regulations, to be paid to the District in care of the District's Representative. In addition to the fines set forth herein, violations will carry with it the cost of replacement of the public property

or the cost associated with trash removal, plus an administrative fee of fifteen (15) percent of such costs.

B. Water service will not be provided by the District or its Representative until the requirements set forth herein have been met and an approved permit has been granted by the District's Representative.

III. EXECUTION, SUBMISSION FOR APPROVAL, AND PUBLICATION OF NOTICE

A. The President or Vice President is authorized to execute and the Secretary or any Assistant Secretary is authorized to attest this Order on behalf of the Board of Directors and do all other things proper and necessary to carry out the intent hereof, including the submission of said rules to the Texas Commission on Environmental Quality (the "TCEQ") and publication of notice of the adoption of said rules.

IV. SEVERABILITY

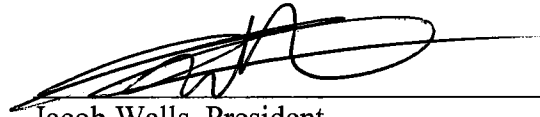
A. It is hereby declared to be the intention of the District that the sections, paragraphs, sentences, clauses, and phrases of this Order, including any attachments, are severable and if any phrase, clause, sentence, paragraph, or section of this Order is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality will not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of this Order, since the same would not have been enacted by the District without the incorporation into this Order of any such unconstitutional phrase, clause, sentence, paragraph, or section.

V. PRIOR RULES AND REGULATIONS RESCINDED

A. All Rules and Regulations governing these matters that existed prior to the adoption, this date, of these Rules and Regulations are hereby rescinded and replaced forthwith with the Rules and Regulations contained and adopted within this Order.

[Signature page to follow]

APPROVED, ORDERED, and ADOPTED this 23rd day of April, 2019.



Jacob Walls, President
Frisco West Water Control and Improvement District
of Denton County

ATTEST:



Jeff Paeth, Secretary
Frisco West Water Control and Improvement District
of Denton County

