

RESOLUTION NO. 1 23/24

RESOLUTION BY THE OSCEOLA COUNTY BOARD OF SUPERVISORS ON THE CONSTRUCTION OF PIPELINES, ELECTRIC TRANSMISSION LINES, COMMUNICATION LINES, UNDERGROUND SERVICE LINES, OR OTHER SIMILAR INSTALLATION ON, OVER, ACROSS, OR BENEATH DRAINAGE DISTRICT INFRASTRUCTURE

WHEREAS, the Osceola County Board of Supervisors is responsible for the maintenance and management of drainage districts located within Osceola County, Iowa, and jointly responsible for maintenance and management of intercounty drainage districts (hereafter sometimes referred to as the "District") which have been established pursuant to Chapter 468, Code of Iowa.

WHEREAS, Osceola County drainage districts and intercounty drainage districts have been established and constructed with the presumption the drainage of surface waters from agricultural lands and all other lands, or the protection of such lands from overflow is a public benefit and is conducive to the public health, convenience and welfare.

WHEREAS, Iowa Code section 468.186 specifically addresses a proposed pipeline, electric transmission line, communication line, underground service line, or other similar installations on, over, across, or beneath the right-of-way of any drainage or levee district; and

WHEREAS, Iowa Code section 468.186 mandates that an applicant, before beginning construction, obtain from the governing body of the drainage or levee district an easement to cross the District's right-of-way; and

WHEREAS, Iowa Code section 468.186 provides that the governing body of the drainage or levee district may, as a condition of granting such easement, attach thereto such additional conditions as the District's governing body deems necessary; and

WHEREAS, construction over, across or beneath established or proposed Osceola County or intercounty drainage district improvements or infrastructure is subject to an application for the approval of such construction.

WHEREAS, requirements for construction over, across or beneath established Osceola County drainage district or established intercounty drainage district improvements or infrastructure are necessary to regulate such construction and protect District infrastructure.

WHEREAS, the Osceola County Board of Supervisors, shall be the exclusive governing body for the establishment of requirements for construction over, across or beneath established or proposed Osceola County drainage district or established or proposed intercounty drainage district improvements or infrastructure and for the approval of an application for such construction:

1. Every Applicant shall furnish the Board of Supervisors, or its representative, plats showing the exact location of the proposed construction. If in view of such plats it is determined by the Board of Supervisors that such locations are in conflict with present

or proposed District facilities, and that a more desirable location is possible, the Applicant shall work in good faith with the Board of Supervisors to make the alignment changes, if practicable.

2. NO CONSTRUCTION SHALL COMMENCE ON ANY PORTION OF THE PROJECT WITHIN THE DISTRICT WITHOUT A WRITTEN APPROVAL OF THE ROUTE FROM THE BOARD OF SUPERVISORS OR ITS REPRESENTATIVE.
3. The Applicant will at any time subsequent to the commencement of construction, and at Applicant's sole expense, reconstruct or replace its installation as may be necessary to conform to new grade or alignments resulting from maintenance, repair, improvement or construction operations by the District in connection with any of its drainage facilities. The Applicant agrees to do this within forty-five (45) days of receipt of written notice by the District, or such longer time period as the District may specify, without cost to the District. Such reconstruction or realignment of Applicant's improvements shall be made in accordance with and approved by the District or its authorized representative. If the Applicant is unable to comply within the time period specified above, the District may cause the work to be done and the Applicant shall pay the cost thereof upon receipt of a statement of such costs.
4. The District shall give the Applicant at least sixty (60) days written notice of the proposed construction of new District facilities or infrastructure, and at least twenty-four (24) hours verbal (via telephone) notice of emergency maintenance repairs to District drainage facilities, that may expose, cover up or disturb any installation belonging to Applicant, so that Applicant may arrange to protect same. Emergency (24 hour) notice shall be given by calling Applicant at the phone number on file with the District. The District representative shall inform all District contractors, workers, and employees of the location of Applicant's installations. Failure to give the notice herein required, or to inform said contractors, workers or employees of said location, shall not create a separate legal duty or liability on the part of the District. It shall remain the contractor's responsibility and duty to establish the location of Applicant's installation and to avoid damage to the installation.
5. The District assumes no responsibility for damages to Applicant's property occasioned by any construction or maintenance operation of the District subsequent to Applicant's installation. Contractors hired to construct or repair District facilities shall agree to indemnify and hold harmless the District from any claim for damages by Applicant.
6. The District shall provide Applicant access to maps or other information regarding the location of all known District drainage facilities, so that reasonable care may be taken by Applicant to avoid damage to District drainage facilities. It shall also be understood by the Applicant that District plats were created in the early 1900s, have limited accuracy, and shall not solely be relied upon to establish the location of District facilities.

7. The Applicant shall take all reasonable precautions during construction to protect and safeguard the lives and property of the public and adjacent property owners, and shall indemnify and hold the District harmless from any damage or losses that may be sustained as a result of Applicant's construction operations. A copy of a certificate of insurance naming the appropriate District as an additional insured for the permitted construction work (or at the District's option, proof of adequate self-insurance) shall be provided to the County Auditor prior to any construction work pursuant to the permit. The minimum limits of liability under the insurance policy, or proof of self-insurance, shall be \$1,000,000 per occurrence. FURTHER, APPLICANT SHALL BE LEGALLY OBLIGATED TO REPLACE, REPAIR OR REIMBURSE ALL DAMAGES TO PRIVATE PROPERTY, OCCASIONED BY APPLICANT'S CONSTRUCTION OR SUBSEQUENT MODIFICATIONS, MAINTENANCE OR REPAIRS TO APPLICANT'S INSTALLATION.
8. All construction, maintenance or repair of Applicant's installation shall be carried on in such a manner as to not interfere with, impede, nor interrupt the function of, any District Drainage facilities.

In the event it becomes necessary to temporarily stop the normal flow of water in any District facility in order to permit the Applicant's construction and installation, the following shall be done by the Applicant.

- A. If the Applicant's construction involves crossing of a tile line, the replacement of tile with approved pipe, in the manner approved by the District's designated Drainage Engineer shall be performed as rapidly as possible. If the approved method of repair is impossible and the volume of water flowing in the tile is sufficient to create the possibility of crop loss or property damage, the Applicant's contractor will be permitted to temporarily block the tile line to prevent the flow of this tile water into the pipeline, or tile line trench. If a tile line is temporarily blocked, the Applicant's contractor shall provide sufficient pumping equipment to pump the impounded tile water across the construction trench to the undisturbed tile line. Such temporary blockages of District tile lines will be removed as rapidly as possible. All costs, damages and tile repairs related to Applicant's temporary blockage will be Applicant's sole responsibility.
- B. If the Applicant's construction involves the crossing of a District open channel that is carrying sufficient flow of water to make it necessary to place a temporary dam across said open channel, such temporary dams may be constructed only upon written approval by the District's designated Drainage Engineer. The maximum elevation of this impounded water shall be determined by the District's Drainage Engineer and all excess water must be allowed to flow across the construction trench through either a closed metal culvert pipe or by pumping. All temporary dam structures are to be removed as soon as the crossing is completed. The construction and removal of any temporary dams to be in such manner that the smooth and efficient function of the drainage

channel is not impaired. All costs and damages related to Applicant's installation of a temporary dam will be Applicant's sole responsibility.

- C. When the construction of any installation for which a permit or easement has been obtained on, over, across, or beneath the right-of-way of any Drainage or Levee District disturbs or requires replacement of any portion of a tile drain less than twenty inches in diameter, and a portion of such drain will remain wholly or partially exposed after the construction project has been completed, the portion which is to remain exposed and not less than three feet of such drain immediately on either side of the portion which is to remain exposed, shall be replaced either with steel pipe of not less than sixteen gauge or polyvinyl chloride pipe conforming to current industry standards regarding diameter and wall thickness
9. The Applicant shall indemnify and hold harmless the District, including its employees, representatives and agents, from any claims made against the District and for any damage to any District facility because of the installation, construction or future maintenance/repair of the Applicant's construction or installation and shall reimburse the District for any expenditures the District may have to make in order to repair said District facilities due to Applicant's construction, repair, maintenance or modification of its installation.
10. The Applicant agrees to give the District twenty-four (24) hours' notice (Saturdays and Sundays excluded) of its intention to commence construction on any lands within the jurisdiction of the District. Said notice shall be made in writing to the designated Drainage Engineer. Notice cannot be given until the approval of the construction project has been issued by the District.

As-built plans for all installations shall be furnished to the District within 90 days after the completion of the project. Said plans shall include a plan and profile and location using the civil monument, or GPS locations.

11. The Board of Supervisors shall appoint a representative to inspect and approve all construction by Applicant that impacts District drainage facilities. Said appointment shall be in writing. All reasonable compensation, wages, mileage and other reasonable expenses for the designated representative shall be paid by the Applicant. Said representative will approximately pre-locate public drainage facilities when necessary, private drainage facilities where possible, inspect all crossings of public drainage facilities, and shall have the authority to require the Applicant to excavate and expose the crossing of any District drainage facilities where the representative believes it necessary to visually examine same. The designated representative shall have the authority to immediately suspend construction by verbal order to the Applicant's contractor at the site to be followed with a verbal communication to Applicant, or its Applicant's designated representative within six (6) hours of the verbal order.

12. Drainage facility crossings shall be constructed by Applicant as follows, as directed by the representative of the District.

A. CROSSING OF OPEN CHANNEL FACILITIES

- i. Passage of the Applicant's installation in a horizontal plane five feet (5') below design grade of the drainage channel, as established by the District's designated Drainage Engineer.
- ii. The above depth is to extend to a point two (2) times the design base width of the channel either side of the centerline of the drainage channel, unless the existing base width is greater than the design base width. If the existing base width is greater than the design width, the depth is to extend to a point two (2) times the existing width.
- iii. The rate of slope for transition from normal installation laying depth to crossings of drainage channels shall not be steeper than 4:1.
- iv. If such channel crossings occur at points of outlets of District or private tile lines, or within twenty-five feet (25') of said outlets, such outlet facilities must be relocated to a point no less than twenty-five feet (25') from such crossings. Such relocations shall be at the sole expense of the Applicant and as directed by the representative of the Drainage District.

B. CROSSING OF DRAINAGE DISTRICT TILE LINES

- i. All proposed installations must be placed under the existing Drainage District tile lines. These requirements may be waived only upon review by and approval of the District's drainage engineer.
- ii. A minimum of two-feet (2') separation below existing Drainage District facilities must be maintained.
- iii. At all crossings of District tile lines by Applicant's installation, one of the following must be used:
 1. Replace the District tile with reinforced concrete pipe or an approved alternative of the same or larger diameter than the existing tile. The pipe strength and installation requirements are at the reasonable discretion of the Drainage Engineer, but the minimum pipe strength is to be ASTM C76-22 Class III with the standard tongue and groove joints; or

2. Bore new installation, maintaining existing tile in an undisturbed case. Field verification of existing tile depth to determine bored installation depth may be necessary.
- iv. The length of tile to be replaced by any of the above alternatives is as follows:
 1. Eight (8) inch tile and smaller: Six feet (6') to either side of the top of trench excavated for the installation and twenty feet (20') minimum, measured at right angles to the centerline of the crossing location.
 2. Ten (10) inch tile or larger: Ten feet (10') either side of the top of trench excavated for the installation, and twenty feet (20') minimum, measured at right angles to the centerline of the crossing location measured at right angles to the centerline of the crossing location.
 - v. For District tile eight (8) inch and larger crossed by open cut installation, Applicant at its sole expense shall install an eighteen (18) inch HDPE inspection riser to the drainage engineer's specifications at either end of the open cut trench. Said riser being necessary for post construction inspection of District tile lines by means of televising. The District will attempt to televise the involved tile lines within thirty (30) days after completion of the crossing work. The costs of televising, including any associated crop damage or excavation required to expose the riser, shall be reimbursed to the District by the Applicant. In the event the District tile line is found to be obstructed, impeded or to have sustained restriction of its drainage capacity, the District shall provide the televising report to the Applicant.
 - vi. At all crossings of District tile lines, where District or private tile lines have been damaged, obstructed, impeded or restricted by the construction, maintenance or repair of Applicant's installation, repairs shall be completed as directed by the District's designated Drainage Engineer and at Applicant's sole expense.
13. All permits issued by the District or Osceola County shall be in the name of the Applicant. A permit holder shall not be permitted to sell, transfer or assign a permit without the written consent of the District, such consent not to be unreasonably withheld. All duties and responsibilities of the "Applicant" referenced herein shall apply equally to the permit holder.
 14. All permits issued by the District or Osceola County are subject to existing regulations and statutes, which may be promulgated or enacted.

15. All permits issued by the District or Osceola County are subject to revocation by the District or County, whenever deemed necessary for protection of landowners in the District, District facilities or to fulfill the District's duties under the law. Written notice of a revocation shall be provided to the permit holder.
16. The permit holder agrees to pay all costs, fees and expenses incurred by the District associated with the permit holder's crossing of the District and District facilities; including but not limited to, publication, engineering, hearing and legal costs. Said costs will be paid within thirty (30) days of the mailing of statements to the permit holder.
17. The Applicant or permit holder agrees to include a copy of the requirements in this Resolution in all bidding specifications; or if the construction and installation contract has been let by the time the permit is issued, then to provide a copy to the Applicant's contractor and to advise the contractor that it shall be subject to the terms of these requirements.
18. The Applicant or permit holder agrees to adhere to any procedures or conditions currently in force, or subsequently adopted by the District, relating to construction, repair or maintenance of installations which cross a District facility or right-of-way. The Applicant or permit holder shall provide a copy of the procedures or conditions to the Applicant's contractor and to advise the contractor that it shall be subject to its terms.
19. The District hereby appoints ISG for drainage matters, as the designated Drainage Engineer for all established Drainage Districts and established Intercounty Drainage Districts and private drainage facilities. The designated Drainage Engineer may be changed at any time by the District. The permit holder will be notified of any such change.

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Passed and approved this 11th day of July, 2023

Mike Schulte
Mike Schulte, Board of Supervisors Chairperson

ATTEST: *Rochelle Van Tilburg*
Rochelle Van Tilburg
Osceola County Auditor