

Draft Regulatory Guidance

Excavation Costs

1. Applicable statutes or rules

30 TAC §293.44 Special Considerations

30 TAC §293.47 Thirty Percent of District Construction Costs to be Paid by Developer

2. Background

Subsection ' 293.44(a)(3) of the commission=s Rules on Water Districts requires that the cost of clearing and grubbing of district facilities easements that will also be used for other facilities that are not eligible for district expenditures, such as roads, gas lines, etc., should be shared equally by the district and the developer, except where unusually wide road or street rights-of-way or other unusual circumstances are present, as determined by the commission. The rules do not address costs for excavation of street Rights-of-Way (ROW) and how excavation facilitates (benefits) the installation of underground utility lines. Since the 1980's, up to 50% of the clearing and grubbing costs within the ROW have been allowed for reimbursement to the developer, subject to ' 293.47. In those geographical areas where there is little soil and much rock, no clearing and grubbing is needed, only excavation. So, developers in those geographical areas requested to allow a portion of the excavation costs within the ROW to be reimbursed, instead of clearing and grubbing costs.

3. Draft Regulatory Guidance

Excavation and grading of street ROW is a necessary part of street construction and facilitates the installation of underground utilities by

- 1) Removing any material not suitable for cover;
- 2) Leveling ground surface so trench digging equipment can operate properly; and,
- 3) Reducing the depth of trench required for utility lines

A typical subdivision will have internal streets with ROW widths of about 60 feet. Within that 60 feet ROW, a street will be constructed with utility easements 30 feet wide to contain the water, wastewater and drainage facilities that will be financed by the District. That 30-foot portion containing the utility easements will also be used by the street. Roads are not eligible for district expenditures [' 293.44(a)(3)], so assuming the excavation benefits the street and the utilities equally, the pro rata share of the excavation costs that benefits the District is 50%.