CITY OF FRISCO, TEXAS **ORDINANCE NO.: 2020-04-26**

AN ORDINANCE OF THE CITY OF FRISCO, TEXAS, AMENDING ORDINANCE NOS. 2020-04-25, 2020-04-22, 2020-03-12 AND 2020-03-13, CONTINUING THE MAYOR'S AMENDED DECLARATION OF LOCAL DISASTER FOR PUBLIC HEALTH EMERGENCY; PRESCRIBING NEW ORDERS TO HELP ABATE THE PUBLIC HEALTH EMERGENCY; MODIFYING CERTAIN OTHER EXISTING ORDERS; ADOPTING THE GOVERNOR'S EXECUTIVE ORDERS GA 18, GA 19 AND GA 20; PROVIDING AN ENFORCEMENT CLAUSE, SEVERABILITY CLAUSE AND AN EFFECTIVE DATE.

WHEREAS, beginning in December 2019, a novel coronavirus, now designated COVID-19, spread through the world and has now been declared a global pandemic by the World Health Organization; and

WHEREAS, symptoms of COVID-19 include fever, coughing and shortness of breath and, in some cases, the virus has caused death; and

WHEREAS, on March 13, 2020, the Governor of the State of Texas declared a statewide public health emergency; and

WHEREAS, on March 16, 2020, the Mayor declared a local disaster for public health emergency in the City of Frisco, Texas ("Frisco"); and

WHEREAS, the County Judge of Collin County and the County Judge of Denton County have declared a local disaster for public health emergency in those respective jurisdictions; and

WHEREAS, the Centers for Disease Control and Prevention ("CDC") has advised that person-to-person contact heightens the risk of COVID-19 transmission; and

WHEREAS, the President's Coronavirus Guidelines for America, as promulgated by President Donald J. Trump and the CDC on March 16, 2020, call upon Americans to slow the spread of COVID-19 by avoiding social gatherings in groups of more than 10 people, using drive-thru, pickup, or delivery options at restaurants and bars, and avoiding visitation at nursing homes, among other steps; and

WHEREAS, on March 19, 2020, the Governor of the State of Texas issued Executive Order GA 08, mandating the avoidance of social gatherings in groups of more than 10 people, the avoidance of eating or drinking at bars, restaurants, and food courts, or visiting certain other establishments, and closing schools throughout the State of Texas for a period of time; and

WHEREAS, on March 19, 2020, the Mayor issued an amended declaration of local disaster for public health emergency in Frisco; and

WHEREAS, the City Council of the City of Frisco, Texas ("City Council") finds that extraordinary measures must be taken to contain COVID-19 and prevent its spread throughout Frisco, and the declaration of local disaster and public health emergency includes the ability to reduce the possibility of exposure to disease, control the risk, promote health, compel persons to undergo additional health measures that prevent or control the spread of disease, including isolation, surveillance, quarantine, or placement of persons under public health observation, including the provision of temporary housing or emergency shelters for persons misplaced or evacuated and request assistance from the Governor of state resources; and

WHEREAS, the continued worldwide spread of COVID-19 presents an imminent threat of widespread illness, which requires emergency action; and

WHEREAS, the conditions necessitating the declaration of a state of disaster continue to exist and are anticipated to continue to exist at least until May 15, 2020; and

WHEREAS, on March 20, 2020, the City Council adopted Ordinance No. 2020-03-12, continuing and extending the Mayor's amended declaration and prescribing certain orders to help abate the public health threat; and

WHEREAS, on March 27, 2020, the City Council adopted Ordinance No. 2020-03-13, which amended Ordinance No. 2020-03-12 and prescribed certain additional orders to help abate the public health threat; and

WHEREAS, on April 7, 2020, the City Council adopted Ordinance No. 2020-04-22, which amended Ordinance Nos. 2020-03-13 and 2020-03-12 and prescribed certain additional orders to help abate the public health threat; and

WHEREAS, on April 21, 2020, the City Council adopted Ordinance No. 2020-04-25, which amended Ordinance Nos. 2020-04-22, 2020-03-13 and 2020-03-12 and prescribed certain additional orders to help abate the public health threat; and

WHEREAS, since April 21, 2020, the City Council and City staff have continued to evaluate the community spread of COVID-19 and have reviewed updated guidance and orders from the CDC, the Governor of the State of Texas, the Collin County Judge, the Denton County Judge and others, and the City Council has concluded that it is necessary to amend Ordinance Nos. 2020-04-25, 2020-04-22, 2020-03-12 and 2020-03-13; and

WHEREAS, on April 27, 2020, the Governor of the State of Texas issued Executive Order GA 18 relating to expanded reopening of services as part of a plan to "Open Texas" in response to the COVID-19 disaster; and

WHEREAS, the City Council finds that it is in the best interest of the citizens of Frisco to amend Ordinance Nos. 2020-04-25, 2020-04-22, 2020-03-12 and 2020-03-13 as set forth herein, continue the amended declaration in accordance with Section 418.108(b) of the Texas Government Code and Section 122.006 of the Texas Health and Safety Code and prescribe

additional orders and modify certain existing orders to help abate the public health threat and to serve the public health, safety and welfare.

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

SECTION 1: The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

SECTION 2: Pursuant to Section 418.108 of the Texas Government Code, the City Council finds and declares a local state of disaster for public health emergency in Frisco as a result of the impact of COVID-19. The amended declaration of local disaster issued by the Mayor on March 19, 2020 and Ordinance Nos. 2020-04-25, 2020-04-22, 2020-03-12 and 2020-03-13 are hereby continued as provided in Section 418.108(b) of the Texas Government Code.

SECTION 3: Pursuant to Sections 121.003 and 122.006 of the Texas Health and Safety Code, Section 418.108 of the Texas Government Code, Chapter 81 of the Texas Health and Safety Code and such other powers the City of Frisco may have under the City Charter and other laws, the City Council hereby adopts and approves the following orders, which shall apply throughout Frisco and shall be in effect on and from the date of this Ordinance and through 11:59 p.m. on May 15, 2020, provided, however, that any such order may be terminated before 11:59 p.m. on May 15, 2020, by subsequent order of the Mayor or City Council, and may be continued or renewed beyond 11:59 p.m. on May 15, 2020 only with the consent of the City Council:

1. Starting at 12:01 a.m. on May 1, 2020, and continuing until the expiration or termination of this order or on such other date as determined by the Mayor or City Council, subject to extension with the consent of City Council, the following is hereby ordered:

    a. This Ordinance hereby incorporates and enacts the regulations and recommendations set forth in the Governor's Executive Orders GA 18, GA 19 and GA 20. A business or service located in Frisco that the Texas Division of Emergency Management (TDEM) approves as "essential" in accordance with Executive Order GA 18 shall provide written evidence of the same to Frisco as soon as reasonably possible after such approval.

    b. Any manufacturer who retools their business for manufacturing and producing ventilators and other medical equipment to be used in treating persons with COVID-19 shall qualify as an "Essential Business" under this Order.

    c. Grocery stores, supermarkets, warehouse stores, hospitals and medical facilities are experiencing high levels of demand for a large number of

products, requiring more deliveries from manufacturers and distribution centers to serve their customers. Due to the need to deliver products as quickly and efficiently as possible during this critical timeframe, this Order hereby suspends all delivery hour restrictions for transport to or from any entity involved in the selling or distribution of food products, medicine or medical supplies and equipment in Frisco.

d. If someone in a household has tested positive for COVID-19, the household is ordered to isolate at home. Members of the household cannot go to work, school or any other community function until cleared by a medical professional or in accordance with CDC guidance.

2. Pursuant to Section 418.108(d) of the Texas Government Code, the City of Frisco Emergency Management Plan shall remain active throughout the duration of this disaster declaration. All aspects of the City of Frisco's Emergency Management Plan not already activated are hereby activated as provided in the plan to the extent determined by the City Manager to be necessary to respond to the COVID-19 emergency.

3. Pursuant to Section 418.020(d) of the Texas Government Code, the City of Frisco is authorized to: (1) temporarily or permanently acquire by lease, purchase or other means sites required for installation of temporary housing units, emergency shelters or public health facilities for disaster victims; and (2) enter into arrangements necessary to prepare or equip the sites to use the housing units, emergency shelters or public health facilities, including arrangements for the purchase of temporary housing units, emergency shelters or public health facilities and the payment of transportation charges.

4. Pursuant to Section 122.006 of the Texas Health and Safety Code, the City of Frisco is authorized to adopt rules to protect the health of persons in the Frisco, including quarantine rules to protect its residents against communicable disease and provide for the establishment of quarantine stations, emergency hospitals and other hospitals.

5. The hoarding of food and other items necessary for daily living is prohibited. The City Manager is authorized to distribute to retailers within Frisco a list containing per-customer limitations on purchases. The City Attorney is authorized to take such action as allowed by law, in coordination with the Texas Attorney General, to enforce prohibitions on price-gouging.

6. The City Manager and his designees are hereby authorized to exclude from any City of Frisco facility a person whom the City Manager or his designee has reasonable cause to believe is ill with, has been exposed to or is the carrier of the virus that causes the sickness known as COVID-19.

7. All City of Frisco board and commission meetings, with the exception of City Council, the Planning & Zoning Commission, the Frisco Economic Development Corporation Board, the Frisco Community Development Corporation Board and any other meeting required by law to be held, are postponed for the duration of this disaster declaration.

8. All citizens are encouraged to watch City Council and Planning & Zoning Commission meetings online rather than attend in person. For City Council meetings, members of the public can submit comments of public interest or comments on agenda items electronically to the City of Frisco at citysec@friscotexas.gov. For Planning & Zoning Commission meetings, members of the public can submit comments on agenda items electronically to the City of Frisco at citysec@friscotexas.gov.

9. All public, private, and commercial labs within Frisco are encouraged to report the number of COVID-19 tests conducted on a daily basis to the City of Frisco.

SECTION 4: The City Council hereby finds that while in a state of disaster, there is a compelling public purpose in maintaining the City workforce and ensuring continuity in staffing while continuing the City's services while also recognizing that certain facilities and/or operations may need to be temporarily closed or suspended and/or certain personnel may encounter disaster-related events that prevent them from working at full capacity intermittently during the public health emergency. The City Council hereby authorizes the City Manager to make any staffing and compensation-related decisions necessary to adapt to the rapidly changing environment created by the public health emergency to meet the objectives stated herein and authorizes the expenditure of City funds to accommodate same. Any expenditure of funds beyond that approved in the FY 19-20 budget must come to the City Council for ratification at a City Council meeting, though the expenditure may be made prior to City Council ratification due to the public health emergency.

SECTION 5: The City Council hereby finds that for the duration of this disaster declaration, immediate procurement may be necessary to preserve and protect public health and safety. Accordingly, the City Council hereby authorizes the City Manager to purchase goods or services as necessary for ratification by the City Council at a later date as long as the procurement is in compliance with state law requirements.

SECTION 6: The City Council hereby finds that a public necessity exists to authorize the City Manager during the duration of this disaster to determine whether it is difficult or impossible for a quorum of the members of decision-making boards of the City of Frisco to meet in person based on public health and safety concerns related to the pandemic. If such a determination is made, decision-making boards will be authorized to conduct their public meetings via telephone conference pursuant to Section 551.125(b) of the Texas Government Code and/or the Governor's Order temporarily suspending certain provisions of the Texas Open Meetings Act and guidance received from the Texas Attorney General's Office.

SECTION 7: The City Council hereby authorizes the City Manager to temporarily waive any City Code regulations that are difficult or impossible to comply with during the term of this declaration of disaster as long as such waiver is not inconsistent with state law.

SECTION 8: Pursuant to Section 418.018(c) of the Texas Government Code, the declaration shall be given prompt and general publicity and shall be filed promptly with the City Secretary.

SECTION 9: All provisions of the Code of Ordinances of the City of Frisco, codified or uncodified, in conflict with the provisions of this Ordinance are hereby temporarily superseded by this Ordinance for the duration of this declaration. Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional and/or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The City Council declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof, regardless of whether any one or more sections, subsections, sentences, clauses or phrases is declared unconstitutional and/or invalid.

SECTION 10: Ordinance Nos. 2020-04-25, 2020-04-22, 2020-03-12 and 2020-03-13 shall remain in full force and effect, save and except as amended by this or any other ordinance. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

SECTION 11: A violation of any provision of this Ordinance shall be a misdemeanor punishable in accordance with Section 1-12 of the Code of Ordinances of the City of Frisco, Texas. The City Council hereby authorizes the use of all other lawfully available enforcement measures in the event of a violation of any provision of this Ordinance. A violation of any provision of this Ordinance shall constitute a separate violation for each calendar day in which it occurs.

SECTION 12: This Ordinance shall take effect immediately upon its passage and publication as required by law. This Ordinance expires on the earlier to occur of the termination of the state of emergency declared by the President of the United States or 11:59 p.m. on May 15, 2020, unless extended by the affirmative vote of the City Council.

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DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF FRISCO, TEXAS on this 27th day of April, 2020

Jeff Cheney, Mayor

ATTESTED TO AND CORRECTLY RECORDED BY:

Kristi Morrow, City Secretary

APPROVED AS TO FORM:

Abernathy Roeder Boyd & Hullett, P.C.
Ryan D. Pittman, City Attorneys