

RESOLUTION OF BRUSHY CREEK MUNICIPAL UTILITY DISTRICT
ADOPTING CODE OF ETHICS

WHEREAS, Brushy Creek Municipal Utility District (the "District") is a conservation and reclamation district, a body corporate and politic and governmental agency of the State of Texas, created under Article XVI, Sec. 59 of the Texas Constitution by order of the Texas Water Commission, now the Texas Commission on Environmental Quality (the "TCEQ"), and the District operates under Chapters 49 and 54 of the Texas Water Code, as amended; and

WHEREAS, the Board of Directors of the District previously adopted a Code of Ethics in accordance with the requirements of Section 49.199 of the Texas Water Code; and

WHEREAS, the Board of Directors has conducted its annual review of the Code of Ethics; and

WHEREAS, the Board of Directors desires to adopt this Resolution in order to evidence its annual review and approval of the Code of Ethics in the form attached hereto. Now, Therefore,

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF BRUSHY CREEK MUNICIPAL UTILITY DISTRICT OF WILLIAMSON COUNTY, TEXAS, THAT:

Section 1. The matters and facts recited in the preamble to this Resolution are found to be true and correct and the same are incorporated herein as a part of this Resolution.

Section 2. The Board of Directors hereby confirms that it has reviewed the Code of Ethics in the form attached hereto and approves and adopts such Code of Ethics for all purposes.

Section 3. This Resolution shall become effective immediately upon adoption hereof.

PASSED AND APPROVED this 11th day of June 2020.

Conna S. Parker

Board President

ATTEST:

Christina

Board Secretary

BRUSHY CREEK MUNICIPAL UTILITY DISTRICT

CODE OF ETHICS

1. Purpose and Policy.

- a. The Board of Directors of Brushy Creek Municipal Utility District (the “District”) hereby adopts this Code of Ethics Policy for the following purposes: (i) to comply with Texas Water Code Section 49.199; (ii) to encourage high ethical standards in official conduct by District officials and employees; and (iii) to establish guidelines for such ethical standards of conduct.
- b. It is the policy of the District that the Board of Directors and District employees conduct themselves in a professional manner consistent with sound business and ethical practices; that the public interest is considered in all District actions; that even the appearance of impropriety must be avoided to ensure and maintain public confidence in the District; and that the Board shall control and manage the District’s affairs fairly, impartially, and without discrimination.

2. Legal Authority.

- a. This Policy is being adopted pursuant to Section 49.199 of the Texas Water Code.

3. Definitions.

- a. Board: means the Board of Directors of the District.
- b. Confidential Information: means any information pertaining to any District matter, however transmitted or received, that is of such a nature that it is not, at that time, a matter of public record or public knowledge. Without limitation, the substance of discussions by the Board in executive session shall be Confidential Information.
- c. Degree of Affinity: means a relationship to another person by marriage, as depicted in the schematic attached hereto.
- d. Degree of Consanguinity: means a relationship to another person by blood, as depicted in the schematic attached hereto.
- e. Developer: means any person or entity that owns land located within the District and that has divided or proposes to divide the land into two or more parts for the purpose of laying out any subdivision or any tract of land or any addition to any town or city, or for laying out suburban lots or building lots, or any lots, streets, alleys, or parks or other portions intended for public use, or the use of purchasers or owners or lots fronting thereon or adjacent thereto.
- f. Director: means any individual member of the Board.
- g. Employee: except as otherwise specified herein, an “Employee” means any person employed by the District, but it does not include independent contractors or professionals retained by the District as outside consultants.

- h. **Substantial Interest:** refers to a Director's interest in a business entity or in real property that meets certain criteria as follows:
 - (i) A Director has a substantial interest in a business entity if the Director owns 10 percent or more of the voting stock or shares of the business entity or owns either 10 percent or more, or \$15,000 or more, of the fair market value of the business entity; or funds received by the Director from the business entity exceed 10 percent of the Director's gross income for the previous year.
 - (ii) A Director has a substantial interest in real property if the interest is an equitable or legal ownership with a fair market value of \$2,500 or more.
 - (iii) A Director is considered to have a substantial interest under this section if a person related to the Director in the first degree by consanguinity or affinity has a Substantial Interest as defined herein.

4. General Standards of Conduct

- a. No Director or Employee shall use his or her position with the District to improperly influence others or to secure privileges for themselves or for others.
- b. No Director or Employee shall use any information gained solely by reason of that person's position with the District and which is not otherwise public for personal gain or benefit, or for the benefit of others.
- c. No Director shall, for compensation, represent or appear on behalf of any private interest before the Board, and/or any commission or committee of the District.
- d. No Director shall, for compensation, represent or appear on behalf of any private interest of others in any action or proceeding involving the District.

5. Qualifications of Directors.

- a. A person shall not serve as a Director if he or she is not qualified to do so under the provisions of applicable law, including Section 49.052, Texas Water Code, as amended from time to time. Statutory disqualifications include the following:
 - (i) A person related within the third degree of affinity or consanguinity to a Developer; any other member of the Board of Directors; or the manager, engineer, attorney, or other person providing professional services to the District;
 - (ii) A person is an employee of any Developer; any other member of the Board of Directors; or the manager, engineer, attorney, or other person providing professional services to the District or a Developer in connection with the District or property located in the District;
 - (iii) A person is a Developer;

- (iv) A person is serving as an attorney, consultant, engineer, manager, architect, or in some other professional capacity for the District or a Developer in connection with the District or property located within the District;
 - (v) A person is a party to a contract with or along with the District except for the purchase of public services furnished by the District to the public generally; or a person is a party to a contract with or along with a Developer relating to the District or to property within the District, other than a contract limited solely for the purchase of real property in the District for the purpose of either establishing a permanent residence, establishing a commercial business with the District, or qualifying as a Director; or
 - (vi) A person, during the term of office, fails to maintain the qualifications required by law to serve as a Director.
- b. Within 60 days after the Board determines that any Director is not qualified to serve on the Board, it shall replace such Director with a person who is qualified.
 - c. Any Director not qualified to serve on the Board, who willfully occupies an office and exercises the duties and powers of that office, may be subject to penalties under the Texas Water Code, including possible conviction of a misdemeanor and imposition of a fine.

6. Conflicts of Interest- Employees.

- a. Employees must avoid all conflicts of interest as well as the appearance of conflicts of interest in connection with the discharge of their job duties.
- b. A conflict of interest exists when an Employee's personal interests (whether due to considerations of economic benefit, familial relationships, personal friendships, or otherwise) may affect his or her judgment in performing District duties, functions, or services. An appearance of a conflict of interest exists when an impartial member of the public could reasonably construe the Employee's personal interests as potentially conflicting with his or her judgment in performing District duties, functions or services. By way of example and without limitation, a potential conflict of interest exists if any Employee or person related to an Employee has received any benefit of value, been a party to a contract with, or otherwise participated in any business dealings with any person or entity that is a party to a contract with, or is seeking to do business with, the District.
- c. In the event that an Employee has an apparent, potential, or actual conflict of interest with respect to any matter relating to the District, then he or she must disclose in writing the conflict of interest to his or her immediate supervisor, and avoid any participation in the evaluation, consideration, recommendation, or approval of the matter except as otherwise approved by the District's General Manager. In the event the District's General Manager has an apparent, potential, or actual conflict of interest, then the General Manager shall disclose such conflict to the Board of Directors at its next meeting.

7. Conflicts of Interest- Directors.

- a. In recognition of the fiduciary duties of public servants, each Director must act in good faith and not allow his or her own personal interests to prevail over the interests of the District. Every Director shall exercise that degree of care and loyalty that is expected of a person in a like fiduciary position under similar circumstances, and shall avoid even the appearance of impropriety.
- b. If a Director has a Substantial Interest in a business entity or in real property and a vote or decision of the Board will have a special economic effect on the business entity or real property that is distinguishable from the effect on the public, then the Director must file an affidavit stating the nature and extent of his or her interest and must abstain from further participation in the matter.
- c. If a Director is required to file and does file an affidavit as set forth above, the Director is not required to abstain from further participation in the matter requiring the affidavit if a majority of the members of the Board are required to, and do, file affidavits of similar interest on the same official action.
- d. The Board shall take a separate vote on any budget item specifically dedicated to a contract with a business entity in which a Director has a Substantial Interest. The Director having the Substantial Interest may not participate in that separate vote, but may vote on a final budget if the Director has filed the affidavit and abstained from participation in the matter, as described above.
- e. No Director shall have a direct or indirect contractual relationship with a Developer relating to the District or to property within the District, other than a contract limited solely to the purpose of purchasing or conveying real property in the District for the purpose of either establishing a permanent residence, establishing a commercial business within the District, or qualifying as a Director. To avoid even the appearance of impropriety and the potential for a conflict of interest, the foregoing prohibition shall be interpreted and applied as follows:
 - (i) The contractual prohibition shall apply to any entity in which a Developer has a controlling interest;
 - (ii) The contractual prohibition shall apply to any entity where the holder of a controlling interest of such other entity is the same as the holder of the controlling interest in the Developer; and
 - (iii) No Director shall serve as an owner, principal or employee of a company or entity that has a contractual relationship with the Developer relating to the District or land within the District.

The remaining members of the Board of Directors shall be the responsible entity for determining if an inappropriate conflict of interest exists.

8. Conflicts of Interest-- Affidavit and Abstention Requirement.

- a. In accordance with Chapter 171 of the Texas Local Government Code:
 - (i) If a Director has a Substantial Interest (as defined below) in a business entity or in real property and a vote or decision of the Board will have a special economic effect on the business entity or real property that is distinguishable from the effect on the public, then the Director must file an affidavit stating the nature and extent of his or her interest and must abstain from further participation in the matter.
 - (ii) The Board shall take a separate vote on any budget item specifically dedicated to a contract with a business entity in which a Director has a Substantial Interest. The Director having the Substantial Interest may not participate in that separate vote, but may vote on a final budget if the Director has filed the affidavit and abstained from participation in the matter, as described above.
- b. A Director has a Substantial Interest in a business entity if the Director (or a person related to the Director in the first degree of consanguinity (blood) or affinity (marriage)):
 - (i) Owns 10 percent or more of the voting stock or shares of the business entity;
 - (ii) Owns either 10 percent or more, or \$15,000 or more, of the fair market value of the business entity; or
 - (iii) Funds received by the Director from the business entity exceed 10 percent of the Director's gross income for the previous year.
- c. A Director has a Substantial Interest in real property if the interest held by such Director (or family member described above) is an equitable or legal ownership with a fair market value of \$2,500 or more.

9. Conflicts of Interest-- Conflict Disclosure Statements.

- a. Conflicts Disclosure Statement Requirement. All Directors and Employees who exercise discretion in the planning, recommending, selecting or contracting of a vendor (Directors and such Employees being collectively referred to as a "Local Government Officer") must timely file a conflicts disclosure statement (in the form promulgated by the Texas Ethics Commission) with the District's records administrator in accordance with Chapter 176 of the Local Government Code:
 - (i) the vendor enters into a contract with the District or the District is considering entering into a contract with the vendor; and

(ii) the vendor:

A. has an employment or other business relationship with the Local Government Officer or a family member of the officer that results in the officer or family member receiving taxable income, other than investment income, that exceeds \$2,500 during the 12-month period preceding the date that the officer becomes aware that:

(1) a contract between the local governmental entity and vendor has been executed; or

(2) the District is considering entering into a contract with the vendor;

B. has given to the Local Government Officer or a family member of the officer one or more gifts that have an aggregate value of more than \$100 in the 12-month period preceding the date the officer becomes aware that:

(1) a contract between the District and vendor has been executed; or

(2) the District is considering entering into a contract with the vendor; or

C. has a family relationship with the Local Government Officer.

b. **Exception:** A Local Government Officer is not required to file a conflicts disclosure statement in relation to a gift accepted by the officer or a family member of the officer if the gift is:

(1) a political contribution as defined by Title 15, Election Code; or

(2) food accepted as a guest.

c. **Timing.** A Local Government Officer shall file the conflicts disclosure statement with the District's records administrator of the local governmental entity not later than 5:00 p.m. on the seventh business day after the date on which the officer becomes aware of the facts that require the filing of the statement under Subsection (a) above.

10. Gifts and Honorarium

a. No Director shall solicit, accept, or agree to accept an honorarium in consideration for services that the Director would not have been requested to provide but for his or her official position or duties. This prohibition does not prevent a Director from accepting transportation and lodging expenses in connection with a conference or similar event in which the official renders services, such as addressing an audience or engaging in a seminar, to the extent that those services are more than merely perfunctory, or from accepting meals in connection with such an event.

- b. No Director or employee shall solicit, accept, or agree to accept any benefit from a person the public servant knows to be subject to regulation, inspection, or investigation by the District.
- c. No Director shall solicit, accept, or agree to accept any benefit of value from a person or business entity that he or she knows is interested in or likely to become interested in any contract, purchase, payment, claim or other transaction involving the exercise of their discretion as a public servant, or any matter before the Board, or likely to come before the Board for any decision, opinion, recommendation, or vote.
- d. Exclusions: The foregoing prohibition against gifts shall not apply to:
 - (i) a fee prescribed by law to be received by the Director or any other benefit to which the Director is lawfully entitled or for which he or she gives legitimate consideration in a capacity other than as a public servant;
 - (ii) a gift or other benefit conferred on account of kinship or a personal, professional, or business relationship independent of the official status of the Director;
 - (iii) a political contribution as defined by Title 15, Election Code;
 - (iv) an item with a value of less than \$50, excluding cash or a negotiable instrument as described by Section 3.104, Business & Commerce Code;
 - (v) an item issued by a governmental entity that allows the use of property or facilities owned, leased, or operated by the governmental entity;
 - (vi) transportation, lodging, and meals in connection with a conference or similar event in which the Director renders services, such as addressing an audience or engaging in a seminar, to the extent that those services are more than merely perfunctory;
 - (vii) The prohibition on gifts does not apply to food, lodging, transportation, or entertainment accepted as a guest and, if the Director is required by law to report those items, reported by the Director in accordance with that law.
- e. Members of the Board of Directors or Committee members are not entitled to employee discount benefits.

11. Use of District Property.

No Director or Employee shall use or permit the use of any District equipment, materials, supplies or other District property or resources for personal gain or for any purposes not related to the authorized functions of the District.

12. Nepotism.

- a. No person related to a Director within the second degree of affinity (marriage) or within the third degree of consanguinity (blood) shall be employed by the District, or be awarded a contract by the District, except as otherwise permitted by Chapter 573 of the Government Code.
- b. No person related to an Employee within the second degree of affinity (marriage) or within the third degree of consanguinity (blood) shall be employed by the District, or be a party to a contract with the District, except as follows:
 - (i) In the event of an emergency or similar circumstance in which a program or function of the District requires immediate staffing, the General Manager may temporarily employ a person related to an Employee but only as necessary to resolve the emergency circumstance; and
 - (ii) A person that is a sibling by blood or marriage of an Employee may be hired as a seasonal Employee.
- c. The foregoing nepotism restrictions shall apply only to Employees that are hired by the District after the date of adoption of this policy; provided, however, that under no circumstances may any existing Employee report to, or otherwise be subject to the supervision (directly or indirectly) of another Employee of the District that is related within the second degree of affinity or within the third degree of consanguinity.
- d. The provisions of this Policy shall not be construed to prohibit a director from serving as General Manager of the District in accordance with the authority set forth at Section 49.056(c) of the Texas Water Code.

13. Confidential Information.

- a. A Director or Employee may not disclose, without authorization from the Board, Confidential Information to advance the financial or other private interests of the Director or Employee, or others, on any contract or transaction which is or may be the subject of an official action of the District.
- b. Except as otherwise authorized by the Board, no Director or Employee may disclose the substance and details of any discussions by the Board in executive session to any person that was not present in executive session, including other employees of the District.

14. Complaints and Enforcement

- a. Any alleged violation of this Policy by an Employee other than the General Manager shall be reported to the District's General Manager, who is hereby authorized to take any and all appropriate action in response to the conduct, including disciplinary action or termination.

- b. Any alleged violation of this Policy by the General Manager shall be reported to the Board of Directors of the District for consideration and appropriate disciplinary action.
- c. Any alleged violation of this Policy by a Director shall be submitted in writing to the remaining members of the Board of Directors of the District, which allegation shall describe all relevant facts and circumstances. In the event the General Manager receives a written complaint that any conduct by a Director violates this Policy, then such complaint shall be forwarded to the remaining members of the Board of Directors for review and consideration at a special or regular meeting of the Board of Directors. Upon receipt of such a complaint, the Board of Directors shall take appropriate action based on the allegations, including without limitation, the following:
 - (i) The Board of Directors may request that the Director alleged to have breached this Policy respond to the allegations and take action or make findings based on the Director's response or lack thereof;
 - (ii) The Board of Directors may appoint a committee and/or special counsel to conduct an investigation regarding the allegation and subsequently present a report to the Board of Directors regarding its findings and recommendations;
 - (iii) The Board of Directors may adopt an order making findings regarding the allegations, including a finding that the allegation has no merit, that the Director has violated this Policy, or that the Director is disqualified from serving as a Director of the District; or
 - (iv) The Board of Directors may refer the matter to the Attorney General of the State of Texas, the Williamson County Attorney's Office, or to any other entity with jurisdiction.

Upon consideration and action by the Board of Directors, the alleged violation of this Policy will not be considered again by the Board of Directors except in response to a request made by a Director.

- 15. The standards of conduct and complaint process set forth in this Policy shall apply only to conduct occurring after the effective date of this Policy. Any conduct, or complaints relating to conduct, occurring prior to the effective date of this Policy shall be reviewed under, and subject to, the rules and ethics complaint procedures in effect at the time of the alleged conduct giving rise to the complaint.
- 16. This Policy supersedes and replaces the prior ethics policies adopted by the Board of Directors of the District.