LOWER BRUSHY CREEK WCID
BOARD APPROVED POLICY

POLICY REGARDING USE OF DISTRICT EASEMENT PROPERTY

The purpose of this policy is to identify procedures to be utilized by Lower Brushy Creek Water Control and Improvement District (the "District") staff and officials in connection with use of areas within the Easements) relating to the District's dam facilities, including the dam embankments, auxiliary spillways, principal spillways, sediment pools, flood pools, and maximum storage pools, inlet and outlet works, and all related structures (collective the "District Dams" or individually a "District Dam"). The District's Dams are owned and maintained by the District.

At the time of the original construction of the District Dams, landowners entered into blanket permanent easements allowing the District to, among other activities, construct, operate, maintain, inspect, repair, or rehabilitate the District Dams. Subsequent easements were granted to the District including, but not limited to: access area easements, inundation (flood pool) area easements, structure area easements. Collectively with the blanket permanent easements, these easements are defined as the "Easements". The Easements were filed with the appropriate County Clerk and can be found in the Official Public Records of the County where the Districts Dams are located. If requested, the District will make a reasonable effort to assist with obtaining a copy of that Easement for the current landowner.

Each Easement includes that portion of the original tract of land encompassing the Districts Dam(s).

The District wants to ensure that while the landowner continues to enjoy the property subject to any Easement, the District can also ensure that the District Dams are properly maintained and do not incur damage, including any damage from the landowner's use of the Easement property, that could interfere with the proper functioning of the Districts Dams and potentially put public health, public safety, or property at risk.

The District adopts the following Policy Regarding the Use of District Easement Property (the "Policy") as rules and regulations of the District in accordance with Chapters 49 and 51 of the Texas Water Code:

Damage to District Dams

- The District strictly prohibits any damage to any District Dams, as well as any activities that would interfere with the functionality, operation, or use any District Dams, or interfere with the District's use and enjoyment of an Easement.

Ownership and Repair of District Fencing

- The District may install fencing within certain Easement areas generally encompassing all or a portion of the District Dams along with the necessary gates and/or gaps. Any fencing installed within an Easement is the sole property of the District.
- The District General Manager will determine whether repairs or replacement of a District fence are necessary.
- If a landowner is aware of any damage to a District fence, the landowner should notify the District in a reasonable amount of time once the landowner has actual knowledge of fence damage. It is the responsibility of the landowner to advise any lessee that the landowner must be notified of any damage to a District fence as that knowledge becomes known to the lessee.
    1. If a District fence is damaged, the District will determine whether repair is required, and will repair as needed. However; if the District determines that the landowner or landowner's lessee has removed, cut, or damaged a District fence, or any livestock or animals owned by landowner or landowner's lessee have damaged a District fence, the landowners shall be responsible for the full cost incurred by the District to repair or replace the damaged portion of the District's fence.
    2. If the District determines that the landowner is responsible for the cost to repair or replace a District fence, the District shall provide written notification to the landowner detailing the damages and providing an invoice for the cost of repair or replacement. This notice may be delivered by hand, electronically, or by certified mail.
- If a landowner objects to any items included in the notice, the landowner may appeal in writing to the District's Board of Directors.
- A landowner may request that the General Manager provide documentation of satisfaction of any amounts invoiced to the landowner once the cost of repair or replacement is paid to the District.

Access Land Containing District Dams

- The Easements include the District's right to construct fencing with gates around District Dams within the Easement. The District will make every effort to work with the landowner to locate such any District fence over a route satisfactory to the District and, to the extent practical, the landowner.
- If the District determines that any impediment or condition exists that affects the

functionality of all or a portion of any District Dams or its access to any portion of an Easement is impeded, the District may issue a formal notice to the landowner to remove such an impediment or condition.

- Failure to remove the impediment or condition within the timeline, or consistent with the requirements and conditions contained in the notice will be considered a violation of this policy and subject to enforcement action.

Right to Inspection Easement

- In accordance with the Easements, the District has the right of ingress and egress to the Easement over the landowner's property. The District has the right to inspect any Easement, and any fencing placed thereon, at any time and landowner and/or landowner's lessee shall not impair, restrict, or prevent any such access by the District.

Grazing within the Easement

- A landowner may not, in their use of the land within the Easement, damage or otherwise interfere with the functionality, operation, or use any District Dam or interfere with the District's use and enjoyment of the Easement.
- The District may allow grazing in Easement areas containing one or more District Dams on the following conditions:
  - Grazing may occur in areas within a District fence only with the express and prior written consent of the District;
  - Landowner or landowner's lessee must at all times comply with any conditions included in the District's consent for grazing;
  - Landowner or landowner's lessee shall not allow any livestock to damage or otherwise interfere with the functionality, operation, or use of any District Dam;
  - Landowner or landowner's lessee shall avoid overgrazing on any District Dam;
  - Landowner shall remove animals from any District Dam following significant rainfall event to avoid creating animal trails resulting in damage to any District Dam.
- The General Manager of the District may issue a notice to a landowner to remove animals from any area within a District fence or any Easement area containing a District Dam to allow for the restoration of the grass cover, to repair any erosion or animal trails, or to facilitate any repairs, maintenance, or construction by the District or the District's contractor. Failure to remove the animals within the timeline, or consistent with the requirements and conditions contained in the notice will be considered a violation of this Policy and subject to enforcement action.

Structures within Easements

- The Easements generally include language that the District has the right to use the land for, or in connection with the construction, operation, maintenance, and inspection of the District Dams.
- If the District becomes aware of a structure built in an Easement that interferes with the functionality, operations, or structure of a District Dam, the District General Manager of the District may issue a notice to the landowner requiring the removal of such structure under the terms and conditions provided in the notice. Failure to

remove any structure within the timeline, or consistent with the requirements and conditions, contained in the notice will be considered a violation of this Policy and subject to enforcement action.

- It is the responsibility of the landowner to make the District aware of any structures built by landowner or landowner's lessee at the time the landowner has actual knowledge of the existence of such structure.

Enforcement of District Policy and Civil Penalties

- If an individual or landowner does not comply with this Policy, pursuant to Texas Water Code §§ 49.004, 51.122, 51.127, and 51.128, the Board of Directors of the District may impose a fine for each violation of this Policy as follows:
  - First notice of violation – Written notice only with no penalty
  - Second notice of violation – $250.00
  - Third notice of violation – $500.00
  - Fourth notice of violation – $1,000.00
- If a violation is not resolved following the timeline for compliance described in the notice, the Board of Directors may assess a fine of $1,000.00 per day until the violation is resolved.
- Fines assessed against a landowner may not exceed $10,000.00 in a calendar year.
- In addition to any fines assessed for violations of this Policy, individuals violating this Policy will be responsible for all costs incurred by the District related to mediation of any damages to any District Dam or removal of any damage or impediment that prevents the District's intended use and enjoyment of any Easement, relating to such violations.
- The District reserves the right to pursue any and all other legal remedies available to enforce this Policy.

Effective Date

This policy will become effective following adoption by the Board of Directors and upon publication in accordance with Texas Water Code § 51.129(a).

APPROVED AND ADOPTED on this 19 **day of** October **, 2026.**

By: Edmond S. Komandosky
Edmond S. Komandosky
Board President

ATTEST:

By: _____
Laine Holman
Board Secretary/Treasurer