

**LOWER BRUSHY CREEK WCID
REGULAR CALLED MEETING OF THE BOARD OF DIRECTORS**

Ed Komandosky, President

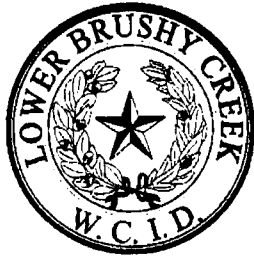
**Scott Ging, Vice President
Mike Schneider, Treasurer**

**Monica Masters, Secretary
Allen David, Director**

Notice is hereby given for a regular meeting of the Board of Directors of the Lower Brushy Creek WCID to be held on **Monday, May 17, 2021 at 7:30 am** at the Greater Taylor Chamber of Commerce, 1519 North Main Street, Taylor, Texas and via **Zoom*** for the purpose of considering the following agenda items. The Board of Directors will meet, consider, deliberate and may take action on all agenda items.

AGENDA

- | | | |
|----|--|---------|
| 1. | Agenda | 3 pages |
| 2. | Consider the approval of minutes - April 19, 2021 meeting | 2 pages |
| 3. | Consider the approval of financial reports:
Checking Account Register for April 2021 | 1 page |
| 4. | Consideration and possible action to approve Resolution
regarding National Dam Safety Awareness Day | 1 page |
| 5. | Consider the approval of Amendment No. 3 to Contract Number
L20-FED-79015 to rehabilitate Site 20 | 1 page |
| 6. | Consider the approval of Amendment No. 1 to Contract Number
LBRUSHY18-ESF-548-21 to upgrade Site 18 | 3 pages |
| 7. | Consider the approval of "Assurance Relating to Real Property
Acquisition" to upgrade Site 18 | 2 pages |
| 8. | General Manager's Report | 2 pages |



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To view, listen and/or participate in the meeting, you may log in at:

T

Topic: Lower Brushy Creek WCID Board of Directors

Time: May 17, 2021 07:30 AM Central Time (US and Canada)

Join Zoom Meeting

<https://us02web.zoom.us/j/82978075601?pwd=U0NOajBwRkF2MkhGREdDQjE1Uk0wdz09>

Meeting ID: 829 7807 5601

Passcode: 105721

One tap mobile

+13462487799,,82978075601#,,,,*105721# US (Houston)

+16699006833,,82978075601#,,,,*105721# US (San Jose)

Dial by your location

+1 346 248 7799 US (Houston)

+1 669 900 6833 US (San Jose)

Meeting ID: 829 7807 5601

Passcode: 105721

Find your local number: <https://us02web.zoom.us/u/kD6eRr6hq>

Citizens Communications:

- Due to limitations on the number of people allowed in the building, members of the public will not be allowed to enter the Greater Taylor Chamber of Commerce during the meeting.
- Members of the public that desire to provide public comment may do so via Zoom during the Citizens Communications portion of the meeting (Agenda Item 2).
- Members of the public will be muted during all other portions of the meeting.

AGENDA

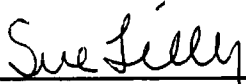
1. Welcome, Call to Order, and determination of a Quorum;
2. Citizens Communications: *an opportunity for the public to address the Board on agenda items or concerns not on the agenda (limited to 3 minutes each)*;
3. Consider the approval of meeting minutes:
 - a. Regular meeting held on April 19, 2021.
4. Consider the approval of financial reports:
 - a. Checking Account Register for April 2021.
5. Presentation by Joseph Capesius of the United States Geologic Survey - "Overview of USGS Water Data Collection in Central Texas;"
6. Consideration and possible action to approve Resolution regarding National Dam Safety Awareness Day;
7. Consideration and approval of Amendment No. 3 to Contract Number LB20-FED-79015 from the Texas State Soil and Water Conservation Board to extend the term of the agreement for the rehabilitation of Lower Brushy Creek Site 20 to September 30, 2021.
8. Consideration and approval of Amendment No. 1 to Contract Number LBRUSHY18-ESF-548-21 from the Texas State Soil and Water Conservation Board for increase the budget for the upgrade to Lower Brushy Creek Site 18 for the following amounts:

Estimated Construction Cost including contingency	\$4,030,000
Grant for construction (98.25%)	\$3,959,475
Grant for project management (3%)	\$118,784
Total grant amount	\$4,078,259
Total local share	\$70,525
9. Consideration and approval of a Assurances Relating to Real Property Acquisition for the upgrade to Lower Brushy Creek Site 18;
10. General Manager's Report;
11. Director's Comments; and
12. Adjournment.

"The Lower Brushy Creek Water Control & Improvement District Board of Directors reserves the right to adjourn into executive session at any time during the meeting to discuss any of the matters listed above, as authorized by Texas Local Government Code Sections 551.071 (Consultation with Attorney), 551.072 (Deliberations regarding Real Property), 551.073 (Deliberations regarding Gifts and Donations), 551.074 (Personnel Matters), 551.076 (Deliberations regarding Security Devices), and 551.087 (Deliberations regarding Economic Development Negotiations)."

CERTIFICATION

I certify that a copy of April 19, 2021 agenda of items to be considered by the Board of Directors of the Lower Brushy Creek WCID was posted before 5:00 pm on April 12, 2021.



Sue Lilly
District Clerk

* NOTE: The Board of Directors will be conducting a "Video Conference Open Meeting" as authorized by Governor Abbot on March 16, 2020.

**Minutes of the April 19, 2021
Meeting of the Board of Directors of the Lower Brushy Creek WCID**

In accordance with the Governor's emergency proclamation suspending certain provisions of the Texas Open Meetings Act effective March 16, 2020 in response to the COVID-19 virus, all persons, including Board members and members of the public may participate in the meeting remotely by videoconferencing using the instructions included on the posted agenda. Due to COVID-19 social gathering restrictions, all members of the public and the board may not physically enter the Greater Taylor Chamber of Commerce offices. Therefore, the meeting took place in person and on Zoom Videoconferencing.

President Ed Komandosky called the Regular Meeting of the Board of Directors of the Lower Brushy Creek WCID to order at 7:32am on Monday April 19, 2021 and announced that a quorum was present. Board Members present included Secretary Monica Masters, Treasurer Mike Schneider, Vice President Scott Ging and Director Allen David. Others present included General Manager Jim Clarno, Richard Stone and District Clerk Sue Lilly.

There were no citizen's communications

General Manager, Jim Clarno, presented for consideration and approval the March 15, 2021 meeting minutes. A motion was made by Director Allen David to approve the meeting minutes as presented. The motion was seconded by Treasurer Mike Schneider and approved by a vote of 5-0.

Clarno presented for consideration and approval the following financial reports: Checking Account Register for March 2021, Financial Report for Second Quarter of FY 21 and Investment Report for Second Quarter of FY 21. A motion was made by Secretary Monica Masters to approve the financial reports as presented. The motion was seconded by Vice President Scott Ging and approved by a vote of 5-0.

Clarno presented for consideration and approval of a 12- month Lease Agreement with Heritage Office Suites, Inc, for office space located at 601 Quail Valley Drive, Georgetown, TX 78626. A motion was made by Director David to approve the Lease Agreement as presented. The motion was seconded by Treasurer Schneider and approved by a vote of 5-0.

Clarno presented for consideration and approval of changing the official address of the WCID to 601 Quail Valley Drive, Georgetown, TX; 78626. The board discussed that utilizing a PO Box would allow more permanent consistency for mailing and communication purposes. A motion was made by Secretary Masters to approve the changing the official address as discussed to a PO Box. The motion was seconded by Vice President Ging and approved by a vote of 5-0.

Clarno presented for consideration and approval of FY 21 Budget Amendment #1 in the amount of \$8,500. A motion was made by Secretary Masters to approve the FY 21 Budget Amendment as presented. The motion was seconded by Vice President Ging and approved by a vote of 5-0.

Clarno presented for consideration and approval of Emergency Action Plan for Sites 18, 20, 25, 29 and 32. A motion was made by Director David to approve the Emergency Action Plan for Sites 18, 20, 25, 29 and 32 as presented. The motion was seconded by Treasurer Schneider and approved by a vote of 5-0.

Clarno presented the General Manager's Report and there were no Director's Comments.

There being no further business, the meeting was adjourned without objection at 8:29 am.

Respectfully submitted:

Monica P Masters
Secretary

LOWER BRUSHY CREEK WCID
 FY 21 Account Register
 For the period ending April 30, 2021

Balance as of April 1, 2021		
TexPool Acct (General Fund)	\$486,890.29	
TexPool Acct (Rainy Day Fund)	\$100,004.86	
City National Bank	\$28,634.28	
		\$615,529.43

Total Funds Available

Income		
04/07/21 TSSWCB- Clarno	\$1,448.30	
04/08/21 TSSWCB- Clarno	\$2,689.70	
04/22/21 TexPool	\$20,000.00	
04/30/21 TexPool (General Fund)	\$5.36	
04/30/21 TexPool (Rainy Day Fund)	\$1.12	
various TexPool (General Fund)	\$4,923.89	
		\$29,068.37

Expenses		
04/02/21 1722 Clarno Consulting	\$3,250.00	
04/02/21 1729 Allen David	\$100.00	
04/05/21 1719 RTS Connect	\$1,000.00	
04/07/21 1718 Sue Lilly	\$60.00	
04/08/21 1731 Freese & Nichols	\$15,915.76	
04/12/21 1677 Monica Masters	\$100.00	
04/12/21 1706 Edmond Komandosky	\$43.58	
04/12/21 1710 Edmond Komandosky	\$400.00	
04/12/21 1712 Monica Masters	\$200.00	
04/12/21 1725 Edmond Komandosky	\$100.00	
04/14/21 Debit Card Purchase	\$891.96	
04/21/21 1733 Heritage Office Suites	\$1,950.00	
04/21/21 1734 Clark Jackson	\$350.00	
04/22/21 CNB- Transfer TxPool to Checking	\$20,000.00	
04/27/21 1738 Freese & Nichols	\$1,706.25	
04/28/21 Debit Card Purchase	\$166.00	
04/28/21 Debit Card Purchase	\$1,029.98	
		\$47,263.53

Balance as of April 30, 2021		
TexPool Acct (General Fund)	\$471,819.54	
TexPool Acct (Rainy Day Fund)	\$100,005.98	
City National Bank Acct	\$25,508.75	
		\$597,334.27

Total Funds Available



RESOLUTION

WHEREAS, May 31 is National Dam Safety Awareness Day, established to encourage and promote individual and community responsibility and best practices for dam safety, and to highlight the steps people can take to prevent future catastrophic dam failures or lessen the impact of a potential failure; and

WHEREAS, National Dam Safety Awareness Day commemorates the tragic failure of the South Fork Dam in Johnstown, Pennsylvania on May 31, 1889, which resulted in the loss of over 2,200 lives, and was the worst dam failure in the history of the United States; and

WHEREAS, in 1957, the original Brushy Creek Water Control and Improvement District (WCID) was authorized by Texas Board of Water Engineers to implement federal recommendations for flood control and soil erosion; and

WHEREAS, in 2001, an election was held to split the original WCID into the Upper and Lower Brushy Creek WCID, both taking control of 23 dams each; and

WHEREAS, Williamson County has been the site of numerous large rain events, such as the 1921 Thrall flood, which held the record for many years as the largest 24-hour flood in the continental USA, 2010 Tropical Storm Hermine, and the 2015 Memorial Day floods and more are anticipated;

NOW THEREFORE BE IT RESOLVED, that the Board of Directors of the Lower Brushy Creek WCID strongly encourages its residents to learn more of the dams that are in their vicinity, and if they live near one, prepare an emergency plan in the case of a dam breach;

BE IT FURTHER RESOLVED, that we encourage developers to avoid inundation zones of the numerous dams that are located across our county;

AND BE IT FURTHER RESOLVED, that these dams are not just any particular property owners' dams, but they belong to everyone because they protect life, property, and infrastructure.

Signed on this the 17th day of May 2021

Ed Komandosky, President

Scott Ging, Vice President

Monica Masters, Secretary

Mike Schneider, Treasurer

Allen David, Director

AMENDMENT NO. 3
COOPERATIVE AGREEMENT
Lower Brushy Creek Site 20 Rehabilitation - Federal Funds

It is mutually understood and agreed by and between the TSSWC'B and the Sponsor to amend said agreement as follows:

DELETE:

SECTION IV. TERM OF AGREEMENT:

This Agreement begins upon the date the Agreement becomes executed by both parties and ends June 30, 2021 ("Extension"). This Agreement may be extended as needed, provided both parties agree to extend prior to the expiration date, Any extensions shall be at the same terms and condition . plus any approved changes. The Initial Term and all Extensions, if any, shall collectively become the total duration of the Agreement ("Term").

INSERT:

SECTION IV. TERM OF AGREEMENT:

This Agreement begins upon the date the Agreement becomes executed by both parties and ends **September 30, 2021**. This Agreement maybe extended as needed, provided both parties agree to extend prior to the expiration date any extensions shall be at the same terms and conditions, plus any approved changes. The Initial Term and all Extensions, if any, shall collectively become the total duration of the Agreement ("Term").

THIS AMENDMENT shall become effective on the date of approval by both the TSSWCB and the Sponsor. All other terms and conditions not hereby amended are to remain in full force and effect.

TSSWCB

SPONSOR

**Texas State Soil and Water
Conservation Board**

Lower Brushy Creek WCID

By: _____

By: _____

Title: Executive Director

Title: _____

Date: _____ + _____

Date: _____

**AMENDMENT 1
COOPERATIVE AGREEMENT
Flood Control: Structural Repair Activities – State Funds**

It is mutually understood and agreed by and between the Texas Soil and Water Conservation Board, called the "TSSWCB"; and Lower Brushy Creek Water Control and Improvement District, called the "SPONSOR"; to amend said contract as follows:

DELETE:

SECTION III. CONSIDERATION, REIMBURSEMENTS, AND REPORTING:

1. Reimbursement Rate and Maximum Contract Price. The TSSWCB shall provide the SPONSOR reimbursement for work performed pursuant to the Scope of Work and the Plans and Specifications of the Project and otherwise required under this Agreement at the rates set herein for labor, material, and/or completion of such work. Invoices will be reimbursed at the following rates for eligible costs, not to exceed a **maximum contract price of \$3,643,110.00 (Maximum Contract Price):**

- a. 98.25% of construction cost, not to exceed a maximum amount of \$3,537,000.00; and
- b. 3.0% of reimbursed amount for SPONSOR's administration cost, not to exceed a maximum amount of \$106,110.

2. SPONSOR Cost Responsibility. Pursuant to The Texas Administrative Code Title 31, Part 17, Rule 529.52(e), SPONSOR is required to provide 1.75% of the total construction and approved land rights cost with funds not originating from state appropriations. The estimated SPONSOR' cost for this contract is \$63,000.00. The SPONSOR shall successfully complete the Project in accordance with contract requirements and within the Maximum Contract Price as specified by this subsection. Any additional cost over the Maximum Contract Price will be the responsibility of the SPONSOR unless prior written approval is obtained from TSSWCB.

3. Project Budget.

Description of Work	TSSWCB Cost Share	Sponsor Lower Brushy Creek WCID Cost Share	Total Cost of Project
Cost Share Items:			
Construction and Approved Land Rights	\$3,537,000.00	\$63,000.00	\$3,600,000.00
Total of Project Costs	\$3,537,000.00	\$63,000.00	\$3,600,000.00
Non-Cost Share Costs:			
Contract Administration (3% of TSSWCB cost share)	\$106,110.00		
Total Agreement Costs	\$3,643,110.00	\$63,000.00	

INSERT:

SECTION III. CONSIDERATION, REIMBURSEMENTS, AND REPORTING:

1. Reimbursement Rate and Maximum Contract Price. The TSSWCB shall provide the SPONSOR reimbursement for work performed pursuant to the Scope of Work and the Plans and Specifications of the Project and otherwise required under this Agreement at the rates set herein for labor, material, and/or completion of such work. Invoices will be reimbursed at the following rates for eligible costs, not to exceed a **maximum contract price of \$4,078,259.25 (Maximum Contract Price):**

- a. 98.25% of construction cost, not to exceed a maximum amount of \$3,959,475.00; and
- b. 3.0% of reimbursed amount for SPONSOR's administration cost, not to exceed a maximum amount of \$118,784.25.

2. SPONSOR Cost Responsibility. Pursuant to The Texas Administrative Code Title 31, Part 17, Rule 529.52(e), SPONSOR is required to provide 1.75% of the total construction and approved land rights cost with funds not originating from state appropriations. The estimated SPONSOR' cost for this contract is \$ 70,525.00. The SPONSOR shall successfully complete the Project in accordance with contract requirements and within the Maximum Contract Price as specified by this subsection. Any additional cost over the Maximum Contract Price will be the responsibility of the SPONSOR unless prior written approval is obtained from TSSWCB.

3. Project Budget.

Description of Work	TSSWCB Cost Share	Sponsor Lower Brushy Creek WCID Cost Share	Total Cost of Project
Cost Share Items:			
Construction and Approved Land Rights	\$3,959,475.00	\$70,525.00	\$4,030,000.00
Total of Project Costs	\$3,959,475.00	\$70,525.00	\$4,030,000.00
Non-Cost Share Costs:			
Contract Administration (3% of TSSWCB cost share)	\$118,784.25		
Total Agreement Costs	\$4,078,259.25	\$70,525.00	

This amendment shall become effective on the date of approval by both the TSSWCB and the SPONSOR. All other terms and conditions not hereby amended are to remain in full force and effect.

TSSWCB

SPONSOR

Texas State Soil and Water Conservation Board

Lower Brushy Cr. Water Control Improvement District

By: _____

By: _____

Title: Executive Director

Title: _____

Date: _____

Date: _____

ASSURANCES RELATING TO REAL PROPERTY ACQUISITION

-
- A. **PURPOSE** — This form is to be used by sponsor(s) to provide the assurances to the Natural Resources Conservation Service of the U.S. Department of Agriculture which is required in connection with the installation of project measures which involve Federal financial assistance furnished by the Natural Resources Conservation Service.

-
- B. **PROJECT MEASURES COVERED** —

Name of project Upgrade to Lower Brushy Creek Site 18

Identity of improvement or development Lower Brushy Creek Watershed

Location one half mile south of the City of Thrall, Texas

-
- C. **REAL PROPERTY ACQUISITION ASSURANCE** —

This assurance is applicable if real property interests were acquired for the installation of project measures, and/or if persons, businesses, or farm operations were displaced as a result of such installation; *and* this assurance was not previously provided for in the watershed, project measure, or other type of plan.

If this assurance was not previously provided, the undersigned sponsor(s) hereby assures they have complied, to the extent practicable under State law, with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act (42 U.S.C. 4601-4655), as implemented in 7 C.F.R. Part 21. Any exceptions taken from the real property acquisition requirements under the authority of 42 U.S.C. 4655 because of State law have been or is hereby furnished to the Natural Resources Conservation Service along with the opinion of the Chief Legal Officer of the State containing a full discussion of the facts and law furnished.

-
- D. **ASSURANCE OF ADEQUACY OF REAL PROPERTY RIGHTS** —

The undersigned sponsor(s) hereby assures that adequate real property rights and interests, water rights if applicable, permits and licenses required by Federal, State, and local law, ordinance or regulation, and related actions have been taken to obtain the legal right to install, operate, maintain, and inspect the above-described project measures, except for structures or improvements that are to be removed, relocated, modified, or salvaged before and/or during the installation process.

This assurance is given with the knowledge that sponsor(s) are responsible for any excess costs or other consequences in the event the real property rights are found to be inadequate during the installation process.

Furthermore, this assurance is supported by an attorney's opinion attached hereto that certifies an examination of the real property instruments and files was made and they were found to provide adequate title, right, permission and authority for the purpose(s) for which the property was acquired.

If any of the real property rights or interests were obtained by condemnation (eminent domain) proceedings, sponsor(s) further assure and agree to prosecute the proceedings to a final conclusion and pay such damages as awarded by the court.

Lower Brushy Creek WCID

(Name of Sponsor)

By: _____

Title: Edmond S. Komandosky, President

Date: 5/17/21

This action authorized _____ of the Board of Directors of the
at an official meeting _____
Lower Brushy Creek WCID held _____ on the 17th
day of May _____, 20 21 ,
at Taylor _____
State of Texas _____

Attest: _____
(Name)
Monica P. Masters, Secretary

(Title)

(Name of Sponsor)

By: _____

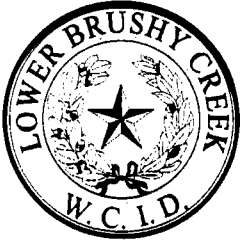
Title: _____

Date: _____

This action authorized _____
at an official meeting _____
_____ on _____
day of _____, 20 _____ ,
at _____
State of _____

Attest: _____
(Name)

(Title)




LOWER BRUSHY CREEK WCID

Mail: PO Box 467, Georgetown, Texas 78627

Physical: 601 Quail Valley Drive Suite 112
Georgetown, Texas 78626

MEMORANDUM

TO: President Komandosky and
Members of the Board of Directors

FROM: Jim Clarno 

DATE: May 10, 2021

SUBJECT: General Manager's Report

Administration

- The WCID has moved to its new physical address - 601 Quail Valley Drive, Suite 112, Georgetown, Texas 78626. Most files, maps and records are now at the new address.
- The WCID has a new mailing address - PO Box 467, Georgetown, Texas 78627.

Dam Operation & Maintenance

- TerraSol has nearly completed all spring O&M including fertilizer application, spot spraying, reseeding, and other spring maintenance.
- A grant application will be submitted for summer O&M this week.

Capital Improvements

- Site 20 Rehab - Fencing is complete and Fred Richter has started to provide fertilizer, sprigging and mulching. Rain-to-Rent will provide temporary irrigations services and is scheduled to be on-site as soon as Richter is finished.
- Site 12 and 22 Repair projects - Solid Bridge Construction is nearly finished with Site 12. Fencing and final clean-up are all of the remaining work. The contractor has begun mobilizing at Site 22 and has installed temporary fencing and the construction entrance.
- Site 18 Upgrade - HDR has completed the plans and project manual. TCEQ and the Texas Historical Commission have both cleared the project for construction. The US Army Corps of Engineers has given verbal approval of the plans. The State Board has executed and returned the grant award. The WCID will still need to provide documentation that it has sufficient land rights to complete the project and has completed an Emergency Action Plan for the site. Final meetings with landowners are being scheduled. Bidding should start this month and a recommendation for award will be included in the June agenda.

HB 1606

- The Upper Brushy Creek WCID's proposed legislation has been approved by the Texas House and will be considered by the Senate in the near future. It appears that it will be approved without comment.

Other

- Preliminary work on next years budget has started and a draft will be presented at the June Board meeting.
- Working on a meeting schedule for the required tax hearing and approval of the final tax rate and budget.
- Meetings and related activities early next year:
 - Upcoming Board meeting is on June 21st.