

RIVER PLANTATION MUNICIPAL UTILITY DISTRICT

Resolution for Adoption of Order Adopting Policy for Installation of Storm Culverts and Establishing Penalty for Violation of Policy

The Board of Directors ("Board") of River Plantation Municipal Utility District (the "District") met at the Board's regular meeting place on September 15, 2022, with a quorum of directors present, as follows:

Julie Gilmer, President
Timothy Goodman, Vice President
Betty Brown, Secretary
Karl Sakocius, Assistant Secretary
Tom Vandever, Treasurer

and the following directors absent:

None

when the following business was transacted:

The order set out below ("Order") was introduced for consideration of the Board. It was duly moved and seconded that said Order be adopted, and after due discussion, said motion carried by the following vote:

Ayes: All directors present.

Noes: None.

The Order thus adopted is as follows:

Any order and amendments thereto, heretofore adopted by the Board of District, adopting a policy for installation of storm culverts by District landowners and establishing a penalty for violation of the policy is hereby revoked upon the effective date of this Order.

The Order hereinafter set forth shall become effective September 15, 2022.

**ORDER ADOPTING POLICY FOR INSTALLATION OF STORM CULVERTS AND
ESTABLISHING PENALTY FOR VIOLATION OF POLICY**

ARTICLE I

Section 1.1 Overview

The purpose and intent of this Policy for Installation of Storm Culverts (“Policy”) is to advise Owners and/or Developers (defined below) in River Plantation Municipal Utility District (the “District”) of the policies and procedures they must follow if they desire to install or modify buried storm culverts (“Culverts”) on their property located within the District’s boundaries. This Policy provides for the District’s management of the installation of storm sewer facilities, specifically including Culverts, because such installations have an effect on operation of the District’s existing open ditch storm sewer system (“Storm System”). The gradient and size of ditches in the District are determined by the District Engineer (defined below) in order to collect storm sewer runoff effectively from lots adjacent to the ditches and to reduce flood risk to developed properties. This Policy requires Culverts under walks and driveways and in other locations to be sized and positioned to facilitate storm drainage within the District. All Culvert installations and modifications within District boundaries are subject to prior approval under this Policy by official action of the District’s Board of Directors, and such work must be completed in accordance with plans approved by the District Engineer. All engineering and construction costs incurred to comply with this Policy shall be borne by the Owner and/or Developer requesting District authorization to install or modify a Culvert.

Section 1.2 Definitions

For purposes of this Policy, the following words or terms shall have the following meanings:

a) “District Attorney” means the law firm engaged by the District to provide professional legal services to the District.

b) “District Culvert Committee” means a committee, established by the District’s Board and consisting of no more than two District Directors, that works with the District Engineer to coordinate and administer this Policy

c) “District Engineer” means the consulting engineering firm engaged by the District to provide professional engineering services to the District, including, but not limited to representing the District’s interests regarding planning, design, review and approval of the District’s Storm System.

d) “District Operator” means the individual that is employed by the District’s Board of Directors to oversee the daily operations and administration of the District. The District Operator is the main administrative contact person for the District.

e) “Culvert Variance” means a formal authorization granted by the District’s Board for the installation or modification of a Culvert by a District landowner in accordance with this Policy, which installation or modification would otherwise be contrary to the District’s open ditch drainage system.

f) “Developer” and/or “Owner” means the individual or entity that improves a tract of land by installing or modifying a Culvert for either a residential, commercial or industrial development. The Owner may be someone that was not affiliated with the construction of the project.

g) “Easement” means the conveyance of a property right or interest in land by a property owner to the District or other public entity for the purpose of installing, constructing, owning, operating, maintaining and/or repairing public storm sewer facilities, including Culverts approved under this Policy, or for any other authorized public purpose and the continued access and occupancy of that land for such purposes.

h) “Permit” means any building or construction permit required by an applicable governmental entity for the construction of a commercial/retail or residential development and/or for the construction of public or private water, sanitary sewer, storm sewer or stormwater detention facilities.

ARTICLE II

Section 2.1 Policy Statement

No person, including an individual property owner, builder, contractor or developer, may replace an open drainage ditch in the District by installation of a Culvert without obtaining District approval of a Culvert Variance. Only the District can approve a Culvert Variance for the installation or modification of a Culvert in front of a property or elimination of a Culvert under a driveway or sidewalk. The design and installation/modification of a Culvert must be in full compliance with this Policy and specific written approval issued by the District. Standards to be used by the District in determining whether or not to allow installation/modification of a Culvert shall include, but not be limited to:

- a) Installation of a Culvert must result in the same or better drainage of storm water from the affected property(ies) than is currently provided by the existing open ditch.
- b) The proposed Culvert installation or modification must not interfere with or negatively affect the District's Storm System.
- c) Installation or modification of a Culvert must not create a drainage problem for the adjoining landowner(s).
- d) Evidence of approval by Montgomery County must be provided.

Section 2.2 Procedures

To establish and ensure that a proposed Culvert installation or modification meets the standards in Section 2.1 of this Policy, the following procedures must be followed:

- a) The Owner or Developer must send a letter to the District requesting a Culvert Variance. A description of the property and a sketch of the proposed installation are to be included, as well as a written justification supporting installation of a buried culvert as opposed to the continued use of an open ditch. Such application shall be accompanied by a **\$400.00** fee to cover the confirmation or establishment by the District and the District Engineer of the requirements for the appropriate grade, the specification of suitable size and type of pipe, the type and number of drain grates or inlets to be provided for surface openings, and whether or not

an Easement or Permit is necessary. The letter and accompanying materials should be delivered, either in person or by mail to the District Engineer, currently as follows:

District Engineer:

Vogler & Spencer Engineering, Inc.
Taylor Reed
777 N. Eldridge Parkway, Suite 500
Houston, Texas 77079

(b) A review of the request will be undertaken by the District Engineer and the District Culvert Committee. The District Engineer shall perform technical review and prepare a recommendation.

(c) The District will provide written notice to the owners of adjoining properties about the request for Culvert Variance and of their opportunity to comment on same before the Board at the Board meeting at which the request will be considered.

(d) The District's Board shall take action on Culvert Variance requests at any Board meeting at which the subject is on the Board's meeting agenda and upon the advice, counsel and recommendations of the District Engineer and/or District Attorney.

(e) If the Board approves the request, the requesting Owner or Developer shall thereafter execute before a notary public a Culvert Variance Agreement ("CVA") in the form attached hereto as Exhibit "A" and by this reference made a part hereof. Refer to Section 2.3 of this Policy for more information on the purpose and administration of the CVA.

(f) Once a Culvert Variance is approved, the Owner shall bear all costs in connection with design, review, survey, construction, and inspection of the Culvert installation or modification. Construction materials and procedures must meet the District's specifications and the District Engineer's recommendations. After pipes are in place, the Owner shall call for and receive an inspection by the District Engineer or other authorized representative of the District before the pipe may be covered. The Owner may not cover the pipe until the District has approved the installation or modification.

(g) If, in the District's sole determination, the District incurs additional expense regarding review of a Culvert Variance or Culvert installation/modification, the District shall bill said additional expense to the requesting Owner/Developer.

(h) If the Board rejects a request for a Culvert Variance, the Owner/Developer may submit to the District Engineer a written request for a hearing to be held during a regular monthly meeting of the District's Board.

Section 2.3 Maintenance

Upon an Owner's/Developer's execution of a CVA and installation or modification of a Culvert, such Owner/Developer is required to abide by the terms of the CVA. The CVA provides a direct remedy to the District in case the Culvert is not maintained properly or the installation proves to be a nuisance, or if any other circumstance arises such that the District determines the Culvert must be removed or modified. The Owner shall have the continuing responsibility to ensure that the Culvert remains open and functional. The Owner is obliged to maintain the drainage capacity of the Culvert at his expense. If such Culvert becomes obstructed with sand, roots, or debris of any type that obstructs the passage of storm water, and the Owner fails to correct same in the judgment of the Board, the Board may clean, modify or remove the Culvert, at the Owner's expense.

Section 2.4 Administration

The District Engineer is authorized to administer, implement, and enforce the provisions of this Policy.

ARTICLE III

Section 3.1 Access to Land and Facilities and Inspection

a) The District Engineer and District Operator are authorized to enter onto any land or facilities subject to this Policy for the purposes of conducting any inspection necessary to assure compliance with this Policy.

b) Any temporary or permanent obstruction to safe and easy access to the facility or land to be inspected and/or sampled shall be promptly removed by the Owner at the written or oral request of the District Engineer or District Operator and shall not be replaced. The costs of clearing such access shall be borne by the Owner.

c) Unreasonable delays in allowing the District Engineer or District Operator access to a facility are a violation of this Policy. A person commits a violation if the person denies the District Engineer or District Operator reasonable access to the facility or land for the purpose of conducting any activity authorized or required by this Policy.

d) If an Owner receives a written notice of deficiency, the Owner must correct the deficiency by the time stated in the notice. If the deficiency is not timely corrected, the District may avail itself of any other remedies available under the Policy.

ARTICLE IV

Section 4.1 Violation Notice

Upon inspection, any person found in violation of any provision of this Policy shall be provided written notice of such violation and shall immediately correct any deficiencies noted.

Section 4.2 Civil Penalties

Any person violating any provisions of this Policy or failing to observe any provisions hereof shall be subject to a penalty not to exceed the jurisdiction of a justice court as provided by Section 27.031, Texas Government Code, currently \$20,000, and each violation shall constitute a separate offense. Furthermore, each day that a breach of any provision hereof continues shall be considered a separate breach. Such penalties shall be in addition to any other penalties provided by the laws of the State of Texas. In all suits to enforce its policies, rules and regulations, the District shall seek to recover reasonable fees for attorneys, expert witnesses, and other costs incurred by the District before the court.

Section 4.3 Payment of Additional Costs

The District, in its discretion, may require any person violating any provisions of this Order to pay all costs or damages resulting from such violations, including the costs of clean up and fines imposed by any regulatory body with jurisdiction.

Section 4.4 Notice of Adoption

Notice of the adoption of these policies, rules and regulations and of the penalty therein provided shall be given by publication in a newspaper, to the extent and in the manner required by law.

ARTICLE V

Section 5.1 Non-Waiver

The failure on the part of the District to enforce any article, section, clause, sentence, or provision of this Order shall not constitute a waiver of the subsequent right of the District to enforce any article, section, clause, sentence, or provision of this Order.

Section 5.2 Validity

All provisions of District orders or regulations in conflict herewith are hereby repealed. The validity of any article, section, clause, sentence, or provision of this Order shall not affect the validity of any other part of this Order, which can be given effect without the invalidated part or parts.

Section 5.3 Severability

If any provision, article, section, or paragraph of this Order is invalidated by any court of competent jurisdiction, the remaining provisions, articles, sections and paragraphs shall not be affected and shall continue in full force and effect.

REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK

The President or any Vice President is authorized to execute and the Secretary to attest this Order on behalf of the Board and the District.

Passed and adopted, this September 15, 2022.

JULIE GILMER

President

ATTEST:

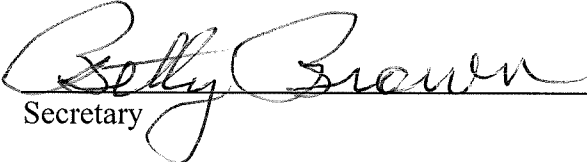
BETTY BROWN

Secretary

I, the undersigned Secretary of the Board of Directors of River Plantation Municipal Utility District, hereby certify that the foregoing is a true and correct copy of the Order Adopting Policy for Installation of Storm Culverts and Establishing Penalty for Violation of Policy, adopted by said Board at its meeting of September 15, 2022, together with excerpts from the minutes of said Board's meeting on that date showing the adoption of said order, as same appear of record in the official minutes of the Board, on file in the District's office.

I further certify that said meeting was open to the public, and that notice thereof was posted in compliance with the provisions of Tex. Gov't. Code Ann. § 551.001 et seq.

Witness my hand and the official seal of said District, this 15th day of September, 2022.


Secretary



