



BRAZOS RIVER AUTHORITY
ENABLING LEGISLATION

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SPECIAL DISTRICT LOCAL LAWS CODE

TITLE 6. WATER AND WASTEWATER

SUBTITLE G. RIVER AUTHORITIES

CHAPTER 8502. BRAZOS RIVER AUTHORITY

Sec. 8502.001. CREATION. (a) A conservation and reclamation district to be known as the "Brazos River Authority" is created. The authority is a river authority, a governmental agency, a municipality, and a body politic and corporate.

(b) The authority is created under and is essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

(c) The authority may exercise the powers expressly granted by Section 59, Article XVI, Texas Constitution, to districts created to conserve, control, and utilize to beneficial service the storm waters and floodwaters of the rivers and streams of the state, as well as those powers that may be contemplated and implied by the purposes of that provision of the constitution and that are conferred by general law and the provisions of this chapter. In addition, the authority may discover, develop, and produce groundwater in the Brazos River basin for the use of its customers.

(d) The authority may exercise all the rights and powers of an independent governmental agency, a municipality, and a body politic and corporate to formulate plans deemed essential to its operation and for its administration in the control, storing, preservation, and distribution for all useful purposes of the storm waters and floodwaters of the Brazos River and its tributary streams.

(e) The authority may exercise the same authority and power of control and regulation over the storm waters and floodwaters of the Brazos River and its tributaries as may be exercised by the state, subject to the provisions of the constitution and the acts of the legislature.

Added by Acts 2003, 78th Leg., ch. 996, Sec. 1, eff. Sept. 1, 2003.
Renumbered from Water Code, Section 221.001 by Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 13.006(a), eff. September 1, 2007.

Sec. 8502.002. DEFINITIONS. In this chapter:

- (1) "Authority" means the Brazos River Authority.
- (2) "Board" means the board of directors of the authority.
- (3) "Director" means a member of the board.

Added by Acts 2003, 78th Leg., ch. 996, Sec. 1, eff. Sept. 1, 2003.
Renumbered from Water Code, Section 221.002 by Acts 2007, 80th Leg.,
R.S., Ch. 921 (H.B. 3167), Sec. 13.006(a), eff. September 1, 2007.

Sec. 8502.003. TERRITORY. The territory of the authority comprises the watershed of the Brazos River, as determined by rule of the Texas Water Development Board, except the portions lying within Freestone, Leon, and Madison counties.

Added by Acts 2003, 78th Leg., ch. 996, Sec. 1, eff. Sept. 1, 2003.
Renumbered from Water Code, Section 221.003 by Acts 2007, 80th Leg.,
R.S., Ch. 921 (H.B. 3167), Sec. 13.006(a), eff. September 1, 2007.

Sec. 8502.004. POWERS. (a) The authority may exercise, in addition to all the general powers vested by the constitution and statutes in a governmental agency and body politic and corporate for the greatest practicable measure of conservation and beneficial utilization of storm waters, floodwaters, and unappropriated flow waters, the powers of control and employment of the floodwaters, storm waters, unappropriated flow waters, and groundwater of the authority in the manner and for the purposes provided by this section.

(b) The authority may provide, through all practical and legal means, for the control and the coordination of the regulation of the waters of the watershed of the Brazos River and its tributary streams as a unit.

(c) The authority may provide, by adequate organization and administration, for the preservation of the equitable rights of the people of the different sections of the watershed area in the beneficial use of storm waters, floodwaters, and unappropriated flow waters of the Brazos River and its tributary streams.

(d) The authority may provide for storing, controlling, and conserving storm waters, floodwaters, and unappropriated flow waters of the Brazos River and its tributaries, preventing the escape of

those waters without the maximum of public service, preventing the devastation of lands by recurrent overflows, and protecting life and property in the watershed area from uncontrolled floodwaters.

(e) The authority may provide for the conservation of waters essential for the domestic uses of the people of the watershed of the Brazos River and its tributaries, including all necessary water supplies for municipalities.

(f) The authority may provide for the irrigation of lands in the watershed of the Brazos River and its tributary streams where irrigation is required for agricultural purposes, or may be considered helpful to more profitable agricultural production, and provide for the equitable distribution of storm waters, floodwaters, and unappropriated flow waters to the regional potential requirements for all uses. Plans and works provided by the authority, and works provided under the authorization of the authority, should give primary consideration to the necessary and potential needs for water by or within the areas constituting the watershed of the Brazos River and its tributary streams.

(g) The authority may provide for the better encouragement and development of drainage systems and provisions for drainage of lands in the valleys of the Brazos River and its tributary streams needing drainage for profitable agricultural production and drainage for other lands in the watershed area of the authority requiring drainage for the most advantageous use.

(h) The authority may provide for the conservation of all soils against destructive erosion and for the prevention of increased flood danger caused by destructive soil erosion.

(i) The authority may provide for controlling and making available for employment floodwaters, storm waters, and unappropriated flow waters in the development of commercial and industrial enterprises in all sections of the watershed area of the authority.

(j) The authority may provide for the control, storage, and employment of floodwaters, storm waters, and unappropriated flow waters in the development and distribution of hydroelectric power, where this use may be economically coordinated with other and superior uses and subordinated to the uses declared by law to be superior.

(k) The authority may provide for each purpose for which floodwaters, storm waters, and unappropriated flow waters, when

controlled and conserved, may be used in the performance of a useful service as contemplated and authorized by the provisions of the constitution and the public policy it declares.

(l) The authority may provide for the development of groundwater and may make groundwater available for use for domestic, municipal, irrigation, commercial, and industrial purposes.

(m) This chapter does not confer on the authority any power under Chapter 36, Water Code, to regulate the groundwater of other landowners.

(n) When producing groundwater, the authority is subject to all laws, regulations, and rules relating to groundwater, including the rules of a groundwater conservation district and the Central Carrizo-Wilcox Coordinating Council.

(o) The authority may not transport or assist in the transport of groundwater pumped in the basin outside the Brazos River basin.

Added by Acts 2003, 78th Leg., ch. 996, Sec. 1, eff. Sept. 1, 2003.

Renumbered from Water Code, Section 221.004 by Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 13.006(a), eff. September 1, 2007.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 13.006(c), eff. September 1, 2007.

Sec. 8502.005. LIMITATION OF AUTHORITY; STATE SUPERVISION.

The powers and duties granted to the authority by this chapter are subject to all legislative declarations of public policy in the maximum utilization of the storm waters, floodwaters, and unappropriated flow waters of the Brazos River watershed and developed groundwater of the Brazos River basin for the purposes for which the authority is created, as expressed and indicated in this chapter, and subject to the continuing rights of supervision by the state.

Added by Acts 2003, 78th Leg., ch. 996, Sec. 1, eff. Sept. 1, 2003.

Renumbered from Water Code, Section 221.005 by Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 13.006(a), eff. September 1, 2007.

Sec. 8502.006. DAMS AND RESERVOIRS; WATER SUPPLY CONTRACTS.

(a) The authority may construct, acquire, equip, acquire storage

rights at, and operate dams and reservoirs that, in the opinion of the board, are useful in carrying out the powers conferred on the authority by this chapter, regardless of whether a dam is designed to serve a single purpose or multiple purposes.

(b) The authority may provide water supply lines and water purification and pumping facilities.

(c) The authority may execute contracts with municipalities in the state substantially in the manner prescribed by Section 552.020, Local Government Code, for districts organized or created under Section 59, Article XVI, Texas Constitution, and may execute water supply contracts with other users of water.

Added by Acts 2003, 78th Leg., ch. 996, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.77(33), eff. April 1, 2009.

Renumbered from Water Code, Section 221.006 by Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 13.006(a), eff. September 1, 2007.

Sec. 8502.007. PRIORITY OF RIGHTS. This chapter does not change any existing priority of right under the laws of this state to the use of waters of this state, including any rights of municipalities that maintain and use storage structures in the bed of the Brazos River or its tributaries.

Added by Acts 2003, 78th Leg., ch. 996, Sec. 1, eff. Sept. 1, 2003.

Renumbered from Water Code, Section 221.007 by Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 13.006(a), eff. September 1, 2007.

Sec. 8502.008. BOND PROVISIONS. (a) Bonds may be:

(1) sold for cash, at public or private sale, and at the price the board determines;

(2) issued on the terms the board determines in exchange for property of any kind, real, personal, or mixed, or any interest in property, that the board determines necessary or convenient for any corporate purpose; or

(3) issued to refund bonds issued at any time under authority of this chapter.

(b) Bonds must be authorized by resolution of the board.

(c) A resolution authorizing bonds may contain provisions that are part of the contract between the authority and the purchasers and subsequent holders of the bonds:

(1) reserving the right to redeem the bonds at the time, in the amount, and at the price provided;

(2) providing for the setting aside of sinking funds or reserve funds and the regulation and disposition of those funds;

(3) pledging, to secure the payment of the principal of and interest on the bonds and the sinking fund or reserve fund payments agreed to be made with respect to the bonds, all or any part of the gross or net revenues subsequently received by the authority with respect to the property, real, personal, or mixed, to be acquired or constructed with the bonds or with proceeds of the bonds, or all or any part of the gross or net revenues subsequently received by the authority from any source;

(4) prescribing the purposes to which the bonds or any bonds later issued, or the proceeds of the bonds, may be applied;

(5) agreeing to set and collect rates and charges sufficient to produce revenues that are adequate to pay the items specified in any resolution or resolutions authorizing any bonds, and prescribing the use and disposition of all revenues;

(6) prescribing limitations on the issuance of additional bonds and on all agreements that may be made with the purchasers and successive holders of the bonds;

(7) relating to the construction, extension, improvement, operation, maintenance, depreciation, replacement, and repair of the properties of the authority and the carrying of insurance on all or any part of the property covering loss or damage or loss of use and occupancy resulting from specified risks;

(8) establishing the procedure, if any, by which, if the authority so desires, the terms of any contract with the bondholders may be amended or abrogated, the amount of bonds the holders of which must consent to such amendment or abrogation, and the manner in which the consent is evidenced;

(9) providing for the execution and delivery by the authority to a bank or trust company authorized by law to accept trusts, or to the United States or any office or agency of the United

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States, of indentures or agreements authorized to be made with or for the benefit of the bondholders and any other provisions contained in the indentures or agreements; and

(10) making other provisions, not inconsistent with this chapter, that the board approves.

Added by Acts 2003, 78th Leg., ch. 996, Sec. 1, eff. Sept. 1, 2003. Renumbered from Water Code, Section 221.008 by Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 13.006(a), eff. September 1, 2007.

Sec. 8502.009. BOARD OF DIRECTORS; BONDS; QUORUM; OFFICERS.

(a) The board consists of 21 members. Members of the board and their successors serve staggered terms of six years and until their successors are designated and have qualified. The terms of seven members of the board expire on February 1 of each odd-numbered year.

(b) The governor shall appoint the directors at large with the advice and consent of the senate. Within 60 days after appointment, each director shall take and subscribe an oath of office similar to the oaths administered to county commissioners and shall execute bond in the amount of \$5,000, payable to the authority. The premium on the bond shall be paid by the authority. The bond, after being recorded in the official bond records of the county in which the authority maintains its office, shall be deposited with a depository selected and approved for the deposit of the funds of the authority.

(c) A vacancy occurring on the board shall be filled by appointment of the governor with the advice and consent of the senate.

(d) Eleven members of the board constitute a quorum to transact business.

(e) The governor shall designate a director as the presiding officer of the board to serve in that capacity at the pleasure of the governor. The board shall elect from among its members an assistant presiding officer and a secretary. The board shall appoint a treasurer. The treasurer shall furnish a bond in an amount equal to 75 percent of the amount of money estimated to be on hand during the year, not to exceed \$100,000.

Added by Acts 2003, 78th Leg., ch. 996, Sec. 1, eff. Sept. 1, 2003. Renumbered from Water Code, Section 221.009 by Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 13.006(a), eff. September 1, 2007.

Sec. 8502.010. CREATION OF MASTER DISTRICT; WATER CONTROL AND IMPROVEMENT DISTRICT. A master district is created having all the powers, duties, and functions, and subject to applicable and practicable procedures for those districts, to accomplish the purposes of this chapter, as provided by Chapter 49, Water Code, and the provisions of the Water Code applicable to water control and improvement districts.

Added by Acts 2003, 78th Leg., ch. 996, Sec. 1, eff. Sept. 1, 2003. Renumbered from Water Code, Section 221.010 by Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 13.006(a), eff. September 1, 2007. Amended by:

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 13.006(d), eff. September 1, 2007.

Sec. 8502.011. BOND ELECTION REQUIRED. The authority may not issue bonds or incur any form of continuing obligation or indebtedness payable from ad valorem taxes for purposes of effecting improvements comprehended in the plan of organization and administration of the authority, or incur any indebtedness in the form of a continuing charge on lands or other physical properties within the authority, unless the proposition has been submitted to the qualified voters of the authority, or in appropriate cases the qualified voters of a defined area within the authority, and is approved by a majority of the electors voting on the proposition.

Added by Acts 2003, 78th Leg., ch. 996, Sec. 1, eff. Sept. 1, 2003. Renumbered from Water Code, Section 221.011 by Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 13.006(a), eff. September 1, 2007.

Sec. 8502.012. ADDITIONAL POWERS AND DUTIES. (a) The authority is a district and a river authority as defined by Chapter 30, Water Code. All the provisions of Chapter 30, Water Code, are applicable to the authority.

(b) As used in this section:

(1) "Person" means any individual, partnership, corporation, public utility, or other private entity or any public

agency.

(2) "Public agency" means an authority, district, municipality or other political subdivision, joint board, or other public agency created and operating under the laws of this state and any entity created to operate or act on behalf of a public agency.

(c) The authority and all persons may enter into contracts with each other, in any manner and on terms to which the parties agree, with respect to any power, function, facility, or service that the authority is authorized by law to provide or finance. Public agencies may use and pledge any available revenues for and in the payment of amounts due under a contract as an additional source of payment of the contract and may covenant with respect to available revenues to assure the availability of the revenues when required. In this subsection, "revenues" does not mean or include revenues from ad valorem taxes levied and collected by a public agency or the proceeds from the sale or refunding of bonds of a public agency that are to be wholly or partially paid from ad valorem taxes levied and collected by the public agency unless the use or pledge of the tax revenues or bond proceeds is approved by the qualified voters of the public agency at an election called for the purpose of levying taxes or issuing or refunding bonds, or both, for the purpose of using or pledging their revenues or proceeds under contracts entered into under this subsection.

(d) A public agency may set, charge, and collect fees, rates, charges, rentals, and other amounts for a service or facility provided by a utility operated by the public agency, or provided under or in connection with a contract with the authority, from the inhabitants of the authority or from any users or beneficiaries of the utility, service, or facility, including:

(1) water charges;

(2) sewage charges;

(3) solid waste disposal system fees and charges, including garbage collection or handling fees; and

(4) other fees or charges.

(e) A public agency may use and pledge the fees, rates, charges, rentals, and other amounts authorized by Subsection (c) to make payments to the authority required under a contract with the authority and may covenant to do so in amounts sufficient to make all

or any part of the payments to the authority when due. If the parties agree in the contract, the payments shall constitute an expense of operation of any facility or utility operated by the public agency.

(f) The authority, acting through the board, may carry out any activities and acquire, purchase, construct, own, operate, maintain, repair, improve, or extend and may lease or sell, on terms and conditions, including rentals or sale prices, on which the parties agree, all works, improvements, facilities, plants, buildings, structures, equipment, and appliances, and all real and personal property, or any interest in real or personal property, related to the works, improvements, facilities, plants, buildings, structures, equipment, and appliances, that are incident to or necessary in carrying out or performing any power or function of the authority under this section.

(g) The authority may issue bonds with respect to the acquisition, purchase, construction, maintenance, repair, improvement, and extension of works, improvements, facilities, plants, buildings, structures, appliances, and property for the purpose of exercising any of its powers and functions under this section in the manner provided by this chapter or any other applicable law.

(h) The authority may issue revenue bonds to pay for the costs of feasibility studies for proposed projects of the authority, including engineering, planning and design, and environmental studies. The authority may include in any revenue bond issue the funds to operate and maintain, for a period not to exceed two years after completion, the facilities acquired or constructed through the revenue bond issue.

(i) If bonds issued by the authority recite that they are secured by a pledge of payments under a contract, a copy of the contract and the proceedings relating to the contract may be submitted to the attorney general along with the bonds. If the attorney general finds that the bonds have been authorized and the contract has been made and entered into in accordance with law, the attorney general shall approve the bonds and the contract, and after the approval, the bonds and the contract are incontestable in any court or other forum for any reason and are valid and binding in accordance with their terms and provisions for all purposes.

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(j) The provisions of Chapters 618, 1201, 1204, 1207, and 1371, Government Code, are applicable to bonds issued by the authority.

(k) This section is wholly sufficient authority for the issuance of bonds, the execution of contracts, and the performance of other acts and procedures authorized by this section by the authority and all persons, including public agencies, without reference to any other provision of law or any restriction or limitation contained in those provisions, except as specifically provided by this section. To the extent of any conflict or inconsistency between this section and any other law, including any charter of a home-rule municipality, this section shall prevail and control. The authority and all persons, including public agencies, may use any law not in conflict with this section to the extent convenient or necessary to carry out any power or authority, expressed or implied, granted by this section.

Added by Acts 2003, 78th Leg., ch. 996, Sec. 1, eff. Sept. 1, 2003.
Renumbered from Water Code, Section 221.012 by Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 13.006(a), eff. September 1, 2007.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167); Sec. 13.006(e), eff. September 1, 2007.

Sec. 8502.013. DISPOSITION OF PROPERTY. (a) Nothing in this chapter shall be construed as authorizing the authority, and it is not authorized, to mortgage or otherwise encumber any of its property of any kind, real, personal, or mixed, or any interest in property, or to acquire any property or interest subject to a mortgage or conditional sale; provided, however, that this section shall not be construed as preventing the pledging of the revenues of the authority as provided by this chapter.

(b) Nothing in this chapter shall be construed as authorizing the sale, release, or other disposition of property of any kind, real, personal, or mixed, or any interest in property, by the authority or through any court proceedings or otherwise; provided, however, that the authority may sell for cash any property or interest if the board by affirmative vote of 11 of its members determines that the property or interest is not necessary to the business of the authority and approves the terms of the sale. Except by sale as expressly

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authorized by this section, authority property or interest may not come into the ownership or control, directly or indirectly, of any person, firm, or corporation other than a public authority created under the laws of the state.

(c) All authority property is exempt from forced sale, and nothing in this chapter authorizes the sale of any of the property of the authority under a judgment rendered in a suit, and a sale of that kind is prohibited.

(d) Notwithstanding any restrictions or provisions in this section or in this chapter, the authority, acting by a majority vote of the board, may construct or purchase, from any person, firm, or corporation (referred to in this subsection as "customer") with which the authority has contracted to sell hydroelectric power, transmission lines and other property used or to be used by the customer for the transmission of or in connection with power purchased or to be purchased from the authority. The authority may lease all or any portion of that property to the customer for all or a portion of the time during the term of the hydroelectric power purchase contract. The lease may contain provisions that are valid and enforceable giving the lessee the right to purchase from the authority all or any portion of the property at or within the time specified in the lease and for a price and on terms and conditions specified in the lease; provided, however, that the price may not be less than the depreciated value, determined in the manner prescribed in the lease, plus one percent of the original cost of the property.

Added by Acts 2003, 78th Leg., ch. 996, Sec. 1, eff. Sept. 1, 2003.

Renumbered from Water Code, Section 221.013 by Acts 2007, 80th Leg.,

R.S., Ch. 921 (H.B. 3167), Sec. 13.006(a), eff. September 1, 2007.

Sec. 8502.0132. SALE OF CAPTIVE PROPERTY AT POSSUM KINGDOM LAKE. (a) In this section:

(1) "Adjacent Land" means the real property owned by the applicable Offeree that is adjacent to the applicable Captive Property To Be Sold.

(2) "Captive Property To Be Sold" means those portions of the following tracts of real property owned by the Authority at the Lake that as of May 27, 2009, were surrounded by the Lake and property

owned by a single freeholder and located above the 1000' contour line, but does not include any portion of the following tracts that was part of Project Land or property that was leased for single-family residential purposes as of May 27, 2009:

(A) two tracts of land totaling 2019.86 acres, more or less, in Palo Pinto County, Texas, described in Brazos River Authority Records as Tracts 8-1-93 and 9-3-9, as such Tracts are more particularly described in an Award of Commissioners entered June 28, 1940, in the County Court of Palo Pinto County, Texas, in Cause No. 2539, styled Brazos River Conservation and Reclamation District versus Orland R. Seaman, Et Al., as the same appears on file and of record in Volume 5, Pages 414 and 419, et seq., Civil Minutes of the County Court of Palo Pinto County, Texas; and

(B) a 2278.3 acre tract of land, more or less, in Palo Pinto County, Texas, described in Brazos River Authority records as Tract 11-2-46, as such tract is more particularly described in deeds recorded at Book 181, Page 325, Book 182, Page 339, Book 183, Page 12, and Book 183, Page 16, in Palo Pinto County Records, Palo Pinto County, Texas.

(2-a) "Close" or "Closing" means the transfer of the Authority's interest in properties described in the Subsection (d)(1) or (m)(6) survey.

(3) "FERC License" means the order of the Federal Energy Regulatory Commission issuing a license to the Authority for project number 1490-003-Texas on September 8, 1989, as such license has been renewed, extended, or amended and may be further renewed, extended, or amended at any time and from time to time, and including the Amendment to the original FERC license that was issued on May 15, 1980, to the extent incorporated or referenced in the FERC License.

(4) "Lake" means Possum Kingdom Lake located in Young, Palo Pinto, Stephens, and Jack Counties. The boundary of the Lake is defined by the 1000' contour line, as that contour may meander and change over time with natural forces, including erosion and accretion. The "1000' contour line" means the line running along the periphery of the Lake if the surface of the Lake is at an elevation of 1000 feet above mean sea level, as measured from the top of the spillway crest gates of the Morris Sheppard Dam, as such line may move and shift from time to time due to natural forces.

(5) "Offeree" means any person to whom an offer to sell Captive Property To Be Sold is to be made under this section. To qualify as an Offeree, a person must own in fee simple as of May 27, 2009, the real property adjacent to the Captive Property To Be Sold, and be able to provide an attorney's opinion or other satisfactory legal documentation that such Offeree meets the qualifications of an Offeree under this subdivision.

(6) "Project Land" means that portion of Authority property that is subject to the FERC License, as identified and defined in the FERC License, as may be amended at any time, and from time to time, and which Project Land may move or change over time due to natural forces.

(b) Notwithstanding any other provision of this chapter, the Authority is directed to sell all Captive Property To Be Sold in accordance with the directives of this section, including the following:

(1) Within 90 days of the effective date of the Act enacting this section, the Authority shall publish a list of the parcels at the Lake that qualify as Captive Property To Be Sold and an "Application Of Intent To Purchase" form for use by the Offerees as provided by this section.

(2) Each listed parcel of Captive Property To Be Sold shall be offered for sale at its fair market value to the Offeree who owns any Adjacent Land that is adjacent to that specific parcel of Captive Property To Be Sold, and each Adjacent Land owner has the right (but not the obligation) to purchase the parcel in equal proportion among those wishing to acquire same.

(3) Any Offeree who desires to purchase Captive Property To Be Sold must, within 180 days of the inclusion of that property on the published list of Captive Property To Be Sold under Subdivision (1), submit a completed Application Of Intent To Purchase form to the Authority.

(4) If the Authority does not receive an Application Of Intent To Purchase from an Offeree within the required time, the Offeree shall be deemed to have waived any right to purchase the subject property under this section and the Authority shall have the right to retain or sell such property as directed by the board.

(5) The Authority shall accept and process all Application

Of Intent To Purchase forms in the order in which they are received.

(6) Any sale of property under this section must be handled as if it were a private sale for fair market value under Section 49.226(a), Water Code.

(7) The fair market value of the Captive Property To Be Sold must be determined as follows:

(A) Within forty-five (45) days of the Authority's receipt of the Offeree's completed Application Of Intent To Purchase and an acceptable survey as provided by Subsection (d)(1), the Authority shall provide the Offeree with an appraisal of the fair market value of the Captive Property To Be Sold dated within one year of the date of the Authority's receipt of the Application Of Intent To Purchase (the "First Appraisal"). The Authority's appraiser must be an appraiser certified under Chapter 1103, Occupations Code. Within fifteen (15) days of receipt of the First Appraisal, the Offeree shall notify the Authority in writing as to whether the Offeree agrees with or disputes the fair market value set forth in the First Appraisal. If the Offeree does not dispute the fair market value as determined by the First Appraisal within such 15-day time period, then the First Appraisal shall be final and binding on all parties to establish the fair market value for the Captive Property To Be Sold.

(B) If the Offeree disputes the fair market value determined by the First Appraisal, the Offeree may withdraw its application to purchase the Captive Property To Be Sold or employ a disinterested appraiser certified under Chapter 1103, Occupations Code, to conduct a second appraisal of the fair market value of the Captive Property To Be Sold (the "Second Appraisal"). The Second Appraisal must be completed and sent to the Authority not later than the 45th day after the date the Offeree notifies the Authority that the Offeree disputes the First Appraisal. If the Authority does not receive the Second Appraisal within such 45-day time period, then the Offeree's Application Of Intent To Purchase will be deemed withdrawn.

(C) Within fifteen (15) days of receipt of the Second Appraisal, the Authority shall notify the Prospective Purchaser in writing as to whether the Authority agrees with or disputes the fair market value determined by the Second Appraisal. If the Authority does not dispute the fair market value as determined by the Second

Appraisal within this 15-day time period, then the Second Appraisal shall be final and binding on all parties to establish the purchase price for the Captive Property To Be Sold. If the Authority timely disputes the fair market value determined by the Second Appraisal, the two appraisers (or their designated agents) shall meet and attempt to reach an agreement on the fair market value of the Captive Property To Be Sold, such meeting to occur not later than the 30th day after the date the Authority notifies the Offeree that the Authority disputes the Second Appraisal.

(D) If the two appraisers reach agreement on the fair market value; within 20 days after their meeting they shall issue a report of the agreed fair market value to the Authority and to the Offeree, and this agreed fair market value shall be final and binding on all parties to establish the purchase price. If the two appraisers fail to reach agreement on or before the 20th day after the date of the meeting, then not later than the 30th day after the date of the meeting the two appraisers shall appoint a disinterested third appraiser certified under Chapter 1103, Occupations Code, to reconcile the two previous appraisals (the "Third Appraisal"). The Third Appraisal must be completed on or before the 30th day after the date of the third appraiser's appointment, and the fair market value determined by the Third Appraisal is final and binding on all parties to establish the purchase price; provided, however, the final purchase price may not be more than the fair market value determined by the First Appraisal or less than the fair market value determined by the Second Appraisal.

(E) The appraisal costs must be paid by the person who requests the appraisal, except that the Offeree and the Authority shall each pay one-half of the cost of the Third Appraisal if a Third Appraisal is necessary. If the Offeree fails to pay its share of the Third Appraisal, then the Offeree's Application Of Intent To Purchase will be deemed withdrawn.

(F) The timelines established in the appraisal process set forth in this subdivision may be extended on joint agreement of Authority and Offeree.

(8) Closing must occur not later than the first anniversary of the effective date of the Act of the 83rd Legislature, Regular Session, 2013, amending this subsection.

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(c) If the Authority seeks to exempt any Captive Property To Be Sold from sale under this section as necessary for the continued operation of services at the Lake by the Authority, the Authority must designate as exempt each parcel it seeks to have exempted and provide actual notice of the exemption to any Offeree who otherwise would have been eligible to purchase that property. Any such Offeree shall have the right, but not the obligation, to challenge the exemption designation by the Authority in accordance with Subsection (e).

(d) For each parcel that an Offeree elects to purchase pursuant to this section, the Offeree shall:

(1) provide to the Authority a survey of the property that is:

(A) prepared by a licensed state land surveyor or a registered professional land surveyor;

(B) dated not earlier than the date one year before the effective date of the Act enacting this section; and

(C) acceptable to the Authority and any title company providing title insurance for the Offeree; and

(2) pay all reasonable, normal, customary, and documented closing costs associated with the sale of the property.

(d-1) Not later than 15 business days after the delivery of an Offeree's survey to the Authority required under Subsection (d)(1) or (m)(6), the Authority shall notify the Offeree that the survey is acceptable or submit in writing to the Offeree a list detailing any error in the survey that the Authority believes requires correction. If required, the survey must be corrected at the earliest convenience of the surveyor and a corrected survey delivered to the Authority. The correction process repeats until both surveys are acceptable, at which time the timetable for the appraisal process in Subsection (b)(7) (A) begins for the properties described in the Subsection (d)(1) and (m)(6) surveys. So long as the Subsection (m)(6) survey is timely delivered to the Authority, if the surveys are not both accepted by the Authority within 180 days after the effective date of the Act enacting this subsection, then the closing deadline established by Subsection (b)(8) is extended on a day-for-day basis for each day after the 180th day until both surveys are accepted by the Authority.

(e) A person who disputes the Authority's decision to exempt a specific parcel from sale under this section may file a declaratory

judgment action in the district court of Travis County. If a person files such an action:

(1) any claim to governmental immunity is hereby waived for the determination of the dispute;

(2) the court shall determine all issues presented by de novo review; and

(3) the Authority shall bear the burden to establish by a preponderance of the evidence that the parcel it seeks to have exempted from sale is necessary for the specifically authorized operation of services at the Lake.

(f) For any property sold under this section:

(1) the Authority shall provide a Special Warranty Deed that encompasses and includes all interests in the property held by the Authority, subject only to:

(A) those restrictions, covenants, and prohibitions contained in the deed of conveyance under which the Authority originally acquired title to the property, including without limitation any releases of the Authority for the inundation, overflowing, or flooding of the Lake;

(B) all encumbrances and other matters filed of record in the public records of the county in which the property is located; and

(C) any other matters or conditions that are apparent on the ground or that would be reasonably disclosed or discovered by an inspection of the property; and

(2) the Offeree shall release and agree to hold the Authority harmless from, and the Authority may not be held liable for damages, claims, costs, injuries, or any other harm to any Offeree or any other person or the Captive Property To Be Sold or any improvements on the property, caused by or arising from any temporary flooding of any portion of the Captive Property To Be Sold.

(g) Any sale of Captive Property To Be Sold pursuant to this section must allow the Authority the right to enter on the Captive Property To Be Sold and the Lake and other bodies of water, if any, located within the Captive Property To Be Sold and to cross the Adjacent Land on roads with essential equipment for all purposes reasonably necessary for the Authority to fulfill its obligations as a river authority and any obligations set forth in the FERC License,

state water rights, or other governmental regulations, or that the Authority considers necessary for public safety, health, and welfare purposes. Any exercise of those rights by the Authority may be conducted only after written notice is given at least 48 hours in advance of such entry to the Offeree (except in the event of an emergency, in which case advance notice is not required, but the Authority shall provide such written notice as soon as practicable thereafter). The Authority shall use reasonable efforts to avoid interfering with the Offeree's use of the Captive Property To Be Sold and Adjacent Land and shall promptly repair any damage to the Captive Property To Be Sold and Adjacent Land caused by the Authority's entrance. Any claim to governmental immunity on behalf of the Authority is hereby waived for the recovery of any damage caused by the Authority's breach of this subsection.

(h) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1179, Sec. 5, eff. June 14, 2013.

(i) Chapters 232 and 272, Local Government Code, do not apply to a sale of property under this section.

(j) The Authority may use proceeds from the sale of property under this section for any Authority purpose.

(k) The Authority shall reserve its interest in all oil, gas, and other minerals in and under the Captive Property To Be Sold (or any portion thereof) to the extent the Authority owns an interest in those minerals.

(l) To the extent of any conflict with other laws of this state, this section prevails.

(m) Notwithstanding any provision of this section to the contrary, a sale under this section is subject to the following requirements:

(1) If on the date Closing occurs the Project Land or any portion of the Project Land has been removed from the FERC License, the Captive Property To Be Sold must include all Project Land that would have otherwise qualified as Captive Property To Be Sold except for its status as Project Land.

(2) If on the date Closing occurs the Project Land or any portion of the Project Land has not been removed from the FERC License, the Authority shall convey to the Offeree a residual interest in that portion of the Project Land that would have otherwise

qualified as Captive Property To Be Sold except for its status as Project Land. The residual interest automatically vests on the date that:

(A) the Federal Energy Regulatory Commission approves an amendment to the FERC License removing the Project Land from the boundaries under the FERC License so that the Project Land is no longer subject to regulation by the Federal Energy Regulatory Commission; or

(B) the FERC License expires and is not renewed or extended, or is otherwise terminated, and thus the Project Land is no longer subject to regulation by the Federal Energy Regulatory Commission.

(3) Notwithstanding Subdivision (2), if the residual interest described by Subdivision (2) has not vested on or before August 31, 2040, then the residual interest is terminated and of no further force and effect, and the Authority shall repay to the Offeree any amount originally paid for that residual interest on or before December 1, 2040. On satisfaction of a condition described by Subdivision (2)(A) or (B) before August 31, 2040, the residual interest conveyed under Subdivision (2) is automatically effective without necessity of further documentation. As of the date the conveyance is effective, the applicable portion of the Project Land is considered to be a part of the Captive Property To Be Sold conveyed under this section and the Offeree or then-current Owner of the applicable portion of the Captive Property To Be Sold is the beneficiary of the residual interest applicable to the portion of the Project Land adjacent to such Owner's land and considered to be a part of the Captive Property To Be Sold conveyed under this section. The residual interest immediately vests in the Offeree or then-current Owner of the adjacent Captive Property To Be Sold conveyed under this section without the necessity of any additional written conveyance.

(4) In the event that a sale under this subsection does not include any portion of the Project Land, or only includes a residual interest in a portion or all of the Project Land, then the Authority shall at Closing, subject to the approval of the Federal Energy Regulatory Commission, grant the Offeree an easement, subject to the FERC License, for the use of that portion of the Project Land for which the Offeree has purchased a residual interest. The

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Authority shall retain ownership of that portion of the Project Land and exercise control over that portion of the Project Land consistent with the FERC License and this subsection. The easement granted to the Offeree is limited to uses permitted under the terms of the FERC License, the Authority's Shoreline Management Plan, and any other Authority rules and regulations that may be adopted from time to time.

(5) An appraisal of the fair market value of the Project Land, whether the Project Land has been removed from the FERC License or not, must be determined as if the applicable Project Land is not subject to the FERC License, is not part of the Federal Energy Regulatory Commission project area, is not subject to any lease agreement, is available for immediate possession and use, and may be used for any lawful purpose.

(6) For each parcel of Project Land that an eligible Offeree elects to purchase under Subdivision (1), or for each parcel of Project Land in which the Offeree purchases a residual interest under Subdivision (2), the Offeree shall, not later than the 90th day after the effective date of the Act enacting this subsection, provide to the Authority a survey and calculation of the area of the parcel prepared by a licensed state land surveyor or a registered professional land surveyor in accordance with this subsection. The survey is separate from any survey prepared under Subsection (d) of Captive Property To Be Sold.

(n) On or before Closing, the Authority shall deliver completed and executed documentation necessary to transfer the property conveyed from the Authority to the Offeree, and the Offeree shall deliver the purchase price and closing costs and the countersignatures on all necessary documentation. Promptly after Closing, the Offeree shall record the documents required for transferring the property in the county records where the property is located. The closing documents and funds may be held in escrow at the election of the Authority or the Offeree until all documents have been fully executed and all required funds have been delivered.

Added by Acts 2009, 81st Leg., R.S., Ch. 193 (H.B. 3032), Sec. 1, eff. May 27, 2009.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1179 (S.B. 918), Sec. 1, eff.

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June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1179 (S.B. 918), Sec. 2, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1179 (S.B. 918), Sec. 5, eff. June 14, 2013.

For contingent expiration of this section, see Subsection (j).

Sec. 8502.0133. SALE OF AUTHORITY PROPERTY ON AND ASSOCIATED WITH COSTELLO ISLAND. (a) In this section:

(1) "Boat landing" means a 0.841 acre tract of land, more or less, located above the 1000' contour line as defined in Subdivision (8), described in authority records as Tract Costello Island, situated in the A. J. Smith Survey, Abstract 393, Palo Pinto County, Texas, and being a part of a tract of land purchased by the Brazos River Conservation and Reclamation District from Mrs. Hugh C. Thomas, as recorded in Volume 182, Page 142, Deed Records of Palo Pinto County. The boat landing is located wholly within the FERC Project Area.

(2) "Date of decommissioning" means the effective date of the surrender of the FERC License for the Morris Sheppard Dam Project No. 1490-052 under the Order Accepting the Surrender of the License (issued December 23, 2011), 137 FERC 62,252.

(3) "Costello Island" means a 260 acre tract of land, more or less, located above the 1000' contour line as defined in Subdivision (8), described in authority records as Tract Costello Island, situated in the J.W. Bunton Survey, Abstract 52, Palo Pinto County, Texas, and being a part of that parcel that is located wholly within the boundary of the lake, and being a part of a tract of land acquired by the Brazos River Conservation and Reclamation District from E.P. Costello by Court Judgment dated July 21, 1943. The portions of Costello Island owned by the authority are located wholly within the FERC Project Area.

(4) "Costello Island Property" means Costello Island and the boat landing, but does not include any portion of Costello Island owned in fee simple by a person other than the authority.

(5) "Fair market value" means the price that the Costello Island Property would bring in an arms-length transaction when offered

for sale by one who wishes, but is not obliged, to sell and when bought by one who is under no necessity of buying it. This value shall be determined as if the Costello Island Property were not subject to the FERC License, were not located within the FERC Project Area, were not subject to any lease agreement, were available for immediate possession and use, and could be used for any reasonable purpose, subject only to the restrictions in Subsection (e).

(6) "FERC License" means the order of the Federal Energy Regulatory Commission issuing a license to the authority for project number 1490-003-Texas on September 8, 1989, as such license has been renewed, extended, or amended and may be further renewed, extended, or amended at any time and from time to time, and also including the amendment to the original FERC License, which amendment was issued on May 15, 1980, to the extent incorporated or referenced in the FERC License.

(7) "FERC Project Area" means that portion of authority land that is subject to the FERC License before the date of decommissioning, as the land is identified and defined in the FERC License, as may be amended at any time and from time to time, and which FERC Project Area may move or change over time due to natural forces.

(8) "Lake" means Possum Kingdom Lake located in Young, Palo Pinto, Stephens, and Jack Counties. The boundary of the lake is defined by the 1000' contour line, as that contour may meander and change over time with natural forces, including erosion and accretion. The "1000' contour line" means the line running along the periphery of the lake if the surface of the lake is at an elevation of 1000 feet above mean sea level, as measured from the top of the spillway crest gates of the Morris Sheppard Dam, as such line may move and shift from time to time due to natural forces.

(9) "Offeree" means the individuals or corporation, other than the authority, owning a portion of Costello Island in fee simple.

(b) After the date of decommissioning, the authority shall offer for sale to the offeree the Costello Island Property. The sale shall be:

(1) for not less than the fair market value as determined under Subsection (c); and

(2) contingent upon the termination of any leases

encumbering all or any portion of the Costello Island Property at the time of sale.

(c) (1) The fair market value of the Costello Island Property shall be determined as described in this subsection.

(2) Not later than 45 days after the date the authority receives the offeree's completed application of intent to purchase and an acceptable survey as provided by Subsection (d) (1), the authority shall provide the offeree with an appraisal of the fair market value of the Costello Island Property. The authority may use an existing appraisal if it is dated not more than one year before the date the authority receives the application of intent to purchase. The authority's appraiser must be certified under Chapter 1103, Occupations Code. Not later than the 15th day after the date the offeree receives the first appraisal, the offeree shall notify the authority in writing as to whether the offeree agrees with or disputes the fair market value provided in the first appraisal. If the offeree does not dispute the fair market value as determined by the first appraisal before the expiration of the 15-day period, the first appraisal is final and binding on all parties and establishes the fair market value for the Costello Island Property.

(3) If the offeree disputes the fair market value determined by the first appraisal, the offeree may withdraw its application to purchase the Costello Island Property or may employ a disinterested appraiser certified under Chapter 1103, Occupations Code, to conduct a second appraisal of the fair market value of the Costello Island Property. The second appraisal must be completed and sent to the authority not later than the 45th day after the date the offeree notifies the authority that the offeree disputes the first appraisal. If the authority does not receive the second appraisal before the expiration of the 45-day period, the offeree's application of intent to purchase will be deemed withdrawn.

(4) Not later than the 15th day after the date of receiving the second appraisal, the authority shall notify the offeree in writing as to whether the authority agrees with or disputes the fair market value determined by the second appraisal. If the authority does not dispute the fair market value as determined by the second appraisal before the expiration of the 15-day period, the second appraisal is final and binding on all parties and establishes

the purchase price for the Costello Island Property. If the authority timely disputes the fair market value determined by the second appraisal, the two appraisers, or their designated agents, shall meet and attempt to reach an agreement on the fair market value of the Costello Island Property. The meeting shall occur not later than the 30th day after the date the authority notifies the offeree that the authority disputes the second appraisal.

(5) If the two appraisers reach an agreement on the fair market value, they shall issue a report, not later than the 20th day after the date of their meeting, relating the agreed fair market value to the authority and to the offeree, and this agreed fair market value shall be final and binding on all parties and establishes the purchase price. If the two appraisers fail to reach an agreement on or before the 20th day after the date of the meeting, then, not later than the 30th day after the date of the meeting, the two appraisers shall appoint a disinterested third appraiser certified under Chapter 1103, Occupations Code, to reconcile the two previous appraisals in a third appraisal. The third appraisal must be completed on or before the 30th day after the date of the third appraiser's appointment, and the fair market value determined by the third appraisal is final and binding on all parties and establishes the purchase price; provided, however, that the final purchase price may not be more than the fair market value determined by the first appraisal or less than the fair market value determined by the second appraisal.

(6) The appraisal costs shall be paid by the person who requests the appraisal, except that the offeree and the authority shall each pay one-half of the cost of the third appraisal if a third appraisal is necessary. If the offeree fails to pay its share of the third appraisal, the offeree's application of intent to purchase will be deemed withdrawn.

(7) The timelines for the appraisal process under this subsection may be extended upon joint agreement of the authority and the offeree.

(d) To purchase the Costello Island Property, the offeree must:

(1) provide to the authority a survey of the Costello Island Property that is:

(A) prepared by a licensed state land surveyor or a registered professional land surveyor;

(B) dated not earlier than one year before the effective date of the Act enacting this section; and

(C) acceptable to the authority and any title company providing title insurance for the offeree; and

(2) pay all closing costs associated with the sale of the property.

(e) For any property sold under this section:

(1) the authority shall provide a special warranty deed that encompasses and includes all interests in the Costello Island Property held by the authority, subject only to:

(A) the restrictions, covenants, and prohibitions contained in the deed of conveyance under which the authority originally acquired title to the property, including without limitation any releases of the authority for the inundation, overflowing, or flooding of the lake;

(B) the restrictions, covenants, and prohibitions described in Section 8502.020(d);

(C) all encumbrances and other matters filed of record in the public records of the county in which the property is located;

(D) any other matters or conditions that are apparent on the ground or that would be reasonably disclosed or discovered by an inspection of the property; and

(E) any other rules, regulations, or policies of the authority in effect as of January 1, 2013, prohibiting or limiting commercial, private, or other on-water facilities for new development, and as such rules, regulations, or policies may be amended, modified, or discontinued from time to time; and

(2) the offeree shall release and agree to hold the authority harmless from, and the authority may not be held liable for, damages, claims, costs, injuries, or any other harm to any offeree or any other person or the Costello Island Property, or to any improvements on the property, caused by or arising from any temporary flooding of any portion of the Costello Island Property.

(f) Any sale of the Costello Island Property under this section must allow the authority the right to enter onto the Costello Island Property and the lake and other bodies of water, if any, located within the Costello Island Property with essential equipment for all

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purposes reasonably necessary for the authority to fulfill its obligations as a river authority and any obligations set forth in the FERC License, state water rights, or other governmental regulations, or for any purpose that the authority considers necessary for public safety, health, and welfare. Any exercise by the authority of rights described by this subsection may be conducted only after written notice is given to the offeree at least 48 hours in advance of entry onto the property, except in the event of an emergency, in which case advance notice is not required, but the authority shall provide written notice as soon as practicable. The authority shall use reasonable efforts to avoid interfering with the offeree's use of the Costello Island Property and shall promptly repair any damage to the property caused by the authority's entrance. Any claim to governmental immunity on behalf of the authority is waived with respect to the recovery of any damage caused by the authority's breach of this subsection.

(g) Chapters 232 and 272, Local Government Code, Section 49.226, Water Code, and Section 8502.013 of this code do not apply to a sale of property under this section.

(h) The authority may use proceeds from the sale of property under this section for any authority purpose.

(i) The authority shall reserve its interest in all oil, gas, and other minerals in and under the property to be sold, or any portion thereof, to the extent the authority owns an interest in those minerals.

(j) If the conveyance described by this section is not completed before the second anniversary of the effective date of this Act, this section shall no longer be effective and expires on the date of the second anniversary.

(k) To the extent of any conflict with other laws of this state, this section prevails.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1179 (S.B. 918), Sec. 3, eff. June 14, 2013.

Sec. 8502.014. ACQUISITION OF PROPERTY; EMINENT DOMAIN. (a) The authority may acquire by purchase, lease, or gift or in any other manner and may maintain, use, and operate property of any kind, real,

personal, or mixed, or any interest in property, within or outside the boundaries of the authority, necessary or convenient to the exercise of the powers, rights, privileges, and functions conferred on the authority by this chapter.

(b) The authority may acquire, by purchase, condemnation, or otherwise, any property the board determines necessary to make effectual and practicable the construction and operation of all works, improvements, and services that are planned ultimately to be provided by the authority to accomplish any of the purposes for which the authority was created. The acquisition or condemnation may be either of the fee simple title or of a lesser title or an easement only, within the discretion of the board; provided, however, that a person may not be deprived of any defense available under the general law of eminent domain; and provided, further, that the authority may not acquire or operate a steam generating plant for the production and sale of electric energy and, except for the purpose of acquiring the necessary area below or above the anticipated high-water line of a reservoir, may not condemn any property of a rural electrification cooperative or other corporations engaged in the generation or sale of electric energy to the public.

(c) The authority may exercise the power of eminent domain for the purpose of acquiring by condemnation property of any kind, real, personal, or mixed, or any interest in property, within or outside the boundaries of the authority, other than property or an interest in property outside the boundaries of the authority owned by any body politic, that is necessary or convenient to the exercise of the powers, rights, privileges, and functions conferred on the authority by this chapter, in the manner provided by general law with respect to condemnation or, at the option of the authority, in the manner provided by statutes relative to condemnation by districts organized under general law under Section 59, Article XVI, Texas Constitution.

(d) In condemnation proceedings being prosecuted by the authority, the authority is not required to give bond for appeal or bond for cost.

(e) The authority may overflow and inundate any public lands and public property and may require the relocation of roads and highways in the manner and to the extent permitted to districts organized under general law under Section 59, Article XVI, Texas

Constitution.

(f) If the authority, in the exercise of the power of eminent domain or power of relocation or any other power granted under this chapter, makes necessary the relocation, raising, rerouting, changing the grade, or altering the construction of any highway, railroad, electric transmission line, or pipeline, all necessary relocation, raising, rerouting, changing of grade, or alteration of construction shall be accomplished at the sole expense of the authority.

Added by Acts 2003, 78th Leg., ch. 996, Sec. 1, eff. Sept. 1, 2003.
Renumbered from Water Code, Section 221.014 by Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 13.006(a), eff. September 1, 2007.

Sec. 8502.015. CONTRACTS, GRANTS, AND LOANS. (a) The board may negotiate and contract with the federal government or with any of its agencies for grants, loans, and advancements from the United States for the furtherance of any purpose set forth in this chapter.

(b) The authority may receive and accept grants, loans, or allotments from the United States and others for furtherance of any of the purposes set forth in this chapter.

(c) An opinion from the attorney general as to whether a grant, loan, or allotment has been received by the authority from the United States or others shall be authority for the action of any person charged with any duty contingent on such grant, loan, or allotment.

Acts 2003, 78th Leg., ch. 996, Sec. 1, eff. Sept. 1, 2003.
Renumbered from Water Code, Section 221.015 by Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 13.006(a), eff. September 1, 2007.

Sec. 8502.016. RULES. The board may make all necessary rules for the government and control of the authority not inconsistent with the constitution and laws of the state.

Added by Acts 2003, 78th Leg., ch. 996, Sec. 1, eff. Sept. 1, 2003.
Renumbered from Water Code, Section 221.016 by Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 13.006(a), eff. September 1, 2007.

Sec. 8502.017. USE OF BRAZOS RIVER AND TRIBUTARIES. In the prosecution of the plans for which the authority has been created for

the storing, controlling, conserving, and distributing for useful purposes of the storm waters, floodwaters, and unappropriated flow waters of the Brazos River watershed and developed groundwater from the Brazos River basin for the use of its customers, the authority may use the bed and banks of the Brazos River and its tributary streams for any and all purposes necessary to the accomplishment of the plans of the authority.

Added by Acts 2003, 78th Leg., ch. 996, Sec. 1, eff. Sept. 1, 2003. Renumbered from Water Code, Section 221.017 by Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 13.006(a), eff. September 1, 2007.

Sec. 8502.018. DEFAULT PROCEDURES. (a) A resolution authorizing the issuance of bonds and any indenture or agreement entered into under the resolution may include provisions regarding a default on the:

(1) payment of the interest on any bonds as the interest becomes due and payable;

(2) payment of the principal of any bonds as they become due and payable, whether at maturity, by call for redemption, or otherwise; or

(3) performance of an agreement made with the purchasers or successive holders of any bonds.

(b) If a default described by Subsection (a) has occurred and has continued for a period, if any, prescribed by the resolution authorizing the issuance of the bonds, the trustee under an indenture entered into with respect to the bonds authorized by the resolution, or, if there is no indenture, a trustee appointed in the manner provided in the resolution by the holders of 25 percent in aggregate principal amount of the bonds authorized by the resolution and then outstanding may, and on the written request of the holders of 25 percent in aggregate principal amount of the bonds authorized by the resolution and then outstanding shall, in the trustee's own name but for the equal and proportionate benefit of the holders of all the bonds, and with or without having possession of the bonds:

(1) by mandamus or other suit, action, or proceeding at law or in equity, enforce all rights of the bondholders;

(2) bring suit on the bonds or the appurtenant coupons;

(3) by action or suit in equity, require the board to act as if it were the trustee of an express trust for the bondholders;

(4) by action or suit in equity, enjoin any acts or things that may be unlawful or in violation of the rights of the bondholders; or

(5) after such notice to the board as the resolution may provide, declare the principal of all of the bonds due and payable, and if all defaults have been made good, then with the written consent of the holders of 25 percent in aggregate principal amount of the bonds then outstanding, annul the declaration and its consequences; provided, however, that the holders of more than a majority in principal amount of the bonds authorized by the resolution and then outstanding shall, by written instrument delivered to the trustee, have the right to direct and control any and all actions taken or to be taken by the trustee under this section.

(c) A resolution, indenture, or agreement relating to bonds may provide that in a suit, action, or proceeding under this section, the trustee, whether or not all of the bonds have been declared due and payable and with or without possession of any of the bonds, is entitled as of right to the appointment of a receiver who may enter and take possession of all or part of the properties of the authority, operate and maintain the properties, and set, collect, and receive rates and charges sufficient to provide revenues adequate to pay the items specified in the resolution authorizing bonds and the costs and disbursements of the suit, action, or proceeding and apply that revenue in conformity with this chapter and the resolution authorizing the bonds.

(d) In a suit, action, or proceeding by a trustee or receiver, if any, under this section, counsel fees and expenses of the trustee and of the receiver, if any, constitute taxable disbursements, and all costs and disbursements allowed by the court shall be a first charge on any revenue pledged to secure the payment of the bonds.

(e) Subject to the provisions of the constitution, the courts of McLennan County have jurisdiction of a suit, action, or proceeding under this section by a trustee on behalf of the bondholders and of all proceedings involved in the suit, action, or proceeding.

(f) In addition to the powers specifically provided by this section, the trustee has all powers necessary or appropriate for the

exercise of the powers specifically provided or incident to the general representation of the bondholders in the enforcement of their rights.

Added by Acts 2003, 78th Leg., ch. 996, Sec. 1, eff. Sept. 1, 2003. Renumbered from Water Code, Section 221.018 by Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 13.006(a), eff. September 1, 2007.

Sec. 8502.019. LIMITED LIABILITY FOR AQUATIC HERBICIDE APPLICATION. (a) In this section, "commercially licensed aquatic herbicide applicator" means a person who holds a commercial applicator license issued by the Department of Agriculture under Chapter 76, Agriculture Code, that authorizes the application of aquatic herbicides.

(b) Except as provided by Chapter 12, Parks and Wildlife Code, an authority employee holding a noncommercial aquatic herbicide applicator license or a commercially licensed aquatic herbicide applicator working under contract with the authority is not liable for damages in excess of \$2 million for personal injury, property damage, or death resulting from the application by the applicator of aquatic herbicide in compliance with applicable law and the terms of the license or permit.

Added by Acts 2003, 78th Leg., ch. 996, Sec. 1, eff. Sept. 1, 2003. Renumbered from Water Code, Section 221.019 by Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 13.006(a), eff. September 1, 2007.

Sec. 8502.020. SALE OF AUTHORITY PROPERTY. (a) Definitions. In this section:

(1) "Authority Land" means the FERC Project Area and all other real property owned by the Authority at the Lake as of the date before Closing, save and except for the Leased Tract.

(2) "Buffer Zone" means that twenty-five or fifty foot strip of land measured landward horizontally from the 1000' contour line that is included in the FERC Project Area as defined in the FERC License.

(3) "Close" or "Closing" means the date on which the Authority transfers its interest in the Leased Tract, in whole or in

part, to a Purchaser. There may be multiple closing dates if the Leased Tract is sold in portions.

(4) "Commercial Leased Land" means all or any portion of the Initial Commercial Leased Land and the Remaining Commercial Leased Land.

(5) "Consumer Price Index" means the consumer price index for Housing, Dallas-Fort Worth, TX area, Series Id: CUURA316SAH, CUUSA316SAH, Base Period: 1982-84 = 100, as published by the Bureau of Labor Statistics of the United States Department of Labor, or its equivalent substitute should this series be discontinued.

(6) "Contract" means the Authority entering into a purchase and sale agreement with a Purchaser for the transfer of the Authority's interest in the Initial Leased Tract or the Remaining Leased Tract, in whole or in part.

(7) "Driveways" means those certain private gravel and/or paved driveways that connect a Road or other street or thoroughfare to an individual Leased Tract or any improvements thereon; Driveways also includes those shared or common Driveways that serve more than one Leaseholder or individual Leased Tract.

(8) "Environmental Laws" means the Comprehensive Environmental Response, Compensation and Liability Act of 1980, the Toxic Substances Control Act, the Clean Water Act, the Resource Conservation and Recovery Act and any other similar federal, state or local law, rule or regulation respecting the environment or Hazardous Materials, together with all rules and regulations promulgated thereunder and all present or future amendments thereto.

(9) "FERC License" means the order of the Federal Energy Regulatory Commission issuing a license to the Authority for project number 1490-003-Texas on September 8, 1989, as such license has been renewed, extended, or amended and may be further renewed, extended, or amended at any time and from time to time, and also including the Amendment to the original FERC License, which amendment was issued on May 15, 1980, to the extent incorporated or referenced in the FERC License.

(10) "FERC Project Area" means that portion of Authority Land that is subject to the FERC License before the Date of Decommissioning, as identified and defined in the FERC License, as may be amended at any time and from time to time, and which FERC Project

Area may move or change over time due to natural forces.

(11) "Ground Lease" means each of those certain residential and/or commercial ground leases between the Authority and a Leaseholder, and the respective heirs, successors, and assigns.

(12) "Hazardous Materials" means underground storage tanks, petroleum and petroleum products, asbestos, PCB's, urea-formaldehyde and any hazardous or toxic substances, pollutants, contaminants, wastes, or materials as defined under any Environmental Laws.

(13) "Lake" means Possum Kingdom Lake located in Young, Palo Pinto, Stephens, and Jack Counties. The boundary of the Lake is defined by the 1000' contour line, as that contour may meander and change over time with natural forces, including erosion and accretion. The "1000' contour line" means the line running along the periphery of the Lake if the surface of the Lake is at an elevation of 1000 feet above mean sea level, as measured from the top of the spillway crest gates of the Morris Sheppard Dam, as such line may move and shift from time to time due to natural forces.

(14) "Leased Tract" or "Tract" means all or any portion of the Initial Leased Tract or the Remaining Leased Tract, whether owned by the Authority, Purchaser, or Owner and whether or not subject to a lease or Ground Lease or owned in fee simple.

(15) "Leaseholder" means a person or entity that has a residential lease or a commercial lease with the Authority, including the Leaseholder's heirs, successors, and assigns.

(16) "Lienholder" means any mortgagee under a mortgage, or a trustee or beneficiary under a deed of trust, constituting a lien on any portion of the Leased Tract.

(17) "Owner" means the record holder of fee simple title to any portion of the Leased Tract sold pursuant to this section, including its heirs, personal representatives, successors, and assigns. This term does not include a Purchaser who acquires the Leased Tract from the Authority in accordance with Subsection (b).

(18) "Property" means the Leased Tract and the Authority Land.

(19) "Purchaser" means any person or entity, including its successors in interest, heirs, or assigns, that acquires the Leased Tract (or any portion thereof) from the Authority in accordance with

Subsection (b). This term does not include those Leaseholders that acquire individual Leased Tracts from the Purchaser in accordance with Subsection (b).

(20) "Ranch" means that certain subdivision of record in Palo Pinto County, Texas, according to the map or plat of record in Volume 7, Page 71, Plat Records of Palo Pinto County, Texas, as it may be amended or modified from time to time, which subdivision includes a portion of the Leased Tract and a portion of the Authority Land.

(21) "Ranch Agreement" means that certain agreement by and among the Authority, The Ranch on Possum Kingdom, L.P., and Hill Country Harbor Village, L.P., effective as of August 1, 1997, and dated December 12, 1997.

(22) "Ranch Declarations" means that certain Declaration of Covenants, Conditions and Restrictions for The Ranch on Possum Kingdom Palo Pinto County, Texas, dated December 8, 1997, as recorded in Volume 944, Page 403, Official Public Records of Palo Pinto County, Texas.

(23) "Residential Leased Land" means all or any portion of the Initial Residential Leased Land and the Remaining Residential Leased Land.

(24) "Restrictions" means the easements, covenants, restrictions, liens, encumbrances, and requirements contained in the Declaration of Restrictive Covenants, Easements, and Conditions to be recorded by the Authority as set forth in Subsection (d), as amended from time to time.

(25) "Roads" means those paved or gravel streets, roads, and thoroughfares owned and maintained by the Authority that are located in Stephens, Jack, Young, or Palo Pinto County and that provide access, ingress, and egress to and from the Leased Tract, the Lake, and/or Authority Land; provided, however, that the definition of Roads, as used herein, does not include:

(A) Driveways;

(B) paved or gravel roads located wholly within Authority public use areas;

(C) paved or gravel roads located within gated Authority operations areas; and

(D) paved or gravel roads located wholly within an individual tract that is part of the Commercial Leased Land, which

roads only serve that individual commercial Tract.

(26) "Shoreline Management Plan" means that certain Possum Kingdom Shoreline Management Plan and Customer Guide, adopted May 22, 2006, and amended July 31, 2006, and as may be revised and/or further amended by the Authority at any time and from time to time.

(27) "Undeveloped Strips" means all or any portion of the Initial Undeveloped Strips and the Remaining Undeveloped Strips.

(28) "Amendments to the Restrictions" means the amendments to the Restrictions under Subsection (d).

(29) "Date of Decommissioning" means the effective date of the surrender of the FERC License for the Morris Sheppard Dam Project No. 1490-052 under the Order Accepting the Surrender of the License (issued December 23, 2011), 137 FERC 62,252.

(30) "Initial Commercial Leased Land" means the portion of the Initial Leased Tract located wholly outside the FERC Project Area that is leased for commercial purposes as of the date the Restrictions are recorded in the applicable county records.

(31) "Initial Leased Tract" means all or any portion of the Initial Commercial Leased Land, the Initial Residential Leased Land, and the Initial Undeveloped Strips, whether owned by the Authority, Purchaser, or Owner and whether or not subject to a lease or Ground Lease or owned in fee simple.

(32) "Initial Residential Leased Land" means the portion of the Initial Leased Tract located outside the FERC Project Area that is leased only for single-family residential purposes as of the date the Restrictions are recorded in the applicable county records. The term does not include land that is subject to a commercial lease that may be subleased for residential purposes.

(33) "Initial Undeveloped Strips" means small strips of unleased land located between individual lots in the Initial Leased Tract and small parcels of land between the Initial Leased Tract and Roads that the Authority determines in its sole discretion to include in a sale of all or any portion of the Initial Leased Tract.

(34) "Remaining Commercial Leased Land" means the portion of the Remaining Leased Tract that is located wholly or partly within the FERC Project Area as of the date preceding the Date of Decommissioning and that is leased for commercial purposes as of the date the Amendments to the Restrictions are recorded in the applicable

county records. The term does not include a special use lease, hangar lease, grass lease, hunting lease, or mineral lease, any other lease for noncommercial purposes, or any portion of the Initial Commercial Leased Land.

(35) "Remaining Leased Tract" means all or any portion of the Remaining Commercial Leased Land, the Remaining Residential Leased Land, and the Remaining Undeveloped Strips, whether owned by the Authority, Purchaser, or Owner and whether or not subject to a lease or Ground Lease or owned in fee simple.

(36) "Remaining Residential Leased Land" means the portion of the Remaining Leased Tract that is located wholly within the FERC Project Area as of the date preceding the Date of Decommissioning and that is leased only for single-family residential purposes as of the date the Amendments to the Restrictions are recorded in the applicable county records. The term does not include land that is subject to a commercial lease that may be subleased for residential purposes. The term does not include a special use lease, hangar lease, grass lease, hunting lease, or mineral lease, any other lease for nonresidential purposes, or any portion of the Initial Residential Leased Land. The term does not include a lease of land in the Buffer Zone that is subject to a residual interest that will automatically vest on the Date of Decommissioning or other expiration or termination of the FERC License.

(37) "Remaining Undeveloped Strips" means small strips of unleased land located between individual lots in the Remaining Leased Tract and small parcels of land between the Remaining Leased Tract and Roads that the Authority determines in its sole discretion to include in a sale of all or any portion of the Remaining Leased Tract.

(b) Sale to Purchaser. Prior to January 1, 2011, the Authority may sell the Initial Leased Tract in whole or in part, to a Purchaser in accordance with applicable law, this subsection, and Subsections (d), (e), (f), (g), (h), and (i). For a period of two years after the Date of Decommissioning, the Authority may sell the Remaining Leased Tract in whole or in part, to a Purchaser in accordance with applicable law, this subsection, and Subsections (d), (e), (f), (g), (h), and (i). Any sale of the Initial Leased Tract or the Remaining Leased Tract to a Purchaser under this subsection shall be subject to the following:

(1) Each Leaseholder shall have the opportunity to buy such Leaseholder's individual portion of the Leased Tract from the Purchaser or to continue leasing the applicable portion of the Leased Tract from the Purchaser in accordance with the following purchase or lease options. The Purchaser shall:

(A) Permit the Leaseholder to purchase such Leaseholder's individual Leased Tract in cash or through lender financing for 90% of land only assessed value without any exemptions (as determined by the appraisal district) for the year 2008 if the tract is part of the Initial Leased Tract, or for the year 2012 if the tract is part of the Remaining Leased Tract, such options to be available at Closing as set forth in Subdivision (2) and for a period of at least one year from Closing.

(B) Permit the Leaseholder to purchase for the percent of assessed value only as set forth in Paragraph (A) such Leaseholder's individual portion of the Leased Tract via seller financing, with a down payment of ten percent (10%) and an interest rate of six percent (6%), with a 30-year amortization, such seller financing option to be available at Closing as set forth in Subdivision (2) and for a period of at least one year from Closing to the Leaseholder of any portion of the Commercial Leased Tract and to the Leaseholder of any portion of the Residential Leased Tract to the extent the Leaseholder of any portion of the Residential Leased Tract qualifies for financing under the Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. No. 111-203) and any related regulations. The Leaseholder shall not be charged any origination fees or points by the Purchaser as a part of the closing costs involved in the seller financing option.

(C) Offer a new 99-year lease at a rental rate of 6% of the land only assessed value without any exemptions (as determined by the appraisal district) for the year 2008 if the tract is part of the Initial Leased Tract, or the 2012 land only assessed value without any exemptions if the tract is part of the Remaining Leased Tract, with annual Consumer Price Index increases or decreases, such options to be available for a period of at least one year from Closing. The 99-year lease will include an option for the Leaseholder to purchase the applicable portion of the Leased Tract at the land only assessed value without any exemptions (as determined by the appraisal district)

at the time of purchase (but not less than the 2008 land only assessed value without any exemptions if the tract is part of the Initial Leased Tract, or the 2012 land only assessed value without any exemptions if the tract is part of the Remaining Leased Tract).

(D) Offer a new 20-year lease with a rental rate as determined by the current Authority lease rate methodology or other lease rate structure as set forth in the Ground Lease as applicable (and including increases and adjustments to such rates) with annual Consumer Price Index increases or decreases, to Leaseholders who are over the age of 65 and who receive an ad valorem tax exemption under Section 11.13, Tax Code, for a structure on the Leaseholder's individual Leased Tract, such option to be available for a period of at least one year from the date of Closing. The Leaseholder must have received the ad valorem tax exemption for a structure on the Leaseholder's individual Leased Tract by January 1, 2009, if the tract is part of the Initial Leased Tract or January 1, 2013, if the tract is part of the Remaining Leased Tract. The 20-year lease will include an option for the Leaseholder to purchase the applicable portion of the Leased Tract at the land only assessed value without any exemptions (as determined by the appraisal district) at the time of purchase (but not less than the 2008 land only assessed value without any exemptions if the tract is part of the Initial Leased Tract or the 2012 land only assessed value without any exemptions if the tract is part of the Remaining Leased Tract).

(E) Ratify the existing Ground Lease of any Leaseholder who does not timely exercise one of the foregoing options, such ratification to include:

(i) adoption of the current Authority lease rate methodology or other lease rate structure as set forth in the Ground Lease, as applicable (and including increases and adjustments to such rates) for a period of 8 years from Closing;

(ii) an option permitting the Leaseholder to purchase such Leaseholder's individual portion of the Leased Tract for the land only assessed value without any exemptions (as determined by the appraisal district) at the time of purchase, or for the year 2008 if the tract is part of the Initial Leased Tract, or for the year 2012 if the tract is part of the Remaining Leased Tract, whichever is

greater, for a period of 8 years from Closing; and

(iii) an agreement to extend Ground Leases as necessary to allow for this full 8-year purchase option period. Nothing in this subsection shall preclude the Purchaser from offering additional purchase or lease options to the Leaseholders, provided any additional options are made available to all similarly situated Leaseholders on an equal basis.

(2) A Leaseholder who desires to buy such Leaseholder's individual Leased Tract from the Purchaser pursuant to the option set forth in either Subdivision (1)(A) or (B) concurrently with the Purchaser's Closing must exercise the desired option as follows:

(A) notify the Authority and Purchaser in writing within 90 days after the effective date of the Contract between the Authority and Purchaser of Leaseholder's intent to purchase the applicable Leased Tract;

(B) Leaseholder and Purchaser will enter into a purchase and sale agreement in substantially the form as agreed to between the Authority and Purchaser, which form will be attached to the Contract, and which individual purchase and sale agreements will be ratified by Purchaser at the Closing; the purchase and sale agreement shall contain, at a minimum, the following terms and conditions:

(i) the purchase price for the individual Leased Tract in accordance with the applicable purchase option;

(ii) earnest money in the amount of \$1,000 to be delivered to the title company agreed to by Leaseholder and Purchaser and approved by the Authority along with the executed purchase and sale agreement;

(iii) the Leaseholder's obligation to provide a survey as set forth in this subsection and a title commitment from the agreed upon title company;

(iv) a 60-day period commencing on the date of the purchase and sale agreement for the Leaseholder to obtain financing (if exercising its option pursuant to Subdivision (1)(A) above);

(v) the Leaseholder must notify Purchaser of any objections to any items on the title commitment and/or survey within fifteen (15) days after receipt of same, but in no event less than 45

days prior to the anticipated date of Closing, provided however that neither the Purchaser nor the Authority shall have any obligation to cure any such items or to incur any expenses in curing any items, except that Purchaser and/or the Authority, as applicable, shall use good faith efforts to address and/or remove those requirements or exceptions shown on Schedule C of the title commitment that are applicable to or created by the Purchaser and/or Authority, as applicable, and, notwithstanding the foregoing, neither the Purchaser nor the Authority shall have any obligation to cure any exceptions on the attached Schedule C regarding legal right of access to or from the applicable Leased Tract;

(vi) Leaseholder is purchasing the applicable individual Leased Tract in its "as-is" condition and Purchaser shall have no obligation to make any improvements or modifications thereto, nor will Purchaser make any representations or warranties as to the condition or use of the applicable Leased Tract;

(vii) Purchaser shall not be responsible for any broker fees or commissions due to any broker or agent engaged or claiming to have been engaged by Leaseholder for the purchase and sale of the applicable Leased Tract;

(viii) Purchaser shall be responsible for costs related to the release of any existing liens placed on the applicable portion of the Leased Tract by Purchaser, including prepayment penalties and recording fees, release of Purchaser's loan liability to the extent applicable to the individual Leased Tract, tax statements or certificates, preparation of the deed, and one-half of any escrow fee;

(ix) Leaseholder shall be responsible for any costs associated with a loan or financing for the applicable portion of the Leased Tract, including, without limitation, loan origination, discount, buy-down, and commitment fees, appraisal fees, loan application fees, credit reports, preparation of loan documents, loan-related inspection fees, and interest on the notes from the date of disbursement to date of first monthly payment; the cost of the survey; recording fees; copies of easements and restrictions; mortgagee title policy with endorsements required by lender, if any; one-half of any escrow fee; any prepaid items, including without limitation, insurance premiums and reserves and taxes; underwriting fee; and any title

policy (including endorsements) obtained by Leaseholder;

(x) Taxes will be prorated as of the date of Closing; if taxes are not paid as of the date of Closing, then Leaseholder shall be responsible for the payment of taxes; and

(xi) the agreement between Leaseholder and Purchaser shall be contingent on Closing occurring within the timeframes set forth in this subsection.

(C) Leaseholder shall deliver to Authority and Purchaser no less than forty-five days prior to Closing, at the Leaseholder's expense, an accurate survey of the individual Leased Tract (including any Undeveloped Strips being included in such Leased Tract), which survey is acceptable to the Authority and Purchaser. To be acceptable to the Authority and Purchaser, the survey must:

(i) be acceptable to the title company selected by the Purchaser and Leaseholder and approved by the Authority for purposes of issuing any policy of title insurance on the applicable portion of the Leased Tract;

(ii) be prepared by a licensed state land surveyor or a registered professional land surveyor acceptable to the Authority;

(iii) include the boundary of the Leaseholder's Leased Tract and any Undeveloped Strips being conveyed, which boundaries must be consistent with the master survey prepared on behalf of the Authority in conjunction with the sale of the Leased Tract to the Purchaser;

(iv) include all improvements on the Leased Tract and indicate any encroachments across the applicable boundary lines; Leaseholder must provide evidence that any such encroachments across boundary lines, including encroachments onto Authority Land, have been cured by the Leaseholder (either by removal of such encroachment or by written agreement between the affected parties permitting such encroachment to continue) prior to the survey being deemed acceptable; and

(v) be reviewed and approved by the Authority and Purchaser; the Authority, Purchaser, and their representatives or agents may perform an inspection of the applicable Leased Tract to verify the accuracy of the survey and any encroachments thereon;

(D) On or before Closing, the purchase and sale agreement between the Leaseholder and Purchaser and any earnest money that may be required pursuant to such agreement shall be timely delivered to a title company or escrow agent acceptable to the Authority and agreed to by Leaseholder and Purchaser in such agreement;

(E) On or before Closing, Purchaser and Leaseholder shall complete all documentation necessary to effectuate transfer of the applicable Leased Tract from the Purchaser to the Leaseholder and deliver such completed and executed documents to the applicable escrow agent; and

(F) Promptly after Closing, the deed and any other applicable documents effectuating transfer of such Leased Tract to the Leaseholder shall be recorded in the county records where the Leased Tract is located promptly after such escrow agent receives written notice from the Authority or title company or escrow agent facilitating the Closing of the Leased Tract from the Authority to Purchaser that such Closing has been completed and the necessary documents have been recorded pursuant to such Closing. In no event shall the deed or any other documents transferring the applicable portion of the Leased Tract to the Leaseholder be recorded prior to Closing.

(3) Closing shall occur no later than December 31, 2010, for the Initial Leased Tract and not later than two years after the Date of Decommissioning for the Remaining Leased Tract. The Authority shall post on its website no later than thirty days after entering into a Contract for sale with Purchaser the effective date of such Contract and the anticipated date of Closing, which date shall be at least six (6) months from the effective date of the Contract. Any changes to the anticipated date of Closing shall also be posted on the Authority's website. These dates shall be used to establish the time periods provided in Subdivision (2).

(c) Sale to Leaseholders. This subsection shall only apply to, and be effective for, those portions of the Remaining Leased Tract (if any) for which Closing has not occurred on or before the second anniversary of the Date of Decommissioning, pursuant to Subsection (b), in which case the effective date of this subsection shall be the second anniversary of the Date of Decommissioning. Upon the effective date of this subsection, the Authority shall suspend any applicable

sale efforts under Subsection (b) for a period of two years beginning on the effective date of this subsection and initiate a tract by tract sale of the Remaining Leased Tract to the then-current Leaseholders as follows:

(1) For a period of two years beginning on the effective date of this subsection and in accordance with the procedures set forth in this subsection, and subject to Subsections (d), (e), (f), (g), (h), and (i), the Authority shall provide Leaseholders the opportunity to purchase their individual portion of the Remaining Leased Tract directly from the Authority. Leaseholders shall have until the expiration of such two-year period to submit a completed application of intent to purchase their individual Remaining Leased Tracts as provided by Subdivision (4).

(2) The Authority shall determine if, and how, any Remaining Undeveloped Strips will be divided between adjacent Leaseholders and incorporated into any individual Remaining Leased Tract; provided, however, Leaseholders shall not be required to accept any such Remaining Undeveloped Strips.

(3) On or before the effective date of this subsection, the Authority shall make available to the Leaseholders a form for an application of intent to purchase the Leaseholder's individual Remaining Leased Tract. Such application shall be deemed a contract subject to the provisions set out herein. The application of intent shall provide the Leaseholder a 30-day feasibility period beginning on the date such application is submitted in which the Leaseholder can determine the feasibility of purchasing the applicable individual Remaining Leased Tract, including the ability of such Leaseholder to obtain financing for such purchase.

(4) A Leaseholder who desires to purchase such Leaseholder's individual Remaining Leased Tract must submit a completed application to the Authority on or before the second anniversary of the effective date of this subsection. An application will be deemed "complete" upon the following:

(A) Leaseholder delivers to the Authority an executed application of intent to purchase with all required information included in the application;

(B) Leaseholder delivers an earnest money deposit, in good funds acceptable to the title company or escrow agent selected by

the Authority, in the amount of \$1,000 to such title company or escrow agent, which earnest money shall be nonrefundable after the expiration of the feasibility period except in the event closing does not occur due to the fault of the Authority;

(C) any and all rent and other fees or amounts due to the Authority pursuant to such Leaseholder's Ground Lease have been paid and there are no amounts then outstanding which are past due;

(D) Leaseholder has delivered to the Authority a survey that is acceptable to the Authority of the applicable Remaining Leased Tract (and any Remaining Undeveloped Strips being included in such Remaining Leased Tract). To be acceptable to the Authority, the survey must:

(i) be acceptable to the title company selected by the Authority for purposes of issuing any policy of title insurance on the applicable portion of the Remaining Leased Tract;

(ii) be prepared by a licensed state land surveyor or a registered professional land surveyor acceptable to the Authority;

(iii) include the boundary of the Leaseholder's Remaining Leased Tract and any Remaining Undeveloped Strips being conveyed, which boundaries must be consistent with the master survey of the Remaining Leased Tract prepared on behalf of the Authority;

(iv) include all improvements on the Remaining Leased Tract and indicate any encroachments across the applicable boundary lines, including encroachments onto Authority Land; Leaseholder must provide evidence that any such encroachments across boundary lines have been cured by the Leaseholder (either by removal of such encroachment or by written agreement between the affected parties permitting such encroachment to continue) prior to the survey being deemed acceptable; and

(v) be reviewed and approved by the Authority; the Authority or its representatives or agents may perform an inspection of the individual Remaining Leased Tract to verify the accuracy of the survey and any encroachments thereon.

(E) Leaseholder has delivered to the Authority a title commitment and, if requested by the Authority, any exception documents referenced therein, prepared by the applicable title company or escrow agent selected by the Authority; and

(F) Leaseholder has delivered to the Authority written evidence from Leaseholder's lender or financial institution that Leaseholder has the financing or funds available, as applicable, to complete the purchase of Leaseholder's Remaining Leased Tract.

(5) Completed applications that are timely delivered will be accepted and processed by the Authority in the order in which they are received; except that the Authority shall give preference in processing applications to Leaseholders who receive an ad valorem tax exemption under Section 11.13, Tax Code, for a structure on the Leaseholder's Remaining Leased Tract.

(6) An individual Remaining Leased Tract sold under this subsection shall be sold for 90% of the land only assessed value without any exemptions, as determined by the appraisal district, for the year in which the Leaseholder's application of intent to purchase is submitted to the Authority, or for the year 2012, whichever is greater.

(7) The Leaseholder purchasing such Leaseholder's Remaining Leased Tract is responsible for:

(A) timely paying all rent and other fees or amounts due to the Authority pursuant to such Leaseholder's Ground Lease through the date of closing on the Leaseholder's portion of the Remaining Leased Tract;

(B) obtaining and delivering to the Authority a survey of the applicable Remaining Leased Tract in accordance with Subdivision (4)(D) and curing any encroachments shown thereon, all at Leaseholder's expense;

(C) obtaining and delivering to the Authority, at such Leaseholder's expense, a title commitment in accordance with Subdivision (4)(E); the Authority may, but shall have no obligation to, cure any objections that Leaseholder may have to the exceptions, covenants, easements, reservations or any other items reflected on the title commitment; provided, however, that the Authority shall use good faith efforts to address and/or remove those requirements or exceptions shown on Schedule C of the title commitment that are applicable to or created by the Authority, and, notwithstanding the foregoing, the Authority shall have no obligation to cure any exceptions on the attached Schedule C regarding legal right of access to or from the applicable Remaining Leased Tract;

(D) delivering to the applicable title company or escrow agent on or before closing on the Leaseholder's Remaining Leased Tract, in good funds, the purchase price and all reasonable, normal, customary, and documented costs associated with the transfer of the individual Remaining Leased Tract to the Leaseholder including, without limitation, all escrow fees, recording fees, taxes on the land after the date of such closing, document preparation fees, the cost of any Title Policy (including any endorsements thereon) obtained by Leaseholder, and any costs associated with removing any liens on the applicable Remaining Leased Tract; and

(E) timely delivering to the escrow agent any notices, statements, affidavits, or other documents required by the application, escrow agent, or at law to effectuate the transfer of the applicable Remaining Leased Tract to the Leaseholder.

(8) For those completed applications of intent to purchase timely delivered to the Authority under this subsection, the purchase must be completed no later than the expiration of 30 months after the effective date of this subsection. For any individual Remaining Leased Tract for which closing has not occurred by such date, the application shall be deemed terminated. The Authority shall not accept any applications of intent to purchase after the second anniversary of the effective date of this subsection; and any applications of intent to purchase that are delivered to the Authority prior to such date but that are not "complete" as of such date in accordance with Subdivision (4) shall be rejected by the Authority. Leaseholders submitting an application of intent to purchase their individual Remaining Leased Tracts are responsible for ensuring that such application is deemed "complete" on or before the second anniversary of the effective date of this subsection.

(9) Any Ground Lease that would otherwise expire shall be automatically extended as necessary for one year terms to permit such Leaseholder the full two-year period to deliver such application of intent to purchase such Leaseholder's individual Remaining Leased Tract and to complete such transaction no later than the expiration of 30 months after the effective date of this subsection.

(10) The Owner of a Remaining Leased Tract sold under this subsection shall pay the Authority any reasonable fees set by the Authority for any services the Owner accepts from the Authority.

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However, the Owner of a Remaining Leased Tract is under no obligation to accept services from the Authority.

(11) Any Remaining Leased Tract subject to the Ranch Agreement shall only be subject to sale under this subsection if the Authority is released from its obligations under the Ranch Agreement relating to such Remaining Leased Tract.

(12) The following laws do not apply to sale of an individual Remaining Leased Tract under this subsection:

- (A) Chapter 272, Local Government Code;
- (B) Section 49.226, Water Code; and
- (C) Section 8502.013 of this code.

(13) A provision that applies to the Leaseholder of an individual Remaining Leased Tract under this section applies to any subsequent Owner of the individual Remaining Leased Tract.

(14) At closing on the individual Remaining Leased Tract, the Leaseholder shall pay any indebtedness secured by a lien on the Leaseholder's leasehold estate (including the applicable portion of the Buffer Zone that is part of the leasehold estate) or deliver the express written consent of the Lienholder on the leasehold estate in the Remaining Leased Tract permitting the Leaseholder to grant a purchase money lien on the fee simple estate in the Remaining Leased Tract.

(15) At the closing of the applicable Remaining Leased Tract, the Authority will deliver a special warranty deed.

(16) For any portion of the Remaining Leased Tract that has not been sold pursuant to this subsection on or before the expiration of 30 months after the effective date of this subsection, the Board shall sell any such remaining portion of the Remaining Leased Tract pursuant to terms and conditions determined by such Board.

(d) Restrictions on Property. The Property is subject to the Restrictions recorded in Palo Pinto, Stephens, Young, and Jack Counties, as amended from time to time. After the Date of Decommissioning and before the date the Remaining Leased Tract is conveyed under Subsection (b) or (c), the Authority, without requiring the consent of any Owner, shall further amend the Restrictions and record the Amendments to the Restrictions in the records of each applicable county, which amendments must (i) add the Remaining Commercial Leased Land as part of the Commercial Leased Land in the

Restrictions; (ii) add the Remaining Residential Leased Land as part of the Residential Leased Land in the Restrictions; (iii) add the Remaining Undeveloped Strips as part of the Undeveloped Strips in the Restrictions; (iv) add the Remaining Leased Tract as part of the Leased Tract; and (v) otherwise amend the Restrictions to be substantively in accordance with the following:

(2) Each Owner, Purchaser, and Leaseholder shall agree to not block, restrict, or otherwise prohibit access over, through, or across any Road and further agrees that such Roads or portion thereof shall remain open for use by the Authority, other Owners or Purchasers, lessees of any portion of the Property (including Leaseholders) and the general public. Except for (i) those portions of the Property that are accessible by water only as of the effective date of the Restrictions, and/or (ii) restrictions of access existing as of the effective date of the Restrictions (e.g., access to and from public roads that requires traversing real property not owned by the Authority, Owners, or Purchasers hereunder), and/or (iii) the covenants and restrictions of the Ranch Declarations (to the extent applicable to the Roads) or other restrictive covenants existing prior to the date the Restrictions are recorded of record, no Owner, Purchaser, or Leaseholder shall be permitted to block, restrict, or otherwise prohibit access on, over, or across the Roads.

(3) The Driveways are not part of the Roads and shall be maintained by the Owner, Purchaser, or Leaseholder of the applicable Driveways. No Owner, Purchaser, or Leaseholder shall obstruct, prevent, or otherwise restrict access on, over or across any portion of a common Driveway by any such other Owner, Purchaser, or Leaseholder, or their guests or invitees, whose portion of the Property is served by such common Driveway. Owners, Purchasers, and/or Leaseholders whose portion of the Property is served by a common Driveway shall at all times have a nonexclusive right of ingress and egress over and across such common Driveway to access their portion of the Property.

(4) All grants and dedications of easements, rights-of-way, restrictions, and related rights affecting the Leased Tract, made prior to the Leased Tract becoming subject to the Restrictions and any Amendments to the Restrictions that are of record, or visible or apparent, shall be incorporated into such Restrictions by reference

and made a part of the Restrictions for all purposes as if fully set forth therein and shall be construed as being adopted in each and every contract, deed, or conveyance executed or to be executed by or on behalf of the Authority conveying any part of the Leased Tract. The foregoing adoption of such easements includes, without limitation, any and all written easements or agreements, whether or not recorded, between the Authority and any other party for the installation, maintenance, repair, or replacement of utility lines located on, above, over, under, or beneath the Property.

(5) The Authority shall reserve for itself and its successors, assigns, and designees the nonexclusive right and easement, but not the obligation, to enter upon the Property, the Lake and other bodies of water, if any, located within the Property (a) to install, keep, maintain, and replace pumps in order to obtain water for the irrigation of any portion of the Authority Land, (b) to construct, maintain, replace, and repair any wall, dam, or other structure retaining water therein, (c) to access, construct, maintain, replace, and repair any measurement stations, monuments, or other similar improvements, (d) to remove trash and other debris, and (e) to fulfill the Authority's obligations as a river authority and any obligations set forth in state water rights or other governmental regulations. The Authority and its designees shall have an access easement through, over, and across any portion of the Leased Tract to the extent reasonably necessary to exercise the rights and responsibilities under this subdivision; provided, however, that (i) the Authority shall provide written notice at least 48 hours in advance of such entry to the Purchaser or Owner of such portion of the Leased Tract (except in the event of an emergency, in which case advance notice shall not be required, but the Authority shall provide such written notice as soon as practicable thereafter); (ii) the Authority shall promptly repair any damage to the portion of the Leased Tract caused by the Authority's entrance onto such Owner's or Purchaser's portion of the Leased Tract; and (iii) the Authority shall use reasonable efforts to avoid interfering with the Owner's or Purchaser's use of the portion of the Leased Tract.

(6) The Authority shall reserve for itself and its successors, assigns, and designees a perpetual right, power, privilege, and easement to occasionally overflow, flood, and submerge

that portion of the Property located at or below the elevation contour of 1015' above mean sea level in connection with the Authority's operation and maintenance of the Lake. The Authority shall have no liability to any Owner, Purchaser, Leaseholder, or any other person for any damages, claims, costs, injuries, or liabilities to any person or the Property or any improvements thereon that are caused by or arise from any act or omission by the Authority in connection with the foregoing right and easement.

(7) Additional land may be included in the Property or Leased Tract at any time by the Authority, as long as the Authority owns any portion of the Property, by recording an amendment to these Restrictions in each of the counties in which the Property is located. Upon such additions, the Restrictions shall apply to the added land and the rights, privileges, duties, and liabilities of the Owners or Purchasers subject to the Restrictions shall be the same with respect to the added land as with respect to the Property originally covered by the Restrictions. As additional lands are added hereto, the Authority shall, with respect to said land, record amendments that may incorporate the Restrictions therein by reference and that may supplement or modify the Restrictions with such additional covenants, restrictions, and conditions that may be appropriate for those added lands.

(8) The Restrictions may not be modified in any respect whatsoever or terminated, in whole or in part, except with the consent of (i) the Owners or Purchasers of at least sixty percent (60%) of the individual lots that comprise the Residential Leased Land and Commercial Leased Land, and (ii) the Owners or Purchasers of at least sixty percent (60%) of the land area of the Authority Land, and (iii) the Authority, for so long as the Authority has any interest in the Property, whether as an Owner or otherwise. Notwithstanding the foregoing, the Authority, without the joinder of any other party, shall have the absolute right to make minor changes or amendments to the Restrictions to correct or clarify errors, omissions, mistakes, or ambiguities contained therein. No amendment shall be effective until such amendment has been recorded in the Official Public Records of each of the counties in which the Property is located.

(9) No improvements (except as specifically set forth in Subdivision (11)) shall be constructed or located on the Leased Tract

within twenty-five feet (25') landward measured horizontally from the 1000' contour line of the Lake, a meander line that changes over time due to natural forces, such as erosion and accretion; provided, however, this restriction shall not include improvements inside this setback that are existing at the time the Restrictions are filed that have been approved in writing by the Authority. In addition, no improvements on the Leased Tract (or any portion thereof) shall be constructed or located within five feet (5') of any other boundary line (i.e., the side and back boundary lines), other than fences; provided, however, this restriction shall not include improvements located within this 5' setback that are existing at the time the Restrictions are filed and that have been approved in writing by the Authority.

(11) Erosion control improvements (such as retaining walls, rip rap, etc.) and landscape planting may not be constructed or located at or below the 1000' contour line without the prior written approval of the Authority. Such improvements shall be subject to the terms and conditions set forth in the Restrictions and in the Authority's regulations, including without limitation, the Shoreline Management Plan.

(12) No Owner, Purchaser, or Leaseholder shall have the right to place, or permit to be placed, any advertisements, private notices, signs, or billboards on the Residential Leased Land except that temporary signage customarily found on residential property may be placed on the Residential Leased Land at the reasonable discretion of the Owner, Purchaser, and/or Leaseholder of that portion of the Residential Leased Land.

(13) No activities shall be conducted on the Leased Tract and no improvements constructed on the Leased Tract that are or might be unsafe or hazardous to any person or property.

(14) No Owner, Purchaser, Leaseholder, or occupant of any portion of the Leased Tract shall use or permit the use, handling, generation, storage, release, disposal, or transportation of Hazardous Materials on, about, or under the Leased Tract except for such quantities that are routinely utilized in connection with residential use (for all portions of the Leased Tract except the Commercial Leased Land) or for commercial uses that are in compliance with the Restrictions (for the Commercial Leased Land), and that are stored,

used, and disposed of in compliance with all Environmental Laws. Each Owner, Purchaser, and Leaseholder shall indemnify, defend, protect, and save the Authority, its successors and assigns, trustees, directors, employees, and officers and each other Owner, Purchaser, and Leaseholder, harmless from and against, and shall reimburse such indemnified parties for, all liabilities, obligations, losses, claims, damages, fines, penalties, costs, charges, judgments, and expenses, including, without limitation, reasonable attorneys' fees and expenses that may be imposed upon or incurred or paid by or asserted against such indemnified parties by reason of or in connection with such Owner's, Purchaser's, or Leaseholder's failure to comply with this subdivision.

(15) No Owner or Purchaser shall conduct, or permit to be conducted, any activity on the Leased Tract that is improper, immoral, noxious, annoying, creates a nuisance, or is otherwise objectionable to other Owners or Purchasers or incompatible with the recreational use of the Lake and the Authority Land.

(16) The Residential Leased Land (and any Undeveloped Strips that are conveyed to an Owner or Purchaser as part of the Residential Leased Land pursuant to Subsection (b) or (c)) shall be improved and used solely for single-family residential use, inclusive of a garage, fencing, and other such related improvements as are necessary or customarily incident to normal residential use and enjoyment and for no other use. No portion of the Residential Leased Land (and any Undeveloped Strips that are conveyed to an Owner or Purchaser as part of the Residential Leased Land pursuant to Subsection (b) or (c)) shall be used for manufacturing, industrial, business, commercial, institutional, or other nonresidential purpose, save and except as set forth in Subdivision (17). Notwithstanding the foregoing, Owners, Purchasers, and/or Leaseholders shall be permitted to conduct a "garage sale" on their respective portion of the Residential Leased Land (and any Undeveloped Strips that are conveyed to an Owner or Purchaser as part of the Residential Leased Land pursuant to either Subsection (b) or (c)) not more than one time per calendar year.

(17) No professional, business, or commercial activity to which the general public is invited shall be conducted on the Residential Leased Land (and any Undeveloped Strips that are conveyed

to an Owner or Purchaser as part of the Residential Leased Land pursuant to Subsection (b) or (c)); except an Owner, Purchaser, Leaseholder, or occupant of a residence may conduct business activities within a residence so long as: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside the residence; (b) the business activity conforms to all zoning requirements; (c) the business activity does not involve door-to-door solicitation of residents, lessees, Leaseholders, Owners, or Purchasers within the Property; (d) the business does not generate a level of vehicular or pedestrian traffic or a number of vehicles parked within the Property that is noticeably greater than that which is typical of residences in which no business activity is being conducted; and (e) the business activity is consistent with the residential character of the Residential Leased Land and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents, lessees, Owners, Purchasers, or Leaseholders of the Property. The terms "business" and "trade", as used in this provision, shall be construed to have their ordinary, generally accepted meanings and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis that involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (x) such activity is engaged in full or part-time; (y) such activity is intended to or does generate a profit; or (z) a license is required. Leasing of a residence shall not be considered a business or trade within the meaning of this subsection. This subdivision shall not apply to any activity conducted by the Authority.

(18) Except as may be otherwise provided in the Restrictions and any Amendments to the Restrictions, Commercial Leased Land (and any Undeveloped Strips that are conveyed to an Owner or Purchaser as part of the Commercial Leased Land pursuant to Subsection (b) or (c)) may be improved and used for any lawful commercial purpose, including without limitation, nonprofit organizations or governmental or quasi-governmental agencies.

(19) No portion of the Leased Tract may be used for the commercial testing or development of wind power, or to produce, lease,

store, and/or transmit electrical power generated thereby for commercial or resale purposes.

(20) Each Owner or Purchaser shall keep, or cause to be kept, all improvements located on its respective portion of the Leased Tract maintained in good condition and repair, clean and free of rubbish and other hazards, and otherwise in full accordance with the Restrictions and all governmental rules, regulations, codes, and zoning requirements. Such maintenance shall include, but not be limited to, the following: regular and timely removal of all litter, garbage, trash, and waste; regular lawn mowing; tree, shrub, and plant pruning and trimming; watering of landscaped areas; weed control; pest control; maintaining exterior lighting and mechanical facilities in good working order; keeping walks and driveways clean and in good repair; and the repairing and repainting of the exterior improvements visible to neighboring properties and/or public view.

(21) In the event of any damage to or destruction of any building or improvement on any portion of the Leased Tract from any cause whatsoever, the Owner, Purchaser, or Leaseholder upon whose portion of the Leased Tract the casualty occurred shall, at such Owner's, Purchaser's, or Leaseholder's sole option, either (i) repair, restore, or rebuild and complete the same with reasonable diligence, (ii) clear the affected area of all hazardous or dangerous debris and structures and lawfully dispose of same within one year from the date of casualty, or (iii) effectuate any combination of clauses (i) and (ii) of this subdivision as such Owner, Purchaser, or Leaseholder may deem reasonably appropriate. Notwithstanding the foregoing, in the event the Owner, Purchaser, or Leaseholder elects to rebuild buildings or improvements that were located within twenty-five feet (25') landward measured horizontally from the 1000' contour line that were approved in accordance with Subdivision (9), such buildings or improvements shall be rebuilt in accordance with Subdivision (24).

(22) The Texas Commission on Environmental Quality has adopted rules governing on-site sewage facilities (also called septic systems). The Authority is the commission's authorized agent for the septic system licensing program, including the enforcement of the commission's septic system rules and regulations for the Property. The Authority, as the agent for the commission, shall have the authority to access the Property for the purpose of issuing such

licenses, inspecting such septic systems, and enforcing any and all rules and regulations related thereto. Each Owner, Purchaser, and Leaseholder agrees to comply with all sanitary regulations and the licensing process adopted by the commission and enforced by the Authority, as its agent, from time to time.

(23) The Owner or Purchaser shall be responsible, at such Owner's or Purchaser's expense, for providing for the collection, removal, and disposal of all solid waste on the Leased Tract; or the Owner or Purchaser of any portion of the Leased Tract shall be responsible for ensuring that the Leaseholders provide for such collection, removal, and disposal of all solid waste on the applicable portion of the Leased Tract. In the event the Ranch fails to provide for the collection, removal, and disposal of all solid waste related to the Ranch, the Owner or Purchaser shall be responsible for providing for the same.

(24) An Owner, Purchaser, or Leaseholder may repair, alter, or rebuild improvements located above the 1000' contour line but within 25' landward measured horizontally from the 1000' contour line, and/or improvements located within the 5' boundary setback, which improvements were previously approved in accordance with Subdivision (9). Such repairs, alterations, or rebuilding may extend such improvements outside the previously existing footprint towards the side boundaries and back boundary of the applicable Leased Tract, but such improvements may not be extended towards the shoreline or encroach closer to the 1000' contour line of the Lake than the existing or previously existing improvements.

(25) The Authority shall reserve its rights, title, and interest in all oil, gas, and other minerals in and under any and all Property, including the Leased Tract.

(26) No land located at or below the 1000' contour line shall be improved, used, or occupied, except in such manner as shall have been approved by the Authority. No docks, piers, on-water facilities, retaining walls, or any other structures or facilities shall be built, installed, or maintained in, on, or over the waters of the Lake except as authorized by the Authority. All such structures or facilities shall be subject to all rules and regulations applicable to the Lake, as the same may be adopted or amended from time to time. Owner, Purchaser, and/or the Leaseholder shall be responsible for any

fees or annual charges assessed by the Authority for such permit or improvements and shall be responsible for ensuring that any such improvements are consistent with the Shoreline Management Plan and all other rules and regulations applicable to the Property. Owner or Purchaser shall not, at any time, permit any liens to encumber the Authority Land.

(27) No use of the Lake or other bodies of water within the Property, if any, shall be made except in accordance with the Shoreline Management Plan, the Authority's regulations, and any other rules and regulations that may be promulgated by the Authority at any time and as amended from time to time. Any such use shall be subject to the Authority's superior use rights. The Authority shall not be responsible for any loss, damage, or injury to any person or property arising out of the authorized or unauthorized use of the Lake or other bodies of water within or adjacent to the Property.

(28) The Authority may use and regulate the Lake or other bodies of water within the Property for the irrigation of the Authority Land, or for any other purpose deemed appropriate by the Authority, subject to the rights and authority of any other governmental entity having jurisdiction of such areas, and subject to the water rights granted (or which may be granted) to the Authority by the State of Texas. The Authority's rights under this subdivision shall be superior to any rights of any Owner, Purchaser, or Leaseholder. This subdivision shall not be construed to limit or restrict the rights and authority of any other governmental entity having jurisdiction of the Property.

(29) Owners or Purchasers must obtain written permission from the Authority in accordance with the Authority's regulations to use or divert water from the Lake on any portion of the Leased Tract for domestic or commercial purposes.

(30) No Owner, Purchaser, or Leaseholder shall be permitted to divert or alter the natural drainage of the terrain or clear vegetation on any portion of the Property in such a manner that would cause unnatural erosion or silting of the Lake.

(31) Owners, Purchasers, and Leaseholders shall take all reasonable precautions to ensure that all use of and activities on the Leased Tract, including without limitation, the construction, operation, and maintenance of any improvements on the Leased Tract

occur in a manner that will protect the scenic, recreational, and environmental values of the Lake. The Authority has specific approval authority on any proposed construction that impacts the lakebed, and Owner, Purchaser, and Leaseholder shall comply with the approval process as may be established by the Authority from time to time.

(33) The Owner, Purchaser, and Leaseholder of any portion of the Property shall comply with all of the following rules and regulations, as applicable:

(A) the Authority's "Regulations for Governance for Brazos River Authority Lakes and Associated Lands," as published on the Authority's Internet website and as those regulations may be amended from time to time; and

(B) other rules and regulations adopted by the Authority regarding conduct on and use of the Lake.

(34) By Texas statute, the Authority is empowered to adopt and has adopted certain regulations governing conduct on and use of the Property and Lake. Owners, Purchasers, Leaseholders, and persons using the Leased Tract with such Owners' or Purchasers' consent shall abide by all such rules and regulations adopted from time to time by the Authority and any future revisions and amendments thereto.

(35) Owners, Purchasers, and Leaseholders of that portion of the Leased Tract that is part of the Ranch shall comply with the terms and conditions of the Ranch Agreement and the covenants and restrictions set forth in the Ranch Declarations, to the extent applicable to such portion of the Leased Tract. As to that portion of the Property that is part of the Ranch, the Ranch Declarations shall control in the event of any conflict between the covenants, restrictions, and conditions set forth in the Ranch Declarations and the Restrictions. Owners, Purchasers, and Leaseholders of a portion of the Leased Tract that is part of any other subdivision shall comply with the terms and conditions of the covenants and restrictions governing the subdivision that apply to the portion of the Leased Tract. Any portion of the Property that is part of the subdivision is governed by the restrictions and covenants governing the subdivision which shall control in the event of a conflict between the covenants, restrictions, and conditions governing the subdivision and the Restrictions and Amendments to the Restrictions.

(36) In order to maintain the quality of the Lake's water, the stability of the shoreline, and of the environment in the Lake's vicinity, each Owner, Purchaser, and Leaseholder of all or any portion of the Leased Tract agrees to:

(A) comply with any local, state, or federal laws related to water quality or the environment, including laws governing toxic wastes and hazardous substances;

(B) if the Owner's or Purchaser's private on-site sewerage facility is not licensed by the Texas Commission on Environmental Quality (or any successor to such Commission) then the Owner, Purchaser, or Leaseholder shall connect to and use, at the Owner's, Purchaser's, or Leaseholder's expense, as applicable, any wastewater treatment system or service that becomes available to the Owner's or Purchaser's portion of the Leased Tract, not later than twelve (12) months after the system or service becomes available to such portion of the Leased Tract and thereafter discontinue use of any private on-site sewerage facility; and if, at any time after a wastewater treatment system or service becomes available to the Owner's or Purchaser's portion of the Leased Tract, the Owner's or Purchaser's private on-site sewerage facility (whether licensed or not) requires either replacement or an alteration or change in the on-site sewerage facility resulting in (i) an increase in the volume of permitted flow, (ii) a change in the nature of permitted influent, (iii) a change from the planning materials approved by the permitting authority, (iv) a change in construction, and/or (v) an increase, lengthening, or expansion of the treatment or disposal system, then such Owner or Purchaser shall promptly connect to and use, at the Owner's, Purchaser's, or Leaseholder's expense, as applicable, such wastewater treatment system or service and thereafter discontinue use of any private on-site sewerage facility. Notwithstanding the foregoing, in the event a property owners association or municipality requires the Owners or Purchasers of the portion of the Leased Tract that is included in such association or municipality to connect to a wastewater system or service, then such association or municipality rules shall control;

(C) obtain written consent of the Authority prior to diverting or pumping water from the Lake or any body of water within or adjacent to the Property, constructing or erecting any embankment

or retaining wall, or commencing any dredging activity; and

(D) pay to the Authority any reasonable fee related thereto (e.g., water usage, recreational user, dredging, or retaining wall fees) as may be adopted from time to time by the Authority.

(37) Each Owner or Purchaser of all or any portion of the Leased Tract agrees and acknowledges that the water level in the Lake varies and that the Authority is not responsible for maintaining the Lake at any certain level or above or below any certain level.

(38) The Authority is not responsible or liable for any personal injury or damage to any Owner, Purchaser, Leaseholder, the Leased Tract, the Property, or any improvements caused by any increase or decrease in the water level (even if such increase or decrease is due to modifications of the Morris Sheppard (Possum Kingdom) Dam or other actions or omissions of the Authority) or caused by natural flooding.

(39) The Authority shall reserve the right of ingress and egress for the Authority and any person authorized by the Authority, including an agent of the Authority or employees, over and across the Leased Tract and any and all on-water facilities whether located within the Leased Tract or Authority Land for all reasonable purposes of the Authority, including, without limitation, the construction, maintenance, repair, and/or replacements of any roads, drainage facilities, and power, water, wastewater, and other utility mains and lines that the Authority considers necessary or beneficial and for public safety, health, and welfare purposes; provided however, that:

(A) the Authority shall provide written notice at least 48 hours in advance of such entry to the Purchaser or Owner of such portion of the Leased Tract (except in the event of an emergency, in which case advance notice shall not be required, but the Authority shall provide such written notice as soon as practicable thereafter), which notice shall state with reasonable specificity the purpose for such entry;

(B) the Authority shall promptly repair any damage to the portion of the Leased Tract caused by the Authority's entrance onto such Owner's or Purchaser's portion of the Leased Tract; and

(C) the Authority shall use reasonable efforts to avoid interfering with the Owner's or Purchaser's use of the portion

of the Leased Tract.

(40) Each Owner, Purchaser, and Leaseholder shall comply strictly with the Restrictions, as the same may be amended from time to time. Failure to comply with the Restrictions shall constitute a violation of the Restrictions, and shall give rise to a cause of action to recover sums due for damages or injunctive relief or both, maintainable by the Authority or other Owners or Purchaser; provided however, no Owner, Purchaser, Leaseholder, or other person shall have any right of action against the Authority arising under the Restrictions.

(41) The Authority shall make no warranty or representation as to the present or future validity or enforceability of any such restrictive covenants, terms, or provisions. Any Owner, Purchaser, or Leaseholder acquiring or leasing, as applicable, any portion of the Property in reliance on one or more of the Restrictions shall assume all risks of the validity and enforceability thereof and, by acquiring such portion of the Property, agrees to hold the Authority harmless therefrom.

(42) If the Owner, Purchaser, or Leaseholder of any portion of the Leased Tracts or on-water facilities related thereto (including retaining walls) shall fail to comply with the requirements of the Restrictions, then the Authority shall have the right, but not the obligation, following thirty (30) days prior written notice to such defaulting person to enter such defaulting person's portion of the Leased Tract (but only if such failure to comply results in a public health, safety, or welfare concern) and/or such defaulting person's on-water facility and cure such breach, the cost of which shall be reimbursed by such defaulting person to the Authority upon demand. Any such unpaid amounts, together with interest thereon (at the rate of six percent (6%) per annum) and the costs of collection (if any), shall be charged as a continuing lien against such defaulting person's portion of the Leased Tract, which lien shall be subordinate to the lien of any third-party deed of trust previously recorded against such defaulting person's portion of the Leased Tract.

(43) A person shall be deemed to be in default of the Restrictions only upon the expiration of thirty (30) days (ten (10) days in the event of failure to pay money) from receipt of written notice from the Authority or other Owner or Purchaser specifying the

particulars in which such person has failed to perform the obligations of the Restrictions unless such person, prior to the expiration of said thirty (30) days (ten (10) days in the event of failure to pay money), has rectified the particulars specified in said notice of default. However, such person shall not be deemed to be in default if such failure (except a failure to pay money) cannot be rectified within said thirty (30) day period and such person commences the cure of such default within such thirty (30) day period and thereafter is continuously using good faith and its best efforts to rectify the particulars specified in the notice of default.

(44) The Authority shall have the right, but not the obligation, to enforce all of the provisions of the Restrictions. Any Owner or Purchaser shall have the right to enforce all of the provisions of the Restrictions against any other Owner, Purchaser, or Leaseholder, but not against the Authority. Such right of enforcement shall include the right to sue for both damages for, and injunctive relief against, the breach of any such provision. Furthermore, the Authority shall have the right, when appropriate in its sole judgment and discretion, to claim or impose a lien upon any portion of the Leased Tract, or improvement constructed thereon, in order to enforce any right or effect compliance with the Restrictions.

(45) The failure of a person (including the Authority or any Owner or Purchaser) to insist upon strict performance of any of the Restrictions shall not be deemed a waiver of any rights or remedies that said person may have, and shall not be deemed a waiver of any subsequent breach or default in the performance of any of the Restrictions by the same or any other person.

(46) The Authority shall not be liable to any Owner, Purchaser, or Leaseholder, or to any other person for any loss, damage, or injury arising out of or in any way connected with the performance or nonperformance of the Authority's rights, obligations, or privileges under the Restrictions. Without limiting the foregoing, the Authority shall not be liable to any Owner, Purchaser, or Leaseholder due to the construction of any improvements within the Property.

(47) Each of the Restrictions on the Leased Tract shall be a burden on each portion of the Leased Tract, shall be appurtenant to and for the benefit of the other portions of the Property, other

portions of the Leased Tract, and each part thereof, and shall run with the land.

(48) The Restrictions shall inure to the benefit of and be binding upon the Owners or Purchasers, their heirs, successors, assigns, and personal representatives, and upon any person acquiring all or any portion of the Leased Tract, or any interest therein, whether by operation of law or otherwise. Notwithstanding the foregoing, if any Owner or Purchaser sells or transfers all or any portion of such Owner's or Purchaser's interest in all or any portion of the Leased Tract, such Owner or Purchaser shall, upon the sale and conveyance of title, be released and discharged from all of its obligations as Owner or Purchaser in connection with the property sold by it arising under the Restrictions after the sale and conveyance of title but shall remain liable for all obligations arising under the Restrictions prior to the sale and conveyance of title. The new Owner or Purchaser of all or any such portion of the Leased Tract, (including, without limitation, any Owner (or Lienholder) who acquires its interest by foreclosure, trustee's sale or otherwise) shall be liable for all obligations arising under the Restrictions with respect to such portion of the Leased Tract on and/or after the date of sale and conveyance of title. The Authority may assign, in whole or in part, any of its privileges, exemptions, rights, and obligations (if any) under the Restrictions to any other person and may permit the participation, in whole or in part, by any other person in any of its privileges, exemptions, rights, and obligations (if any) hereunder.

(49) Except as provided in this subsection, the term of the Restrictions shall be for a period of fifty (50) years from the date such Restrictions are executed by the Authority. Notwithstanding the foregoing, upon the expiration of such period, the term of the Restrictions shall automatically renew for successive periods of five (5) years each unless, at least ninety (90) days prior to the date of expiration of any period then in effect, (i) the Owners or Purchasers of at least sixty percent (60%) of the individual lots that comprise the Residential Leased Land and the Commercial Leased Land, (ii) the Owners or Purchasers of at least sixty percent (60%) of the land area of the Authority Land, and (iii) the Authority, for so long as the Authority has any interest in the Property, whether as an Owner or otherwise, duly execute, acknowledge and record in the office of the

recorder of the counties in which the Property is located a written termination notice, in which event, the Restrictions shall automatically expire at the end of the period then in effect.

(50) Any subdivision by an Owner of the Owner's portion of the Leased Tract is subject to all applicable laws, rules, regulations, codes, and ordinances, including any applicable platting requirements, and any rules and restrictions relating to on-site sewage facilities.

(e) Buffer Zone. Notwithstanding any provision in this subsection to the contrary, a sale under Subsection (b) or (c) shall be subject to the following:

(1) The Remaining Leased Tract being conveyed under Subsection (b) or (c) shall include the applicable portion of the Buffer Zone; provided, however, the Purchaser and/or Owner, as applicable, shall grant the Authority access to the Buffer Zone and Lake to allow the Authority to fulfill its obligations as a River Authority and any obligations set forth in state water rights or other governmental regulations.

(2) At the time of Closing on the Initial Leased Tract under Subsection (b), a portion of the Initial Leased Tract is located within the Buffer Zone and is a part of the FERC Project Area, and therefore the Authority shall provide such Purchaser and/or Owner, as applicable, a residual interest in that portion of the Buffer Zone adjacent to the Initial Leased Tract and covered by the applicable residential Ground Lease, such residual interest to automatically vest upon satisfaction of one of the following conditions:

(A) the Federal Energy Regulatory Commission approves an amendment to the FERC License removing the Buffer Zone from the boundaries prescribed by the FERC License such that the Buffer Zone is no longer subject to regulation by the Federal Energy Regulatory Commission;

(B) the FERC License expires (and is not renewed or extended) or is otherwise terminated and thus the Buffer Zone is no longer subject to regulation by the Federal Energy Regulatory Commission; or

(C) the Date of Decommissioning occurs.

(3) Notwithstanding the foregoing, if such residual interest has not vested on or before August 31, 2040, then such

residual interest shall be terminated and of no further force and effect. Upon satisfaction of one of the foregoing conditions prior to August 31, 2040, this conveyance shall be automatically effective without necessity of further documentation. From and after the date such conveyance becomes effective, the Buffer Zone shall be considered to be a part of the Initial Leased Tract conveyed under Subsection (b) and the Purchaser or then current Owner of the applicable Initial Leased Tract shall be the beneficiary of the residual interest created herein, but only as to the portion of the Buffer Zone located adjacent to the Purchaser's or Owner's property and all right, title, and interest in such adjacent portion of the Buffer Zone as measured by extending the boundary lines on both sides of the applicable portion of the Initial Leased Tract in a straight line across the Buffer Zone to the then current 1000' contour line of the Lake, or, if such portion cannot reasonably be measured as set forth above, then as otherwise determined by the Purchaser and approved by the Authority. Such residual interest shall immediately vest in the Purchaser or then-current Owner of such adjacent portion of the Initial Leased Tract without the necessity of any additional written conveyance.

(4) Until the residual interest in the Buffer Zone vests in the Purchaser or then-current Owner of the adjacent portion of the Initial Leased Tract as set forth in Subdivision (3), such Buffer Zone shall remain subject to the terms and conditions of the residential Ground Lease in effect between the Leaseholder and the Authority at the time Closing occurs under Subsection (b); provided, however, no rent shall be due the Authority under such Ground Lease for the Buffer Zone. At such time as the applicable Ground Lease expires or is otherwise terminated, the Authority may, subject to approval of the Federal Energy Regulatory Commission, grant the Purchaser or the then-current Owner of the adjacent tract (as determined pursuant to the method set forth in Subdivision (2)(B)), an easement for use of such portion of the Buffer Zone, which easement shall be subject to the FERC License. The Authority shall retain ownership of such portion of the Buffer Zone and exercise control over such portion of the Buffer Zone consistent with the FERC License and this subsection. The easement granted to such Owner shall be limited to uses permitted under the terms of the FERC License and the Authority's Shoreline

Management Plan, and any other Authority rules and regulations as may be adopted from time to time.

(f) Purchase Price. For purposes of determining the purchase price and/or lease rate pursuant to the options set forth in Subsection (b)(1) or the purchase price in Subsection (c), in the event the appraisal district does not provide an assessed value for the applicable portion of the Leased Tract for the applicable year, then the land only assessed value without any exemptions for the applicable portion of the Leased Tract shall be calculated based on the assessed value per square foot of comparable lots with similar physical characteristics in the applicable county or adjoining counties, as determined by the Authority.

(g) Roads. Authority or Purchaser, whichever is applicable, shall transfer its interest in the Roads to the applicable county in which the Roads, or any portion thereof, are situated as follows:

(1) All Roads located in Stephens County (approximately three miles of Roads) shall be transferred to Stephens County on or before December 31, 2011.

(2) All Roads located in Palo Pinto County (approximately forty-six miles of Roads) shall be transferred to Palo Pinto County in twenty percent increments of the total mileage per year for five consecutive years. The first twenty percent increment shall be transferred on or before December 31, 2011, and each remaining twenty percent increment shall be transferred on or before December 31 of each subsequent year, but not before January 1 of such year unless approved by an order or resolution of the Palo Pinto County Commissioners Court, with the final twenty percent increment being transferred on or before December 31, 2015, but not before January 1, 2015, unless approved by an order or resolution of the Palo Pinto County Commissioners Court.

(3) Authority or Purchaser, whichever is applicable, in consultation with the Palo Pinto County Commissioner or Commissioners who have jurisdiction over the Leased Tract, shall determine which Roads or portions thereof shall be transferred each year.

(4) The transfer of any portion of the Roads located within the FERC Project Area shall be in accordance with the FERC License and may be in the form of a grant of a right-of-way or easement, unless otherwise authorized by the Federal Energy Regulatory

Commission.

(5) Beginning on the date of transfer, the Authority or Purchaser, whichever is applicable, shall no longer have any obligations regarding such Roads. The Roads shall be transferred in their "as-is" condition and neither the Authority nor the Purchaser shall have any obligation to ensure that the Roads, or any portion thereof, comply with the standards in effect at the time of transfer in the applicable county for like roads currently maintained by that county.

(6) Concurrently with the transfer in each year of a portion of the Roads, the Authority or Purchaser, as applicable, shall transfer to Palo Pinto County the amount, rounded to the nearest dollar, computed by multiplying \$200,000 by a fraction the numerator of which is the number of miles of Roads located in and transferred to Palo Pinto County in that year and the denominator of which is the total number of miles of Roads located in and transferred or to be transferred to Palo Pinto County. For every other county in which a portion of the Roads is located, the Authority or Purchaser, as applicable, shall transfer an amount equal to (A) the per mile road payment (as defined below) multiplied by (B) the number of miles of the Roads located in such county. As used in this subdivision, "per mile road payment" means the amount, rounded to the nearest dollar, computed by dividing \$200,000 by the total number of miles of Roads located in and transferred or to be transferred to Palo Pinto County pursuant to this subsection.

(7) Notwithstanding any provision in this subsection to the contrary, the Authority or Purchaser, as applicable, shall retain ownership of any portion of a Road that is inaccessible to the public. For purposes of this subdivision, a portion of the Road is considered inaccessible to the public if, as of the effective date of the Act enacting this section, the public can only access such portion of the Road by crossing property not owned by the Authority or Purchaser, as applicable, and not subject to an easement or other ownership interest that allows the public to cross such property without restriction. If a retained portion of a Road subsequently becomes accessible to the public, the Authority or Purchaser, as applicable, shall transfer such retained portion, including any interest the Authority or Purchaser has in any additional Road

constructed or acquired by the Authority or Purchaser in order to make the retained portion of the Road accessible to the public, to the applicable county in accordance with the process set forth in this subsection, or in the event such portion of the Road becomes accessible to the public after December 31, 2015, within one (1) year of such retained portion of the Road becoming accessible.

(h) Platting. A sale of the Leased Tract under this section shall not be subject to Chapter 232, Local Government Code, or any other platting requirement.

(i) Mineral Interests. The Authority shall reserve its interest in all oil, gas, and other minerals in and under the Leased Tract (or any portion thereof) sold under this section.

(j) Expiration of Requirement to Sell. The requirement that the Authority conduct a sale of the Remaining Leased Tract under Subsection (b) or (c) expires on December 31, 2016, if the FERC License is not terminated by decommissioning or otherwise.

Added by Acts 2009, 81st Leg., R.S., Ch. 192 (H.B. 3031), Sec. 1, eff. May 27, 2009.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1179 (S.B. 918), Sec. 4, eff. June 14, 2013.