



Brazos River Authority

RESOLUTION OF THE BOARD OF DIRECTORS OF THE BRAZOS RIVER AUTHORITY OCTOBER 27, 2008

Agenda Item 13 Possum Kingdom Bid Document

“BE IT RESOLVED that the Board of Directors of the Brazos River Authority hereby directs staff to issue a request for bids for the purchase of Brazos River Authority’s property which is subject to (i) a residential lease, save and except that portion of the leased premises that is located within the Federal Energy Regulatory Commission (FERC) project boundary or (ii) a commercial lease where the leased premises is wholly located outside the FERC project boundary; and

BE IT FURTHER RESOLVED that the request for bids require that any purchaser must assume and ratify existing leases and for a period of at least one year after the purchase offer the following options to current residential and commercial lessees:

1. Purchase the lessee’s leased property in cash or through preferred lender financing for 90% of 2008 land only assessed value (as determined by county appraisal district)
2. Purchase the lessee’s leased property via seller financing for 100% of 2008 land only assessed value (as determined by county appraisal district)
3. A new 99 year lease with a rental rate of 6% of 2008 assessed land value with an annual CPI increase. The new 99 year lease must also include an option to purchase at the tax assessed value without any exemptions as of the time of purchase (but not less than the 2008 tax assessed value).

4. For over-65 lessees, the option to sign a new 10 year lease with a rental rate of 6% of 2008 assessed land value with an annual CPI increase, but which lease grants lessee an option to defer all lease payments until the end of the 10 year term and also includes an option to purchase at the tax assessed value without any exemptions as of the time of purchase (but not less than the 2008 tax assessed value).
5. The option to stay on the lessee's current lease; and receive protections previously adopted by the Brazos River Authority Board, which are:
 - i. Ratification of existing lease
 - ii. Eight (8) years of rental protection--purchaser must use the current Brazos River Authority lease rate methodology for that time period
 - iii. Eight (8) years to purchase leasehold property at the greater of (a) the tax assessed value of the land only at the time of purchase or (b) the 2008 tax assessed land only value
 - iv. Extension of any lease as necessary to allow the full eight-year (8) period of time to purchase; and

BE IT FURTHER RESOLVED that the request for bids require any purchaser to purchase all roads which are currently maintained by Brazos River Authority and maintain such roads (or cause such roads to be maintained), provide an access easement to Brazos River Authority, and ensure that the users of the leased property and property retained by Brazos River Authority are able to access and use such roads; and

BE IT FURTHER RESOLVED that the request for bids may include any small, undeveloped strips between leased lots or between leased lots and roads which the Brazos River Authority determines are not otherwise usable or required for Brazos River Authority's current or future operations; and

BE IT FURTHER RESOLVED that the request for bids encourage, but not require any purchaser to deed at no cost to the current lessee those divested properties currently leased by non-profit organizations and to set aside funding for municipal incorporation; and

BE IT FURTHER RESOLVED that the request for bids notify the prospective bidders that the Brazos River Authority is in the process of requesting approval from FERC that all residential leased property located within the FERC project boundary be

excluded from the FERC project boundary, and that if at the time a bid is accepted FERC has approved such exclusion, the bid will include such property and its associated leases; and

BE IT FURTHER RESOLVED that if at the time a bid is accepted FERC has not authorized the Brazos River Authority to exclude from the FERC project boundary those portions of the residential leased property located within the FERC project boundary, only those portions of the property and associated leases that are outside the FERC project boundary will be assigned to the purchaser, and purchaser will become the lessor as to those portions of the property so purchased and covered under such existing leases; and the Brazos River Authority will remain as lessor under such existing leases to the extent such leases are within the FERC project boundary until such time as the leases expire or are otherwise terminated; and

BE IT FURTHER RESOLVED that the Board of Directors of the Brazos River Authority hereby directs staff to evaluate granting a residual interest in residential leased property located within the FERC project boundary whereby at the time the FERC license terminates or such property is excluded from the FERC project boundary, such property shall revert to the then-current owner of the land adjacent to such property; and

BE IT FURTHER RESOLVED that the Board of Directors of the Brazos River Authority hereby directs staff to evaluate options for continuing to provide the lessees and/or adjacent landowners the same level of access to the FERC project area that exists today while remaining compliant with all FERC requirements;

BE IT FURTHER RESOLVED that the Board of Directors of the Brazos River Authority hereby directs staff to pursue submitting to FERC an Application to Amend the License to exclude those portions of the residential leased property located within the FERC project boundary from the FERC project boundary, and mitigate this exclusion by placing other Brazos River Authority property within the FERC project boundary;" and

BE IT FURTHER RESOLVED that the Board of Directors of the Brazos River Authority hereby directs staff to develop with outside counsel Declarations of Restrictions, Covenants and Conditions to protect the scenic value and the environment in and around Possum Kingdom Lake, consistent with the provisions of the Shoreline Management Guide and the requirements of the FERC License, such Declarations to be included in the RFB and filed in

the property records of the counties where the land subject to the RFB is located.

The aforementioned resolution was approved by the Board of Directors of the Brazos River Authority on **October 27, 2008**, to certify which witness my hand and seal.



Christopher DeCluitt
Presiding Officer

SUBSCRIBED AND SWORN TO BEFORE ME on this the 27th day of October, 2008, to certify which witness my hand and official seal.



Notary Public in and for the
State of Texas