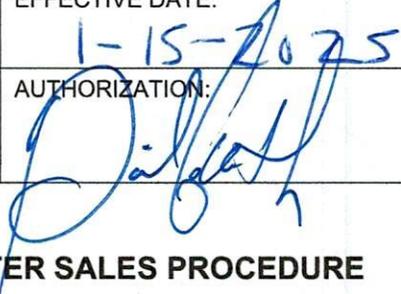


<b>ADMINISTRATIVE PROCEDURES:</b>		No.	<b>2</b>		
OFFICE OF PRIMARY RESPONSIBILITY: <b>WATER SERVICES</b>	EFFECTIVE DATE: <b>1-15-2025</b>	Page	1	of	8
SUBJECT: <b>LONG-TERM WATER SALES PROCEDURE</b>	AUTHORIZATION: 	DATE:	<b>1/15/2025</b>		

**LONG-TERM WATER SALES PROCEDURE**

**OBJECTIVE:**

To establish procedures and guidelines for the sale and contracting of Long-Term Water.

**SCOPE:**

This procedure sets forth guidelines, methodologies, and provisions related to determining the allocation of, availability of, and facilitation of sales for Long-Term Water.

**DEFINITIONS:**

**Agricultural Rate-**

The reduced System Rate per acre-foot established by BRA on an annual basis for water made available to purchasers that use Long-Term Water solely for agricultural purposes.

**Board-**

The Board of Directors of the Brazos River Authority.

**BRA-**

The Brazos River Authority.

**BRA Water Supply System-**

Includes the BRA's facilities, infrastructure, and properties insofar as they are related to making water available from the BRA together with all future extensions, improvements, enlargements, and additions to and replacements of the water supply system, and all replacements thereof whether from surface water supplies, groundwater, or a combination thereof, unless specifically excluded from the water supply system by resolution of the Board.

**Brazos Watermaster-**

A Texas Commission on Environmental Quality Program, established in 2015, that allocates water per the adjudicated water rights system; monitors stream flow, reservoir levels, and water use; enforces compliance with water rights; and responds to complaints in the Brazos River basin downstream of, and including, Possum Kingdom Lake.

**Diversion Point-**

The location on a reservoir or river at which a customer withdraws water.

**Drought Contingency Plan-**

The BRA's official Drought Contingency Plan, required by statute.

**Firm Yield-**

The volume of water that can be provided from a reservoir or system of reservoirs each year, based on a repeat of the drought of record, without experiencing water supply shortages.

**Interruptible Water-**

Water made available by the BRA for a term of no more than one year, subject to interruption based on drought conditions, as further described within the BRA's Interruptible Water Sale Procedure.

**Interruptible Water Availability Agreement (IWAA)-**

An approved agreement executed between the BRA and a customer that provides the customer conditional access to Interruptible Water during a given year.

**Long-Term Water-**

Water sold to customers on a BRA contract for a period of five years or more.

**Resale Agreement-**

An agreement between the BRA, a Long-Term Water customer, and one or more Resale Purchaser(s), whereby BRA consents to the temporary resale of a portion of a customer's Long-Term Water to such Resale Purchaser(s).

**Resale Purchaser-**

A third party who purchases a Long-Term Water customer's water for a period of time through a Resale Agreement.

**State Water Plan-**

The Texas State Water Plan projects long-term water demands for all regions of the state and proposes water supply solutions to meet those proposed demands.

**System Water Availability Agreement (SWAA)-**

A BRA Board approved agreement executed between the BRA and a customer that provides the customer conditional access to Long-Term Water for a given period of years.

**System Rate-**

The rate for water made available to purchasers on a per acre-foot basis, as established annually by the BRA Board.

**Transportation Losses** – Estimated quantity of water lost in the river channel primarily due to natural factors such as seepage, evaporation, and transpiration, which occur as water is delivered from a reservoir to a Diversion Point.

**SECTION I. LONG-TERM WATER CONTRACTING AND SELLING PREFERENCES**

Prospective customers of Long-Term Water may submit application(s), on BRA a standard form, requesting Long-Term Water. An application shall be considered submitted for the purpose of contracting once both the completed application for Long-Term Water and the application fee are received. To determine if there is sufficient Long-Term Water available to meet a customer's request, BRA will utilize any and all modeling and data readily available to BRA at the time of the request. When determining whether or not to grant a contract to a prospective customer, BRA will give preference in accordance with the beneficial use factors of the Texas Water Code in addition to other considerations such as BRA's available water supply, the State Water Plan, the immediacy of customer's need, the magnitude of customer's request, the customer's water conservation efforts, customer's demonstrated ability to comply with BRA policies, procedures, rules and regulations as well as state law, the health, safety and environmental issues, the location of customer's request, and any other factors determined applicable by the BRA. The BRA, in its sole discretion, may determine whether to sell water to a particular customer or within a particular area of the basin.

The BRA strives to meet the water needs of the Brazos River Basin, to the extent possible, from the BRA's available water supplies. Sound water management techniques will be implemented to facilitate provision of water under Long-Term Water contracts, while making the best use of existing water supplies. Water availability at any location within the BRA's Water Supply System is determined by estimating Firm Yield, which varies by location. The BRA may periodically evaluate current and projected Firm Yield and take appropriate steps, if warranted, to bring new water supplies online to meet the BRA's contractual commitments.

BRA may utilize any and all data and modeling available to estimate Firm Yield. The BRA will make the final determination regarding water availability within the BRA Water Supply System. When entering into new Long-Term Water contracts or amending existing water contracts, for raw water, the BRA will limit the amount

of water provided under such new contracts or the amount of additional water requested, to the uncommitted firm supply available from the BRA, with such uncommitted firm supply to be determined by the BRA in its sole discretion.

## **SECTION II. EXISTING WATER CONTRACTS**

All existing water contracts in place as of the effective date of this procedure shall remain in effect until expiration of the term as specified in each such contract. Unless otherwise specifically stated in the contract, no existing water contract shall be extended or issued beyond its current term. Upon expiration of an existing contract, unless specifically stated in the contract, a new contract may be issued, at the sole discretion of the BRA, on a then-current Long-Term Water contract form and at a rate established by the Board.

## **SECTION III. MINIMUM CONTRACTING AMOUNT**

The minimum amount of Long-Term Water a customer may contract under a SWAA is ten (10) acre-feet.

## **SECTION IV. BRAZOS WATERMASTER PROGRAM**

All BRA contracts within the jurisdiction of the Brazos Watermaster Program shall be subject to requirements of the Brazos Watermaster.

## **SECTION V. DROUGHT CONDITIONS AND WATER CONSERVATION**

Long-Term Water customers must abide by any and all policies and/or procedures, adopted by BRA related to water conservation and drought response, including but not limited to: BRA's Board-approved Drought Contingency Plan, BRA's Board-approved Water Conservation Plan; and, any and all drought contingency programs developed by BRA. If required by applicable law or regulation or by BRA, Long-Term Water customers agree to develop a drought contingency program and submit a copy to BRA for review. In addition, Resale Purchasers are required to adhere to all the requirements relative to BRA's Drought Contingency Plan and any and all drought contingency programs.

BRA shall follow its Drought Contingency Plan and state law to ensure it can continue to meet long-term water demands. In the event of a water shortage, contracts located in the impacted area may be subject to a temporary and/or permanent reduction of their contracted amount on a pro rata basis at BRA's sole discretion.

## **SECTION VI. OVERUSE**

Any diversions of water in excess of a customer's contracted amount of water are strictly prohibited. In the event a customer exceeds their contracted amount of

water made available, BRA will notify the customer in writing about the overuse, and the customer must cease diverting immediately. BRA may elect to: (1) cancel the contract, (2) charge the customer for the overuse at a higher rate, (3) disable the customer's meter and not allow customer to divert water, and/or (4) take any other action deemed appropriate by the BRA. A customer must also adhere to any penalties or enforcement actions that may be imposed by the Brazos Watermaster for such overuse.

## **SECTION VII. DELIEVERY AND DIVERSION**

BRA may deliver water from anywhere within the BRA Water Supply System to a customer's authorized Diversion Point. The location of a customer's Diversion Point(s) must be approved by the BRA, in writing and in the BRA's sole discretion, which may be the perimeter of reservoirs, downstream of reservoirs, or other points as may be designated by the BRA. The Diversion Point(s) shall be specified in the contract between the BRA and the customer.

All BRA contracts within the jurisdiction of the Brazos Watermaster, which includes the portion of the Brazos River basin downstream of, and including, Possum Kingdom Lake, are subject to metering and water use reporting requirements of the Brazos Watermaster. All customers are required to have their meters certified by the Brazos Watermaster and customers shall not divert water until a representative of the Brazos Watermaster has visited the customer's Diversion Point(s) to record and ensure that the customer meets all necessary requirements. After the initial meter certification, any additional meters added or relocated to a Diversion Point(s) must also be certified by a representative of the Brazos Watermaster.

A customer's ability to change an existing and/or obtain an additional Diversion Point(s) shall be determined and approved by BRA in its sole discretion. Any changes to Diversion Point(s) shall require an amendment to the customer's agreement.

## **SECTION VIII. TRANSPORTATION LOSSES**

BRA reserves the right, at its sole discretion, to manage the BRA Water Supply System as it deems to be appropriate, and any resulting Transportation Losses shall be borne by the customer, unless specifically stated otherwise in the customer's contract.

When a release is needed to supply water to a downstream customer's Diversion Point, BRA will determine which reservoir(s) to make the release from and the rate at which the release will be made. BRA will use Transportation Loss estimates to initially set the release rate; however, the release rate may be adjusted as necessary if actual Transportation Losses are observed to be higher or lower than anticipated. When releasing water for a downstream customer, the amount of

water that is released from a reservoir is accounted for against the customer's annual contract amount and shall include Transportation Losses. Irrespective of the amount of water actually diverted by the customer, BRA shall attribute all water released at the customer's request, including the anticipated Transportation Losses, as water used under the customer's annual contract amount.

### **SECTION IX. METERING AND REPORTING**

Meters shall be installed to accurately measure water diverted by customers. Meters shall be capable of measuring the amount of water diverted with an error of less than five percent and shall be calibrated annually.

Customers will be required to report daily meter readings, diversion rates, and diversion volumes as frequently as required by the BRA and/or the Brazos Watermaster. Failure to comply with the BRA's or the Brazos Watermaster's metering and reporting requirements could result in BRA enforcement actions, as well as monetary and water penalties assessed by the Brazos Watermaster. BRA reserves the right to enforce penalties, including but not limited to the following: monetary fines, disruptions in the customer's ability to divert water under their water supply agreement, and/or termination of the customer's water supply agreement.

### **SECTION X. TERM**

SWAAs shall not be issued for a term shorter than five years or longer than thirty-five years, and each SWAA shall expire on August 31<sup>st</sup> of a year ending in zero or five. Unless explicitly stated in a customer's current contract, customers shall not have any right or priority to contract for Long-Term Water after the expiration of their agreement. However, BRA will evaluate water needs at the time of expiration according to the data and modeling available at that time and may issue a SWAA for such customer at that time. Within three years prior to the expiration of the existing Long-Term contract, should a customer desire to renew their contract, and BRA determines, in its sole discretion, that all or a portion of the customer's contracted water is available, such contract will be renewed at the BRA's System Rate and standard contractual form in effect at the time the contract is executed, unless otherwise stipulated in the customer's existing Long-Term contract.

In the event a customer requests an extension of a contract prior to three years from its expiration because the extension is necessary to receive funding from the Texas Water Development Board, then the BRA, in its sole discretion, will determine whether to grant an early extension.

### **SECTION XI. PRICING**

Water shall be sold at either the System Rate or the Agricultural Rate. Both rates are established annually by the Board. The Agricultural Rate is for customers who

contract for water solely for agricultural purposes. If a customer desires to use their contract for multiple purposes and one purpose is agricultural use, then the customer shall still be required to pay the BRA's System Rate; however, a customer may enter into multiple SWAAs for different uses, provided that all the water made available under a SWAA utilizing the Agricultural Rate is solely for agricultural use and not for any other purpose.

## **SECTION XII. RESALE TO A THIRD PARTY**

Customers shall not resell Long-Term Water to a third party without first obtaining written consent from BRA, which BRA may or may not provide in its sole discretion, unless specifically stated otherwise in the customer's existing contract. If a resale is approved by BRA, a standard Resale Agreement shall be agreed to and executed by BRA, the Long-Term Water customer, and the Resale Purchaser. Prior to approval, the Long-Term Water customer and the Resale Purchaser shall provide BRA with the following: Resale Purchaser's name, address, Diversion Point(s), term length, use, and the amount of water sold. The term length for Resale Agreements shall be no longer than ten (10) years. The customer shall remain responsible for all payment, metering, and contractual provisions throughout the term of the Resale Agreement.

Resale Purchasers are expressly prohibited from diverting in excess of their contracted amount of resale water. In the event a Resale Purchaser exceeds their contracted amount of water, BRA will notify both the Resale Purchaser and the Long-Term Water customer in writing about the overuse, and the Resale Purchaser must cease diverting immediately. Resale Purchasers must adhere to any potential penalties and enforcement actions issued by the Brazos Watermaster for such overuse. In addition, the Long-Term Water customer's available contracted amount may be reduced to cover the overuse by the Resale Purchaser, and the Long-Term Water customer may be responsible for any penalties that may be imposed, if the Resale Purchaser's overuse results in an overuse of the Long-Term customer's available contracted amount.

## **SECTION XIII. ASSIGNMENT OF CONTRACT WATER**

The assignment of a contract for BRA water by a customer to a third party is prohibited; provided, however, the BRA may allow a customer to permanently assign their entire water contract to a third party in certain circumstances in accordance with the BRA's Operations Policies Manual's Water Policy. Assignments are not authorized on a temporary basis and will only be approved if the diversion location and use remain consistent with the spirit and intent of the original contract.

#### **SECTION XIV. RETURN OF CONTRACTED WATER**

The BRA will allow for the return of raw water from a customer under the following set of conditions:

1. The customer shall indicate, in writing, the amount of raw water requested to be returned;
2. The BRA may identify potential purchasers for the raw water to be returned;
3. At the end of no less than twelve (12) months following the initial written request and effective the subsequent fiscal year of the BRA, the BRA may reduce that customer's contractual obligation by an amount equal to the total requested return; and,
4. The BRA reserves the right to accept all or a portion of the raw water requested to be returned anytime between receipt of the customer's written notice to return the water, and the twelve month timeframe described above.

#### **SECTION XV. MULTIPLE CONTRACTS**

Customers possessing more than one Long-Term contract with BRA with the same Diversion Point(s) and type(s) of use, unless specifically stated otherwise in their contracts, shall have water used under such contracts applied against the oldest contract first until all quantities of water that may be diverted from such Diversion Point(s) under that contract have been fully utilized and billed against, and then in like manner to each successive contract in date order, from oldest to most recent. A customer possessing IWAA(s) and/or Resale Agreement(s) as well as SWAA(s) and/or other Long-Term Water contract(s) may utilize all water available under their IWAA(s) and/or Resale Agreement(s) before water being charged against their SWAA(s) and/or Long-Term Water contract(s).

#### **SECTION XVI. SUMMARY**

This procedure establishes guidelines for the sale and contracting of Long-Term Water. No deviations from this procedure shall be permissible without the express written consent of the General Manager/CEO.