



Brazos River Authority



Request for Bids

May 19, 2014

RFB No. 14-07-816

Dear Prospective Bidder:

Sealed Bids will be received in the office of Administrative Services, Brazos River Authority, 4600 Cobbs Drive, Waco, Texas 76710 until **3:00 PM, Monday, July 21, 2014** for the **Sale of Property at Possum Kingdom Lake**.

Bids must be submitted and received no later than the Bid opening date and time specified above. Bids will be opened publicly and the name of each bidder and the amount of each bid will be read aloud. Any Bid received later than the specified time, whether delivered in person or mailed, shall not be considered. It is the standard practice of the Brazos River Authority to collect mail once daily from the U S Post Office. Our daily mail pickup is at approximately 9:00 AM, Monday thru Friday, excluding holidays. The AUTHORITY is **NOT** responsible for ensuring the delivery of Bids to our offices. The Bidder is solely responsible for the timely delivery of their Bid.

Mail Bids to: Administrative Services
Brazos River Authority
P.O. Box 7555
Waco, Texas 76714-7555

or Deliver to: Administrative Services
Brazos River Authority
4600 Cobbs Drive
Waco, Texas 76710

Bid envelopes must be plainly marked on the outside as follow:

SEALED BID - DO NOT OPEN

BID: Sale of Property at Possum Kingdom Lake

BID NO: 14-07-816

BID DUE DATE: 3:00 PM. Monday

July 21, 2014

The Brazos River Authority shall have the right to accept or reject any or all bids, or any part thereof; and to waive any technicalities in the sole discretion of the Authority.

Sincerely,

Jose G. (Lupe) Diaz
Administrative Services Manager

4600 Cobbs Drive • Waco, Texas 76710
254 761 3123 • Fax 254 761 3268

Brazos River Authority
Request for Bids
for the
Purchase of Property
at
Possum Kingdom Lake

I. **Background.** Possum Kingdom Lake (the "Lake") was constructed by the Brazos River Authority ("Authority") in the late 1930's and early 1940's. The Lake is located in Palo Pinto, Young, Stephens and Jack Counties, Texas on the Brazos River. The Lake is located approximately two hours west of the Dallas/Fort Worth Metroplex. The Lake covers approximately 17,000 surface acres. The Authority owns land adjoining and in the general vicinity of the Lake. Portions of the land owned by the Authority have been leased for a variety of purposes including residential and commercial uses. The Authority sold approximately 1,200 acres of commercially and residentially leased property including over fifty miles of paved and gravel roadways owned and maintained by the Authority to comply with legislative action from the 81st regular session of the Texas Legislature ("House Bill 3031"). Legislation from the 83rd regular session of the Texas Legislature, specifically [Senate Bill 918](#) ("SB918"), mandates that the Authority sell certain remaining commercially and residentially leased properties in the vicinity of the Lake.

The Lake is formed by Morris Sheppard Dam, which was originally constructed as part of a hydroelectric project and subject to a license administered by the Federal Energy Regulatory Commission ("FERC"). The BRA officially surrendered the FERC License upon decommissioning of the hydroelectric project on March 12, 2014. Due to such license surrender, the project lands, including the buffer, are no longer subject to FERC regulation.

In its resolution, dated April 28, 2014, a copy of which is attached hereto as [Exhibit "A"](#), the Authority's Board of Directors (the "Board") directed the Authority to develop a Request for Bids to purchase commercially and residentially leased property that is required to be sold pursuant to Section 4 of SB918 (the "Property", referred to as the Remaining Leased Tract in SB918). The Property to be sold is generally depicted on [Exhibit "B"](#) attached hereto and constitutes approximately 16 acres on 42 residential tracts and approximately 480 acres on 50 commercial tracts in addition to undeveloped strips of land and roads, all as further described herein. **THE ATTACHED DESCRIPTIONS AND MAPS ARE NOT GUARANTEED TO BE COMPLETE AND ACCURATE BY THE AUTHORITY OR THE BOARD. YOU, AS A POTENTIAL PURCHASER, ARE REQUIRED TO VERIFY THE STATUS AND CONDITION OF THE PROPERTY AND ARE STRONGLY ADVISED TO PERSONALLY INSPECT THE PROPERTY.**

SB918 requires, and the Board also provided in the above referenced resolution, that any such Request for Bids must protect the existing rights of the residential and commercial lessees of any portion of the Leased Tract, as well as provide options for such lessees to purchase their leased lots. Pursuant to such resolution, this Request for Bids includes certain mandatory requirements for the protection of the lessees, as further set forth in Section VI.d below.

The Property is offered subject to prior sale or removal from the market without notice. The Property will be sold only in its entirety. The Authority and its Board reserve the right to reject any and all bids.

II. **Property Subject to Request for Bids.** The Property offered for purchase under this Request for Bids consists of the Remaining Leased Land, Remaining Undeveloped Strips, and Roads, as further defined below. The Authority is in the process of obtaining a survey which will include the perimeter boundary of the Remaining Leased Land (the "Initial Survey"). The Initial Survey may also include the Remaining Undeveloped Strips and Roads. The Initial Survey will not include the interior leased lot

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lines and may not encompass all Remaining Undeveloped Strips. The Successful Bidder will be responsible for obtaining, prior to Closing at its expense, an updated survey to accurately reflect the entire Property being conveyed as well as any improvements located on the Property to the extent such improvements encroach over the boundary of the Property or are otherwise located in whole or in part on the Authority's Retained Land (the "Updated Survey"). The Updated Survey will be subject to the Authority's review and approval prior to Closing.

a. Remaining Leased Land. The "Remaining Residential Leased Land" includes that portion of the Authority land which is subject to a residential lease and constitutes approximately 16 acres. The "Remaining Commercial Leased Land" includes that portion of the Authority land which is subject to a commercial lease and constitutes approximately 480 acres. The Remaining Commercial Leased Land and Remaining Residential Leased Land are collectively referred to as the "Remaining Leased Land". The Remaining Leased Land excludes special use leases, hangar leases, grass leases, hunting leases, and mineral leases. Attached hereto as Exhibit "C" is a lease summary which lists in detail the existing leases, their expiration dates, renewal options, and rental rates. The lease forms for the residential and commercial leases currently in place on the Remaining Leased Land can be accessed through the [Possum Kingdom Lake Divestiture Interactive Tour](#). The leases on the Remaining Leased Land shall remain subject to the terms, conditions, restrictions and covenants set forth in that certain Declaration of Restrictive Covenants, Easements, and Conditions dated September 27, 2010 (as amended, the "Declaration") and filed of record on or about October 18, 2010 in the Official Public Records of Palo Pinto County (at Volume 1739 Page 446, amended in Volume 1857 Page 343), Stephens County (at Volume 1986 Page 1, amended in Volume 2003 Page 56), Young County (at Volume 1082 Page 149), and Jack County (at Volume 849 Page 95) (copies of the recorded Declaration (without the exhibits) are posted with the RFB and exhibits on the Authority [RFB webpage](#)). The Declaration will be further amended prior to Closing in substantially the form included as Exhibit "D" hereto and to incorporate the Property into the Declaration. In addition, the Remaining Leased Land will remain subject to applicable portions of the Possum Kingdom Shoreline Management Plan and Customer Guide ("Shoreline Management Plan") promulgated by the Authority (and as may be revised, replaced, and/or amended from time to time), a copy of which is attached hereto as Exhibit "E".

b. Roads. The "Roads" consist of approximately one private road owned by the Authority. In those areas where the paved and/or gravel road are not wide enough to meet county standards, to the extent there is undeveloped land available on either side of such non-conforming road, which undeveloped land is not needed by the Authority for its current or future operations, the Authority may, at its discretion, include in this Request for Bids, as part of the Roads, such additional land adjacent to the non-conforming road to permit the non-conforming road (or applicable portion thereof) to be widened to meet county standards. The Roads shall be subject to a Non-exclusive Access Easement Agreement in favor of the Authority (hereinafter referred to as an "Access Easement"), in the form attached hereto as Exhibit "L", to permit the Authority, its agents, tenants, lessees, licensees, successors and assigns the right of ingress and egress over, through and across the Roads (and any other roads which may be constructed on the Property in replacement of the Roads) for access to and from the Retained Land (as hereinafter defined). In addition, as set forth in the Declaration, the Successful Bidder will be required to ensure that no lessee or other user of the Property is permitted to obstruct, prevent, or otherwise restrict access over and across any portion of the Roads (or any other roads which may be constructed on the Property in replacement of the Roads), so that all lessees and other users of the Property shall have the right of ingress and egress through, over and across such Roads and such lessees shall at all times have access to and from their individual leased lots over and across such Roads, to the extent such access exists at Closing. The definition of Roads does not include those paved or gravel driveways located entirely within the boundaries of individual leased lots, which serve more than one residence or leased lot and are maintained

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by the lessees of such lots ("Common Driveways"). The Common Driveways are part of the Remaining Leased Land. The Declaration provides that no owner or lessee which shares a Common Driveway with other owners or lessees shall be permitted to obstruct, prevent, or otherwise restrict access over or across any portion of the Common Driveways by such other owners or lessees, or their guests or invitees, so that all owners and/or lessees sharing a Common Driveway shall at all times have access to and from their portion of the Property.

c. Remaining Undeveloped Strips. The "Undeveloped Strips" consist of small strips of land located between individual leased lots (i.e., land which is not covered by the individual leases on either side of such strip of land) and small parcels of land between the Remaining Leased Land and Roads. The Authority may, in its discretion, establish a maximum size for the width of such strips of undeveloped land in order for such strips to be included within the Remaining Undeveloped Strips. The Authority will review parcels not meeting such size requirements on a case by case basis and may include, in its discretion, such parcels within the Remaining Undeveloped Strips.

III. Possum Kingdom Lake. The Lake is located on the main arm of the Brazos River northwest of Fort Worth and was the first water supply reservoir constructed in the Brazos River basin. The Lake is 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. The Lake covers an area of approximately 17,000 acres with 310 miles of shoreline. The reservoir stores approximately 540,000 acre feet of water when full. Depth of the Lake varies with the terrain of the area and is approximately 100 feet at the Morris Sheppard Dam site. Possum Kingdom receives an estimated 1.5 million recreational visitors annually. Major activities on the Lake include boating, swimming, fishing, water skiing, scuba diving and hiking and biking on designated trails. The Lake has a public fishing pier, seven public boat ramps, public access areas for picnicking, and a total of 400 primitive camp sites. The Possum Kingdom Airport is located on the East Side of the Lake and is available to all residents and visitors to the Lake. The airport is equipped with runway lights and restroom facilities, and houses 19 hangars.

IV. Property Condition. As set forth in the Special Warranty Deed, the form of which is attached hereto as Exhibit "K", the Property is being sold "as is", and without warranties of any kind whatsoever, expressed or implied, except for the warranty of title set forth in the Special Warranty Deed. The Authority and the Board neither warrant nor guarantee the accuracy or completeness of the information contained in this Request for Bids. The Property is sold subject to any and all leases on the Property, as well as any and all easements, rights-of-way, and other matters of record, and those visible and apparent on the Property, affecting or related to it (including, without limitation, any easements or agreements, whether or not recorded, between the Authority and the Possum Kingdom Water Supply Corporation for the installation, maintenance, repair, or replacement of water lines located beneath the Property). Each bidder is responsible for determining that the Property meets the bidder's requirements regarding access, size, shape, location, zoning, use, sewerage, environmental standards and easements.

a. Legal Access. Portions of the Property may have no legal access and can only be reached by crossing privately owned property. It is strongly suggested that bidders obtain an access agreement with such adjoining landowners prior to purchasing the Property. In addition, there are portions of the Property that are only accessible by water and have no access from land.

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- b. Roads. The Roads are private and may not be continuous (i.e., the Roads may be separated by gravel and/or paved roads located on land not owned by the Authority and not being conveyed hereunder). In addition, portions of the Roads may be located wholly or partially within the boundaries of individual leased lots. The Roads, in many instances, are not sufficient to meet county standards and the Roads are not maintained by the counties in which the Roads are located. As set forth in the Access Easement, the Successful Bidder will be responsible for maintaining such Roads or ensuring that such Roads are maintained by the counties or some other governmental or non-governmental entity (or, for those Roads which are subject to the Ranch Agreement, cause such Roads to be maintained by the applicable association as set forth in such Ranch Agreement). The Successful Bidder will be required to execute the Access Easement in favor of the Authority and its agents, tenants, lessees, licensees, successors and assigns so that such parties will have access to and from the Retained Land.
- c. Meandering Boundary and Encroachments. Some properties included in this bid may border the 1000' contour line, which is a meander line and may change over time. At the present time, some improvements on the Remaining Leased Land may encroach across individual leased lot lines and onto a neighboring leased lot or may encroach onto Retained Land. In addition, the metes and bounds description for individual leases may overlap with the metes and bounds descriptions for an adjacent leased lot (i.e., two leases purportedly convey rights in the same strip of land). The Authority may require the Successful Bidder to cause encroachments onto Retained Land to be removed.
- d. Lessee Compliance and Enforcement. As set forth in the Assignment, Assumption and Ratification of Leases and Rents (the "Assignment", the form of which is attached hereto as Exhibit "M"), the Successful Bidder and its successors and assigns agree to enforce the terms of the leases and to cooperate with the Authority to ensure the lessees' compliance with the leases, the Shoreline Management Plan and other Authority rules and regulations, and the Declaration (as further amended).
- e. Platting and Subdivision. To the extent any county may require the Property, Roads, or any portion of the Property or Roads to be platted (whether as a result of the purchase of the Property pursuant to this Request for Bids or otherwise), such platting requirements, as well as any additional surveying requirements, shall be the sole responsibility of the Successful Bidder.
- f. The Ranch. A portion of the Property to be conveyed hereunder is a part of that certain subdivision (the "Ranch") 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. The portion of the Property which is part of the Ranch is subject to the terms and conditions set forth in the Agreement by and among the Authority, The Ranch on Possum Kingdom, L.P., and Hill Country Harbor Village, L.P. (the "Ranch Agreement", a copy of which is attached hereto as Exhibit "F") effective as of August 1, 1997 and dated December 12, 1997, some of which land may be used for residential purposes and some of which may be used for commercial purposes, as well as that certain Declaration of Covenants, Conditions and Restrictions for The Ranch on Possum Kingdom Palo Pinto County, Texas (the "Ranch Declarations", a copy of which are attached hereto as Exhibit "G") dated December 8, 1997, as recorded in Vol. 944, Page 403 of the Official Public Records of Palo Pinto County, Texas. As set forth in the Assignment of the Ranch Agreement, a copy of which is attached hereto as Exhibit "O", the Successful Bidder and its successors and assigns agree to enforce the terms and conditions of the Ranch Agreement and Ranch Declarations and to cooperate with the Authority to ensure the lessees' compliance with the same. The Authority reserves the right to remain a party to the Ranch Agreement to the extent the Authority determines it is in its best interest to do so.

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g. Green Acres. A portion of the Property to be conveyed hereunder is a part of that certain subdivision ("Green Acres") of record in Palo Pinto County, Texas according to the map or plat of record in Vol. 5, Page 17, as it may be amended or modified from time to time. The portion of the Property which is part of Green Acres is subject to the terms and conditions set forth in that certain Green Acres Subdivision Declaration of Covenants, Conditions and Restrictions (the "Green Acres Declarations", a copy of which is attached hereto as Exhibit "H"), dated March 26, 1979, as recorded with the plat in Vol. 5, Page 17 of the Plat Records of Palo Pinto County, Texas. On and after Closing, the Successful Bidder and its successors and assigns shall be responsible for enforcing the terms and conditions of the Green Acres Declarations and shall cooperate with Authority to ensure compliance with the same.

V. Reservations. The following described property is being retained by the Authority (the "Retained Land") and is expressly excluded from the Property (except as may be specifically set forth below):

a. Undeveloped Land. The land owned by the Authority at the Lake that is not within the Remaining Leased Land, the Roads or the Undeveloped Strips is excluded from the definition of Property and is not being conveyed hereunder.

b. Airport. The Possum Kingdom Airport and the land on which it is located is being retained by the Authority. The Property will be sold subject to Successful Bidder granting the Authority an easement permitting the Authority to remove obstructions or hazards from the "clear zone" that may impair the operation of the Airport (the "Airport Easement").

c. Mineral Reservation. The Authority will retain ownership of all oil, gas, coal, lignite, sulphur and other mineral substances from which sulphur may be derived or produced, salt, potash, uranium, thorium, gypsum, mercury, zeolite, fluorspar, carbonaceous shale, bentonite and other varieties of clay, and all other minerals in and under the Property wherever located and by whatever method recovered, as well as the rights to lease and of ingress and egress to explore for and produce such minerals on the Property to the extent allowed by law.

d. Groundwater Reservation. The Authority will retain ownership of the groundwater under the Property, and the right to develop groundwater as well as the right to lease groundwater, and the right of ingress and egress to explore for, produce, lease, and store groundwater and to place, construct, maintain, and operate any structures necessary and incident thereto at a site or sites as determined by the State, on the Property to the extent allowed by law.

e. Access Easement. The Property will be sold subject to the Successful Bidder granting the Authority an Access Easement to permit access to and from the Retained Land (including the Lake) such that the Authority can conduct its operations and for public health, safety, and welfare purposes in a form similar to the form attached hereto as Exhibit "L".

f. Declaration. The Property will be sold subject to the restrictions described in the Declaration, as such Declaration will be further amended to comply with SB918, such amendment to be substantially in the form attached hereto as Exhibit "D".

g. The Ranch. The portion of the Property which is part of the Ranch will be sold subject to the terms and conditions of the Ranch Agreement (a copy of which is attached as Exhibit "F"), as well as the restrictions described in the Ranch Declarations (a copy of which is attached hereto as Exhibit "G").

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h. Green Acres. The portion of the Property which is part of Green Acres will be sold subject to the restrictions described in the Green Acres Declarations (a copy of which is attached hereto as Exhibit "H").

i. Flowage Easement. The Property will be sold subject to a Flowage Easement in favor of the Authority wherein the Authority will have the right to 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, and the Authority shall have no liability for any damages caused by such overflow.

VI. Issues to be Addressed in the Request for Bids. A mixture of elements will impact the selection of the Successful Bidder, some of which are mandatory and others of which are value-added (i.e., voluntary). The elements listed below will be considered by the Board in its review of the bids received. Some elements are mandatory (i.e., items VI.a – VI.j below), while others will be considered "value-added" or voluntary (i.e., items VI.k – VI.m below). Mandatory elements that are not addressed or inadequately addressed in the Request for Bids submission, as determined by the Authority in its sole discretion, will lead to disqualification of the submission. Those submissions meeting or exceeding the mandatory elements will be presented to the Board for its consideration, and, subject to the Board's right to reject any and all bids, the Board may select the bid, if any, that offers the best value to the Authority and the people and purposes it serves.

a. Purchase Price. Each bid must specify the purchase price for the Property.

b. Cash Bids Only. Only cash bids will be accepted for this sale.

c. Deposit. A deposit of One Percent (1%) of the Purchase Price set forth in the bid shall be delivered to the Authority with the bid, in the form of a cashier's check, money order drawn on a United States banking institution, or bid bond payable to the Brazos River Authority. All such deposits shall be placed in a special non-interest bearing Authority account, pending the Board's selection of a Successful Bidder, if any. If a Successful Bidder is selected, the deposit of the Successful Bidder shall become Earnest Money and shall be deposited with Heritage Title Company (the "Title Company"), in accordance with the terms and conditions of the Contract, which Contract will be similar in form to the form attached hereto as Exhibit "J". Within seven (7) days after the Board's decision to select a Successful Bidder or to reject all bids, the Authority will return the deposits to the bidders who are not the Successful Bidder in the form of a check payable to the bidder who made the deposit.

d. Lessee Protections. The bids must include the following lessee protections which shall be offered to each residential and commercial lessee for any portion of the Remaining Leased Land (subject to the terms and conditions of the Ranch Agreement, where applicable). Any additional lessee protections offered will be considered value-added and not mandatory, and any such additional options must be made to all similarly situated lessees on an equal basis. As set forth in the Memorandum of Assignment, Assumption, and Ratification of Leases and Rents (the form of which is attached hereto as Exhibit "N"), these lessee protections shall run with the land and burden any successor-in-interest to the Successful Bidder for the time periods specified below.

i. Permit the lessee to purchase its leased lot in cash or through lender financing for 90% of land only assessed value without any exemptions (as determined by county appraisal district) (the "Assessed Value") for the year 2012, such option to be available for a period of at least one year from Closing.

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- ii. Permit (1) any residential lessee that qualifies for financing under the Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. No. 111-203) and any related regulations and (2) any commercial lessee to purchase its leased lot via seller financing for 100% of Assessed Value for the year 2012, with a down payment of ten percent (10%) and an interest rate of six percent (6%), with a 30-year amortization, such option to be available for a period of at least one year from Closing.
 - iii. Offer a new 99-year lease at a rental rate of 6% of the Assessed Value for the year 2012, with annual CPI increases or decreases, such option to be available for a period of at least one year from Closing. The 99-year lease will include an option to purchase the leased lot at the Assessed Value at the time of such lessee's purchase (but not less than the 2012 Assessed Value).
 - iv. For the "over-65" homestead lessees, 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 lease, as applicable, with annual CPI increases or decreases. This 20-year lease option is to be available for a period of at least one year from Closing. The 20-year lease will include an option to purchase the leased lot at the Assessed Value at the time of such lessee's purchase (but not less than the 2012 Assessed Value). To qualify for this option, the lessee must have received the ad valorem tax exemption under §11.13 of the Tax Code for a structure on such lessee's leased lot by January 1, 2013.
 - v. As to any lessee who does not timely exercise one of the foregoing options, the Successful Bidder shall ratify the existing leases, with (a) adoption of the current Authority lease rate methodology or other lease rate structure as set forth in the lease, as applicable (and including increases and adjustments to such rates) for 8 years from Closing, (b) an option permitting lessees to purchase their leased lot for the greater of (1) the Assessed Value at the time of the lessee's purchase of the leased lot or (2) the 2012 Assessed Value, for a period of 8 years from Closing, and (c) an agreement to extend leases as necessary to allow for this full 8-year purchase option period. The Board Resolutions regarding the current lease rate methodology are attached hereto as Exhibit "I".
- e. Determining Assessed Value if County Does Not Provide Such Value. In the event a county does not provide an assessed value for leased lot(s) at the time the lessee exercises its purchase or lease option described above, then the "Assessed Value" of the subject leased lot in 2012 or at the time the option is exercised, as applicable, for the purposes of the purchase option price or lease rental rate referenced in subsection VI.d.i – VI.d.v above, shall be calculated based on the assessed value per square foot of comparable lots in the applicable county or adjoining counties with similar physical characteristics.
- f. Financial Resources. In its bid, each bidder must show that it has adequate financial resources and access to sufficient capital to purchase the Property for its proposed purchase price, plus the payment of all closing costs and other expenses.
- g. Experience and Track Record. In its bid, each bidder must provide its relevant experience and track record, including its ability to purchase and manage the Property and maintain the Roads.
- h. Closing Costs. The Successful Bidder will be responsible for the payment of all closing and recording costs, including, without limit, the Owner's Title Policy.

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- i. Survey and Platting. The Successful Bidder will be responsible for the cost of the Updated Survey, as well as any platting obligations and additional survey costs incurred as a result thereof. In addition, the Successful Bidder will reimburse the Authority for the cost of the Initial Survey at Closing.
 - j. Roads. The Successful Bidder will be responsible for the cost of maintaining the Roads, (or otherwise ensuring they are maintained), ensuring Authority and lessees' access over and across such roads, and/or working with the appropriate governmental entities to plat and/or dedicate such Roads to the public.
 - k. Incorporation/provision of services to residents. Bidders may set aside funding for municipal incorporation at the Lake to create a local governing body or bodies for future management.
 - l. Development Plan. Bidders may include a development and/or management plan for the Property, including intended uses and how those uses relate to the Lake and existing uses.
 - m. Charitable Uses/Contributions. Bidders may include provisions in their bids for charitable gifting of some of the Property and/or profits from the Property.
- VII. Schedule. The Authority intends to proceed using the following schedule. However, the Authority reserves the right to amend the schedule in its sole discretion.
- a. Request for Bids Released. The Request for Bids will be made available on **May 20, 2014.**
 - b. Written Questions. The Authority will accept all requests for explanation or clarification through written questions from potential bidders submitted before close of business (5:00 PM) on **June 23, 2014.** Questions should be emailed to the attention of Lupe Diaz at ldiaz@brazos.org or faxed to Lupe Diaz at 254 761 3268 or mailed to: Brazos River Authority, Attn: Lupe Diaz, Administrative Services Manager, Brazos River Authority, 4600 Cobbs Drive, Waco, Texas 76710. The Authority intends to have responses posted via a written addendum to the solicitation by close of business **June 30, 2014** at www.brazos.org>Purchasing and Professional Services>Request for Bids.
 - c. Amendments to Request for Bids. Any amendments to this Request for Bids will be posted on the Authority's website on or before close of business on **June 30, 2014.** It is the responsibility of each bidder to check the Authority's website for such amendments.
 - d. Deadline for Submission of Bid. All bids must be received in the Authority's offices no later than 3:00 p.m. central time, on **July 21, 2014.** It is the sole responsibility of the bidder to ensure timely receipt of the bid. The Authority will not be responsible for failure of service on the part of the U.S. Postal Service, courier companies, or any other form of delivery service chosen by the bidder. Telegraphic or facsimile submission of a bid will not be accepted. Submissions received after the deadline may not be considered or evaluated. Late submissions will be returned unopened. Bids will be opened publicly and the bidder's name and the amount of the bid will be read aloud at a date, time and location to be posted on the Authority's website at www.brazos.org/Purchasing and Professional Services/Request for Bids at least ten (10) business days prior to the public opening of such bids.
 - e. Presentation to Board and Selection of Successful Bidder. The Authority shall present the bids which meet or exceed the mandatory requirements to the Board at its regularly scheduled board meeting on **July 28, 2014,** or at a special meeting as soon thereafter as is

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reasonably practicable, in accordance with Section VIII below. The Board may select the Successful Bidder, if any, at such meeting or may defer a decision in order to obtain more information from one or more of the bidders.

f. Contract. Once selected by the Board, the Successful Bidder, if any, and the Authority will enter into a Contract for the purchase of the Property, in form similar to the form attached hereto as Exhibit "J". The Contract will include, without limitation, the terms set forth herein and in the Successful Bidder's submission that are consistent with this Request for Bids and SB918. Unless extended by agreement, the Contract shall be executed by the Successful Bidder, on or before ninety (90) days after the Board selects the Successful Bidder, if any, subject to such contract being approved and ratified by the Board. Upon such execution, the Successful Bidder shall deposit with the Title Company the additional amount of four percent (4%) of the Purchase Price, which amount shall be added to the deposit made pursuant to Section i.c. above and shall become Earnest Money in accordance with the terms and conditions of the Contract. The Earnest Money shall be non-refundable (except in the event of an Authority Default) after a 60-day feasibility period, but shall be applicable to the Purchase Price.

g. Closing. The Closing on the Property will occur forty five (45) days after the later to occur of (i) expiration of the feasibility period and (ii) delivery of the Updated Survey; but in no event earlier than six (6) months after the execution of the Contract and in no event later than June 30, 2015 (subject to any terms which may be agreed to in the Contract).

VIII. Review and Evaluation Process. The Authority will evaluate the bids received to determine which bids, if any, conform to the mandatory requirements of this Request for Bids (the "Conforming Bids"). Any bid that does not conform to the mandatory requirements of this Request for Bids will be rejected and will not be presented to the Board for its consideration. The Authority may reject any Conforming Bid if the Authority determines in its discretion that such bid does not provide fair market value for the Property. Conforming Bids may be further evaluated to determine which bid(s) provide the best value to the Authority. Such bid or bids will be presented to the Board for its consideration. In order to obtain the best value for the Authority, the Authority or the Board in its discretion may choose to request one or more bidders to make additional submissions to better define the value of the bid to the Authority, before or after the bids are presented to the Board.

The Board reserves the right to reject any or all bids received prior to the award. The Board also reserves the right to waive minor informalities and irregularities in any bid received. This Request for Bids is in no way an agreement, obligation, or contract of the Authority. The Authority is not responsible for the cost of preparing the bid.

IX. Submission Requirements. To submit a bid, please follow these instructions:

a. Complete and enclose the conflict of interest questionnaire and otherwise comply with the Solicitation Instructions for this Request for Bid on the Authority's website. The conflict of interest questionnaire is available online at [www.brazos.org/About Us/Purchasing and Professional Services](http://www.brazos.org/About%20Us/Purchasing%20and%20Professional%20Services).

b. Enclose a bid bond or a cashier's check or money order drawn on a United States banking institution and made payable to the Brazos River Authority in the amount of One Percent (1%) of the Purchase Price set forth in the bid.

c. Mail to: Brazos River Authority
Administrative Services
4600 Cobbs Drive
Waco, Texas 76710

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d. Bid Deadline. All bids must be received no later than 3:00 p.m., central time, on **July 21, 2014.**

e. Bid Restrictions. All bidders must be 18 years old or older. No oral, telephone, email, or fax bids will be accepted. Only cashier's checks or money orders drawn on a United States banking institution will be accepted. No employees of the Brazos River Authority or their relatives may submit a bid.

f. Accepted and Rejected Bids. If the Board selects a Successful Bidder, the Authority will promptly issue a notice of acceptance to the Successful Bidder. One copy of each submitted bid will be retained for the Authority's official files and becomes a public record.

X. Transfer Information.

a. Special Warranty Deed. At Closing, the Property will be conveyed by Special Warranty Deed, "as is, where is, with any and all faults," in a form similar to the form attached hereto as Exhibit "K". The Successful Bidder must accept the Property with any and all defects. Neither the Authority nor the Board will make any warranty of any kind, express or implied with respect to the Property, except for the warranty of title set forth in the Special Warranty Deed. Without limiting the generality of the foregoing, neither the Authority nor the Board will make any warranty as to habitability; fitness; suitability for a particular purpose; the condition of the soil or water; geology; presence or absence of any toxic or otherwise hazardous substances, materials, or wastes; or the presence of known or unknown faults. The Property being conveyed pursuant to the Special Warranty Deed will be described in part by a meander line, which meander line is an elevation contour line that is subject to change over time.

b. Title Commitment. At the Successful Bidder's expense, the Authority will secure a title commitment covering the Property binding the Title Company to issue a Texas Owner's Policy of Title Insurance on the standard form of policy prescribed by the Texas State Board of Insurance for the Property.

c. Assignment, Assumption and Ratification of Leases and Rents. At Closing, the Authority will assign, and the Successful Bidder will assume and ratify, the leases to the extent they cover the Property, as of the date of the Closing. The Successful Bidder will agree to enforce the terms of the leases, the Shoreline Management Plan, and the Declaration (as amended). The Assignment will be in a form similar to the form attached hereto as Exhibit "M".

d. Assignment and Assumption of Contracts. To the extent there are any service contracts affecting the Property which cannot or will not be terminated as of the date of Closing, the Authority and Successful Bidder will enter into an Assignment and Assumption of Contracts wherein the Successful Bidder will assume such service contracts to the extent they cover the Property.

e. Assignment and Assumption of Ranch Agreement. At Closing, the Authority will assign, and the Successful Bidder will assume and ratify, the Ranch Agreement (and leases contained therein) to the extent they cover the Property, as of the date of the Closing. The Successful Bidder will agree to enforce the terms of the Ranch Agreement to the extent it covers the Property and to cooperate with the Authority in enforcing the same to the extent it covers or affects the Retained Land. Such Ranch Assignment will be in the form similar to the form attached hereto as Exhibit "O". Notwithstanding any such assignment, the Authority reserves the right to remain a party to the Ranch Agreement to the extent the Authority determines it is in its best interest to do so.

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- f. Access Easement. The Successful Bidder and the Authority will execute an Access Easement as described in Section II.b above, and in the form attached hereto as Exhibit "L".
- g. Airport Easement. The successful Bidder and the Authority will execute the Airport Easement as described in Section V.b above.
- h. Other. The Successful Bidder will execute any other documents as reasonably required by the Authority and/or Title Company to convey the Property and/or protect the Authority's rights and interests in the Retained Land and the Lake.