

**EXECUTIVE SUMMARY  
OF  
CONTRACT FOR GROUNDWATER REDUCTION PLANNING,  
ALTERNATIVE WATER SUPPLY, AND RELATED GOODS AND SERVICES  
(“GRP Contract”)**

**ARTICLE I: Definitions; Interpretations; Consideration**

- Most of the critical definitions in the GRP Contract will be used in the context of this summary
- The GRP Contract is a contract for goods and services for purposes of Subchapter I, Chapter 271, of the Texas Local Government Code
  - The style of the GRP Contract addresses enforceability issues related to governmental immunity of political subdivisions that are Participants
  - This is a contract to achieve and maintain compliance with Lone Star’s regulations and not simply a water supply contract; there is no assurance that alternative water supplies will be provided to any particular Participant

**ARTICLE II: Groundwater Reduction Plan; Review Committee**

- The Authority will develop, implement and enforce a groundwater reduction plan (“GRP”) covering all Participants to achieve and maintain compliance with Lone Star’s rules
  - First point of contact for most Participants will be a “GRP Administrator” designated by the Authority
- Participants (and the Review Committee described below) will have an opportunity to comment on the GRP during the initial preparation stage, and during any amendments
  - Copies of the GRP and any amendments will be made available, likely by postings on the Authority’s website
- A surface water treatment and transmission system (“Project”) is the initial focus of the GRP
  - The Authority reserves the right to use alternative strategies to achieve compliance, such as wastewater re-use, raw water sales, etc., but the GRP Contract is not intended to address these strategies in detail
  - The Authority may not require a Participant to undertake alternative strategies under the GRP Contract, but the Authority is permitted to use GRP funds to provide financial assistance to a Participant to undertake alternative strategies, if cost effective and beneficial to the other Participants
- A six-member Review Committee will be constituted to represent various classes of Participants
  - One member represents the MUDs in The Woodlands that are served by the Authority
  - One member is appointed by the City of Conroe
  - One member is appointed by a vote of municipalities other than Conroe
  - One member is appointed by vote of water districts located east of I-45 (other than MUDs in The Woodlands)
  - One member is appointed by vote of water districts located west of I-45 (other than MUDs in The Woodlands)

- Voting for the preceding three membership positions is weighted based on water usage
    - One member is appointed by Lone Star to represent private well owners
  - The GRP Contract contemplates that the Review Committee will work extensively with the GRP Administrator regarding almost all aspects of the GRP and the Project
    - Recommendations of the Review Committee are advisory
    - If the Review Committee's recommendations are not accepted by the GRP Administrator, the Board of Directors will consider the positions of the GRP Administrator and the Review Committee and make a final decision on the matter
      - If the Board of Directors rejects a recommendation of the Review Committee, a written explanation will be provided to the Review Committee and to the Participants
    - The Review Committee may cause the Authority to engage an independent rate analyst to review the fees, rates, and charges imposed under the GRP Contract
  - Review Committee activities will be subject to Open Meetings Act and Open Records Act

**ARTICLE III: Permits; Water Demands; Co-Permitting; Conversion Credits; Water Conservation and Drought Contingency Planning**

- The Authority will need certain information from Participants to prepare the GRP
  - Existing Lone Star permit information
  - Historical water usage and future demand information
  - Service area information
- Copies of contracts that allow groundwater to be imported to, or exported from, a Participant's water distribution system may be requested by the Authority
- Co-permitting of Participant's Wells may be necessary in the future
- If a Participant earns conversion credits from Lone Star as a result of taking surface water from the Project, those credits will be transferred to the Authority for the benefit of all Participants
- Participants will need to adopt and enforce water conservation and drought contingency plans
  - Conservation not only saves water, it will save money by pushing back the date(s) when additional surface water supplies and infrastructure will be needed
  - Drought contingency planning will help minimize overall water usage in a drought, and will also mitigate any lake level declines of Lake Conroe
  - The Review Committee may recommend drought contingency requirements be adopted by the Authority that are more stringent than otherwise required by the TCEQ

**ARTICLE IV: The Project; Connection to the Project; On-Site Facilities; Quantity and Quality of Water; Re-Use; Participant Service Area Changes**

- The Authority will design, permit, finance, construct, own, operate and maintain the Project, exclusive of On-Site Facilities (defined below), for the benefit of all Participants
- The Project will be designed and constructed in phases, based on the principle that certain Participants will be over-converted to treated surface water

- Considerations:
  - Minimize overall Project cost
  - Equalize costs for Participants in providing water service (i.e., investment in groundwater facilities)
  - Avoid geographic advantages and disadvantages
- Participants with plan review jurisdiction must limit scope of review and provide expedited review of Project plans
- Easements must be granted to the Authority at no cost, if easements are necessary to construct the Project; the Authority must have the ability to construct in rights-of-way of Participants, at no cost, but subject to coordination with and existing rights of the Participants
  - The Authority will be responsible for damage to Participant facilities
- Voluntary Connection to the Project – On terms and conditions agreed to by a Participant and the Authority, but subject to Review Committee recommendation
- Mandatory Connection to the Project – Certain Participants will be required by the Authority to connect to the Project by a certain date, at a certain point (“Point of Delivery”), and to take a minimum amount of water on a steady basis (“Contract Quantity”)
  - Certain Participants will be over-converted to surface water; subject to Review Committee recommendation
  - Surface water will be delivered on a steady basis – peak demands will require Participants to develop and/or use groundwater supplies
  - The Point of Delivery will be on Participant’s water distribution system site(s), which will require an easement
- Participants that receive surface water from the Project must install the following facilities (“On-Site Facilities”):
  - Participant Meters (defined below)
  - Monitoring equipment on Participant’s ground storage tank(s), wells, booster pumps, and other designated facilities
  - Air gap between surface water line and ground storage tank(s)
  - Additional ground storage (if necessary to accommodate steady delivery of Contract Quantity)
  - Flow restriction equipment
  - disinfection equipment
  - Power facilities for any on-site Authority facilities
- The Authority will reimburse Participant for the reasonable cost of constructing On-Site Facilities, including reasonable engineering and legal costs
- GRP Administrator will set milestones relative to design, permitting, funding, construction, completion, inspection and approval of On-Site Facilities
- The Authority warrants that water delivered by the Project will at least meet the Contract Quantity in terms of volume, and will meet applicable drinking water requirements in terms of quality

- Re-Use Restrictions—Groundwater based effluent may be reused by a Participant without restriction. Water delivered from the Project may be directly re-used by a Participant without Authority consent. Water delivered from the Project may not be to indirectly re-used by a Participant unless consented to in writing by the Authority and subject to terms and conditions the Authority deems appropriate
  - The share of Lake Conroe water purchased from the City of Houston is subject to re-use limitations
  - Indirect re-use may impair storage rights in Lake Conroe and/or downstream water rights
  - Re-use may be a GRP strategy
  - Environmental flow laws and regulatory requirements may be problematic
- The Authority may sponsor and/or fund re-use programs if they are cost effective and beneficial to all Participants
- Generally, a Participant may expand its service area without Authority consent but is required to provide updated water demand information and a revised service area map to the GRP Administrator following such expansion

#### **ARTICLE V: Metering**

- A Participant’s use of groundwater must be measured by meters installed by the Participant and approved by the Authority (“Participant Meters”)
  - Participant Meters on water wells must be installed within 60 days of the effective date of the GRP Contract; this will not likely require any action by a Participant since metering requirements have already been imposed by Lone Star
  - Participant Meters at interconnects will need to be installed with 6 months of the effective date of the GRP Contract, except:
    - No meter will be required for an interconnect between Participants
    - The metering requirement may be waived by the GRP Administrator for an emergency interconnect with a non-Participant, since the Authority will not generally charge an importation fee for water imported on an emergency basis
- Water supplied by the Authority to the Participants will be measured by the Authority’s meters (“Authority Meters”)
- Yearly testing of meters; meter accuracy to be maintained between 97% and 102%
- A Participant may install meters to check Authority Meters.
- Third-party testing of meters may be requested by a Participant or the Authority
- Water usage adjustments may be given for up to 120 days of usage, based on “average daily usage” or on check meter readings (if check meters are installed by a Participant)

#### **ARTICLE VI: Fees, Rates, and Charges**

- If a Participant does not timely execute a GRP Contract, the Participant will pay an equalization fee to protect existing Participants from bearing increased costs; the equalization fee equals:
  - All avoided pumpage fees, plus interest
  - If applicable, the Authority’s increased costs to revise GRP work to date, plus interest

- All Participants will pay a “pumpage fee” for groundwater pumped from wells or imported, on a monthly basis
  - The pumpage fee shall be set so that (i) Participants are neither benefitted nor penalized for utilizing groundwater, and (ii) reasonable allowance is made for the Participants' costs of operating and maintaining their wells
  - No fees on water imported from another Participant, or imported from a non-Participant in an emergency
  - Participants will initially self-report groundwater usage and pay corresponding pumpage fees to the Authority on a monthly basis
- Participants that receive treated surface water from the Project ("Water") will also pay the prevailing rate for same, on a monthly basis
  - The prevailing Water rate shall be set so that (i) Participants are neither benefitted nor penalized for being required to take Water from the Project under the GRP, and (ii) reasonable allowance is made for Participants' costs of operating and maintaining On-Site Facilities, as well as operating and maintaining their wells
  - If a Participant receives Water from the Project, the Authority will invoice the Participant for Water on a monthly basis
- The Authority may adopt other charges as necessary to implement the GRP program
- The fees, rates, and charges adopted by the Authority under a Rate Order, and such rates shall be at all times the lowest which are:
  - consistent with good management practices by the Authority;
  - necessary and proper;
  - consistent with the Authority's statutory and constitutional duties and responsibilities; and
  - just, reasonable, and nondiscriminatory
- The Rate Order may specify discounts provided for early payment, penalties for late payment, and interest on past due amounts, subject to applicable legal limitations

**ARTICLE VII: Gifts, Grants, and Special Projects**

- The Authority reserves the right to accept gifts and grants for the benefit of some or all of the Participants
- If requested, the Authority may undertake a special project for the benefit of certain Participants and charge only those Participants a special assessment to fund such a special project
- The Authority may reimburse a Participant for funds expended for the benefit of the GRP and other Participants

**ARTICLE VIII: Funding**

- The Authority will issue bonds to finance the capital costs of the Project
  - After payment of operations, maintenance and administrative expenses, the pumpage fees and Water fees received from Participants will pay the debt service on the Authority's bonds

- Since the Authority's bonds will be secured by revenues from Participants, the Authority may require Participants to provide certain documentation to the Authority in connection with the issuance of the Authority's bonds

#### **ARTICLE IX: Special Covenants**

- In its role as a water supplier, the Authority:
  - will maintain a system-wide rate for existing raw surface water supplies, and establish such rate using the Modified Cash Basis detailed in the GRP Contract
  - will continue to look for alternative water supplies
  - will not use the Project to deliver water outside of Montgomery County (except for a Participant whose service area extends outside of Montgomery County)
  - will not over-commit to sell Water from the Project
  - may make short-terms sales of excess water and credit the Participants their reservation fees from any sale proceeds
- In its role as a Participant, the Authority will pay the same fees, rates and charges and be subject to the same obligations as the other Participants
- In its role as the GRP Administrator
  - The Authority will establish a separate operating division to undertake the GRP program
    - This operating division will keep separate books and records, to be annually audited
    - The separate operating division will be operated on a closed-loop, non-profit basis
  - The Authority will offer the GRP Contract to others in an effort to maximize economies of scale, and a "most favored nations" clause is included
  - The Authority's Board of Directors will consider appeals from Participants in addition to considering recommendations from the Review Committee
  - The Authority will keep the Project insured and in good operating order, and will obtain general and commercial liability insurance
  - The Authority will not sell the Project or any component of the Project, unless deemed surplus
- If a Participant is a municipality, (i) an interest and sinking fund must be created by resolution, or (ii) the costs of the GRP Contract must be specifically treated as an operating expense of such municipality's water system.

#### **REMAINING ARTICLES**

- *Force majeure* exceptions to performance are included in the GRP Contract (Art. X)
  - Non-payment of money due is not subject to *force majeure*
  - *Force majeure* includes limitations on the Authority's ability to deliver water from the Project due to water rationing, repairs, maintenance, or events beyond the Authority's control

- The Authority is responsible for its gross negligence and willful misconduct for its acts or omission under the GRP Contract; the Authority's simple negligence will be treated as a cost of the GRP. (Sec. 11.01)
- Remedies include non-binding mediation, injunctive relief, and civil litigation (Art. XI)
  - Termination of the GRP Contract is not an available remedy, except under limited circumstances
- Waiver of Governmental Immunity (Art. XI)
  - Participants can sue the Authority and *vice versa*
- Contract Term through the later of December 31, 2045, or December 31, 2089, at each Participant's option, or until all Authority bonds as of such date have been retired (Art. XII)
  - Provision for continuation of water service if a Participant has connected to the Project
- The Authority and the Participant are the exclusive beneficiaries of the GRP Contract.
- No opt-out if, by July 1, 2010, sixty percent (60%) or more (by 2009 volume) of groundwater users have executed a GRP Contract (Art. IX, Sec. 9.07)