



STORAGE AND PARKING AGREEMENT PROCEDURES
as related to
Northern Water's
STORAGE AND PARKING AGREEMENT RULE
August 2009

BACKGROUND

On August 8, 2008 the Board of Directors (Board) of the Northern Colorado Water Conservancy District (Northern Water) adopted the *Storage and Parking Agreement Rule* (Rule). The Rule provides an express prohibition of any, and all, parking and storage agreements for Class D Allotment Contracts. As defined in the Rule, certain situations may result in the Board declaring a Colorado-Big Thompson (C-BT) Allotment Contract held by a Class D Allottee forfeited if it determines that the Allottee has violated the Rule. Moreover, the Rule specifies that Northern Water will provide the opportunity for any qualified water user illustrating a beneficial use for such water within Northern Water's District boundary to apply for a transfer of any, and all, forfeited allotment contract units made available for purchase as per this procedure. A sealed bid process is described in the Rule as the method by which the forfeited C-BT units will be re-allotted. Once the highest qualified bidder is identified pursuant to the Rule, and to the Storage and Parking Agreement Procedures described herein, the final transfer of the units to the winning bidder shall be contingent upon final Board approval.

The purpose of these Procedures is to describe, in greater specificity, the requirements associated with: 1) submitting a qualifying bid application, 2) awarding the winning bid, and 3) allotting the associated allotment contract unit(s) via a Northern Water allotment contract. All Bid Packet information and forms can be obtained directly from Northern Water, 220 Water Avenue, Berthoud, Colorado, or retrieved online at: www.northernwater.org.

QUALIFICATIONS AND BID PACKET SUBMITTAL

1. C-BT Project allotment contract units declared forfeited by action of the Board pursuant to the Rule may be acquired for irrigation, domestic, municipal, multi-purpose, or industrial purposes. Future use and classification of such units is independent of their previous classification. The successful bidder(s) will be required to qualify for and comply with the terms of an allotment contract, and comply with the Water Conservancy Act, and the rules, regulations, policies, and procedures of Northern Water. Outlined below are the requirements that must be met for an individual or entity to be considered a qualified bidder.

Requirements Specific to Class B Contract and Class C Contract Bidders (i.e. municipal, domestic, multi-purpose, or industrial):

If the C-BT allotment contract unit(s) made available for acquisition by Northern Water is intended to be used for municipal, domestic, multi-purpose, industrial, or irrigation¹

¹ Class C allotment contract units used for irrigation purposes are not required to be attached to a specific and unique parcel of land.

purposes, the bidding entity/potential allottee must satisfy all of the Board's related rules, regulations, and policies, including, but not limited to:

- The bidding entity and its service area must be located within the boundary of Northern Water.
- The bidding entity must presently own some source of base (i.e. native) water supply.
- The bidding entity must be able to illustrate a beneficial need for the additional supplemental C-BT water pursuant to Northern Water's Guidelines on Limitations of Ownership of C-BT Allotment Contracts (Resolution D-962-02-95). To that end, an updated Ownership Limitation Calculation must be completed by interested bidders.

To provide the information required for Northern Water to determine that a Class B or Class C bidder is qualified, the following forms must be completed and returned to Northern Water prior to the bid submittal date and time described in the associated Public Notice:

- *Supplemental Information Form – Class B Contract or Class C Contract* (see bid packet Attachment I).
- *Affidavit of Verification of Base Water Supply – Class B Contract or Class C Contract* (see bid packet Attachment II).
- *Updated Ownership Limitation Calculation – Class B Contract or Class C Contract* (provided by Class B or Class C Contract Bidder).

In the event the available C-BT allotment contract unit(s) is intended to furnish a water requirement for a new residential or industrial development, or be used by a homeowner for a new water tap requirement, the allotment contract will be transferred directly to the entity supplying the new water service. As such, a letter from the water purveyor will be required to confirm that the unit will be used for the specified water requirements associated with procuring the new water service.

All of the information outlined above and provided to Northern Water by a bidder seeking the issuance of a Class B or Class C allotment contract must be placed in a separate envelope, the envelope sealed, and labeled: "Supplemental Information – Confidential". Supplemental Information must be submitted to Northern Water prior to the bid submittal date and time described in the associated Public Notice. The envelope enclosing the Supplemental Information will be date and time stamped upon receipt by Northern Water.

All interested bidders that obtain a bid packet from the office of Northern Water (versus an online bid packet) will be supplied an envelope and label.

Requirements Specific to Class D Contract Bidders (i.e. Irrigation):

If the C-BT allotment contract unit(s) made available for acquisition by Northern Water is intended to be used by an individual or entity other than a ditch or reservoir company, or irrigation or water conservancy district, for irrigation purposes (i.e. Class D), the unit(s) must ultimately be "attached" to the irrigable land(s) owned by the successful bidder, and meet all of the Board's related rules, regulations, and policies, including, but not limited to:

- The lands to which the C-BT unit(s) is anticipated to be attached must be located within the boundary of Northern Water.
- The lands to which the C-BT unit(s) is anticipated to be attached must have a history of irrigation.
- The lands to which the C-BT unit(s) is anticipated to be attached must have a base (native) water supply that is in the same ownership as the recorded ownership of the irrigable land.
- The lands to which the C-BT unit(s) is anticipated to be attached must illustrate a beneficial use and need for new, or additional, supplemental C-BT water.

To provide the information required for Northern Water to determine that a Class D bidder is qualified, the following forms must be completed and returned to Northern Water prior to the bid submittal date and time described in the associated Public Notice:

- *Supplemental Information Form – Class D Contract* (see bid packet Attachment III).
- *Affidavit of Verification of Base Water Supply – Class D Contract* (see bid packet Attachment IV).

All of the information outlined above and provided to Northern Water by a bidder seeking the issuance of a Class D allotment contract must be placed in a separate envelope, the envelope sealed, and labeled: “Supplemental Information – Confidential”. Supplemental Information must be submitted to Northern Water prior to the bid submittal date and time described in the associated Public Notice. The envelope enclosing the Supplemental Information will be date and time stamped upon receipt by Northern Water.

All interested bidders that obtain a bid packet from the office of Northern Water (versus an online bid packet) will be supplied an envelope and label.

2. Each bidder must complete a Bid Form (see bid packet Attachment V) for submittal to Northern Water prior to the bid submittal date and time described in the associated Public Notice. It is recommended that bids be hand-delivered to Northern Water. Northern Water will not be responsible for bids that are lost or delayed if mailed or shipped. A completed Bid Form must include the number of allotment contract units being bid upon, and the associated bid price. The completed Bid Form must be placed into an envelope, the envelope sealed, and labeled: “C-BT Bid – Confidential.” All interested bidders that obtain a bid packet from the office of Northern Water (versus an online bid packet) will be supplied an envelope and label. Supplemental Information and the Bid Form should NOT be placed into the same envelope.

An interested bidder may bid on all available C-BT allotment contract units, or as few C-BT allotment contract units as desired. If bidding on multiple C-BT allotment contract units the bidder may elect to submit a single per C-BT allotment contract unit bid that applies to all C-BT allotment contract units of interest. Alternatively, an interested bidder may submit an individual and unique bid for each, and every, C-BT allotment contract unit of interest. Regardless of the bidder’s preferred bidding method, only one Bid Form is allowed per bidding entity or individual.

To mitigate the possibility of one or more tie bids, bidders are encouraged not to bid in round figures (i.e. please include cents). Bidding on fractional C-BT allotment contract units is prohibited and will result in disqualification. No monetary funds of any amount are required to be included with the bid submittal.

An illustration of how Northern Water will select the “winning” bid is shown as Attachment VI.

3. The Supplemental Information Envelope and the Bid Envelope must be submitted together.

BID OPENING AND AWARDING OF C-BT ALLOTMENT CONTRACT UNIT(S)

1. Following submittal of a sealed bid to Northern Water, but prior to the date and time of the bid opening (per the associated Public Notice), Northern Water staff may, at its discretion, review all supplemental information provided by each bidder. Further, upon the request of a bidder, and prior to the opening of sealed bids, Northern Water staff will review the supplemental information submitted by that bidder to determine if that bidder is indeed qualified to be allocated any or all of the offered units.

If, upon reviewing the provided supplemental information, either before or after bid opening, it is determined by Northern Water staff that a bidder does not meet all of the requirements as defined by the Rule, the Water Conservancy Act, and the applicable regulations, policies, and procedures of Northern Water, the bidder will be disqualified. Any bidder determined to be non-qualifying prior to bid opening will be contacted immediately by Northern Water staff.

2. Upon the receipt by Northern Water of the Confidential Supplemental Information Envelope and the Confidential Bid Envelope, each envelope will be date and time stamped and will be assigned a Bid Number. The Bid Number will be assigned in increasing order based on the chronological sequence in which each submittal is received. A tabulation of the Bid Number and the time and date of receipt will be maintained by Northern Water. Each bidder will be notified of its respective Bid Number.
3. Sealed bid envelopes will be opened publicly by Northern Water staff at the office of Northern Water, on the date and at the time indicated on the associated Public Notice. Sealed Bids will be opened in Bid Number order. As sealed bids are opened the bid will be tabulated by Bid Number. If no tiebreaker is necessary, Northern Water staff will preliminarily allocate the forfeited C-BT allotment contract unit(s) to the respective bidder or bidders submitting the highest per C-BT unit bid. A final staff determination will be made only after all supplemental information is thoroughly reviewed. Once allocated, each successful entity/individual, and its associated number of units and bid price(s), will be posted publicly. All bidders and interested parties are welcome and encouraged to attend the bid opening.
4. If the Allotment Contract classification associated with one or more of the winning bids is Class D, Northern Water staff, as soon as practicable, will conduct a field examination of the lands described in the Supplemental Information submitted with the application. The field examination must substantiate the Supplemental Information provided to Northern Water by the bidder. In the event the field examination demonstrates that C-BT water may not be applied to such lands, the awarded bidder will be disqualified and the C-BT allotment contract unit(s) will be allocated to the next highest bidder.

5. In the event of a tie, all tying bidders preliminarily found to be qualified to be allocated the subject units will be contacted as soon as possible following the initial bid opening. Tied bidders will be offered the opportunity by Northern Water to submit a second sealed bid which may improve their respective bids, and to break the tie. Tiebreaking bids must be received by Northern Water prior to 4:00 p.m. on the business day following the day on which the tied bidders were notified of a tying bid situation. If no tie-breaker bids are submitted, the first received original bid will be declared the winning bid.

If the tie-breaking procedure is necessary to break a tie other than a tie for highest bidder (i.e. tie for second highest bid), resubmitting a second bid will not usurp the allocation of the initial allotment contract units to the highest bidder.

6. Once the C-BT allotment contract units have been finally allocated to one or more bidders, Northern Water will contact winning bidder(s) by telephone notifying them of their status. Bidders allocated C-BT allotment contract units will be required to submit full payment equal to the product of the C-BT allotment contract units allocated and the associated per C-BT allotment contract unit bid. Payment must be made to, and received by, Northern Water by 4:00 p.m. on the second business day following the day the successful bidder is notified. Payment must be made in the form of a certified cashier's check payable to Northern Water.

If no payment is received by the payment deadline, the initially successful bidder will be disqualified. In this instance, Northern Water will contact the next highest qualified bidder to allocate the same C-BT allotment contract units and require fund submittal under identical terms. If necessary, this process will be repeated until adequate funds are provided by a qualified bidder.

CONTRACT ISSUANCE

1. Following full payment by the successful bidder(s) to Northern Water for the forfeited C-BT allotment contract units, Northern Water will prepare one or more Allotment Contract applications. Successful bidders will be required to pay all applicable contract application fees.
2. Final allocation of the C-BT allotment contract units must be approved by the Board. The Board will consider the allotment contract for transfer to the successful bidder at a regularly scheduled Board meeting occurring no fewer than 20 days following the bid-opening date, but no more than 90 days following the bid-opening date.
3. If the Board does not approve the transfer to the successful bidder, the payment by the bidder for the right to apply for the transfer of the allotment contract units will be refunded. However, the allotment contract application fees will not be refunded. Northern Water will contact the next highest qualified bidder and follow the same process for fund submittal and application for the transfer of allotment contract.

ATTACHMENT I

Supplemental Information Form
Domestic, Irrigation, and Industrial Water Suppliers
(Class B Contact and Class C Contracts)

This form must be completed in BLUE ink.

Name of Bidding Entity: _____

Contact Name: _____

Address: _____
Street/POB City State Zip Code

Phone Number(s): _____
Office/Home Mobile

The information below must include the most current "CAP" Calculation information.

Current taps _____

Committed taps _____

Average of last ten year usage per existing tap _____ A.F./TAP

Firm Yield of Water Supply _____ A.F.

Average Yield of Water Supply _____ A.F.

Please list on a separate sheet a breakdown of each base water (native) supply and related shares.

- The entity and the entire service area is located within Northern Water boundaries.
- No base water supplies have been sold by the bidder to an entity or individual OUTSIDE of Northern Water boundaries since February 14, 1997.
- Not more than 50% of base water supplies have been sold by the bidder since February 14, 1997.
- Affidavit of Verification of Base Water Supply is enclosed (Attachment II).

I hereby certify that the above statements are true and correct.

Print Name

Signature

Date

**ENCLOSE IN SEALED ENVELOPE MARKED "SUPPLEMENTAL INFORMATION - CONFIDENTIAL"
AND RETURN TO NORTHERN WATER PRIOR TO THE DATE AND TIME PURSUANT TO THE
ASSOCIATED PUBLIC NOTICE.**

ATTACHMENT II

Affidavit of Verification of Base Water Supply
Domestic, Industrial, and Irrigation Water Suppliers
(Class B Contact and Class C Contract)

State of Colorado)
) ss.
County of _____)

I, _____, hereby swear and affirm under oath;

- 1. _____, a _____ (“Applicant”), has applied for a new allotment contract for _____ units of water from the Colorado-Big Thompson (C-BT) Project (the “Allotment Contract”), which can only be obtained by approval of the Board of Directors of the Northern Colorado Water Conservancy District (Northern Water).
- 2. I am the _____ of the Applicant.
- 3. In conjunction with the application for the Allotment Contract, I warrant and represent to Northern Water that the base water supplies currently owned, or permanently controlled, by the Applicant are as follows:

<u>Name</u>	<u>Amount Owned Shares or Acre Feet</u>	<u>Average Yield</u>	<u>Firm Yield</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
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_____	_____	_____	_____
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_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

- 4. The water and water rights described in paragraph 3 above are owned or permanently controlled by the Applicant.

5. I understand that the Board of Directors of Northern Water will rely upon the statements made by me in this Affidavit in considering this application for the Allotment Contract, and that such statements are subject to the provisions of C.R.S. § 18-8-503 which provides that a person commits perjury in the second degree if, with an intent to mislead a public servant in the performance of his or her duty, that person makes a materially false statement, which that person does not believe to be true, under oath required or authorized by law.
6. I understand that the approval of the Board of Directors of Northern Water of the application for the Allotment Contract may be rescinded if it is determined that one or more of my statements herein are materially false.

Sworn and affirmed under oath by _____ on
_____, 20 ____.

My commission expires: _____

Notary Public

**ENCLOSE IN SEALED ENVELOPE MARKED "SUPPLEMENTAL INFORMATION - CONFIDENTIAL"
AND RETURN TO NORTHERN WATER PRIOR TO THE DATE AND TIME PURSUANT TO THE
PUBLIC NOTICE.**

ATTACHMENT III

Supplemental Information Form
Individual Irrigation Contract
(Class D Contact)

This form must be completed in BLUE ink.

Name of Bidder or Bidding Entity: _____

Contact Name: _____

Address: _____
Street/POB City State Zip Code

Phone Number(s): _____
Office/Home Mobile

The information below may be used in conducting a field examination on lands to which the C-BT allotment contract would be attached.

Description of Lands to Which a Class D Allotment Contract will be Attached: _____

Total Acres _____ **Irrigated Acres** _____

Base (Native) Water Supplies & Irrigation Well(s) Used on Land Described Above

<u>Surface Water Supplies</u>		⋮	<u>Ground Water Supplies</u>	
Ditch Company	Shares		Well	*GPM/CFS
_____	_____	⋮	_____	_____
_____	_____	⋮	_____	_____

Copies of related stock certificates and well adjudication documents must be attached.
**Gallons Per Minute or Cubic Feet Per Second*

- A copy of the Recorded Warranty Deed with complete legal description of the land described above and showing title to the bidder is attached.
- The land described above is located within Northern Water boundaries.
- No base water supplies have been sold by the bidder to an entity or individual OUTSIDE of Northern Water boundaries since February 14, 1997.
- Not more than 50% of base (native) water supplies have been sold by the bidder since February 14, 1997.
- Affidavit of Verification of Base Water Supply enclosed (Attachment IV).

I hereby certify that the above statements are true and correct.

Print Name Signature Date

ENCLOSE IN SEALED ENVELOPE MARKED "SUPPLEMENTAL INFORMATION-CONFIDENTIAL" AND RETURN TO NORTHERN WATER PRIOR TO THE DATE AND TIME PURSUANT TO THE ASSOCIATED PUBLIC NOTICE.

ATTACHMENT IV

Affidavit of Verification of Base Water Supply
Irrigation Purposes
(Class D Contact)

State of Colorado)
) ss.
County of _____)

I, _____, hereby swear and affirm under oath;

- 1. I have applied for a new allotment contract for ____ units of water from the Colorado-Big Thompson (C-BT) Project (the "Allotment Contract"), which can only be obtained by approval of the Board of Directors of the Northern Colorado Water Conservancy District (Northern Water).

- 2. In conjunction with my application, I warrant and represent to Northern Water that the base water supply on the property on which the water from the Allotment Contract will be used is as follows: _____

- 3. The water and water rights described in paragraph 2 above are owned or permanently controlled by me.

- 4. In conjunction with my application, I also warrant and represent to Northern Water that I do not have any present plan or intention to acquire ownership or permanent control of any water, water right or right to water that could be used as a base water supply on the property on which the water from the Allotment Contract will be used, that is not listed in paragraph 2 above, except as follows: _____.

- 5. I understand that the Board of Directors of Northern Water will rely upon the statements made by me in this Affidavit in considering my application, and that such statements are subject to the provisions of C.R.S. § 18-8-503 which provides that a person commits perjury in the second degree if, with an intent to mislead a public servant in the performance of his duty, that person makes a materially false statement, which that person does not believe to be true, under oath required or authorized by law.

6. I understand that the approval of the Board of Directors of Northern Water of my application may be rescinded if it is determined that one or more of my statements herein are materially false.

Sworn and affirmed under oath by _____ on
_____, 20 ____.

My commission expires: _____

Notary Public

**ENCLOSE IN SEALED ENVELOPE MARKED "SUPPLEMENTAL INFORMATION - CONFIDENTIAL"
AND RETURN TO NORTHERN WATER PRIOR TO THE DATE AND TIME PURSUANT TO THE
PUBLIC NOTICE.**

ATTACHMENT V

Bid Form

Name of Bidder or Bidding Entity: _____

Contact Name: _____

Address: _____ **Phone:** (Office) _____

_____ (Home) _____

(Mobile) _____

Listed below is the number of C-BT allotment contract units and the Bid Price per C-BT allotment contract unit:

<u>Number of C-BT Allotment Contract Units</u>	<u>Bid Price per C-BT Allotment Contract Unit</u>
_____	\$ _____.
_____	\$ _____.
_____	\$ _____.
_____	\$ _____.

Total Number of C-BT Allotment Contract Units Bidding on: _____

By signing this Bid Form, you agree that you are submitting a bid to purchase the right to apply for Colorado-Big Thompson Project allotment contract units declared forfeited by action of the Board of Directors of Northern Water in accordance with the Storage and Parking Agreement Rule.

Authorizing Individual:

Name (Print)

Signature

Date

ENCLOSE IN SEALED ENVELOPE MARKED "C-BT BID - CONFIDENTIAL" AND RETURN TO NORTHERN WATER PRIOR TO THE DATE AND TIME PURSUANT TO THE ASSOCIATED PUBLIC NOTICE.

ATTACHMENT VI

Illustration of Selecting the Winning Bid

The following examples are meant only as illustrations as to how Northern Water will select a winning bid.

Example #1

(4 C-BT allotment contract units available for bid):

Four Bids Received

Bidder “EX1-A” bids for 4 allotment contract units at \$7,500 per unit.
Bidder “EX1-B” bids for 4 allotment contract units at \$7,000 per unit.
Bidder “EX1-C” bids for 3 allotment contract units at \$6,000 per unit.
Bidder “EX1-D” bids for 1 allotment contract unit at \$5,000 per unit.

Northern Water will award all 4 C-BT allotment contract units to Bidder “EX1-A” for \$7,500 per C-BT unit.

Total sale amount: \$30,000.00.

Example #2

(4 C-BT allotment contract units available for bid):

Four Bids Received

Bidder “EX2-A” bids for 1 allotment contract unit at \$7,999.99 per unit.
Bidder “EX2-B” bids for 2 allotment contract units at \$7,998.99 per unit.
Bidder “EX2-C” bids for 4 allotment contract units at \$7,995.00 per unit.
Bidder “EX2-D” bids for 2 allotment contract unit at \$7,899.99 per unit.

Northern Water will award:

*1 allotment contract unit to Bidder “EX2-A” for \$7,999.99 per unit;
2 allotment contract units to Bidder “EX2-B” for \$7,998.99 per unit; and
1 allotment contract unit to Bidder “EX2-C” for \$7,995.00 per unit.*

Total sale amount: \$31,992.97.