

PURCHASE AND SALE AGREEMENT

By and Between

**FLINT HILLS RESOURCES CORPUS CHRISTI, LLC,
as Seller**

and

**CITY OF CORPUS CHRISTI, TEXAS,
as Buyer**

Dated effective as of _____, 2022

TABLE OF CONTENTS

	Page
1. <u>Conveyances</u>	1
2. <u>Purchase Price and Payment</u>	2
3. <u>Limitation on Representations and Warranties; Assumption and Release</u>	3
4. <u>Disannexation; Development Agreement; Right of Repurchase</u>	5
5. <u>Option Period</u>	10
6. <u>Title and Survey</u>	12
7. <u>Deed</u>	13
8. <u>Closing</u>	14
9. <u>Apportionment of Taxes and Other Closing Costs</u>	14
10. <u>Utilities/Certain Permits</u>	15
11. <u>Condemnation and Casualty Loss; Force Majeure</u>	15
12. <u>No Broker</u>	16
13. <u>Default</u>	16
14. <u>Notices</u>	17
15. <u>Assignment</u>	18
16. <u>Exchange</u>	18
17. <u>Closing Documents</u>	19
18. <u>Seller's Representations and Warranties</u>	20
19. <u>Representations and Warranties of Buyer</u>	22
20. <u>Conditions of Seller's Obligations</u>	22
21. <u>Conditions of Buyer's Obligations</u>	23
22. <u>Complete Agreement</u>	23
23. <u>Times is of the Essence; Dates</u>	23
24. <u>Recording of Memorandum of Option</u>	25
25. <u>Miscellaneous</u>	24
26. <u>Binding Effect; Waiver of Sovereign Immunity from Liability and Suit; Further Assurances; Venue</u>	24
27. <u>Waiver of Special Damages</u>	25
28. <u>Title Insurance Remedy</u>	26
29. <u>Confidentiality</u>	26
30. <u>Right to Counsel; No Presumption Against Drafter</u>	26
31. <u>Provision of Potable Water to Seller</u>	27

32.	<u>Reservation of Mineral Rights and Mineral Leases</u>	27
33.	<u>Texas Provisions</u>	27

Exhibits

Exhibit A	Definitions
Exhibit B	Legal Description for Land
Exhibit C	Legal Description for Seller Retained Land
Exhibit D-1	Location of Pipeline Easements
Exhibit D-2	Location of Submerged Land Easement
Exhibit D-3	Location of Intake Pump Station Easement
Exhibit D-4	Location of Access Easements
Exhibit D-5	Location of Construction/Maintenance Easements
Exhibit D-6	Location of Temporary Soil Storage Easement
Exhibit E	Form of Easement Agreement
Exhibit F	Form of Additional Option Period Notice
Exhibit G	Form of Development Agreement
Exhibit H	Form of Special Warranty Deed
Exhibit I	Form of Escrow Agreement
Exhibit J	Form of Reannexation Petition
Exhibit K	Form of Repurchase Right Reimbursement Agreement
Exhibit L	Form of Soil Management Plan
Exhibit M	Form of Reconveyance Deed
Exhibit N	Form of Termination and Release of Repurchase Right
Exhibit O	[Intentionally Omitted]
Exhibit P	Access Agreements
Exhibit Q	Permitted Exceptions
Exhibit R	Form of Certificate and Affidavit of Non-Foreign Status
Exhibit S	Form of Seller's Affidavit
Exhibit T	Form of Legal Opinion
Exhibit U	Form of Memorandum of Option
Exhibit V	Form of Termination of Memorandum of Option

Schedules

Schedule 1	Required Permits
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PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT (this “**Agreement**”) is made and entered into as of this _____ day of _____, 2022 (the “**Effective Date**”), by and between FLINT HILLS RESOURCES CORPUS CHRISTI, LLC, a Delaware limited liability company (“**Seller**”), and the CITY OF CORPUS CHRISTI, TEXAS, a Texas home rule municipality (“**Buyer**”). Capitalized terms used but not otherwise defined herein shall have the meaning ascribed to such terms on Exhibit A attached hereto and made a part hereof.

AGREEMENT

In consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged by Seller and Buyer, Seller and Buyer agree as follows:

1. Conveyances.

(a) **Real Property.** Upon the terms and conditions herein set forth, Seller agrees to sell and convey to Buyer, and Buyer agrees to purchase from Seller and take title to, certain land located in Nueces County, Texas, and being more particularly described on Exhibit B attached hereto and made a part hereof (the “**Land**”), together with all of Seller’s right, title and interest in and to any and all appurtenances in any way belonging or appurtenant to said Land, including, without limitation, any strips and gores, if any, adjacent or contiguous to the Land, any land lying in or under any street, alley or road running through, abutting or adjacent to the Land, and any easements, rights of ingress and egress and reversionary interests benefitting or serving the Land (all of which are included as part of the “**Land**” herein); provided, that Seller shall reserve unto itself, and shall not convey to Buyer at Closing (as hereinafter defined), all of Seller’s interest in (i) any and all water, oil, gas, hydrocarbons and other minerals of whatever kind or nature under or within the Land owned by Seller, (ii) all royalties, benefits, bonuses, rents, funds, claims and other proceeds of any kind attributable to or that may accrue in connection with any water, oil, gas, and other minerals in, under and that may be produced from the Land, and (iii) any and all rights and improvements associated with such water, oil, gas, hydrocarbons or other minerals and all rights pertaining thereto (collectively, the “**Excluded Water and Minerals**”; the Land, excluding the Excluded Water and Minerals, being hereinafter collectively referred to as the “**Property**”); provided further, that Seller shall not reserve or retain, and shall waive and relinquish in the Deed (as hereinafter defined), any and all rights to use the surface of the Land for any use whatsoever, including, without limitation, any operations in connection with the exploration, development and production of the Excluded Water and Minerals of whatever kind or nature (the “**Surface Waiver**”). The Surface Waiver shall not restrict Seller from mining, drilling, exploring, operating, developing or extracting the Excluded Water and Minerals by means of pooling, directional drilling or other methods that do not require utilization of the surface of the Land so long as such activities do not cause any interference with the surface of the Property through subsidence, expansion, or any other shifting. Buyer proposes to acquire the Property and the Easements (as hereinafter defined) for the purpose of constructing and operating a water desalination and treatment plant and other facilities in connection therewith (collectively, the “**Project**”). For the avoidance of doubt, as used herein, the term “**Property**” does not include the Easements.

(b) **Easements.** Upon the terms and conditions herein set forth, in addition to the Property, Seller agrees to convey to Buyer, and Buyer agrees to accept from Seller, at Closing, the Easements across certain land owned by Seller and located in Nueces County, Texas, which land is more particularly described on Exhibit C attached hereto and made a part hereof (the “**Seller Retained Land**”). The easements to be granted at Closing pursuant to this Section 2(b) are more particularly described as follows: (i) a limited, nonexclusive pipeline easement in the approximate locations generally depicted on

Exhibit D-1 attached hereto and incorporated herein by this reference (collectively, the “**Pipeline Easement**”), which shall be used solely for the installation, inspection, maintenance, repair and replacement of seawater and seawater concentrate pipelines, intake and outfall structures used in connection with an intake pump station, and ancillary facilities and utilities used in connection with the Project; (ii) a limited, nonexclusive easement to submerged land in the approximate locations generally depicted on Exhibit D-2 attached hereto and incorporated herein by this reference, which shall be used solely for the installation, inspection, replacement and repair of certain seawater intake and outfall structures to be installed and used in connection with the Project (collectively, the “**Submerged Land Easement**”); (iii) a limited, nonexclusive easement in the approximate location generally depicted on Exhibit D-3 attached hereto and incorporated herein by this reference, which shall be used for the installation, inspection, replacement and repair of a seawater intake pump station to be installed and operated in connection with the Project (collectively, the “**Intake Pump Station Easement**”); (iv) a limited, nonexclusive road access easement in the approximate locations generally depicted on Exhibit D-4 attached hereto and incorporated herein by this reference, which shall be used solely for ingress to and egress from the Construction/Maintenance Easement (as hereinafter defined), the Pipeline Easement, the Submerged Land Easement and the Intake Pump Station Easement (collectively, the “**Access Easement**”); (v) a limited, nonexclusive easement in the locations generally depicted on Exhibit D-5 attached hereto and incorporated herein by this reference, which shall be used solely for the construction, installation and maintenance of the Easement Improvements (as hereinafter defined) (collectively, the “**Construction/Maintenance Easement**”); and (vi) a limited, nonexclusive easement in the location generally depicted on Exhibit D-6 attached hereto and incorporated herein by this reference, which shall be used solely for the temporary storage of excess soil during the construction of the Easement Improvements (collectively, the “**Temporary Soil Storage Easement**”, and together with the Pipeline Easement, the Submerged Land Easement, the Intake Pump Station Easement, the Access Easement, and the Construction/Maintenance Easement, collectively, the “**Easements**”). The Easements shall be conveyed by Seller to Buyer at Closing in the form of, and subject to the terms and conditions set forth in, Exhibit E attached hereto and incorporated herein by this reference (the “**Easement Agreement**”). As related to the Submerged Land Easement, Buyer shall, at Buyer’s sole cost and expense, obtain any required property interests from other parties together with approvals from all applicable governmental agencies, and to the extent reasonably required, Seller shall consent to and/or join such grants. Buyer shall notify Seller of any such required interests or approvals from third-parties and governmental agencies and, at the request of Seller, will allow Seller to participate in the discussions with such parties and agencies. As used herein, the “**Easement Areas**” means the portion of the Seller Retained Land upon which the Easements will be located. As used herein “**Easement Improvements**” means all improvements to be installed on the areas of the Seller Retained Land in connection with the Project upon which the Pipeline Easement, the Submerged Land Easement and the Intake Pump Station Easement are located.

2. Purchase Price and Payment.

(a) **Purchase Price.** The total purchase price for the Property and Easements shall be **\$5,455,000.00** (the “**Purchase Price**”), to be paid in cash or other immediately available funds to Seller at Closing.

(b) **Earnest Money.** Within five Business Days after the Effective Date, Buyer will deposit with San Jacinto Title Services of Texas, LLC, whose address is 520 Lawrence Street, Corpus Christi, Texas 78401, Attn: Shelly Grahmann, Email: shellygrahmann@sanjacintotitle.com (the “**Title Company**”), in escrow, the sum of **\$500.00** as earnest money (said sum referred to herein as the “**Earnest Money**”) in an interest bearing account to be applied as partial payment of the Purchase Price at Closing, or otherwise paid to Seller or refunded to Buyer as set forth herein. Notwithstanding anything to the contrary set forth herein, for income tax reporting purposes, any and all interest earned on any sum deposited with the Title Company hereunder shall be deemed income attributable to Buyer.

(c) **Initial Option Fee.** Simultaneously with the delivery of the Earnest Money to the Title Company and in no event later than five Business Days after the Effective Date, as consideration for the Initial Option Period (hereinafter defined) Buyer will also deliver to Seller the nonrefundable sum of **\$300,000.00** as the initial independent consideration for this Agreement and the Initial Option Period (said sum referred to herein as the “**Initial Option Fee**”), which Initial Option Fee shall be applied as partial payment of the Purchase Price at Closing, if Closing occurs.

(d) **Additional Option Fee.** If on or before 30 days prior to the last day of the Initial Option Period (i) Buyer has not received any one of the permits described on Schedule 1 attached hereto and made a part hereof (collectively, the “**Required Permits**”) or (ii) any of the Required Permits are subject to an appellate proceeding, then Buyer may, at its option, elect to extend the Total Option Period (as hereinafter defined) for an additional one year or two years (such extension of the Total Option Period, the “**Additional Option Period**”) by (A) notifying Seller of its election to extend the Total Option Period by delivering a notice to Seller in the form of Exhibit F attached hereto and incorporated herein by reference (such notice, the “**Additional Option Notice**”) and (B) delivering to Seller the nonrefundable Additional Option Fee (as hereinafter defined) as the additional independent consideration for the Additional Option Period within five Business Days after Buyer provides the Additional Option Notice to Seller. Buyer’s right to extend the Total Option Period by an Additional Option Period is a one-time right only. The Additional Option Fee shall be applied as partial payment of the Purchase Price at Closing, if Closing occurs. As used herein, the “**Additional Option Fee**” means either (A) in the event Buyer elects to extend the Total Option Period for an additional one year, **\$150,000.00** or, alternatively, (B) in the event Buyer elects to extend the Total Option Period for an additional two years, **\$350,000.00**, as the case may be. Both the Initial Option Fee and the Additional Option Fee shall be deemed fully earned and “at risk” upon payment to Seller and nonrefundable to Buyer. As used herein, “**Total Option Period**” means the Initial Option Period plus the Additional Option Period, if any. For the avoidance of doubt, if Buyer does not elect to purchase an Additional Option Period as provided in this Section 2(d), then the Total Option Period shall mean the Initial Option Period.

(e) **Failure to Deliver Funds.** In the event Buyer fails to pay (i) the Earnest Money to the Title Company, (ii) the Initial Option Fee to Seller, or (iii) if Buyer has given an Additional Option Notice to Seller, the applicable Additional Option Fee to Seller, within the time period specified in this Section 2, then Seller shall have the sole option to immediately terminate this Agreement by providing notice to Buyer, in which event this Agreement shall become null and void, Seller and Buyer shall have no further rights, duties, obligations or liabilities under this Agreement, except for obligations which expressly survive termination hereof, and the Title Company shall be irrevocably authorized to record the Termination of Memorandum of Option at Buyer’s expense, if the Memorandum of Option was previously recorded. Notwithstanding anything to the contrary set forth herein, for income tax reporting purposes, any and all interest earned on any sum deposited with the Title Company hereunder shall be deemed income attributable to Buyer.

3. Limitation on Representations and Warranties; Assumption and Release.

(a) Any title commitments, title exceptions, assessments, surveys, plats, plans, reports, studies or other documents, including, without limitation, Seller’s East Refinery Annual Groundwater Report for the year [____] submitted to the State of Texas (collectively, “**Review Documents**”) made available to Buyer or Buyer’s Affiliates by Seller or Seller’s Affiliates are provided on a non-reliance basis as information only. Buyer shall not rely upon Seller’s or Seller’s Affiliates’ provision of any Review Documents in lieu of Buyer conducting its own due diligence. Except for any express representations and warranties contained in Section 18, Seller has not made, does not make, and has not authorized anyone else to make any representation or warranty with respect to the Property, the Easements or the Review Documents, including as to: (i) the accuracy, reliability or completeness of any of the Review Documents;

(ii) the availability of railroad, water, sewer, electrical, gas or other utility services; (iii) the Environmental Condition (hereinafter defined) of the Property or the Easement Areas; (iv) the habitability, merchantability or fitness for a particular purpose of all or any portion of the Property or the Easement Areas; (v) the number of acres contained in the Property or the Easement Areas, or whether any portion of such Property or the Easement Areas is able to be developed; (vi) the zoning, subdivision or land use laws or requirements applicable to the Property or the Easement Areas or the conformance of the Property or the Easement Areas with any such zoning, subdivision or land use laws or requirements; or (vii) any other matter or thing affecting or relating to the Property, the Easement Areas, the condition of any of them, or this Agreement. Subject to any express representations and warranties of Seller contained in Section 18 and the special warranty of title in the Deed, upon the conveyance of the Property and the Easements to Buyer, Buyer shall accept the Property and the Easement Areas in their respective present environmental and physical condition, **“AS-IS,” “WHERE-IS,” WITH ALL FAULTS AND DEFECTS, WITHOUT ANY REPRESENTATION OR WARRANTY WHATSOEVER AS TO ITS CONDITION (PHYSICAL OR OTHERWISE), FITNESS FOR ANY PARTICULAR PURPOSE, MERCHANTABILITY, OR ANY OTHER WARRANTY, EXPRESS OR IMPLIED,** regardless of how any such faults and defects were caused or created (whether by Seller’s, Seller’s Affiliates’, or any other party’s negligence, actions or fault or otherwise), and acknowledges that: (y) without this acceptance, the sale contemplated by this Agreement would not be consummated and (z) neither Seller nor Seller’s Affiliates, shall be under any obligation whatsoever to undertake any improvement, repair, modification, alterations, removal, remediation or other work of any kind with respect to all or any portion of the Property or the Easement Areas.

(b) UPON CLOSING, BUYER SHALL EXPRESSLY ASSUME ANY AND ALL LIABILITY RELATED TO ANY ENVIRONMENTAL CONDITIONS AND ANY HAZARDOUS MATERIALS, AND BUYER, FOR ITSELF AND BUYER’S AFFILIATES, WAIVES, RELINQUISHES, AND RELEASES THE RELEASED PARTIES (HEREINAFTER DEFINED) FROM ANY AND ALL LOSSES/CLAIMS (HEREINAFTER DEFINED) ARISING OUT OF OR RELATED TO THE ENVIRONMENTAL CONDITION OF THE PROPERTY AND THE EASEMENT AREAS, except to the extent arising from the negligence or willful misconduct of Seller. In the event Buyer assigns this Agreement to a non-governmental entity pursuant to Section 15, then in addition to the forgoing release, Buyer’s assignee shall, by operation of its acceptance of an assignment of this Agreement from Buyer, agree to, upon Closing, **INDEMNIFY, PROTECT, DEFEND (WITH COUNSEL REASONABLY ACCEPTABLE TO SELLER) AND HOLD HARMLESS THE RELEASED PARTIES FROM ANY AND ALL LOSSES/CLAIMS ARISING OUT OF OR RELATED TO THE ENVIRONMENTAL CONDITION OF THE PROPERTY AND THE EASEMENT AREAS,** except to the extent arising from the negligence or willful misconduct of Seller.

(c) Buyer expressly acknowledges that in entering into this Agreement, Buyer is not relying on any representations or warranties from or by Seller or Seller’s Affiliates except as specifically provided in Section 18. Instead, Buyer is responsible for, has conducted or shall conduct such due diligence as it deems necessary to protect its interest in purchasing the Property and the Easements and in evaluating its liability in doing so. Buyer has examined and inspected or shall fully examine and inspect the Property and the Easement Areas and become thoroughly familiar with the title, physical and Environmental Condition, status and suitability of the Property and the Easement Areas.

(d) Upon the Closing, except as otherwise expressly provided in Section 18 or the Deed delivered by Seller to Buyer at Closing, Buyer shall assume the risk that adverse matters, including, without limitation, adverse physical, zoning and Environmental Conditions, may not have been revealed by Buyer’s due diligence investigations; and Buyer, upon Closing, shall, except as otherwise expressly provided in Section 18 or the Deed delivered by Seller to Buyer at Closing, be deemed to have forever **WAIVED, RELINQUISHED AND RELEASED SELLER AND SELLER’S AFFILIATES**

(COLLECTIVELY, THE “**RELEASED PARTIES**”), AND BUYER HEREBY FOREVER WAIVES, RELINQUISHES AND RELEASES THE RELEASED PARTIES, UPON CLOSING, FROM ANY AND ALL LOSSES/CLAIMS THAT BUYER OR BUYER’S AFFILIATES, ANY GOVERNMENTAL BODY OR ANY OTHER PERSON OR ENTITY MIGHT HAVE ASSERTED OR ALLEGED OR MIGHT HEREAFTER ASSERT OR ALLEGE AGAINST ANY OF THE RELEASED PARTIES, THE PROPERTY OR THE EASEMENT AREAS AT ANY TIME BY REASON OF, OR ARISING OUT OF, ANY LATENT OR PATENT CONSTRUCTION DEFECTS OR PHYSICAL CONDITIONS ON THE PROPERTY, THE EASEMENT AREAS, VIOLATIONS (OR ALLEGED VIOLATIONS) OF, OR LIABILITY (OR ALLEGED LIABILITY) UNDER ANY APPLICABLE ENVIRONMENTAL LAW OR OTHER LEGAL REQUIREMENT OR ORDER, AND ANY AND ALL OTHER ACTS, OMISSIONS, EVENTS, CIRCUMSTANCES OR MATTERS REGARDING THE PROPERTY OR THE EASEMENT AREAS, REGARDLESS OF HOW OR WHEN CAUSED OR CREATED, in each case, except to the extent arising from the negligence or willful misconduct of Seller. Furthermore, in the event Buyer assigns this Agreement to a non-governmental entity pursuant to Section 15, then in addition to the forgoing release, Buyer’s assignee shall, by operation of its acceptance of an assignment of this Agreement from Buyer, agree to, upon Closing, INDEMNIFY, PROTECT, DEFEND (WITH COUNSEL REASONABLY ACCEPTABLE TO SELLER) AND HOLD HARMLESS THE RELEASED PARTIES FROM ANY AND ALL LOSSES/CLAIMS THAT BUYER OR BUYER’S AFFILIATES, ANY GOVERNMENTAL BODY OR ANY OTHER PERSON OR ENTITY MIGHT HAVE ASSERTED OR ALLEGED OR MIGHT HEREAFTER ASSERT OR ALLEGE AGAINST ANY OF THE RELEASED PARTIES, THE PROPERTY OR THE EASEMENT AREAS AT ANY TIME BY REASON OF, OR ARISING OUT OF, ANY LATENT OR PATENT CONSTRUCTION DEFECTS OR PHYSICAL CONDITIONS ON THE PROPERTY, THE EASEMENT AREAS, VIOLATIONS (OR ALLEGED VIOLATIONS) OF, OR LIABILITY (OR ALLEGED LIABILITY) UNDER ANY APPLICABLE ENVIRONMENTAL LAW OR OTHER LEGAL REQUIREMENT OR ORDER, AND ANY AND ALL OTHER ACTS, OMISSIONS, EVENTS, CIRCUMSTANCES OR MATTERS REGARDING THE PROPERTY OR THE EASEMENT AREAS, REGARDLESS OF HOW OR WHEN CAUSED OR CREATED, except to the extent arising from the negligence or willful misconduct of Seller.

(e) The provisions of this Section 3 are intended to be for the benefit of, and shall be enforceable by, Seller and each of the other Released Parties and are in addition to, and not in substitution for, any other rights that any such person or entity may have by contract, law or otherwise (if any). The obligations of Buyer under this Section 3 shall not be terminated or modified in such a manner as to adversely affect any Released Party to whom this Section 3 applies without the consent of the affected Released Party, it being expressly agreed that the Released Parties to whom this Section 3 applies shall be third party beneficiaries of this Section 3. The parties acknowledge and agree that the provisions set forth in Section 3 are a material inducement for Seller to enter into this Agreement and that Seller would not enter into this Agreement were it not for the inclusion of these provisions.

The provisions contained in this Section 3 shall survive Closing and delivery and recording of the Deed or the termination for any reason of this Agreement.

4. Disannexation; Development Agreement; Right of Repurchase.

(a) Development Agreement.

(i) Disannexation. Prior to the Closing Date but after the Easement Survey is in agreed form as provided in Section 6(a) hereof, Buyer will cause the Property to be disannexed from the municipal jurisdiction of the City of Corpus Christi such that the Property becomes part of the extraterritorial jurisdiction of the City of Corpus Christi (such process, the “**Disannexation**”). Seller will join with Buyer to execute any documents required by Buyer and approved by Seller (in its reasonable

discretion) to accomplish the Disannexation. On the date the Disannexation is approved by the City Council of the City of Corpus Christi (the “**City Council**”), Buyer and Seller shall enter into an extraterritorial jurisdiction development agreement under the provisions of Section 212.171, et. seq. of the Texas Local Government Code in the form of Exhibit G attached hereto and incorporated herein by reference (the “**Development Agreement**”).

(ii) Reannexation. If the Disannexation has occurred, then upon the earlier to occur of (1) Closing or (2) the termination of this Agreement, Seller will execute and deliver to Buyer a petition for full purpose reannexation of the Property into the municipal jurisdiction of the City of Corpus Christi in the form of Exhibit J attached hereto and incorporated herein by reference (the form of which has been approved by the City Council) (the “**Reannexation Petition**”). The City Council shall act upon such Reannexation Petition at such time as may be determined by the City Council according to the laws of the State of Texas then in effect.

(b) **Repurchase Right.**

(i) Exercise of Repurchase Right. In the event the Closing occurs, Seller will have the right, but not the obligation, to repurchase all of the Property from Buyer at the Purchase Price (the “**Repurchase Right**”) if either (i) Buyer has not satisfied the Project Progress Conditions (as hereinafter defined) as of the fifth anniversary of the Closing Date or (ii) on or prior to the fifth anniversary of the Closing Date, Buyer notifies Seller that Buyer does not plan to proceed with the Project (the occurrence of the events described in clauses (i) and (ii) are each referred to herein as a “**Repurchase Right Trigger Event**”, and such anniversary date or the date upon which Seller is notified of such Repurchase Right Trigger Event, the “**Repurchase Right Trigger Date**”). Upon the occurrence of a Repurchase Right Trigger Event, Seller shall have until the first anniversary of the Repurchase Right Trigger Date to conduct due diligence investigations (including, without limitation, to conduct all tests and studies of whatever nature Seller deems necessary in its sole and absolute discretion (including, without limitation, invasive Phase II environmental site assessments) at Seller’s sole expense and liability and to obtain and review a title commitment for the Property) and to notify Buyer of Seller’s election to exercise its Repurchase Right (such period, the “**Repurchase Right Term**” and such notice, the “**Repurchase Right Notice**”). If Seller fails to notify Buyer of its election to exercise its Repurchase Right prior to the expiration of the Repurchase Right Term, then the Repurchase Right shall be deemed forfeited and of no further force and effect. The Repurchase Right may only be exercised for the entire parcel of the Property, except as provided in Section 4(b)(iv).

(ii) Repurchase Right Closing. Within 90 days after the date of the Repurchase Right Notice, but in no event later than the last day of the Repurchase Right Term, Seller shall deposit the Purchase Price in cash or other immediately available funds with the Title Company. In the event that the Property and the Easement Areas are not in a condition substantially similar to (and in any event no worse than) the condition as existed on the Closing Date (subject to any Remediation performed by Buyer), as determined by Seller in its reasonable discretion, the Repurchase Right Closing (hereinafter defined) shall be delayed by a period of up to 90 days after the date of the Repurchase Right Notice in order to allow Buyer, at Buyer’s sole cost and expense, to restore the Property and Easement Areas to such condition (such restoration obligation, the “**Repurchase Right Restoration Obligation**”); provided, that at Buyer’s request, Seller may (but is not obligated to) permit Buyer to leave certain improvements on the Property and the Easement Areas in-place (including paving, soil reinforcement, leveling, gravel, electrical transformers and other electrical equipment, and other infrastructure that can be repurposed for future development) at no additional cost to Seller. Any improvements left on the Property and Easement Areas in accordance with the forgoing sentence shall be deemed to be the property of Seller. In the event of a good faith dispute between Seller and Buyer as to whether the Repurchase Right Restoration Obligation has been satisfied, Seller and Buyer shall attempt to resolve such dispute through mediation within 60 days,

and if such is not successfully resolved by such mediation, then by litigation in the county in which the Properties are located; provided that, nothing in this process shall postpone the requirement that Seller deposit the Purchase Price with the Title Company pursuant to the terms and conditions of the Escrow Agreement (hereinafter defined) on or before the last day of the Repurchase Right Term in order to exercise the Repurchase Right. The closing of the Repurchase Right (the “**Repurchase Right Closing**”) shall occur five Business Days after the earlier to occur of (a) Seller’s deposit of the Purchase Price or (b) Buyer has satisfied the Repurchase Right Restoration Obligation or such Repurchase Right Restoration Obligation is waived by Seller. At the Repurchase Right Closing, (i) the Title Company shall release the Purchase Price from escrow to Buyer, (ii) the Title Company shall release the Reconveyance Instruments from escrow in accordance with the Escrow Agreement, (iii) Buyer, at Buyer’s sole cost and expense, shall cause the Title Company to issue in favor of Seller an owner’s policy of title insurance covering the Property, in form and substance on the same terms as the title insurance obtained by Buyer at the Closing and subject only to the Permitted Exceptions (provided, that any endorsements to the basic owner policy of title insurance shall be at Seller’s cost), (iv) Seller and Buyer shall promptly (and in any event no later than three Business Days after request) execute and deliver all other documents reasonably requested by Seller or the Title Company in order to consummate the Repurchase Right Closing, and (v) the Easement Agreement shall terminate in accordance with its terms. For the avoidance of doubt, in the event Seller exercises the Repurchase Right, Buyer shall be responsible for all expenses allocable to the Property for all periods from and after the day of Closing and prior to the 11:59 P.M. Corpus Christi Time on the day before the Repurchase Right Closing.

(iii) Project Progress Conditions. As used herein, “**Project Progress Conditions**” means Buyer shall have entered into all contracts necessary for Buyer to construct the Project (including, without limitation, the construction contracts for the construction of the desalination plant, electrical substation, intake pump station, pipelines, and submerged facilities). Buyer shall send notice to Seller and the Title Company of its satisfaction of the Project Progress Conditions together with copies of all of the relevant construction contracts (the “**Project Progress Condition Satisfaction Evidence**” and such notice from Buyer to Seller, the “**Project Progress Condition Notice**”) on or prior to the fifth anniversary of the Closing Date. Seller shall have 30 days to review the Project Progress Condition Satisfaction Evidence and to object or request additional information from Buyer by written notice to Buyer and the Title Company. If Seller does not timely object to the Project Progress Condition Satisfaction Evidence, then (i) the Project Progress Conditions shall be deemed satisfied as of the date of such Project Progress Condition Notice, (ii) the Repurchase Right will terminate, and (iii) the Title Company will be irrevocably authorized to record the Repurchase Right Termination (as hereinafter defined) pursuant to the Escrow Agreement. If Seller does timely object to the Project Progress Condition Satisfaction Evidence, then Buyer shall have 30 days to respond to Seller’s objection in writing with a copy to the Title Company, and Seller shall have an additional 30 days to review the supplemental information provided by Buyer and to object by written notice to Buyer and the Title Company. If Seller does not timely object to the Project Progress Condition Satisfaction Evidence upon the receipt of such supplemental information, then the Project Progress Conditions shall be deemed satisfied and the procedures for termination of the Repurchase Right provided above shall be completed. In the event of Seller’s repeated objection, the parties shall attempt to resolve such dispute through mediation within 60 days, and if such is not successfully resolved by such mediation, then by litigation in the county in which the Property and Easement Areas are located. The Title Company shall defer satisfaction of the procedures above regarding the Repurchase Right until receipt of a written agreement of the parties concerning satisfaction of the Project Progress Conditions or a final judgment concerning same. Any default by a third party under any such construction contract or the re-issuance of a contract to the same or different contractor shall not constitute a failure of Buyer to satisfy the Project Progress Conditions.

(iv) Electrical Power Substation. Notwithstanding anything herein to the contrary, in the event that Buyer has either (i) constructed an electrical power substation on the Property as of the first day of the Repurchase Right Term, or (ii) entered into a binding construction contract that

provides for the completion of an electrical power substation on the Property and commenced construction of same as of first day of the Repurchase Right Term, then Buyer may send written notice to Seller and the Title Company of Buyer's intention to retain that portion of the Property upon which such electrical power substation is, or will be, located (such property, the "**Substation Property**"). Such notice shall be provided to Seller and the Title Company no later than the date that is 60 days after the commencement of the Repurchase Right Term and shall include the following documents: (i) an as-built survey of Substation Property or, if construction of the electrical power substation is incomplete as of such date, a boundary line survey of the Substation Property, in each case in form and substance reasonably satisfactory to Seller, (ii) a copy of the construction contract for such electrical power substation (if construction of such electrical power substation is incomplete), (iii) an as-surveyed metes and bounds legal description of the Substation Property, (iv) a duplicate of such metes and bounds legal description with the preface "SAVE AND EXCEPT the following property:" prior to such metes and bounds description, and (v) a "**Recalculation of Purchase Price Worksheet**" prepared by Buyer providing the following information:

- | | |
|-----------------------------------------------|-----------------------------------------|
| 1. Original Purchase Price: | \$5,455,000 |
| 2. Area of Excluded Land Area in Square Feet: | [Insert figure from survey] |
| 3. Value of Excluded Land Area: | [Item #2 <i>multiplied by</i> \$4.3968] |
| 4. Adjusted Purchase Price: | [Item #1 <i>minus</i> Item #3] |

Such notice from Buyer, together with the items described in the forgoing clauses (i) through (iv) are hereinafter referred to collectively as the "**Substation Property Documents**". For any Substation Property to be eligible to be excluded from the Repurchase Right of the Purchase Property as provided herein, such Substation Property shall be located at the perimeter of the Purchase Property adjacent to a public street, and shall be limited to that area actually occupied by the electrical power substation with an appropriate buffer or access area around the improvements. Upon the receipt by Seller and the Title Company of such Substation Property Documents, Seller shall have 30 days to review such Substation Property Documents and to object to or request additional information from the City by providing written notice to Buyer and the Title Company. If Seller does not timely object to the Substation Property Documents in accordance with the forgoing sentence, then (i) the description of the Project Property subject to the Repurchase Right shall be modified to exclude the Substation Property, (ii) the Title Company shall be instructed to insert at the end of Exhibit A in the special warranty deed signed by the City, as grantor, in favor of FHR, as grantee, the form of which is attached as Exhibit M hereto, the page provided in (iv) above beginning "SAVE AND EXCEPT" including the as-surveyed metes and bounds legal description of the Substation Property, and (iii) the amount of the Purchase Price for the purposes of the Repurchase Right shall be reduced to the Adjusted Purchase Price stated in the Recalculation of Purchase Price Worksheet included with the Substation Property Documents. If Seller does timely object to the Substation Property Documents, then Buyer shall have 30 days to respond to Seller's objection in writing with a copy to the Title Company, and Seller shall have an additional 30 days to review the supplemental information provided by Buyer and to object by written notice to Buyer and the Title Company. In the event of Seller's repeated objection, the parties shall attempt to resolve such dispute through mediation within 60 days, and if such is not successfully resolved by such mediation, then by litigation in the county in which the Property is located. The Title Company shall defer satisfaction of the procedures above regarding the Repurchase Right until receipt of a written agreement of the parties concerning satisfaction of the Substation Property or a final judgment concerning same. If Buyer fails to timely deliver all of the Substation Property Documents to Seller and the Title Company as required pursuant to this Section 4(b)(iv), then Buyer's right to exclude the Substation Property from Seller's exercise of the Repurchase Right shall be deemed forfeited and of no further force and effect.

In the event the circumstances described in this Section occur, all other terms and conditions governing the Repurchase Right shall remain in full force and effect.

(c) **Escrow Agreement.** At Closing, Seller, Buyer and the Title Company shall enter into an escrow agreement in the form of Exhibit I attached hereto and incorporated herein by reference (the “**Escrow Agreement**”), pursuant to which, among other things, the Title Company shall agree to hold in escrow the following: (i) a fully executed repurchase right reimbursement agreement, signed by Buyer in favor of Seller, in the form of Exhibit K attached hereto and incorporated herein by reference (the “**Reconveyance Reimbursement Agreement**”); (ii) a fully executed special warranty deed, signed by Buyer, as grantor, in favor of Seller, as grantee, pursuant to which Buyer conveys the Property to Seller, in the form of Exhibit M attached hereto and incorporated herein by reference; (iii) a fully executed easement termination agreement signed by Buyer and Seller authorizing the irrevocable termination of the Easement Agreement, in the form of Exhibit D to Exhibit E attached hereto and incorporated herein by reference (the instruments described in clauses (i), (ii) and (iii) of this sentence are referred to herein collectively as the “**Reconveyance Instruments**”) and (iv) a fully executed termination and release of repurchase right executed by Seller in the form of Exhibit N attached hereto and incorporated herein by reference (the “**Repurchase Right Termination**”). The Escrow Agreement will provide, among other things, that the Reconveyance Instruments and Repurchase Right Termination shall be automatically released to Seller upon the Repurchase Right Closing as provided in Section 4(b)(ii) above and, alternatively, that such documents shall be automatically released to Buyer in the event the Repurchase Right terminates or expires as provided in Section 4(b)(i) above or Seller otherwise defaults in the performance of its obligations for the Repurchase Right Closing.

(d) **Permitted Transfer.** Subject to the Permitted Exceptions (including, without limitation, Seller’s Repurchase Right, to the extent such remains in effect), on and after the Closing, Buyer may, at its option, convey the Property and, so long as such assignment is for the same Project purpose, assign the Easement Agreement (if such Easement Agreement remains in effect), to a third party (a “**Qualified Transferee**”), subject to all terms in this Agreement that survive Closing, including, without limitation, all terms and conditions contained in the Deed, this Agreement (to the extent such terms and conditions survive the Closing and recording of the Deed by the terms hereof), the Easement Agreement, the Development Agreement, the Soil Management Plan (as hereinafter defined), and all other documents executed in connection with this Agreement (such transfer, a “**Permitted Transfer**”). Buyer shall give Seller no less than 30 days’ advance notice of such Permitted Transfer and, upon the effectiveness of such Permitted Transfer, Buyer shall deliver, or cause to be delivered, to Seller, (i) a copy of the recorded deed signed and acknowledged by the Qualified Transferee restating the restrictions in the Deed to the extent such remain in effect, and (ii) if the Easements remain in effect, a Soil Management Plan executed by such Qualified Transferee. Buyer acknowledges and agrees that all provisions of this Agreement that survive the Closing and recording of the Deed, as well as all provisions of the Deed and, to the extent applicable if the Seller’s Repurchase Right remains in effect, the Development Agreement, and, to the extent the Easements remain in effect, the Easement Agreement, Soil Management Plan, and any other agreements between Buyer and Seller relating to the development and operation of the Project that are in full force and effect in accordance with their terms as of the date of the effectiveness of such Permitted Transfer (collectively, such agreements the “**Project Agreements**”) shall be binding upon such Qualified Transferee as of the effective date of such Permitted Transfer; provided, that such Permitted Transfer shall not relieve Buyer of any of its obligations under the Project Agreements, accruing before the effective date of such Permitted Transfer. A Qualified Transferee’s operation of the Project shall be considered an authorized municipal use by the City of Corpus Christi.

The provisions of this Section 4 shall survive the Closing and recording of the Deed.

5. Option Period.

(a) **Diligence Investigations.** Buyer shall have until 11:59 p.m. Corpus Christi Time on the third anniversary of the Effective Date (the “**Initial Option Period**”) to apply for the Required Permits and examine and test the Property and the Easement Areas, including, without limitation, to conduct land, soil, engineering, zoning, environmental (solely with respect to the Property), wetlands and feasibility studies, and all other studies and tests described in this Section 5(a) (collectively, the “**Diligence Investigations**”), and Seller grants permission to Buyer, its agents and independent contractor(s) to enter upon the Property and the Easement Areas for the sole purposes enumerated in this Section 5(a). All Diligence Investigations shall be at the sole cost and expense of Buyer and, except as specifically provided in Section 5(a)(i) and 5(a)(ii) with respect to a Phase II Assessment (as hereinafter defined) and soil studies for foundation requirements for the Project, shall be nondestructive and noninvasive and shall not involve subsurface investigations of the Easement Areas. The parties agree that Buyer’s access to the Property and the Easement Areas shall be governed by this Section 5 and those certain Access Agreements attached as Exhibit P hereto and incorporated herein by this reference (collectively, the “**Access Agreements**”) and as provided herein, and Buyer agrees to abide by any safety rules or rules of conduct imposed by Seller from time to time with respect to Buyer’s access to the Property or the Easement Areas. Buyer shall keep the Property and the Easement Areas free from liens relating to or arising out of any tests, studies or entry by Buyer or its agents and independent contractors pursuant to this Section 5, which obligation shall survive the Closing and recording of the Deed or earlier termination of this Agreement. Upon completion of its Diligence Investigations, Buyer shall restore the Property and the Easement Areas to a condition substantially similar to (and in any event no worse than) the condition which existed prior to any such tests, studies or entry, which obligation of Buyer shall survive the termination of this Agreement.

(i) Assessment of the Property. In connection with the Diligence Investigations, on or before the date that is 180 days prior to the last day of the Initial Option Period, Buyer will obtain, at its sole cost and expense, a Phase I Environmental Site Assessment with respect to the Property, which Buyer shall promptly deliver to Seller. Thereafter, if the Phase I Environmental Site Assessment obtained by Buyer recommends that Buyer obtain a Phase II Environmental Site Assessment, then Buyer may at its option and at its sole cost and expense, obtain a Phase II Environmental Site Assessment with respect to the Property (a “**Phase II Assessment**”) and conduct soil studies to determine foundation requirements for the Project; provided, that Buyer shall notify Seller at least five Business Days prior to any proposed soil or groundwater testing or any other invasive sampling. With respect to any such invasive or subsurface testing, Buyer shall notify Seller at least five Business Days in advance of any proposed soil or groundwater testing or any other invasive sampling, provide a sampling plan (including, without limitation, the locations and depths of the samples and the list of constituents for which the samples are to be analyzed) and shall conduct such testing with such conditions as Seller may reasonably require, including, but not limited to, requiring (i) an employee or representative of Seller be present for such testing and (ii) that Seller’s representative be permitted to take split samples of any samples taken by Buyer’s representative.

(ii) Assessment of the Easement Areas. Should Buyer determine in its reasonable discretion that it requires additional environmental data related to the Easement Areas that is not already included in the Review Documents, then Buyer shall deliver to Seller a written description of such additional environmental data that Buyer requests from Seller. Seller shall use commercially reasonable efforts to provide such additional environmental data but solely to the extent Seller actually has such information in its records as of the date of such request; provided, that Seller shall be under no obligation to incur any additional cost, expense or liability in connection with providing such additional environmental data to Buyer. Seller will allow core sampling on the Easement Areas only as necessary for structural design analysis related the proposed construction of improvements on the Easement Areas in connection with the Project; provided that a representative of Seller must be present at all times Buyer is taking such

core samplings from the Easement Area. Buyer shall notify Seller at least five Business Days in advance of any proposed core sampling on the Easement Areas and shall coordinate with Seller's representative to conduct such core samplings at a mutually convenient time during Seller's normal business hours; provided that such core samples shall not be used for any sort of environmental analysis or investigation.

(b) **Additional Option Period.** In the event Buyer elects to extend the Total Option Period by an Additional Option Period pursuant to Section 2(d), Buyer shall have until 11:59 p.m. Corpus Christi Time on the last day of the Additional Option Period to complete the Diligence Investigations.

(c) **Insurance Requirements.** In addition to the requirements set forth in the Access Agreements, prior to Buyer or any of Buyer's consultants, contractors or subcontractors (collectively, "**Buyer's Designees**") entering onto the Property or the Easement Areas to conduct the inspections and tests described in Section 5(a), Buyer shall obtain and maintain, and shall cause each of Buyer's Designees to maintain (and shall deliver to Seller sufficient evidence thereof), general liability insurance, from an insurer rated B+ or better by the most current issue of A.M. Best, in the amount of at least \$5,000,000.00 combined single limit for personal injury and property damage per occurrence, which insurance may be in combination with one or more underlying and excess policies, and shall provide coverage against any claim for personal injury or death or property damage caused by Buyer or any of Buyer's Designees in connection with such inspections or tests and Seller shall be named as an additional insured by virtue of an additional insured endorsement. Notwithstanding the forgoing, so long as Buyer is a governmental entity that is self-insured, Buyer shall not be obligated to provide any such coverages with Seller named as an additional insured; provided, that Buyer's self-insurance of the forgoing insurance coverage requirements qualified in such manner shall not limit or otherwise impair the obligation of Buyer's agents, contractors or representatives to obtain and maintain the insurance coverage required under this Section 5(c).

(d) **INDEMNIFICATION AND RELEASE.** IN ADDITION TO THE OBLIGATIONS OF BUYER UNDER THE ACCESS AGREEMENT, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, BUYER HEREBY AGREES THAT BUYER SHALL BE COMPLETELY RESPONSIBLE FOR ALL ACTS AND OMISSIONS OF ITSELF AND BUYER SHALL REQUIRE ALL OF BUYER'S DESIGNEES TO BE COMPLETELY RESPONSIBLE FOR ALL ACTS AND OMISSIONS OF THEMSELVES IN EXERCISING THE RIGHTS AND PRIVILEGES GRANTED IN OR PURSUANT TO SECTIONS 5(A) AND (B) AND THE ACCESS AGREEMENTS. BUYER AGREES TO REQUIRE ITS DESIGNEES AND ASSIGNEES, AS APPLICABLE, TO INDEMNIFY AND HOLD HARMLESS SELLER AND THE OTHER RELEASED PARTIES AND AGREE TO PAY, INDEMNIFY, PROTECT, DEFEND (WITH COUNSEL REASONABLY ACCEPTABLE TO SELLER) AND HOLD HARMLESS SELLER AND THE OTHER RELEASED PARTIES FROM AND AGAINST ANY AND ALL LOSSES/CLAIMS (INCLUDING, WITHOUT LIMITATION, THE COST AND EXPENSE OF REMOVING OR BONDING ANY LIENS AFFECTING THE PROPERTY OR THE EASEMENT AREAS) EVER SUFFERED OR INCURRED BY SELLER OR THE OTHER RELEASED PARTIES BY REASON OF THE EXERCISE OF THE RIGHTS AND PRIVILEGES GRANTED TO BUYER IN SECTIONS 5(A) AND (B) AND THE ACCESS AGREEMENTS, OR THE BREACH OF BUYER'S COVENANTS TO RESTORE THE PROPERTY CONTAINED IN SECTIONS 5(A) AND (B). The obligations contained in this Section 5(d) shall survive Closing and delivery and recording of the Deed or the termination of this Agreement for any reason.

(e) **Buyer's Termination Right.** In the event Buyer determines for any reason, in Buyer's sole discretion, that the Property is not suitable for Buyer's intended purposes, then no later than

5:00 P.M. Corpus Christi Time on the last day of the Total Option Period, Buyer may provide to Seller written notice of Buyer's intention not to purchase the Property or the Easements, in which event this Agreement shall be terminated and the Earnest Money shall be returned to Buyer, and this Agreement shall become null and void, Seller and Buyer shall have no further rights, duties, obligations or liabilities under this Agreement, except for obligations which expressly survive termination hereof, and the Title Company shall be irrevocably authorized to record the Termination of Memorandum of Option at Buyer's expense, if the Memorandum of Option was previously recorded. In such event, within five days after Buyer terminates this Agreement pursuant to this Section 5(e), Buyer shall return to Seller all of the Review Documents and deliver to Seller copies of all plans, analyses, reports and other written information concerning the existing condition of Property and the Easement Areas which were obtained by Buyer during its review of the Property and the Easement Areas, which obligation shall survive any termination of this Agreement. If Buyer fails to timely terminate this Agreement in accordance with Section 5(e), then Buyer shall be deemed to have fully inspected and reviewed the Property and the Easement Areas, to have determined that the Property and the Easement Areas are suitable for Buyer's intended uses, and to have irrevocably waived the termination right contained in Section 5(d). In such event, the Earnest Money shall be deemed "at risk" and non-refundable to Buyer except as otherwise expressly provided herein.

6. Title and Survey.

(a) Within 120 days after the Effective Date, Buyer shall, at Buyer's sole cost and expense, cause the Title Company to (i) deliver to Buyer (with a copy to Seller) a title commitment for an owner's policy of title insurance for the Land and the Easement Areas, to be issued by the Title Company on behalf of Fidelity National Title Insurance, in the amount of the Purchase Price (the "**Title Commitment**") and (ii) legible copies of all instruments referenced in the Title Commitment. On or before the second anniversary of the Effective Date, Buyer shall obtain, at Buyer's sole cost and expense, (i) an ALTA survey of the Property (the "**Property Survey**") and (ii) an ALTA survey of the Easement Areas (the "**Easement Survey**") and together with the Property Survey, collectively, the "**Surveys**"). Subject to Sections 5(c) and (d) and the Access Agreements, Seller shall permit representatives of Buyer to enter upon the Property and the Easement Areas for the purpose of preparing such Surveys and shall otherwise reasonably cooperate with Buyer in the preparation of the Surveys. Within 30 days after receipt of the Surveys, but in no event later than the delivery of the Title Objections to Seller, Buyer shall provide a copy of same to Seller for approval, which approval shall not be unreasonably withheld, delayed or conditioned. Upon such approval of the Easement Survey, the metes and bounds description and graphic depiction of the locations of the Easements shall be substituted for Exhibits D-1 through D-6 and shall become part of this Agreement as the description of the Easements.

(b) No later than 180 days prior to the expiration of the Initial Option Period, Buyer may furnish to Seller a written statement of objections to any material and adverse matter affecting the title to the Property as disclosed in the Title Commitment, the Property Survey or the Easement Survey (such objections set forth in any such statement are collectively referred to herein as the "**Title Objections**"). All matters as disclosed in the Title Commitment, the Property Survey or the Easement Survey which are not timely raised as Title Objections in the manner set forth above shall be deemed to constitute "Permitted Exceptions." Within 30 days after Seller's receipt of Buyer's Title Objections, if any, Seller may notify Buyer as to which Title Objections Seller is willing to attempt to cure, remove, or cause the Title Company to commit to insure over, prior to Closing; provided, however, that Seller shall have no obligation to cure, remove or cause the Title Company to commit to insure over any of Buyer's Title Objections, except for any monetary liens, judgment liens, mechanics liens or other matters created by, through or under Seller, which Seller shall be obligated to cure or cause the Title Company to insure over prior to, and as a condition of, Closing (such obligation to cure or insure over monetary liens created by Seller being referred to herein as a "**Seller's Mandatory Cure Obligation**"). Seller's failure to timely respond to any of Buyer's Title Objections, if any, shall be deemed to be Seller's election not to attempt to cure, remove or cause the Title

Company to commit to insure over such Title Objections, subject to Seller's Mandatory Cure Obligation. If Seller elects to attempt to cure, remove or cause the Title Company to commit to insure over any Title Objections, Seller shall have until the Closing to do so, and Seller may use proceeds paid at Closing by Buyer for such purpose. If Seller notifies Buyer (or is deemed to have notified Buyer) of its election not to attempt to cure, remove or cause the Title Company to commit to insure over any of the Title Objections as set forth above, then Buyer may elect to either: (i) terminate this Agreement by providing written notice of such termination to Seller on or before the expiration of the Initial Option Period whereupon the Earnest Money shall be returned to Buyer, and this Agreement shall become null and void, Seller and Buyer shall have no further rights, duties, obligations or liabilities under this Agreement, except for those obligations that expressly survive termination hereof, and the Title Company shall be irrevocably authorized to record the Termination of Memorandum of Option at Buyer's expense, if the Memorandum of Option was previously recorded; or (ii) waive such Title Objections and proceed to Closing without a reduction in the Purchase Price, in which case such Title Objections shall become Permitted Exceptions, and which shall be in addition to all other items that are or become Permitted Exceptions pursuant to Section 7 hereof. Buyer's failure to provide written notice to Seller of such election prior to the expiration of the Initial Option Period shall be deemed to be an election by Buyer to waive the Title Objections as provided in clause (ii) above. In the event Seller, in its sole discretion, elects to attempt to cure, remove or cause the Title Company to commit to cure some or all of Buyer's Title Objections as set forth above, but fails to do so by Closing, Buyer's sole and exclusive remedy for such failure shall be to elect by written notice given to Seller not later than Closing, one of the two remedies set forth above in clauses (i) and (ii) of this Section 6(b). Buyer's failure to provide written notice to Seller of such election prior to Closing shall be deemed to be an election by Buyer to waive such Title Objections as provided in clause (ii) above, in which case such Title Objections shall be deemed Permitted Exceptions. All matters affecting title to the Property in the Title Commitment other than the matters listed under Schedule C of such Title Commitment (including, without limitation, all Title Objections that become Permitted Exceptions pursuant to this Section 6(b)) shall be deemed Permitted Exceptions, and which shall be in addition to all other items that are or become Permitted Exceptions pursuant to Section 7 hereof.

(c) Buyer may, at its cost and expense, obtain updates to the Title Commitment, the Property Survey, and the Easement Survey, and, to the extent any new material and adverse matters affecting title to the Property or the Easement Areas which were not previously revealed are shown thereon, Buyer may object to the same on or before the earlier of the Closing Date and 30 days after receipt of the version of the Title Commitment, the Property Survey or the Easement Survey first revealing the same, and such objections shall be deemed to be Title Objections. Buyer's failure to object within such time frame shall be deemed to be a waiver of Buyer's right to object to the same, and after such failure, any such new matters (excluding any new matters that are a Seller's Mandatory Cure Obligation) shall be deemed Permitted Exceptions. Seller and Buyer shall have the same rights with respect to such Title Objections as set forth in Section 6(b), except that Seller and Buyer shall have until the Closing to make the elections set forth in Section 6(b). In the event Seller, in its sole discretion, elects to attempt to cure, remove or cause the Title Company to commit to cure some or all of such new Title Objections, Seller may, in its sole discretion, elect to extend the Closing Date by up to 30 days for such purpose by providing Buyer notice of such 30-day extension no later than the then-scheduled Closing Date; provided, however, that in no event shall the Closing Date be extended for more than 30 days.

7. Deed and Easement Agreement.

(a) At Closing, Seller agrees to convey to Buyer the Property by a special warranty deed in the form of Exhibit H attached hereto and incorporated herein by this reference (the "**Deed**"), free and clear of

all liens and other encumbrances, except the following permitted exceptions (collectively, the “**Permitted Exceptions**”):

- (i) the use restrictions set forth in the Deed;
- (ii) the Repurchase Right (together with the restrictions described in clause (a) above, collectively, the “**Deed Restrictions**”);
- (iii) all the matters listed in Exhibit Q attached hereto and incorporated by this reference; and
- (iv) all additional matters which become Permitted Exceptions pursuant to Section 6 hereof.

(b) At Closing, Seller agrees to convey the Easements to Buyer pursuant to the Easement Agreement, subject to the terms and conditions set forth therein.

8. Closing.

The consummation of the purchase and sale transaction contemplated herein (the “**Closing**”) shall take place at the office of the Title Company on the date which is five Business Days after the expiration of the Total Option Period (the “**Closing Date**”), or such earlier date as Buyer and Seller should mutually agree upon. Notwithstanding the foregoing, there shall be no requirement that Seller and Buyer physically meet for the Closing, and all documents and funds to be delivered at the Closing shall be delivered into escrow with the Title Company, unless the parties hereto agree otherwise.

9. Apportionment of Taxes and Other Closing Costs.

(a) All real estate taxes and assessments, both general and special, relating to the Property for the tax year in which the Closing occurs shall be paid and discharged by Seller as of the Closing Date pursuant to Section 26.11 of the Texas Tax Code, provided that Buyer is a governmental entity on the Closing Date. If Buyer is not a governmental entity on the Closing Date, such taxes and assessments and any other expenses associated with the Property shall be prorated as of 11:59 P.M. Corpus Christi Time of the day before the day of Closing and paid by Seller; such that Seller shall be responsible for all expenses allocable to the Property for all periods prior to the day of Closing, and Buyer shall be responsible for all expenses allocable to the Property (if any) for all periods from and after the day of Closing. To the extent any real estate taxes and special assessments are not handled pursuant to Section 26.11 of the Texas Tax Code as provided above, such real estate taxes and special assessments shall be prorated based upon the amount of said taxes for the year in which the Closing occurs if said amount is known at the time of the Closing; and if said amount is not known at the time of Closing, then such taxes shall be prorated on the basis of current applicable tax or millage rates and the most recent assessed value of the Property after making a fair and reasonable allocation of such assessment between such Property and any other property covered by such assessment.

(b) At Closing, Buyer shall pay the following: (i) all costs of recording the Deed, the Memorandum of Easement, any other instruments required to be recorded in connection with this Agreement, and any mortgage placed on the Property; (ii) any other costs associated with the transfer of the Property and the Easements not specifically delineated herein, including any mortgage or intangibles tax; (iii) the costs of the title examination and the costs of any title examination update and the Title Commitment; (iv) any and all premiums, fees and costs relating to policies of owner’s or lender’s title insurance, (v) the cost of the Surveys; and (vi) the costs and expenses, if any, of its due diligence and investigation of the Property or Easement Areas, including, without limitation, the costs of the Phase II

Assessment. At Closing, Seller shall pay state, county and city excise, transfer, deed and stamp taxes applicable to the sale of the Property and conveyance of the Easements. At Closing, each party shall pay its own attorneys' fees and expenses in connection with this Agreement, and all escrow fees shall be equally split between Seller and Buyer. All other costs shall be paid by the party incurring such costs. IF BUYER IS NOT A GOVERNMENTAL ENTITY, THEN BUYER SHALL BE RESPONSIBLE FOR PAYMENT OF, AND, TO THE FULLEST EXTENT PERMITTED UNDER APPLICABLE LAW, SHALL INDEMNIFY, PROTECT, DEFEND (WITH COUNSEL REASONABLY ACCEPTABLE TO SELLER) AND HOLD HARMLESS SELLER AND THE OTHER RELEASED PARTIES FROM AND AGAINST ANY AND ALL LOSSES/CLAIMS, ANY AND ALL ROLLBACK OR CHANGE IN USE OR CLASSIFICATION TAXES, SEVERANCE TAXES, ASSESSMENTS, PENALTIES AND INTEREST, OR SIMILAR SUCH TAXES, ASSESSMENTS, PENALTIES AND INTEREST, CHARGED TO SELLER DUE TO BUYER'S NONCOMPLIANCE WITH, SUBSEQUENT CHANGE IN, OR DISCONTINUANCE OF, THE USE OR TAX CLASSIFICATION OF THE PROPERTY, THE EASEMENTS, OR ANY PORTION THEREOF, AFTER CLOSING, AND SUCH OBLIGATION SHALL SURVIVE THE CLOSING.

10. Utilities/Certain Permits.

Seller shall terminate any utility services provided to the Property on or before the Closing Date, and Seller shall be responsible for all utilities provided to the Property for the period prior to Closing. Buyer shall be responsible for obtaining its own accounts, and for all charges, for all utility services to be provided to the Property from and after Closing, if any. With respect to any stormwater, wastewater, air or ancillary permits or waste generator identification numbers issued to Seller, Seller shall terminate or de-activate the permits or waste generator identification numbers on or before the Closing Date, in which case Buyer agrees that it shall be responsible for obtaining new permit(s) and waste generator identification numbers on or after the Closing Date. The provisions of this Section 10 shall survive Closing and delivery and recording of the Deed.

11. Condemnation and Casualty Loss; Force Majeure.

(a) **Condemnation and Casualty Loss.** In the event of a casualty or condemnation affecting the Property after the Effective Date and before the Closing Date, then Buyer may, at its option, either (i) terminate this Agreement by providing written notice to Seller no later than the earlier to occur of (a) the Closing Date and (b) the date that is 180 days' after the occurrence of such casualty or condemnation, in which event this Agreement shall become null and void, Seller and Buyer shall have no further rights, duties, obligations or liabilities under this Agreement, except for obligations which expressly survive termination hereof, and the Title Company shall be irrevocably authorized to record the Termination of Memorandum of Option at Buyer's expense, if the Memorandum of Option was previously recorded, or (ii) proceed to Closing without any reduction in Purchase Price and without Seller having any obligation to perform any repairs to any portion of the Property; provided, that Seller shall assign to Buyer its right, title and interest to all of the insurance proceeds or condemnation proceeds, as applicable, payable with respect to such casualty or condemnation (or, if such have been paid to Seller, Buyer shall receive a credit at Closing equal to the amounts actually received by Seller minus all of Seller's costs and expenses used to perform any repairs to any portion of the Property affected by the casualty or condemnation), in each case, less any reasonable costs incurred by Seller in pursuing such insurance or condemnation proceeds. In the event Buyer fails to timely terminate this Agreement in accordance with clause (i) of this Section 11(a), then Buyer shall be deemed to have waived its right to terminate this Agreement pursuant to this Section 11(a) and the parties shall proceed to Closing in accordance with clause (ii) of this Section 11(a).

(b) **Force Majeure.** Any failure or delay in performance under this Agreement shall be excused to the extent said failures or delays are proximately caused by an Act of God (e.g., fire, flood,

inclement weather, epidemic, pandemic (including, without limitation, COVID-19 or any related disease), or earthquake); war or act of terrorism, including chemical or biological warfare; labor dispute, lockout, strike, or embargo; governmental acts, orders, or restrictions (except for acts of the City Council of Corpus Christi); or any other reason where failure to perform is beyond the reasonable control and is not caused by the intentional or negligent act or failure to act of the party experiencing the difficulty; provided that, as a condition to the claim of nonliability, the party experiencing the difficulty shall have exercised reasonable efforts to avoid or remedy such force majeure, and shall have given the other party prompt written notice, with reasonable detail, following the occurrence of the cause relied upon. Dates by which performance obligations are scheduled to be met will be extended for a period of time equal to the time lost due to any delay so caused. In the event that such force majeure delays performance by more than eighteen (18) months from the date of the initial occurrence of such force majeure event, either party shall have the right to deliver written notice of termination of this Agreement to the other party, whereupon the full Earnest Money shall be returned to Buyer and the parties shall have no further legal obligation to one another, except for those obligations under this Agreement that specifically survive termination. Notwithstanding anything to the contrary contained in this Agreement, this Section 11(b) shall not apply with respect to (i) Buyer's obligation to deliver the Earnest Money, Initial Option Fee or Additional Option Fee (if any) in cash or other good and immediately available funds in accordance with Section 2(b), (c), (d) and (e), (ii) Buyer's obligation to deliver the full Purchase Price in cash or other good and immediately available funds to the Title Company at Closing, or (iii) Seller's obligation to deliver the full Purchase Price in cash or other good and immediately available funds to the Title Company in the event of its exercise of the Repurchase Right. The provisions of this Section 11(b) shall be applicable to all post-closing obligations of Seller and Buyer, including, without limitation, the Repurchase Right. This Section 11(b) shall survive the Closing and recording of the Deed.

12. No Broker. All negotiations relative to this Agreement and the purchase and sale of the Property or the conveyance of the Easements as contemplated by and provided for in this Agreement have been conducted by and between Seller and Buyer without the intervention of any person or other party as agent or broker. Seller and Buyer warrant and represent to each other that Seller and Buyer have not entered into any agreement or arrangement and have not received services from any broker or broker's employees or independent contractors which would give rise to any claim of lien or lien against the Property or the Easement Areas, and there are and will be no broker's commissions or fees payable in connection with this Agreement or the purchase and sale of the Property or conveyance of the Easements by reason of their respective dealings, negotiations or communications. This Section 12 shall survive the Closing and recording of the Deed.

13. Default.

(a) If Buyer fails to perform any obligation under this Agreement, Seller may, at its option, terminate this Agreement by written notice to Buyer and the Title Company, in which event this Agreement shall become null and void, Seller and Buyer shall have no further rights, duties, obligations or liabilities under this Agreement, except for obligations which expressly survive termination hereof, and the Title Company shall be irrevocably authorized to record the Termination of Memorandum of Option at Buyer's expense, if the Memorandum of Option was previously recorded; provided, that so long as Buyer's aforementioned default is not due to Buyer's failure to timely deliver any good and immediately available funds Buyer is required to deliver to Seller or the Title Company under this Agreement, then Seller first shall give Buyer written notice of such default, and Buyer shall have 30 days to cure such default (the "Nonmonetary Default Cure Period"). If Buyer fails to cure such default during the Nonmonetary Default Cure Period, then Seller may, at its option, elect to terminate this Agreement by providing written notice to Buyer and Title Company, in which event this Agreement shall become null and void, Seller and Buyer shall have no further rights, duties, obligations or liabilities under this Agreement, except for obligations which expressly survive termination hereof, and the Title Company shall be irrevocably

authorized to record the Termination of Memorandum of Option at Buyer's expense, if the Memorandum of Option was previously recorded. In such event, the Title Company shall pay the Earnest Money to Seller, as full and agreed upon liquidated damages, consideration for the execution of this Agreement and in full settlement of all claims. BUYER AND SELLER HEREBY ACKNOWLEDGE AND AGREE THAT SELLER'S DAMAGES IN THE EVENT OF SUCH A BREACH OF THIS AGREEMENT BY BUYER WOULD BE DIFFICULT OR IMPOSSIBLE TO DETERMINE, THAT THE AMOUNT OF THE EARNEST MONEY IS THE PARTIES' BEST AND MOST ACCURATE ESTIMATE OF THE DAMAGES SELLER WOULD SUFFER IN THE EVENT THE TRANSACTION PROVIDED FOR IN THIS AGREEMENT FAILS TO CLOSE DUE TO BUYER'S DEFAULT, AND THAT SUCH ESTIMATE IS REASONABLE UNDER THE CIRCUMSTANCES EXISTING ON THE DATE OF THIS AGREEMENT.

(b) If the Closing does not occur due to Seller's failure or refusal to perform its obligations hereunder for any reason other than Buyer's default hereunder, or if Seller otherwise fails to perform its obligations under this Agreement, then Buyer may, at its option, either (i) terminate this Agreement by notice to Seller and the Title Company, in which case (1) the Title Company shall return the Earnest Money to Buyer, (2) this Agreement shall become null and void, (3) Seller and Buyer shall have no further rights, duties, obligations or liabilities under this Agreement, except for obligations which expressly survive termination hereof, (4) the Title Company shall be irrevocably authorized to record the Termination of Memorandum of Option at Buyer's expense, if the Memorandum of Option was previously recorded, and (5) Seller shall pay Buyer's actual and reasonable costs and expenses incurred in connection with this Agreement and for which documentation has been provided to Seller in an amount not to exceed \$11,425,000.00, or (ii) seek specific performance as permitted by law; provided, that prior to exercising either of the forgoing remedies, Buyer shall give Seller written notice of such default, and Seller shall have 30 days to cure such default (the "**Seller Default Cure Period**"). If Seller fails to cure such default during the Seller Default Cure Period, then Buyer may exercise either of the forgoing remedies. As a condition precedent to Buyer exercising any right it may have to bring an action for specific performance under the terms of this Section 13(b), Buyer must commence such an action for specific performance within 180 days after the occurrence of the default by Seller. Buyer agrees that its failure to timely commence such an action for specific performance within such 180-day period shall be deemed a waiver by Buyer of its right to commence such an action. Buyer hereby waives the right to seek consequential or other damages against Seller in connection with this Agreement and any default of Seller hereof.

(c) Nothing in this Section 13 shall limit a party's right to enforce any indemnification made in its favor as provided in this Agreement.

14. Notices.

Any notice required or permitted to be given hereunder shall be either (i) in writing, sent to the recipient by nationally-recognized overnight delivery service or U.S. registered or certified mail, postage prepaid, return receipt requested or (ii) by electronic mail to the intended addressee at the electronic mail address set forth herein, delivery receipt requested, and accompanied with a hardcopy writing sent by U.S. mail, in each case, addressed as follows:

If to Seller

Flint Hills Resources Corpus Christi, LLC
Attention: Roger TenNapel
4111 East 37th Street North
Wichita, Kansas 67220
Email: roger.tennapel@fhr.com

With a copy to: Flint Hills Resources Corpus Christi, LLC
Attention: Kim Boatright
4111 East 37th Street North
Wichita, Kansas 67220
Email: kim.boatright@fhr.com

With a copy to (which shall not constitute notice): Holland & Knight LLP
Attn: Eugene Segrest, Esq.
One Arts Plaza
1722 Routh Street, Suite 1500
Dallas, Texas 75201
Email: gene.segrest@hklaw.com

If to Buyer: City of Corpus Christi, Texas
Attn: City Manager
1201 Leopard Street
Corpus Christi, Texas 78401
Email: peterz@cctexas.com

With a copy to: City of Corpus Christi, Texas
Attn: City Attorney
1201 Leopard Street
Corpus Christi, Texas 78401
Email: milesr@cctexas.com

With a copy to: City of Corpus Christi, Texas
Attn: Water Department
2726 Holly Road
Corpus Christi, Texas 78415
Email: estebanr2@cctexas.com

For all purposes hereunder, any such notice shall be deemed to have been properly given on the earliest of (a) actual receipt, (b) refusal to accept receipt, (c) the same day it is deposited with a nationally-recognized overnight delivery service with all charges prepaid in full, and (d) three Business Days after depositing the same with the U.S. Postal Service, with postage fully prepaid.

15. Assignment.

Buyer shall not, without Seller's prior written consent, which may be granted or withheld in Seller's sole discretion, assign or transfer Buyer's rights or obligations hereunder to any person, firm, partnership, corporation or other entity, whether by operation of law or otherwise. Any purported or attempted assignment in breach of the provisions contained in this Section 15 shall be *void ab initio*, and shall constitute an immediate event of default by Buyer hereunder.

16. Exchange.

Seller may assign its rights and obligations under this Agreement to a qualified intermediary in order to effectuate a like-kind exchange of property under Section 1031 of the Internal Revenue Code of 1986, as amended (the "**Code**"). Buyer agrees to assist and cooperate with the exchanging party in such exchange at no additional cost, expense or liability to Buyer and Buyer further agrees to execute any and all documents as are reasonably necessary in connection with the exchange. No party's obligations

hereunder shall be contingent upon the successful achievement of a like-kind exchange under Section 1031 of the Code, no party shall incur any liability in addition to that imposed under this Agreement as a result of cooperating with an exchanging party, and no party shall be relieved of liability under this Agreement on account of any assignment made in order to effectuate an exchange.

17. Closing Documents.

(a) Seller's Closing Deliverables. At the Closing, Seller shall execute and deliver to Buyer, through escrow with the Title Company, the following:

- (i) the Deed;
- (ii) the Easement Agreement;
- (iii) the Escrow Agreement;
- (iv) the Termination and Release of Repurchase Right;
- (v) the Development Agreement;
- (vi) the Reannexation Petition;

(vii) a non-foreign affidavit as required under the Code in the form of Exhibit R attached hereto and incorporated herein by this reference, and such accurate statement or affidavit as may be required for purposes of any applicable tax withholding tax law;

(viii) a certificate of Seller, dated as of the Closing Date, reaffirming that all representations and warranties of Seller under this Agreement are true, correct and complete as of the Closing Date and that this Agreement, the Development Agreement, and all of the Closing Documents to which Seller is a party are the legal, valid, and binding obligation of Seller, enforceable against Seller in accordance with their respective terms;

(ix) a Seller's Affidavit, in the form of, and on the terms and conditions set forth in, that attached hereto as Exhibit S, with respect to the Property;

(x) a closing settlement statement between Seller and Buyer setting forth the Purchase Price and all adjustments thereto (the "Closing Statement");

(xi) such evidence of Seller's authority to sell the Property and grant the Easements as reasonably required by the Title Company;

(xii) all other documents reasonably requested by Buyer and the Title Company in connection with Closing.

(b) Buyer's Closing Deliverables. At the Closing, Buyer shall execute and deliver to Seller, through escrow with the Title Company, the following:

- (i) the Deed;
- (ii) the Easement Agreement;
- (iii) the Escrow Agreement;

- (iv) the Reannexation Petition;
 - (v) the Reconveyance Instruments requiring Buyer's signature;
 - (vi) the Reconveyance Reimbursement Agreement;
 - (vii) a legal opinion delivered by Buyer's counsel in the form of, and on the terms and conditions set forth in, that attached hereto as Exhibit T;
 - (viii) such evidence of Buyer's authority to purchase the Property and enter into the Closing Documents to which Buyer is a party as reasonably required by the Title Company;
 - (ix) a certificate of Buyer, dated as of the Closing Date, reaffirming that all representations and warranties of Buyer under this Agreement are true, correct and complete as of the Closing Date and that this Agreement, the Development Agreement, and all of the Closing Documents to which Buyer is a party are the legal, valid, and binding obligation of Buyer, enforceable against Buyer in accordance with their respective terms;
 - (x) the Closing Statement; and
 - (xi) all other documents reasonably requested by Seller or the Title Company in connection with Closing.
- (c) On or prior to the date that is 30 days after Buyer enters into a construction contract with a general contractor for the construction of the Project (or such longer period as determined by Seller in its reasonable discretion), Buyer shall execute and deliver, or cause to be executed and delivered, a soil management plan by and among Seller, Buyer and the general contractor (such plan, a "**Soil Management Plan**"), which Soil Management Plan shall (i) be in form and substance attached as Exhibit L, subject to reasonable modifications that may be required by Seller, Buyer and the general contractor in the event of changes in laws, changes in environmental conditions, or particular construction methods proposed by the general contractor, and (ii) describe Buyer's obligations with respect to management, storage and Remediation of soil disturbed on the Easement Areas in connection with Buyer's construction, operation, and maintenance of the Easement Improvements on the Easement Areas and operation of the Project. The obligation of Buyer under this Section 17(c) shall be included in the Easement Agreement and as such shall survive the Closing and recording of the Deed.

18. Seller's Representations and Warranties.

Seller hereby represents and warrants to Buyer as follows:

- (a) **Organization and Good Standing.** Seller is a limited liability company duly organized, validly existing, and in good standing under the laws of the State of Delaware.
- (b) **Authority.** All action on the part of Seller necessary for the authorization, execution, delivery, and performance by Seller of this Agreement and the consummation of the transactions contemplated hereby have been taken.
- (c) **Enforceability.** This Agreement is a legal, valid, and binding obligation of Seller, enforceable against Seller in accordance with its terms, except as limited by bankruptcy, insolvency, reorganization, moratorium, or similar laws from time to time in effect that affect creditors' rights generally and by legal and equitable limitations on the availability of specific remedies.

(d) **Violation of Law.** To Seller's knowledge, Seller has received no written notice from any Governmental Body regarding a violation of any applicable law relating to Seller's ownership or operation of the Property which remains uncured.

(e) **No Litigation.** To Seller's knowledge, there are no actions, lawsuits or proceedings affecting Property or any portion thereof, pending or be prosecuted in any court or by or before any Governmental Body.

(f) **No Purchase Options.** To Seller's knowledge, there are no purchase options, right of first refusal, or right of first offer encumbering the Property except for the purchase right set forth in this Agreement.

(g) **No Conflict.** To Seller's knowledge, the execution and delivery by Seller of this Agreement do not conflict with or violate any law, rule, regulation or ordinance applicable to Seller.

(h) **Indemnity by Seller.** Subject to the limitations and other provisions of this Agreement, the representations and warranties contained in this Section 18 shall survive the Closing and shall remain in full force and effect until the first anniversary of the Closing Date. Seller shall defend, indemnify and hold harmless Buyer from and against all Losses/Claims arising from or relating to any inaccuracy in or breach of any of the representations or warranties of Seller contained in this Section 18. The aggregate amount of all Losses/Claims for which Seller shall be liable pursuant to this Section 18 shall not exceed \$250,000.00. Whenever any claim shall arise for indemnification hereunder, Buyer shall promptly provide written notice of such claim to Seller. In connection with any claim giving rise to indemnity hereunder resulting from or arising out of any claim, action, suit, proceeding or governmental investigation ("**Action**") by a person or entity who is not a party to this Agreement, Seller, at its sole cost and expense and upon written notice to Buyer, may assume the defense of any such Action with counsel reasonably satisfactory to Buyer. Buyer shall be entitled to participate in the defense of any such Action, with its counsel and at its own cost and expense. If Seller does not assume the defense of any such Action, Buyer may, but shall not be obligated to, defend against such Action in such manner as it may deem appropriate, including, but not limited to, settling such Action, after giving notice of it to Seller, on such terms as Buyer may deem appropriate and no action taken by Buyer in accordance with such defense and settlement shall relieve Seller of its indemnification obligations herein provided with respect to any damages resulting therefrom. All indemnification payments made by a party under this Agreement shall be treated by the parties as an adjustment to the Purchase Price for tax purposes, unless otherwise required by law. The indemnification rights under this Section 18 shall be Buyer's sole remedy after the Closing Date with respect to a breach of the representations and warranties contained in this Section 18.

(i) Seller agrees to promptly notify Buyer of any changes to the representations and warranties set forth above between the Effective Date of this Agreement and the Closing Date. In the event Seller notifies Buyer of any such changes to Seller's representations and warranties set forth in Section 18(d), (e) or (g) due to actions beyond the reasonable control of Seller, Buyer shall have the right, at Buyer's option, within 90 days after receipt of such notice from Seller (but in any event prior to the Closing Date), to either: (i) terminate this Agreement by giving written notice to Seller, in which event this the Earnest Money shall be refunded to Buyer and this Agreement shall become null and void, Seller and Buyer shall have no further rights, duties, obligations or liabilities under this Agreement, except for those obligations that expressly survive termination hereof, and the Title Company shall be irrevocably authorized to record the Termination of Memorandum of Option at Buyer's expense, if the Memorandum of Option was previously recorded; or (ii) proceed under the terms of this Agreement, in which event Buyer shall be deemed to have irrevocably accepted such change in the representations and warranties and shall not have the right to object to such changes.

19. Representations and Warranties of Buyer.

Buyer hereby represents and warrants to Seller as follows:

(a) **Authority.** All action on the part of Buyer necessary for the authorization, execution, and delivery by Buyer of this Agreement has been taken. Without limiting the generality of the forgoing, this Agreement has been approved by resolution, ordinance or motion duly adopted by the City Council in accordance with all applicable public notice requirements (including, but not limited to, notices required by the Texas Open Meetings Act) and the individual executing this Agreement on behalf of Buyer has been duly authorized to do so.

(b) **Enforceability.** This Agreement is a legal, valid, and binding obligation of Buyer, enforceable against Buyer in accordance with its terms, except as limited by bankruptcy, insolvency, reorganization, moratorium, or similar laws from time to time in effect that affect creditors' rights generally and by legal and equitable limitations on the availability of specific remedies.

(c) **No Conflict.** The execution and delivery by Buyer of this Agreement do not conflict with or violate any law, rule, regulation or ordinance applicable to Buyer.

This Section 19 shall survive the Closing and recording of the Deed or earlier termination of this Agreement.

20. Conditions of Seller's Obligations.

Seller's obligation to consummate the sale of the Property and conveyance of the Easements on the Closing Date shall be subject to the satisfaction or performance of the following terms and conditions, any one or more of which may be waived in writing by Seller, in whole or in part, on or as of the Closing Date:

(a) The representations and warranties of Buyer in this Agreement (and the substantive facts contained in any representations and warranties limited to Buyer's knowledge and belief) shall be true and correct, and certified by Buyer to Seller as such, on and as of the Closing Date, in the same manner and with the same effect as though such representations and warranties had been made on and as of the Closing Date;

(b) Buyer shall have delivered to the Title Company complete, originally executed Closing Documents to which Buyer is a party;

(c) Buyer shall have delivered the Purchase Price to the Title Company in cash or other immediately available funds, and Buyer shall unconditionally authorize the Title Company to release the Purchase Price to Seller upon satisfaction of the Conditions of Buyer's Obligations; and

(d) Neither Seller nor Buyer shall have terminated this Agreement pursuant to an express right to terminate set forth in this Agreement.

If any of the conditions described in clauses (a), (b) or (c) have not been satisfied or performed by Buyer or waived in writing by Seller on or as of the Closing, Seller shall have the right to exercise such rights and remedies as may be provided in Section 13 of this Agreement.

21. Conditions of Buyer's Obligations.

Buyer's obligation to consummate the purchase of the Property on the Closing Date shall be subject to the satisfaction or performance of the following terms and conditions, any one or more of which may be waived in writing by Buyer, in whole or in part, on or as of the Closing Date:

(a) The representations and warranties of Seller in this Agreement (and the substantive facts contained in any representations and warranties limited to Seller's knowledge and belief) shall be true and correct, and certified by Seller to Buyer as such, on and as of the Closing Date (subject to update as provided in Section 18(i)), in the same manner and with the same effect as though such representations and warranties had been made on and as of the Closing Date;

(b) Seller shall have delivered to the Title Company complete, originally executed Closing Documents to which Seller is a party; and

(c) Neither Buyer nor Seller shall have terminated this Agreement pursuant to an express right to terminate set forth in this Agreement.

If any of the conditions described above have not been satisfied or performed by Seller or waived in writing by Buyer on or as of the Closing Date, Buyer shall have the right to exercise such rights and remedies as are provided in Section 13 of this Agreement, subject to the qualifications provided in Sections 18(i) of this Agreement.

22. Complete Agreement.

This Agreement, including all ancillary agreements between the parties entered into after the Effective Date pursuant to the terms hereof, contains the entire agreement of the parties hereto with respect to the matters contained herein and supersedes any and all prior and contemporaneous discussions, negotiations and agreements (whether oral or written) with respect to the matters contained herein. There are no representations, inducements or other provisions other than those expressed in writing in this Agreement (if any). Any amendments, modifications, changes, additions, or deletions hereto must be in writing and signed by all parties hereto.

23. Times is of the Essence; Dates.

Time is of the essence of this Agreement. Anywhere a date certain is stated for payment or for performance of any obligation, the day certain so stated enters into and becomes a part of the consideration for this Agreement. If any date set forth in this Agreement shall fall on, or any time period set forth in this Agreement shall expire on, a day which is a Saturday, Sunday or federal or state holiday, such date shall automatically be extended to, and the expiration of such time period shall automatically be extended to, the next day which is not a Saturday, Sunday or federal or state holiday. The final day of any time period under this Agreement or any deadline under this Agreement shall be the specified day or date, and shall include the period of time through and including such specified day or date. Any day which is not a Saturday, Sunday or federal or state holiday is herein sometimes called a "**Business Day**".

24. Recordation of Memorandum of Option.

Simultaneously with the execution of this Agreement, Buyer and Seller agree to execute and deliver to Title Company (i) a Memorandum of Option in the form attached Exhibit U hereto and made a part hereof (the "**Memorandum of Option**") and (ii) a termination of Memorandum of Option in the form attached as Exhibit V hereto and made a part hereof (the "**Termination of Memorandum of Option**").

Upon the Title Company's confirmation to Seller that Buyer has deposited the Initial Option Fee and Earnest Money with Title Company in accordance with Section 2, the Title Company is instructed to record such Memorandum of Option in the official public records of Nueces County, Texas at Buyer's sole cost and expense. In the event this Agreement is terminated for any reason, the Title Company shall be irrevocably authorized to record the Termination of Memorandum of Option in the official public records of Nueces County, Texas at Buyer's sole cost and expense. This Section 24 shall survive the termination of this Agreement.

25. Miscellaneous.

Whenever used in this Agreement, the singular shall include the plural, the plural shall include the singular, and the use of any gender shall be applicable to all genders. Article and Section headings are inserted for convenience only and do not form a part of the substantive provisions of this Agreement. Each and every exhibit referred to or otherwise mentioned in this Agreement is attached to this Agreement and is and shall be construed to be made a part of this Agreement by such reference or other mention at each point at which such reference or other mention occurs, in the same manner and with the same effect as if each exhibit were set forth in full and at length every time it is referred to or otherwise mentioned. For avoidance of doubt and notwithstanding anything to the contrary contained in this Agreement (or any exhibits or addenda hereto), the parties agree that the term "shall" as used in this Agreement (or any exhibits or addenda hereto) will not be construed as permissive, but as absolute, imperative and/or mandatory. Capitalized terms used in this Agreement shall have the meanings ascribed to them at the point where first defined, irrespective of where their use occurs, with the same effect as if the definitions of such terms were set forth in full and at length every time such terms are used. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Except as otherwise provided in Section 3(e) of this Agreement, the provisions of this Agreement are not intended to benefit any third party who is not a party hereto. If any provision of this Agreement, or the application thereof to any person, entity, place or circumstance, shall be held by a court of competent jurisdiction to be invalid, unenforceable or void in any respect, the remainder of this Agreement and such provisions as applied to other persons, entities, places and circumstances shall remain in full force and effect. Notwithstanding any decisional law to the contrary, this Agreement may be executed by exchange of signed counterparts of this Agreement with all exhibits attached by facsimile or e-mailed PDF followed by delivery of the originals and shall be considered executed and binding upon receipt of the fax or e-mailed PDF of such signed counterpart of the last party to sign this Agreement. THIS AGREEMENT, AND ALL THE RIGHTS OF THE PARTIES SHALL BE GOVERNED AS TO THE VALIDITY, INTERPRETATION, CONSTRUCTION, ENFORCEMENT AND IN ALL OTHER RESPECTS BY THE LAW OF THE STATE OF TEXAS (the "State"), WITHOUT REGARD TO ITS RULES AND PRINCIPLES REGARDING CONFLICTS OF LAWS OR ANY RULE OR CANON OF CONSTRUCTION WHICH INTERPRETS AGREEMENTS AGAINST THE DRAFTSMAN. Except for the obligations that are expressly stated herein to survive the Closing, this Agreement shall not survive the Closing, and shall instead merge into the Deed executed and delivered by Seller to Buyer at the Closing.

26. Binding Effect; Waiver of Sovereign Immunity from Liability and Suit; Further Assurances; Venue.

(a) **Binding Effect.** Submission of drafts of this Agreement (or mark-ups of drafts) by one party to another shall not be deemed to be an offer to purchase or sell (as the case may be), and this Agreement shall be binding, if at all, only at such time as both Seller and Buyer have signed and delivered to the other at least one (1) counterpart of this Agreement with all exhibits attached. This Agreement shall bind and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

(b) BUYER'S VOLUNTARY WAIVER OF SOVEREIGN IMMUNITY FROM LIABILITY AND SUIT. NOTWITHSTANDING ANY LAW NOW OR HEREINAFTER IN EFFECT TO THE CONTRARY, PURSUANT TO TEXAS LOCAL GOVERNMENT CODE SECTION 271.151, ET. SEQ., AND TEXAS LOCAL GOVERNMENT CODE SECTION 212.172(i), BUYER HEREBY IRREVOCABLY WAIVES ITS SOVEREIGN IMMUNITY FROM LIABILITY AND SUIT IN ANY LAWSUIT WITH RESPECT TO ANY ACTION IN ANY COURT OR TRIBUNAL OF COMPETENT JURISDICTION AS TO ALL DISPUTES AND ACTIONS BETWEEN SELLER AND BUYER WHICH MAY ARISE AS A RESULT OF THIS AGREEMENT AND ANY AGREEMENT ENTERED INTO IN CONNECTION HERewith OR WITH THE CLOSING. BUYER ALSO HEREBY CONSENTS TO AND IRREVOCABLY WAIVES ANY AND ALL OBJECTIONS OR DEFENSES IT MAY HAVE TO SUCH JURISDICTION AND VENUE BASED UPON OR RELATED TO SOVEREIGN IMMUNITY. BUYER HEREBY ACKNOWLEDGES AND AGREES THAT IT IS VOLUNTARILY ENTERING INTO THIS AGREEMENT AND ALL ANCILLARY AGREEMENTS RELATED HERETO AND BINDS ITSELF TO THE TERMS OF THIS AGREEMENT AND SUCH ANCILLARY AGREEMENTS IN ALL RESPECTS. To the extent permitted by applicable law, Buyer further waives and stipulates to the inapplicability of any provision of the Corpus Christi City Charter that would bar, limit, or otherwise affect the ability of Seller to enforce this Agreement, the Escrow Agreement and the Project Documents. The provisions of this Section 26(b) shall be included in the Deed and other instruments that survive Closing and shall survive the earlier termination of this Agreement.

(c) Further Assurances. Seller and Buyer each agree that it will without further consideration execute and deliver such other documents and take such other action as may be reasonably requested by the other party to consummate more effectively the transactions and the waivers contemplated hereby, the Escrow Agreement or any of the Project Agreements.

(d) Venue. Seller and Buyer hereby irrevocably submit generally and unconditionally for themselves and in respect of their respective properties and any dispute regarding this Agreement to the jurisdiction of any State court of appropriate jurisdiction or any United States federal court sitting in the county in which the Property is located. Seller and Buyer hereby irrevocably waive any objection that Seller or Buyer may now or hereafter have to the laying of venue in any such court and any claim that any such court is an inconvenient forum. Seller and Buyer consent to any methods of service of process provided for under applicable laws.

(e) JURY WAIVER. IT IS MUTUALLY AGREED BY AND BETWEEN SELLER AND BUYER THAT THE RESPECTIVE PARTIES WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY EITHER OF THE PARTIES AGAINST THE OTHER ON ANY MATTER WHATSOEVER ARISING OUT OF THIS AGREEMENT.

The provisions of this Section 26 shall survive Closing and delivery and recording of the Deed or earlier termination of this Agreement.

27. Waiver of Special Damages.

NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT OR AT LAW OR IN EQUITY, NEITHER PARTY WILL BE LIABLE TO THE OTHER FOR PUNITIVE, SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF BUSINESS PROFITS, LOSS OF DATA, LOSS OF USE, DIMINUTION IN VALUE, AND BUSINESS INTERRUPTION) HOWEVER CAUSED, UNDER ANY THEORY OF LIABILITY, ARISING FROM OR RELATING TO ANY CLAIM MADE UNDER THIS AGREEMENT. THE FOREGOING WILL NOT, OF ITSELF, LIMIT EITHER PARTY'S OBLIGATIONS WITH RESPECT TO PAYMENT OF DAMAGES OF ANY KIND INCLUDED IN AN

AWARD OR SETTLEMENT OF A THIRD-PARTY CLAIM UNDER ANY INDEMNITY IN THIS AGREEMENT. The provisions of this Section 27 shall survive Closing and delivery and recording of the Deed or earlier termination of this Agreement.

28. Title Insurance Remedy.

With respect to any claim which would be related to any warranty contained in the Deed, Buyer shall first use its commercially reasonable efforts to recover any losses pertaining to such claim from any title insurance policy issued to Buyer with respect to the Property and shall diligently prosecute such claim (and the satisfaction thereof) with the insurer in lieu of pursuing a claim against any such warranty contained in the Deed. In furtherance of this Section 28, Buyer covenants and agrees to purchase a title insurance policy with respect to the Property and Easements at Closing. The provisions of this Section 28 shall survive Closing and delivery and recording of the Deed.

29. Confidentiality.

Buyer agrees that, except as otherwise provided herein or required by law (including Chapter 552 of the Texas Government Code) and except for the exercise by Buyer of any remedy hereunder, Buyer shall (a) keep confidential any Review Documents marked "CONFIDENTIAL" and other confidential or proprietary information regarding Seller, the Seller's Affiliates or any of the Property provided by Seller marked "CONFIDENTIAL", (b) not disclose any such documents and information to anyone other than Buyer's agents, employees, contractors, consultants, or attorneys, lenders (if any) and title company personnel, with a need to know such information in connection with Buyer's review and investigation of the Property, provided that Buyer shall inform all persons receiving such information from Buyer of the confidentiality obligations set forth in this Section 29 and, to the extent within Buyer's control, cause such confidence to be maintained, (c) pursuant to Section 552.1101 of the Texas Government Code, not disclose any documents or correspondence between Buyer and Seller that include proprietary business information of Seller or Seller's Affiliates, and (d) in the event of the termination of this Agreement prior to the Closing, return to Seller promptly upon request all copies of documents and materials supplied by Seller. Notwithstanding the generality of the foregoing, if Buyer receives a public information request to disclose confidential business information or other legally protected information of Seller that is marked "CONFIDENTIAL", it will promptly, as required by statute, notify Seller and afford it an opportunity to oppose disclosure of that confidential business information or other protected information before the Attorney General of Texas and the courts of the State. Disclosure of information by Buyer shall not be prohibited if that disclosure is of information that is or becomes a matter of public record or public knowledge as a result of the Closing of this transaction or from sources other than Buyer or its agents, employees, contractors, consultants, or attorneys. This Section 29 shall survive the termination of this Agreement with respect to information that has been provided by Seller or Seller's Affiliates that is clearly marked "CONFIDENTIAL."

30. Right to Counsel; No Presumption Against Drafter.

SELLER AND BUYER EXPRESSLY ACKNOWLEDGE AND AGREE THAT EACH PARTY HAS HAD AMPLE OPPORTUNITY TO EMPLOY COUNSEL TO REPRESENT IT IN CONNECTION WITH THE NEGOTIATION OF THIS AGREEMENT AND THE CLOSING CONTEMPLATED HEREIN. EACH PARTY MAY OR MAY NOT EMPLOY COUNSEL AT ITS ELECTION. FURTHERMORE, EACH PARTY ACKNOWLEDGES THAT THE OTHER PARTY'S IN-HOUSE COUNSEL (AND OUTSIDE COUNSEL, WHERE APPLICABLE) REPRESENT SUCH PARTY'S INTERESTS ONLY, THAT NO ATTORNEY-CLIENT RELATIONSHIP HAS BEEN CREATED BETWEEN SUCH COUNSEL AND THE OTHER PARTY, AND SUCH COUNSEL HAS NO

FIDUCIARY DUTY TO THE OTHER PARTY. This Agreement shall be construed without regard to any presumption or other rule requiring construction against the party drafting this document.

31. Provision of Water to Seller.

Upon Buyer's completion of the Project and upon Seller's request, Buyer shall make the following available to Seller: (i) potable water at the same rates provided to other industrial users and (ii) pre-potable water from the Project (i.e., water that has been desalinated but prior to such water becoming potable) at rates reasonably determined by Buyer in compliance with all applicable regulatory provisions, provided that Seller shall reimburse Buyer for any reasonable and documented out-of-pocket costs directly attributable to Buyer obtaining any necessary additional permits or permit amendments that may be required for the pre-potable water sales described in this clause (ii).

32. Reservation of Mineral Rights and Mineral Leases.

The purchase and sale and the conveyance contemplated hereby shall exclude the Excluded Water and Minerals. Buyer hereby acknowledges and agrees that other mineral rights (apart from the Excluded Water and Minerals) may have been previously retained by and reserved unto prior owner or owners of the Property, or their respective successors and assigns. Buyer hereby acknowledges and agrees that the Property may be subject to one or more oil, gas and/or other types of mineral leases (the "**Mineral Leases**"), which may or may not be of record; that prior owner(s) may have retained all right, title and interest in and to said Mineral Leases and royalties due thereunder; and that said Mineral Leases shall be deemed to be Permitted Exceptions. Buyer further acknowledges and agrees that prior owner(s) of the Property may have reserved all rights, privileges and easements for access to such minerals, including without limitation, the right to disturb the surface of the Property to access or extract minerals and an easement for access, ingress and egress on, over and through the Property to exercise the rights to minerals, the Mineral Leases and easements reserved in this Section 32. Furthermore, prior owners may have reserved the right to execute and deliver new oil, gas and/or other mineral leases affecting the Property in the future. Buyer, for itself and Buyer's Affiliates, hereby waives any claims against the Released Parties arising out of or relating to any prior reservations of mineral rights and the Mineral Leases.

33. Texas Provisions.

(a) **Water Code Notice.** Notice Required by §13.257, Water Code: "The real property, described below, that you are about to purchase may be located in a certificated water or sewer service area, which is authorized by law to provide water or sewer service to the properties in the certificated area. If your property is located in a certificated area there may be special costs or charges that you will be required to pay before you can receive water or sewer service. There may be a period required to construct lines or other facilities necessary to provide water or sewer service to your property. You are advised to determine if the property is in a certificated area and contact the utility service provider to determine the cost that you will be required to pay and the period, if any, that is required to provide water or sewer service to your property. The undersigned purchaser hereby acknowledges receipt of the foregoing notice at or before the execution of a binding contract for the purchase of the real property described in the notice or at closing of purchase of the real property." The real property is described in Section 1 of this Agreement.

(b) **Utility Notice.** If the Property is situated in a utility or other statutorily created district providing water, sewer, drainage, or flood control facilities and services, Chapter 49, Texas Water Code, requires Seller to deliver and Buyer to sign the statutory notice relating to the tax rate, bonded indebtedness, or standby fees of the district before final execution of this contract.

34. Survival of Obligations. The specific sections of this Agreement that survive Closing and recording of the Deed or earlier termination of this Agreement are: Section 3 (Limitation on Representations and Warranties; Assumption and Release); Section 4 (Disannexation; Development Agreement; Right of Repurchase); Section 5 (Option Period); Section 9(b) (Apportionment of Taxes and other Closing Costs); Section 10 (Utilities/Certain Permits); Section 11(b) (Force Majeure); Section 12 (No Broker); Section 18 (Representations and Warranties of Seller); Section 19 (Representations and Warranties of Buyer); Section 24 (Recordation of Memorandum of Option); Section 26 (Binding Effect; Waiver of Sovereign Immunity; Further Assurances; and Venue); Section 27 (Waiver of Special Damages); Section 28 (Title Insurance Remedy); and Section 29 (Confidentiality). To the extent any such obligations are not included in a recorded instrument that runs with the land, such obligations shall continue to be enforceable for a period of four year following the later to occur of (i) the termination of this Agreement, (ii) the Closing Date, or (iii) the date performance of such activity is required, but in any event within ten years from the date of this Agreement, whereupon such obligations shall cease to be enforceable pursuant to this Agreement. Nothing herein shall limit the continued enforceability of provisions outside this Agreement.

[Signature Pages Follow]

IN WITNESS WHEREOF, the parties hereto have set their hands as of the day and year indicated next to their signatures.

SELLER:

FLINT HILLS RESOURCES CORPUS CHRISTI, LLC,

a Delaware limited liability company

By: _____

Name:

Title:

BUYER:

CITY OF CORPUS CHRISTI, TEXAS,

a Texas home rule municipality

By: _____

Name: Jeff H. Edmonds, P.E.

Title: Director of Engineering Services

APPROVED AS TO LEGAL FORM

This ____ day of _____, 2022

By: _____

Miles Risley, City Attorney

ACKNOWLEDGMENT OF RECEIPT OF EARNEST MONEY BY TITLE COMPANY

The Title Company hereby acknowledges receipt of the Earnest Money from Buyer in the amount of \$500.00 on the ____ day of _____, 2022.

San Jacinto Title Services of Texas, LLC

By: _____
Name: _____
Title: _____

EXHIBIT A

DEFINITIONS

Definitions. Capitalized terms used in this Agreement and not otherwise defined herein have the meanings set forth below:

Affiliates: With respect to any Person, any other Person directly or indirectly Controlling or Controlled by or under direct or indirect common Control with such Person.

Closing Documents: All documents delivered or required to be delivered by Seller and/or Buyer at Closing pursuant to Section 17 of this Agreement.

Control: The possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ownership of voting securities or general partnership or managing member interests, by contract or otherwise. “**Controlling**” and “**Controlled**” shall have correlative meanings. Without limiting the generality of the foregoing, a Person shall be deemed to Control any other Person in which it owns, directly or indirectly, a majority of the ownership interests.

Environment: Any surface water, groundwater, drinking water supply, soil, sediments, ground surface, subsurface strata or ambient air.

Environmental Condition(s): Any circumstance or set of circumstances in, on, under or about the Property or surrounding properties that arise directly or indirectly out of or related to the presence, suspected presence, release or threatened release of any Hazardous Material.

Environmental Laws: Any and all Legal Requirements or Orders, rules, codes, policies, directives, standards, licenses, or permits of any Governmental Body relating to the Environment (as each and all of the foregoing may be amended from time to time), including, without limitation, those relating to the exposure to, use, Release, emission, presence, storage, treatment, generation, transportation, processing, or handling of Hazardous Materials, or solid or other waste previously, presently or hereafter in effect, including the Safe Drinking Water Act, 42 U.S.C. § 300f et seq.; the Federal Insecticide, Fungicide & Rodenticide Act, 7 U.S.C. § 136 et seq.; the Toxic Substances Control Act, 15 U.S.C. § 2601 et seq.; the Oil Pollution Act of 1990, 33 U.S.C. § 2701 et seq.; the Clean Water Act, 33 U.S.C. § 1251 et seq.; the Clean Air Act, 42 U.S.C. § 7401 et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq.; the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq.; and the Emergency Planning and Community Right to Know Act, 42 U.S.C. § 11001 et seq.; and all similar statutes adopted by the State of Texas and/or any other Governmental Body; and any and all implementing regulations relating to any of the foregoing.

Governmental Body: Any (a) nation, state, county, city, town, village, district, territory, or other jurisdiction of any nature; (b) federal, state, local, municipal, foreign, or other government; (c) governmental authority of any nature (including, without limitation, any governmental agency, branch, department, official, or entity and any court or other tribunal); or (d) body exercising, or entitled to exercise, any administrative, executive, judicial, legislative, police, regulatory, or taxing authority or power of any nature.

Hazardous Material: Any “hazardous waste”, “hazardous substance”, “extremely hazardous substance”, “toxic chemical”, “hazardous chemical”, “toxic pollutants”, “contaminants”, “chemical”, “chemical substance”, “mold” or “asbestos”, including without limitation any petroleum product, lead based paint, asbestos containing material or polychlorinated biphenyl, as such terms are defined in any of the

Environmental Laws, or related substances, in such quantities or concentrations as are regulated by such Environmental Laws or other applicable laws, or which may be declared to constitute a material threat to human health or to the Environment; provided, that seawater, water and constituents thereof shall not be considered Hazardous Material.

Legal Requirement: Any order, constitution, law, ordinance, regulation, statute, or treaty issued by any federal, state, local, municipal, foreign, international, multinational, administrative or other Governmental Body, any principle of common law or governmental interpretation thereof.

Losses/Claims: Any and all claims, demands, administrative orders, causes of action (including causes of action in tort), remedial actions, losses, damages, liabilities, judgments, settlements, penalties, fines, costs and expenses (including attorneys' fees and court costs actually incurred) of any and every kind or character, known or unknown, whether based upon negligence, strict liability or otherwise.

Order: Any award, decision, injunction, judgment, decree, order, ruling, subpoena, or verdict entered, issued, made, or rendered by any court, administrative agency, or other Governmental Body or by any arbitrator.

Person: An individual, partnership, joint venture, limited liability company, association, corporation, trust or any other legal entity.

Release or Released: Any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, migrating, or disposing (including, without limitation, the abandoning or discarding of barrels, containers and other closed receptacles containing any Hazardous Material) of a substance into the Environment.

Released Parties: Seller, Seller's Affiliates, and their respective partners, shareholders, members, officers, agents, employees or representatives.

Remediation: The investigation or remediation of soil, sediments, groundwater or surface water to industrial standards in order to address Releases of Hazardous Materials into such soils, sediments, groundwater or surface water, which may include, without limitation, risk-based remedies and engineering and institutional controls in addition to or in lieu of active cleanup if such measures are sufficient to achieve compliance with requirements of applicable Environmental Laws effective as of the Closing.

TCEQ: Texas Commission on Environmental Quality and any successor entity thereof.

EXHIBIT B

LEGAL DESCRIPTION FOR LAND¹

Lots One A (1A), Two (2), Three (3) and the South One-Half (S ½) Lots Four (4) and Five (5), Block One (1), SUNSET PLACE, a subdivision of the City of Corpus Christi, Nueces County, Texas, as shown by the map or plat thereof recorded in Volume 4, Page 25, Map Records of Nueces County, Texas.

North 86.75' of Lot Four (4), Block One (1), SUNSET PLACE, a subdivision of the City of Corpus Christi, Nueces County, Texas, as shown by the map or plat thereof recorded in Volume 4, Page 25, Map Records of Nueces County, Texas.

North 90.03' of Lot Five (5), Block One (1), SUNSET PLACE, a subdivision of the City of Corpus Christi, Nueces County, Texas, as shown by the map or plat thereof recorded in Volume 4, Page 25, Map Records of Nueces County, Texas.

Lots One (1) through Twenty (20), inclusive, Block Two (2), SUNSET PLACE, a subdivision of the City of Corpus Christi, Nueces County, Texas, as shown by the map or plat thereof recorded in Volume 4, Page 25, Map Records of Nueces County, Texas.

Lots One (1) through Sixteen (16), inclusive, Block Ten (10), NUECES BAY HEIGHTS ADDITION, an Addition to the City of Corpus Christi, Texas shown by map or plat thereof recorded in Volume 3, Page 6, Map Records of Nueces County, Texas.

Lots Seventeen A (17A) and Eighteen A (18A), Block Ten (10), REPLAT OF NUECES BAY HEIGHTS ADDITION, an Addition to the City of Corpus Christi, Texas shown by map or plat thereof recorded in Volume 24, Page 76, Map Records of Nueces County, Texas.

Lots Nineteen (19) through Twenty-six (26), inclusive, Block Ten (10), NUECES BAY HEIGHTS ADDITION, an Addition to the City of Corpus Christi, Texas shown by map or plat thereof recorded in Volume 3, Page 6, Map Records of Nueces County, Texas.

Lots Four (4) through Twelve (12), inclusive, and Sixteen (16) through Eighteen (18), inclusive, Block Ten (10), HILLCREST ADDITION, an Addition to the City of Corpus Christi, Texas shown by map or plat thereof recorded in Volume 3, Pages 29 and 30, Map Records of Nueces County, Texas

An approximately 34.5-foot portion of Lots Thirteen (13) through Fifteen (15), inclusive, Block Ten (10), HILLCREST ADDITION, an Addition to the City of Corpus Christi, Texas shown by map or plat thereof recorded in Volume 3, Pages 29 and 30, Map Records of Nueces County, Texas

South One Hundred Feet (S 100') of Lots One (1) through Four (4), inclusive, Block Eleven (11), NUECES BAY HEIGHTS ADDITION, an Addition to the City of Corpus Christi, Texas shown by map or plat thereof recorded in Volume 3, Page 6, Map Records of Nueces County, Texas.

North Fifty Feet (N 50') of Lots One (1) through Four (4), inclusive, and all of Lots Twenty-three (23) through Twenty-Six (26), inclusive, Block Eleven (11), NUECES BAY HEIGHTS ADDITION, an

¹ NTD: LEGAL DESCRIPTION REMAINS SUBJECT TO FHR ONGOING REVIEW AND CONFIRMATION.

Addition to the City of Corpus Christi, Texas shown by map or plat thereof recorded in Volume 3, Page 6, Map Records of Nueces County, Texas.

Lots Fifteen (15) through Twenty (20), inclusive, and the North 50 feet of Lots Seven (7) and Eight (8), Block Eleven (11), NUECES BAY HEIGHTS ADDITION, an Addition to the City of Corpus Christi, Texas shown by map or plat thereof recorded in Volume 3, Page 6, Map Records of Nueces County, Texas.

Lots Twenty-one (21) and Twenty-two (22), and the North 50 feet of Lots Five (5) and Six (6), Block Eleven (11), NUECES BAY HEIGHTS ADDITION, an Addition to the City of Corpus Christi, Texas shown by map or plat thereof recorded in Volume 3, Page 6, Map Records of Nueces County, Texas.

North Seven Feet (N 7') of the East 100 feet (E 100') of Lot Ten (10) and all of Lots Eleven and Twelve (12), except for the west forty-five feet (W 45'), Block Eleven (11), NUECES BAY HEIGHTS ADDITION, an Addition to the City of Corpus Christi, Texas shown by map or plat thereof recorded in Volume 3, Page 6, Map Records of Nueces County, Texas.

East One Hundred Feet (E 100') of Lot Nine (9) and Lot Ten (10), Block Eleven (11), NUECES BAY HEIGHTS ADDITION, an Addition to the City of Corpus Christi, Texas shown by map or plat thereof recorded in Volume 3, Page 6, Map Records of Nueces County, Texas.

Lots One (1) through Eleven (11), inclusive, Block Twelve (12), NUECES BAY HEIGHTS ADDITION, an Addition to the City of Corpus Christi, Texas shown by map or plat thereof recorded in Volume 3, Page 6, Map Records of Nueces County, Texas.

Lots Fifteen (15) through Twenty-eight (28), inclusive, Block Twelve (12), NUECES BAY HEIGHTS ADDITION, an Addition to the City of Corpus Christi, Texas shown by map or plat thereof recorded in Volume 3, Page 6, Map Records of Nueces County, Texas.

Lots Three (3) and Four (4), Block Thirteen (13), NUECES BAY HEIGHTS ADDITION, an Addition to the City of Corpus Christi, Texas shown by map or plat thereof recorded in Volume 3, Page 6, Map Records of Nueces County, Texas.

The South 110 feet of Lots Seven (7) and Eight (8), Block Thirteen (13), NUECES BAY HEIGHTS ADDITION, an Addition to the City of Corpus Christi, Texas shown by map or plat thereof recorded in Volume 3, Page 6, Map Records of Nueces County, Texas.

Lots Nine (9) and Ten (10), Block Thirteen (13), NUECES BAY HEIGHTS ADDITION, an Addition to the City of Corpus Christi, Texas shown by map or plat thereof recorded in Volume 3, Page 6, Map Records of Nueces County, Texas.

The North Twenty-Three feet (23') of Lot Eleven (11) and all of Lot Twelve (12), Block Thirteen (13), NUECES BAY HEIGHTS ADDITION, an Addition to the City of Corpus Christi, Texas shown by map or plat thereof recorded in Volume 3, Page 6, Map Records of Nueces County, Texas.

Lots Thirteen (13) through Twenty-eight (28), inclusive, Block Thirteen (13), NUECES BAY HEIGHTS ADDITION, an Addition to the City of Corpus Christi, Texas shown by map or plat thereof recorded in Volume 3, Page 6, Map Records of Nueces County, Texas.

EXHIBIT C

LEGAL DESCRIPTION FOR SELLER RETAINED LAND

[To be attached]

EXHIBIT D-1

LOCATION OF PIPELINE EASEMENT

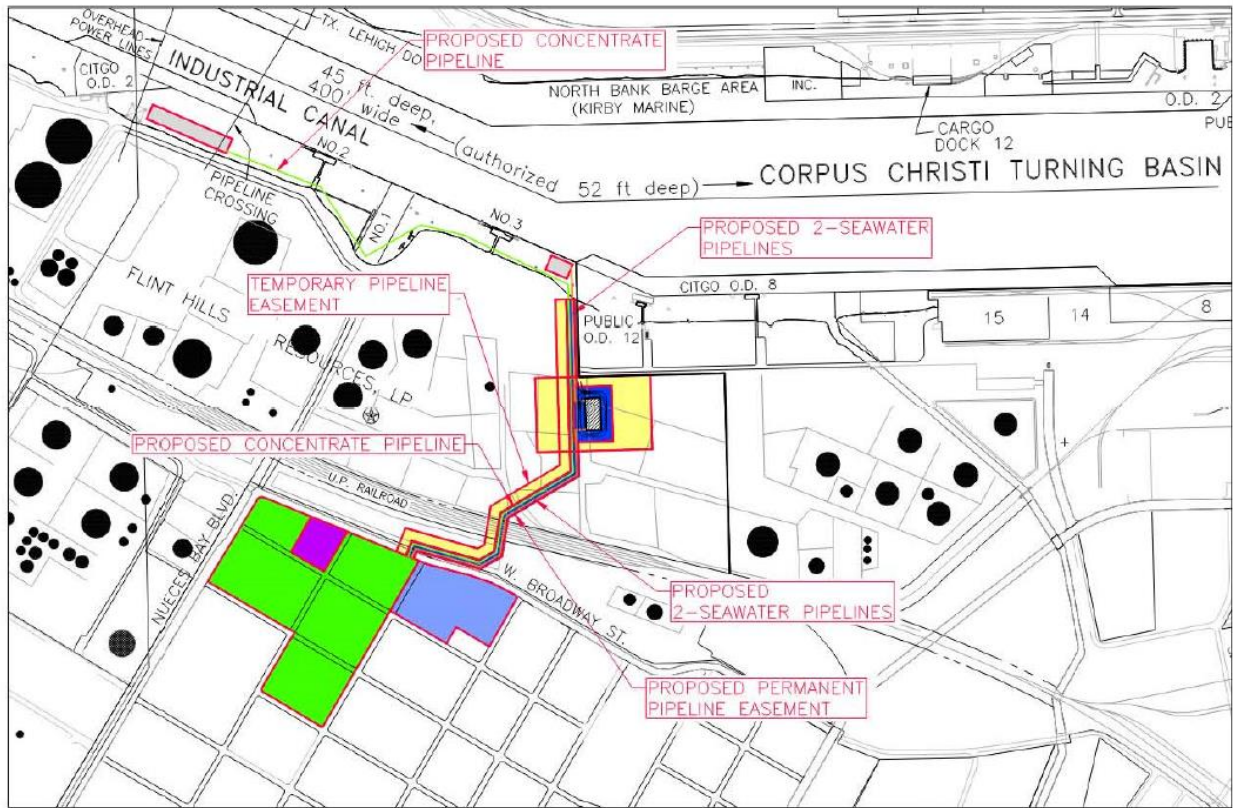


EXHIBIT D-2

LOCATION OF SUBMERGED LAND EASEMENT

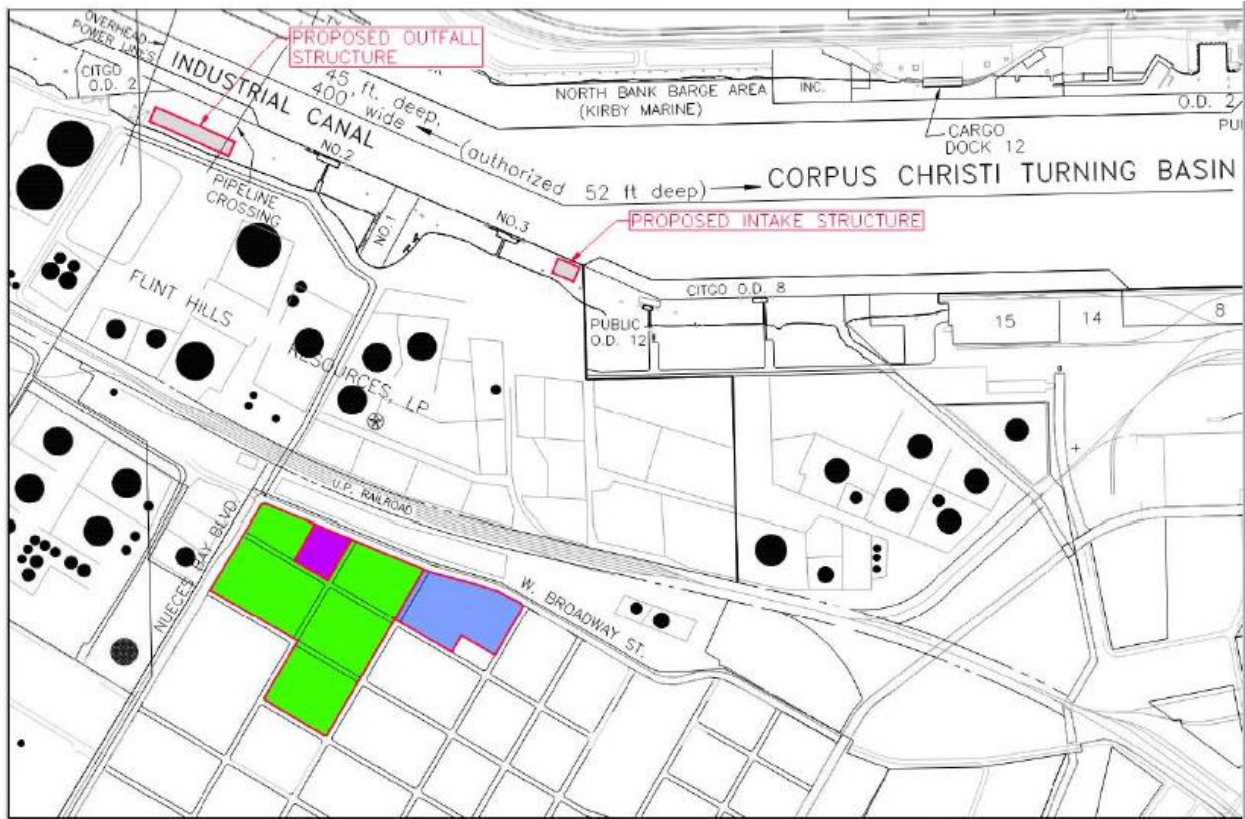


EXHIBIT D-3

LOCATION OF INTAKE PUMP STATION EASEMENT

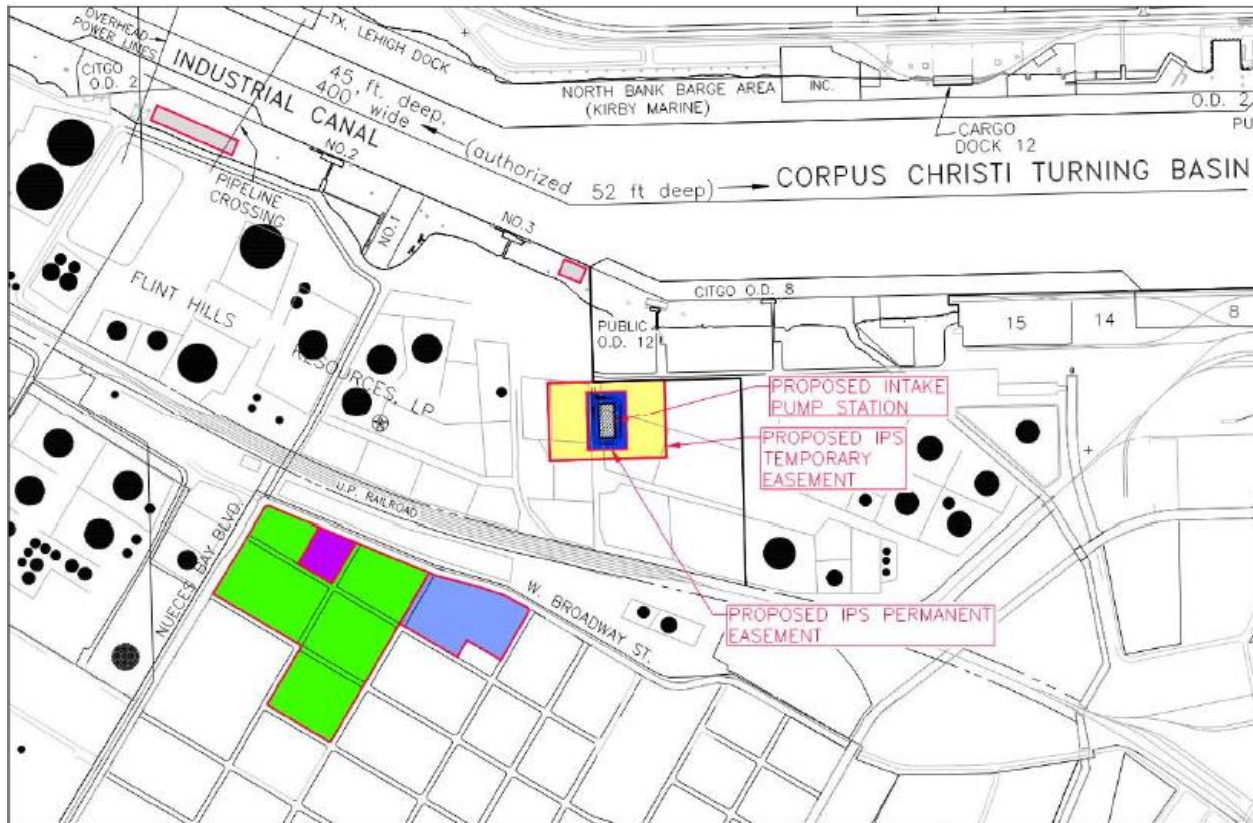


EXHIBIT D-4

LOCATION OF ACCESS EASEMENT

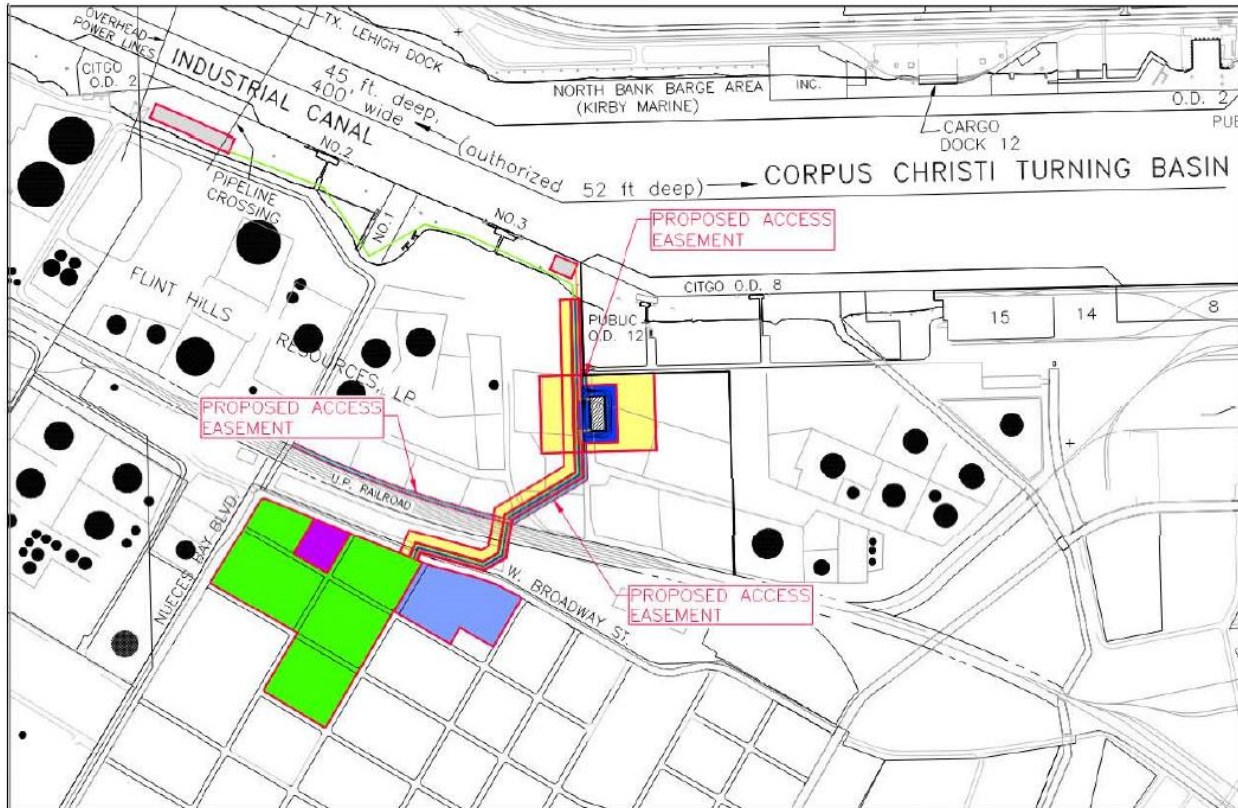


EXHIBIT D-5

LOCATION OF CONSTRUCTION/MAINTENANCE EASEMENT

The easements depicted in yellow below:

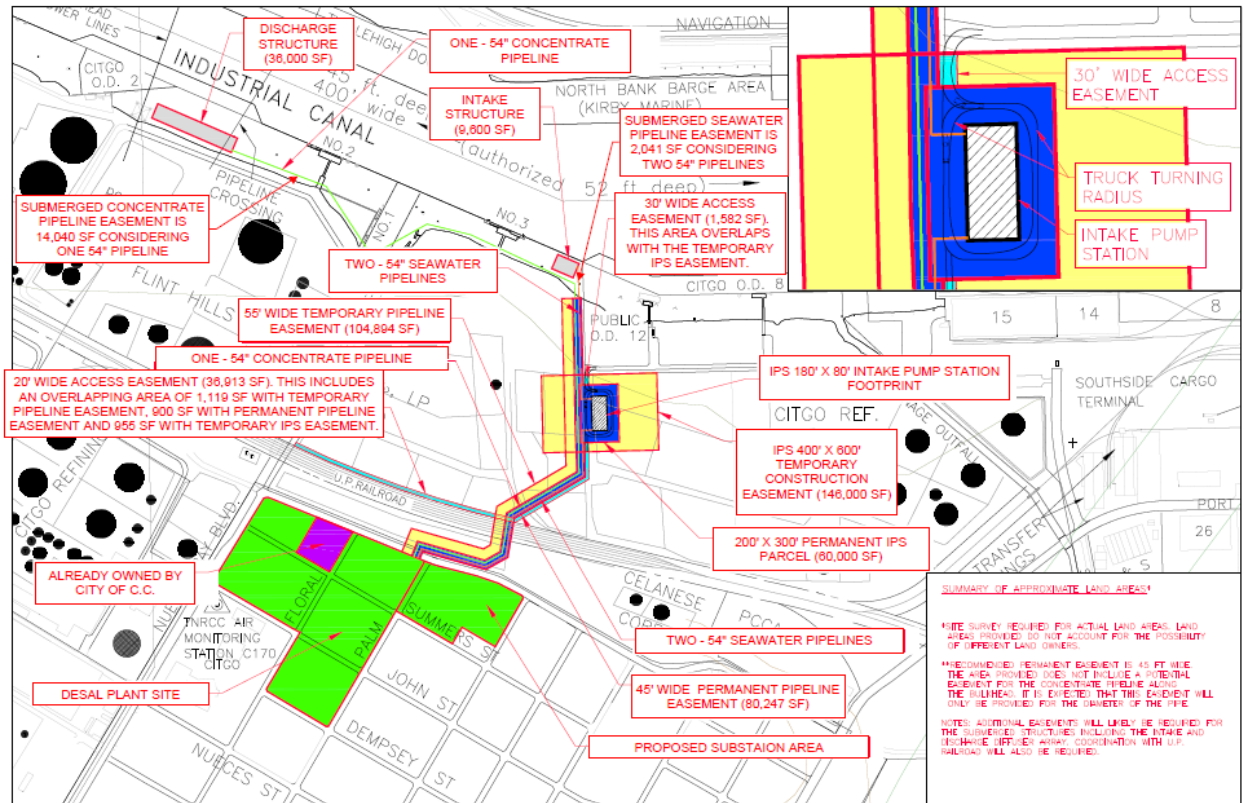


EXHIBIT D-6

LOCATION OF TEMPORARY SOIL STORAGE EASEMENT

[To be identified during the Total Option Period]

EXHIBIT E

FORM OF EASEMENT AGREEMENT

[To be attached]

EXHIBIT F

FORM OF ADDITIONAL OPTION PERIOD NOTICE

[Insert Date of Notice]

BY EMAIL AND FEDERAL EXPRESS

Re: Purchase and Sale Agreement, dated as of _____, 2022, by and between FLINT HILLS RESOURCES CORPUS CHRISTI, LLC, a Delaware limited liability company ("**Seller**"), and the CITY OF CORPUS CHRISTI, TEXAS, a Texas home rule municipality ("**Buyer**") (as amended from time to time, the "**Agreement**")

Ladies and Gentlemen:

Pursuant to Section 2(d) of the Agreement, this letter constitutes Buyer's notice to Seller of its election to extend the Total Option Period by the Additional Option Period described below:

TERM OF ADDITIONAL OPTION PERIOD *(select one):*

_____ One Year
_____ Two Years

REASON FOR EXTENSION OF TOTAL OPTION PERIOD BY ADDITIONAL OPTION PERIOD
(select all applicable reasons):

_____ Buyer has not received the following Required Permit(s) *(describe):*

_____ The following Required Permit(s) [is/are] subject appeal in a court of appropriate jurisdiction
or [is/are] involved in an appeal thereof *(describe):*

Buyer acknowledges and agrees that it will deposit within five Business Days after the date of this letter the applicable NONREFUNDABLE Additional Option Fee with Seller as required pursuant to Section 2(d) of the Agreement. By its signature below, Buyer hereby acknowledges and agrees that there are no further options to extend the Total Option Period under the Agreement.

Sincerely,

[INSERT BUYER'S SIGNATURE BLOCK]

EXHIBIT G

FORM OF DEVELOPMENT AGREEMENT

[To be attached]

EXHIBIT H

FORM OF DEED

SPECIAL WARRANTY DEED

STATE OF TEXAS

§
§
§

KNOW ALL BY THESE PRESENTS:

COUNTY OF NUECES

FLINT HILLS RESOURCES CORPUS CHRISTI, LLC, a Delaware limited liability company (“**Grantor**”), whose address is _____, for and in consideration of the sum of \$10.00 paid to Grantor by the CITY OF CORPUS CHRISTI, TEXAS (“**Grantee**”), whose address is _____, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged has GRANTED, BARGAINED, SOLD and CONVEYED, and by these presents does hereby GRANT, BARGAIN, SELL and CONVEY unto Grantee, that certain land situated in the County of Nueces, State of Texas (the “**State**”), described on Exhibit A attached hereto and made a part hereof, together with all right, title and interest of Grantor in and to all benefits, privileges, easements, tenements, hereditaments, and appurtenances thereon or appertaining thereto, and together with all right, title, and interest of Grantor in and to adjacent streets, alleys, and rights-of-way located thereon (the “**Property**”).

For the same consideration, Grantor has GRANTED, BARGAINED, SOLD, and CONVEYED, and by these presents does GRANT, BARGAIN, SELL, and CONVEY unto Grantee, without warranty, express or implied, all interest of Grantor, if any, in (1) strips and gores, if any, between the Property and any abutting properties, whether owned or claimed by deed, limitations, or otherwise, and whether located inside or outside the Property; and (2) any land lying in or under the bed of any creek, stream, or waterway or any highway, avenue, street, road, alley, easement or right-of-way, open or proposed, in, or across, abutting or adjacent to the Property.

SAVE AND EXCEPT: and there is hereby reserved unto Grantor, Grantor’s successors and assigns, all of Grantor’s interest in (i) any and all water, oil, gas, hydrocarbons and other minerals of whatever kind or nature under or within the Property owned by Grantor, (ii) all royalties, benefits, bonuses, rents, funds, claims and other proceeds of any kind attributable to or that may accrue in connection with any water, oil, gas, and other minerals in, under and under and that may be produced from the Property, and (iii) any and all rights and improvements associated with such water oil, gas, hydrocarbons or other minerals and all rights pertaining thereto. Notwithstanding the forgoing, Grantor does not reserve or retain any implied rights of ingress, egress or of reasonable use of the Property for mining, drilling, exploring, operating, developing, or removing water, oil, gas, hydrocarbons and other minerals of whatever kind or nature. Grantor hereby forever waives and relinquishes any and all rights to use any portion of the surface of the Property for any use whatsoever including, without limitation, any operations in connection with the exploration, development and production of water, oil, gas, hydrocarbons and other minerals of whatever kind or nature (the “**Surface Waiver**”). The Surface Waiver shall not restrict Grantor from extracting water, oil, gas, hydrocarbons and other minerals by means of pooling, directional drilling or other methods that do not require utilization of the surface of the Property so long as such activities do not cause any interference with the surface of the Property through subsidence, expansion, or any other shifting.

This conveyance is being made by Grantor and accepted by Grantee subject only to those certain title exceptions set forth on Exhibit B attached hereto and made a part hereof for all purposes, but only to the extent that such exceptions are valid, existing, and, in fact, affect the Property (the “**Permitted Exceptions**”).

TO HAVE AND TO HOLD the Property, subject to the Permitted Exceptions, unto Grantee and Grantee's successors and assigns forever; and Grantor does hereby bind itself and its successors to warrant and forever defend the Property unto Grantee and Grantee's heirs, successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof, by, through, or under Grantor, but not otherwise.

THE PROPERTY IS BEING SOLD, "AS-IS," "WHERE-IS," WITH ALL FAULTS AND DEFECTS, WITHOUT ANY REPRESENTATION OR WARRANTY WHATSOEVER AS TO ITS CONDITION (PHYSICAL OR OTHERWISE), FITNESS FOR ANY PARTICULAR PURPOSE, MERCHANTABILITY, OR ANY OTHER WARRANTY, EXPRESS OR IMPLIED, EXCEPT FOR THE SPECIAL WARRANTY OF TITLE SET FORTH ABOVE. GRANTEE ACKNOWLEDGES THAT GRANTEE IS PURCHASING THE PROPERTY BASED SOLELY UPON GRANTEE'S OWN INDEPENDENT INVESTIGATIONS AND FINDINGS AND NOT IN RELIANCE UPON ANY INFORMATION PROVIDED BY GRANTOR OR GRANTOR'S AGENTS OR CONTRACTORS.

USE RESTRICTIONS. In addition to the Permitted Exceptions, the conveyance evidenced hereby is made subject to the following express use restrictions: (1) the Property shall be used solely for Commercial/Industrial Purposes (as hereinafter defined) (which shall include, for the avoidance of doubt, but not be limited to, the Project (as hereinafter defined)); and (2) no underground storage tanks shall be installed except and to the extent such tanks are used only for storage of water or storage of components necessary for any desalination water facilities constructed on the Property (collectively, the "**Use Restrictions**"). Without prejudice to any other rights or remedies of Grantor, Grantee acknowledges and agrees that monetary damages would not be an adequate remedy for any breach of the Use Restrictions and that, in addition to its other remedies, Grantor shall be entitled to the remedies of injunction, specific performance and other equitable relief for any threatened or actual breach hereof. All such remedies shall be cumulative. The foregoing Use Restrictions shall run with title to the Property herein described and shall inure to the benefit of Grantor, its successors and assigns, and shall be binding upon Grantee, and its successors and assigns, and any persons hereafter acquiring any interest in the Property as owner, tenant or otherwise. As used herein, "**Commercial/Industrial Purposes**" means any purpose consistent with the definition of "Commercial/industrial land use" as defined under Section 350.4(a)(13) of the Texas Administrative Code (as in effect as of the Effective Date), and which purpose excludes, for the avoidance of doubt, human habitation and any purpose with a similar potential for human exposure as in residential land. As used herein, the "**Project**" means the construction, operation, and maintenance of a facility designed for the desalination of saltwater, potable water production, and the storage and transport of potable water in connection therewith.

REPURCHASE RIGHT. Grantor will have the right, but not the obligation, to repurchase all of the Property from Grantee for the purchase price paid by Grantee (the "**Repurchase Right**") pursuant to that certain Purchase and Sale Agreement dated [____] by and between Grantor, as seller, and Grantee, as buyer (as amended from time to time, the "**PSA**") if either (i) Grantee has not satisfied the Project Progress Conditions (as defined in the PSA) as of the fifth anniversary of the date of this Deed or (ii) on or prior to said fifth anniversary, Grantee notifies Grantor that Grantee does not plan to proceed with the Project (the occurrence of the events described in clauses (i) and (ii) are each referred to herein as a "**Repurchase Right Trigger Event**", and such anniversary date or the date upon which Grantor is notified of such Repurchase Right Trigger Event, the "**Repurchase Right Trigger Date**"). Upon the occurrence of a Repurchase Right Trigger Event, Grantor shall have until the first anniversary of the Repurchase Right Trigger Date to conduct due diligence investigations (including, without limitation, to conduct all tests and studies of whatever nature Grantor deems necessary in its sole and absolute discretion (including, without limitation, invasive Phase II environmental site assessments) at Grantor's sole expense and liability and to obtain and review a title commitment for the Property) and to notify Grantee of Grantor's election to exercise its

Repurchase Right (such period, the “**Repurchase Right Term**” and such notice, the “**Repurchase Right Notice**”). If Grantor fails to notify Grantee of its election to exercise its Repurchase Right prior to the expiration of the Repurchase Right Term, then the Repurchase Right shall be deemed forfeited and of no further force and effect. The Repurchase Right may only be exercised for the entire parcel of the Property. Section 4(b) of the PSA is incorporated herein by reference and made a part hereof.

NOTICE. A PETITION FOR FULL PURPOSE ANNEXATION OF THE PROPERTY INTO THE MUNICIPAL JURISDICTION OF THE CITY OF CORPUS CHRISTI (THE “ANNEXATION PETITION”) HAS BEEN FILED WITH, BUT NOT YET APPROVED BY, THE CITY COUNCIL OF THE CITY OF CORPUS CHRISTI. THE ANNEXATION PETITION SHALL REMAIN IN EFFECT FROM THE DATE HEREOF UNTIL SUCH TIME AS THE CITY COUNCIL OF THE CITY OF CORPUS CHRISTI TAKES OFFICIAL ACTION TO ACCEPT OR REJECT SUCH ANNEXATION PETITION.

TRANSFER RESTRICTION. Subject to the Permitted Exceptions (including, without limitation, Grantor’s Repurchase Right, to the extent such remains in effect), Grantee may, at its option, convey the Property and, so long as such assignment is for the same Project purpose, assign the Easement Agreement of even date herewith, so long as such Easement Agreement remains in effect, to a third party (a “**Qualified Transferee**”), subject to all terms in this Deed and, to the extent the Easement Agreement remains in effect, all terms and conditions contained in the Easement Agreement, (such transfer, a “**Permitted Transfer**”). Grantee shall give Grantor no less than 30 days’ advance notice of such Permitted Transfer and, upon the effectiveness of such Permitted Transfer, Grantee shall deliver, or cause to be delivered, to Grantor, (i) a copy of the recorded deed signed and acknowledged by the Qualified Transferee restating the restrictions in this Deed to the extent such remain in effect, and (ii) if the Easement Agreement remains in effect, a Soil Management Plan (as defined in the Easement Agreement) executed by such Qualified Transferee. Grantee agrees that all provisions of (i) this Deed, (ii) the provisions of the Easement Agreement, so long as such Easement Agreement remains in effect, and (iv) the Soil Management Plan (as defined in the Easement Agreement), so long as such Easement Agreement remains in effect that are in full force and effect in accordance with their terms as of the date of the effectiveness of such Permitted Transfer (collectively, such agreements, the “**Project Agreements**”) shall be binding upon such Qualified Transferee as of the effective date of such Permitted Transfer; provided, that such Permitted Transfer shall not relieve Grantee of any of its obligations under the Project Agreements, accruing before the effective date of such Permitted Transfer. A Qualified Transferee’s operation of the Project shall be considered an authorized municipal use by the City of Corpus Christi.

GRANTEE’S VOLUNTARY WAIVER OF SOVEREIGN IMMUNITY FROM LIABILITY AND SUIT. NOTWITHSTANDING ANY LAW NOW OR HEREINAFTER IN EFFECT TO THE CONTRARY, PURSUANT TO TEXAS LOCAL GOVERNMENT CODE SECTION 212.172(i), GRANTEE HEREBY IRREVOCABLY WAIVES ITS SOVEREIGN IMMUNITY FROM LIABILITY IN ANY LAWSUIT WITH RESPECT TO ANY ACTION IN ANY COURT OR TRIBUNAL OF COMPETENT JURISDICTION AS TO ALL DISPUTES AND ACTIONS WHICH MAY ARISE AS A RESULT OF THIS DEED. GRANTEE ALSO HEREBY CONSENTS TO AND IRREVOCABLY WAIVES ANY AND ALL OBJECTIONS OR DEFENSES IT MAY HAVE TO SUCH JURISDICTION AND VENUE BASED UPON OR RELATED TO SOVEREIGN IMMUNITY. GRANTEE HEREBY ACKNOWLEDGES AND AGREES THAT IT IS VOLUNTARILY ENTERING INTO THIS DEED AND BINDS ITSELF TO THE TERMS OF THIS DEED IN ALL RESPECTS. To the extent permitted by applicable law, Buyer further waives and stipulates to the inapplicability of any provision of the Corpus Christi City Charter that would bar, limit, or otherwise affect the ability of Seller to enforce this Deed.

VENUE. Grantor and Grantee hereby irrevocably submit generally and unconditionally for themselves and in respect of their respective properties and any dispute regarding this Deed to the jurisdiction of any state court of appropriate jurisdiction in the county in which the Property is located. Grantor and Grantee hereby irrevocably waive any objection that Grantor or Grantee may now or hereafter have to the laying of venue in any such court and any claim that any such court is an inconvenient forum. Grantor and Grantee consent to any methods of service of process provided for under applicable laws.

JURY WAIVER. IT IS MUTUALLY AGREED BY AND BETWEEN GRANTOR AND GRANTEE THAT THE RESPECTIVE PARTIES WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY EITHER OF THE PARTIES AGAINST THE OTHER ON ANY MATTER WHATSOEVER ARISING OUT OF THIS DEED.

REMEDIES. Since this Deed is being executed and delivered pursuant to the terms of a Development Agreement between Grantor and Grantee dated _____, 20__, the parties acknowledge and agree that Grantor's remedies with respect to any provisions of this Deed shall include all remedies available under Texas Local Government Code 212.172(j), including, without limitation, Grantor's right to recover its reasonable attorney's fees.

SALE OF WATER. Upon Grantee's completion of the Project and upon Grantor's request, Buyer shall make the following available to Grantor: (i) potable water at the same rates provided to other industrial users and (ii) pre-potable water from the Project (i.e., water that has been desalinated but prior to such water becoming potable) at rates reasonably determined by Grantee in compliance with all applicable regulatory provisions, provided that Grantor shall reimburse Grantee for any reasonable and documented out-of-pocket costs directly attributable to Grantee obtaining any necessary additional permits or permit amendments that may be required for the pre-potable water sales described in this clause (ii).

[Signatures on following pages]

EXECUTED on the date set forth in the acknowledgment below to be effective as of the ____ day
of _____, 20____ (the “**Effective Date**”).

Grantor:

FLINT HILLS RESOURCES CORPUS CHRISTI, LLC,
a Delaware limited liability company

By:_____

Printed Name:_____

Title:_____

STATE OF _____ §

COUNTY OF _____ §

This instrument was acknowledged before me on _____, 20____, by _____,
_____ of FLINT HILLS RESOURCES CORPUS CHRISTI, LLC, a Delaware limited liability
company, on behalf of said company.

(seal)

Notary Public in and for the State of _____

Printed Name of Notary:_____

My Commission Expires:_____

[Signatures continue on following page]

Grantee:

CITY OF CORPUS CHRISTI, TEXAS,
a Texas home rule municipality

By: _____

Printed Name: _____

Title: _____

APPROVED AS TO LEGAL FORM

This ____ day of _____, 2022.

By: _____

, City Attorney

STATE OF TEXAS §

§

COUNTY OF NUECES §

This instrument was acknowledged before me on _____, 20____, by _____,
_____ of the CITY OF CORPUS CHRISTI, TEXAS, a Texas home rule municipality, on behalf
of said municipality.

(seal)

Notary Public, State of Texas

Exhibit A to Exhibit H

(To Special Warranty Deed)

[legal description of Land to be attached at Closing]

Exhibit B to Exhibit H

(To Special Warranty Deed)

[Permitted Exceptions to be attached at Closing]

EXHIBIT I

FORM OF ESCROW AGREEMENT

[To be attached]

EXHIBIT J

FORM OF REANNEXATION PETITION

[To be attached]

EXHIBIT K

FORM OF REPURCHASE RIGHT REIMBURSEMENT AGREEMENT

[To be attached]

EXHIBIT L

FORM OF SOIL MANAGEMENT PLAN

EXHIBIT M

FORM OF RECONVEYANCE DEED

SPECIAL WARRANTY DEED

STATE OF TEXAS	§	
	§	KNOW ALL BY THESE PRESENTS:
COUNTY OF NUECES	§	

THE CITY OF CORPUS CHRISTI, TEXAS, a Texas home rule municipality ("**Grantor**"), whose address is _____, for and in consideration of the sum of \$10.00 paid to Grantor by FLINT HILLS RESOURCES CORPUS CHRISTI, LLC, a Delaware limited liability company (collectively, "**Grantee**"), whose address is _____, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged has GRANTED, BARGAINED, SOLD and CONVEYED, and by these presents does hereby GRANT, BARGAIN, SELL and CONVEY unto Grantee, that certain land situated in the County of Nueces, State of Texas, described on Exhibit A attached hereto and made a part hereof, together with all right, title and interest of Grantor in and to all benefits, privileges, easements, tenements, hereditaments, and appurtenances thereon or appertaining thereto, and together with all right, title, and interest of Grantor in and to adjacent streets, alleys, and rights-of-way located thereon (the "**Property**").

For the same consideration, Grantor has GRANTED, BARGAINED, SOLD, and CONVEYED, and by these presents does GRANT, BARGAIN, SELL, and CONVEY unto Grantee, without warranty, express or implied, all interest of Grantor, if any, in (1) strips and gores, if any, between the Property and any abutting properties, whether owned or claimed by deed, limitations, or otherwise, and whether located inside or outside the Property; and (2) any land lying in or under the bed of any creek, stream, or waterway or any highway, avenue, street, road, alley, easement or right-of-way, open or proposed, in, or across, abutting or adjacent to the Property.

This conveyance is being made by Grantor and accepted by Grantee subject only to those certain title exceptions set forth on Exhibit B attached hereto and made a part hereof for all purposes, but only to the extent that such exceptions are valid, existing, and, in fact, affect the Property (the "**Permitted Exceptions**").

TO HAVE AND TO HOLD the Property, subject to the Permitted Exceptions, unto Grantee and Grantee's successors and assigns forever; and Grantor does hereby bind itself and its successors to warrant and forever defend the Property unto Grantee and Grantee's heirs, successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof, by, through, or under Grantor, but not otherwise.

THE PROPERTY IS BEING SOLD, "AS-IS," "WHERE-IS," WITH ALL FAULTS AND DEFECTS, WITHOUT ANY REPRESENTATION OR WARRANTY WHATSOEVER AS TO ITS CONDITION (PHYSICAL OR OTHERWISE), FITNESS FOR ANY PARTICULAR PURPOSE, MERCHANTABILITY, OR ANY OTHER WARRANTY, EXPRESS OR IMPLIED, EXCEPT FOR THE SPECIAL WARRANTY OF TITLE SET FORTH ABOVE.

[Signatures on following pages]

EXECUTED on the date set forth in the acknowledgment below to be effective as of the ____ day of _____, 20____.

Grantor:

CITY OF CORPUS CHRISTI, TEXAS,
a Texas home rule municipality

By: _____

Printed Name: _____

Title: _____

APPROVED AS TO LEGAL FORM

This _____ day of _____, 2022.

By: _____
_____, City Attorney

STATE OF TEXAS §
 §
COUNTY OF NUECES §

This instrument was acknowledged before me on _____, 20____, by _____,
_____ of the CITY OF CORPUS CHRISTI, TEXAS, a Texas home rule municipality, on behalf
of said municipality.

(seal)

Notary Public, State of Texas

[Signatures continue on following page]

Grantee:

FLINT HILLS RESOURCES CORPUS CHRISTI, LLC,
a Delaware limited liability company

By: _____

Name: _____

Its: _____

STATE OF _____ §

COUNTY OF _____ §

This instrument was acknowledged before me on _____, 20____, by _____,
_____ of FLINT HILLS RESOURCES CORPUS CHRISTI, LLC, a Delaware limited liability
company, on behalf of said company

(seal)

Notary Public in and for the State of _____

Printed Name of Notary: _____

My Commission Expires: _____

Exhibit A to Exhibit M

(To Reconveyance Deed)

Legal Description

[legal description to be attached at closing of Repurchase Right]

Exhibit B to Exhibit M

(To Reconveyance Deed)

Permitted Exceptions

[Permitted Exceptions to match Permitted Exceptions in Deed to Buyer at Closing]

EXHIBIT N

FORM OF TERMINATION AND RELEASE OF REPURCHASE RIGHT

TERMINATION AND RELEASE OF REPURCHASE RIGHT

STATE OF TEXAS §
 §
COUNTY OF NUECES §

This **TERMINATION AND RELEASE OF REPURCHASE RIGHT** (this “Termination and Release”) is made by **FLINT HILLS RESOURCES CORPUS CHRISTI, LLC**, a Delaware limited liability company (“Holder”) in favor of the **CITY OF CORPUS CHRISTI, TEXAS**, a Texas home rule municipality (the “City”).

RECITALS

A. Reference is hereby made to (i) that certain Special Warranty Deed (the “Deed”) dated effective as of _____, by and between Holder, as grantor, and City, as grantee, recorded on _____ as Document No. _____ in the Official Public Records of Nueces County, Texas, pursuant to which Holder conveyed to City certain property more particularly described on Exhibit A attached hereto and made a part hereof for all purposes (such property, the “Property”) and (ii) that certain Purchase and Sale Agreement dated effective as of _____, 20__, by and between Holder, as seller, and City, as buyer (as amended from time to time, the “Purchase Agreement”); and

B. Pursuant to the terms and conditions of the Deed and Purchase Agreement, Holder retained the right to repurchase the Property (the “Repurchase Right”) after the closing of the transaction contemplated by the Purchase Agreement and recording of the Deed. The Repurchase Right has terminated by the terms of the Deed and Purchase Agreement, and, accordingly, Holder has executed this Termination and Release of Repurchase Right as required pursuant to the terms and conditions of the Deed and Purchase Agreement.

AGREEMENT

NOW THEREFORE, for and in consideration of \$10.00, and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged and confessed, the Holder hereby terminates, discharges, and releases the Repurchase Right.

[Signature page follows]

HOLDER:

FLINT HILLS RESOURCES CORPUS CHRISTI, LLC,
a Delaware limited liability company

By: _____

Name: _____

Its: _____

STATE OF _____ §

COUNTY OF _____ §

This instrument was acknowledged before me on _____, 20____, by _____,
_____ of FLINT HILLS RESOURCES CORPUS CHRISTI, LLC, a Delaware limited liability
company, on behalf of said company

(seal)

Notary Public in and for the State of _____

Printed Name of Notary: _____

My Commission Expires: _____

Exhibit A to Exhibit N

Legal Description of Property

[To be attached]

EXHIBIT O

[INTENTIONALLY OMITTED]

EXHIBIT P
ACCESS AGREEMENTS

[Attached]

EXHIBIT Q

PERMITTED EXCEPTIONS

1. Existing zoning, subdivision and environmental laws or ordinances;
2. If the Buyer is not a governmental entity on the Closing Date, taxes or assessments for the year 202_ and subsequent years which are not yet due and payable; and
3. Any prior reservation or conveyance of water, gas, oil, or other minerals of every kind and character in, on and under the subject property.

EXHIBIT R

FORM OF CERTIFICATE AND AFFIDAVIT OF NON-FOREIGN STATUS

STATE OF _____
COUNTY OF _____

Section 1445 of the Internal Revenue Code provides that a transferee of a U.S. real property interest must withhold tax if the transferor is a foreign person. For U.S. tax purposes (including section 1445), FLINT HILLS RESOURCES CORPUS CHRISTI, LLC, a Delaware limited liability company (“**Transferor**”), is the owner of certain real property located in the County of Nueces, State of Texas (the “**Property**”). To inform the CITY OF CORPUS CHRISTI, TEXAS, a Texas home rule municipality (“**Transferee**”), the transferee of certain interests in the Property, that withholding of tax is not required upon the disposition of such U.S. real property interest by Transferor, the undersigned hereby certifies the following on behalf of Transferor:

Transferor is not a foreign corporation, foreign partnership, foreign trust, or foreign estate (as those terms are defined in the internal revenue code and income tax regulations);

Transferor’s U.S. Employer identification number is _____;

Transferor is not a disregarded entity as defined in §1.1445-2(b)(2)(iii); and

Transferor’s office address is _____.

Transferor understands that this certification may be disclosed to the Internal Revenue Service by the Transferee and that any false statement contained herein could be punished by fine, imprisonment, or both.

Under penalty of perjury, I declare that I have examined this certificate and to the best of my knowledge and belief it is true, correct and complete, and I further declare that I have authority to sign this document on behalf of Transferor.

[Remainder of Page Left Blank Intentionally]

TRANSFEROR:

**FLINT HILLS RESOURCES CORPUS CHRISTI,
LLC**, a Delaware limited liability company

By: _____

Name: _____

Title: _____

ACKNOWLEDGMENT

STATE OF _____ §

§

COUNTY OF _____ §

This instrument was acknowledged before me on _____, 20____, by _____,
_____ of FLINT HILLS RESOURCES CORPUS CHRISTI, LLC, a Delaware limited liability
company, on behalf of said company.

(seal)

Notary Public in and for the State of _____

Printed Name of Notary: _____

My Commission Expires: _____

EXHIBIT S

FORM OF SELLER'S AFFIDAVIT

SELLER'S AFFIDAVIT²

STATE OF _____

COUNTY OF _____

BEFORE ME, the undersigned authority, personally appeared [_____] ("**Affiant**"), [INSERT TITLE] of FLINT HILLS RESOURCES CORPUS CHRISTI, LLC ("**Seller**") who, after being duly sworn, as required by law, declares, deposes and says that, to Affiant's actual knowledge, on behalf of Seller and not in Affiant's individual capacity:

1. Seller is the owner of the property described on Exhibit A attached hereto (the "**Property**").
2. There is no outstanding contract for the sale of the Property to any person or persons whomsoever nor any unrecorded deed, mortgage or other conveyances affecting the title to the Property, other than those matters set forth on Exhibit B attached hereto (the "**Permitted Exceptions**").
3. There have been no improvements upon the Property undertaken at the direction of Seller within the past [ninety (90)] days, other than in the ordinary course of business, for which there remain any outstanding and unpaid bills for labor, materials or other charges for which a lien or liens might be claimed by anyone whomsoever, other than as follows:

4. Seller has not taken any action, since the most recent effective date of title insurance commitment number [INSERT TITLE COMMITMENT NUMBER], issued by [INSERT TITLE COMPANY NAME] (the "**Title Commitment**"), that would encumber title to the Property.
5. To Seller's knowledge, there are no judgments, claims, disputes, demands or other matters pending against Seller that would attach to the Property.
6. Seller has not received notice of any violations of governmental laws, regulations or ordinances pertaining to the use of the Property.
7. Seller is in possession of the Property and no one else is in possession of the Property and no other person, corporation or entity has any right or lawful claim to possession or use thereof.
8. [All charges for water or sewer services provided to the Property by the county and/or city in which the Property is located which are currently due have been paid. There are no liens or assessments for public improvements or assessments, as provided for by [INSERT STATE STATUTORY REFERENCE], in favor of any city, town, village or port authority for unpaid service charges for service by any water, sewer or gas systems supplying the lands described herein.]

² NTD: Seller's Affidavit subject to review and approval of Title Company.

9. That no services of a Broker (as the term is defined in [INSERT STATE STATUTORY REFERENCE]) have been engaged with regard to the management, sale, purchase, lease, option, or other conveyance of interest in the Property, except for _____.
10. That this affidavit is made to [INSERT TITLE COMPANY NAME] (the “Company”) to issue its policy of title insurance insuring the interest of Buyer.

By their acceptance hereof, the Company acknowledges that Affiant has made the averments set forth herein based upon his or her knowledge and belief and Company agrees that in the event of any monetary loss suffered or incurred by Company that it will look only and solely to Seller for compensation and not to Affiant in his or her individual capacity.

FURTHER AFFIANT SAYETH NOT.

IN WITNESS WHEREOF, this Affidavit is executed as of the ____ day of _____, 20__.

AFFIANT:

**FLINT HILLS RESOURCES CORPUS CHRISTI,
LLC**, a Delaware limited liability company

By: _____
Name: _____
Title: _____

STATE OF _____

COUNTY OF _____

The foregoing instrument was sworn to, subscribed and acknowledged before me this ____ day of _____, 20__, by _____, as [INSERT SIGNATORY TITLE] of FLINT HILLS RESOURCES CORPUS CHRISTI, LLC, a Delaware limited liability company. He/She is personally known to me.

Notary Public in and for the State of _____

Printed Name of Notary: _____

My Commission Expires: _____

Exhibit A to Exhibit S

LEGAL DESCRIPTION

[To be attached at Closing]

Exhibit B to Exhibit S

PERMITTED EXCEPTIONS

[**SUBJECT** to easements, restrictions and covenants of record, if any, as the same were in full force and effect.]

EXHIBIT T
FORM OF LEGAL OPINION

_____, 2022

Flint Hills Resources Corpus Christi, LLC
Attention: Roger TenNapel
4111 East 37th Street North
Wichita, Kansas 67220

RE: Opinion Letter Concerning Purchase and Sale Agreement

Dear Sirs:

I serve as counsel to the City of Corpus Christi, Texas (the “City”). I have been requested by Flint Hills Resources Corpus Christi, LLC (“Flint Hills”) to issue this opinion regarding the sale of certain property from Flint Hills to the City.

In rendering this opinion I have examined the following documents, referenced herein as the “Opinion Documents”:

- (a) the Purchase and Sale Agreement by and between the City and Flint Hills (the “Agreement”);
- (b) the Easement Agreement by and between the City and Flint Hills;
- (c) the Development Agreement by and between the City and Flint Hills;
- (d) the Escrow Agreement by and between the City and Flint Hills; and
- (e) all other Closing Documents (as such term is defined in the Agreement) to be executed and delivered by the City at Closing pursuant to the Agreement.

For the purposes of this opinion, I have assumed that:

- (a) The execution and delivery of the Opinion Documents, and the entry into and performance of the transactions contemplated thereby by all parties other than the City, have been duly authorized by all necessary actions;
- (b) All natural persons who are signatories on the Opinion Documents were legally competent at the time of execution; all signatures on the Opinion Documents made by parties other than the City are genuine; and the copies of all documents submitted to me are accurate and complete and conform to the originals.

Based upon the foregoing, but subject to the assumptions, qualifications and limitations set forth below, I am of the opinion that:

1. The City has the authority to enter into and perform its obligations under the Opinion Documents to which it is a party.

2. The execution and delivery by the City of the Opinion Documents to which it is a party and the performance by the City of its obligations thereunder (a) have been authorized by all necessary action of the City Council of Corpus Christi, (b) do not require, under any present law or regulation of any governmental agency or authority of the State of Texas or the United States of America, any filing or registration by, with, or approval or consent of, any governmental agency or authority of the State of Texas or the United States of America that has not been made or obtained, (c) do not contravene any provision of any organizational charters or other documents governing the authority of the City to transact business and enter into the Opinion Documents, and (d) do not violate (i) any present law, or present regulation of any governmental agency or authority, of the State of Texas or the United States of America applicable to the City, (ii) any agreement binding upon the City, or (iii) any court decree or order binding upon the City.

3. Each Opinion Document (a) has been duly executed and delivered on behalf of the City and (b) constitutes a valid and binding obligation of the City, enforceable against the City in accordance with its terms.

4. The provisions of the Opinion Documents pursuant to which the City voluntarily waives sovereign immunity, including, without limitation, Section 26(b) of the Agreement, are valid, binding and enforceable against the City and the present and any future City Council of Corpus Christi.

5. There is no action, suit, proceeding, governmental investigation or arbitration, at law or equity, or before or by any governmental authority or the City Council of Corpus Christi, pending or threatened against the City which could materially or adversely affect the ability of the City to perform its obligations under the Opinion Documents.

My opinion is qualified as follows:

(a) The rights and remedies set forth in the above-mentioned documents may be limited by applicable bankruptcy, reorganization, insolvency, moratorium, fraudulent conveyance or transfer and other similar laws now or hereafter in effect relating to or affecting creditors' rights generally;

(b) Enforcement of a party's rights and remedies may be limited by general principles of equity, regardless of whether such enforcement is considered in a proceeding in equity or at law, and in this regard I have assumed that each party will exercise its rights and remedies in good faith and in circumstances and a manner which are commercially reasonable;

(c) My opinion is limited to the laws of the United States and the laws of the State of Texas. I have no continuing obligations to inform you of changes in law or fact subsequent to the date hereof or of facts of which I become aware after the date hereof;

(d) I have not reviewed and do not opine as to: (i) compliance by the City with applicable zoning, health, safety, building, environmental, land use or subdivision laws, ordinances, codes, rules or regulations, (ii) ERISA laws, rules and regulations, (iii) Federal or state taxation, banking,

securities or “blue sky” laws, rules or regulations, or (iv) the priority of any liens or security interests or other conditions of title that would be reflected in a title or lien search or on one or more policies of title insurance.

This opinion is limited to the matters set forth herein. No opinion may be inferred or implied beyond the matters expressly contained herein. This opinion is rendered solely for your benefit and that of your successors and assigns, and the respective counsel of the foregoing (including Holland & Knight LLP), and no other person or entity shall be entitled to rely on any matter set forth herein without the express written consent of the undersigned.

Very truly yours,

Copies to:

Flint Hills Resources Corpus Christi, LLC
Attention: Kim Boatright
4111 East 37th Street North
Wichita, Kansas 67220

Holland & Knight LLP
Attn: Eugene Segrest, Esq.
One Arts Plaza
1722 Routh Street, Suite 1500
Dallas, Texas 75201

EXHIBIT U

FORM OF MEMORANDUM OF OPTION

MEMORANDUM OF OPTION

STATE OF TEXAS

§

§

COUNTY OF NUECES

§

FLINT HILLS RESOURCES CORPUS CHRISTI, LLC, a Delaware limited liability company, whose address is 4111 East 37th Street North, Wichita, Kansas 67220 (“**Owner**”), owns certain real property located in Nueces County, State of Texas, as more particularly described in Exhibit A attached hereto (the “**Property**”). Owner and **CITY OF CORPUS CHRISTI, TEXAS**, a Texas home rule municipality, whose address is 1201 Leopard Street, Corpus Christi, Texas 78401 (the “**City**”) entered into that certain Purchase and Sale Agreement dated as of [____], 2022 (as amended from time to time, the “**Agreement**”), whereby Owner, subject to the terms of the Agreement, agreed to grant to the City an option to purchase the Property during the period of three years beginning on the date of the Agreement (the “**Option**”). The Option is subject to extension, at City’s election, for one or two years as provided in the Agreement.

This Memorandum of Option (this “**Memorandum**”) is intended solely to put third parties on notice of the Option held by the City, and nothing contained in this Memorandum shall, or shall be deemed to, modify or amend the Agreement in any respect. In the event of any conflict between the provisions of the Agreement and the provisions of this Memorandum, the provisions of the Agreement shall prevail.

This Memorandum shall expire automatically, and without further action, and be of no further force or effect upon the earlier to occur of (a) the filing of a termination signed by the City stating that the Agreement and Option have been terminated and is no longer in force or effect, or (b) five years from the date of the Agreement.

[Remainder of Page Intentionally Left Blank; Signature Pages Follow]

IN WITNESS WHEREOF, the parties have signed this Memorandum of Option to be effective as of _____ (the "**Effective Date**").

OWNER:

**FLINT HILLS RESOURCES CORPUS
CHRISTI, LLC,**

a Delaware limited liability company

By: _____

Name:

Title:

STATE OF _____ §
COUNTY OF _____ § ss.
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The foregoing instrument was acknowledged before me this ____ day of _____, 20__, by _____, the [insert: title/position of signatory] of FLINT HILLS RESOURCES CORPUS CHRISTI, LLC, a Delaware limited liability company, on behalf of the limited liability company.

Notary Public in and for the State of _____

Printed Name of Notary: _____

My Commission Expires: _____

CITY:

CITY OF CORPUS CHRISTI, TEXAS,
a Texas home rule municipality

By: _____

Printed Name: _____

Title: _____

APPROVED AS TO LEGAL FORM

This ____ day of _____, 20__.

By: _____
_____, City Attorney

STATE OF TEXAS §

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COUNTY OF NUECES §

This instrument was acknowledged before me on _____, 20__, by _____,
_____ of the CITY OF CORPUS CHRISTI, TEXAS, a Texas home rule municipality, on behalf
of said municipality.

Notary Public, State of Texas

Exhibit A to Exhibit U

Legal Description of Property

[To be attached]

EXHIBIT V

FORM OF TERMINATION AND RELEASE OF MEMORANDUM OF OPTION

TERMINATION AND RELEASE OF MEMORANDUM OF OPTION

STATE OF TEXAS §
 §
COUNTY OF NUECES §

This **TERMINATION AND RELEASE OF MEMORANDUM OF OPTION** (this “Termination and Release”) is made by the **CITY OF CORPUS CHRISTI, TEXAS**, a Texas home rule municipality (“City”) in favor of **FLINT HILLS RESOURCES CORPUS CHRISTI, LLC**, a Delaware limited liability company (“Owner”).

RECITALS

A. Reference is hereby made to that certain Memorandum of Option (the “Memorandum”) dated _____, by and between Owner and City, recorded as Document No. _____ in the Official Public Records of Nueces County, Texas, pursuant to which Owner and City put third parties on notice of Owner’s agreement to grant City an option to purchase (such option, the “Option”) the property described on Exhibit A attached hereto and made a part hereof for all purposes (such property, the “Property”) pursuant to the terms and conditions of that certain Purchase and Sale Agreement dated _____, 202_ by and between Owner, as seller, and City, as buyer (as amended from time to time, the “Purchase Agreement”); and

B. Pursuant to the terms and conditions of the Purchase Agreement, the Option has terminated by the terms of the Purchase Agreement and, accordingly, City has executed this Termination and Release of Memorandum of Option as required pursuant to the terms and conditions of the Purchase Agreement.

AGREEMENT

NOW THEREFORE, for and in consideration of \$10.00, and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged and confessed, City hereby terminates, discharges, and releases the Memorandum and the Option described therein.

[Signature page follows]

CITY:

CITY OF CORPUS CHRISTI, TEXAS,
a Texas home rule municipality

By: _____

Printed Name: _____

Title: _____

APPROVED AS TO LEGAL FORM

This ____ day of _____, 20__.

By: _____
_____, City Attorney

STATE OF TEXAS §

§

COUNTY OF NUECES §

This instrument was acknowledged before me on _____, 20__, by _____,
_____ of the CITY OF CORPUS CHRISTI, TEXAS, a Texas home rule municipality, on behalf
of said municipality.

Notary Public, State of Texas

Exhibit A to Exhibit V

Legal Description of Property

[To be attached]

SCHEDULE 1

LIST OF REQUIRED PERMITS

11. Final water rights permit for the Project to be issued by the TCEQ;
12. Final discharge permit for the Project to be issued by the TCEQ; and
13. Final permits for the Project to be issued by the U.S. Army Corps of Engineers.