

**MARY RHODES PHASE II PIPELINE OPERATION AND MAINTENANCE**  
**AGREEMENT**

This Agreement (“Agreement”), dated as of \_\_\_\_\_, 201\_\_\_\_ (“Effective Date”), is between the Lavaca-Navidad River Authority (“LNRA”), a conservation and reclamation district and political subdivision of the State of Texas, organized and operating under Article XVI, Section 59 of the Texas Constitution and the City of Corpus Christi, Texas (“City”), a Texas home-rule city pursuant to Tex. Government Code Section 791.026.

**RECITALS**

1. The City has a water right authorizing it to divert 35,000 acre-feet per year from the Colorado River for irrigation, municipal, and industrial purposes at a rate not to exceed 150 cfs or 298 acre-feet per day (“Colorado River Water”).

2. The City is constructing a fifty-four (54) inch water pipeline (“Mary Rhodes Phase II Pipeline”) and related facilities (“Mary Rhodes Phase II Facilities”) from a diversion site on the Colorado River near Bay City, Texas, approximately forty-two (42) miles to a point on LNRA property where it will connect to LNRA Facilities for delivery into the City’s Mary Rhodes Pipeline.

3. The City and LNRA desire that LNRA maintain the Mary Rhodes Phase II easements, as well as operate and maintain the pipeline and related facilities during the term of this Agreement.

In consideration of the mutual covenants and agreements contained in this Agreement, LNRA and the City agree as follows:

## **I.**

### **DEFINITIONS**

**1.01 Definition of Terms.** Unless otherwise defined in this Agreement, or unless the context clearly requires otherwise, the following terms and phrases shall have the meanings indicated:

“Delivery Point” means the point where water is delivered to the City as defined in the 1993 Water Supply and Conveyance Contract by and between LNRA and the City of Corpus Christi (Delivery Contract).

“Mary Rhodes Phase II Facilities” means pumping and diversion facilities, pipelines and valves and appurtenances as further described on the attached Exhibit A.

“Mary Rhodes Phase II Pipeline” means the City’s fifty-four (54) inch pipeline constructed from a diversion point on the Colorado River to a Surge Tank to be located on LNRA property and connects to LNRA Facilities as further described on the attached Exhibit A. The term also includes the easements and rights-of-way associated with the Mary Rhodes Phase II Pipeline.

“Mary Rhodes Phase II Expenses” means the reasonable and necessary expenses incurred in the efficient and economical administration, management and operation and the maintenance of the Mary Rhodes Phase II Pipeline and Mary Rhodes Phase II Facilities in good repair and operating condition.

“Mary Rhodes Phase II Reserve Fund” means a fund equal to three (3) month’s Mary Rhodes Phase II Expenses, as identified in the approved annual budget for the then current fiscal year to be used for small, unplanned repairs.

“Colorado River Water” means water transmitted through the Mary Rhodes Phase II Pipeline.

“Colorado River Water Meter” means a flow meter located on LNRA owned property situated along the Mary Rhodes Phase II Pipeline upstream from the Surge Tank to measure amount of Colorado River Water passing to the West Delivery System.

“LNRA Facilities” means the West Delivery System and any improvements and appurtenances thereto (“West Delivery System Improvements”) including the gravity line connecting the Surge Tank to the West Delivery System existing intake structure (“West Delivery System Intake Extension”).

“Mary Rhodes Pipeline” means the 101-mile long, 64 inch diameter pipeline owned by Corpus Christi that transports water from the Delivery Point to the O.N. Stevens Water Treatment Plant in Corpus Christi.

“Operating Protocols” means operating procedures established for the Mary Rhodes Phase II Pipeline and Mary Rhodes Phase II Facilities to be used during the term of this Agreement.

“Supervisory Control and Data Acquisition System” or “SCADA” means an assembly of equipment used to remotely control the pumping system.

“Surge Tank System” means a pipeline, surge tank, gravity line and meter located on LNRA property used to convey Colorado River Water to the West Delivery System.

“Texana Water” means the water delivered to the City under the Delivery Contract dated December 14, 1993 and the Interruptible Water Supply Contract dated July 24, 2001 and as amended July 22, 2003 between LNRA and the City.

“TCEQ” means Texas Commission on Environmental Quality.

“West Delivery System” means LNRA’s intake structure, pipeline, pumps, meter and related facilities used to move water from Lake Texana to the Mary Rhodes Pipeline.

“West Delivery System Improvements” means the modifications to the West Delivery System which are necessary to accept Colorado River Water and deliver Colorado River Water and/or Colorado River Water commingled with Texana Water to the Delivery Point.

**1.02 Interpretation.** Terms used in this Agreement with initial letters capitalized and not otherwise defined in this Agreement have the meanings assigned to them in Section 1.01. The table of contents and caption headings of this Agreement are for reference only and shall not affect its interpretation in any respect. Except where the context otherwise requires, words impacting the singular number shall include the plural number and vice versa. Reference to any document means that document as amended or supplemented from time to time. Reference to any party or governmental regulatory agency means the entity and its successors and assigns. This Agreement and all terms and provisions, including exhibits, shall be liberally construed to effectuate the purposes set forth herein and to sustain the validity of this Agreement.

## **II. CONSTRUCTION OF MARY RHODES PHASE II PIPELINE and PHASE II FACILITIES**

**2.01** The City shall, at its sole cost, risk, expense and liability, obtain easements and rights-of-ways and design and construct the Mary Rhodes Phase II Pipeline and the Mary Rhodes Phase II Facilities or cause them to be constructed in such a manner that it is sufficient to meet the anticipated requirements of the City for the diversion, transport, delivery and receipt of the Colorado River Water. In addition, the City will construct the intake structure at the diversion site near Bay City, Texas and all facilities necessary to tie into the Mary Rhodes Pipeline, including the Surge Tank System and West Delivery System Improvements. The Mary Rhodes Phase II Pipeline and the Mary Rhodes Phase II Facilities shall be constructed and operated in accordance with all applicable federal and state laws, rules, regulations and orders. The

transmission portion of the Mary Rhodes Phase II Pipeline will be designed, constructed, tested and certified to comply with applicable safety requirements for maximum allowable operating pressures. The City shall have the right to make modifications to the design and operating parameters of the Mary Rhodes Phase II Pipeline and Mary Rhodes Phase II Facilities from time-to-time, provided that such modifications shall comply with applicable safety laws, rules, regulations and orders, and do not adversely affect LNRA's operations under the terms of this Agreement.

**2.02 As-Built Plans.** The City will provide LNRA with a complete set of an as-built set of plans of the Mary Rhodes Phase II Pipeline and Mary Rhodes Phase II Facilities and appurtenant equipment, together with copies of all rights-of-way easements and operating information and data in the City's possession from time-to-time. The City will give LNRA not less than thirty (30) days' notice prior to changing the operating parameters or commencing any modifications of the Mary Rhodes Phase II Pipeline and Mary Rhodes Phase II Facilities.

**2.03 Permits and Approvals.** The City shall obtain all permits and approvals required for the operation of the Mary Rhodes Phase II Pipeline and the Mary Rhodes Phase II Facilities. If, by virtue of regulatory, legal, financial, or other requirements, it is necessary or appropriate that any permit or approval should be held jointly, LNRA and the City agree to fully cooperate with each other in efforts to obtain, hold, and comply with such permits or approvals.

### **III.**

#### **OPERATION AND MAINTENANCE OF PIPELINE AND FACILITIES**

**3.01** LNRA shall provide, or cause to be provided, management, workforce, and all other services required for the operation and maintenance of Mary Rhodes Phase II Pipeline and Mary Rhodes Phase II Facilities in accordance with this Agreement. LNRA agrees to use, or cause to

be used, reasonable diligence and care in performance under this Agreement. The City shall pay LNRA a fee each month (“Operator Fee”) in the amount as determined in Section 4.01 below in consideration of LNRA’s agreement to perform the following described duties and responsibilities with respect to the Mary Rhodes Phase II Pipeline and Mary Rhodes Phase II Facilities and their appurtenant equipment:

- a. Observe and participate in the City’s contractor’s startup and testing of the Mary Rhodes Phase II Pipeline and Mary Rhodes Phase II Facilities and their appurtenant equipment;
- b. Supervise and manage day-to-day operations and tasks listed on the attached Exhibit B in a diligent and workmanlike manner;
- c. Provide water usage reports to City for City to file as required by TCEQ;
- d. Operate pumping facilities at and receive water from the intake diversion structure and dispatch water through the Mary Rhodes Phase II Pipeline and Mary Rhodes Phase II Facilities in accordance with the terms of this Agreement;
- e. Keep right-of-way free of high weed, grass, and trees in accordance with individual landowner easement documents;
- f. Monitor and maintain cathodic protection;
- g. Witness all meter tests at the intake diversion point and the Colorado River Water Meter;
- h. Perform other usual and necessary maintenance, operations, and minor repairs (excluding major pipeline repairs) in accordance with customary water transmission pipeline practices and using spare parts, if available, from the spare parts provided by the City identified in a list of spare parts provided to LNRA by the City or its third party contractor ;
- i. Within thirty (30) days after the end of each month, provide the City with a detailed statement of all operations, maintenance repairs, as well as the volume of water received at the intake diversion structure and delivered at the Colorado River Water Meter for the preceding month;
- j. Provide for line locations for underground construction crossing and/or around the pipeline; and,

- k. Maintain and operate the Mary Rhodes Pipeline Phase II Pipeline and Mary Rhodes Phase II Facilities in accordance with manufacturer recommendations as provided to LNRA by City or its third party contractor.

**3.02 Operating Protocols.** LNRA will operate and maintain the Mary Rhodes Phase II Pipeline and Mary Rhodes Phase II Facilities in the same manner and with the same degree of care and diligence with which it operates its own 36” and 54” pipeline and related pumping and meter facilities.

LNRA jointly with the City or its third party contractor shall develop an operating procedure (“Operating Protocol”). The Operating Protocols shall be explicitly followed by the Parties. At a minimum, the Operating Protocols shall include the following:

- a. Combined delivery system (Mary Rhodes Phase II in combination with the West Water Delivery System and Mary Rhodes Pipeline) start-up and testing;
- b. Start-up, operation, and shutdown of one or any combination of pumps at the Bay City diversion facilities and at any booster pumps;
- c. Operation of Mary Rhodes Phase II Pipeline control valves while ensuring compliance with design and operation parameters of the LNRA Facilities and the Mary Rhodes Phase II Facilities;
- d. Operation of water meters;
- e. Operation of LNRA Facilities and Mary Rhodes Phase II Pipeline and Mary Rhodes Phase II Facilities by on-site and/or remote equipment;
- f. Schedules and operations to accommodate diversion, transportation, and delivery of Colorado River Water to the West Delivery System and Texana and Colorado River Water to the Delivery Point; and
- g. Ordering of the water from Lower Colorado River Authority.

As the operating protocols for Mary Rhodes Phase II Pipeline and Phase II Facilities are developed, annually reviewed and subsequently revised, the City shall provide LNRA the opportunity to review and comment. LNRA and the City shall review the operational protocols at least once annually.

### **3.03 Contract for Services.**

a. The City acknowledges that LNRA has the right in LNRA's discretion to contract with other parties and/or agents to conduct any operations of LNRA's operations of the Mary Rhodes Phase II Pipeline and Mary Rhodes Phase II Facilities including but not limited to oversight and maintenance of the cathodic protection system, easement maintenance and operation, maintenance of pumping equipment at Bay City, repair to pipeline appurtenances, underwater diver services, debris removal from river and maintenance for sedimentation basin.

b. Such contracts shall be limited in term to the then-current City fiscal year and not exceed amounts included in the approved Annual Budget described below. For multi-year contracts that extend beyond the City's then-current fiscal year, LNRA shall require that all such contracts shall contain provision that continuation of the contract beyond the then current fiscal year of the City is subject to termination upon receipt of written notice due to nonappropriation in the City's annual budget process.

c. LNRA agrees to require that any contractor hired by LNRA to perform work under this Agreement shall be required to obtain and maintain the insurance as required herein in Exhibit C

d. LNRA shall require that all contracts for work to under this Agreement, include, in large, bold face text the following indemnity section: **“Contractor does hereby agree to release, indemnify, defend and hold harmless City of Corpus Christi, and all of its officials, officers, agents and employees, in both their public and private capacities, from and against any and all liability, claims, losses, damages, suits, demands or causes of action including all expenses of litigation and/or settlement, court costs and attorney fees which may arise by reason of**



**injury to or death of any person or for loss of, damage to, or loss of use of any property occasioned by error, omission, or negligent act of Contractor, its officers, agents, employees, subcontractors, invitees or any other person arising out of or in connection with the performance of the construction contract, and contractor shall at his or her own cost and expense defend and protect the City of Corpus Christi from any and all such claims and demands.”**

**3.04 Pipeline Crossing.** The City is responsible for final approval and the granting of permits, easements, license, rental or rights-of-way to third parties who desire to cross the City’s pipeline easement. The City may, in consultation with LNRA, develop a standard pipeline crossing agreement. The City and LNRA may amend this Agreement to provide for all pipeline crossings and other third-party easement encroachments to be managed by LNRA in a manner that minimizes any disruption of LNRA’s operation of the Mary Rhodes Phase II Pipeline and Mary Rhodes Phase II Facilities.

**3.05 Owner's Representatives.** The City Manager or his designee are hereby designated as the Owner's Representatives who shall be authorized to field verify all work performed under this agreement.

**IV.**  
**RATES AND CHARGES**

**4.01 Payments by the City.**

a. The work to be performed by LNRA under and pursuant to this Agreement shall be paid for as described herein.

b. As consideration for LNRA's performance of this agreement, City agrees to pay LNRA an amount equal to the sum of the following:

1. Sum of actual Mary Rhodes Phase II Expenses including LNRA Administrative Fee up to the amounts in the approved Annual Budget described below; and
2. Funding the Mary Rhodes Phase II Reserve Fund up to amount identified in the approved Annual Budget described below.

c. Payment shall be made by City on monthly submission of invoice by LNRA.

Upon request by the City, LNRA will provide documentation supporting expenses in 4.01.a and b. above.

**4.02 Budgets.**

a. The costs to be paid by the City pursuant to the provisions of Section 4.01 shall be based on projected expenditures of LNRA established by budgets. The categories to be included in annual budget for the Mary Rhodes Phase II Expenses shall include line items for the the following categories:

**Professional Services:** Expenses for professional engineering, accounting, land surveying and legal

**Contracts:** Contracts for easement mowing/maintenance, meter calibration and cathodic protection services.

**Insurance:** Expense for insurance coverage required under this Agreement.

**Equipment Rental:** Expenses for vehicle use attributed to monitoring and maintaining the Mary Rhodes Phase II Pipeline and Mary Rhodes Phase II Facilities.

**Maintenance:** Expense related to tools, supplies, parts, etc.

**Equipment Repair:** Expense for repairing damaged equipment associated with the Mary Rhodes Phase II Pipeline and Mary Rhodes Phase II Facilities.

**Salaries/Benefits:** Expenses for labor associated with the monitoring and maintenance of the Mary Rhodes Phase II Pipeline and Mary Rhodes Phase II Facilities.

**Communications:** Expense for providing and maintaining telemetry, radio, telephone and any other systems needed for communication to operate and maintain the Mary Rhodes Phase II Pipeline and Mary Rhodes Phase II Facilities.

**Administrative Fee:** Fee for LNRA's management of professional services and other contracts necessary for the operation and maintenance of the Mary Rhodes Phase II Pipeline and Mary Rhodes Phase II Facilities

**Mary Rhodes Pipeline Reserve Fund:** To be used for small unplanned repairs.

b. LNRA has submitted to the City a budget ("Initial Budget") which is attached as Exhibit D covering the period beginning on date this Agreement is finally approved and ending on September 30, 2016. The Initial Budget for the period beginning the date this Agreement is hereby approved.

c. All subsequent annual budgets approved by the City ("Annual Budgets") prepared pursuant hereto shall comprise an estimate on a City fiscal year basis of the costs described above in Section 4.01. Proposed Annual Budgets shall not increase more than 5% from prior Annual Budget without prior concurrence from the City Manager or designee. Annual Budgets shall make provision for maintaining any reserve funds required by this Agreement. In preparing

such budgets, LNRA shall consider actual expenses experienced during the previous twelve (12) month period expected inflation and other reasonably predictable increases in expenses, deficits or surpluses in any funds on hand and available for such purpose. LNRA shall provide annual budget forecast detailing future repairs and improvements to made to the Mary Rhodes Phase II Pipeline and Mary Rhodes Phase II Facilities.

d. A proposed Annual Budget shall be submitted by LNRA to the City at least ninety (90) days prior to end of City fiscal year during the term of this Agreement and the City shall either consent to each such budget through the City's annual budget process or institute negotiations with respect thereto. Upon City approval, the proposed Annual Budget shall become the approved Annual Budget. If LNRA and the City have not finally agreed on the Annual Budget by fifteen (15) days prior to each September 30, then the most recently approved Annual Budget shall be deemed adopted to be used as the Annual Budget for the ensuing fiscal year.

e. LNRA and the City agree and covenant with each other that any budget negotiations will be conducted in good faith and with a view toward establishing the lowest possible costs for the provision of service from the System consistent with good operating practices.

**4.03 Budget Review and Revision.** If LNRA determines at any time during the year that the actual Mary Rhodes Phase II Expenses have varied by more than ten percent (10%) from the approved Annual Budget, LNRA shall promptly notify the City Manager or designee to request revisions to the budget. Budget revisions made during the year shall take into consideration any surplus or deficiency in any fund in the Annual Budget. Budget revisions made during the year shall take effect upon approval by the City Manager or his designee.

**4.04 Billing.** LNRA will render monthly bills for the payments required by Section 4.01 on or before the tenth (10<sup>th</sup>) day of each month, and such bills shall be due and payable on or before the tenth (10<sup>th</sup>) day of the succeeding month. Bills shall be deemed paid when payment actually has been received by LNRA or its designee. For any bill not paid on or before the due date, interest shall accrue in accordance with the Texas Prompt Payment Act, Texas Government Code Chapter 2251. LNRA may from time-to-time, by forty-five (45) days written notice, change the monthly date on which it shall render bills and the corresponding due dates. Payment to LNRA shall be made at its offices in Jackson County, Texas.

**4.05 Cost of Unanticipated Repair/Replacement** The City is responsible to arrange for contracts and funding needed for emergency repairs needed for the Mary Rhodes Phase II Pipeline and Mary Rhodes Phase II Facilities.

**4.06 Obligation of the City.** The Parties agree that the City's obligations under this Agreement to make payments to LNRA for service in any fiscal year are a current expense for that fiscal year.

**4.07 No Water Sale Agreement.** The Parties acknowledge and agree that this Agreement is an agreement for services and does not constitute an agreement regarding the sale or purchase of water. The Parties agree that the Texas Commission on Environmental Quality has no jurisdiction to set rates under this Agreement. The Agreement may be enforced, however, in a court of competent jurisdiction.

## **V. INSURANCE AND INDEMNITY**

**5.01 Insurance for Mary Rhodes Pipeline Phase II and Facilities.** The City shall carry fire and casualty insurance for the Mary Rhodes Pipeline Phase II and Mary Rhodes Phase II

Facilities for purposes and in amounts deemed necessary by the City Risk Manager. The City may determine to self-insure in lieu of acquiring insurance coverage. .

**5.02 Insurance for Operations.** While LNRA provides operations and maintenance services pursuant to this Agreement, LNRA will carry insurance as specified on Exhibit E.

## **VI. TERMINATION; OPTION TO RENEW; GENERAL PROVISIONS**

**6.01 Term.** The term of this Agreement shall be for a period of ten (10) years beginning on the date first appearing above, unless sooner terminated as herein provided.

**6.02 Termination.** Either LNRA or the City may terminate this Agreement, at any time, with or without cause, by delivering to the other party a written notice stating such desire and specifying the date on which this Agreement is to terminate, which date shall be at least six (6) months from the date of such notice. In addition, this Agreement is subject to termination upon receipt of written notice from the City due to non-appropriation of funds during the City's annual budget process.

**6.03 Option to Renew.** If, at the expiration of the fixed term of this Agreement as above provided, City is not in default and this Agreement is then in full force and effect, the City shall have the option to renew and extend this Agreement for up to additional ten (10) years on the terms and conditions agreed to by both parties, provided that City delivers written notice to LNRA by registered or certified, prepaid and properly addressed first class United States mail of its intention to do so not less than ninety (90) days prior to the expiration of the original term herein provided.

**6.04 Default.** If either party defaults in the observance or performance of any of the provisions, agreements or conditions to be observed or performed on its part under this

Agreement, the other party may give written notice to the party in default of its intention to terminate this Agreement, specifying the failure or default relied upon. Upon the expiration of forty-five (45) days after the giving of such notice, this Agreement shall terminate, unless, within such forty-five (45) day period, or such longer period as may be specified in such notice or any amendment of or supplement to such notice, the default specified in such notice shall have been fully cured.

**6.05 Rights after Termination.** Upon termination by either party pursuant to Section 6.02 above, the City shall pay all costs identified in Section 4.01(a) through the date of termination, including any claims or damages arising out of contracts entered into by LNRA in accordance with this Agreement for operation of Mary Rhodes Phase II Pipeline and Mary Rhodes Phase II Facilities. This provision shall survive any such termination. Within 30 days of termination by either party pursuant to Section 6.02 above, LNRA shall deliver to the City all operating manuals, maintenance records, permits and other documents relating to the operation of the Mary Rhodes Phase II Pipeline and Mary Rhodes Phase II Facilities.

**6.06 Force Majeure.** If by reason of force majeure, either party shall be rendered unable, wholly or in part, to carry out its obligations under this Agreement, and if such party gives notice and full particulars of such force majeure, in writing, to the other party within a reasonable time after occurrence of the event or cause relied on, the obligations of the party giving such notice (other than obligations for the payment of money), so far as they are affected by such force majeure, shall be suspended during the continuance of the inability then claimed, including a reasonable time for removal of the effect thereof. The term “force majeure” shall mean acts of God, strikes, lockouts or other industrial disturbances, acts of the public enemy, orders of any kind of the Government of the United States, or any state, or any agency or political subdivision

of the United States or any state, or any other civil or military authority, insurrection, riots, epidemics, landslides, lightening, earthquakes, fire, hurricanes, tornadoes, storms, floods, washouts, droughts, arrests, civil disturbances, explosions, breakage or accidents to machinery, transmission pipes or canals, shortages of labor, materials, supplies or transportation, or any other cause not reasonably within the control of the party claiming such inability. The requirement that any force majeure shall be reasonably beyond the control of the party shall be deemed to be fulfilled even though the existing or impending strike, lockout or other industrial disturbance may not be settled but could have been settled by acceding to the demand of the opposing person or persons. The parties shall use their best efforts to remove the cause of any force majeure.

**6.07 Assignment.** This Agreement shall be assignable in whole or part by either party with prior written consent of the other party, which consent shall not be unreasonably withheld.

**6.08 City Audit.** Upon reasonable notice, during normal business hours, the City shall be entitled to inspect and review LNRA records of any costs assessed or incurred under this Agreement.

**6.09 Notices.** All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed to have been duly given when sent by first-class mail, postage prepaid, addressed

if to LNRA:  
Lavaca-Navidad River Authority  
PO Box 429  
Edna, TX 77957  
Attention: General Manager

and if to the City:  
City of Corpus Christi, Texas  
PO Box 9277  
Corpus Christi, TX 78469-9277



Attention: City Manager

or, in each case, at such other address as may hereafter have been designated most recently in writing by the addressee to the addressor.

**6.10 Governing Law, Entire Agreement, Etc.** This Agreement (a) may be executed in several counterparts, each of which shall be deemed an original, and all of which shall constitute one and the same instrument; (b) constitutes the entire agreement between LNRA and the City with respect to the subject matter hereof; (c) shall be governed in all respects, including validity, interpretation and effect, by and shall be enforceable in accordance with the laws of the State of Texas; (d) may be modified only by an instrument signed by the duly Authorized Representative of each of the parties, and (e) shall not be construed as a contract for the benefit of a third party other than a permitted successor or assign of a party. In the event that any clause or provisions of this Agreement shall be held to be invalid by any court of competent jurisdiction, the invalidity of such clause or provisions shall not affect any of the remaining provisions hereof. Each party may specifically, but only in writing, waive any breach of this Agreement by the other party, but no such waiver shall be deemed to constitute a waiver of similar or other breaches by such other party.

IN WITNESS WHEREOF, LNRA and the City have caused this Agreement to be executed on their behalf by their duly Authorized Representatives, as of the date first set forth above.

**LAVACA-NAVIDAD RIVER AUTHORITY**

By: \_\_\_\_\_  
President and Director

[SEAL]

**ATTEST:**

\_\_\_\_\_  
Vice-President and Director

**CITY OF CORPUS CHRISTI, TEXAS**

By: \_\_\_\_\_  
City Manager

[SEAL]

**ATTEST:**

\_\_\_\_\_  
City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
City Attorney

## **EXHIBIT A**

### **Description of Mary Rhodes Phase II Pipeline**

Approximately 42 miles of 54-inch diameter raw water transmission pipeline and appurtenances: The 42 miles of pipeline extends from the booster pump station in a westerly direction to the tie-in to the West Delivery System. The 54-inch transmission pipeline is primarily bar-wrapped concrete cylinder pipe with two sections of horizontally directional drilled steel pipeline and various bored, cased crossings. It also includes pipeline markers, combination air valves, blow-off valves and main line butterfly valves. The pipeline is protected by an impressed current cathodic protection system with associated appurtenances including rectifiers.

### **Description of Mary Rhodes Phase II Facilities**

1. Colorado River intake and pump station
2. A two-cell sedimentation basin which is lined with geotextile and soil cement
3. A booster pump station
4. The Colorado River intake and booster pump stations and the sedimentation basin are located on Corpus Christi-owned property adjacent to Bay City, Texas at the intersection of SH 35 and the Colorado River.
5. The intake includes two intake pipelines, supporting piles, wire mesh screens and an air-burst system.
6. Buoys are required adjacent to the intake pipes and screens during low river flow.
7. The river and booster pump stations include three and four pumps respectively with associated motors, Variable Frequency Drives, electrical/mechanical/plumbing systems and valves.
8. A 6 MG surge tank, approximately 1,300 linear feet of 54-inch tie-in pipeline and appurtenances and a tie-in vault that ties the 54-inch tie-in pipeline to the existing 72-inch Lake Texana intake pipeline. The 6 MG surge tank is a pre-stressed concrete cylinder tank that is mostly buried. The 1,300 linear feet of tie-in pipeline is steel pipeline encased in flowable fill.
10. Communication system: The pipeline is paralleled by a fiber optic communication system used to provide telemetry and other communications needed for operation and maintenance of the Mary Rhodes Pipeline Phase II Pipeline and Facilities.
11. SCADA: A SCADA system is used to remotely operate pumping facilities.

## **EXHIBIT B - Additional Maintenance Tasks**

LNRA maintenance responsibilities on Mary Rhodes Phase II Pipeline shall include the following. *During the first year of operation all equipment and any leaks will be repaired under warranty by the contractor.*

### **Pipeline Easement**

- Provide for line locations on 54" transmission main, fiber optics and Cathodic Protection Rectifiers. Maintain records of all requests for line locations and crossings.
- Conduct Cathodic Protection Survey reports and rectifier adjustments as directed by City's third party consultants.
- Repair any cathodic protection test stations that may get damaged.
- Repair any leaks on pipeline or its appurtenances per manufacture recommendations.
- Correct erosion on pipeline easement.
- Valve exercise maintenance operations on air release valves or associated appurtenances.
- Meet with property owners to address any legitimate concerns related to pipeline easement.
- Mow any pipeline easement per agreements and keep easement from becoming overgrown.
- Repair any gates that may get damaged and maintain a secured lock system. All locks are the same and no keys given out to anyone without prior City Manager or designee consent.

### **Mary Rhodes Phase II Facilities - Colorado River Pump Station**

- Maintain a record of all maintenance and make available for review by the COCC at any time.
- Exercise valves and equipment on site per manufacturer requirements.
- Operate Pump Station.
- Maintain all pumping equipment per manufacturer recommendations.
- Maintain all building and its appurtenances on site.
- Mow grounds and maintain weed control along fencing and onsite.
- Pest control quarterly.
- Maintain sedimentation basins in accordance with operating protocols.
- HVAC system maintenance per manufacturer recommendations.
- Conducted annual overhead crane hoist inspections.
- Keep river intake clean of debris.
- Set river buoy system out as required.
- Contact Matagorda County Sheriff's Office and/or coordinate with local law enforcement to respond to intruder alerts.
- Conduct annual cleaning of all electrical cabinets at both the river and booster pump stations.
- Maintain video surveillance on river system.
- Maintain water quality first alert system.
- Maintain SCADA system.
- Maintain emergency generator system per manufactures recommendations.
- Maintain spare parts as provided by City contractor and location log.

## EXHIBIT C

### INSURANCE TO BE REQUIRED FROM ANY CONTRACTOR HIRED BY LNRA TO WORK UNDER THIS AGREEMENT

#### I. LNRA CONTRACTOR'S LIABILITY INSURANCE

- A. LNRA CONTRACTOR must not commence work under this contract until all insurance required has been obtained and such insurance has been approved by the City. LNRA CONTRACTOR must not allow any subcontractor to commence work until all similar insurance required of any subcontractor has been obtained.
- B. LNRA CONTRACTORS must furnish to the City's Risk Manager and Director of Utilities, one (1) copy of Certificates of Insurance with applicable policy endorsements showing the following minimum coverage by an insurance company(s) acceptable to the City's Risk Manager. The City must be listed as an additional insured on the General liability and Auto Liability policies **by endorsement**, and a waiver of subrogation **by endorsement** is required on all applicable policies. **Endorsements** must be provided with Certificate of Insurance. Project name and/or number must be listed in Description Box of Certificate of Insurance.

TYPE OF INSURANCE	MINIMUM INSURANCE COVERAGE
<b>30-day advance written notice of cancellation, non-renewal, material change or termination required on all certificates and policies.</b>	<b>Bodily Injury and Property Damage</b> Per occurrence - aggregate
Commercial General Liability including: 1. Commercial Broad Form 2. Premises and On-Going Operations 3. Products/ Completed Operations 4. Contractual Liability 5. Independent Contractors 6. Personal Injury- Advertising Injury	\$1,000,000 Per Occurrence \$2,000,000 Aggregate
AUTO LIABILITY (including) 1. Owned 2. Hired and Non-Owned 3. Rented/Leased	\$500,000 Combined Single Limit
UMBRELLA/EXCESS LIABILITY	\$5,000,000 Per Occurrence

WORKERS'S COMPENSATION (All States Endorsement if Company is not domiciled in Texas)	Statutory and complies with Part II of this Exhibit.
Employer's Liability	\$500,000/\$500,000/\$500,000

- C. In the event of accidents of any kind related to this contract, LNRA CONTRACTOR must furnish the Risk Manager with copies of all reports of any accidents within 10 days of the accident.

## II. ADDITIONAL REQUIREMENTS

- A. Applicable for paid employees, LNRA CONTRACTOR must obtain workers' compensation coverage through a licensed insurance company. The coverage must be written on a policy and endorsements approved by the Texas Department of Insurance. The workers' compensation coverage provided must be in an amount sufficient to assure that all workers' compensation obligations incurred by the LNRA CONTRACTOR will be promptly met. An All States Endorsement shall be required if LNRA CONTRACTOR is not domiciled in the State of Texas.
- B. LNRA CONTRACTOR shall obtain and maintain in full force and effect for the duration of this Contract, and any extension hereof, at LNRA CONTRACTOR'S's sole expense, insurance coverage written on an occurrence basis by companies authorized and admitted to do business in the State of Texas and with an A.M. Best's rating of no less than A- VII.
- C. LNRA CONTRACTOR shall be required to submit a copy of the replacement Certificate of Insurance to City at the address provided below within 10 days of any change made by the LNRA CONTRACTOR or as requested by the City. LNRA CONTRACTOR shall pay any costs incurred resulting from said changes. All notices under this Exhibit shall be given to City at the following address:

City of Corpus Christi  
Attn: Risk Manager  
P.O. Box 9277  
Corpus Christi, TX 78469-9277

- D. **LNRA CONTRACTOR agrees that, with respect to the above required insurance, all insurance policies are to contain or be endorsed to contain the following required provisions:**

- List the City and its officers, officials, employees, and volunteers, as additional insureds by endorsement with regard to operations, completed operations, and activities of or on behalf of the named insured performed under contract with the City, with the exception of the workers' compensation policy;

- Provide for an endorsement that the "other insurance" clause shall not apply to the City of Corpus Christi where the City is an additional insured shown on the policy;
  - Workers' compensation and employers' liability policies will provide a waiver of subrogation in favor of the City; and
  - Provide thirty (30) calendar days advance written notice directly to City of any, cancellation, non-renewal, material change or termination in coverage and not less than ten (10) calendar days advance written notice for nonpayment of premium.
- E. Within five (5) calendar days of a cancellation, non-renewal, material change or termination of coverage, LNRA CONTRACTOR shall provide a replacement Certificate of Insurance and applicable endorsements to City. City shall have the option to suspend LNRA CONTRACTOR'S performance should there be a lapse in coverage at any time during this contract. Failure to provide and to maintain the required insurance shall constitute a material breach of this contract.
- F. In addition to any other remedies the City may have upon LNRA CONTRACTOR'S failure to provide and maintain any insurance or policy endorsements to the extent and within the time herein required, the City shall have the right to order LNRA CONTRACTOR to stop work hereunder, and/or withhold any payment(s) which become due to LNRA CONTRACTOR hereunder until LNRA CONTRACTORS demonstrate compliance with the requirements hereof.
- G. Nothing herein contained shall be construed as limiting in any way the extent to which LNRA CONTRACTOR may be held responsible for payments of damages to persons or property resulting from LNRA CONTRACTOR or its subcontractor's performance of the work covered under this contract.
- H. It is agreed that LNRA CONTRACTOR'S insurance shall be deemed primary and non-contributory with respect to any insurance or self-insurance carried by the City of Corpus Christi for liability arising out of operations under this contract.
- I. It is understood and agreed that the insurance required is in addition to and separate from any other obligation contained in this contract.

#### 2015 Insurance Requirements

##### Utilities

##### LNRA CONTRACTOR'S Liability Insurance Requirements

##### 11/9/2015 ds Risk Management



## EXHIBIT D

### INITIAL APPROVED BUDGET FOR TIME PERIOD ENDING SEPTEMBER 30, 2016

ADMINISTRATIVE SERVICES	FY 2016 proposed
Reserve Fund	\$40,000
Administrative fee	\$14,500
INSURANCE	\$30,000
PROFESSIONAL SERVICES	\$25,000
GENERAL OPERATIONS/MAINTENANCE	
Contracts	\$47,500
Equipment Rental	\$45,000
Maintenance	\$55,000
Equipment Repair	\$10,000
PERSONNEL SERVICES	
Salaries/Benefits	\$66,500
COMMUNICATIONS	\$12,000
<b>Total Initial Operating Budget</b>	<b>\$345,000</b>

## EXHIBIT E

### INSURANCE REQUIREMENTS

#### I. LNRA'S LIABILITY INSURANCE

- A. LNRA must not commence work under this contract until all insurance required has been obtained and such insurance has been approved by the City. LNRA must not allow any subcontractor to commence work until all similar insurance required of any subcontractor has been obtained.
- B. LNRA must furnish to the City's Risk Manager and Director of Utilities, one (1) copy of Certificates of Insurance with applicable policy endorsements showing the following minimum coverage by an insurance company(s) acceptable to the City's Risk Manager. The City must be listed as an additional insured on the General liability and Auto Liability policies **by endorsement**, and a waiver of subrogation **by endorsement** is required on all applicable policies. **Endorsements** must be provided with Certificate of Insurance. Project name and/or number must be listed in Description Box of Certificate of Insurance.

TYPE OF INSURANCE	MINIMUM INSURANCE COVERAGE
<b>30-day advance written notice of cancellation, non-renewal, material change or termination required on all certificates and policies.</b>	<b>Bodily Injury and Property Damage</b> Per occurrence - aggregate
Commercial General Liability including: 1. Commercial Broad Form 2. Premises and On-Going Operations 3. Products/ Completed Operations 4. Contractual Liability 5. Independent Contractors 6. Personal Injury- Advertising Injury	\$10,000,000 Per Occurrence \$10,000,000 Aggregate
AUTO LIABILITY (including) 4. Owned 5. Hired and Non-Owned 6. Rented/Leased	\$500,000 Combined Single Limit
WORKERS'S COMPENSATION (All States Endorsement if Company is not domiciled in Texas)	Statutory and complies with Part II of this Exhibit.
Employer's Liability	\$500,000/\$500,000/\$500,000

- C. In the event of accidents of any kind related to this contract, LNRA CONTRACTOR must furnish the Risk Manager with copies of all reports of any accidents within 10 days of the accident.

## II. ADDITIONAL REQUIREMENTS

- A. Applicable for paid employees, LNRA must obtain workers' compensation coverage through a licensed insurance company. The coverage must be written on a policy and endorsements approved by the Texas Department of Insurance. The workers' compensation coverage provided must be in an amount sufficient to assure that all workers' compensation obligations incurred by the LNRA will be promptly met. An All States Endorsement shall be required if LNRA is not domiciled in the State of Texas.
- B. LNRA shall obtain and maintain in full force and effect for the duration of this Contract, and any extension hereof, at LNRA's sole expense, insurance coverage written on an occurrence basis by companies authorized and admitted to do business in the State of Texas and with an A.M. Best's rating of no less than A-VII.
- C. LNRA shall be required to submit a copy of the replacement Certificate of Insurance to City at the address provided below within 10 days of any change made by the LNRA or as requested by the City. LNRA shall pay any costs incurred resulting from said changes. All notices under this Exhibit shall be given to City at the following address:

City of Corpus Christi  
Attn: Risk Manager  
P.O. Box 9277  
Corpus Christi, TX 78469-9277

- D. **LNRA agrees that, with respect to the above required insurance, all insurance policies are to contain or be endorsed to contain the following required provisions:**

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- Provide for an endorsement that the "other insurance" clause shall not apply to the City of Corpus Christi where the City is an additional insured shown on the policy;

- Workers' compensation and employers' liability policies will provide a waiver of subrogation in favor of the City; and
  - Provide thirty (30) calendar days advance written notice directly to City of any, cancellation, non-renewal, material change or termination in coverage and not less than ten (10) calendar days advance written notice for nonpayment of premium.
- E. Within five (5) calendar days of a cancellation, non-renewal, material change or termination of coverage, LNRA shall provide a replacement Certificate of Insurance and applicable endorsements to City. City shall have the option to suspend LNRA's performance should there be a lapse in coverage at any time during this contract. Failure to provide and to maintain the required insurance shall constitute a material breach of this contract.
- F. In addition to any other remedies the City may have upon LNRA's failure to provide and maintain any insurance or policy endorsements to the extent and within the time herein required, the City shall have the right to order LNRA to stop work hereunder, and/or withhold any payment(s) which become due to LNRA hereunder until LNRA demonstrates compliance with the requirements hereof.
- G. Nothing herein contained shall be construed as limiting in any way the extent to which LNRA may be held responsible for payments of damages to persons or property resulting from LNRA or its subcontractor's performance of the work covered under this contract.
- H. It is agreed that LNRA's insurance shall be deemed primary and non-contributory with respect to any insurance or self-insurance carried by the City of Corpus Christi for liability arising out of operations under this contract.
- I. It is understood and agreed that the insurance required is in addition to and separate from any other obligation contained in this contract.