

Texas-New Mexico Power Company
ELECTRIC FACILITIES EXTENSION
AGREEMENT

Contract No. BABU-2016-006

Project/Job No. 21794-2499243

Customer Account No. _____

This Agreement is made by and between Texas-New Mexico Power Company, a Texas Corporation (Company) and MHWS Development, LLC, hereafter called (Customer) for the extension of Company's Electric Transmission and Distribution System facilities to the following location: at or near Quiet Bluff Lane and Mystic Springs Lane in League City, Texas. Customer's mailing address is: 14800 St. Mary's Lane, Suite 160, Houston, Texas 77079.

Customer Has Requested Extension Of Service For The Following: [Check All That Apply]

☒ **Standard Electric Facilities for Loads Less Than 12kW**

Company will extend its standard electric facilities that it determines are necessary to serve fifty (50) Residential lot(s) or business(es). The character of these facilities is generally identified as 120/240 volt, single phase, alternating current, at 60 hertz, with reasonable variation permitted.

☐ **Standard Electric Facilities for Loads Greater Than 12kW**

Company will extend its standard electric facilities that it determines are necessary to serve Customer's demand requirement of _____ kW ("Threshold kW"). The character of these facilities is generally identified as _____ volt, _____ phase, alternating current, at 60 hertz, with reasonable variation permitted.

☐ **Non-Standard Electric Facilities**

Company will extend, install, or modify the following non-standard electric facilities:

ARTICLE I. TARIFF

As approved by, and filed with, the Public Utility Commission of Texas (or its successor), the Company's current tariff (Tariff) will apply to this Agreement and for the class of service applicable to Customer's request. Both Company and Customer acknowledge and accept that the Tariff imposes obligations and limitations on both the Company and Customer. This Agreement, including the applicable Tariff, shall at all times be subject to change or modification by regulatory authority or other change in law. A copy of Company's current Tariff may be obtained from Company on request.

ARTICLE II. CUSTOMER PAYMENT AND COMMITMENTS

Customer will pay a Contribution-In-Aid-Of-Construction (CIAC) to Company of \$110,416.46 as payment for Customer's portion of the facility extension, installation, or modification costs in accordance with Company's Tariff. Per the Tariff the CIAC was calculated based on the following: CIAC = (Project Investment of \$154,567.26 minus Standard Allowance of \$75,000.00) plus Applicable Taxes of \$30,849.20. Such payment is due within 15 days following Company's mailing, first class, an invoice to Customer at: 14800 St. Mary's Lane, Suite 160, Houston, Texas 77079 or such other billing address provided to Company by the Customer. Such non-refundable payment will remain the property of the Company. The Customer will provide, without cost to Company, all rights-of-way (in a form acceptable to Company), permits and suitable space for the installation of poles, wires, transformers, meters, and such other equipment Company deems necessary to enable it to deliver the power and energy herein described.

The Customer will install and maintain in good working condition at all times adequate protection and protective devices for his electric motors and other equipment against overload, low voltage, single-phasing, and similar risks or hazards incident to the use of electricity. The Customer assumes all responsibility for the electric current upon the Customer's side of the point of delivery, and for the wires, apparatus, and appurtenances used in connection therewith. In addition to the terms of the Tariff, Customer will protect and save the Company harmless from all claims for injury or damage to persons or property occurring upon the Customer's side of such point of delivery, occasioned by such electric current or said wire and apparatus, except where said injury or damage shall be shown to

have been occasioned solely by the negligence of the Company. In no event shall the Company be responsible for consequential damages whether or not found to have negligently caused injury to Customer.

ARTICLE III. TERM

This Agreement shall expire three (3) years (the "Term") from April 30, 2016 (the "Initial Date"). Customer's payment obligations shall survive expiration of this Agreement.

ARTICLE IV. UNDER UTILIZATION CHARGE

A. Based on estimated information provided by the Customer, Company calculated the CIAC amount referenced in Article II above. Such estimated information included, but was not limited to, the Threshold kW and the number of lots or businesses to be built, sold, and occupied. Company will review actual load or the number of lots or businesses at the pertinent location to evaluate the accuracy of the information supplied by Customer. At the end of the Term, the Company will recalculate the CIAC amount if the estimated Threshold kW billing demand for the designated location has not been realized or the estimated number of lots or businesses have not been built, sold, and occupied. The CIAC amount, including applicable taxes, will be recalculated based on the actual kW billing demand achieved or the actual number of lots or businesses built, sold, and occupied at the time of the recalculation. Company may also make such recalculation in the event of a breach during the Term.

B. If Customer does not realize the estimated Threshold kW or the number of estimated lots or businesses are not built, sold, and occupied, Customer will pay Company an amount (the "Under Utilization Charge") equal to the difference between the CIAC amount paid under Article I and the amount of any recalculated CIAC, including any applicable taxes, determined under the preceding Subparagraph A of Article IV. Customer shall pay any such Under Utilization Charge within 15 days after Company deposits an invoice for such amount, addressed to Customer, in the U.S. mail.

C. Article IV only applies to standard electrical facilities.

ARTICLE V. GENERAL PROVISION

Customer understands and agrees that Company shall retain title to, own, and control all electric facilities up to the point of delivery that are extended, installed, or modified under this Agreement. Company may use any such facilities to serve other customers when Company determines that it is feasible to do so. Customer also understands that the delivery of service is not governed by this Agreement, but the delivery of electricity procured by customer will be provided in accordance with Company's Tariff and any subsequent amendments thereto. Customer understands that Company is not a generator, power marketer, or retail electric provider and therefore Company will not procure, generate, or supply power to Customer. Customer accepts responsibility for selecting, enrolling and contracting with a retail electric provider of Customer's choice. The Company does not assume any responsibility associated with Customer's equipment used or the methods employed for the installation and/or maintenance thereof.

This Agreement supersedes all prior agreements between the Company and the Customer for service mentioned herein and all representations, promises or other inducements, written or verbal, made with respect to the matters herein contained. This Agreement shall not be assignable by Customer without the written consent of the Company. This Agreement is not binding upon Company until executed by one of its authorized representatives.

ARTICLE VI. SECURITY

In accordance with the Company's Tariff, Customer must furnish surety in the amount of \$75,000.00 in a form acceptable to Company. The amount of the surety shall be equal to the Standard Allowance used to calculate the initial CIAC. The surety instrument may be a bond, letter of credit ("LOC") or other security acceptable to Company and shall survive the expiration of this Agreement. Such surety instrument must be for a term of 48 months (the "Security Term") from the Initial Date. Company may, but is not required to, accept a LOC of a shorter term provided that such LOC is renewed annually for the length of the Security Term. If a LOC or other security instrument is terminated, canceled or withdrawn, or if Company receives notice that the LOC or other security instrument will not be renewed, the Customer will be considered to be in immediate breach. In addition to any other remedies permitted at law, Company may recalculate the CIAC amount, including applicable taxes, as set forth in Article IV as of the date of breach. Any difference between the initial CIAC and the revised CIAC, including applicable taxes, will be due within 15 days of Company's mailing of an invoice to Customer as described in Article IV. Thereafter, Company may execute or draw on said LOC or other surety

prior to the expiration of such LOC/surety and/or the Agreement. Any surety instrument/LOC shall be non-cancelable; however, the face amount of the instrument may be reduced each year when approved by the Company. The surety instrument/LOC may not be replaced with other surety without consent of the Company.

ARTICLE VII. FORCE MAJEURE

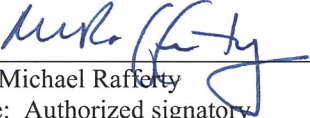
The Company shall not be liable for damages occasioned by interruptions or failure to commence delivery or unsatisfactory service caused by an Act of God or the public enemy, inevitable accidents, fire, explosions, strikes, riots, war, delay in receiving shipments of required material, order of any court or judge granted in any bona fide adverse legal proceedings or action, or any order of any commission or tribunal having jurisdiction in the premises; or, without limitation by the preceding enumeration, any other act or thing reasonably beyond its control or incident to interruptions necessary for repairs or changes in the Company's generating equipment, lines or other electric facilities.


ARTICLE VIII. SPECIAL PROVISIONS

****NOTE**** At the end of the term of this Agreement, Customer will be liable to Company in the amount of \$1,500.00 (plus gross-up for federal taxes and all other applicable taxes) per house or unit times the number of houses or units less than fifty (50) houses or units built, sold, and occupied by April 30, 2019. If fifty (50) houses or units have been built, sold, and are occupied by April 30, 2019 and the Customer has satisfied all of the articles within this Agreement, the Customer is clear of any further obligations to Company and this Agreement is voided.

CUSTOMER:
MHWS Development, LLC

COMPANY:
By: Texas New-Mexico Power Company


By: Michael Rafferty
Title: Authorized signatory


By: Pauline Moore
Director, T & D Operations – South TX

Date Signed 3-18-2016

Date Signed 4/14/16

STANDARD CONTRACT BOND

KNOW ALL MEN BY THESE PRESENTS, That we **MHWS Development LLC** ("Principal") a **Limited Liability Company** whose principal place of business is at **600 Steamboat Road, 3rd Floor, Greenwich, CT 06830**, as Principal, and **Lexon Insurance Company** ("Surety") a(n) **Corporation** authorized to issue bonds as a surety in the State of Texas, whose principal place of business is at **10002 Shelbyville Road, Suite 100, Louisville, KY 40223**, as Surety, are held and firmly bound unto Texas-New Mexico Power Company ("Obligee"), in the penal sum of **Seventy-Five Thousand and 00/100 Dollars (\$175,000.00)**, good and lawful money of the United States of America, for the payment of which, well and truly to be made, we bind ourselves, our heirs, administrators, executors, successors and assigns, jointly and severally firmly by these presents.

SEALED, with our seals and dated this **18th** day of **March**, 2016

WHEREAS, the above Principal has entered into a certain written contract, **BABU-2016-006** with the above named Obligee, dated **March 18th**, 2016, providing for the construction or supply of overhead and underground electric distribution facilities require to provide electric service to MHWS Development LLC, which contract is hereby referred to and made a part hereof as fully and to the same extent as if copied at length herein for the purpose of explaining but not of varying or enlarging the obligation.

NOW, THEREFORE, THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, that if the above Principal shall well and truly keep, do and perform, each and every, all and singular, the matters and things in said contract set forth and specified to be by the said Principal kept, done and performed at the time and in the manner in said contract specified, and shall pay over, make good and reimburse to the above named Obligee, all loss and damage which said Obligee may sustain by reason of failure or default on the part of said Principal, then this obligation shall be void; otherwise, to be and remain in full force and effect.

PROVIDED, HOWEVER, this bond is executed by the Surety, upon the express condition that no right of action shall accrue upon or by reason hereof, to or for the use or benefit of anyone

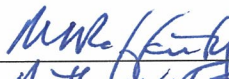
other than the Obligee named herein; and the obligation of the Surety is and shall be construed strictly as one of the suretyship only.

THIS BOND IS SUBJECT TO THE FOLLOWING PROVISIONS:

1. The liability of the Surety under this bond for all defaults and obligations of the Principal shall not exceed **Seventy-Five Thousand and 00/100 Dollars (\$75,000.00)** Dollars in the aggregate of the penal sum of the bond hereinabove set out.
2. The Surety reserves the right to cancel this bond by giving sixty (60) days notice in writing to the said Texas New Mexico Power Company. Cancellation by the Surety does not relieve the Principal of its obligations to provide security. Thus in the event the Surety cancels, TNMP may declare a breach and demand full payment of the bond amount unless satisfactory substitute security is provided to, and accepted by, TNMP in its sole discretion.

PRINCIPAL:

MHWS Development LLC

By: 
Title: Authorized Signatory


Witness: _____
[require Witness to contractor's signature only if contractor is an individual]

Attest: _____

[require attestation by corporate secretary or member of firm if contractor is a corporation or partnership]

SURETY:

Lexon Insurance Company

By: 
Sandra L. Fusinetti
Title: Attorney-in-Fact

POWER OF ATTORNEY

LX- 271044

Lexon Insurance Company

KNOW ALL MEN BY THESE PRESENTS, that **LEXON INSURANCE COMPANY**, a Texas Corporation, with its principal office in Louisville, Kentucky, does hereby constitute and appoint: Brook T. Smith, Raymond M. Hundley, Jason D. Cromwell, James H. Martin, Barbara Duncan, Sandra L. Fusinetti, Mark A. Guidry, Jill Kemp, Lynnette Long, Amy Meredith, Deborah Neichter, Jessica Nowlin, Theresa Pickerrell, Sheryon Quinn, Bonnie J. Wortham, Beth Frymire its true and lawful Attorney(s)-In-Fact to make, execute, seal and deliver for, and on its behalf as surety, any and all bonds, undertakings or other writings obligatory in nature of a bond.

This authority is made under and by the authority of a resolution which was passed by the Board of Directors of **LEXON INSURANCE COMPANY** on the 1st day of July, 2003 as follows:

Resolved, that the President of the Company is hereby authorized to appoint and empower any representative of the Company or other person or persons as Attorney-In-Fact to execute on behalf of the Company any bonds, undertakings, policies, contracts of indemnity or other writings obligatory in nature of a bond not to exceed \$5,000,000.00, Five Million dollars, which the Company might execute through its duly elected officers, and affix the seal of the Company thereto. Any said execution of such documents by an Attorney-In-Fact shall be as binding upon the Company as if they had been duly executed and acknowledged by the regularly elected officers of the Company. Any Attorney-In-Fact, so appointed, may be removed for good cause and the authority so granted may be revoked as specified in the Power of Attorney.

Resolved, that the signature of the President and the seal of the Company may be affixed by facsimile on any power of attorney granted, and the signature of the Assistant Secretary, and the seal of the Company may be affixed by facsimile to any certificate of any such power and any such power or certificate bearing such facsimile signature and seal shall be valid and binding on the Company. Any such power so executed and sealed and certificate so executed and sealed shall, with respect to any bond of undertaking to which it is attached, continue to be valid and binding on the Company.

IN WITNESS THEREOF, **LEXON INSURANCE COMPANY** has caused this instrument to be signed by its President, and its Corporate Seal to be affixed this 5th day of August, 2015.



LEXON INSURANCE COMPANY

BY

David E. Campbell
President

ACKNOWLEDGEMENT

On this 5th day of August, 2015, before me, personally came David E. Campbell to me known, who be duly sworn, did depose and say that he is the President of **LEXON INSURANCE COMPANY**, the corporation described in and which executed the above instrument; that he executed said instrument on behalf of the corporation by authority of his office under the By-laws of said corporation.



AMY TAYLOR
Notary Public- State of Tennessee
Davidson County
My Commission Expires 07-08-19

BY

Amy Taylor
Notary Public

CERTIFICATE

I, the undersigned, Assistant Secretary of **LEXON INSURANCE COMPANY**, A Texas Insurance Company, DO HEREBY CERTIFY that the original Power of Attorney of which the forgoing is a true and correct copy, is in full force and effect and has not been revoked and the resolutions as set forth are now in force.

Signed and Seal at Mount Juliet, Tennessee this 18th Day of March, 20 16.



BY

Andrew Smith
Assistant Secretary

"WARNING: Any person who knowingly and with intent to defraud any insurance company or other person, files and application for insurance of claim containing any materially false information, or conceals for the purpose of misleading, information concerning any fact material thereto, commits a fraudulent insurance act, which is a crime and subjects such person to criminal and civil penalties."