

GAS SERVICES AGREEMENT **31076**

Shell Energy North America (US), L.P., a Delaware limited partnership ("Shell Energy"), and the City of Long Beach, a California municipal corporation ("Long Beach"), referred to individually as a "Party" and collectively as the "Parties", enter into this Gas Services Agreement (this "Services Agreement") effective as of the 1st day of April, 2009 (the "Effective Date").

WHEREAS, Shell Energy (as successor in interest to Coral Energy Resources, L.P.) and Long Beach are parties to that Base Contract for Sale and Purchase of Natural Gas, dated effective as of November 1, 2007 (the "Gas Sales Agreement") pursuant to which Shell Energy may sell and Long Beach may buy Gas (as defined in the Gas Sales Agreement).

WHEREAS, Shell Energy (as successor in interest to Coral Energy Resources, L.P.) and Long Beach were parties to that Gas Services Agreement, dated effective as of November 1, 2007, which agreement terminated effective March 31, 2009 pursuant to Long Beach's written notice dated February 27, 2009 (the "2007 Services Agreement");

WHEREAS, Long Beach desires to enter into a new Gas Services Agreement with Shell Energy effective as of the Effective Date herein under which it obtains a variety of natural gas-related services from Shell Energy;

WHEREAS, Long Beach desires to procure natural gas from third parties, in addition to Shell Energy;

WHEREAS, Long Beach desires for Shell Energy to provide the Services (as hereinafter defined) with respect to Long Beach's purchase of Gas from both Shell Energy and third parties and Shell Energy is willing to provide the Services pursuant to the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the promises and of the mutual covenants hereinafter set forth, the Parties hereto covenant and agree to be legally bound as follows:

ARTICLE 1 **DEFINITIONS**

"Business Day" shall have the meaning set forth in the Gas Sales Agreement.

"Claims" means all claims or actions, threatened or filed, that directly or indirectly, relate to the subject matters of this Services Agreement, and the resulting losses, damages, expenses, attorneys' fees, experts' fees, and court costs, whether incurred by judgment, settlement, or otherwise, and whether such claims or actions are threatened or filed prior to, during, or after the termination of this Services Agreement.

“Day” means a period of twenty-four (24) consecutive hours beginning at 12:00 a.m., P.T., on any calendar Day.

“First of Month Price” means the price per MMBtu, in U.S. dollars, set forth in NGI’s Bidweek Survey published each month under the caption “Southern Cal. Bdr. Avg.”

“Gas” means methane and other gaseous hydrocarbons meeting the quality standards and specifications of the SoCal System.

“Gas Delivery Point” means the point at which Long Beach desires to take delivery of Gas.

“Injection Quantity” means the quantity of Gas scheduled by Shell Energy for injection into storage pursuant to Article 2, whether injected for the account of Shell Energy or Long Beach.

“Master Services Contract” means the Master Services Contract dated May 14, 1993, between City of Long Beach and SoCal, including Schedule A thereto (Intrastate Transmission Service) which became effective as of November 1, 2007, as amended from time to time.

“Procure” or “Procurement” means all acts necessary or reasonable to locate, purchase, and/or contract for supply and/or Transportation, including bidding, soliciting, and reviewing bids by others, and negotiating and executing agreements.

“Service Fee” shall have the meaning set forth in Article 3.1 hereof.

“Services” shall have the meaning set forth in Article 2.1 hereof.

“SoCal” means Southern California Gas Company.

“SoCal System” means the intrastate and local distribution company Gas pipeline system owned and operated in the State of California by SoCal.

“Storage Agreement” means the most recently executed Transaction Based Storage Service Agreement between City of Long Beach and SoCal, as amended from time to time.

“Storage Capacity” means the Gas storage capacity in storage facilities owned and operated by SoCal made available to Long Beach subject to and in accordance with the terms of the Storage Agreement.

“Transporter” means the pipeline receiving Gas at the Gas Delivery Point.

“Transportation” means Gas gathering or transportation (or Gas storage related thereto) under a Transportation Agreement via an interstate or intrastate gas pipeline or local distribution company by which Gas is moved or is deemed to move.

“Transportation Agreement” means that certain Intrastate Transmission Service Agreement for the Transportation of Gas executed by and between Long Beach and SoCal, dated September 11, 2007, effective as of November 1, 2007, as amended from time to time.

“Transportation Capacity” means the Gas transportation capacity on the SoCal System made available to Long Beach subject to and in accordance with the Master Services Contract.

“Withdrawal Quantity” means the quantity of Gas scheduled by Shell Energy for withdrawal from storage pursuant to Article 2, whether for the account of Shell Energy or Long Beach.

ARTICLE 2

SERVICES AND OBLIGATIONS

2.1 Services. Long Beach hereby retains Shell Energy as its sole contractor, and Shell Energy hereby agrees to so act as sole contractor to provide the following services (collectively, the “Services”):

(a) Shell Energy’s Obligations. Shell Energy shall administer the Transportation Agreement, Storage Agreement, and Master Services Contract, together with any other Gas transportation, Gas storage, or Gas supply agreements either Procured by Shell Energy on behalf of Long Beach pursuant to subsection (b) below or entered into directly by Long Beach (all such agreements are collectively referred to herein as the “Long Beach Gas Agreements”). The administrative functions provided by Shell Energy shall consist of:

- (1) nomination and scheduling of Gas for Transportation (and amendment of any such nomination) based on Long Beach’s instructions;
- (2) verification and resolution of imbalances;
- (3) receipt, verification, reconciliation, and forwarding to Long Beach of Transporter’s and any third party supplier invoices and other billings relevant to the Long Beach Gas Agreements;
- (4) receipt and sending of notices and other correspondence relevant to the Long Beach Gas Agreements;
- (5) compliance with notices relevant to the Long Beach Gas Agreements; provided, however, that emergency notices shall, to the extent practical, be sent directly to Long Beach and/or if received by Shell Energy, promptly forwarded to Long Beach;

- (6) forecasting the daily load requirements of Long Beach and balancing incremental requirements being delivered to Long Beach pursuant to the Long Beach Gas Agreements; and
- (7) management of the Transportation Capacity, subject to and in accordance with the terms of the Master Services Contract, and the Storage Capacity, subject to and in accordance with the terms of the Storage Agreement; provided that Shell Energy's management of the Transportation Capacity and Storage Capacity shall include, without limitation: (i) nomination and confirmation of Injection Quantities and Withdrawal Quantities (each as defined in the Storage Agreement) in each case for the account of Long Beach in accordance with the terms herein; (ii) nomination and confirmation of the Daily Gas Supply Requirements (as defined in the Storage Agreement), including Withdrawal Quantities for the account of Long Beach, if any, and the Injection Quantities (if any) for the account of Long Beach to be transported each Day under the Master Services Contract; (iii) nomination and confirmation of the daily Gas transportation load of Long Beach's transportation customers on the SoCal System; (iv) nomination and confirmation of all third party sale quantities (if any) on the SoCal System; and (v) management of transportation and storage imbalances and transportation and storage imbalance trading consistent with the terms of the Master Services Contract, the Storage Agreement, and the applicable CPUC Gas tariff for the SoCal System. Subject to Shell Energy's compliance with the terms of the Storage Agreement, the quantities of Gas injected into, and the quantities of Gas withdrawn from, storage on any Day under this Services Agreement shall be in the reasonable discretion of Shell Energy.

(b) Procurement of Gas Supply. Shell Energy shall procure Long Beach's gas supply as provided under the Gas Sales Agreement.

2.2 Long Beach's Obligations with Respect to the Services. In order to enable Shell Energy to perform the Services, Long Beach shall:

- (a) provide Shell Energy all information necessary to enable Shell Energy to provide the Services, including but not limited to, all information necessary for (i) complying with the nominating, scheduling, balancing, load forecasting and other requirements of any Transporter and supplier of Gas to Long Beach, and (ii) minimizing scheduling, balancing, overrun, and similar penalties and charges. Such information shall include copies of all Long Beach Gas Agreements, all amendments thereto and any notices provided by or to Long Beach thereunder;
- (b) furnish all relevant employees and/or contractors of Long Beach as needed, for consultations with Shell Energy;

- (c) notify all Transporters and suppliers and other relevant parties of Long Beach's retention of Shell Energy to perform the Services;
- (d) if Long Beach needs to give an emergency notice, it will promptly notify Shell Energy and applicable Transporter directly of the emergency so that Shell Energy can inform upstream Transporters, if necessary; and
- (e) if Long Beach receives an emergency notice from any Transporter, it will promptly notify Shell Energy of the emergency so that Shell Energy can inform any Transporters if necessary.

2.3 Storage for Shell Energy's Account. Notwithstanding the preceding provisions of this Article 2, each month during the term hereof, Shell Energy shall be entitled to utilize for its own account any portion of the Storage Capacity not then utilized for Gas in storage for the account of Long Beach. Shell Energy shall establish procedures for accounting and reporting to Long Beach Shell Energy's injections of Gas into, and withdrawals of Gas from, storage for the respective accounts of Shell Energy and Long Beach during each month. Injection Quantities for the account of Shell Energy during a month shall be deemed to have been sold by Shell Energy to Long Beach at the First of Month Price applicable to the month of delivery. Withdrawal Quantities for the account of Shell Energy during a month shall be deemed to have been sold by Long Beach to Shell Energy at the same First of Month Price at which the corresponding Injection Quantity was sold by Shell Energy to Long Beach. Except as provided hereinafter in this Article 2.3, neither Shell Energy nor Long Beach shall be required to make any payment to the other Party in connection with any such deemed purchases or sales of Gas. In this regard, Shell Energy shall establish and maintain a ledger that matches and offsets, on a first-in, first-out basis, all charges to Long Beach for such deemed purchases of injected Gas by Long Beach against credits for the benefit of Long Beach for such deemed sales of withdrawn Gas by Long Beach. Shell Energy shall reimburse Long Beach for all variable storage and transportation charges invoiced by SoCal to Long Beach and allocable to injections and/or withdrawals of Gas for Shell Energy's account. Such reimbursement shall be accomplished by netting the amount of any such reimbursement owed by Shell Energy to Long Beach with respect to a month against the amounts owed by Long Beach to Shell Energy hereunder for such month. Upon the expiration or termination of this Services Agreement, to the extent that Gas injected into storage for the account of Shell Energy has not previously been withdrawn, Long Beach shall cause such Gas to be delivered to Shell Energy.

2.4 Imbalances. Shell Energy shall manage all transportation and storage imbalances for Long Beach in connection with the Transportation Capacity and Storage Capacity. Long Beach shall bear and pay, or reimburse Shell Energy if Shell Energy has paid, any costs, expenses, losses, charges, or penalties incurred with respect to transportation and storage ("Imbalance Charges") managed for the account of Long Beach, including, without limitation, Long Beach's transportation customers and any third party sales quantities (including any quantities purchased by Long Beach from third parties); provided,

however, that once Long Beach has paid Imbalance Charges totaling \$25,000 in any year, the Imbalance Charges in excess of that amount for that year shall be divided evenly between Shell Energy and Long Beach; provided, further that once Shell Energy has paid Imbalance Charges in any year equal to the amount of Service Fees paid by Long Beach to Shell Energy during the previous six (6) months, Long Beach shall be solely responsible for any Imbalance Charges in excess of that amount. During the term of this Services Agreement, all economic benefits (including, without limitation, gains, refunds and credits of any kind) and burdens or losses realized or suffered with respect to the transportation and storage used hereunder for the account of Shell Energy shall belong to, or be borne by, Shell Energy. For avoidance of doubt, for the periods prior to the 2007 Services Agreement and subsequent to the term of this Services Agreement, all economic benefits (including, without limitation, gains, refunds and credits of any kind) and burdens or losses realized or suffered in connection with the Transportation Capacity, the Storage Capacity, and otherwise relating to Long Beach's purchases of Gas shall belong to, or be borne by, Long Beach.

ARTICLE 3
REIMBURSEMENT AND COMPENSATION

3.1 Service Fee.

- (a) Shell Energy shall receive, as consideration for its performance of the Services, a service fee (the "Service Fee") in the amount of \$4,500 per month for the first twelve (12) months after the Effective Date, provided that:
 - (i) Shell Energy is entitled to utilize for its own account, at any given time, any portion of the Storage Capacity not then utilized for Gas in storage for the account of Long Beach as provided by Article 2.3 herein; and
 - (ii) there is no material change in inventory amounts or firm injection and/or withdrawal rights under the Storage Agreement.
- (b) If either condition (i) or (ii) as set forth in Article 3.1(a) is not satisfied, the Service Fee shall thereafter be in the amount of \$8,500 per month for the remainder of the first twelve-month period after the Effective Date. For avoidance of doubt, condition (i) is not satisfied if Shell Energy is no longer entitled to utilize the Storage Capacity, whether it is made unavailable by Long Beach or if the Storage Agreement between Long Beach and SoCal is terminated.
- (c) The Service Fee (whether determined under Article 3.1(a) or (b) above) shall increase by three percent (3%) each year beginning on April 1, 2010.
- (d) As set forth in Article 10.8, payment of the Service Fee shall be due and made only from funds available in Long Beach's Gas Revenue Fund, which operates and

maintains Long Beach's natural gas utility, and not Long Beach's General Fund account.

- 3.2 Expense Reimbursement. In addition to the Service Fee, and other than the Transportation of Gas in connection with a transaction pursuant to the Gas Sales Agreement, Long Beach shall pay, or reimburse Shell Energy if Shell Energy has paid, any costs and charges incurred in connection with the Transportation or storage of Gas for the account of Long Beach hereunder. Unless Shell Energy elects to make such payments, such costs and charges shall typically be paid directly to the third parties by Long Beach. Such costs and charges shall include all rates, fees, cash-outs, penalties (including Imbalance Charges), forfeitures, taxes (including any taxes imposed on the services hereunder and/or any sales or transactional taxes, but excluding any income taxes, franchise taxes, and taxes based on net income (including alternative minimum taxable income or net worth)), and fuel retainage charges, attributable to Transportation and storage transactions administered and/or undertaken in accordance with this Services Agreement for the account of Long Beach.

ARTICLE 4 **TERM**

- 4.1 Term. This Services Agreement shall commence as of the Effective Date and shall remain in full force and effect through March 31, 2012, and shall continue month to month thereafter, unless terminated by either Party upon thirty (30) day's written notice to the other Party. Notwithstanding anything to the contrary in this Services Agreement, either Party may terminate this Services Agreement at any time for any reason or no reason by providing thirty (30) days' prior written notice to the other Party.
- 4.2 Effect of Termination. Termination of this Services Agreement shall not release or affect the Parties' respective obligations or rights hereunder with respect to the period prior to termination, including any obligation or right of indemnity with respect thereto.

ARTICLE 5 **AUTHORIZED REPRESENTATIVES**

- 5.1 Notices. All communications between the Parties with respect to this Services Agreement shall be as set forth in Section 9 of the Gas Sales Agreement.

ARTICLE 6 **BILLING AND PAYMENT**

- 6.1 On or about the tenth (10th) day of each month following the month in which the relevant Services were rendered, Shell Energy shall render to Long Beach a statement, which may

be based on reasonable estimates, setting forth in total all amounts due Long Beach or Shell Energy pursuant to the provisions herein. All amounts owed by one Party to the other Party hereunder shall be offset against the amount each Party then owes, if any, to the other pursuant to the Gas Sales Agreement, so that only the Party owing the greater amount shall pay the difference to the other Party. All amounts identified in such statements as being due shall be paid to the other Party via wire transfer by the later of (i) the seventh (7th) Business Day following receipt of Shell Energy's invoice therefor or (ii) the twenty-fifth (25th) day of the month. All amounts due hereunder shall be paid by wire transfer in accordance with the wire transfer information set forth in the Gas Sales Agreement.

- 6.2 All late payments and disputes regarding invoices shall be subject to the provisions of Section 7 of the Gas Sales Agreement.

ARTICLE 7

FORCE MAJEURE

- 7.1 Except with regard to the Parties' obligation to make payments due under this Services Agreement, in the event either Party hereto is rendered unable, wholly or in part, by force majeure to carry out its obligations under this Services Agreement, it is agreed that, upon such Party's giving to the other Party notice and full particulars of such force majeure as soon as practical after the discovery of the cause relied on, such notice to be promptly confirmed in writing by facsimile, then the obligations of the Party giving such notice, insofar as they are affected by such force majeure, shall be suspended during the continuance of any inability so caused but for no longer period. To the extent that the power to do so is conferred under this Services Agreement, Shell Energy shall adjust Transportation arrangements to the extent reasonably possible to accommodate any event of force majeure.
- 7.2 The term "force majeure" shall mean acts of God, strikes, lockouts, or industrial disputes or disturbances, civil disturbances, interruptions by government or court orders, necessity for compliance with any court order, law, statute, ordinance, or regulation promulgated by a governmental authority having jurisdiction, acts of the public enemy, the unwillingness of any Transporter to accept Gas for delivery or redelivery, interruption or recall of primary firm Transportation, or any other cause, whether foreseeable or not, not reasonably within the control of the Party claiming force majeure and which, by the exercise of due diligence, such Party could not have prevented or is unable to overcome by commercially reasonable actions. The Party claiming force majeure shall diligently pursue all commercially reasonable steps to limit the period of force majeure to the shortest possible time and restore normal operating conditions. It is understood that the settlement of strikes or lockouts shall be entirely within the discretion of the Party having the difficulty and any requirement concerning the use of due diligence in restoring normal operating conditions shall not require the settlement of strikes or lockouts.

ARTICLE 8
DEFAULTS, REMEDIES AND TERMINATION

8.1 Termination. A Party (the “Non-Defaulting Party”) may terminate this Services Agreement if any one of the following events (each an “Event of Default”) occurs with respect to the other Party (the “Defaulting Party”):

(a) the Defaulting Party fails to pay any undisputed payment obligation under this Services Agreement and such failure continues for a period of three (3) Business Days after written notice thereof being given by the Non-Defaulting Party; or

(b) the Defaulting Party fails to perform any material covenant or agreement by it in this Services Agreement (other than as described in the preceding Article 8.1(a)) and such failure continues for a period of five (5) Business Days after written notice thereof being given by the Non-Defaulting Party; or

(c) the Defaulting Party (i) makes an assignment or any general arrangement for the benefit of creditors, (ii) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause under any bankruptcy or similar law for the protection of creditors, or has such petition filed against it and such proceeding remains undismissed for thirty (30) days, (iii) otherwise becomes bankrupt or insolvent (however evidenced), or (iv) is unable to pay its debts as they fall due.

Upon the occurrence of an Event of Default under this Article 8.1, the Non-Defaulting Party may, at its sole option, give written notice thereof to the Defaulting Party and thereby terminate this Services Agreement.

8.2 Effect of Termination. In the event of termination of this Services Agreement, the obligations of the Parties incurred hereunder prior to such termination shall continue in full force and effect until such obligations have been paid and satisfied.

8.3 Remedies. With respect to any Event of Default under this Services Agreement, the Non-Defaulting Party shall be entitled to all rights and remedies which the Non-Defaulting Party may have under law or equity, including, without limitation, the right of setoff. All rights and remedies of a Party hereto shall be cumulative, and the exercise of any such right or remedy shall not preclude the exercise of any other right or remedy. The exercise by the Non-Defaulting Party of its option to terminate this Services Agreement by reason of an Event of Default hereunder by Defaulting Party shall not release or impair the Non-Defaulting Party’s rights and remedies with respect to such Event of Default. Neither failure nor delay by the Non-Defaulting Party in exercising any of its rights, powers or privileges herein shall operate as a waiver nor shall any single or partial exercise preclude any other or further exercise of any right, power or privilege of the Non-Defaulting Party.

ARTICLE 9
INDEMNITIES / STANDARD OF PERFORMANCE AND LIMITATIONS ON
LIABILITY

- 9.1 Long Beach Indemnity. Long Beach shall remain responsible for its obligations under the Long Beach Gas Agreements and for any instructions by Long Beach to Shell Energy relative to the Services. Except as provided in Article 9.2, Long Beach shall indemnify and hold harmless Shell Energy and its affiliates and each of its and their respective officers, partners, directors, employees, agents, successors and assigns from and against any and all liabilities, losses, damages, claims, costs and expenses, interest, awards, judgment and penalties (including without limitation reasonable legal fees and expenses) (collectively “Losses”) actually suffered or incurred by it or any of them and actually arising out of or resulting from (i) the Long Beach Gas Agreements, and (ii) any liability relating to or arising out of Long Beach’s performance or nonperformance of its obligations hereunder.
- 9.2 Shell Energy Indemnity. Shell Energy shall indemnify and hold harmless Long Beach and its affiliates and each of its and their respective officers, partners, directors, employees, agents, successors and assigns from and against any and all Losses actually suffered or incurred by it or any of them and actually arising out of or resulting from Shell Energy’s gross negligence or willful misconduct in the performance of the Services up to but not exceeding the limit set forth in Article 9.4(j).
- 9.3 **LIMITATION OF DAMAGES. IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, OR INDIRECT DAMAGES OF ANY KIND OR NATURE WHATSOEVER, INCLUDING, WITHOUT LIMITATION, LOST PROFITS, OR OTHER BUSINESS INTERRUPTION DAMAGES WHETHER ARISING IN TORT, CONTRACT, STRICT LIABILITY, OR OTHERWISE ARISING FROM ANY BREACH OR DEFAULT UNDER THIS SERVICES AGREEMENT OR FROM ANY ACT OR OMISSION UNDER OR IN CONNECTION WITH THIS SERVICES AGREEMENT.**
- 9.4 Service Limitations. With respect to Shell Energy’s provision of the Services, it is expressly recognized and stipulated that:
- (a) Shell Energy has made and shall make no warranties as to results to be obtained; Long Beach acknowledges that any information, projections, valuations or models provided by Shell Energy in connection with Shell Energy’s provision of the Services are solely an estimate based upon information available to Shell Energy at such time and the providing of such information shall not constitute, and shall not be construed by Long Beach to constitute, a guarantee of any future facts or expected results, or that such information represents the best market alternatives under any circumstances or that particular results may actually be achieved by the following of any suggestions by Shell Energy;

- (b) Shell Energy shall not be required to perform any act violative of any applicable statute or regulation of any governmental entity having jurisdiction;
- (c) Long Beach is capable of understanding and evaluating (without assistance from Shell Energy) all activities to be undertaken in connection with the Services;
- (d) Shell Energy is an independent contractor with respect to Shell Energy's performance of the Services;
- (e) Shell Energy may enter into agreements with third parties for the performance by Shell Energy of services similar to those to be performed hereunder without regard to this Services Agreement;
- (f) the obligations of Shell Energy under any other agreements that it may undertake with Long Beach shall not be altered or affected by the terms of this Services Agreement, except as otherwise expressly provided herein or in such other agreements;
- (g) Shell Energy is not acting as a fiduciary of Long Beach in respect to the performance of the Services or the activities undertaken in connection therewith;
- (h) under no circumstances shall Shell Energy be required to perform any service for Long Beach in connection with the Services not explicitly referenced in this Services Agreement;
- (i) Shell Energy shall perform the Services in a commercially reasonable manner; and
- (j) Shell Energy's maximum aggregate liability to Long Beach or any third parties for all claims for Losses caused directly or indirectly by Shell Energy's performance or nonperformance of the Services shall not exceed the amount of Service Fees paid by Long Beach to Shell Energy during the previous six (6) months hereof.

9.5 With respect to each indemnification included in this Services Agreement, the indemnity is given to the fullest extent permitted by applicable law and the following provisions shall be applicable. The indemnified Party shall promptly notify the indemnifying Party in writing of any claim and the indemnifying Party shall have the right to assume its investigation and defense, including employment of counsel, and shall be obligated to pay related court costs, attorneys' fees and experts' fees and to post any appeals bonds; provided, however, that the indemnified Party shall have the right to employ at its expense separate counsel and participate in the defense of any claim. The indemnifying Party shall not be liable for any settlement of a claim without its express written consent thereto. In order to prevent double recovery, the indemnified Party shall reimburse the indemnifying Party for payments or costs incurred in respect of an indemnity with the

proceeds of any judgment, bond, insurance, surety or other recovery made by the indemnified Party with respect to a covered event.

- 9.6 As between Shell Energy and Long Beach, during the term of this Services Agreement, all risk of loss associated with Gas in storage under the terms of the Storage Agreement or transported under the terms of the Master Services Contract, shall be borne by the Party for whose account the gas is stored or transported; provided, however, that to the extent necessary, Long Beach shall assist with and make any claims that may be asserted against SoCal or the Transporters; provided, further, that Long Beach shall be responsible for any loss or liability resulting from injury to or death of any person, persons, or other living things, or loss or destruction of property, caused by such Gas. Shell Energy shall be responsible and liable for, and shall indemnify, defend and hold harmless Long Beach from all Losses arising from or related in any way to, all contractual Claims accruing under the terms of the Storage Agreement and Master Services Contract while such agreements are managed by Shell Energy pursuant hereto and that result from the negligence or willful misconduct of Shell Energy in the performance of the Services with respect thereto; provided, however, that Shell Energy's maximum aggregate liability for any breach or failure to perform its obligations under this Services Agreement relating to the Master Services Contract and/or the Storage Agreement shall be limited as set forth in Section 9.4(j). Long Beach shall remain responsible and liable for, and shall indemnify, defend, and hold harmless Shell Energy from all Losses arising from or related in any way to, all Claims of third parties accruing before, during and after the term of this Services Agreement under the terms of the Storage Agreement and the Master Services Contract for which responsibility has not been allocated to Shell Energy hereunder.

ARTICLE 10 **MISCELLANEOUS**

- 10.1 This Services Agreement hereby incorporates and is subject to the following provisions of the Gas Sales Agreement as if each such provision was set forth in this Services Agreement (and all references to "this Agreement" in the relevant Gas Sales Agreement provisions shall refer to this Services Agreement): (a) the assignment provisions set forth in Section 14.1; (ii) the entirety provisions set forth in Section 14.4; (iii) the third party beneficiary provisions set forth in Section 14.7; (iv) the confidentiality provisions set forth in Section 14.10; and (v) the waiver or consent provisions set forth in Section 14.3.
- 10.2 All indemnity rights set forth in this Services Agreement shall survive the expiration or termination of this Services Agreement. The expiration or termination of this Services Agreement shall have no effect upon the rights or obligations of either Party that have accrued prior to expiration or termination hereof.
- 10.3 In the event that any provision of this Services Agreement is declared invalid, illegal or unenforceable, the Parties shall promptly renegotiate to restore this Services Agreement as near as possible to its original intent and effect.

- 10.4 Nothing contained in this Services Agreement shall be deemed to appoint either Party as the agent of the other Party, and neither Shell Energy nor Long Beach may, except as otherwise expressly provided herein, bind the other to an agreement with a third party. This Services Agreement shall not be construed as creating any partnership, joint venture, association, or any other type of entity between Long Beach and Shell Energy, or between either or both of them and any other party for the sharing of profits and losses for federal income tax or for any other purposes.
- 10.5 **THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA WITHOUT GIVING EFFECT TO ANY CHOICE OF LAW RULES THAT MAY REQUIRE THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION.**
- 10.6 The Parties agree to take all such further actions and to execute such additional documents as may be reasonably necessary to effectuate the purposes of this Services Agreement
- 10.7 Long Beach's Debt Limitations. Article XVI, Section 18 of the California Constitution provides that a city may not incur any indebtedness for any purpose in any one (1) year in excess of its income and revenue provided for that year without the assent of two-thirds of its qualified voters, with the exception of special fund accounts. The Gas & Oil Department of Long Beach is created pursuant to Article XV, Section 1500-1502 of the Long Beach City Charter, Section 1501 of that Charter provides that all revenues received from the operations of Long Beach's Gas utility shall be kept in a separate "Gas Revenue Fund," which is a "special fund account" and exempt from Section 18 debt limitations. Payment for Long Beach's obligations under this Services Agreement shall be made solely from Long Beach's Gas Revenue Fund.
- 10.8 Representations and Warranties. As a material inducement to entering into this Services Agreement, each Party, with respect to itself, hereby represents and warrants to the other Party as follows: (i) it is duly organized, validly existing, and in good standing under the laws of the jurisdiction of its formation and is qualified to conduct its business in those jurisdictions necessary for the performance of this Services Agreement; (ii) the execution and delivery of this Services Agreement are within its power, have been duly authorized by all necessary action, and do not violate any of the terms or conditions in the governing documents or charter of such Party, any contract to which it is a party, or any applicable law, rule, or regulation of any governmental authority; (iii) as of the Effective Date, the performance of this Services Agreement shall be duly authorized by all necessary action of such Party; and shall not violate any of the terms or conditions in the governing documents or charter of such Party, any applicable law, rule, or regulation of any governmental authority, or any contract to which it is a party; (iv) as of the Effective Date, such Party shall have, and such Party shall maintain throughout the term of this Services Agreement, all regulatory authorizations necessary for it legally to perform its

obligations hereunder; (v) this Services Agreement constitutes the legal, valid and binding obligation of such Party, enforceable against it in accordance with its terms, subject to bankruptcy, insolvency, reorganization, and other laws affecting creditor's rights generally, and with regard to equitable remedies, subject to the discretion of the court before which proceedings to obtain same may be pending; and (vi) there are no suits, proceedings, judgments, rulings or orders by or before any court or any governmental authority that could materially adversely affect such Party's ability to perform this Services Agreement.

The Parties executed this Services Agreement in multiple counterparts to be construed as one contract effective as of the Effective Date.

**SHELL ENERGY NORTH AMERICA
(US), L.P.**

By: Beth Bowman
Name: BETH BOWMAN
Title: SENIOR VICE PRESIDENT

CITY OF LONG BEACH ~~ALSO KNOWN AS~~
TO SECTION 001 OF
THE CITY CHARTER.

By: G. J. Assistant City Manager
Name: Patrick H. West
Title: City Manager

APPROVED AS TO FORM

3-31, 2009
ROBERT E. SHANNON, City Attorney
By: [Signature]
RICHARD ANTHONY
DEPUTY CITY ATTORNEY



April 2, 2009

VIA OVERNIGHT MAIL

Ms. Paulina Flores
City of Long Beach
2400 East Spring Street
Long Beach, CA
Phone: ((562) 570-2111

**RE: GAS SERVICES AGREEMENT BETWEEN SHELL ENERGY NORTH AMERICA (US), L.P.
AND CITY OF LONG BEACH DATED APRIL 1, 2009**

Dear Ms. Flores,

— Enclosed are two (2) originals of the referenced contract(s), which have been executed by Shell Energy North America (US), L.P. Please execute the originals and return one (1) of the fully executed originals to the undersigned at the address below:

Courtney Smith
Shell Energy North America (US), L.P.
4445 Eastgate Mall, Suite 100
San Diego, CA 92121
Phone: (858) 526-2173

X Enclosed for your file is one (1) fully executed copy of the above referenced agreement.

— Enclosed are two (2) fully executed originals of the above referenced agreement. Please initial the change(s) where indicated and return one fully executed original to the undersigned at the address given above.

— Enclosed are two (2) originals of the above referenced agreements. Please sign where indicated and return to the undersigned at the address given above. One (1) fully executed original will be returned to you for your files.

Please feel free to call me at (858) 526-2173 if you have any questions. Thank you.

Sincerely,

Courtney Smith
Contracts Coordinator
Shell Energy North America (US), L.P.

Enclosure