

1. Non-Construction Access: Prior to access of any SRA property for non-construction purposes, execute SRA's standard *Contractor's Right of Entry Agreement*, a copy of which is attached hereto. Included with the *Agreement* Requestor must submit for approval a detailed description of the proposed work along with a map indicating the precise location of such work.
  
2. Construction Access: After initial non-construction access should Requestor elect to construct said improvements execution of SRA's standard formal easement will be required. To initiate preparation of a construction access easement Requestor must submit to SRA the current application fee of \$1,000 plus a linear fee of \$1,000/rod. Note that the application fee and linear fee are per crossing and must be paid in advance. Should requestor require water for testing a separate commercial short term limited water use permit shall be executed. Requestor will be required to prepare and furnish a route map, plat, field note description and plan and profile drawings in support of the proposed construction.

SRA's standard construction requirements include but are not limited to the following:

- Restore condition of SRA property to the same condition as was present prior to any such construction activities.
- All crossings must be bored a minimum of one hundred twenty inches (120") below the existing bottom of the canal.
- Bore pits must be located beyond the limits of the canal right-of-way.
- Notify SRA's representative, David Williams (409/746-2111) a minimum of fifteen (15) days prior to beginning construction on SRA canal property.
- Under no circumstances will SRA grant authority for aerial crossings of the canal.
- Upon construction completion furnish to SRA a survey and plat showing the as-built dimensions of the completed construction.

Should you have any questions or comments I can be reached at number provided above.

Sincerely,

David Williams  
Division Manager

# CONTRACTOR'S RIGHT OF ENTRY AGREEMENT

***\*\*THIS DOCUMENT IS NOT A PERMANENT EASEMENT –  
EXPIRATION SHALL BE 180 DAYS FROM DATE OF EXECUTION\*\****

This agreement is made and entered into as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_ by and between the Sabine River Authority of Texas (“SRA”), a Texas governmental agency, and \_\_\_\_\_ (“Contractor”), a \_\_\_\_\_ (corporation, LLC, etc.}.

**RECITALS:** *(provide a discussion of proposed work and location)*

## **AGREEMENT:**

**NOW, THEREFORE,** it is mutually agreed by and between SRA and Contractor, as follows:

## **ARTICLE 1- DEFINITION OF CONTRACTOR**

For purposes of this agreement, all references in this agreement to Contractor shall include Contractor’s contractors, subcontractors, officers, agents and employees, and others acting under its or their authority.

## **ARTICLE 2 – RIGHT GRANTED; PURPOSE**

SRA hereby grants to Contractor the right, during the term hereinafter stated and upon and subject to each and all of the terms, provisions and conditions herein contained, to enter upon and have ingress to and egress from the property described in the Recitals for the purpose of performing the work described in the Recitals above. The right herein granted to Contractor is limited to those portions of SRA property specifically described herein, or as designated by the SRA Representative named in Article 3.

## **ARTICLE 3 – SRA REPRESENTATIVE**

Contractor shall coordinate all of its work with the following SRA representatives or his or her duly authorized representative.

Gulf Coast Division  
David Williams  
1922 Owens Illinois Road  
Orange, TX 77632  
Ph: 409/746-2111

Toledo Bend Division  
Steven Dougharty  
450 Spur 135  
Burkeville, TX 75932  
Ph: 409/565-2273

Tenaska Right-of-way  
Travis Williams  
P.O. Box 579  
Orange, TX 77631  
Ph: 409/746-2192

Iron Bridge Division  
Randy Traylor  
P.O. Box 310  
Point, TX 75472  
Ph: 903/598-2216

Lake Fork Division  
Bill Kirby  
353 PR 5183  
Quitman, TX 75783  
Ph: 903/878-2262

Contractor, at its own expense, shall adequately police and supervise all work to be performed by Contractor and shall ensure that such work is performed in a safe manner. The responsibility of the Contractor for safe conduct and adequate policing and supervision of Contractor's work shall not be lessened or otherwise affected by SRA's approval of plans and specifications involving the work, or by SRA's collaboration in performance of any work, or by the presence at the work site of an SRA representative, or by compliance by Contractor with any request or recommendation made by SRA Representative.

#### **ARTICLE 4 – TERM; TERMINATION**

The grant of right herein made to Contractor shall commence on the date of this Agreement, and continue until \_\_\_\_\_ (expiration date), unless sooner terminated as herein provided, or at such time as Contractor has completed its work on SRA property, whichever is earlier. Contractor agrees to notify SRA's Representative in writing when it has completed its work on SRA Property.

#### **ARTICLE 5 – CERTIFICATE OF INSURANCE**

Before commencing any work, Contractor shall, at its sole cost and expense, procure and maintain during the course of the Project and until all Project work on SRA property has been completed and the Contractor has removed all equipment and materials from SRA's property and has cleaned and restored property to SRA's satisfaction, the following insurance coverage:

<b>TYPE OF INSURANCE</b>	<b>LIMITS OF LIABILITY</b>
Comprehensive Automobile Liability Insurance	≤1 000 000
Commercial General Liability Insurance	General Aggregate: \$1,000,000 Products-Completed Operations Aggregate: \$1,000,000 Personal and Advertising Injury \$1,000,000 Each Occurrence: \$1,000,000 Fire Damage Legal Liability (any one fire): \$50,000
Workers Compensation	Statutory Amount
Employers Liability	\$1,000,000
Umbrella Liability Insurance	\$5,000,000

Other Requirements:

- All policies (except worker's compensation and employer's liability) must include SRA as "Additional Insured".
- Contractor waives all rights of recovery, and its insurers also waive all rights of subrogation of damages against SRA and its agents, officers, directors and employees. This waiver must be stated on the certificate of insurance.

- Prior to commencing work, Contractor shall furnish SRA with a certificate(s) of insurance, executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements in this Agreement.

## **ARTICLE 6 – DISMISSAL OF CONTRACTOR’S EMPLOYEE**

At the request of SRA, Contractor shall remove from SRA’s property any employee of Contractor who fails to conform to the instructions of the SRA’s Representative in connection with the work on SRA property, and any right of Contractor shall be suspended until such removal has occurred. Contractor shall indemnify SRA against any claims arising from the removal of any such employee from SRA property.

## **ARTICLE 7 – NOTICE OF COMMENCEMENT OF WORK**

Contractor agrees to notify SRA’s Representative at least ten (10) working days in advance of Contractor commencing its work. No work of any kind shall be performed, and no person, equipment, machinery, tools, materials, vehicles, or things shall be located, operated, placed, or stored within SRA property prior to proper notification.

## **ARTICLE 8 – LIENS**

Contractor shall pay in full all persons who perform labor or provide materials for the work to be performed by Contractor. Contractor shall not create, permit or suffer any mechanic’s or materialmen’s liens of any kind or nature to be created or enforced against any property of SRA for any such work performed. Contractor shall indemnify and hold harmless SRA from and against any and all liens, claims, demands, cost of expenses of whatsoever nature in any way connected with or growing out of such work done, labor performed, or materials furnished. If Contractor fails to promptly cause any lien to be released of record, SRA may, at its election, discharge the lien or claim of lien at Contractor’s expense.

## **ARTICLE 9 – PERMITS – COMPLIANCE WITH LAWS**

In the prosecution of work covered by this Agreement, Contractor shall secure any and all necessary permits and shall comply with all applicable federal, state and local laws, regulations and enactments affecting the work.

## **ARTICLE 10 – SAFETY**

Safety of personnel, property, SRA operations and the public is of paramount importance in the prosecution of the work performed by Contractor. Contractor shall be responsible for initiating, maintaining and supervising all safety, operations and programs in connection with the work. Contractor shall keep the job site free from safety and health hazards and ensure that its employees are competent and adequately trained in all safety and health aspects of the job.

Contractor shall have proper first aid supplies available on the job site so that prompt first aid services may be provided to any person injured on the job site. Contractor shall have a non-delegable duty to control its employees while they are on SRA property, and to be certain they do not use, be under the influence of, or have in their possession any alcoholic beverage, drug or other substance that may inhibit the safe performance of work.

## **ARTICLE 11 – INDEMNITY**

**TO THE EXTENT NOT PROHIBITED BY APPLICABLE STATUTE, CONTRACTOR SHALL INDEMNIFY, DEFEND AND HOLD HARMLESS SRA, ITS AFFILIATES AND ITS OFFICERS,**

**DIRECTORS, AGENTS AND EMPLOYEES (“INDEMNIFIED PARTY,” WHETHER ONE OR MORE) FROM AND AGAINST ANY AND ALL LOSS, DAMAGE, INJURY, LIABILITY, CLAIM, DEMAND, COST OF EXPENSE (INCLUDING, WITHOUT LIMITATION, ATTORNEY’S, CONSULTANT’S AND EXPERT’S FEES, AND COURT COSTS), FINE OR PENALTY INCURRED BY AN INDEMNIFIED PARTY (INCLUDING WITHOUT LIMITATION, ANY CONTRACTOR OR ANY EMPLOYEE OF A CONTRACTOR OF ANY INDEMNIFIED PARTY) ARISING OUT OF OR IN ANY MANNER CONNECTED WITH (I) ANY WORK PERFORMED BY CONTRACTOR, OR (II) ANY ACT OR OMISSION OF CONTRACTOR, ITS OFFICERS, AGENTS OR EMPLOYEES, OR (III) ANY BREACH OF THIS AGREEMENT BY CONTRACTOR.**

**THE RIGHT TO INDEMNITY UNDER THIS ARTICLE SHALL ACCRUE UPON OCCURRENCE OF THE EVENT GIVING RISE TO THE LOSS, AND SHALL APPLY REGARDLESS OF ANY NEGLIGENCE OR STRICT LIABILITY OF ANY INDEMNIFIED PARTY, EXCEPT WHERE THE LOSS IS CAUSED BY THE SOLE ACTIVE NEGLIGENCE OF AN INDEMNIFIED PARTY AS ESTABLISHED BY THE FINAL JUDGMENT OF A COURT OF COMPETENT JURISDICTION. THE SOLE NEGLIGENCE OF ANY INDEMNIFIED PARTY SHALL NOT BAR THE RECOVERY OF ANY OTHER INDEMNIFIED PARTY.**

**CONTRACTOR EXPRESSLY AND SPECIFICALLY ASSUMES POTENTIAL LIABILITY UNDER THIS ARTICLE FOR CLAIMS OR ACTIONS BROUGHT BY CONTRACTOR’S OWN EMPLOYEES. CONTRACTOR WAIVES ANY IMMUNITY IT MAY HAVE UNDER WORKER’S COMPENSATION OR INDUSTRIAL INSURANCE ACTS TO INDEMNIFY AN INDEMNIFIED PARTY UNDER THIS ARTICLE. CONTRACTOR ACKNOWLEDGES THAT THIS WAIVER WAS MUTUALLY NEGOTIATED BY THE PARTIES HERETO.**

**NO COURT OR JURY FINDINGS IN ANY EMPLOYEE’S SUIT PURSUANT TO ANY WORKER’S COMPENSATION ACT OR THE FEDERAL EMPLOYER’S LIABILITY ACT AGAINST A PARTY TO THIS AGREEMENT MAY BE RELIED UPON OR USED BY CONTRACTOR IN ANY ATTEMPT TO ASSERT LIABILITY AGAINST AN INDEMNIFIED PARTY.**

## **ARTICLE 12 – RESTORATION OF PROPERTY**

In the event SRA authorizes Contractor to take down any fence or in any manner move or disturb any of the other property of the SRA in connection with the work to be performed by Contractor, then in that event Contractor shall, as soon as possible and at Contractor’s sole expense, restore such fence and other property to the same conditions as the same were in before such fence was taken down or such other property was moved or disturbed. Contractor shall remove all of Contractor’s tools, equipment, rubbish and other materials from SRA property promptly upon completion of the work, restoring SRA property to the same state and condition as when Contractor entered thereon.

## **ARTICLE 13 – NO REAL PROPERTY INTEREST**

It is expressly understood that this Agreement does not in any way whatsoever grant or convey any permanent easement, lease, fee or other interest in the Property to Contractor. This Right of Entry Agreement is not exclusive and the SRA specifically reserves the right to grant other rights of entry within the vicinity of the Property.

## **ARTICLE 14 – ATTORNEY FEE REIMBURSEMENT**

Contractor agrees to reimburse SRA all reasonable attorney’s fees and expenses SRA incurs associated with the preparation of this Agreement within thirty (30) days of Contractor’s receipt of written request from SRA.

**ARTICLE 15 - MODIFICATION – ENTIRE AGREEMENT**

No modification of the Agreement shall be effective unless made in writing and signed by Contractor and SRA. This Agreement and any exhibits attached hereto and made a part hereof constitute the entire understanding between Contractor and SRA and cancel and supersede any prior negotiations, understandings or agreements, whether written or oral, with respect to the work to be performed by Contractor.

IN WITNESS WHEREOF, the parties hereto have duly executed this agreement in duplicate as of the date first herein written.

SABINE RIVER AUTHORITY OF TEXAS

CONTRACTOR

By: \_\_\_\_\_

Name: \_\_\_\_\_

Printed Name: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Date: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_