



**THIRD AMENDMENT TO THE
GROUND WATER RIGHTS
PURCHASE AGREEMENT**

This Third Amendment to the Groundwater Rights Purchase Agreement ("Third Amendment") between the City of Bastrop, a home rule city located in Bastrop County, Texas ("the City" or "Buyer") and XS Water Company L.L.C. ("Seller") is made and entered into by and between the City and the Seller, hereinafter sometimes collectively called "the Parties."

WHEREAS XS Ranch granted, sold and conveyed the ground water rights beneath the property described in the Ground Water Rights Purchase Agreement to XS Water Company, L.L.C. ("Seller"); and

WHEREAS XS Water Company, L.L.C. represents and warrants that it is the owner of the groundwater rights described below as "the Additional Water Rights":

WHEREAS after Seller obtained ownership of the ground water rights City and Seller entered into a Ground Water Rights Purchase Agreement effective May 14, 2014, which Agreement has been amended on two prior occasions; and

WHEREAS under the Ground Water Rights Purchase Agreement, City purchased from Seller among other things, 3,000 acre feet of water rights (the "Initial Water Rights"); and

WHEREAS included within and made a part of the Ground Water Rights Purchase Agreement between City and Seller as Exhibit C is a memorandum of understanding on the letterhead of Coast Range Investments between City and Coast Range Investments, dated April 10, 2014 (hereinafter "Exhibit C"); and

WHEREAS Exhibit C provides that City is entitled to purchase from Seller an additional 3,000 acre feet of water ("the Additional Water Rights") for a purchase price of \$1,000,000 upon satisfaction of the terms set forth in paragraph 3 of Exhibit C; and

WHEREAS the terms set forth in paragraph 3 of Exhibit C have been performed by City to the satisfaction of Seller; and

WHEREAS under paragraph 3.2.c of Exhibit C XS Ranch (now XS Water Company, L.L.C.) will convey to City the Additional Water Rights for the purchase price of \$1,000,000 spread over five years with a payment of \$200,000 annually with the first payment due on January 1, 2015 and thereafter on January 1 for the remaining four years (the "Additional Payments"); and

WHEREAS City has not yet paid any money toward the purchase of the Additional Water Rights; and

WHEREAS City is pursuing diligently the permit(s) necessary to enable it to withdraw and use the water described as its Initial Water Rights; and

WHEREAS under Section 6.3 of the Ground Water Rights Purchase Agreement City is entitled to request a refund of 50% of the \$2,000,000 paid for the Initial Water Rights because a permit for the water was not issued on or before June 30, 2016 (the "Permit Date"), or, in the alternative, under paragraph 6.3.a to agree with Seller that progress has been made toward obtaining the permit thereby extending the Initial Permit Date to June 30, 2017; and

WHEREAS City and Seller agree that progress has been made toward obtaining the permit(s) and desire to extend the Initial Permit Date; and

WHEREAS City and Seller desire to extend the Initial Permit Date from June 30, 2016 to June 30, 2021;

NOW THEREFORE it is hereby agreed between the Seller and City as follows:

THIRD AMENDMENT TO AGREEMENT

1. The Seller and City agree that Paragraph 3.2.c. of Exhibit C is amended and restated in its entirety to read as follows:

c. At any time during the term of Ground Water Rights Purchase Agreement, the City may request in writing that XS Ranch (now XS Water Company, L.L.C.) convey to the City an additional 3,000 acre feet of groundwater rights, for a price of \$1,000,000, with the payment spread over five years, with a payment of \$200,000 due annually, with the first payment due on the date the groundwater rights are transferred, free and clear of any liens or encumbrances to City and with each subsequent payment due on the anniversary of the transfer of the additional 3,000 acre feet for the remaining four years. Notwithstanding the foregoing, the City will notify XS Water Company, L.L.C. of its decision as to whether it will exercise its option to purchase the additional 3,000 acre feet of groundwater rights on or before 90 days after the City obtains a final, non-appealable order from the District granting the Initial Permit.

2. Paragraph 6.3 of Exhibit C is amended so that the Initial Permit Date shall be June 30, 2021, rather than June 30, 2016.

3. This Third Amendment is hereby declared to be a part of the Ground Water Rights Purchase Agreement, including Exhibit C, and all provisions and terms of the Ground Water Rights Purchase Agreement including the First and Second Amendments shall remain in effect and un-amended except as otherwise amended by this Third Amendment. Should there be any conflict in the recitals, the conflicting provision which is later in time shall prevail.

AGREED:

CITY OF BASTROP

By *Marvin Townsend*
Marvin Townsend
Interim City Manager for the City of Bastrop
Date Signed: 12-14-16

XS WATER COMPANY, L.L.C.

By: XS Ranch Fund VI, L.P.
its Member

By: XS Ranch VI Manager, L.P.
its General Partner

By Coast Range Investments, L.L.C.
its General Partner

By *James P. Foster*
James P. Foster, Manager

Date Signed: 11/16/2016

FILED AND RECORDED
OFFICIAL PUBLIC RECORDS

Rose Pietsch

March 15, 2017 11:01:28 AM
DOCKJ FEE: \$34.00
ROSE PIETSCH, County Clerk
Bastrop, Texas
201703544

AGREE

