

**THIRD AMENDMENT TO AGREEMENT BETWEEN
CITY OF BOERNE, TEXAS, AND
GUADALUPE-BLANCO RIVER AUTHORITY**

This Third Amendment (“Third Amendment”) to the Agreement between the City of Boerne, Texas (“City” or “Participant”), and the Guadalupe-Blanco River Authority (“GBRA”) dated February 22, 2000 (the “2000 Agreement”) is made and entered into as of this _____ day of _____, 2023, but effective March 1, 2023, by and between the City and GBRA, collectively the “Parties”.

WHEREAS, on February 22, 2000, the City and GBRA entered into the 2000 Agreement relating to the development, permitting, design, financing, construction and operation of a water supply project to serve the City and other parties; and

WHEREAS, pursuant to the 2000 Agreement, the Parties agreed that the Raw Water Reservation amount is 1,861 acre-feet of water per year (“AFY”) and the Annual Commitment is 500 AFY; and

WHEREAS, on August 16, 2006, the City and GBRA entered into the First Amendment to the 2000 Agreement to, among other things, increase the Raw Water Reservation amount up to 2,361 AFY and the Annual Commitment up to 600 AFY delivered at a rate of 0.54 million gallons per day (“MGD”); and

WHEREAS, on June 30, 2008, the City and GBRA entered into the Second Amendment to the 2000 Agreement to, among other things, increase the Raw Water Reservation amount up to 3,611 AFY and the Annual Commitment up to 975 AFY delivered at a rate of 0.87 MGD; and

NOW, THEREFORE, in consideration of the foregoing recitals and of the mutual benefits and provisions hereinafter contained in this Third Amendment, the Parties agree to amend, modify and change certain sections of the 2000 Agreement as amended, as follows. All other terms and conditions of the 2000 Agreement, as amended, not expressly amended by this Third Amendment, shall continue in full force.

Article I Point of Delivery is amended in its entirety to read as follows:

“Point of Delivery” means the point or points on the Project’s treated water conveyance system at which treated water is to be delivered to Participant, as such point or points is identified in Section 3.2 of this Agreement. All references hereinafter to a Point of Delivery shall also include additional Points of Delivery of Participant, if any.

Section 2.7 Extensions or Other Modifications of Project is amended in its entirety to read as follows:

(a) GBRA may extend, expand, maintain, repair, improve, upgrade or otherwise modify the Project from time to time, as it determines to be necessary or desirable. Participant shall not be liable under this Agreement for any portion of the costs of construction of new facilities in addition to those facilities initially constructed as the Initial Project, except replacement facilities or facilities that are necessary or desirable to maintain the Plant Initial Daily Capacity or comply with applicable state or federal laws, rules and regulations relating to the supply of potable water. Participant shall be liable for its share of Operation and Maintenance Expenses of the Project as it may exist at any time, based on the Plant Daily Capacity at that time and the amount of treated water actually delivered to Participant during that month, as set forth in this Agreement.

(b) Upon agreement of the Parties, the Project may be extended from time to time to provide for an additional Point of Delivery. GBRA, or Participant at GBRA's request, shall construct said agreed upon Project extension such that the additional Point of Delivery shall be:

- (1) constructed in a free and unobstructed easement or fee simple parcel of land, acquired by Participant or by GBRA at Participant's request, and at a location mutually agreeable to the Parties;
- (2) constructed based upon plans and specifications approved by GBRA;
- (3) inspected by GBRA during and at the completion of the Project extension to assure compliance with GBRA approved plans and specifications;
- (4) funded by the Participant such that all Project extension costs, including but not limited to the costs of installation, materials, Supervisory Control and Data Acquisition equipment, water meter(s), land, land rights, title insurance, and other land closing expenditures, are fully paid by Participant;
- (5) conveyed to GBRA upon their completion and acceptance, inclusive of all of Participant's title and interest thereto, with such conveyance being in a form acceptable to GBRA; and
- (6) owned and operated by GBRA, up to but not beyond the water meter at the Point of Delivery.

Section 3.6 Maximum Delivery Rate and Pressure is amended in its entirety to read as follows:

(a) GBRA shall not be obligated to deliver treated water to Participant at any time during any calendar year at a rate in excess of that rate, expressed gallons per minute, calculated by multiplying the Daily Commitment (in MGD) in effect for that year by 694.44 (the "Maximum Instantaneous Delivery Rate"). Further, GBRA shall not be obligated to deliver treated water to Participant at any time during any calendar year at a pressure in excess of TCEQ requirements.

(b) If the Project is extended to one or more additional Points of Delivery pursuant to Section 2.7(b), GBRA and the Participant shall mutually determine, from time to time, the then current Daily Commitment water amounts and Maximum Instantaneous Delivery Rates for each respective Point of Delivery. In all cases:

- (1) the aggregate amount of water delivered to all Points of Delivery each day shall not exceed the Daily Commitment as defined in Section 3.5;
- (2) the aggregate water delivery rates to all Points of Delivery shall not exceed the Maximum Instantaneous Delivery Rate as defined in subsection (a) of this Section; and
- (3) the water delivery amounts and water delivery rates at each respective Point of Delivery shall not exceed the Project's operating capacities, as such capacities are determined by GBRA in its sole discretion.

IN WITNESS WHEREOF, this Third Amendment is executed as of the date first written above, but effective March 1, 2023, on behalf of the City and GBRA by and through their respective authorized officers, in multiple counterparts, each of which shall constitute an original.

CITY OF BOERNE

By:_____

Name/Title:_____

Date:_____

GUADALUPE-BLANCO RIVER AUTHORITY

By:_____

Darrell Nichols, General Manager/CEO

Date:_____

STATE OF TEXAS

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COUNTY OF GUADALUPE §

BEFORE ME, the undersigned, a Notary Public in and for said State, on this day personally appeared Darrell Nichols, General Manager and CEO of the GUADALUPE-BLANCO RIVER AUTHORITY, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act and deed of the GUADALUPE-BLANCO RIVER AUTHORITY, a conservation district and political subdivision, and that he executed the same as the act of such entity for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the ____ day of _____, 2023.

Notary Public
The State of Texas

Notary Seal
&
I.D. No. _____

STATE OF TEXAS §
 §
COUNTY OF _____ §

BEFORE ME, the undersigned, a Notary Public in and for said State, on this day personally appeared _____, _____ of the CITY OF BOERNE, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act and deed of the CITY OF BOERNE, and that he/she executed the same as the act of such entity for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the ____ day of _____, 2023.

Notary Public
The State of Texas

Notary Seal
&
I.D. No. _____