

EMERGENCY TREATED WATER SUPPLY AGREEMENT

STATE OF TEXAS §
 §
COUNTY OF PARKER §

This Emergency Treated Water Supply Agreement (this "Agreement") is entered into by and between the **Board of Trustees of the Weatherford Municipal Utility System** ("Weatherford"), and the **City of Willow Park** (hereinafter called "Willow Park") and is entered into pursuant to the authority granted by the Local Government Code and Section 791.026 of the Government Code. Weatherford and Willow Park are sometimes referred to herein individually as a "Party" and collectively as the "Parties."

Recitals

WHEREAS, Willow Park from time-to-time, due to equipment and system failures, needs an emergency supply of water for some portion of their water system; and

WHEREAS, Willow Park has requested an emergency supply of treated water from Weatherford; and

WHEREAS, Weatherford and Willow Park desire to enter into an agreement for the emergency supply of treated water from Weatherford to Willow Park; and

WHEREAS, Weatherford and Willow Park desire to provide a point of connection between their respective public water supply systems for emergency supply; and

WHEREAS, Weatherford owns and operates an existing water line with a service connection to Willow Park's storage tank facility subject to specific metering improvements as described in this Agreement; and

WHEREAS, Weatherford and Willow Park agree that nothing in this Agreement shall be construed as providing a continuing obligation to serve.

NOW THEREFORE, Weatherford and Willow Park, for and in consideration of the terms, covenants, and conditions contained in this Agreement, agree as follows:

ARTICLE I. CONDITIONS OF SUPPLY

1.1 Emergency Condition

- (a) Weatherford and Willow Park mutually agree that the intent of this Agreement is to provide a temporary emergency supply of treated potable water

when such supply is required due to equipment or facility failure, or events beyond the control of Willow Park, resulting in the inability of Willow Park to provide water supply as required by the Texas Commission on Environmental Quality (TCEQ) for a period greater than twenty-four (24) hours; or other such event as may be approved by Weatherford. The emergency connection or supply will not be made for the purpose of compensating for system deficiencies.

(b) Willow Park shall enact and enforce water restrictions that are as stringent as, or more so than, Weatherford's current drought stage at the time of emergency supply; and maintain such measures throughout the entire period of emergency supply. If Willow Park fails to meet these requirements, then Weatherford may terminate the emergency supply at Weatherford's discretion.

1.2 Emergency Water Service.

(a) In the event of an Emergency, Willow Park shall submit a request to Weatherford for Emergency Water Service at the Point of Delivery for a temporary period to assist Willow Park in responding to such Emergency. Weatherford shall provide Emergency Water Service subject to the following conditions:

(i) A good faith determination by Weatherford prior to commencement of Emergency Water Service that a bona fide Emergency exists; that delivery of Emergency Water Service to Willow Park will not endanger the public health, safety or welfare of the Weatherford's citizens and customers; and that Weatherford has sufficient water supplies available to provide Emergency Water Service in a quantity determined by Weatherford.

(ii) Emergency Water Service will be provided only for the shorter of the following periods:

- 1) the reasonable duration of the Emergency giving rise to the request for emergency water service;
- 2) the reasonable duration needed to repair damage to the water system occasioned by such Emergency;
- 3) the duration of Weatherford's ability to provide Emergency Water Service to Willow Park, as reasonably determined by Weatherford; or

(iii) In the event that the Emergency exceeds the shortest of the foregoing periods, Willow Park may make written request to Weatherford to continue Emergency Water Service beyond said initial period. Weatherford may continue or resume such Emergency Water Service for an additional period up to such period as Weatherford shall determine appropriate and necessary, but only if:

- 1) Weatherford determines in good faith that the Emergency giving rise to the initial request for Emergency Water Service has not been abated,
 - 2) that Willow Park has exercised reasonable diligence in attempting to remove the disability giving rise to the initial request for Emergency Water Service, and
 - 3) that Water in excess of the needs of Weatherford's customers continues to be available to provide Emergency Water Service to Willow Park.
- (b) Weatherford shall provide a written response to Willow Park stating the amount of water that can be made available and the time period through which it can be made available or a denial of service, if Weatherford is not in a position to provide emergency supply at that time.
- (i) Weatherford initially indicates that a water supply of up to 200,000 gallons per day (gpd) at a uniform flow rate of up to 139 gallons per minute (gpm) could be made available to Willow Park in an emergency situation.
 - (ii) Weatherford reserves the right to limit the amount of water available for emergency supply to protect the public health, safety or welfare of Weatherford's citizens and customers.
 - (iii) Weatherford reserves the right to limit the amount of water available for emergency supply should Weatherford determine that doing so is necessary to protect its water supplies.
- (c) Minimum pressure at the Point of Delivery shall be 20 psi.
- (d) Each party shall be responsible, before commencement of emergency service, to disinfect its own facilities per TCEQ requirements.

1.3 Commencement of Emergency Water Service. Under no Circumstances shall either Party open the valve to commence Emergency Water Service without the prior authorization of the other Party. At the election of either Party, the valve may be locked to ensure that no Water is delivered through the Point of Delivery Meter except as approved by the Parties.

ARTICLE II. DEFINITIONS.

2.1 Definitions.

- (a) *"Emergency"*: an Act of God or similar unforeseen and unpreventable catastrophic circumstance or disaster that creates a situation where either Party cannot provide water supply as required by the Texas Commission on Environmental Quality (TCEQ) for a period greater than twenty-four (24) hours; or other such event as may be approved by Weatherford.
- (b) *"Emergency Water Service"*: the water supply to be provided by Weatherford to Willow Park for a temporary period only in the event of and for the duration of an Emergency pursuant to the terms and conditions more particularly set forth in this Agreement.
- (c) *"Point of Delivery"*: the location at which Emergency Water Service will be made available by Weatherford to Willow Park in accordance with the terms of this Agreement. The Point of Delivery shall be as described in Exhibit A.
- (d) *"Point of Delivery Meter"*: the meter installed at the Point of Delivery to be used for measuring the quantity of Emergency Water Service furnished by Weatherford to Willow Park under this Agreement.
- (e) *"Volumetric Rate"*: the higher of the lowest tier retail residential water rate per 1,000 gallons charged by either Party.
- (f) *"Water"*: potable water made available by Weatherford at the Point of Delivery in the event of an Emergency, which water shall meet those requirements for human consumption and other domestic uses promulgated by the Texas Department of Health, and/or the Texas Commission on Environmental Quality.

ARTICLE III. FACILITIES.

3.1 Existing Facilities.

- (a) Weatherford owns and operates an existing 8-inch water pipeline located within the Ranch House Road right-of-way. An existing 8-inch service tap is available for use, however the existing meter facility shall be replaced as provided for in this Agreement.
- (b) Willow Park owns and operates a ground storage tank and pump station at the Point of Delivery.

3.2 Proposed Facilities. This Agreement stipulates that to activate the existing interconnection, new metering facilities must be constructed, including a new 4-inch SENSUS Omni Compound water meter with radio to connect to Weatherford's Automated Metering System, and a new meter box/vault. If necessary to control the rate of flow, appropriate valves and/or appurtenances shall be installed to do so.

(a) The cost of purchasing and installing the meter facilities, and flow control valves and appurtenances, shall be borne by Willow Park.

(b) Willow Park requests that Weatherford purchase and install the metering facility, and Willow Park will pay Weatherford's costs for setting the meter. Such costs shall include direct and indirect costs of material, labor, equipment any other expenses that are reasonably incurred. Indirect cost allocation will be according to standard indirect costs established in Weatherford's current accounting records.

3.3 General. After the completion of construction of the Proposed Facilities, the Parties agree that a physical interconnect will remain in place between the water systems of Weatherford and Willow Park, except as may be provided for following Termination of this Agreement. The Parties agree that such interconnect shall remain physically closed except as authorized hereafter during emergency conditions.

3.4 Design, Ownership, Operation and Maintenance of Facilities.

(a) Each Party shall own, operate and maintain all water system improvements, facilities, equipment and appurtenances located on its respective side of the Point of Delivery in accordance with its own maintenance and replacement schedules and standards. All such costs and expenses of operation, maintenance, repair and replacement of each Party's water system shall be paid by the Party, and the other Party shall have no responsibility for any such costs or expenses, except as provided for herein.

(b) Each Party shall be solely responsible for design and construction of such improvements to its water system as are necessary for the safe and efficient receipt, transportation, storage and distribution of Emergency Water Service received from another Party at the Point of Delivery. No Party shall be responsible for any costs of another Party related thereto, nor shall any Party be liable for damages to the another Party's water system or to the water facilities of another Party's customers arising from the distribution of Water received at the Point of Delivery hereunder.

(c) The design of the interconnect shall be according to minimum TCEQ requirements for an emergency supply interconnect. Willow Park shall notify the TCEQ of the emergency immediately upon occurrence.

3.5 Meter Reading. Weatherford shall operate, maintain and read the Point of Delivery Meter to record all Water delivered under this Agreement. Weatherford shall keep records of all measurements of Water delivered to Willow Park through the Point of Delivery as recorded by the Point of Delivery Meter.

3.6 Meter Testing. Either Party may request that the meter be tested to ensure accuracy, and the cost of such testing shall be borne by the Party that made such request.

(a) If, as a result of any test, the Point of Delivery Meter is found to be registering inaccurately (more than 5% higher or lower than calibrated volumes), the readings of the meter shall be corrected at the rate of its inaccuracy for any period which is definitely known or agreed upon.

(b) If the Point of Delivery Meter is out of service or in need of repair such that the amount of Water delivered cannot be ascertained or computed from the reading thereof, the Water delivered through the period such meter is out of service or out of repair shall be estimated and agreed upon by the Parties based upon the basis of the best data available. If the Parties fail to agree on the amount of Water delivered during such inoperable period, the amount of Water delivered may be estimated by:

(i) correcting the error if the percentage of the error is ascertainable by calibration tests or mathematical calculation; or

(ii) estimating the quantity of delivery by deliveries during the preceding periods under similar conditions when the meter was registering accurately.

(c) If a Point of Delivery Meter is consistently registering inaccurately, the Party owning and installing the meter shall repair, replace or rehabilitate the meter, as determined by such, and all costs related thereto shall be borne by said Party.

ARTICLE IV. RATES AND CHARGES

4.1 Connection Fee. Weatherford shall not charge a connection fee to Willow Park for the provision of Emergency Water Service under this Agreement.

4.2 Volumetric Rate. Willow Park shall pay to Weatherford the Volumetric Rate for all Water delivered through the Point of Delivery Meter for Emergency Water Service. The volumetric rate shall be as defined in Section 2.1.

4.3 Additional Volumetric Charge. In addition to the Volumetric Rate, Willow Park shall pay to Weatherford an amount equivalent to the Tarrant Regional Water District out-of-district rate for all Water delivered through the Point of Delivery Meter for Emergency Water Service. Provided though, that after completion of all Emergency Water Service, should the water elevation in Lake Weatherford rise back up to 896.00 feet such that Lake Weatherford is completely full, and doing so before Weatherford purchases any water from Tarrant Regional Water District under any of Weatherford's contracts for raw water, then the additional volumetric charge shall be returned to Willow Park. However, if after completion of all Emergency Water Service, should Weatherford purchase water from

Tarrant Regional Water District before Lake Weatherford rises back up to elevation 896.00, then Weatherford shall retain the additional volumetric charge as compensation.

4.4 Payment Terms. Weatherford shall, either upon completion of Emergency Water Service or at the end of each month, submit to Willow Park an itemized statement of the amount of Emergency Water Service furnished, as measured at the Point of Delivery Meter, and a statement of the payment due for such services. The statement shall specify a due date, which date shall not be less than fifteen (15) days after the date of the statement. The statement shall be paid on or before the due date.

4.5 Late Payment. In the event that the Requesting Party fails to make timely payment in full by the due date, then the Providing Party shall furnish a late notice to the Requesting Party. If the Requesting Party does not provide payment within fifteen (15) days of receipt of the late notice, then the Requesting Party shall pay a late payment charge of two percent (2%) of the amount of the statement for each calendar month or fraction thereof that the statement remains unpaid; provided, however, that such rate shall never be usurious or exceed the maximum rate permitted by law.

4.6 Non Payment. If any Party remains delinquent in any payments due hereunder for a period of sixty (60) days, then the Party due payment may exercise any legal right or remedy to which it is entitled, including, but not limited to, termination of the Agreement.

ARTICLE V. REMEDIES

5.1 General. If any Party fails to comply with its obligations in accordance with the notice and opportunity to cure provisions set forth in this Article, any other Party shall have the right to request any court, agency or other governmental authority of appropriate jurisdiction to grant any and all remedies which are appropriate to assure conformance to the provisions of this Agreement. The defaulting Party shall be liable to the other Party or Parties for all costs actually incurred in pursuing such remedies, including reasonable attorneys' fees, and for any penalties or fines as a result of the failure to comply with the terms.

5.2 Disputed Payment. If Willow Park at any time disputes the amount to be paid to Weatherford, Willow Park shall nevertheless promptly make the disputed payment or payments, but shall thereafter have the right to seek a determination whether the amount charged by Weatherford is in accordance with the terms of this Agreement.

5.3 Notice and Opportunity to Cure. If any Party (referred to herein as the "Defaulting Party") fails to comply with its obligations under this Agreement or is otherwise in breach or default under this Agreement (collectively, a "Default") then the other Party or Parties (referred to herein as the "Non-Defaulting Party") shall not have any right to invoke any rights or remedies with respect to any Default until and unless: (i) the Non-Defaulting Party delivers to the Defaulting Party a written notice (the "Default Notice") which specifies all of

the particulars of the Default and specifies the actions necessary to cure the Default; and (ii) the Defaulting Party fails to cure, within thirty (30) days after the Defaulting Party's receipt of the Default Notice, any matters specified in the Default Notice which may be cured solely by the payment of money or the Defaulting Party fails to commence, within a reasonable period of time after receipt of the Default Notice (to be determined according to the nature of the breach or default), the cure of any matters specified in the Default Notice which cannot be cured solely by the payment of money, or fails to thereafter pursue curative action with reasonable diligence to completion.

ARTICLE VI. WATER QUALITY

6.1 Limits of Weatherford Responsibility. Weatherford shall only be responsible for the quality of water up to the Point of Delivery, and only to the extent required by the Texas Commission on Environmental Quality (TCEQ).

6.2 Willow Park Responsibility. Willow Park shall be responsible for the quality of water downstream of the Point of Delivery.

6.3 Disinfectant. Willow Park acknowledges that Weatherford treats its water using chloramines as a final disinfectant. Willow Park shall be responsible for any adjustments to Water to ensure its compatibility in Willow Park's system, including any conversion from chloramine to free chlorine, if so desired or required by TCEQ.

ARTICLE VII. TERM OF CONTRACT

7.1 Initial Term and Extensions. The initial term of this contract is for a period of sixty (60) days from the date of execution. This agreement may be extended by Weatherford, for an additional duration as approved by Weatherford.

ARTICLE VIII. TERMINATION

8.1 Termination.

(a) Either Party may terminate this agreement by providing not less than 30 days prior written notice of termination to the other Party.

(b) Upon termination of this Agreement, Weatherford shall physically seal or disconnect the Point of Delivery Meter or any other components in its water system

as may be necessary to prevent the further delivery or receipt of Water at the Point of Delivery.

ARTICLE IX. NOTICES

9.1 Notice of Request for Emergency Service.

(a) Willow Park shall provide notice to Weatherford when requesting emergency water service.

(b) Weatherford anticipates that most notifications for emergency service will be during normal business hours. Weatherford, however, will provide emergency contact numbers for emergency water supply service commencement during off-business hours.

(c) It is anticipated that notification will, due to emergency circumstances, be verbal. However, the request for service and the circumstances describing the emergency must be confirmed in writing at the earliest practical date.

9.2 Addresses and Notice. All notices, payments, demands, requests, and other communications between the Parties required or permitted to be given under this Agreement by either party shall be in writing, except where otherwise expressly provided herein; and shall be deemed to be delivered when actually received, provided that if the communication is sent by depositing it in a regularly maintained receptacle for the United States mail, registered or certified, postage prepaid, addressed to the appropriate addressee as follows, then the same shall be deemed to have been received on the second mail delivery day following the day on which the communication is so postmarked. Each party may change its address by written notice in accordance with this section.

(a) City of Weatherford:

Director of Water Utilities
917 Eureka Street
Weatherford, TX 76086

(b) City of Willow Park:

City Manager
516 Ranch House Road
Willow Park, TX 76087

ARTICLE X.
GENERAL PROVISIONS

10.1 Venue. The obligations of the parties to this Agreement shall be performable in Parker County, Texas; and if legal action is necessary in connection with or to enforce rights under this Agreement, exclusive venue shall lie in Parker County, Texas.

10.2 Legal Responsibility. Weatherford and Willow Park agree and acknowledge that this Agreement does not create a joint venture, partnership, or joint enterprise; that each party is not an agent of the other entity; and that each party is responsible in accordance with the laws of the State of Texas for its own negligent or wrongful acts or omissions and for those of its own officers, agents or employees in conjunction with performance of this Agreement; without waiving any governmental immunity available to Weatherford or Willow Park under Texas law and without waiving any defenses of Weatherford or Willow Park under Texas law. The provisions of this section are solely for the benefit of Weatherford and Willow Park and are not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

10.3 Governing Law. This Agreement shall be governed by and construed in accordance with the laws and court decisions of the State of Texas, without regard to conflict of law or choice of law principles of any other state.

10.4 Legal Construction. In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of this Agreement, and this Agreement shall be considered as if such invalid, illegal, or unenforceable provision had never been contained in this Agreement.

10.5 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument. If this Agreement is executed in counterparts, then it shall become fully executed only as of the execution of the last such counterpart called for by the terms hereof to be executed.

10.6 Captions. The captions to the various clauses of this Agreement are for informational purposes only and shall not alter the substance of the terms and conditions of this Agreement.

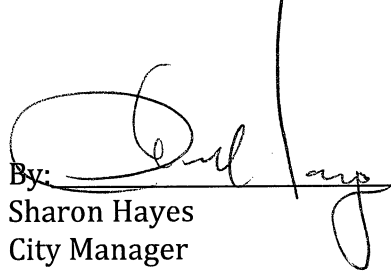
10.7 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and, except as may otherwise be provided in this Agreement, their assigns.

10.8 Other Agency Consent. Either Party shall secure, at its sole cost and expense, any required consent of any other agency as may be required for existing or future water purchase or financing agreements. Should Tarrant Regional Water District require consent for Weatherford to provide Emergency Water Service to Willow Park, then Willow Park shall be responsible for any costs and expenses required for such consent.

10.9 Entire Agreement; No Oral Modifications. This Agreement (with all referenced exhibits, attachments, and provisions incorporated by reference) embodies the entire agreement of both parties, superseding all oral or written previous and contemporary agreements between the parties relating to matters set forth in this Agreement. Except as otherwise provided elsewhere in this Agreement, this Agreement cannot be modified without written supplemental agreement executed by both parties.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement effective as of the ____ day of _____, 2018.

CITY OF WEATHERFORD, TEXAS

By: _____
Sharon Hayes
City Manager

CITY OF WILLOW PARK, TEXAS

By: _____
Doyle Moss
Mayor

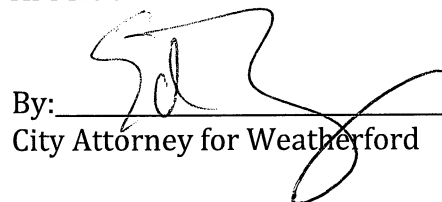
ATTEST:

By: _____
City Secretary for Weatherford

ATTEST:

By: _____
City Secretary for Willow Park

APPROVED AS TO FORM:

By: _____
City Attorney for Weatherford

APPROVED AS TO FORM:

By: _____
City Attorney for Willow Park

Exhibit A
Map of Point of Delivery