



**City of Willow Park
City Council
Special Called Meeting Agenda
Municipal Complex
516 Ranch House Rd, Willow Park, TX 76087
Monday, March 25, 2019 at 7:00 p.m.**

Call to Order

Regular Agenda Items

1. Discussion/Action: To consider and approve a wholesale water purchase agreement with the City of Fort Worth.
2. Discussion/Action: To consider and approve a revised Agreement for Funding, Construction and Maintenance of Water Supply Facilities with the City of Hudson Oaks.
3. Discussion/ Action: To consider and approve council chamber technology upgrades.

Executive Session

§ 551.071. Texas Government Code. Consultation with Attorney. The City Council may convene in executive session to conduct a private consultation with its attorney on any legally posted agenda item, when the City Council seeks the advice of its attorney about pending or contemplated litigation, a settlement offer, or on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the provisions of Chapter 551, including the following items:

1. Legal issues regarding wholesale water purchase agreement with the City of Fort Worth.
2. Legal issues regarding the revised Agreement for Funding, Construction and Maintenance of Water Supply Facilities with the City of Hudson Oaks.

Adjournment

I certify that the above notice of this meeting posted on the bulletin board at the municipal complex of the City of Willow Park, Texas on or before March 22, 2019, 5:00 p.m.

Alicia Smith TRMC, CMC
City Secretary

If you plan to attend this public meeting and you have a disability that requires special arrangements at this meeting, please contact City Secretary’s Office at (817) 441-7108 ext. 6 or fax (817) 441-6900 at least two (2) working days prior to the meeting so that appropriate arrangements can be made.

This public notice was removed from the official posting board at the Willow Park City Hall on the following date and time:

By: _____
City Secretary’s Office
City of Willow Park, Texas



CITY COUNCIL AGENDA ITEM BRIEFING SHEET

Council Date: March 25, 2019	Department:	Presented By: A. Smith
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AGENDA ITEM:

To consider and approve a wholesale water purchase agreement with the City of Fort Worth.

BACKGROUND:

STAFF/BOARD/COMMISSION RECOMMENDATION:

Staff recommends approval

EXHIBITS:

ADDITIONAL INFO:	FINANCIAL INFO:	
	Cost	\$
Source of Funding	\$	



CITY COUNCIL AGENDA ITEM BRIEFING SHEET

Council Date: March 25, 2019	Department:	Presented By: A. Smith
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AGENDA ITEM:

To consider and approve a revised Agreement for Funding, Construction and Maintenance of Water Supply Facilities with the City of Hudson Oaks.

BACKGROUND:

STAFF/BOARD/COMMISSION RECOMMENDATION:

Staff recommends approval

EXHIBITS:

ADDITIONAL INFO:	FINANCIAL INFO:	
	Cost	\$
Source of Funding	\$	

AGREEMENT FOR FUNDING, CONSTRUCTION
AND MAINTENANCE OF WATER SUPPLY FACILITIES

BETWEEN
THE CITY OF WILLOW PARK, TEXAS
AND
THE CITY OF HUDSON OAKS, TEXAS

DATED AS OF _____, 2018

**INTERLOCAL AGREEMENT FOR FUNDING, CONSTRUCTION AND
MAINTENANCE OF WATER SUPPLY FACILITIES**

STATE OF TEXAS §
 §
COUNTY OF PARKER §

This Interlocal Agreement for Funding, Construction and Maintenance of Water Supply Facilities (the “Agreement”) is made and entered into on this _____ day of _____, 2018, by and between the City of Hudson Oaks, Texas (“Hudson Oaks”), and the City of Willow Park, Texas (“Willow Park”), sometimes jointly referred to as the “Parties”.

RECITALS

WHEREAS, Hudson Oaks and Willow Park are political subdivisions of the State of Texas and are authorized to enter into Agreements with each other relative to governmental functions and services by the Interlocal Cooperation Act, Texas Government Code, Chapter 791; and

WHEREAS, Hudson Oaks and Willow Park each own, operate and maintain a water distribution system and furnish water service to customers within their respective city limits and services areas; and

WHEREAS, Hudson Oaks and Willow Park each have entered into a wholesale water purchase agreement with the City of Fort Worth, Texas (“Fort Worth”) to supply the treated water necessary to serve the capacity of each City’s respective systems, attached hereto as Exhibits A1 and A2 respectively; and

WHEREAS, Fort Worth currently has water transmission infrastructure approximately 1.5 miles to the east of Willow Park, located generally at FM 1187 and I-20; and

WHEREAS, Hudson Oaks and Willow Park desire to design, construct and maintain a water transmission line to bring water service from Fort Worth’s existing water supply line to Willow Park and further to Hudson Oaks, including necessary storage facilities, pumping stations, and other appurtenances; and

WHEREAS, Hudson Oaks and Willow Park desire to enter into this Agreement to document the financing, design, construction, operation, and maintenance of such Water Supply Facilities; and

WHEREAS, the governing bodies of Hudson Oaks and Willow Park find that the Project is to their mutual benefit and to the benefit of the health, safety and welfare of their respective citizens, that the performance of this Agreement is in the common interest of both Parties, and that the division of costs provided for constitutes adequate consideration to each of the Parties.

NOW, THEREFORE, in consideration of the foregoing, and on the terms and conditions

hereafter set forth, the Parties, for good and valuable consideration, specifically the mutual promises and agreements contained herein, hereby contract, covenant and agree as follows:

1. PURPOSE AND EFFECTIVE DATE.

1.1. The purpose of this Agreement is to provide for the funding, ownership, construction, operation and maintenance of the Water Supply Facilities.

1.2. The effective date of this Agreement is the date the Agreement is entered into as set forth in the introductory paragraph.

2. DEFINITIONS.

2.1 **Capital Improvements** means any of the following facilities which provide utility services and benefits common to all customers and that have a life expectancy of three or more years, whether such capital improvements are located within the jurisdictional limits of Willow Park or Hudson Oaks: water metering facilities, control systems and appurtenances, storage facilities, pumping facilities and all water transmission mains sixteen inches (16”) and greater in diameter.

2.2 **Construction Costs** means the cost of design, legal, consulting and engineering fees, permitting, land and easement acquisition and construction costs, including procurement of all necessary materials, for the Water Supply Facilities, metering facilities, control systems, and appurtenances, pumping facilities and water transmission mains, and the Cost of Capital.

2.3 **Cost of Capital** means all costs and expenses, debt service, principal, interest and other common debt service costs, included like fees, closing costs, engineering fees, bond costs and legal expenses, and lender or bank fees associated with each such financing.

2.4 **Hudson Oaks Interconnection Facility** means the interconnection point and related facilities at which the Water Supply Facilities deliver treated water to the Hudson Oaks System, located generally just East of Farm to Market Road 5 as shown on Exhibit A3.

2.5 **Hudson Oaks System** means the Hudson Oaks water distribution system.

2.6 **MGD** means million gallons per day.

2.7 **Operation and Maintenance Costs** means the costs incurred to operate and maintain the Water Supply Facilities, and/or portions of the Water Supply Facilities and related Capital Improvements including, but not limited to, direct expenses, personnel and personnel related expenditures, utilities, and all other costs required to operate and maintain the foregoing facilities.

2.8 **Willow Park Interconnection Facility** means the interconnection point and related facilities at which the Water Supply Facilities deliver treated water to the Willow Park

System, located generally at Tricia Lane as shown on Exhibit A3.

2.9 ***Willow Park System*** means the Willow Park water distribution system.

2.10 ***Willow Park Water Transmission Pipeline*** means the sixteen inch (16”) water transmission pipeline from the Shared Water Supply Facility to the connection to the existing 12” Willow Park water line as shown on Exhibit A3.

2.11 ***Shared Water Supply Facility*** means the wholesale metering station, the ground storage tank and two (2) pump stations, as more particularly described in Detail A of Exhibit A3.

2.12 ***Shared Water Transmission Line*** shall mean the sixteen inch (16”) transmission line from the Shared Water Supply Facility to the Hudson Oaks Interconnection Facility and connecting to Willow Park System for distribution as shown on Exhibit A3. The Shared Water Transmission Line shall provide Hudson Oaks up to 3.23 MGD water capacity.

2.13 ***Water Supply Facilities*** shall mean the totality of all water supply transmission lines, storage facilities, pumping stations, and other appurtenances necessary to bring treated ground water supply from Fort Worth’s existing water supply line to Willow Park and Hudson Oaks, and specifically includes the following components, as described and depicted in Exhibit A3:

- 18” water transmission pipeline from Fort Worth’s existing water transmission line to the Shared Water Supply Facility;
- Shared Water Supply Facility;
- Willow Park Water Transmission Pipeline;
- Shared Water Transmission Line;
- Willow Park Interconnection Facility; and
- Hudson Oaks Interconnection Facility.

3. CONSTRUCTION OF WATER SUPPLY FACILITIES.

3.1 **Construction, Ownership and Maintenance.** The Water Supply Facilities to be constructed shall consist of the following, as more particularly described and depicted in the attached Exhibit A3:

3.1.1 An eighteen inch (18”) water transmission pipeline from Fort Worth’s existing water transmission line located generally at FM 1187 and I-20 to the Shared Water Supply Facility. This pipeline shall be designed for a capacity of 6.73 MGD. The maximum capacity allowed by each party under this Agreement from the Water Supply Facilities shall be as follows:

Willow Park – 3.5 MGD
Hudson Oaks – 3.23 MGD.

The portion of the pipeline from Fort Worth’s existing water transmission line to a valve located

at the Fort Worth extraterritorial jurisdiction boundary as indicated on Exhibit A3 shall be dedicated to, owned, operated and maintained, by Fort Worth, at its sole cost and expense once constructed and dedicated to Fort Worth. The portion of the pipeline from the valve located at the Fort Worth extraterritorial jurisdiction boundary to the Shared Water Supply Facility shall be owned by both Willow Park and Hudson Oaks, with Willow Parking owning 52% and Hudson Oaks Owning 48% of the pipeline.

3.1.2 The Shared Water Supply Facility shall consist of a wholesale metering station, a 38 foot diameter, 250,000 gallon ground storage tank, and two pump stations to further distribute water to the Hudson Oaks System, and the Willow Park System. The Shared Water Supply Facility shall be owned by both Willow Park and Hudson Oaks, with Willow Parking owning 52% and Hudson Oaks Owning 48% of the Facility.

3.1.3 The Willow Park Water Transmission Line shall consist of a sixteen inch (16") Water transmission pipeline from the Shared Water Supply Facility to the connection to the existing 12" Willow Park water line. This pipeline shall be solely owned, operated and maintained by Willow Park, at its sole cost and expense.

3.1.4 A sixteen inch (16") Shared Water Transmission Line and distribution pipeline from the Shared Water Supply Facility to the Hudson Oaks Interconnection Facility. This pipeline shall be designed for a capacity of 5 MGD. The sixteen inch (16") Shared Water Transmission Line will be owned by both Hudson Oaks and Willow Park, with Willow Park owning 52% and Hudson Oaks owning 48% of the pipeline. Willow Park and Hudson Oaks shall be entitled to connect water distribution lines into the Shared Water Transmission Line for development. Willow Park shall be limited to three (3) twelve inch (12") water distribution line connections into the Shared Water Transmission Line, and each such connection by Willow Park shall have a meter to measure water utilized by such connection for Willow Park; provided however, that such connections and water usage by Willow Park shall not impede Hudson Oaks ability to utilize up to 3.23 MGD from the Shared Water Transmission Line. Charges relating to such usage shall be detailed in this section below. Construction, operation and maintenance of any distribution line connected to the Shared Water Transmission Line shall be the sole cost and responsibility of the city connecting to the Shared Water Transmission Line.

3.1.5 The Hudson Oaks Interconnection Facility or Facilities shall consist of a metering station. The Hudson Oaks Interconnection Facility or Facilities shall be solely owned, operated and maintained by Hudson Oaks, at its sole cost and expense.

3.1.6 The Willow Park Interconnection Facility or Facilities shall consist of metering stations at each connection point to the Shared Water Supply Facilities, the Willow Park Transmission Line, and/or to the Shared Water Transmission Line. The Willow Park Interconnection Facility or Facilities shall be solely owned, operated and maintained by Willow Park, at its sole cost and expense.

3.2 Construction Costs and Responsibilities.

3.2.1 The estimated Construction Costs of the Water Supply Facilities is

\$10.6 Million Dollars. The final Construction Costs of the Water Supply Facilities shall not be established until after the construction contract is awarded for the Water Supply Facilities and shall include any change orders on the construction contract. Hudson Oaks shall approve the final construction contract, in writing, promptly after its receipt, and any change orders issued by Willow Park during the construction of the Water Supply Facilities.

3.2.2 The Parties hereto agree that services obtained pursuant to this Agreement are essential and necessary to the operation of each cities water works facilities, and that all payments made by the parties hereunder shall constitute reasonable and necessary operating expenses of that city's water works system within the meaning of Chapter 1502, Texas Government Code, and the provisions of any and all ordinances of either city authorizing the issuance of any revenue bonds which are payable from its water works system.

3.2.3 Willow Park shall be responsible for bidding and/or seeking competitive proposals for the engineering/design of the Water Supply Facilities, and for bidding the construction contract for the Water Supply Facilities, in accordance with state procurement laws. Willow Park and Hudson Oaks agree that the selection of all consultants and contractors shall be mutually agreed upon between Willow Park and Hudson Oaks, to the extent consistent with the state procurement laws.

3.2.4 Willow Park shall issue debt for the entire Construction Costs for the Water Supply Facilities. The Parties agree to pay the debt service responsibilities for the entire Construction Costs (less any Construction Costs for the Willow Park Water Transmission Pipeline) as those debt service obligations become due and payable in accordance with the following percentages:

Willow Park – 52%
Hudson Oaks – 48%.

Notwithstanding the foregoing, Willow Park shall be solely responsible for the payment of the portion of the Construction Costs for the Willow Park Water Transmission Pipeline. Willow Park shall send Hudson Oaks an invoice semiannually (or as debt payments may be due pursuant to the terms of the debt instrument) for their share of the debt service responsibilities for the entire Construction Costs sixty (60) days before such debt service responsibilities become due. All such bills shall be due and payable by Hudson Oaks to Willow Park within thirty (30) calendar days from the billing date. In the event a payment is not paid as specified herein, a late fee of One thousand dollars (\$1,000) shall be imposed together with a finance charge of ten percent (10 %) per annum from the date that payment was required to be made. If Hudson Oaks fails to pay their share of debt service obligations after 30 days of billing by Willow Park, Hudson Oaks shall be in breach of this Agreement and Willow Park may disconnect Hudson Oaks Interconnection Facilities from the Shared Water Transmission Line and the Shared Water Supply Facility, and notify Fort Worth to bill Willow Park for the water being supplied under the Fort Worth agreements and/or take any action as authorized by Section 7, subsections 7.1 thru 7.5 and/or applicable State law. Service to Hudson Oaks will not be reconnected until all payments owed to Willow Park are current. The disconnection of Hudson Oaks from the Shared Water Transmission Line and/or the Shared Water Supply Facility shall not alleviate Hudson Oaks payment obligations

for its portion of the Construction Costs as specified herein.

3.2.5 Willow Park and Hudson Oaks shall approve all plans, specifications, construction documents, and change orders (if any) for the Water Supply Facilities.

3.2.6 Willow Park shall be responsible for the Water Supply Facilities' construction oversight, inspection and acceptance of the Water Supply Facilities.

3.2.7 Division of assets and liability: For the purpose of tracking fixed assets and debt liabilities for the Parties Certified Annual Financial Reports, the Parties agree to take on a pro rata share of the fixed assets and debt liabilities associated with the Shared Water Supply Facility and the Shared Water Transmission Line per the following percentages:

Hudson Oaks 48%
Willow Park 52%

This provision is intended to allow both entities to depreciate their share of the fixed assets and properly account for each City's obligations of the contract.

3.3 Operation and Maintenance Costs. All Operation and Maintenance Costs associated with the Shared Water Supply Facility, the portion of the 18 inch pipeline from the valve located at the Fort Worth extraterritorial jurisdiction boundary to the Shared Water Supply Facility, and the Shared Water Transmission Line shall be shared as follows:

Willow Park – 52%
Hudson Oaks – 48%.

3.3.1 Peak Hour/Peak Day –Both Parties will each be solely responsible for their share of Peak Hour/ Peak Day charges for the Fort Worth water contract(s). Willow Park agrees to pay Peak Hour/Peak Day charges to Hudson Oaks based on the billed Fort Worth amount. To determine Willow Park's share of this charge, Hudson Oaks will identify the peak day and peak hour responsible for the charge and pass through the ratio of use during those periods for Willow Park. For Example, if Willow Park Interconnection Facilities meter 60% of the water metered at the Fort Worth meter during the peak day period, Willow Park will be responsible for 60% of the Peak Day fee assessed by Fort Worth.

3.3.2 Both Hudson Oaks and Willow Park operationally agree to work together to establish recommended plant and tank operations and levels to ensure minimum peaking charges and maximum operational efficiency for both systems. Both Hudson Oaks and Willow Park agree to keep each Party informed if excessive use/pumping will be needed within their system.

3.3.3 Based on monthly usage, the Parties agree to split the cost of electricity based on each Parties share of electricity. For example, if Hudson Oaks uses 40% of the water that passes through the Fort Worth Meter in a single month, then Hudson Oaks will be responsible for 40% of the electricity cost of that month. Willow Park agrees to manage the electric

service at the Shared Water Supply Facility. Willow Park shall send Hudson Oaks an invoice monthly for their share of the electricity. All such bills shall be due and payable by Hudson Oaks to Willow Park within thirty (30) calendar days from the billing date. In the event a payment is not paid as specified herein, a late fee of ten percent (10%) of the unpaid bill shall be imposed together with a finance charge of ten percent (10%) per annum from the date that payment was required to be made.

3.3.4 The Parties agree that water loss will occur and the amount of water billed at the Fort Worth meter may be larger than the flow through their respective Facilities. Willow Park agrees to pay a prorated share of water loss based on their ratio of the water used from the Fort Worth meter during that same period. For example, if Fort Worth bills 1 Million Gallons of Water, and the Facility meters of the respective parties only show 900,000 gallons, and Willow Park recorded 60% of the 900,000 gallons; Willow Park will pay for 60% of the remaining 100,000 gallons of unmetered water from the Parties Facilities meters.

3.4 Wholesale Water Billings and Payments.

3.4.1 Pursuant to the wholesale water purchase agreements with Fort Worth, Fort Worth will only bill Hudson Oaks for the amount of water utilized by both Willow Park and Hudson Oaks through the Water Supply Facilities. Hudson Oaks agrees to bill, and Willow Park agrees to pay to Hudson Oaks, for Willow Park's actual water consumption, as set forth in this section. Hudson Oaks shall then be responsible to pay Fort Worth for water purchased under the wholesale water agreements with Fort Worth.

3.4.2 Hudson Oaks shall bill Willow Park monthly for Willow Park's consumption of wholesale water purchased from Fort Worth, based upon the Water Supply Facilities water metering readings. The bill shall indicate the meter readings and water consumption amounts/usage.

3.4.3 All such bills shall be due and payable by Willow Park to Hudson Oaks within thirty (30) calendar days from the billing date. If Willow Park disputes a bill and is unable to resolve the difference informally, Willow Park shall notify Hudson Oaks in writing. If Hudson Oaks and Willow Park are unable to resolve the disputed bill, agreement on the bill will be determined by a third party mediator, as hereinafter provided. Dispute of a bill shall not be grounds for non-payment, except for the amount of the bill in dispute. In the event a payment is not paid or disputed as specified herein, a late fee of ten percent (10%) of the unpaid bill shall be imposed together with a finance charge of ten percent (10 %) per annum from the date that payment was required to be made. In the event that a billing adjustment is agreed upon or established by mediation, the amount found to be incorrect will be credited to Willow Park's account. If Willow Park fails to pay within 60 days of billing by Hudson Oaks, Hudson Oaks may disconnect service to the Willow Park Interconnection Facilities.

3.4.4 The Parties agree, throughout the term of this Agreement, to fix and collect such rates and charges for water service to be supplied to its customers as will produce revenues in an amount equal to at least:

1. All of operation and maintenance costs of its water system, include specifically its payments under this Agreement; and

2. All other amounts as required by law and the provisions of the ordinances or resolutions authorizing its revenue bonds or other obligations now or hereafter outstanding, including the amounts required to pay all principal of and interest on such bonds and other obligations.

4. LOCATION AND MAINTENANCE OF MEASURING DEVICES.

4.1. All water furnished under this Agreement shall be measured by one or more suitable meters acceptable to Fort Worth (“master meters”) equipped with continuous flow chart recording devices, and telemetering equipment connected with Willow Park’s and Hudson Oaks’ control centers. All meters, recording devices, telemetering equipment and appurtenances shall be owned and operated by Hudson Oaks. All charges for water usage as measured through the master meters shall be paid by Hudson Oaks directly to Fort Worth.

4.2. Willow Park shall be responsible for contracting with an engineering firm to design and prepare construction documents for the installation of any meter for a new point of connection into the Shared Water Transmission Line that may be required during the term hereof. Equipment included in the design must meet AWWA standards. Willow Park shall pay for the meter vault and all metering equipment, including telemetering equipment, and appurtenances, plus the installation cost thereof. Telemetry transmitting to Hudson Oaks shall be installed at the time of construction at the expense of Willow Park. These costs described in this paragraph shall be part of the Construction Costs.

4.3. Each party shall pay all Operation and Maintenance Costs associated with the operation and maintenance of its metering and telemetry devices as required by Fort Worth and this Agreement, and shall pay for the replacement of said equipment as necessary. Such costs, as well as charges for the telelink line and microwave transmitter and the power to operate same, shall be considered an Operation and Maintenance Cost.

4.4. The point or points of delivery of treated water shall be the meter vault connection to Willow Park’s side of the meter at the Willow Park Interconnection Facility, and the meter vault connection to Hudson Oaks’ side of the meter at the Hudson Oaks Interconnection Facility; and all necessary mains and distribution facilities from and beyond said point are not covered by this Agreement and shall be the responsibility of each party. The location of each meter shall be mutually agreed upon in writing by and between the parties hereto and the meter or meters shall not be moved or relocated except by mutual consent in writing by the parties hereto.

4.5. Either party, at its own expense, may install a check meter to check or measure the volume of water passing the master meter, provided that, if such check meter is installed, the same rules and regulations relative to its operation, maintenance and reading shall apply as to the master meter being tested.

5. METERS AND METER READING.

5.1. Each party shall routinely test for accuracy and service and calibrate if necessary, their respective master meters no less than once during each twelve (12) month period. Copies of the results of such calibration and all related information shall be provided to each party. Each party shall allow the other access to its meter vault, for inspection and monthly readings if either party requests such access for this purpose.

5.2. Upon any calibration, if it is determined that the accuracy envelope of such meter is found to be lower than ninety-five percent (95%) or higher than one hundred five percent (105%) expressed as a percentage of the full scale of the meter, the registration of the flow as determined by such defective meter shall be corrected for a period extending back to the time such inaccuracy began, if such time is ascertainable; or, if such time is not ascertainable, then for a period extending back one-half (1/2) of the time elapsed since the date of the last calibration, but in no event further back than a period of one year. All meters will be properly sealed, and the seals shall not be broken unless representatives of both parties have been notified and given a reasonable opportunity to be present.

5.3. If any meter used to determine the flow of treated water to Willow Park or Hudson Oaks is out of service or out of repair so that the amount of water metered cannot be ascertained or computed from the reading thereof, the water delivered during the period such meter is out of service or out of repair shall be estimated and agreed upon by the parties hereto upon the basis of the best data available. The basis for estimating such flow includes, but is not limited to, extrapolation of past patterns of flow for said metering station under similar conditions. In the event the parties hereto cannot agree on the extrapolated estimate of water volume delivered, agreement on the flow volume will be determined by third party mediation, as hereinafter provided, before suit is filed.

5.4. It shall be the duty of the parties to give immediate notice, each to the other, should any meter be found not functioning properly, and upon such notice repairs to such meter shall be made promptly.

6. RIGHTS-OF-WAY.

6.1. Each party shall grant, without charge to the other party, such easements and rights-of-way along public highways or other property owned by such party, as requested by the other party, in order to construct or maintain water transmission mains or facilities within the service area of either party to provide water under this Agreement. Each party agrees to assist the other in acquiring any additional easements or rights-of-way necessary for the construction or maintenance of these facilities, including exercising the power of eminent domain, if necessary.

6.2. The Parties agree to coordinate the location of the mains and/or facilities in the other's easements and rights-of-way in order to prevent further conflicts insofar as it is reasonably practicable.

7. TERMINATION.

7.1 This Agreement may be terminated in whole or in part by the mutual consent of the Parties. Notwithstanding anything contained herein to the contrary, any breach by either party hereto to perform any of the duties or the obligations assumed by such party hereunder or to faithfully keep and perform any of the terms, conditions and provisions hereof shall be cause for termination of this Agreement by either party, after providing thirty (30) days prior written notice and opportunity to cure, except that in an event of nonpayment the notice period shall be reduced to five (5) days. If within such notice period, the defaulting party fails or refuses to cure such breach to the satisfaction of the non-defaulting party, the non-defaulting party may declare this Agreement terminated. In addition to, and/or in lieu of, the right of termination, each non-defaulting Party shall have the right of setoff for any amounts due the other Party.

7.2 In the event of termination, each party shall pay the other for all amounts owing under this Agreement through the date of termination, and each party shall assume responsibility and/or pay for their proportionate share of the unamortized debt of the Water Supply Facilities

7.3 The Parties agree that the provision of water is necessary to the continued health and safety of their respective communities and each Party agrees to not interrupt the availability of water through the Shared Water Supply Facility or the Shared Transmission Line except for non-payment in accordance with Section 3.2 or 3.4.

7.4 Waiver of Sovereign or Governmental Immunity. Willow Park and Hudson Oaks hereby agree that this Agreement constitutes an agreement for providing services to each other, which is subject to the provisions of Subchapter I of Chapter 271, Texas Local Government Code and any successor statute(s). In accordance with Sections 271.152 and 271.153 of the Texas Local Government Code, and only to the extent limited by the provisions of this section of the Agreement, Willow Park and Hudson Oaks hereby waive any constitutional, statutory or common law right to sovereign or governmental immunity from liability or suit for purposes of adjudicating a claim for breach of contract.

7.5 Right of Setoff. In addition to, and/or in lieu of, the right of termination as set forth above, each non-defaulting Party shall have the right of setoff for any amounts due the other Party pursuant to this Agreement.

8. LIABILITY FOR DAMAGES.

8.1 Liabilities for damages arising from the treatment, transportation and delivery of water provided hereunder shall be borne by and remain with each city according to its proportionate share of the costs as provided in Section 3. In the event of a claim for capacity in the Water Supply Facilities, Willow Park and Hudson Oaks shall share equally in the responsibility for defending the claim, and for the costs of any settlement or judgment resulting from the claim.

1. To the extent permitted by law, each party hereto agrees to save and hold the other party harmless from all claims, demands, and causes of action that may be asserted by

anyone on account of the quality, transportation and delivery while water is in the control of such party. This covenant is not made for the benefit of any third party.

2. Contracts made and entered into by either Willow Park or Hudson Oaks for the construction, reconstruction or repair of any Water Supply Facility shall include the requirement that the independent contractor(s) must provide adequate insurance protecting both Willow Park and Hudson Oaks as co-insureds. Such contract must also provide that the independent contractor(s) agree to indemnify, hold harmless and defend both Willow Park and Hudson Oaks against any and all suits or claims for damages of any nature arising out of the performance of such contract.

9. FORCE MAJEURE.

9.1. If by any reason of force majeure, either party hereto shall be rendered unable, wholly or in part, to carry out its obligations under this Agreement, other than the obligation to make payments required under the terms hereof, then if such parties shall give notice and full particulars of such force majeure in writing to the other party within a reasonable time after the occurrence of the event or cause relied on, the obligation of the party giving such notice, so far as it is affected by such force majeure, shall be suspended during the continuance of the inability then claimed, but for no longer period, and such party shall endeavor to remove or overcome such inability with all reasonable dispatch.

9.2. The term “force majeure”, as employed herein, shall mean acts of God, strikes, lockouts or other industrial disturbances, acts of public enemy, orders of any kind of the government of the United States or the State of Texas, or any civil or military authority, insurrection, riots, epidemics, landslides, lightning, earthquake, fires, hurricanes, storms, floods, washouts, other natural catastrophe, restraints of government and people, civil disturbances, explosions, breakage or accidents to machinery, pipelines or canals, partial or entire failure of water supply, or other similar cause not reasonably in the control of the party claiming such inability.

10. NOTICE.

10.1 All notices, requests and communications under this Agreement shall be given in writing, addressed to Willow Park or Hudson Oaks at their respective addresses set forth below and either (i) hand delivered, (ii) a nationally recognized overnight courier service, or (iii) mailed by registered or certified mail, return receipt requested, postage prepaid.

To Willow Park: City of Willow Park, Texas
516 Ranch House Road
Willow Park, Texas 76087
Attn: City Manager

To Hudson Oaks: City of Hudson Oaks
210 Hudson Oaks Drive

Hudson Oaks, Texas 76087
Attn: City Administrator

Any notice under or pursuant to this Agreement and given in accordance with this Section shall be deemed received upon the earlier of: (1) actual receipt, (2) if mailed, three (3) days after deposit in an official depository of the United States Postal Service, and (4) if sent by a nationally recognized overnight courier service, the day following the mailing. Any party may change its address for notice purposes by sending the other party a notice of the new address.

11. MEDIATION.

11.1 The parties agree to submit any dispute relating to this Agreement to non-binding mediation. The party requesting mediation shall serve on the other party a request in writing that such matter be submitted to mediation. The parties shall mutually agree in writing on the selection of any mediator and the date and location of such mediation. The decision of the mediator shall not be final, but shall be a condition precedent to filing suit. All costs of mediation shall be shared equally between the Parties.

12. INSPECTION AND AUDIT.

12.1 Each party hereto shall keep complete records and accounts pertaining to this Agreement for a period of five years. Each party shall at all times, upon notice, have the right at reasonable times to examine and inspect said records and accounts during normal business hours; and further, if required by any law, rule or regulation, make said records and accounts available to federal and/or state auditors.

13. MISCELLANEOUS.

13.1. This Agreement is subject to all applicable federal and state laws and any applicable permits, amendments, orders, or regulations of any state or federal governmental authority having or asserting jurisdiction, but nothing contained herein shall be construed as a waiver of any right to question or contest any such law, order, rule or regulation in any forum having jurisdiction.

13.2. Upon prior notice by either party, any authorized employee or representative of such party bearing identification shall notify the other party of need for access to any premises located within the other party's service area or served by the other party as may be necessary for the purpose of inspections and observation, measurements, sampling and testing and/or auditing, in accordance with the provisions of this Agreement. The other party may elect to accompany the requesting party's representative. To the extent permitted by law, the requesting party agrees to indemnify the other party for any damage or injury to person or property caused by the negligence of such duly authorized employee while such employee is in the course and scope of his employment.

13.3. In addition to any other remedy as may be provided by law, this agreement shall be specifically enforceable by the parties hereto. Venue for any action shall be in Parker County, Texas.

13.4. It is agreed that, in the event any term or provision herein contained is held to be invalid by any court of competent jurisdiction, the invalidity of such term or provision shall in no way affect any other term or provision contained herein; further, this Agreement shall then continue as if such invalid term or provision had not been contained herein.

13.5 Neither party may assign this Agreement without the prior written consent of the other party.

14. INDEMNIFICATION.

14.1. To the extent permitted by law, Willow Park agrees to indemnify and save and hold Hudson Oaks harmless from all claims, liabilities, demands, and causes of action arising from any negligent act or omission of Willow Park relating to this Agreement. This covenant is not made for the benefit and shall not inure to the benefit of any third party.

14.2. To the extent permitted by law, Hudson Oaks agrees to indemnify and save and hold Willow Park harmless from all claims, liabilities, demands, and causes of action arising from any negligent act or omission of Hudson Oaks relating to this Agreement. This covenant is not made for the benefit and shall not inure to the benefit of any third party.

15. AMENDMENT.

15.1 This Agreement may only be amended, altered, or revoked by written instrument signed by the Parties.

16. WAIVER.

16.1. The failure of either party to this Agreement to complain of any action, non-action, or default of the other party shall not constitute a waiver of any of such party's rights under this Agreement.

16.2. Waiver by either party to this Agreement of any right for any default of the other party shall not constitute a waiver of any right for either party for a prior or subsequent default of the same obligation or for any prior or subsequent default of any other obligation.

16.3. No right or remedy of either party under this Agreement or covenant, duty, or obligation of either party under this Agreement shall be deemed waived by the other party to this Agreement unless such waiver is in writing and signed by the waiving party.

17. PARTIES AND SUCCESSORS.

17.1 Subject to the limitations and conditions set forth elsewhere herein, this Agreement shall bind and inure to the benefit of the respective heirs, legal representatives, successors, and assigns of the parties hereto.

18. CAPTIONS.

18.1. The captions in this Agreement are inserted only as a matter of convenience and for reference and they in no way define, limit, or describe the scope of this Agreement or the intent of any provision hereof.

19. NUMBER AND GENDER.

19.1 All genders used in this Agreement shall include the other genders, the singular shall include the plural, and the plural shall include the singular, whenever and as often as may be appropriate.

20. ENTIRE AGREEMENT.

20.1 This Agreement, including all exhibits which may be attached hereto (which exhibits are hereby incorporated herein by reference) contains the entire agreement between the Parties with respect to the subject matter hereof. Further, the terms and provisions of this Agreement shall not be construed against or in favor of a party hereto merely because such party or its counsel is the drafter of this Agreement.

21. NO WAIVER OF IMMUNITY OR DEFENSES.

21.1. This Agreement is made pursuant to Chapter 791 of the Texas Government Code. It is expressly understood and agreed that in the execution of this Agreement, neither city waives nor shall be deemed hereby to waive any immunity or defense that would otherwise be available to it against claims arising in the exercise of governmental powers and functions, or any damage limitation or other protection provided to municipalities under any applicable law, except as provided in paragraph 7.4. This section shall be liberally construed to carry out the intent of the city councils of Hudson Oaks and Willow Park and the cities do hereby invoke said governmental immunity to the extent possible under the law.

22. NO THIRD PARTY BENEFICIARIES.

22.1 It is understood by the parties that this Agreement is entered into for the mutual convenience and purposes of the cities which are parties hereto, and it is the parties' intent that no other parties shall be construed as beneficiaries of this Agreement, including the owners, residents, or operators of property located in either city, regardless of whether such persons are anticipated to be customers under this Agreement.

23. AUTHORITY.

23.1 This Agreement was authorized by the Hudson Oaks City Council at its regular meeting on the _____ day of _____, 2018, the Willow Park City Council at its regular meeting on the _____ day of _____, 2018.

24. MUTUAL ASSISTANCE.

24.1 The parties hereto agree to take all reasonable measures which are necessary or appropriate to carry out the terms and provisions of this Agreement and to aid and assist each other in carrying out such terms and provisions.

25. ATTORNEY'S FEES.

25.1 In the event either party defaults in the performance of any of the terms, agreements or conditions contained in this Agreement and the enforcement of this Agreement, or any part thereof, is placed in the hands of any attorney who files suit upon the same, the non-prevailing party shall pay the reasonable attorneys' fees, expenses and costs of the prevailing party.

26. REPRESENTATIONS.

26.1. By execution of this Agreement, each party represents to the other that:

26.1.1 In performing its duties and obligations hereunder, it will be carrying out one or more governmental functions or services which it is authorized to perform;

26.1.2 The undersigned officer or agent of the party has been properly authorized by that party's governing body to execute this Agreement and that any necessary resolutions extending such authority have been duly passed and are now in effect;

26.1.3 All payments required or permitted to be made by a party will be made from current revenues available to the paying party; and

26.1.4 All payments provided to be made hereunder by one party to the other shall be such amounts as to fairly compensate the other party for the services or functions performed hereunder.

EXECUTED as of the date hereinabove first set forth.

CITY OF WILLOW PARK, TEXAS

CITY OF HUDSON OAKS, TEXAS

Mayor

Mayor

ATTEST:

City Secretary

ATTEST:

City Secretary

EXHIBIT "A1"

EXHIBIT “A2”

EXHIBIT “A3”



CITY COUNCIL AGENDA ITEM BRIEFING SHEET

Council Date: March 25, 2019	Department:	Presented By: A. Smith
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AGENDA ITEM:

To consider and approve council chamber technology upgrades.

BACKGROUND:

The upgrades quoted include installing two 65" monitors to the east and west walls of the council chambers to improve the quality of presentations.

Maverick will only be installing access on the east wall, because the wiring for the previous monitor, that was mounted on the west wall, still exists. These monitors will be connected to the streaming computer and will also have an option to be connected to an outside source for presentations.

The monitor that was removed from the council chambers will be reinstalled on the lobby wall where it will be used for public service announcements and also as a permanent display honoring our local veterans.

STAFF/BOARD/COMMISSION RECOMMENDATION:

Staff recommends approval

EXHIBITS:

ADDITIONAL INFO:	FINANCIAL INFO:	
	Cost	\$ 4734.92
	Source of Funding	\$

Cost Estimate for Technology Upgrades for Council Chambers

2 - 65" Samsung televisions	\$ 885.97
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2 - Tv Wall Mount Brackets	\$ 53.99
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Misc. Installation supplies	\$ 50.00
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Parts and Labor Estimate

from Maverick	\$2805.00
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Total Estimated Cost of Project	\$4734.92
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Marc 16, 2019

City of Willow Park
516 Ranch House Rd
Willow Park, Texas 76087

We have been asked to quote mounting of a second display in the council chamber. The additional display requires an additional output that the current setup does not have, along with the cabling for the video feed. The current budget minded extenders have had a few occurrences of display issues where they needed to go through the synchronization process to regain image.

We propose to replace the existing 2 port HDMI splitter/extender with a higher quality 4 port HDMI splitter/extender to minimize potential display issues. We will need to install a cable raceway to the new display location from the media computer located in the closet for the new CAT6 cable for video to route in.

There is also a request for a presenter remote to allow a presenter at the podium, or council bench to control Power Point presentations.

The following parts and labor are required:

\$985.00	- 1 x Atlona 4-way splitter/extender sender
\$555.00	- 3 x Atlona HDMI extender receiver (\$185.00 each)
\$10.00	- 1 x 3' HDMI cable
\$55.00	- 1 x Logitech Professional Presenter Remote
\$1200.00	- 2 Technicians 8 hours plus raceway and other ancillary cable and mounting hardware.

Project Total: \$2,805.00

The city is to provide the display (TV) and mount.

Please do not hesitate to contact Marc or Rocky with any questions or clarifications. Specification sheets are available.

Thank You,

Marc Holtsclaw
Maverick Computer Services