

**FIRST AMENDMENT
TO
AGREEMENT FOR THE SALE AND DELIVERY OF TREATED WATER – WHOLESALE
CUSTOMER – JOHNSON COUNTY SPECIAL UTILITY DISTRICT**

This First Amendment to Agreement for the Sale and Delivery of Treated Water-Wholesale Customer-Johnson County Special Utility District (this "**Amendment**") is made and entered into this 21 day of June, 2022 by and between the City of Mansfield, Texas, a Texas home-rule municipality (the "**City**") and Johnson County Special Utility District ("**District**"). City and District are sometimes hereinafter referred to individually as a "party" and collectively as the "parties."

WITNESSETH:

WHEREAS, on May 20, 2009, the parties entered into that Agreement for the Sale and Delivery of Treated Water-Wholesale Customer-Johnson County Special Utility District (the "**Agreement**") as attached hereto as Exhibit "A"; and

WHEREAS, the Agreement provides the terms and conditions whereby the District may purchase treated water from City and further grants City dual service rights within and on the area that is defined by City's extra-territorial jurisdiction ("**ETJ**"); and

WHEREAS, due to the exponential growth in the Dallas-Fort Worth Metroplex and the service areas of the City and District, the parties desire to amend the Agreement to amend definitions, set forth terms regarding contemplated improvements to be made by City, and set forth a process for providing water in City's ETJ.

NOW, THEREFORE, in consideration of the mutual promises and covenants herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby certify, acknowledge and agree as follows:

1. **Defined Terms**. All capitalized terms used herein and not otherwise defined shall have the meaning given to those terms in the Agreement.

2. **Amendments to the Agreement**. The parties agree that, effective from and after the execution of this Amendment, the Agreement is modified and amended as follows:

- a. Section 2.1 of the Agreement is amended by amending the definition for "Maximum Allowed Daily Demand" to read as follows:

"Maximum Allowed Daily Demand" means a Maximum Day Usage of 25 MGD."

"Maximum Allowed Rate of Flow" means the maximum allowed usage on a per minute basis, which is 1.25 times the Maximum Day Demand converted into gallons per minute (gpm) as provided in Article 5.3(d), before the assessment of the Excess Demand Charge."

- b. Section 3.1(c) of the Agreement is amended to read as follows:

"(c) **Additional Water**. To the extent Treated Water is available in amounts greater than the Maximum Day Demand, Mansfield may, at its sole discretion, provide Johnson County Special Utility District with additional Treated Water subject to the charges described in Article 5. Should Mansfield elect to provide Johnson

County Special Utility District with Treated Water in excess of the Maximum Day Demand, Mansfield may terminate or reduce providing Treated Water at the excess amount by providing Johnson County Special Utility District with twenty-four (24) hours notice of such termination or reduction. Johnson County Special Utility District agrees that Mansfield will never be obligated during the term of this Agreement to make Treated Water available to Johnson County Special Utility District in excess of the Maximum Day Demand. The purchase of any additional supplies of Treated Water over the Maximum Day Demand does not guarantee that Mansfield will make Treated Water available on that basis at any time other than the time frame Mansfield elects to provide additional supplies of Treated Water to Johnson County Special Utility District.

- c. Article 3 of the Agreement is amended by adding a new Section 3.9 to read as follows:

“3.9 Future Improvements. Notwithstanding any term of this Agreement to the contrary, the parties anticipate that Mansfield intends on making the following improvements as set forth below:

(a) Mansfield agrees to design and construct, at its sole cost, a 30-inch transmission main to the current meter site and take point. The parties anticipate that completion of construction will occur approximately in May 2023, at which time the estimated Maximum Day Demand could reach approximately 7 MGD but in no event will happen no later than August 2023.

(b) Mansfield agrees to design and construct, at its sole cost, a 30-inch transmission main with a meter site to the Johnson County Special Utility District Plant No. 27. The parties anticipate that completion of construction will occur approximately in May 2024, but in no event will happen later than August 2024.

(c) The parties agree that (i) Mansfield’s obligations to construct the improvements, (ii) the anticipated completion dates, and (iii) the estimated MGD amounts, as described in this Section 3.9, are conditioned on circumstances outside the reasonable control of Mansfield, labor and material shortages, pandemics, governmental action and inaction, as well as all events of Force Majeure described in Article 10 of this Agreement. In the event of Force Majeure or other delays that would delay the dates referenced in paragraphs (a) and (b), Mansfield will notify Johnson County Special Utility District in writing of the event and the anticipated duration of the delay. In such event, the Parties will work together to mitigate any negative impact upon Johnson County Special Utility District’s water supply needs created by the delay.

(d) Although Mansfield will be paying the design and construction costs for the improvements described in this Section, the parties acknowledge and agree that the cost of such improvements will be included in the rate methodology described in this Agreement as a “cost of service.”

- d. Article 3 of this Agreement is amended by adding a new Section 3.10 to read as follows:

“3.10 Maximum Allowed Daily Demand. The parties agree to work together in good faith in planning and implementing measures in order for the Maximum Day

Demand to reach the long term capacity goal of the Maximum Allowed Daily Demand during the term of this Agreement.”

- e. Article 7 of the Agreement is amended by adding a new Section 7.6 to read as follows:

“7.6 Restriction on Area of Utility Service. The parties acknowledge that Mansfield desires retaining control of the character and type of development that occurs around its corporate boundaries and within its extraterritorial jurisdiction (“ETJ”) in order to better plan for water supply needs for both Mansfield’s citizens and its wholesale customers. Johnson County Special Utility District will not engage in the retail or wholesale provision of water within the boundaries of Mansfield’s ETJ, as those boundaries exist as of June 27, 2022, to residential development projects, multi-family residential development projects, commercial development projects, or industrial development projects unless it secures the prior written consent of Mansfield, which may be withheld in Mansfield’s sole discretion. The purpose of this Section 7.6 is to prevent property owners or developers from seeking to secure utility service from Johnson County Special Utility District for the development of projects that Mansfield believes would be detrimental to the health, safety, and general welfare of Mansfield, its citizens, and its wholesale customers. The parties acknowledge that Mansfield’s sale of water to Johnson County Special Utility District under this Agreement is a proprietary act, and Mansfield is entitled to place this restriction on the sale of water to Johnson County Special Utility District under this Agreement. This Section 7.6 does not apply to or restrict Johnson County Special Utility District’s ability to serve any completed development or water customers existing as of June 27, 2022 and Mansfield will not seek to service any Johnson County Special Utility District retail or wholesale customers without the District’s written consent.”

- f. Article 8 of the Agreement is amended by amending Section 8.1(a) to read as follows:

“8.1 Term of Agreement. Unless terminated as provided in this Agreement, this Agreement shall commence upon the Effective Date and shall remain in effect until October 1, 2042.”

3. Binding Nature of Amendment. This Amendment constitutes a legal and binding obligation of the parties, subject to and in accordance with its terms and conditions.
4. Counterpart Execution. This Amendment may be executed in any multiple counterparts.
5. Conflicts. To the extent there are any conflicts between this Amendment and the Agreement, the terms of this Amendment shall govern and control. In all other respects, the terms and conditions of the Agreement remain the same.

[Signatures appear on the following page.]

EXECUTED this the 21 day of June, 2022.

JOHNSON COUNTY SPECIAL UTILITY DISTRICT

By: Glen Walden

Name: Glen Walden

Title: President

ATTEST:

By: Connie Coppock

Name: Connie Coppock

Title: Administrative Assistant



CITY OF MANSFIELD, TEXAS

By: _____

Name: _____

Title: _____

ATTEST:

By: _____

Name: _____

Title: _____

Exhibit A

[Agreement attached in its entirety]