

**HOTEL OCCUPANCY TAX (HOT) GRANT PROGRAM
FUNDING AGREEMENT**

This Agreement is hereby entered into on the 15th day of November 2022, by the **City of Dripping Springs**, Texas, a general-law municipality located in Hays County, Texas (“City”), and the **Dripping Springs Visitors Bureau**, a nonprofit corporation (“Visitors Bureau”).

RECITALS:

WHEREAS, the City benefits from tourism as a form of economic development; and

WHEREAS, the City has assessed a local hotel occupancy tax (HOT) on occupants of hotels within the Dripping Springs City Limits and the Extraterritorial Jurisdiction in accordance with Texas Tax Code Chapter 351; and

WHEREAS, pursuant to Texas Tax Code Section 351.101, the City is authorized to allocate HOT funds that: (1) directly enhance, attract, and promote tourism and the convention and hotel industry; and (2) clearly fit into one of nine statutorily provided categories for expenditure of local HOT funds; and

WHEREAS, the City Council may delegate the management or supervision of programs and activities paid for with HOT funds; and

WHEREAS, the City of Dripping Springs has been and remains a recognized destination for tourists, and as a result has developed a tourism industry which is beneficial to the City, its residents, and merchants; and

WHEREAS, the continued promotion and growth of the tourism industry will enhance the City, and insure to its benefit; and

WHEREAS, the City Council has deemed it to be in the best interest of Dripping Springs to accomplish the goals as set forth above, and to enact and approve a seven percent (7%) Hotel-Motel Occupancy Tax, the proceeds of which can be devoted to the foregoing purposes; and

WHEREAS, the City Council approved the expenditure of the grant funds in the Fiscal Year 2021 Budget through the approval of Ordinance No. 2020-42 on August 11, 2020; and

WHEREAS, the City Council awarded and approved the grant of these funds at a properly-conducted public meeting held on August 11, 2020.

NOW, THEREFORE, BE IT MUTUALLY AGREED AS FOLLOWS:

1. Compensation

(a) **Maximum Allocation:** The City agrees to pay the Visitors Bureau a total of Two Hundred

Twenty Thousand Dollars (\$220,000.00) in four quarterly payments of Forty-Five Thousand Dollars (\$55,000.00) four times a year in consideration for services rendered by the Visitors Bureau during the previous quarter in accordance with this Agreement.

- (b) **Compensable Services:** The City will compensate the Visitors Bureau for services that directly enhance and promote tourism and the convention and hotel industry as listed in the Application attached as **Attachment “A”** including but not limited to the operation of a Visitors Center.
- (c) **Geographic Emphasis:** The City will compensate the Visitors Bureau for services designated to attract overnight visitors, tourists, and conventions to the local area from places or origin a least 75 miles outside the corporate city limits.
- (d) **Sign Permits:** The city will waive sign permit fees for signage directing the public to sights, attractions, conventions, and events visited frequently by hotel guests staying in the area where the Dripping Springs Visitors Bureau is the applicant for the sign permit.

2. Compensable Services

- (a) **Facilities:** The Visitors Bureau agrees to operate and maintain a Visitors Center. Administrative expenditures in support of a visitor information center that are compensable by the City from HOT funds include supplies, salaries, utilities, travel expenses, and administrative costs associated with a visitor center. The Visitors Center will provide tourist-related information about the City of Dripping Springs upon request including information related to the City’s events and event center.
- (b) **Activities:** The Visitors Bureau agrees to use the HOT funds provided by the City under this Agreement to conduct a continuing program of advertising and promotion for the sole purpose of attracting overnight visitors, tourists, and conventions to the local area by engaging in the following activities:
 - (1) **Convention Center or Visitor Information Center:** the establishment, improvement, equipping, repair, operation, or maintenance of a convention center or visitor information center;
 - (2) **Convention Registration:** providing funding for the administrative costs for facilitating convention registration;
 - (3) **Art:** promoting the arts;
 - (4) **Historical Restoration or Preservation:** performing historical restoration or preservation projects, activities, or programs;
 - (5) **Signage:** erecting signage directing the public to sights and attractions visited frequently by hotel guests staying in the area;
 - (6) **Publications:** publishing and distributing brochures and community information

packets that would attract overnight visitors, tourists, and conventions to the local area;

- (7) **Advertising:** advertising in various tourist publications and general media publications distributed outside of the local area, that being at least 75 miles from the corporate city limits, in a manner designed to increase the traveling public's awareness of the resort and recreational advantages of the local area;
- (8) **Event Sponsorship:** sponsoring events such as festivals, carnivals, and sporting events;
- (9) **Travel Shows:** attending travel shows and such other events to promote the area;
- (10) **State and Regional Tourist Agencies:** participating with state and regional agencies in tourist development programs to benefit the local area;
- (11) **Advisors to City:** serving as an advisory body to the City, on request, in matters related to expanding the tourist-derived economy; and
- (12) **Additional Activities:** conducting other qualifying activities, as approved in advance by the City Administrator.

3. Management of Funds

- (a) **Budget:** The Visitors Bureau shall perform its duties and activities under this Agreement pursuant to the Budget attached in its application in **Attachment "A"**. The Visitors Bureau shall provide a new proposed budget with any future application for HOT Funds. The City agrees that the Visitors Bureau may reallocate on each separate instance up to ten percent (10%) of the total approved budget among line items to meet changing conditions. Any request for a change in excess of this percentage or for an increase in funding must be submitted in writing to the City for consideration by City Council.
- (b) **Fiduciary Relationship:** The Visitors Bureau acknowledges that the approval of such budget by the City Council creates a fiduciary duty in the Visitors Bureau with respect to the Hotel Tax Funds provided by the City to the Visitors Bureau under this Agreement. The Visitors Bureau shall spend Hotel Tax Funds only in the manner and for the purposes specified in this Agreement, Texas Tax Code Section 351.101 (a), and in the budget as approved by the City.
- (c) **Accounting:** The Visitors Bureau agrees to maintain accurate financial records of the receipt and expenditure of HOT funds, in accordance with generally accepted account principles. The Visitors Bureau shall make its financial records related to this Agreement available to the City upon request.
- (d) **Quarterly Report:** Visitors Bureau shall provide the City with quarterly reports for the Visitors Bureau's expenditure of the HOT funds in the past quarter with an emphasis on explaining how the City's allocation of HOT revenue to the Visitors Bureau furthers the

stated objective of attracting overnight visitors, tourists, and conventions to the local area. The Visitors Bureau shall meet with the Hotel Occupancy Tax Grant Advisory Committee after the first quarter. The Visitors Bureau shall meet with the Hotel Occupancy Tax Grant Advisory Committee after subsequent quarters if requested to do so by the Committee. Reports shall be due to the City on or about January 1, 2023, April 1, 2023; July 1, 2023; and September 30, 2023. The Visitors Bureau may be requested to present its quarterly or annual report to the City Council.

- (e) **Payments:** The City shall remit to the Visitors Bureau a quarterly payment for qualifying services for the previous quarter. Payments shall be made within 30 days after the quarterly report is submitted to the city.

4. Independent Contractor

It is expressly understood and agreed by and between the parties that the Visitors Bureau is engaged under this Agreement solely as an independent contractor and is not an officer, agent or employee of the City. The City shall not be responsible for the day to day supervision of the Visitors Bureau, its officers, agents, or employees.

5. Term and Renewal of Agreement

- (a) **Calendar Year:** This Agreement shall be effective on November 15, 2022, and shall remain effective until October 1, 2023.
- (b) **For Cause Termination:** This Agreement may be terminated by either party *for cause* upon the objecting party's notice for cause termination being conveyed to the other party at least ninety (90) days prior to the termination date.

6. Notification

Any notice necessary or appropriate relative to this Agreement shall be effective when deposited in the United States mails, either certified or registered mail, postage prepaid and addressed to the following locations:

For the City:
 City of Dripping Springs
 Attn: City Administrator
 PO Box 384
 Dripping Springs, TX 78620

For the Visitors Bureau
 Dripping Springs Visitors Bureau
 Attn: President
 PO Box 206
 Dripping Springs, TX 78620

7. Assignment or Delegation

No part of this Agreement may be assigned or delegated without the prior written consent of the other party, and any attempted assignment of benefits or rights or delegation of duties or obligations shall be a breach of this Agreement.

However, nothing in this Agreement shall prohibit the Visitors Bureau from participating with

other city, regional, or state tourism programs or to contract for joint promotion with other agencies.

8. Controlling Law & Venue

This Agreement shall be subject to the laws and statutes of the State of Texas. It is understood and agreed that in the event any provision of this Agreement is inconsistent with the requirements of the Act, or any other applicable State law, the requirements of the law will control. The Venue for any legal disputes arising under this Agreement shall be Hays County.

9. Absence of Indemnification

Each party to this Agreement shall be solely responsible and liable for the acts, errors, and omissions of its officers, agents, and employees, and for any and all claims, losses, causes of action and damages, suits, and liability of every kind including all expenses of litigation, court costs, and attorney fees, for injury to or death to any person, or for damage to any property, arising from or in connection with the party's own operations carried out in furtherance of this Agreement. No indemnification of one party by the other party is intended or shall be implied by this Agreement.

10. Entire Agreement

This Agreement constitutes the entire agreement between the parties, relative to the City's allocation of HOT funds as compensation for services to be provided by the Visitors Bureau.

IN WITNESS WHEREOF, the parties hereby execute this Agreement:

[signature page follows]

CITY OF DRIPPING SPRINGS:

**DRIPPING SPRINGS VISITORS
BUREAU:**

Bill Foulds, Jr., Mayor

Pam Owens, President

ATTEST:

ATTEST:

Andrea Cunningham, City Secretary

Signature

Printed Name and Title

Attachment “A”

Visitor’s Bureau HOT Funding Application