

FOUNDERS DAY FESTIVAL 2023

Participation Agreement

This *Founders Day 2023 Participation Agreement* ("Agreement") is for the performance of certain goods and/or services, as specified below:

1. PARTIES: This Agreement is hereby executed by and between the City of Dripping Springs, Texas, and Austin Charter Services ("Contractor").

2. **DEFINITIONS:**

- (a) *City:* The City of Dripping Springs, a Type-A General Law Municipality located in Hays County, Texas.
- (b) *City Council:* The governing body of the City of Dripping Springs.
- (c) *Event:* The Founders Day Festival, a civic celebration
- (d) *Founders Day Commission:* A citizen advisory board of the City appointed by the City Council.
- **3. DESCRIPTION:** Contractor is hereby engaged to perform the following services or provide the following goods: 2 school busses and drivers, more particularly described in *Attachment "A"*, which is incorporated herein for all intents and purposes.

4. SCOPE: This Agreement applies to Contractor's participation in the Event, which shall be conducted as more particularly described in Attachment "A".

5. LOCATION: This Agreement is fully performable in Dripping Springs, Texas. Contractor's participation in the Event shall be at the Founders Day Event Area and more accurately described in Attachment "A".

6. CONSIDERATION:

6.1 In consideration of Contractor's participation in the Event, City agrees to pay Contractor five thousand and thirty-five dollars and zero cents payable by check. (\$5035.00). Forty percent (40%) will be paid within seven business days of execution of this Agreement in the amount of two thousand and fourteen dollars (\$2014). The final payment is due on March 29, 2023 in the amount of three thousand and twenty-one dollars (\$3021).

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7. SUPPLIES:

- **7.1** Contractor agrees to provide all supplies, tools, and equipment necessary for performance under this Agreement.
- **7.2** City shall provide the staging, public address system, amplification equipment, and lighting.
- **8. DURATION:** This Agreement shall be in effect for no more than one year and shall be deemed terminated when all duties and obligations created herein are fully satisfied.

9. TERMINATION:

- **9.1** This Agreement may be terminated by mutual consent of the parties.
- **9.2** This Agreement may be terminated by either party without prejudice upon written notice to the other party via certified mail, return receipt requested, thirty (30) days prior to commencement of the Event. If cancelled thirty (30) days prior to the commencement of the Event the Contractor shall provide a complete refund to the City except for the \$200 penalty for cancellation within seven business days.
- **9.3** Termination shall release each party from all obligations of this Agreement, except as specified below.
- **9.4** Termination of this Agreement, as provided above, shall not prohibit or impair any claim by either party based upon any breach of this Agreement.
- **9.5** The City shall determine if Contractor shall be relieved of Contractor's obligations to participate in the Event due to inclement weather.
- **9.6** *Force Majeure:* In situations in which Contractor's participation in the Event is delayed, cancelled or suspended due to acts of God, severe weather, natural disaster, state of public emergency, or strike, the terms of this Agreement are waived.

10. SITE MAINTENANCE:

- **10.1** Contractor shall not perform waste or damage the site.
- **10.2** Contractor shall exercise reasonable care and due diligence to avoid harming City premises upon which the Event occurs.
- **10.3** Contractor shall restore or rehabilitate the site and the access to it at the termination of this Agreement. This requirement shall not apply to normal wear and compression on the grass.
- **10.4** Contractor shall provide trash can and remove all trash it generates from the Event.
- **11. INDEPENDENT CONTRACTOR:** The Parties agree that Contractor is an independent contractor and is neither an agent nor an employee of the City. Contractor is solely responsible for directing and controlling Contractor's resources and staff in order to achieve the goals of this Agreement.
- **12. SAFETY:** Contractor shall abide by all state, federal and local rules and regulations. Contractor shall take all reasonable steps to ensure public safety and protection from fire damage.

13. INSURANCE:

- **13.1 City Insurance:** As the Event's primary sponsor and lead organizer, the City confirms that is has obtained liability coverage that applies to its streets and public areas, and covers the Event, generally.
- **13.2** Contractor's Insurance: Contractor agrees to maintain general liability insurance to cover its own activities related to its performance under this Agreement. Contractor further agrees to name the City as an additional insured under Contractor's general liability insurance and agrees to provide the City a copy of the certificate of general liability insurance.
- 14. INDEMNIFICATION: CONTRACTOR, CONTRACTOR'S AGENT'S AND/OR EMPLOYEES SHALL INDEMNIFY AND HOLD THE CITY, CITY'S AGENTS, EMPLOYEES, AND/OR VOLUNTEERS HARMLESS FOR ANY CLAIMS OR CAUSES OF ACTION STEMMING FROM THE CONTRACTOR'S PARTICIPATION AT THE EVENT, INCLUDING BUT NOT LIMITED TO PERSONAL INJURY AND LOST OR DAMAGE TO PROPERTY.
- **15. RULES:** The Contractor shall adhere to all rules established for the Event by the Founders Day Commission.
- **16. CONTROLLING LAW & VENUE:** Any and all disputes that may arise in relation to this Agreement shall be subject to the laws of the State of Texas. Venue for any disputes arising under this Agreement shall be in *Hays County, Texas.*
- **17. NOTICES:** Any notice provided for by this Agreement and any other notice, demand or communication which either party may wish to send to the other, shall be in writing and given by (a) hand delivery, (b) express overnight delivery service, or (c) registered or certified United States mail, return receipt requested. Notices shall be addressed to the party for whom such notice, demand or communication is intended at such party's address as set forth below:

To the City:	To the Contractor:
City of Dripping Springs	Austin Charter Services
Attn: City Administrator	Attn: Joe Peterson
PO Box 384	P O Box <u>163212</u>
Dripping Springs, TX 78620	Austin Texas 78716
(512) 858-4725	Phone: (512) 786-6782

- **18. ASSIGNMENT:** Neither party shall assign, sublet, or transfer any interest in this Agreement without written consent of the other Party. Nothing herein shall be construed as giving any rights or benefits hereunder to anyone other than the City and Contractor.
- **19. BINDING ON SUCCESSORS:** This Agreement shall be binding upon, and shall inure to the benefit of, the parties hereto and their respective successors and permitted assigns.

- **20. SEVERABILITY:** Any provisions of the Agreement prohibited or unenforceable by law shall be ineffective without affecting any other provision of this Agreement or shall be deemed to be severed or modified to conform to such law, and the remaining provisions of this Agreement shall remain in force, provided that the purpose of this Agreement can be achieved. To the full extent, however, that the provisions of such applicable law may be waived, they are hereby waived to the end that t his Agreement be deemed to be a valid and binding agreement enforceable in accordance with its terms.
- **21. MERGER:** This instrument, and all Attachments affixed hereto, constitutes the entire Agreement between the City and Contractor. To the extent thee are any conflicts between this Agreement and the attachments, this Agreement shall govern. This Agreement supersedes all other agreements, oral or written, made with respect to the Event.
- **22. MODIFICATIONS:** All amendments or modifications to the Agreement must be in writing. No modification shall be effective until approved by both parties.
- **23. COUNTERPARTS:** This Agreement may be executed in multiple counterparts, each of which shall be deemed to be an original, and all of such counterparts together shall constitute but one and the same instrument.

BE IT HEREBY AGREED & APPROVED, for good and valuable consideration, as described herein, the sufficiency of which is hereby acknowledged.

CITY OF DRIPPING SPRINGS:

CONTRACTOR:

Michelle Fischer, City Administrator

Printed Name and Title

Date

Date

ATTEST:

Andrea Cunningham, City Secretary

Attachment A

Austin Charter Services P O Box 163212 Austin TX 78716 austincharterservices@gmail.com PH. 512.786-6782

Date: January 26th, 2023

Organization: Dripping Springs Founders Day Committee and the City of Dripping Springs

Sponsor: Joe Peterson, Number(s): 512-413-0636

Email: jwpeterson@aol.com

Day(s) / Date(s) of Trip(s): Saturday, April 29th, 2023

Estimated Arrival Time to pick up group: 9:00 AM

Pick Up: Dripping Spring High School, 940 US-290, Dripping Springs, Tx

Destination: Festival Grounds/near 290 & Mercer (we will have a map)

Shuttle Service

Last Pick up @ 12:00 PM

End of charter: 12:15 AM

Back to yard: 1:00 AM

Total Number of Passengers: ?

Number of Buses Ordered: 2 Type of School Bus

Administration Fee: \$55.00 20% Gratuity: \$720.00 10% Fuel Surcharge: \$360.00

Charter Trip Amount: \$5035.00 (Check Payment) \$5286.00 by credit card

\$150.00 per bus refundable cleaning fee

40% due at the time of signing the contract. Balance due March 29th, 2023. Austin Charter Services, agrees to provide charter transportation to your organization. By signing this contract, your organization agrees to the following conditions:

- 1. 2 School Bus
 - **All times begin and end at the Austin Charter Services Customer Service Center and include time to perform Pre-trip and Post-trip inspections of the bus/es. An added charge of \$1.15 per mile will be added for any trip over 60 miles for fuel surcharges.
 - <u>Charges will also include any time spent cleaning the bus in order to restore it to pre-trip condition</u>. A bus cleaning deposit is required and is refundable if bus is returned cleaned and undamaged.
 - If trip is cancelled within 48-hour notice there will be no refund. Cancellation of buses must be made by 30 days prior to <u>departure</u>. There will only be \$200 penalty, or 25% of the deposit.
 - 5. The price quoted is based upon the known cost and information at the time of quotation. Additional charges for extra hour of services and mileage will be calculated and due upon completion of charter service. Client is responsible to pay for any extra time. Unless otherwise noted, time is calculated from garage to garage. If there is an overestimate in the billing, the client is entitled to a refund.
 - Please sign the line marked "Authorized By" and return it with the deposit to our office. <u>Charter trips</u> will not run unless we are in possession of this signed contract as well as the required full payment in advance of the scheduled trip date.
 - All out of town <u>over night</u> trips will include meals, down time and lodging for the driver. This will be at a rate of \$50.00 per day for meals and down time, plus the rate of the lodging for a room for the driver separate from anyone else. Monies for the driver will be paid to driver at the beginning of the trip.
 - Any previous out-standing balance due to Austin Charter Services for services rendered in the past must be paid prior to any additional charters being booked. There will also be a service charge added to your estimate for any late payment history.
 - 9. Smoking is prohibited on any Austin Charter Services buses.
 - 10. We reserve the right to initiate collection proceedings for all services or damage fees not paid within 30 days after date of service. There is a 10% compounding monthly late fee for invoices not paid within 30 days after date of service. We will collect any and all attorney's fees, collection expenses, and court costs incurred by our effort to collect the outstanding balance
 - 11. We shall not be liable for any damages (in law or in equity , regular ,special , incidental or consequential damages) due to delays caused by roads, weather or traffic conditions , compliance with US DOT hours of service requirements, civil disturbance or strikes.

Authorized By:		
	Print Name	 Signature And Date
Estimate		
Completed By:		
• • –	Print Name	Signature And Date