

November 2020

STATE OF TEXAS

COUNTY OF HAYS

INTERLOCAL AGREEMENT  
between  
Dripping Springs Independent School DSISD  
and  
CODS of Dripping Springs

This Interlocal Agreement, hereinafter "Agreement" is made in Dripping Springs, Texas by and between Dripping Springs Independent School District, a political subdivision and public school DSISD of the State of Texas referred to in this Agreement as "DSISD" and the City of Dripping Springs, a political subdivision of the State of Texas referred to in this Agreement as "CODS."

## RECITALS:

WHEREAS, this Agreement is entered pursuant to the Texas Government Code Section 791.001 et seq., Interlocal Cooperation Act, hereinafter "Act." All payment and furtherance of the objectives of the Agreement shall be paid from current revenues of the CODS and DSISD, as those payments are allocated under this Agreement. The amounts and services exchanged between CODS and DSISD are amounts that fairly compensate both entities for the real property, services and functions performed under the Act; and

WHEREAS, the CODS and the DSISD are political subdivisions fully authorized by Chapter 791 of the Texas Government Code and Sections 11.153-1541 of the Education Code to make and enter into this Agreement; and

WHEREAS, the CODS and the DSISD agree that there is a public necessity that the certain real property be owned and developed by the CODS and that the paramount public use of the property includes CODS and other governmental facilities, buildings, grounds and any other type of development deemed necessary by the CODS to conduct its business and carry out its governmental functions; and

WHEREAS, a healthy, successful, and quality school system benefits the public and business in the community by improving public safety, economic development, community pride, civic identity, and public involvement; and

WHEREAS, collaborative programs between the parties improve the quality of life of the citizens of Dripping Springs, enhance educational achievement, strengthen the community, and help ensure the mutual success of the DSISD and the CODS; and

WHEREAS, the subjects of this Agreement are parcels of land and improvements thereon known as the DSISD Administration Property, hereinafter "DSISD Administration" (Exhibit "A"); the CODS property which shall be designated at the time of sale, hereinafter "CODS Property".

NOW, THEREFORE, in consideration of the mutual promises and conditions contained in this Agreement, the DSISD and the CODS, acting by and through their respective governing bodies, do hereby promise and agree to the following:

#### ARTICLE 1.

##### Recitals

1.01 The foregoing recitals are incorporated into this Agreement by reference as if expressly set forth herein.

#### ARTICLE 11.

##### Conveyance

2.01 ` DSISD and CODS shall enter into a Real Estate Contract in the substantially same form as Exhibit "B": and the DSISD shall deed, through a warranty deed, to CODS the DSISD Administration Property as generally shown in Exhibit "A".

2.02 ``The priority of both the CODS and the DSISD is to transfer properties between the two parties if possible. If a transfer of property is not feasible, the parties will enter into a Real Estate Contract (Exhibit "B") for the DSISD Administration property for an amount to be agreed upon pursuant to this Agreement.

2.03 ` The CODS and the DSISD agree to each pay fifty percent (50%) of the total cost of the appraisals of the DSISD Administration Property and CODS Property if the properties are exchanged. If the CODS purchases the DSISD Administration Property, the CODS and the DSISD agree to pay fifty percent (50%) of the total cost of the appraisals of the DSISD Administration as required by Section 2.07. Each party shall pay its own survey and title expenses as described in the Real Estate Contract attached as Exhibit "B".

2.04 The CODS and the DSISD agree to make these exchanges of property and/or money on or before July 1, 2022. The final real estate contract shall be entered into by May 1, 2022 in same format as shown in Exhibit "B" and as described in Section 2.07.

2.05 (a) If the CODS and DSISD determine that a transfer is not feasible and a purchase is required, the CODS and the DSISD agree to determine the final price for the DSISD Administration Property by April 1, 2022 based on fair market value to be determined by either: (1) an appraisal by an appraiser agreed to by both parties; or (2) the average of three appraisals. If three appraisals are done to determine fair market value, one appraiser each shall be chosen by the Buyer and the Seller with the third appraiser chosen from a list of appraisers who are Certified General Appraiser in Hays County.

(b) The appraisal will determine the fair market value by:

determining the fair market value of the property without improvements but the cost of the demolition will be subtracted.

determining the fair market value of the property with improvements and considering any demolition or remediation that must be completed for the property to be usable for the purposes of new civic buildings. <sup>[LM1]</sup>

(c) By May 1, 2022, the CODS and the DSISD will enter into a final agreement for the property what the final price of the property will be **as determined by fair market value described above.**

(d) By July 1, 2022, the DSISD will deed the property to the CODS and the CODS will make payment as described in the final agreement for the property.

(e) The form of the final agreement is attached as Exhibit “B”.

2.06 Title documentation, closing documents, and other matters shall be handled in accordance with Exhibit “B”, the Real Estate Contract, except as agreed in writing by both parties.

### ARTICLE 3.

#### DSISD and CODS Obligations

- 3.01 DSISD shall convey, through a warranty deed, the DSISD Administration Property to CODS.
- 3.02 DSISD will not commit or allow to be committed any waste at DSISD Administration, create or allow any nuisance to exist at DSISD Administration, or use or allow the DSISD Administration Property to be used for any unlawful purposes.
- 3.03 CODS, CODS's agents, guests, licensees, invitees, sublessees, assignees, and successors, and DSISD, DSISD's agents, guests, licensees, invitees, sublessees, assignees, and successors shall at all times comply with all applicable laws, ordinances, and governmental regulations in the use of DSISD Administration.
- 3.04 DSISD will maintain DSISD Administration Property in a commercially reasonable manner until conveyance to CODS. DSISD will maintain general liability insurance and property insurance for DSISD Administration Property until conveyance to CODS.
- 3.05 CODS agrees that DSISD, DSISD's agents, employees, or other representatives will have the right to continue to use the DSISD Administration Property until conveyance.

- 3.06 Other than otherwise determined in this Agreement, DSISD will remove all goods and personal property of DSISD of any kind in or on the DSISD Administration Property prior to July 1, 2022. All goods and personal property of any kind of DSISD in or on the DSISD Administration Property will be the sole responsibility of DSISD, and in no event will CODS be liable for any loss or damage to these goods or property for any reason whatsoever. Any goods and personal property of any kind in or on the DSISD Administration Property not removed prior to conveyance to the CODS shall be considered abandoned and become the property of CODS. Any remaining property requiring removal by CODS shall be removed by DSISD, at the expense of DSISD, within ten (10) days after receiving notification of such request. This does not include any buildings, flatwork, or other fixed property not desired by the DSISD.
- 3.07 The DSISD shall provide the right to the CODS, and its employees and agents, to enter the property for surveying, inspection, and appraisal of the property, including for the ability to determine the time and cost of remediation and demolition. The CODS and School DSISD shall agree on reasonable times for access that is not unduly disruptive to the DSISD's activities. When the CODS enters into a sale agreement with the Dripping Springs Library DSISD, the Library will have the same right of access, and duty to consult with the DSISD about access, as the CODS.

#### ARTICLE IV.

##### CODS Property and CODS Obligations

- 4.01 The CODS shall either: (1) convey, through a warranty deed, the CODS Property to DSISD; or (2) purchase the DSISD Administration Property as described above.
- 4.02 The CODS shall enter into the Real Estate Contract in the substantially same form as Exhibit "B" and shall either: (1) deed, through a warranty deed in the form as shown in Exhibit B, to DSISD the CODS property or properties; or (2) shall purchase the property as described in Section 2.07.
- 4.03 The CODS shall present parcels for review by the School DSISD for possible transfer by January 1, 2022. If no parcel is deemed acceptable by the DSISD by March 1, 2022, then the CODS shall purchase the DSISD Administration property as described in Section 2.07.
- 4.04 If CODS property is exchanged, CODS will not commit or allow to be committed any waste on the CODS Property allow any nuisance to exist on the CODS Property or the Second CODS Property, or use or allow the CODS Property or the Second CODS Property to be used for any unlawful purposes.
- 4.05 If CODS property is exchanged, the CODS, CODS's agents, guests, licensees, invitees, sublessees, assignees, and successors, and DSISD, DSISD's agents, guests, licensees, invitees, sublessees, assignees, and successors shall at all times comply with all applicable laws, ordinances, and governmental regulations in the use of the CODS Property.

- 4.06 If CODS property is exchanged, CODS will remove all goods, fixtures, and personal property of any kind of CODS in or on the CODS Property prior to July 1, 2022. All goods and personal property of any kind of the CODS in or on the CODS Property will be the sole responsibility of CODS, and in no event will DSISD be liable for any loss or damage to these goods or property for any reason whatsoever. Any goods and personal property of any kind in or on the CODS Property not removed prior to the exchanges of property that are the subject of this Agreement shall be considered abandoned and become the property of DSISD.
- 4.06 If CODS property is exchanged, CODS agrees not to assign or sublease the CODS Property, any part of or any right or privilege connected with the CODS Property, or to allow any other person, except CODS's visitors, agents, and employees, to occupy the CODS Property or any part of the CODS Property.
- 4.07 Demolition and Remediation of School Buildings: The CODS will demolish any unneeded buildings on the DSISD Administration property to be purchased and shall perform any needed remediation after transfer of the property. Sixty (60) days prior to closing, DSISD will present to CODS a list of all personal property, fixtures, equipment, machinery or other items on the Premises that will be reserved and excluded from the sale of the Premises to CODS and to be removed by DSISD from the Premises no later than the date of closing.
- (a) If a cash purchase is done, the final Cost of the Demolition and Remediation will be subtracted from the purchase price at closing for the price determined under Section 2.05. At the time of purchase, prior to the Demolition and Remediation, an amount equal to an estimate obtained by the CODS and qualified contractors shall be placed in escrow. When the Demolition and Remediation is completed, the CODS shall be given the amount in escrow that matches the amount paid for the Demolition and Remediation. Any remaining funds shall be provided to the School DSISD.
- (b) If a transfer of property is done, the Cost of the Demolition and Remediation, as determined by an estimate obtained by the CODS from qualified contractors, will be taken into consideration when balancing the value of the CODS Property and the DSISD Administration to be transferred.
- 4.08 By May 1, 2022, CODS will provide the executed sale agreement between CODS and the Library District for a part of the property that is the subject of this Agreement to the DSISD. CODS will also provide either: (1) documentation related to the Hays County purchase or lease of part of the property that is the subject of this Agreement; or (2) documentation from the Hays County Commissioners Court that the County does not have a current interest in purchasing or leasing the property that is the subject of this Agreement.

ARTICLE V.  
General Provisions

5.01 Notices given pursuant to the provisions of this Agreement, or necessary to carry out its provisions, shall be in writing, shall be deemed to have been given when physically received in hand by the party to whom directed, and shall be directed personally to the following persons:

Notice to DSISD:

Dripping Springs Independent School DSISD  
Todd Washburn, Superintendent

510 W. Mercer  
P.O. Box 479  
Dripping Springs, Texas 78620

With a copy to:

Walsh Gallegos Trevino Russo & Kyle, P.C.  
Attn: Oscar Trevino  
P. O. Box 2156  
Austin, Texas 78768-2156

Notice to CODS:

CODS of Dripping Springs  
Attn: Michelle Fischer  
CODS Administrator  
P.O. Box 384  
Dripping Springs, TX 78620

5.02 If either party files an action to enforce any covenant of this Agreement, then the prevailing party is entitled to recover its reasonable attorney's fees to be fixed by the Court pursuant to Local Government Code Section 271.153.

5.03 The waiver by DSISD or CODS of any breach of any provision of this Agreement will not constitute a continuing waiver of any subsequent breach of the same or a different provision of the Agreement.

5.04 This Agreement shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the parties created under this lease are performable in Hays County, Texas. Whenever the context requires, singular nouns and pronouns include the plural and plural nouns and pronouns include the singular. This Agreement shall benefit and bind the respective heirs, legal representatives, successors and assignees of the parties herein. No modifications or amendments of

LM

attorney client privilege/work product

this Agreement shall be binding unless in writing and duly signed by the parties or their authorized representatives. If any provision of this Agreement is found to be invalid or unenforceable, such invalidity will not affect the remainder of the Agreement and the remainder of the Agreement shall continue in full force and effect.

- 5.05 Both CODS and DSISD agree to execute and deliver any instruments in writing necessary to carry out any agreement, term, or condition within this Agreement whenever needed.
- 5.06 By executing this Agreement, each party represents that such party has full capacity and authority to grant all rights and assume all obligations that have been granted and assumed under this Agreement, and that the governing body of the respective party has authorized this Agreement.
- 5.07 Either party may at its own option and expense research title history of the properties made subject of this Agreement.
- 5.08 Neither CODS nor DSISD waives any governmental immunity. Any provision herein interpreted by a court of law to waive either party's governmental immunity is void.
- 5.09 This Agreement may be executed and made effective through the signing by the Parties of multiple originals.
- 5.10 This Agreement shall be Effective upon the date of signing by both Parties.

NOW, THEREFORE BE IT AGREED UPON BY THE PARTIES AS STATED ABOVE.

Dripping Springs Independent School DSISD:

CODS of Dripping Springs:

\_\_\_\_\_  
Superintendent

\_\_\_\_\_  
Bill Foulds, Jr., Mayor

STATE OF TEXAS

COUNTY OF HAYS

BEFORE ME, the undersigned authority, a Notary Public in the State of Texas, on this day personally appeared the Mayor of the CITY OF DRIPPING SPRINGS, known to me to be the person whose name is subscribed to the foregoing Interlocal Agreement, and acknowledged to me that he/she executed the same for the purposes and consideration therein expressed, and in the capacity therein stated.

\_\_\_\_\_

LM

attorney client privilege/work product

GIVEN UNDER MY HAND AND SEAL OF OFFICE this, the \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Notary Public, State of Texas

STATE OF TEXAS

COUNTY OF HAYS

BEFORE ME, the undersigned authority, a Notary Public in the State of Texas, on this day personally appeared Todd Washburn, the Superintendent of DRIPPING SPRINGS INDEPENDENT SCHOOL DSISD, known to me to be the person whose name is subscribed to the foregoing Interlocal Agreement, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, and in the capaCODS therein stated.

\_\_\_\_\_  
GIVEN UNDER MY HAND AND SEAL OF OFFICE this, the \_\_\_\_\_ day of \_\_\_\_\_, 2020

\_\_\_\_\_  
Notary Public, State of Texas



EXHIBIT "A"

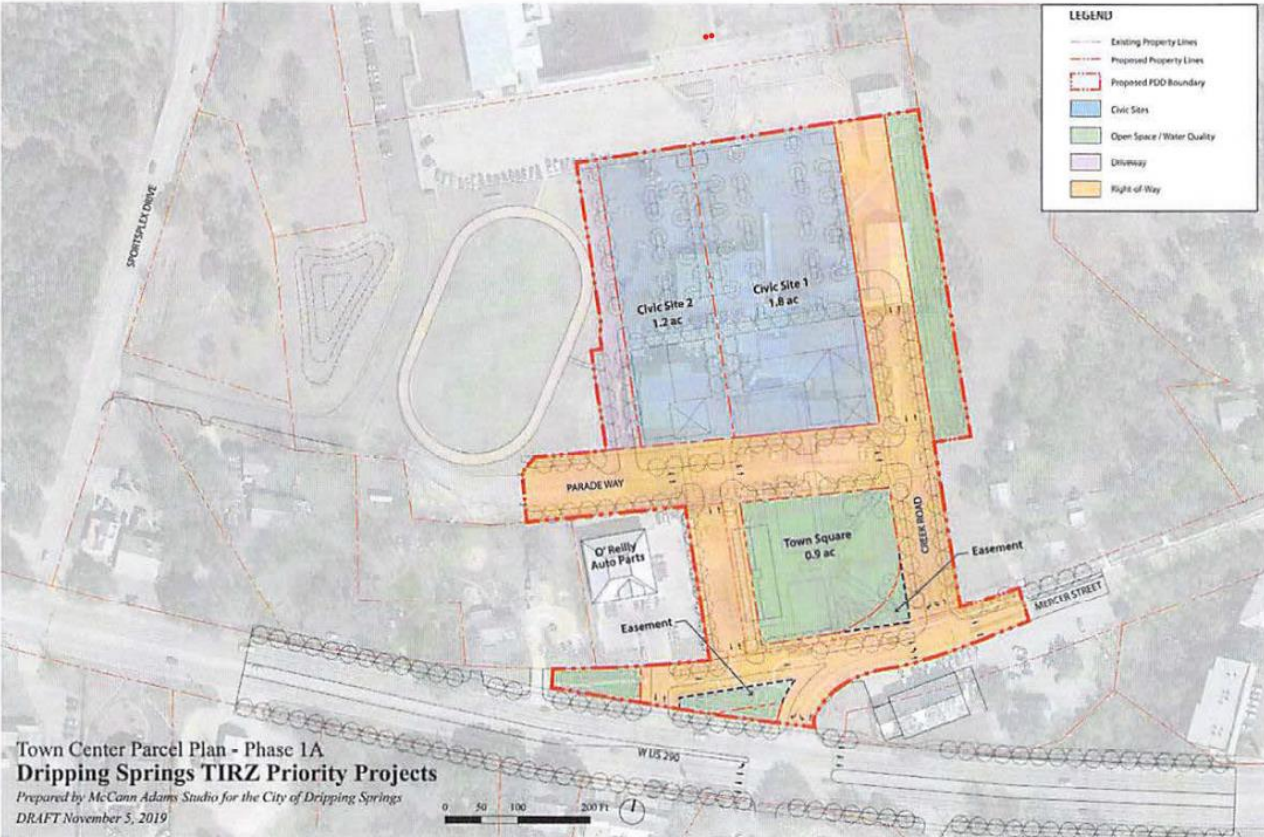


EXHIBIT "B"  
Real Estate Contract