

HAUNTED HOUSE AND HAYRIDE USE AGREEMENT

This **Haunted House and Hayride use Agreement** (“**Agreement**”) is entered into effective as of _____, (the “**Effective Date**”), by and between the **City of Dripping Springs, Texas**, a Texas general law municipality (the “**City**”), and **Hell Country Productions, Inc.**, (the “**Contractor**”). The City and Contractor may be referred to individually as a “**Party**” and collectively as the “**Parties**”.

Recitals

- A. The City owns, operates, or manages the Dripping Springs Ranch Park Event Center and desires to make limited space available for a seasonal haunted house and hayride attraction, subject at all times to City approval, public safety requirements, facility rules, applicable law, and the terms of this Agreement.
- B. Contractor desires to construct, staff, provide, and operate a temporary haunted house attraction and related hayride transportation service for the public at the Dripping Springs Ranch Park Event Center.
- C. Contractor represents that it has the experience, personnel, volunteers, equipment, judgment, and resources necessary to safely and professionally provide the attraction and related services contemplated by this Agreement.
- D. The Parties intend this Agreement to be an evergreen, city-friendly professional use agreement and not a lease, partnership, joint venture, employment agreement, or co-sponsorship agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements contained herein, the Parties agree as follows:

1. **Project Summary; Standard of Care.** Contractor shall provide a temporary Haunted House and Hayride Attraction at the Dripping Springs Ranch Park Event Center (the “**Attraction**”). The Attraction includes the construction and operation of a temporary haunted house set and the operation of a hayride to transport patrons from parking areas to the haunted house. Contractor shall perform all obligations under this Agreement in a timely, courteous, professional, safe, and workmanlike manner consistent with applicable laws, generally accepted industry standards, and City requirements for public events and facility use.
2. **Evergreen Term; No Fixed Expiration Date.** The term of this Agreement begins on the Effective Date and continues year-to-year until terminated in accordance with this Agreement. This Agreement has no fixed expiration date. Each calendar year during the term of this Agreement is an “**Agreement Year.**” Completion of a particular year’s Attraction, final payment, final accounting, move-out, cleanup, restoration, delivery of incident reports, and delivery of required post-event documentation does not terminate this Agreement unless a Party terminates it as provided herein.

3. **Annual Schedule; Default Six Operating Days.** For each Agreement Year, the default schedule shall include **six (6) operating days** for the Attraction, unless the Parties mutually agree in writing to more or fewer operating days for that Agreement Year. The specific on-site setup period, move-out deadline, operating dates, and operating hours for each Agreement Year shall be determined annually by mutual written agreement of the Parties and shall be subject to City approval. Contractor may not advertise any event date or time as final, begin setup, operate the Attraction, or conduct move-out except during the periods approved in writing by the City for the applicable Agreement Year.
4. **Annual Approvals and Pre-Opening Requirements.** Before each Agreement Year's public advertisement, ticket sales, setup, construction, or operation, Contractor shall obtain City approval of the annual schedule and all City-required plans, inspections, insurance certificates, security arrangements, emergency planning, traffic controls, signage, lighting, hayride equipment, route, loading and unloading areas, and any other pre-opening requirements. The annual schedule may be adjusted for safety, weather, staffing, facility availability, emergency conditions, City operations, or other City-approved reasons.
5. **City Control; No Leasehold Interest.** This Agreement grants Contractor only a limited, revocable, non-exclusive right to use approved portions of City property during the City-approved setup, operation, and move-out periods for each Agreement Year. This Agreement does not create a lease, easement, possessory interest, property interest, franchise, or exclusive right to use City property. The City retains ultimate control over the premises and may issue reasonable directions relating to public safety, facility protection, patron flow, parking, weather, emergency conditions, City operations, and compliance with this Agreement.
6. **Contractor Duties.** Contractor is responsible for planning, construction, staffing, volunteer coordination, operation, safety coordination, and removal of the Attraction. Contractor shall:
 - (a) Build a temporary set to serve as a haunted house that adheres to approved specifications and complies with the City of Dripping Springs' municipal codes and all requirements necessary to obtain proper permits and approvals. If the set is altered from the original proposed or approved submission, Contractor must obtain further written approval before commencing or continuing construction of the altered portion from the Recreation Program Manager or designee, in consultation with the City Emergency Management Coordinator.
 - (b) Represent the City and the Attraction in a professional manner.
 - (c) Communicate progress, goals, operational needs, and issues with Parks and Community Services Management.
 - (d) Provide and maintain a safe environment for all Attraction patrons by complying with park rules, facility rules, approved operational plans, and all rules, ordinances, regulations, and laws adopted or enforced by Hays County, the City of Dripping Springs, the State of Texas, and any other governmental authority with jurisdiction.

- (e) Engage in excellent communication and customer service while working with the public.
- (f) Submit a security plan to the City Emergency Management Coordinator for review and approval and provide proof of retained security during all hours of operation.
- (g) Work with the City Emergency Management Coordinator and Parks and Community Services Management to create and implement an Emergency Action Plan for the Attraction.
- (h) Provide and operate a hayride that transports patrons from parking to the haunted house. The City Emergency Management Coordinator and Parks and Community Services Management must approve the hayride vehicle, related equipment, route, and path before operation.
- (i) Address complaints or concerns from Attraction patrons and record and submit to Parks and Community Services Management all incidents, accidents, injuries, property damage reports, safety concerns, and material complaints.
- (j) Provide volunteers and staffing sufficient to direct Attraction patrons to correct locations and accommodate event parking, queues, loading and unloading, ticketing coordination, and safe patron movement.
- (k) Provide flexibility for a “soft close” through on-site Attraction staff and City staff to accommodate long lines and facilitate a positive patron experience, provided that any soft close remains subject to City direction, safety requirements, staffing availability, and applicable facility limitations.
- (l) Comply with the Traffic Control Plan prepared or approved by the City Engineer for the Attraction.
- (m) Submit all outdoor lighting and signage for City review and obtain City approval before placement on site.
- (n) Obtain, maintain, and comply with all permits, licenses, authorizations, approvals, inspections, and safety requirements applicable to Contractor’s work, the temporary set, the hayride, and the Attraction, except to the extent the City expressly agrees in writing to obtain a specific approval.

7. City Duties. Subject to this Agreement, available resources, and applicable law, the City shall:

- (a) Provide limited space at Dripping Springs Ranch Park for Contractor to construct and operate the haunted house and operate the hayride during the City-approved setup, operating, and move-out periods.

- (b) Through Parks and Community Services staff, provide customer service by staffing the Event Center Business Office during all hours of Attraction operation, provide for Attraction ticket sales through City systems or City-approved systems, and support Attraction operations as reasonably determined by the City.
 - (c) Provide a safe, clean, and well-kept location at Dripping Springs Ranch Park for hosting the Attraction, subject to Contractor's responsibility for the safety, construction, operation, staffing, equipment, volunteers, and services under Contractor's control.
 - (d) Cause the City Engineer to prepare or approve a Traffic Control Plan for the Attraction and provide it to Dripping Springs Ranch Park Management and Contractor.
 - (e) Through Parks and Community Services Management, work with Contractor and the City Communications & Marketing Director regarding print, internet, and social media advertisements and marketing. The City Communications & Marketing Director will oversee and approve all advertising and media for the Attraction.
- 8. Operational Authority; Suspension.** Contractor shall not open the Attraction to the public unless all City-required approvals have been satisfied to the City's reasonable satisfaction. Contractor shall promptly comply with City directions to suspend, modify, or cease any portion of the Attraction if the City determines that such action is necessary or appropriate for public safety, legal compliance, facility protection, emergency response, or the best interests of the City.
- 9. Payment and Fees.**
- (a) All fees, revenue allocations, and use-fee arrangements are subject to final approval by the City Council at the recommendation of Parks and Community Services staff.
 - (b) The City will retain a use fee equal to forty percent (40%) of gross Attraction ticket-sale revenue.
 - (c) The City will pay Hays County Livestock Exposition ten percent (10%) of the City's retained revenue for use of the Expansion Event Room, if and to the extent applicable to the approved Attraction operations.
 - (d) The City will pay Contractor sixty percent (60%) of gross Attraction ticket-sale revenue collected by City staff through ticket sales. Ten percent (10%) of Contractor's revenue shall be donated to a 501(c)(3) organization of Contractor's choice.

- (e) Payment to Contractor will be accompanied by an accurate system-generated report accounting for total sales and will be made no later than seven (7) business days after the conclusion of the applicable Agreement Year's Attraction and Contractor's presence on the premises, provided that Contractor has completed move-out obligations, submitted required documentation, and is not in material default.
- (f) "Gross Attraction ticket-sale revenue" means amounts actually received from ticket sales for admission to the Attraction, excluding refunds, chargebacks, sales taxes, processing reversals, and other amounts not actually retained as ticket-sale revenue, unless otherwise approved by the City in writing.

10. Sales Tax Exemption. The City is exempt from payment of certain sales, use, rental, and excise taxes under Texas law. Contractor shall not include taxes in any request for payment to the City where the City is legally exempt. The City shall reasonably cooperate in providing documentation of its tax-exempt status upon request.

11. Termination and Cancellation.

- (a) Either Party may terminate this Agreement without cause by giving thirty (30) days' written notice to the other Party. If either Party does not intend to continue the Agreement for the next Agreement Year, that Party should provide written notice as soon as reasonably practicable and preferably before annual scheduling, advertising, or ticket sales begin.
- (b) The City, in its sole discretion and for any reason whatsoever, may cancel this Agreement, the Attraction, or any operating date at any time and without prior notice if the City determines that the activity is not in the best interest of the City.
- (c) The City may immediately suspend or terminate Contractor's access, setup, construction, operation, or move-out activities for public safety concerns, failure to maintain required insurance, failure to comply with an approved plan, failure to follow City direction, legal noncompliance, material default, emergency conditions, weather, facility closure, or any condition that the City determines may endanger persons or property.
- (d) Upon termination, cancellation, or suspension, Contractor shall promptly comply with City directions, cease operations as directed, secure the site, protect City property, and remove Contractor's property within the time directed by the City.

12. Insurance; Indemnity.

- (a) Contractor shall maintain the insurance required by Attachment "A". Contractor waives rights of recovery against the City for injuries, losses, or damages sustained by Contractor, Contractor's employees, volunteers, subcontractors, agents, or invitees while performing or participating in activities under this Agreement, except to the extent caused by the City's gross negligence or willful misconduct and only to the extent such waiver is not prohibited by law.

- (b) TO THE FULLEST EXTENT ALLOWED BY LAW, CONTRACTOR SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS THE CITY OF DRIPPING SPRINGS, ITS OFFICERS, OFFICIALS, EMPLOYEES, AGENTS, REPRESENTATIVES, VOLUNTEERS, AND CONTRACTORS FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, CAUSES OF ACTION, DAMAGES, LOSSES, LIABILITIES, FINES, PENALTIES, COSTS, EXPENSES, JUDGMENTS, AND ATTORNEY’S FEES ARISING OUT OF OR IN CONNECTION WITH CONTRACTOR’S PERFORMANCE, THE ATTRACTION, CONTRACTOR’S ACTS OR OMISSIONS, OR CONTRACTOR’S VIOLATION OF LAW, THIS AGREEMENT, OR AN APPROVED PLAN, EXCEPT TO THE EXTENT CAUSED BY THE CITY’S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.
- (c) The City does not waive governmental immunity and does not agree to indemnify Contractor.

13. Notices. Notices shall be in writing and delivered personally, by recognized courier, by acknowledged email, or by deposit in the United States mail, postage prepaid, addressed as follows:

To the City: City of Dripping Springs Attn: City Administrator PO Box 384 Dripping Springs, TX 78620	To Contractor: Hell Country Productions, Inc. Attn: Aaron Sulser 1032 Blue Ridge Dr. Dripping Springs, TX 78620
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- (b) Notice is deemed given upon personal delivery, upon confirmed courier delivery, upon acknowledged email delivery, or three (3) days after deposit in the United States mail.
- (c) Either Party may change its notice address by giving seven (7) days’ written notice to the other Party.

14. Relationship of Parties. Contractor is an independent contractor with respect to the City and is not an employee, officer, agent, partner, joint venturer, or representative of the City. The City will not provide fringe benefits, health insurance, paid vacation, workers’ compensation coverage, unemployment coverage, retirement benefits, or any employee benefit for Contractor, Contractor’s employees, Contractor’s subcontractors, or Contractor’s volunteers. Contractor has no authority to bind the City or incur obligations on behalf of the City.

15. Employees, Volunteers, and Subcontractors. Contractor is solely responsible for selecting, supervising, training, directing, compensating, and, where applicable, screening all persons used by Contractor in connection with the Attraction, including employees, volunteers, agents, contractors, subcontractors, performers, operators, drivers, loaders, attendants, and security retained by Contractor. Contractor shall ensure that all such persons comply with this Agreement, City rules, approved plans, and applicable law.

16. **Mandatory Disclosures and Texas Contract Verifications.** Contractor shall timely provide all disclosures, certificates, verifications, and forms required by Texas law and City policy for this Agreement, including any required conflict of interest questionnaire, Certificate of Interested Parties or Form 1295 filing, boycott-Israel verification, confirmation that Contractor is not identified on a prohibited company list, and any other disclosure or verification required for City contracts. Contractor's failure to provide required disclosures or verifications is a material default.
17. **Advertising; Use of City Name and Marks.** Contractor shall not publish, post, distribute, or pay for any print, internet, social media, radio, video, signage, or other advertisement or promotional material for the Attraction without City review and approval. Contractor shall not use the City's name, logos, seals, marks, photographs of City facilities, or any representation of City endorsement except as approved in writing by the City Communications & Marketing Director.
18. **Compliance With Laws; Permits.** Contractor shall comply with all applicable federal, state, county, and municipal laws, ordinances, codes, regulations, orders, permits, and safety standards, including those relating to public safety, fire and life safety, temporary structures, accessibility, traffic, motor vehicles, trailers, amusement or entertainment operations, public health, noise, signage, lighting, and nonprofit operations.
19. **Site Condition; Cleanup; Restoration.** Contractor shall protect City property, keep the site orderly, promptly remove trash and debris generated by Contractor or the Attraction, and restore the premises to substantially the same condition existing before Contractor's use, ordinary wear and tear excepted. Contractor is responsible for damage to City property caused by Contractor, Contractor's employees, volunteers, subcontractors, agents, invitees, equipment, hayride operations, temporary structures, signage, lighting, or patrons to the extent arising from Contractor's operations or failure to supervise.
20. **Assignment.** Contractor may not assign, transfer, delegate, subcontract, or otherwise convey any right or obligation under this Agreement without the City's prior written consent. Any attempted assignment without City consent is void.
21. **Force Majeure.** Neither Party shall be deemed in default for delay or failure in performance to the extent caused by a Force Majeure Event, provided that the affected Party promptly notifies the other Party in writing and uses diligent efforts to mitigate the effects and resume performance. A "**Force Majeure Event**" means an event or circumstance beyond the reasonable control of the affected Party, including acts of God, war, terrorism, pandemics, natural disasters, fires, floods, storms, lightning, governmental orders prohibiting performance, or other causes not reasonably within the control of the affected Party. No Force Majeure Event entitles Contractor to an increase in compensation or revenue share. If a Force Majeure Event prevents performance for more than thirty (30) consecutive days, the City may terminate this Agreement without liability, penalty, or further obligation.

- 22. Entire Agreement; Amendment.** This Agreement, including its attachments, constitutes the entire agreement between the Parties regarding the Attraction. This Agreement may be amended only by a written instrument signed by authorized representatives of both Parties, except that the City may issue written operational approvals, annual schedules, safety directions, traffic directions, and facility-use requirements as contemplated by this Agreement without a formal amendment.
- 23. Severability; Waiver.** If any provision or portion of this Agreement is held unconstitutional, invalid, or unenforceable, the remainder of this Agreement shall remain in full force and effect to the greatest extent permitted by law. The failure of either Party to enforce any provision of this Agreement is not a waiver of that Party's right to subsequently enforce that provision or any other provision.
- 24. Governing Law and Venue.** This Agreement shall be construed under and in accordance with the laws of the State of Texas. Venue for any legal dispute arising under or related to this Agreement shall be in a court of competent jurisdiction located in Hays County, Texas. No dispute arising out of or related to this Agreement shall be subject to arbitration or non-binding mediation unless both Parties agree in writing after the dispute arises.
- 25. Governmental Immunity.** Nothing in this Agreement waives or limits the City's governmental immunity, official immunity, statutory protections, constitutional protections, defenses, limitations of liability, or other rights available under Texas law. Any City obligation requiring the expenditure of public funds is subject to appropriation and applicable law.
- 26. Counterparts; Electronic Signatures.** This Agreement may be executed in counterparts, each of which is deemed an original and all of which together constitute one instrument. Signatures transmitted electronically or by scanned copy may be treated as originals for all purposes.

CITY OF DRIPPING SPRINGS

HELL COUNTRY PRODUCTIONS, INC.

ATTACHMENT "A"

City of Dripping Springs Contractor Insurance Requirements

1. **General Requirement.** Contractor shall, during the term of this Agreement and any renewal, extension, setup period, operating period, or move-out period, provide and maintain the types and amounts of insurance set forth in this Attachment “A”. All insurance must be maintained at Contractor’s sole cost and must be in effect before Contractor enters the site for setup or construction.
2. **Required Policy Provisions.** All insurance policies and certificates of insurance shall contain, or be endorsed to contain, the following provisions:
 - (a) The City of Dripping Springs, Texas, including its officers, officials, employees, agents, and representatives, shall be named as an additional insured as to all applicable coverage.
 - (b) The insurer shall provide at least thirty (30) days’ prior written notice to the City of Dripping Springs for cancellation, non-renewal, or material change of insurance, to the extent available from the insurer. If the insurer will not provide such notice, Contractor shall provide such notice to the City immediately upon Contractor’s receipt of notice from the insurer.
 - (c) The policies shall provide a waiver of subrogation in favor of the City of Dripping Springs for injuries, death, property damage, or any other loss to the extent covered by insurance proceeds.
 - (d) Coverage shall be primary and non-contributory to any insurance or self-insurance maintained by the City, to the extent commercially available and applicable.
3. **Insurance Company Qualification.** All insurance companies providing required insurance must be authorized to transact business in Texas and rated at least “A” by AM Best or an equivalent rating service, unless the City approves otherwise in writing.
4. **Certificates of Insurance.** Certificates of insurance evidencing all required coverages shall be submitted to the City upon execution of this Agreement and before Contractor begins any setup, construction, operation, or move-out activities in each Agreement Year. Copies of modifications, amendments, renewals, cancellations, or terminations of any coverage shall be promptly submitted to the City. If Contractor’s activities continue beyond an existing coverage period, certificates evidencing all required coverages shall be provided to the City before continuation.
5. **Type and Amount of Insurance.** Contractor shall maintain at least the following insurance:
 - (a) **Workers’ Compensation Insurance:** Statutory workers’ compensation insurance as required by Texas law, if Contractor has employees or is otherwise required to maintain such coverage.

- (b) **Commercial General Liability Insurance:** Minimum limits of **\$500,000 per occurrence** for bodily injury, personal injury, and property damage. Coverage shall include premises/operations, products/completed operations where applicable, contractual liability, personal and advertising injury, and liability arising from temporary event operations.
 - (c) **Automobile Liability Insurance:** Minimum combined single limit of **\$500,000** for owned, hired, and non-owned automobiles, including vehicles used in connection with the hayride or event operations.
 - (d) **Additional Coverage if Required by the City:** If the City determines that additional coverage is reasonably necessary based on the final operational plan, hayride equipment, use of volunteers, security plan, or risk profile of the Attraction, Contractor shall obtain such additional coverage before commencing or continuing the affected activity.
- 6. No Limitation of Liability.** Contractor's insurance obligations do not limit Contractor's indemnity obligations or other liabilities under this Agreement. The City's acceptance of an insurance certificate does not waive any requirement of this Agreement or prevent the City from requiring correction of deficiencies.