

# **JOINT BID AGREEMENT**

between

City of Dripping Springs

and

Dripping Springs Water Supply Corporation

Contract No. DSW20250417

## **JOINT BID AGREEMENT**

**THIS JOINT BID AGREEMENT IS ENTERED BY AND BETWEEN THE CITY OF DRIPPING SPRINGS AND THE DRIPPING SPRINGS WATER SUPPLY CORPORATION.**

**WHEREAS,** the City and the Dripping Springs Water Supply Corporation (DSWSC) desire to provide the residents of the City and customers of the DSWSC safe and effective water delivery system in conjunction with the upgrade to Old Fitzhugh Road; and

**WHEREAS,** the City and DSWSC desire to cost share the cost of the improvements to the water delivery system as shown in Attachment "A"; and

**WHEREAS,** the City agrees to construct the improvements to the water delivery system for the benefit of the DSWSC and the City per agreed specifications and in compliance with state laws; and

**WHEREAS,** DSWSC will take possession and ongoing maintenance responsibility of the water delivery improvements upon completion and acceptance; and

**NOW, THEREFORE,** IN CONSIDERATION OF THE MUTUAL COVENANTS CONTAINED HEREIN, THE CITY AND DSWSC AGREE AS FOLLOWS:

### **ARTICLE 1. GENERAL**

#### **1.1 Recitals**

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

#### **1.2 Effective Date**

This Agreement shall be effective on the date upon which all the binding signatures of all Parties to this Agreement are affixed.

### **ARTICLE 2. DEFINITIONS**

In this Agreement:

- (a) **"Agreement"** means this Joint Bid Agreement.
- (b) **"City"** means the City of Dripping Springs, a General Law, Type-A municipality located in Hays County, Texas.
- (c) **"Contractor"** means the contractor retained by the City to perform the construct the waterline improvements in conjunction with the road construction contemplated by this Agreement.

- (d) **“DSWSC”** means the Dripping Springs Water Supply Corporation, a non-profit corporation of the State of Texas, created and operating pursuant to Chapters 49 and 67, Texas Water Code, and includes its officials, employees, representatives, contractors, and agents.
- (e) **“Waterline Improvements”** means the eight (8) inch waterline constructed within Old Fitzhugh Road as contemplated in Attachment “A”.

### **ARTICLE 3. GRANT AND USE OF ASSIGNMENT**

#### **3.1 Grant of Assignment**

Once the waterline improvements are constructed, DSWSC agrees to abandon its easements as currently located in the section of Old Fitzhugh Road as shown in the area shown in Attachment “A”. Thereafter, the City shall grant to the DSWSC an assignment in the right-of-way or adjacent public utility easement for maintenance of the waterline improvements, provided DSWSC shall have the right to first review and approval of the form of the assignment. The easement abandonment shall be completed in writing within thirty (30) days of completion on the Waterline Improvements.

#### **3.2 Scope of Use**

The Assignments granted under this Agreement may be used solely for the maintenance of the constructed waterline improvements.

### **ARTICLE 4. COMPENSATION AND WATERLINE CONSTRUCTION**

#### **4.1 Compensation**

- (a) The parties agree that the DSWSC will provide financial compensation for the construction of the Waterline Improvements in accordance with a mutually agreed cost estimate provided by DSWSC. The amount of compensation will be deposited with the City solely for use on the Waterline Improvements within ten (10) business days of the City’s award of bid to the selected contractor.
- (b) Based on the replacement of the waterline, a portion of which is in DSWSC easements, DSWSC will pay to the City \$488,000 toward the construction of Waterline Improvements as determined by the estimate as provided by DSWSC as shown in Attachment “A”.

#### **4.2 Construction Responsibility**

- (a) The City shall be solely responsible for the construction of the Waterline Improvements.

- (b) The Waterline Improvements shall be constructed to specifications jointly approved in writing by both DSWSC and the City and as shown in Attachment "A".
- (c) DSWSC shall have the right to review and comment on City bidding documents and contract documents. These documents will be provided to the DSWSC for review at least fifteen (15) business days prior to anticipated issuance. DSWSC shall have at least ten (10) business days to review and comment on documents.
- (d) City's and DSWSC shall coordinate with one another and work in good faith toward full and timely completion of all aspects of the Waterline Improvements.

#### **4.3 Compliance with Laws**

All construction shall comply with all applicable federal, state, and local laws, including but not limited to public procurement and state bidding requirements.

#### **4.4 DSWSC Inspection Rights**

- (a) The DSWSC shall have the right to inspect the construction at any reasonable time to ensure compliance with approved plans and specifications.
- (b) The DSWSC may request, and City shall comply with, the halt of construction if deviations from specifications or unsafe conditions are identified.

### **ARTICLE 5. WATERLINE OWNERSHIP, MAINTENANCE AND GUARANTEES**

#### **5.1 Ownership by the DSWSC**

Upon completion of construction and formal acceptance by the DSWSC, the Waterline Improvements shall become public infrastructure owned and maintained by the DSWSC. For greater certainty, nothing in this Agreement affects the DSWSC's ownership of any predecessor waterline and related infrastructure to the Waterline Improvements, including any removed, abandoned or decommissioned waterline or related infrastructure, or conveys to the City an ownership interest therein.

#### **5.2 Two-Year Maintenance Bond**

The City shall provide, or shall cause to be provided, a maintenance bond valid for two (2) years following the DSWSC's acceptance of the Waterline Improvements. The bond shall guarantee the quality of construction and materials and shall obligate the bond holder to address any defects resulting from substandard workmanship or materials.

### **5.3 Post-Acceptance Maintenance and Upgrades**

After acceptance of the Waterline Improvements, but subject to any benefit of the maintenance bond described in section 5.2 above, the DSWSC shall assume full responsibility for ongoing maintenance, repairs, upgrades, and improvements of the Waterline Improvements and associated infrastructure unless otherwise provided in this Agreement. Without limiting the generality of this section, the DSWSC will repair all damage to property, road, landscaping, sidewalks, and other improvements, whether owned or controlled by the City or a third party, arising out of the maintenance, repair, upgrade, or improvement of the Waterline Improvements or associated infrastructure and will restore such property, road, or other improvement to its condition before such damage occurred.

### **5.4 Future Waterline Relocations at City's Request**

If, after acceptance of the Waterline Improvements, the City requires the Waterline Improvements to be relocated to accommodate a City-led project, the City shall be responsible for the cost of the relocation of the Waterline Improvements and associated infrastructure necessitated by the City-led project, but the City shall not be responsible for the cost of any upgrade or modification to, or betterment of any infrastructure not directly necessitated by the City-led project.

## **ARTICLE 6. MISCELLANEOUS**

### **6.1 Assignment**

Neither Party's obligations under this Agreement may be assigned or transferred to any other person, firm, or corporation without the prior written consent of the other Party.

### **6.2 Authority**

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.

### **6.3 Compliance with Laws**

Each Party agrees to comply with all laws, regulations, rules, and ordinances applicable to this Agreement and applicable to the Parties performing the terms and conditions of this Agreement.

### **6.4 Governmental Immunity**

The City does not waive any governmental immunity. Any provision herein interpreted by a court of law to waive the City governmental immunity is void.

### **6.5 Entire Agreement**

This Agreement (including any and all Exhibits attached hereto) constitutes the entire understanding between the parties with respect to the subject matter hereof and supersedes all prior negotiations, representations, or agreements, whether written or oral.

## **6.6 Amendment**

This Agreement may only be amended in writing signed by both parties.

## **6.7 Severability**

If any provision of this Agreement is held to be invalid, illegal, or unenforceable, the remaining provisions shall continue in full force and effect.

## **6.8 Notice**

- (a) All notice required or permitted under this Agreement shall be in writing and shall be delivered either in person or deposited in the United States mail, postage prepaid, addressed as follows:

**For the City:**

Attention: City Administrator  
City of Dripping Springs

P.O. Box 384  
Dripping Springs, TX 78620

**For DSWSC:**

Attention: General Manager  
Dripping Springs Water Supply  
Corporation District  
101 Hays St., Ste. 416  
Dripping Springs, Texas 78620

With copy to:

Law Office of ZT Evans  
2900 W. Anderson Lane  
Bldg. C-200, Ste. 354  
Austin, Texas 78757

- (b) Either party may change such address from time to time by providing written notice to the other in the manner set forth above. Notice is deemed to have been received three (3) days after deposit in U.S. mail.
- (c) Point of Contacts during construction:

Garrett Osborne, Construction Inspector, (512) 858-4725  
[gosborne@cityofdrippingsprings.com](mailto:gosborne@cityofdrippingsprings.com)

Rick Broun, General Manager, (512) 858-7897  
[rickb@drippingspringswater.com](mailto:rickb@drippingspringswater.com)

## **6.9 Force Majeure**

Each of the Parties shall be excused from any delays and failures in the performance of the terms and conditions of this agreement, to the extent that such delays or failures result from causes beyond the delaying/failing party's reasonable control, including but not limited to Acts of God, Forces of Nature (including pandemic), Civil Riot or Unrest, and Governmental Action that was unforeseeable by all parties at the time of the execution of this Agreement. Any delaying/failing party shall, with all reasonable diligence, attempt to remedy the cause of delay and/or failure and shall recommence all remaining duties under this Agreement within a reasonable time of such remedy.

## **6.10 Governing Law**

This Agreement shall be governed by and construed in accordance with the laws of the State of Texas.

## **6.11 Venue**

The venue for any and all legal disputes arising under this Agreement shall be a court of competent jurisdiction located in Hays County, Texas.

## **6.12 Execution in Counterparts**

This Agreement may be executed in counterparts, each of which shall be considered an original instrument, but all of which shall be considered one and the same agreement and shall become binding when one or more counterparts have been signed by each of the Parties and delivered to the other Party. A signed copy of this Agreement delivered by facsimile, e mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

## **6.13 Section Headings, Exhibits**

The article, section and subsection headings of this Agreement, shall not enter in the interpretation of the terms and conditions contained herein, as those portions of the Agreement are included merely for organization and ease of review. The exhibit(s) that may be referred to herein and may be attached hereto, are incorporated herein to the same extent as if fully set forth herein.

## **6.14 Plural and singular nouns**

Whenever the context requires, singular nouns and pronouns include the plural and plural nouns and pronouns include the singular.

## **6.15 Waiver**

No waiver of any provision of this Agreement shall be effective unless in writing and signed by the waiving Party. No waiver of any breach of any provision of this Agreement shall constitute a waiver of any subsequent breach of the same or any other provision hereof.

#### 6.16 Further Instruments

Both the City and DSWSC agree to execute and deliver any instruments in writing necessary to carry out any agreement, term, or condition within this Agreement whenever needed.

#### 6.17 Binding Effect

Subject to any provisions hereof restricting assignment, this Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors, permitted assigns, heirs, executors, and/or administrators.

IN WITNESS WHEREOF, THE PARTIES HERETO HAVE EXECUTED THIS AGREEMENT.

**THE CITY:**

*City of Dripping Springs*

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

\_\_\_\_\_  
Date

**DSWSC:**

*Dripping Springs Water Supply Corporation*

  
\_\_\_\_\_  
William Jackson  
Board President

  
\_\_\_\_\_  
Date



## ATTACHMENT “A”