

LICENSE AGREEMENT
(175 Fort Sumner Street)

This License Agreement (this "License") is made by and between the City of Dripping Springs, a Type A General Law city ("Licensor" or "City"), and Garret and Heather Jones, homeowners of 175 Fort Sumner Street, Dripping Springs, Texas 78620 (collectively, the "Licensee") effective as of the date set forth on the signature page hereto.

WHEREAS, the property subject to this License (the "Licensed Property") is part of the public right-of-way adjacent to 175 Fort Sumner Street, within the City of Dripping Springs;

WHEREAS, the Licensee desires to construct improvements within the Licensed Property to enhance traffic safety, provide guest parking, and improve the appearance of the property as described in the improvement request attached to this Agreement as Attachment "A";

WHEREAS, the Licensor has determined that such improvements serve a public purpose and do not obstruct the original intent of the public utility easement;

WHEREAS, the City desires to grant a license to allow such improvements in accordance with applicable city ordinances and subject to the terms of this Agreement;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. **Grant of License.** Licensor hereby grants to Licensee a revocable license to construct, maintain, and use certain improvements within the Licensed Property, as generally described and shown on the plans included in Attachment "A" and Attachment "B".
2. **Scope of Improvements.** Licensee may construct the following improvements:
 - (a) a retaining wall (12" height, 63'4" length, 6'10" width) with concrete footer and proper drain holes to ensure proper drainage from behind the wall;
 - (b) crushed granite parking surface built over gravel base, road base, and weed barrier;
 - (c) a 6' x 5' stone bridge and 2' x 4' stone pavers leading to the home; and
 - (d) landscaping with native plants in designated flower beds.

- 3. Public access.** The Licensed Property and improvements shall remain open to the public and may not be reserved exclusively by Licensee.
- 4. Licensee Obligations.** Licensee agrees to:
 - (a) construct and maintain improvements as described in Attachment “A” and Attachment “B”, or as otherwise agreed in writing by the City, at Licensee’s sole expense;
 - (b) use all-weather materials consistent with City standards;
 - (c) ensure drainage and erosion control complies with City Engineer requirements;
 - (d) preserve all existing trees in accordance with the City's Tree Preservation Ordinance; and
 - (e) provide and maintain downlighting for safety.
- 5. Term and Termination.**
 - (a) This License shall remain in effect for twenty (20) years, unless terminated earlier as set out in paragraph (b), by mutual written agreement, or for cause by the City upon thirty (30) days’ written notice.

This License is personal to the Licensee and shall automatically terminate upon any sale, conveyance, or transfer of the property located at 175 Fort Sumner to a new owner. Upon such transfer, the new owner must enter into a new license agreement with the City in order to continue use of the Licensed Property. Failure to do so shall render the new owner's use of the improvements in the public right-of-way unauthorized and subject to enforcement, including removal of improvements at the owner's expense.
- 6. Insurance.** Licensee shall maintain adequate general liability insurance for activities and improvements related to this License. Proof of coverage shall be provided upon request.
- 7. Indemnification.** LICENSEE AGREES TO INDEMNIFY, DEFEND, AND HOLD HARMLESS THE CITY, ITS OFFICERS, EMPLOYEES, AND AGENTS FROM AND AGAINST ANY AND ALL CLAIMS, DAMAGES, LOSSES, AND EXPENSES, INCLUDING ATTORNEYS’ FEES, ARISING OUT OF OR RESULTING FROM LICENSEE’S USE, CONSTRUCTION, OR MAINTENANCE OF THE IMPROVEMENTS IN THE LICENSED AREA.
- 8. Governmental Immunity.** Nothing in this Agreement shall be construed as a waiver of the City’s governmental immunity.

9. **Notice.** 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 Licensor:

Attention: City Administrator
City of Dripping Springs
P.O. Box 384
Dripping Springs, TX 78620

For the Licensee:

Garret and Heather Jones
175 Fort Sumner Street
Dripping Springs, TX 78620
jones.garret@gmail.com
512-748-1985

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.

10. **Miscellaneous.**

- (a) **Entire Agreement.** This Agreement 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.
- (b) **Amendment.** This Agreement may only be amended in writing signed by both parties.
- (c) **Governing Law and Venue:** This Agreement shall be construed under and in accordance with the laws of The State of Texas. The venue for any and all legal disputes arising under this Agreement shall be a court of competent jurisdiction located in Hays County, Texas. Despite anything to the contrary in this Agreement, no disputes arising out of or related to this Agreement shall be subject to arbitration or non-binding mediation unless both parties agree in writing to submit a specific dispute to arbitration or non-binding mediation after such dispute arises.
- (d) **Independent Status.** The parties are independent, and neither party is the other party's employee, nor are the employees of either party the other party's employees by reason only of this agreement. This Agreement does not create a partnership, joint venture or agency, express or implied, nor any employer-employee, or borrowed servant relationship by and among the parties.
- (e) **Consequential Damages.** Neither party shall be liable to the other for loss of profits or revenue; loss of use or opportunity; loss of good will; cost of substitute facilities, goods, or services; cost of capital; or for any special, consequential, indirect, punitive, or exemplary damages.

- (f) **Mandatory Disclosures:** Texas law requires that vendors make certain disclosures. Prior to the effective date of this Contract, the Licensee has submitted to the City a copy of the Conflict of Interest Questionnaire form (CIQ Form) approved by the Texas Ethics Commission (Texas Local Government Code Chapter 176). Licensee also confirms it is in compliance with all Texas requirements related to government contracts including: (1) no boycott of Israel; (2) not listed as a foreign terrorist organization by the Texas Comptroller of Public Accounts; (3) Licensee does not have a policy or practice of discriminating against firearm entities or firearm trade associations; (4) Licensee does not boycott energy companies; and Licensee is compliant with all other Texas laws including any additional disclosure requirements.
- (g) **Severability.** The invalidity, illegality, or unenforceability of any provision of this Agreement, or the occurrence of any event rendering any portion or provision of this Agreement void, shall in no way affect the validity or enforceability of any other portion or provision of this Agreement. Any void provision shall be deemed severed from this Agreement, and the balance of this Agreement shall be construed and enforced as if this Agreement did not contain the particular portion or provision held to be void. The Parties further agree to amend this Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision.
- (h) **Force Majeure.** Neither party shall be deemed in violation of this Agreement if it is prevented from performing any of its obligations hereunder by reasons for which it is not responsible as defined herein. However, notice of such impediment or delay in performance must be timely given, and all reasonable efforts undertaken to mitigate its effects.
- (i) **Multiple Counterparts.** This Agreement may be executed in multiple counterparts, any one of which shall be considered an original of this document; and all of which, when taken together, shall constitute one and the same instrument.

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- (j) **Waiver.** No waiver of any provision of this Agreement shall be effective unless in writing and signed by the party against whom enforcement is sought. 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.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

THE CITY:

City of Dripping Springs

THE LICENSEE:

Michelle Fischer
City Administrator

Garret Jones

Heather Jones

Date

Date

ATTACHMENT "A"

Improvement Request

Request: Build Parking Improvements in the ROW
Property Owners: Garret and Heather Jones
Property Address: 175 Fort Sumner, Dripping Springs, Texas 78620
Neighborhood: Legacy Trails

We are requesting a License Agreement to for us to make improvements that are in the city's Right of Way (ROW). The reason for the improvements are for safety concerns.

Description of Improvement (See Attached Design):

We are wanting to install a retaining wall that will be at grade with the street (12 inches high), length of 63 feet 4 inches and 6 feet 10 inches wide. The retaining wall will have a concrete footer and the chop block dimensions are a length of 16 inches, width of 6 inches and height of 6 inches. The parking area will have a base of gravel for proper drainage, layer of road base, then a weed barrier followed by crushed granite. The retaining wall will have drain holes to ensure proper drainage. There will be down lighting installed so family and guest can use the area safely.

We will have a stone bridge (6 feet by 5 feet) for people to walk from the improved parking over the drainage ditch and into our yard, followed by 2 feet by 4 feet pavers to our sidewalk leading to our front door. This is to prevent family and guest from having to walk into traffic.

The build will be constructed in a professional manner as we don't want to diminish the look of the neighborhood nor city.

The City Maintenance Director and City Engineer have conducted a site visit to look at the improvements that we began, as we were unaware of needing the agreement (attached are pictures). They deemed that that improvements were not obstructing the original intent of the PUE.

Purpose for Improvements:

The street will only accommodate the flow of traffic for 2 cars and when cars are parked on the street, traffic is impeded. Since the street has been connected to Big Sky, we receive a lot of traffic by our house. With us being so close to the intersection at Goodnight and Fort Sumner, cars are at times, are turning into oncoming traffic when cars are parked in front of our house.

During school times, we have buses coming up and down the street and with cars parked in the street are impeding traffic.

Additional, our house is closer to the street than other homes in the neighborhood. The result is that our current driveway is a lot shorter than our neighbors.

As you can see from the design diagram, we are adding flower beds in addition to the parking area. The reason is that the flower beds will have native plants for bees, butterflies and humming birds which require less water and reducing the grass footprint. Our purpose is to lower the water consumption while improving the appearance of the house.

We have included pictures of improvements that other neighbors have implemented and pictures of how traffic is impeded when cars are parked in the street. There is a picture when there is a car parked at our neighbor's home and an Amazon truck stopped for a delivery. As you can see, the traffic is blocked.

Hope all of this helps and let me know if you need any more information. Thanks for all of your help and taking the time to review this matter.

ATTACHMENT "B"

Improvement Request



