

MAINTENANCE AND USE AGREEMENT

between

City of Dripping Springs

and

Dripping Springs Youth Sports Association,
Inc.

Contract No. DSY2025XXXX

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MAINTENANCE AND USE AGREEMENT

THIS MAINTENANCE AND USE AGREEMENT IS ENTERED BY AND BETWEEN THE CITY OF DRIPPING SPRINGS AND DRIPPING SPRINGS YOUTH SPORTS ASSOCIATION, INC.

WHEREAS, the City of Dripping Springs (“[City](#)”) owns and operates [Founders Memorial Park](#) and Sports and Recreation Park; and

WHEREAS, Dripping Springs Youth Sports Association, Inc. (“[DSYSA](#)”) has a long-standing relationship with the [City](#), utilizing portions of the [Sports and Recreation Park](#) for youth athletic programs since January 1, 1999, under various agreements, including:

- (a) a ten-year Maintenance and Use Agreement dated June 15, 2017 providing for the maintenance and use of a portion of [Founders Memorial Park](#) and [Sports and Recreation Park](#) (see: [2017 Agreement](#)); and
- (b) a four-year Maintenance and Use Agreement dated March 4, 2022 providing for the maintenance and use of Adult Softball fields at [Sports and Recreation Park](#) (see: [2022 Agreement](#)); and
- (c) a Park Irrigation Extension Installation and Use Agreement dated October 1, 2024 providing for the extension and use of the [Sports and Recreation Park](#) irrigation system to utilize reclaimed water (see: [210 Reuse Water](#)) for irrigation (see: [2024 Agreement](#));

WHEREAS, [DSYSA](#) maintains the portion of the [Sports and Recreation Park](#) consisting of the Youth Baseball Field and the Youth Softball Field pursuant to the [2017 Agreement](#), and uses [210 Reuse Water](#) supplied by the [City](#) to irrigate these fields pursuant to the [2024 Agreement](#); and

WHEREAS, the [City](#) and [DSYSA](#) wish to consolidate and update their existing agreements into a single comprehensive agreement; and

WHEREAS, both parties recognize the benefits of providing youth sports programs that encourage a healthy lifestyle, teamwork, leadership, sportsmanship, and volunteerism.

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS CONTAINED HEREIN, THE CITY AND DSYSA 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 upon the [Effective Date](#).

1.3 Term

This [Agreement](#) shall remain in effect until May 31, 2030, unless terminated earlier in accordance with this [Agreement](#).

ARTICLE 2. DEFINITIONS

In this Agreement:

- (a) **“2017 Agreement”** means the ten-year Maintenance and Use Agreement dated June 15, 2017 providing for the maintenance and use of a portion of [Founders Memorial Park](#) and [Sports and Recreation Park](#).
- (b) **“2022 Agreement”** means the four-year Maintenance and Use Agreement dated March 4, 2022 providing for the maintenance and use of Adult Softball fields at [Sports and Recreation Park](#).
- (c) **“2024 Agreement”** means the Park Irrigation Extension Installation and Use Agreement dated October 1, 2024 providing for the extension and use of the [Sports and Recreation Park](#) irrigation system to utilize reclaimed water.
- (d) **“210 Reuse Water”** means reclaimed, recycled, or treated wastewater that meets the quality standards established by the Texas Commission on Environmental Quality (TCEQ) under Chapter 210 of the Texas Administrative Code for beneficial use.
- (e) **“ADA Act”** means the *Americans with Disabilities Act of 1990* as amended from time to time.
- (f) **“Agreement”** means this Maintenance and Use Agreement.
- (g) **“City”** means the City of Dripping Springs, a General Law, Type-A municipality located in Hays County, Texas.
- (h) **“Concession Building”** means the Concession Building at the [Sports and Recreation Park](#) as depicted in [Exhibit “A”](#).
- (i) **“DSYSA”** means Dripping Springs Youth Sports Association, Inc., a Texas non-profit corporation.
- (j) **“Effective Date”** means the date upon which all the binding signatures of all Parties to this [Agreement](#) are affixed.
- (k) **“Exclusive Use Period”** means the time periods defined in section 3.3 below.

- (l) **“Fall Season”** means the period beginning on August 1 and ending on November 30 of each calendar year during the Term.
- (m) **“Fields”** means the designated portions of [Founders Memorial Park](#) and [Sports and Recreation Park](#) as set out in this [Agreement](#), specifically:
 - (i) the Youth Baseball Field at [Sports and Recreation Park](#);
 - (ii) the Youth Softball Field at [Sports and Recreation Park](#);
 - (iii) the two (2) Adult Softball fields at [Sports and Recreation Park](#);
 - (iv) all of the batting cages at [Sports and Recreation Park](#);
 - (v) the three (3) Soccer field Areas at [Sports and Recreation Park](#);
 - (vi) the Multi-use field at [Founders Memorial Park](#); and
 - (vii) the two (2) Football fields at [Founders Memorial Park](#).
- (n) **“Heavy Equipment”** means fixtures (i.e., goods that have become so related to particular real property that an interest in them arises under real property law) and major appliances or equipment having a mass equal to or greater than fifty imperial pounds.
- (o) **“Founders Memorial Park”** means the park having an area of approximately 33.5 acres, coordinates of 30.198220, -98.081840, and a civic address of 490B Founders Park Road in Dripping Springs, Texas.
- (p) **“Monthly Minimum Quantity”** means, in any given calendar month, the quantity of reclaimed water equal to 44,000 gallons multiplied by the number of days in the calendar month.
- (q) **“Prior Agreements”** means the [2017 Agreement](#), the [2022 Agreement](#) and the [2024 Agreement](#).
- (r) **“Season”** means each of the [Spring Season](#), [Summer Season](#), [Fall Season](#) and [Winter Season](#).
- (s) **“Security Deposit”** means an amount deposited with and payable to the [City](#) by check, money order, or other financial instrument approved by the [City](#), in the amount established in accordance with section 5.3(c) below, and held by the [City](#) for application toward the expense of any cleaning or repair work that must be performed by or on behalf of the [City](#) as a result of subletting the [Use Areas](#).
- (t) **“Sports and Recreation Park”** means the park having an area of approximately 40 acres, coordinates of 30° 11' 9", -98° 4' 48", and a civic address of 471 Sports Park Road in Dripping Springs, Texas.

- (u) “**Spring Season**” means the period beginning on February 1 and ending on May 31 of each calendar year during the Term.
- (v) “**Summer Season**” means the period beginning on June 1 and ending on July 31 of each calendar year during the Term.
- (w) “**Term**” means the term defined in section 1.3 above.
- (x) “**Use Areas**” means the [Fields](#) and the [Concession Building](#) at the [Sports and Recreation Park](#) as depicted in [Exhibit “A”](#).
- (y) “**Winter Season**” means the period beginning on December 1 and ending on January 31 of each calendar year during the [Term](#).

ARTICLE 3. USE OF FACILITIES

3.1 Grant of Use

The [City](#) grants DSYSA the right to use the designated [Use Areas](#) within [Founders Memorial Park](#) and [Sports and Recreation Park](#) during the [Term](#) subject to the terms and conditions of this [Agreement](#).

3.2 Adult Softball Field Use

3.2.1 Spring Adult Softball Field Use

Despite section 3.3 below, the [City](#) may permit others to use the Adult Softball fields (Fields C and D) on Wednesday and Thursdays between 5:00 PM and 11:00 PM from March 1 to May 31.

3.2.2 Summer Adult Softball Field Use

Despite section 3.3 below, the [City](#) may permit others to use the Adult Softball fields (Fields C and D) on Tuesdays and Thursdays between 5:00 PM and 11:00 PM from June 1 to August 31.

3.3 Exclusive Use Periods

3.3.1 Spring and Fall Season Use

- (a) Except as provided in section 3.5 below, DSYSA shall have exclusive use of the [Use Areas](#), between 8:00 AM to 11:00 PM, on every day except Fridays (i.e., Monday through Thursday, Saturday and Sunday) during each [Spring Season](#) and [Fall Season](#).
- (b) Use by DSYSA on Fridays for makeup games shall be subject to availability and coordination with the [City](#).

3.3.2 Summer Season Use

Except as provided in section 3.5 below, DSYSA shall have exclusive use of the Use Areas between 8:00 AM to 5:00 PM each day during each Summer Season.

3.3.3 Rotating Non-Use Periods

During the Exclusive Use Periods, DSYSA will schedule and arrange for rotating periods of non-use of each of the Fields to allow the Fields to rest as a reasonable and prudent owner and caretaker of the Fields would do, consistent with generally accepted standards of practice.

3.4 Winter Season Use

During the Winter Season, DSYSA may request use of the Fields subject to availability and coordination with the City.

3.5 Public or Group Use

Outside of the Exclusive Use Periods, the City may book the Fields for public or group use.

3.6 No Charge for Admission

DSYSA shall not impose or collect a fee or other consideration from any person as a condition of entering or remaining within a City park, including for the parking of a vehicle within a City park parking lot.

3.7 Sponsorship & Signage

- (a) All banner sponsorship revenue generated from banner placement at the Fields shall accrue to DSYSA.
- (b) DSYSA must not permit any banner to be installed without the City's approval of the banner's sponsor, size, and placement and in compliance with the City's sign ordinance and sign policy.

3.8 Food Service Operations

DSYSA must cause all food truck operations invited or hosted by DSYSA within the Use Areas to do the following:

- (a) comply with the City's Mobile Food Vendor Ordinance;
- (b) obtain and maintain all necessary permits; and
- (c) be placed only in designated areas.

3.9 Temporary Structures

- (a) All temporary structures, including tents, must comply with applicable [City](#) regulations.
- (b) Any structure installed or placed within a [Use Area](#) or [City](#) park for more than 24 consecutive hours or exceeding 100 square feet in area require [City](#) approval.
- (c) All temporary structures must be properly secured and removed after use.

3.10 Special Events

- (a) DSYSA shall provide the [City](#) with at least 30 days' notice of any planned events within the [Use Areas](#) other than regular league games and practices.
- (b) Other than in respect of regular league games and practices, DSYSA must comply with all special event requirements applicable to each planned event within the [Use Areas](#) set out in the [City's](#) Code of Ordinances other than the payment of a special event permit fee.

3.11 No Perpetual Permit

Nothing in this [Agreement](#) shall be construed as a grant by the [City](#) to DSYSA of a perpetual permit to use the [Use Areas](#).

ARTICLE 4. SPORTS PROGRAM REQUIREMENTS

4.1 Resident Priority Registration

For each sports activity hosted within the [Use Areas](#), DSYSA shall reserve registration during the first two weeks of each registration period for participants residing within the corporate limits of the City of Dripping Springs as evidenced by proof of residency satisfactory to the [City](#) and verified by DSYSA using a process approved by the [City](#).

4.2 Background Checks

All league officials, coaches, and DSYSA managers participating in events within the [Use Areas](#) must have proof of a criminal history background check obtained within the previous year and these records are subject to review by the Parks and Community Services Director or authorized designee.

ARTICLE 5. CONCESSION BUILDING

5.1 Concession Building Restroom Maintenance

The [City](#) shall maintain, at its expense, the [Concession Building](#) restroom, including cleaning, repairs, and supply of materials.

5.2 Concession Equipment Maintenance and Supplies

- (a) DSYSA shall be responsible for maintaining, replenishing and repairing all supplies, wares and equipment (other than [Fixtures](#)) necessary for the operation of the [Concession Building](#).
- (b) The [City](#) shall be responsible for repairs to [Fixtures](#) within the [Concession Building](#).
- (c) DSYSA shall not install or affix any Heavy Equipment, including any appliances or equipment in the [Concession Building](#), without the [City's](#) prior written permission.
- (d) All Heavy Equipment, including appliances or equipment installed or affixed in the [Concession Building](#), are the property of the [City](#) and will remain the [City's](#) property after the expiry or termination of this [Agreement](#).
- (e) Despite anything in this section, DSYSA may bring portable appliances and equipment into the [Concession Building](#). Such equipment shall be maintained by DSYSA at its cost and remain the property of DSYSA after the expiry or termination of this [Agreement](#).

5.3 Subletting

- (a) DSYSA may sublet the [Concession Building](#) to non-profit groups with prior written approval of the [City](#).
- (b) DSYSA shall make the [Concession Building](#) available for sublet by non-profit organizations, service organizations, and any other group as recommended by the [City](#) subject to scheduling conflicts with DSYSA activities.
- (c) DSYSA agrees to follow the fee and [Security Deposit](#) structure set in the [City's](#) Fee Schedule (or, in the absence of a fee or [Security Deposit](#) established thereunder, a fee \$50.00 per day and a \$200.00 [Security Deposit](#)) to be paid directly to the [City](#) by each group subletting the [Concession Building](#).

5.4 As Is, Where Is

DSYSA acknowledges and agrees that the Heavy Equipment, including appliances and equipment, in the [Concession Building](#) is being provided to DSYSA in its existing condition "AS-IS, WHERE-IS, AND WITH ALL FAULTS" with respect to all facts, circumstances, conditions and defects, and the [City](#) has no obligation to determine or correct any such facts, circumstances, conditions or defects or to compensate DSYSA for same. DSYSA is relying strictly and solely upon such inspections and examinations and the advice and counsel of its own consultants, agents, legal counsel, and officers.

5.5 No Grant of Exclusivity

Nothing in this [Agreement](#) shall be construed as a grant by the [City](#) of an exclusive right to DSYSA to operate the [Concession Building](#) or conduct sales from the [Concession Building](#).

ARTICLE 6. MAINTENANCE AND REPAIRS

6.1 Field Maintenance

DSYSA shall maintain, at its expense, the Fields in good condition and repair during the Term, including but not limited to:

- (a) regular mowing and trimming;
- (b) field striping and marking;
- (c) trash collection and removal;
- (d) general cleanup of [Use Areas](#);
- (e) minor repairs to fencing, bleachers, and dugouts;
- (f) overseeding and fertilization; and
- (g) dragging infields;

6.2 Safety and Preservation of Playing Surfaces

DSYSA shall ensure the safety and preservation of the [Use Areas](#).

6.3 Safety Concerns

DSYSA shall immediately notify the [City](#)'s Director of Parks and Community Services of any safety concerns or conditions requiring capital repairs or closure within or outside of the [Exclusive Use Periods](#).

6.4 Facility Maintenance

DSYSA shall maintain, at its expense, the soccer field restrooms, with the [City](#) supplying, at its expense, necessary materials.

6.5 Concession Building Restroom Maintenance

[See section 5.1 above.]

6.6 Concession Equipment Maintenance

[See section 5.2 above.]

6.7 Annual Maintenance Plan

DSYSA shall submit to the [City](#) by January 15 of each year a maintenance plan that includes:

- (a) mowing and field maintenance schedules;
- (b) proposed capital improvements;
- (c) anticipated major repairs or renovations; and
- (d) schedule for field rest periods.

6.8 Seasonal Inspections

At the end of each [Season](#), representatives of the [City](#) and DSYSA will jointly inspect the [Use Areas](#) to determine what [Fields](#) need to be rested and during what periods as well as identify areas for potential capital improvement.

6.9 Irrigation System Controls and Repairs

The [City](#) shall be responsible, at its cost, for managing irrigation system controls and repairs.

6.10 Field Lighting Maintenance and Repairs

DSYSA shall be responsible, at its cost, for field lighting maintenance and repair.

6.11 Security System Maintenance

The [City](#) shall be responsible, at its cost, for maintaining security systems.

6.12 Additional Inspections

The [City](#) may inspect the [Use Areas](#) at any time.

6.13 City's Right to Take Over Maintenance

In the event that DSYSA is in breach of its maintenance obligations under this [Agreement](#), the [City](#) may temporarily or permanently take over some or all of the maintenance obligations. DSYSA shall fully reimburse the [City](#) for the actual costs of such maintenance.

ARTICLE 7. UNSCHEDULED FIELD CLOSURE AND COMMUNICATIONS

7.1 Field Inspections and Closure

- (a) DSYSA will have primary responsibility for inspecting and closing [Use Areas](#) due to weather conditions or maintenance needs, including turf rejuvenation requirements.

- (b) The [City](#) retains the right, as owner of the [Use Areas](#), to direct and require DSYSA to close [Use Areas](#) if, in the [City](#)'s opinion, closure is necessary due to weather conditions, maintenance needs, or an emergency situation.

7.2 Field Closure Notifications

- (a) DSYSA shall immediately notify the [City](#)'s Director of Parks and Community Services of any safety concerns or conditions requiring capital repairs or closure within or outside of the [Exclusive Use Periods](#).
- (b) DSYSA must promptly notify the public of any field closures through appropriate social media channels and maintain updated closure information on [DSYSA's](#) website.

7.3 Inclement Weather and Emergency Conditions

The [City](#) must:

- (a) notify [DSYSA](#)'s Executive Director of any severe weather alerts or other emergency conditions;
- (b) coordinate with [DSYSA](#) on closure decisions during inclement weather; and
- (c) provide [DSYSA](#) with timely updates regarding maintenance activities affecting field availability.

7.4 Emergency Contact Information

Each party shall maintain and provide the other party with current emergency contact information and protocols for immediate communication regarding facility issues.

ARTICLE 8. SITE ACCESS AND SECURITY

8.1 Access Control

- (a) The parties shall coordinate on lock access for all secured areas within the [Use Areas](#).
- (b) Any changes to locks or security systems shall require coordination between parties with reasonable advance notice.

8.2 Key Management

- (a) Each party shall maintain a current list of authorized key holders to whom access to [Use Area](#) keys shall be limited.
- (b) [DSYSA](#) shall provide the [City](#) with updates to its key holder list within 48 hours of any changes.

- (c) Lost or stolen keys must be reported immediately.
- (d) Each party is responsible for the costs of replacing keys or rekeying locks arising from the party's loss of a key.

8.3 Securing of Facilities after Use

DSYSA shall ensure all facilities are properly secured after use.

8.4 Security Breach Notification

Both parties shall immediately report any security concerns or breaches.

8.5 Security System Maintenance

[See section 6.11 above.]

8.6 Site Safety

DSYSA will be responsible for supervision and site safety measures for its own employees, volunteers, contractors, athletes, coaches, spectators and invitees, but shall not be responsible for the supervision or health and safety precautions for any other third parties, including City's contractors, subcontractors, or other parties present at the site.

ARTICLE 9. FIELD LIGHTING

9.1 Field Lighting Control

- (a) DSYSA shall control field lighting for the soccer, baseball and youth softball fields at Sports and Recreation Park.
- (b) The City shall control field lighting for adult softball fields at Sports and Recreation Park.

9.2 Maintenance and Repair

[See section 6.10 above.]

9.3 Electricity Consumption

[See section 10.4(b) below.]

ARTICLE 10. UTILITIES

10.1 Irrigation Water Consumption

DSYSA shall be financially responsible for all irrigation water consumption costs in accordance with Article 11 below.

10.2 Potable Water Consumption

The City shall be financially responsible for all potable water service to the Use Areas.

10.3 Wastewater Service

The City shall be financially responsible for all wastewater service to the Use Areas.

10.4 Electricity Consumption

- (a) The City shall be financially responsible for all electricity usage at Founders Memorial Park, which shall be metered and billed to an account registered to the City.
- (b) DSYSA shall be financially responsible for all electricity usage at Sports and Recreation Park, including field lighting, which shall be metered and billed to an account registered to DSYSA.

10.5 Recovered Electricity Fees Capital Improvement Fund

Any fees collected by the City from park users pursuant to fee schedules adopted from time to time and at the discretion of the City with respect to the recovery of electricity fees at Sports and Recreation Park during the Term will be used by the City for capital improvements within the Use Areas.

10.6 Additional Utilities

DSYSA shall be financially responsible for any additional utilities installed at DSYSA's request.

ARTICLE 11. IRRIGATION

11.1 Reclaimed Water Supply

Effective October 1, 2024, DSYSA will be a customer of the City for the supply of 210 Reuse Water for irrigation purposes during the Term of this Agreement and subject to all terms and conditions applicable to the City's reclaimed water customers at rates customarily available to the City's reclaimed water customers in a category of service that, in the City's determination, most closely matches DSYSA's irrigation use.

11.2 Maximum Liability

Despite anything in this Agreement, DSYSA's maximum liability for 210 Reuse Water consumption will not exceed \$120,000 during the period from October 1, 2024 to September 30, 2025.

11.3 Minimum Water Taking

- (a) Despite anything in this [Agreement](#) or any term or condition applicable to the [City's](#) reclaimed water customers, [DSYSA](#) agrees that, during each calendar month after November 15, 2024, it will consume no less than the [Monthly Minimum Quantity](#).
- (b) If, for any reason, [DSYSA](#) determines that it will be unable to comply with this provision in any calendar month, [DSYSA](#) must notify the [City's](#) Utilities Director in writing as soon as possible and work with the City to accommodate consumption of [210 Reuse Water](#) as necessary to maintain the [City's](#) total demonstrated firm reclaimed water demand.

11.4 Minimum Water Charge

- (a) [DSYSA](#) agrees to pay for the volume of [210 Reuse Water](#) represented by [Monthly Minimum Quantity](#) for each calendar month, or such greater amount of [210 Reuse Water](#) consumed by [DSYSA](#) during the calendar month.
- (b) [DSYSA](#) will not be required to pay for more than the amount of [210 Reuse Water](#) consumed by [DSYSA](#) during a calendar month if, due to circumstances beyond [DSYSA's](#) control such as an interruption in water service or extreme rainfall, it would be unreasonable to consume the [Monthly Minimum Quantity](#) during the calendar month and [DSYSA](#) complied with its duty to mitigate under section 11.3 above.

11.5 Minimum Water Expiry

Sections 11.3, 11.4 and 11.7 of this Article, [DSYSA's](#) obligation to consume and pay for the [Monthly Minimum Quantity](#) of [210 Reuse Water](#) expire the calendar month after either of the following events:

- (a) the in-service date of the [City's](#) Southwest Regional Wastewater Treatment Plant, or
- (b) the City, acting reasonably, determines that the [City's](#) total demonstrated firm reclaimed water demand minus the [Monthly Minimum Quantity](#) is sufficient to obtain the same quantity of beneficial reuse credits authorized under 30 Texas Administrative Code Chapters 222 and 309 as would have been obtained had the [Monthly Minimum Quantity](#) been consumed in accordance with section 11.3 above.

11.6 Irrigation System Controls and Repairs

[See section 6.9 above.]

11.7 Takeover upon Notice from City

On or after May 1, 2026, with 60 days' notice from the City, DSYSA shall take over the maintenance, scheduling, and upkeep of all irrigation systems at Founders Park and Sports & Recreation Park. Upon taking over such responsibilities, DSYSA will no longer be subject to the required Monthly Minimum Quantity but DSYSA will continue to be a customer of the City for the supply of 210 Reuse Water during the Term of this Agreement and subject to all terms and conditions applicable to the City's reclaimed water customers including the payment of rates established by the City's prevailing fee schedule.

11.8 Controlled Irrigation

- (a) To maintain or protect the City's reclaimed water system, water quality, pressures, storage, or other operational requirements, the City may, with or without advance notice, conduct a controlled irrigation of 210 Reuse Water through the irrigation system serving the Use Areas (a "Controlled Irrigation").
- (b) Volumes attributable solely to a City-directed Controlled Irrigation shall not be billed to DSYSA and shall be excluded from DSYSA's irrigation water charges and invoices. If such volumes are registered by any meter, the City will credit or reverse corresponding charges on DSYSA's account.
- (c) The City may determine the Controlled Irrigation volume by pre- and post-event meter readings, temporary metering, controller run-time with zone flow factors, or reasonable engineering estimates.
- (d) The City shall take reasonable steps to avoid material disruption to scheduled DSYSA activities. When practicable, the City will select windows outside posted game or practice times and provide prompt same-day notice of the start and end of the Controlled Irrigation to DSYSA's designated contact(s).
- (e) This Section 11.8 controls over Sections 10.1 and 11.1 solely with respect to billing for volumes discharged during a City-directed Controlled Irrigation. Unless the Parties agree otherwise in writing, volumes discharged under this Section count toward DSYSA's Monthly Minimum Quantity.

ARTICLE 12. GOVERNANCE

12.1 Annual Agreement Review

The Parties agree to review this Agreement at least once per calendar year to discuss potential amendments.

12.2 Reuse Water Review

As part of the annual review conducted under section 12.1, the City will determine and advise DSYSA of the feasibility of decreasing or eliminating the Monthly Minimum Quantity to reflect the City's total demonstrated firm reclaimed water demand.

12.3 Financial Records

- (a) DSYSA shall maintain all books, documents, papers, accounting records, and other evidence pertaining to all revenue and expenses attributable to the activities hosted within the Use Areas.
- (b) DSYSA shall make the materials set out in paragraph **Error! Reference source not found.** available at all reasonable times during the Term of this Agreement, for inspection by the City or its authorized designees.
- (c) Copies of materials set out in paragraph (a) shall be furnished by DSYSA at no cost to the City if requested.

ARTICLE 13. GENERAL

13.1 Assignment and Sublease Prohibited

DSYSA shall not assign, convey, sublease or sublet any interest in this Agreement or the Use Areas without the prior written consent of the City, which consent may be withheld for any reason.

13.2 Termination

13.2.1 Termination for Convenience

Either party may terminate this Agreement upon written notice to the other party effective as of the beginning of the Season that commences not less than nine (9) months and not more than twelve (12) months.

13.2.2 Termination for Cause

Either party may terminate this Agreement immediately upon written notice if the other party breaches any term of this Agreement and fails to cure such breach within thirty (30) days after receiving written notice thereof.

13.3 Insurance

DSYSA shall maintain commercial general liability insurance coverage of at least \$5,000,000 per occurrence, listing the City as an additional insured. DSYSA shall provide proof of such insurance to the City prior to the Effective Date, and annually thereafter, and ensure that the policy includes a provision requiring thirty (30) days' notice to the City prior to any cancellation or change in terms of the policy. DSYSA shall also maintain workers' compensation insurance and commercial automobile liability coverage if vehicles are used in connection with the Agreement.

13.4 Compliance with Laws

13.4.1 General

DSYSA shall comply in all material respects with applicable laws, rules, regulations and orders, such compliance to include, without limitations, promptly obtaining and maintaining all governmental approvals as are necessary for the operation of its business, and paying all taxes, assessments, and governmental charges imposed upon it or upon its property except for good faith contests for which adequate reserves are being maintained.

13.4.2 Americans with Disabilities Act

- (a) DSYSA shall be and remain in compliance with the Americans with Disabilities Act of 1990 as amended from time to time (ADA Act) to the extent applicable during the Term of this Agreement.
- (b) The City may cancel or terminate this Agreement if DSYSA fails to comply with the Act.
- (c) DSYSA represents that it is familiar with the terms of the ADA Act and that it is in compliance with the ADA Act.
- (d) DSYSA warrants that it shall hold the City harmless for any liability which may be imposed upon the City as a result of any failure by the City to be in compliance with the ADA Act.
- (e) As applicable, DSYSA shall comply with section 504 of the Federal Rehabilitation Act of 1973, as amended from time to time, regarding access to programs and facilities by people with disabilities.

13.4.3 City Ordinances

DSYSA shall familiarize itself with and comply with the following City ordinances:

- (a) Outdoor Lighting Ordinance, including with respect to the use of lighting on the Fields;
- (b) Parks Rules;
- (c) Solicitation Ordinance, including with respect to the hosting of special events and the conduct of sales by itinerant vendors;
- (d) Mobile Food Vendor Ordinance; and
- (e) Sign Ordinance.

13.5 Indemnification

DSYSA AGREES TO INDEMNIFY, DEFEND, AND HOLD HARMLESS THE CITY, ITS OFFICERS, AGENTS, AND EMPLOYEES FROM AND AGAINST ANY AND ALL CLAIMS, DAMAGES, LOSSES, AND EXPENSES ARISING OUT OF OR RESULTING FROM DSYSA'S USE OF THE USE AREAS.

13.6 Consequential Damages

Subject to section 11.4 above, 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.

13.7 Waiver of Liability

The City shall not be liable to DSYSA or its invitees for any loss, damage, injury, spoiling or deterioration that occurs as a result of an interruption in the supply of utilities to the Use Areas or in connection with DSYSA's use of the Use Areas.

13.8 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 City:

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

For DSYSA:

Attention: President
Dripping Springs Youth Sports Association, Inc.
P.O. Box 637
Dripping Springs, TX 78620

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.

13.9 Mandatory Disclosures

Texas law requires that vendors make certain disclosures. Prior to the Effective Date of this Agreement, the DSYSA 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). DSYSA 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) DSYSA does not have a policy or practice of discriminating against firearm entities or firearm trade associations; (4) DSYSA does not boycott energy companies; and DSYSA is compliant with all other Texas laws including any additional disclosure requirements.

13.10 Supersession and Termination of Prior Agreements

- (a) Upon the Effective Date, the Prior Agreements shall be deemed terminated and superseded in their entirety.
- (b) Notwithstanding the foregoing, any obligations under the 2024 Agreement related to minimum water taking requirements and the first-year liability cap (\$120,000) shall remain in full force and effect and are incorporated into this Agreement.

13.11 Entire Agreement

- (a) This Agreement constitutes the entire understanding between the parties regarding maintenance, use, and irrigation at Sports and Recreation Park and Founders Memorial Park.
- (b) If a conflict arises between this Agreement and any prior agreement, this Agreement shall control.

13.12 Amendment

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

13.13 Relationship of Parties

- (a) It is understood by the parties that DSYSA is an independent contractor with respect to the City and not an employee of the City.
- (b) The City will not provide fringe benefits, including health insurance benefits, paid vacation, or any employee benefit, for the benefit of DSYSA.
- (c) The City may contract with other individuals or firms for services of any kind.

13.14 Employees

DSYSA's employees, volunteers, agents, servants, directors and officers, if any, who perform services for City under this Agreement shall also be bound by the provisions of this Agreement. At the request of City, DSYSA shall provide adequate evidence that such persons are DSYSA's employees or servants.

13.15 Governing Law

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

13.16 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.

13.17 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.

13.18 Force Majeure

- (a) 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, civil riot or unrest, and governmental action that was unforeseeable by all parties at the time of the execution of this Agreement.
- (b) 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.

13.19 Waiver

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

13.20 Hyperlinks and Section Headings

The hyperlinks and 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.

13.21 Exhibits

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.

13.22 Execution in Counterparts

- (a) 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.
- (b) A signed copy of this Agreement delivered by facsimile, electronic signature platform, 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.

13.23 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.

City of Dripping Springs

*Dripping Springs Youth Sports Association,
Inc.*

Michelle Fischer
City Administrator

●
●

Date

Date

EXHIBIT "A"

USE AREAS MAP



Figure 1. Sports and Recreation Park

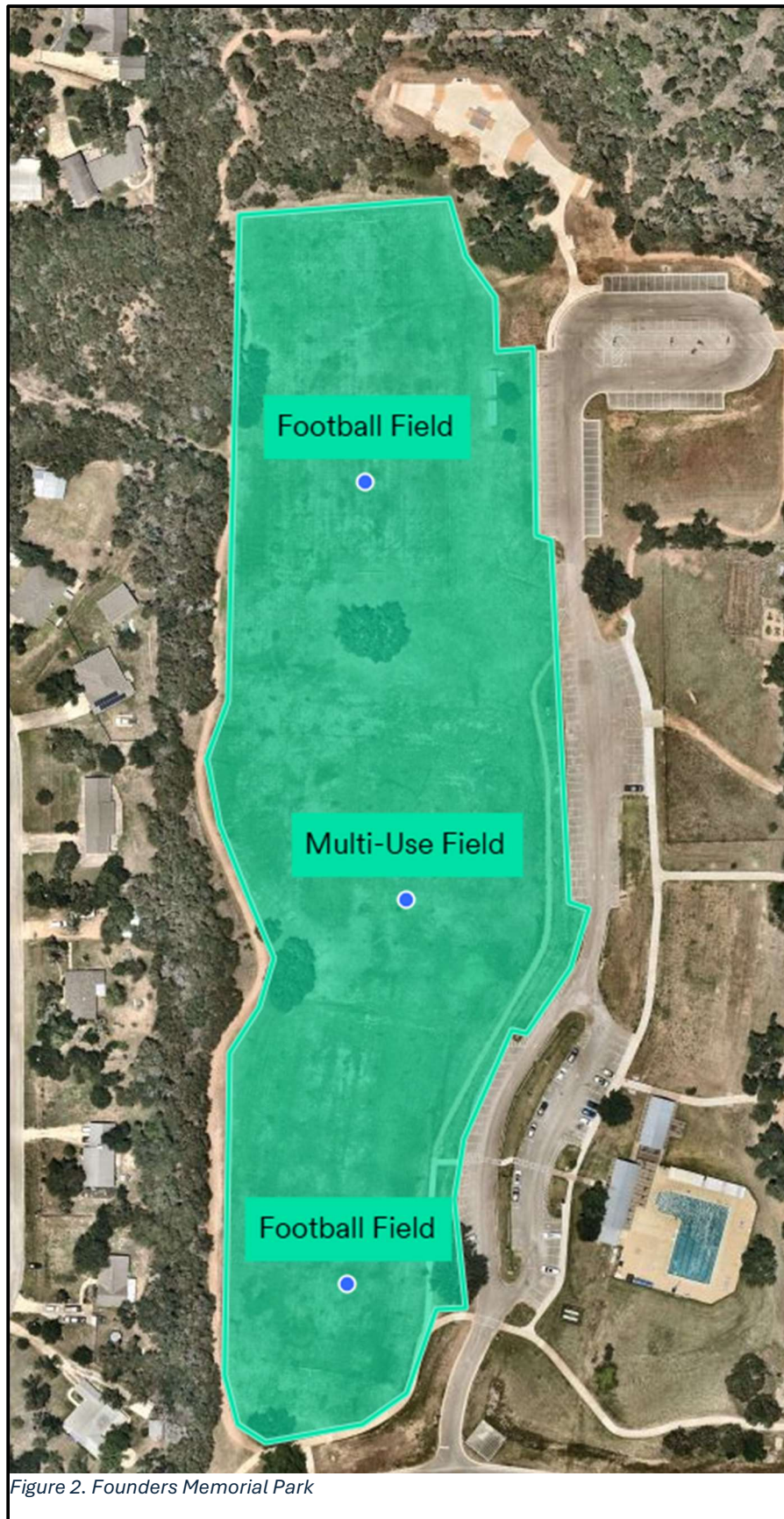


Figure 2. Founders Memorial Park

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