

JOINT USE AGREEMENT

for Mountain Bike Trails

This Joint Use Agreement for the utilization of bicycle trails at Dripping Springs Ranch Park (“Agreement”) is between the City of Dripping Springs (“City”), and the Dripping Springs Mountain Bike Club (“Club”). In this Agreement, the City and Club are sometimes individually referred to as a “Party”, and collectively referred to as the “Parties”.

RECITALS:

- WHEREAS,** the City Council of the City of Dripping Springs (“City Council”) authorizes and encourages the use, construction, designation, and maintenance of mountain bike trails to promote the health and general welfare of the community; and
- WHEREAS,** the City of Dripping Springs (“City”) owns, manages, and operates park lands and facilities for the recreational use of the public;
- WHEREAS,** the City is the owner of real property in the City, including Dripping Springs Ranch Park (“DSRP”), trails and active use areas that are capable of being used by the Team for mountain biking purposes; and
- WHEREAS,** this project authorized by the City includes the construction and maintenance of mountain biking trails in DSRP; and
- WHEREAS,** under appropriate circumstances, these publicly held lands and facilities should be used most efficiently to maximize use and increase recreational opportunities for the community; and
- WHEREAS,** the City Council finds that the creation of mountain bike trails will increase tourism and revenue to the City; and
- WHEREAS,** subject to the terms and conditions hereinafter stated, City and Club agree to the joint use of the trails; and
- WHEREAS,** the Parties desire to enter into this Agreement to set forth in writing their respective rights, duties, and obligations.

NOW, THEREFORE, WITNESSETH, that for and in consideration of the mutual promises contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties mutually 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. Cooperation.** Each of the Parties is lawfully entitled to utilize the type of trails described in this Agreement, and is therefore allowed to cooperate with the other Party for the mutual use of the trails.

ARTICLE 2. DEFINITIONS

Key terms in this Agreement are defined below. Certain other capitalized terms have the meanings given in the Recitals of this Agreement where first used.

- (a) **City:** The City of Dripping Springs, a General Law, Type-A municipality located in Hays County, Texas.
- (b) **City Administrator:** The chief administrative officer of the City, or the officer's designee.
- (c) **City Council:** The governing body of the City of Dripping Springs.
- (d) **Co-Sponsor:** A person that is neither an agent nor an employee of the City. Co-Sponsor is solely responsible for directing and controlling Co-Sponsor's resources and staff in order to achieve the goals of this Agreement.
- (e) **Dripping Springs Mountain Bike Club:** non-profit organization directed towards middle and high school students that promotes mountain biking.
- (f) **Park:** A public area which includes Dripping Springs Ranch Park located at: 1042 Event Center Drive, Dripping Springs, Texas, 78620.
- (g) **Trails:** Multi-use trails in Dripping Springs Ranch Park designated as such by Dripping Springs Ranch Park Manager or City Administrator.

ARTICLE 3. TERM

- 3.1. Effective Date.** This Agreement shall be effective on the date upon which the binding signatures of all Parties to this Agreement are affixed.
- 3.2. Duration.** This Agreement shall be in effect for an initial term of one year, after which it will automatically renew for successive one-year periods unless: (a) A Party provides the other party with written notice of the intention not to renew the Agreement 90 days prior to end of the then-current year term; or (b) terminated as provided below.
- 3.3. Termination:** This agreement may, by written notice given in the manner hereafter provided, be terminated by:
- a. Either Party with written notice 90 days prior to the termination date;
 - b. Mutual written consent of the Parties;
 - c. City if a default or breach shall be made by Club with respect to the due and timely performance of any of its covenants and agreements contained herein; or

- d. Club if a default or breach shall be made by City with respect to the due and timely performance of any of its covenants and agreements contained herein.

ARTICLE 4. OBLIGATIONS

4.1. City's Obligations.

- (a) City agrees to allow Club the use of the Trails for purposes of practicing for competitions.
- (b) City shall take reasonable steps to ensure that waste is not performed upon the Trails, and that any damage to the Trails is limited to reasonable wear and tear.
- (c) The City shall, keep and maintain the Park free of all trash, graffiti, vandalism, weeds and debris, and at all times in an orderly, clean, safe, and sanitary condition. The City shall keep the Park adequately lighted and under surveillance by police patrol to eliminate the possible creation of a nuisance or hazard to the public.
- (d) The City shall secure all necessary permits required in connection with operations on the Premises and shall comply with all federal, state and local statutes, ordinances, or regulations which may affect, in any respect, City's use of the Premises.

4.2. Club's Obligations.

- (a) Club agrees to construct, maintain, and repair the Trails in a good and usable condition during the term of this Agreement. Proposed new trails must be approved by the DSRP Manager or City Administrator before commencing work.
- (b) Club shall furnish all labor, materials, mechanical workmanship, transportation, equipment, and services necessary for the completion of the construction of the Trails described in this Agreement and in accordance with the plan (if any) and other Agreement documents to conduct the installation required under this Agreement in an efficient manner.
- (c) Club shall provide supervision of all work crews while performing the Work. On-site supervision is not required as long as communication equipment is provided which enables the work crew to communicate with a project supervisor at all times.
- (d) Club shall take reasonable steps to ensure that waste is not performed upon the City Trails, and that any damage to the Trails is limited to reasonable wear and tear. Costs incurred by the City to repair or replace any destruction, damage or injury to Trails during the Club's use of the Trails shall be paid for by Team within thirty (30) days of Club's receipt of an invoice from the City.
- (e) Club shall exercise reasonable care and due diligence to avoid harming City property.

- (f) The expense of any and all maintenance, operation expenses and or relocation of said Trails shall be born solely by the Club.
- (g) Obey all laws, rules, regulations, and terms of the Lease, and of the use, condition, and occupancy of the Leased Premises, including the rules and regulations of the Park, if any, as amended.
- (h) The Club shall secure all necessary permits required in connection with operations on the Premises and shall comply with all federal, state and local statutes, ordinances, or regulations which may affect, in any respect, Club's use of the Trails.

ARTICLE 5. PERMITTED USES

5.1. Club Use.

The Club shall be entitled to the exclusive use of the Trails for the Club's practice location and be the official home trail of the Club.

5.2. City Use.

At all other times, the City and third parties authorized by the City will be entitled to use the Trails for community recreational and educational purposes.

ARTICLE 6. GENERAL PROVISIONS

- 6.1. Scheduling.** The schedule for the parties' joint use of the Trails will be coordinated by the Dripping Springs Ranch Park Manager, and the Coach, Lance Thornton, for the Club, who will communicate routinely throughout the term of this Agreement.
- 6.2. Insurance.** Each Party will maintain their own liability insurance to cover the activities described by this Agreement.
- 6.3. Force Majure.** Neither City nor Club 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 must be undertaken to mitigate its effects.
- 6.4. Independent Status.** Club is independent, and is not City's employee. Club employees or subcontractors are not City's employees. 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.
- 6.5. Indemnification.** Club shall defend, indemnify, and hold City, their successors, assigns, officers, employees and elected officials harmless from and against all suits, actions, legal proceedings, claims, demands, damages, costs, expenses, attorney's fees, and any

and all other costs or fees arising out of, or incident to, concerning or resulting from the fault of Club or Club's agents, employees, subcontractors, invitees, guest or trespasser in the performance of Club's obligations under this Agreement, no matter how, or to whom, such loss may occur.

- 6.6. Notice.** All notice and other communications in connection with this Agreement shall be in writing and shall be considered given as follows:

City of Dripping Springs
Attn: City Administrator
P.O. Box 384
Dripping Springs, Texas 78620

Dripping Springs Mountain Bike Club

Lance Thornton

10108 Little Creek Circle

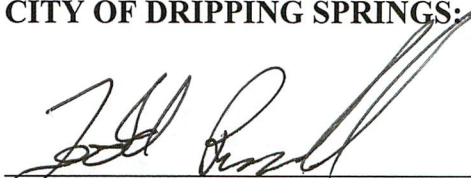
Dripping Springs, TX 78620 512-561-7803

- 6.7. Waiver.** No covenant or condition of this Agreement may be waived without consent of the Parties.
- 6.8. Exclusive Agreement.** This document constitutes the entire Agreement between the Parties. This Agreement may only be amended or supplemented by mutual agreement of the Parties in writing.
- 6.9. Severability.** Should any of the clauses, sentences, paragraphs, sections or parts of this Agreement be deemed invalid, unconstitutional, or unenforceable by a court or administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid portion of this Agreement.
- 6.10. Assignment.** The Parties each hereby bind themselves, their successors, assignees and legal representatives to each other with respect to the terms of this Agreement. This Agreement, any part thereof, or any interest herein shall not be assigned by Club without the express written consent of the City.
- 6.11. Authority to Act.** The Parties each represent and warrant that the signatories on this Agreement are authorized to execute this Agreement. Each Party warrants that any action required to be taken in order for this Agreement to be binding on it has been duly and properly taken prior to the execution of this Agreement.
- 6.12. Venue and Enforcement.** This Agreement shall be enforceable in Dripping Springs, Texas, and if legal action is necessary by any of the Parties with respect to the enforcement of any or all of the terms or conditions of this Agreement, exclusive venue

for same shall lie in Hays County, Texas. This Agreement shall be governed by and construed in accordance with the laws and court decisions of the State of Texas.

IN WITNESS WHEREOF, the Parties to these presents have executed this Agreement on the dates indicated.

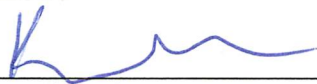
CITY OF DRIPPING SPRINGS:

by: 

Todd Purcell, Mayor

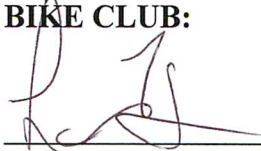
Date Signed: 6-10-16

ATTEST:

by: 

Kerri Craig, City Secretary

DRIPPING SPRINGS MOUNTAIN BIKE CLUB:

by: 

Date Signed: 6-2-16

ATTEST:

by: 