

DRIPPING SPRINGS RANCH PARK

USE AGREEMENT

This Use Agreement (together with all Exhibits and attachments specifically described herein, the “Agreement”) by and between the City of Dripping Springs, Texas, a Type A, general-law municipality incorporated pursuant to the laws of the State of Texas and located in Hays County, Texas, (the “City”) and the Dripping Springs Vocational Ag Boosters Association, Inc., a domestic nonprofit corporation, (the “Ag Boosters”) providing for the terms of use of the Dripping Springs Ranch Park Events Center and other park amenities (the “DSRP Premises” or the “DSRP”).

WHEREAS, the City is a Type A, general-law municipality incorporated pursuant to the statutes of the State of Texas; and

WHEREAS, the City has express authority to contract with other persons pursuant to Section 51.014 of the Texas Local Government Code; and

WHEREAS, the City enacted a Policy for Use of DSRP ("Policy") which sets out standards and guidelines for allowing entities to use Dripping Springs DSRP at no charge or at a reduced rate; and

WHEREAS, the City Council determines that Ag Boosters meets the standards set forth in the Policy; and

WHEREAS, the City of Dripping Springs finds that the use of DSRP by the Ag Boosters is for the public purpose of providing an event that will serve the local community and benefit the residents of the City; and

WHEREAS, the City Council finds that the following provisions are reasonable and necessary for the use of DSRP by the Ag Boosters.

NOW THEREFORE, for and in consideration of the mutual covenants and obligations hereinafter set forth, and for other good and valuable consideration the City and Ag Boosters herein bargain, covenant, and agree with one another as follows:

A. Purpose: This Agreement serves as a statement or exchange of promises between the City and the Ag Boosters. It is enacted to provide clear responsibilities and duties for the use of DSRP by Ag Boosters to ensure that the use of DSRP by the Ag Boosters benefits the public, and specifically, the residents of Dripping Springs.

B. Obligations of the Parties:

(1) Use of DSRP

(a) Ag Boosters Fall Classic Stock Show. The City agrees to allow the Ag Boosters to use the DSRP Event Center to hold the Ag Booster Fall Classic Stock Show at 50% discount on facility rental fees. The City understands and agrees that Ag Boosters will use the DSRP

Event Center for the Ag Booster Fall Classic Stock Show the third weekend of each November for a total of four (4) days, including two (2) days to set up for the event, and two (2) days to conduct the event.

- (b) Additional Weekends. The City agrees to allow the Ag Boosters to use the DSRP Event Center for two additional weekend events for a total of four (4) days at 50% discount on facility rental fees. Ag Boosters understands and agrees that the dates for use of DSRP for the weekend events will depend on availability in accordance with Subsection (c) below. If Ag Boosters assigns the weekend to another organization. They are required to follow all requirements of this agreement.
- (c) Scheduling. Ag Boosters agrees and understands that in the event that Ag Boosters is scheduled to utilize DSRP during a time when another person or entity who is willing and required to pay 100% rates for use of DSRP wishes to schedule an event, where the schedule request is made at least thirty (30) days prior to the scheduled Ag Booster event, the City and the Ag Boosters will schedule the Ag Boosters event around the paying entities' event. Both parties understand that once the Ag Boosters event is scheduled, the City may not move the Ag Boosters event without the consent of Ag Boosters within thirty (30) days of the event.
- (d) Service to the Community. The Ag Boosters agree that the use of DSRP will be in furtherance of its service to the community of the City of Dripping Springs.

(2) Concession Stand

Operation of Concession Stand. The City agrees to allow the Ag Boosters the option to operate, supply with concessions, and maintain the concession stand at DSRP when an entity scheduled to use DSRP requests that the City provide those services at a 50% discount on facility rental fees. The City agrees to allow the Ag Boosters to retain all profits generated from concessions sold when the Ag Boosters operate the concession stand and provide all supplies, goods, and services in accordance with this subsection.

(3) Rental Fee Responsibilities:

- (a) Dripping Springs Ag Boosters will be responsible for facility rental fees at a 50% discount.
- (b) Ag Boosters shall be required to pay all other facility fees like custodial fees, equipment fees, and staff fees for event setup or breakdown at no discount.
- (c) For events with a large attendance, Ag Boosters will be required to hire a bathroom porter.
- (d) For livestock shows, Ag Boosters shall be required to purchase shavings from DSRP.
- (e) For livestock shows, Ag Boosters shall be required to pay stall and pen cleaning fees, as necessary upon facility manager's sole discretion.

- (f) Ag Boosters shall be responsible for staffing fees and after-hours fees, if applicable, when
- The rental period is more than twelve (12) hours including setup and breakdown;
 - The event ends after midnight; or
 - The event requires more than two (2) staff members.

(g) All RV and Stall Reservations are the responsibility of DSRP staff.

(g)(h) Ag Boosters shall complete a rental agreement for each event in addition to execution of this agreement.

(4) Shavings: Ag Boosters may sell shavings at Livestock shows when requested by DSRP staff at the rate specified on the fee schedule. Fee includes sales tax. DSRP will provide Ag Boosters an inventory count of the shavings prior to the event. An inventory count will be conducted post event and DSRP will invoice Ag Boosters for the shavings sales minus the amount Ag Boosters retains. Ag Boosters will keep \$1.00/bag sold. DSRP is responsible for paying all sales tax.

(5) Care of Premises: Ag Boosters agrees that each time DSRP is used by Ag Boosters, Ag Boosters will ensure that DSRP is left in as clean and orderly state as before each meeting. Ag Boosters agrees not to injure, mar, or in any manner deface any part of the DSRP premises and/or property and agrees not to cause or permit anything to be injured, marred, or defaced. Without the written consent of the City, nothing shall be affixed to the building, furnishings, or fixtures and no flammable materials may be brought on Dripping Springs DSRP premises unless the City is notified in advance that such material will be brought on DSRP premises.

(6) Insurance: **AG Boosters shall assume all risk and liability for accidents and damages that may occur to persons or property during AG Booster events under this Agreement. AG Booster shall not be covered by the City's liability carrier. AG Boosters shall, at its own and sole expense, acquire and maintain insurance coverage with insurers licensed to do business in the State of Texas and acceptable to the City for the full term of this Agreement. AG Boosters shall comply with all insurance requirements _____. in Exhibit "A". AG Boosters shall notify the City in writing within thirty (30) days of any material change or cancellation of coverage.**

C. Contact Information

(1) Ag Boosters will at all times maintain the following points of contact:

Dripping Springs Ag Boosters
Attn: Stephanie Kirkey
P.O Box 1008 Dripping Springs, TX 78620
863-447-6878
dsagboosters@gmail.com

(2) The primary point of contact under this Agreement for the City shall be:

Dripping Springs Ranch Park
Attn: DSRP Manager, Emily Nelson
PO Box 384
Dripping Springs, TX 78620
Phone: 512-894-2390
Email: enelson@citvofdrippingsprings.com

D. Term and Termination: The term of this Agreement shall be for three (3) years. Either party may terminate this agreement by giving written notice thirty (30) days prior to termination for any reason. This agreement may also be terminated at any time for cause if either party breaches any provision of this agreement.

E. Effective date: This agreement takes effect January ____, 2023.

F. Indemnification: AG BOOSTERS, ITS AGENTS AND/OR EMPLOYEES (AG BOOSTER GROUP) SHALL INDEMNIFY, RELEASE AND HOLD THE CITY, THE CITY'S AGENTS, EMPLOYEES, AND/OR VOLUNTEERS (CITY GROUP) HARMLESS FROM ANY AND ALL CLAIMS WITHOUT REGARD TO THE CAUSE OR CAUSES THEREOF OR THE NEGLIGENCE OF ANY PARTY, ARISING FROM AG BOOSTERS GROUP'S PARTICIPATION AT DRIPPING SPRINGS DSRP, INCLUDING BUT NOT LIMITED TO DEATH, ILLNESS, DISEASE, PERSONAL INJURY AND LOST OR DAMAGE TO ANY PROPERTY OF ANY MEMBER OF AG GROUP.

NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, UNDER NO CIRCUMSTANCES, WHETHER UNDER BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, OR ANY OTHER THEORY OF LIABILITY SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY CONSEQUENTIAL, SPECIAL, INDIRECT, INCIDENTAL, EXEMPLARY, ENHANCED, TREBLE (STATUTORY OR EQUIVALENT), OR PUNITIVE DAMAGES, INCLUDING WITHOUT LIMITATION, LOSS OF PROFITS, LOSS OF BUSINESS OPPORTUNITY OR LOSS OF PROSPECTIVE REVENUE, ARISING OUT OF THIS AGREEMENT OR ANY WORK OR SERVICES PERFORMED OR TO BE PERFORMED HEREUNDER.

G. Transferability: Except as may otherwise be expressly provided herein, the rights and obligations created by this Agreement may not be transferred or assigned to another party without the express written consent of the City and Ag Boosters. Any assignment, if permitted, shall not relieve either party from obligations hereunder.

H. Governing Law: The laws of the State of Texas shall govern any disputes or conflicts that

arise under the terms of this Agreement. The venue for all legal actions involving this Agreement shall be Hays County.

- I. Reports of Incidents:** Within twenty-four (24) hours upon occurrence, Ag Boosters shall provide, in writing, to the City notice and details of any accidents or occurrences resulting in injuries to persons, property, or pollution arising in any way from Ag Boosters activities at DSRP.
- J. Entire Agreement:** This document represents the entirety of the agreement between the City and the Ag Boosters. No oral or other written contracts outside of this Agreement shall have any affect unless they are approved m writing by both parties and made a part of this Agreement.
- K. Other Documents:** The City and Ag Boosters agree to execute such further documents, and to take such further acts, as may be necessary or required to carry out the terms of this Agreement.
- L. Amendments:** This Agreement may be amended only by an instrument in writing signed by the City and the Ag Boosters.
- M. Severability:** The provisions of this Agreement are severable, and if any provision or part of this Agreement or the application thereof to any person or circumstance shall ever be held by any agency or court of competent jurisdiction to be unenforceable, invalid or unlawful for any reason, the remainder of this Agreement shall not be affected thereby.

EXECUTED this, the _____ day of _____, 2023.

CITY OF DRIPPING SPRINGS

Bill Foulds, Mayor

DRIPPING SPRINGS AG BOOSTERS:

Stephanie Kirkey, President

Exhibit “A”

Event Lessee must provide a copy of its certificate of liability insurance, with a separate endorsement listing the City as an additional named insured, in the amount of \$1,000,000.00, insuring against any and all claims for personal injury, death, and/or property damage relating to the event and the Dripping Springs Ranch Park Event Center and Outdoor Arena.