

## USE AGREEMENT

### Sports and Recreation Park Adult Softball Fields

This Use Agreement (the "Agreement") is entered into on this \_\_\_ day of \_\_\_\_\_, 2024, by and between the City of Dripping Springs, Texas, a Type-A General Law Municipality (the "City"), and Hillary Armstrong, an Individual (the "User").

WHEREAS, the User is an individual who wishes to provide for a women's softball league at Sports and Recreation Park;

WHEREAS, the City agrees to allow the User and the women's softball teams to use the adult softball fields for their games;

WHEREAS, the City and the User wish to set forth the terms of the User's use of the adult softball fields in this Use Agreement.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the City and User agree as follows:

#### **1. Grant of Use**

The City grants User the right to use the designated portions of Sports and Recreation Park as set out in this Agreement, specifically the Adult Softball Fields.

#### **2. Access to Facilities**

- (a) User shall have access to two fields from 6 p.m. to 10 p.m. every Wednesday Night from March 5<sup>th</sup> – May 28<sup>th</sup>.
- (b) If there is an emergency such as inclement weather, public health emergency, or an unforeseen circumstance, the City may decide to close the fields or limit access to the Park on impacted days. If the fields or Park are closed, the City will work with the user to reschedule the canceled game during the season.

#### **3. Insurance**

The User must maintain commercial general liability insurance coverage of at least \$3,000,000 per occurrence and at least \$5,000,000 per team aggregate, listing the City as an additional insured. The User shall provide proof of such insurance to the City 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.

#### **4. Payments by User**

The User is responsible for ensuring payment of field rental fees, including electricity, prior to league play at the cost of field fees and electricity.

## **5. League Resources**

The User will provide all equipment needed for the games as well as providing for and compensating, as needed, scorekeepers and umpires.

## **6. Waivers**

The User will collect signed waivers substantially in the form set out in Attachment “A” for each participant in field use to the City prior to the person’s participation in the league. Electronic copies of the waivers will be accepted, as well as hard copies, so long as hard copies are provided within seven (7) business days of signature. Copies can be provided electronically to the Director of Parks and Community Services at [abinz@cityofdrippingsprings.com](mailto:abinz@cityofdrippingsprings.com) and in hard copy at Dripping Springs Ranch Park, 1042 Event Center Drive, Dripping Springs, Texas 78620. Any participant without a signed waiver cannot use the fields.

## **7. Compliance with Rules**

The User will ensure compliance with all park rules, all Women’s Softball League rules, and all direction from City Staff and officials, shall ensure that no one will park on the grass adjacent to the fields, but shall use marked parking places. Any parking outside marked parking places shall incur the cost of damage to the grass up to \$100 per night. Any deviation from compliance with these rules, including unauthorized parking, can result in immediate suspension or termination of the use agreement without refund other than the deposit if not needed for damages or cleanup.

## **8. City Responsibilities**

- (c) City shall not collect individual fees, hire scorekeepers or umpires, or create schedules for games.
- (d) City will collect trash in city cans. Any trash outside of city cans will be the responsibility of user and will result in damages charge or deduction in deposit if left behind after field use.
- (e) City will ensure fields and lights are usable for each night of play.

## **9. Rental Fees and Payment**

- (a) Total Rental Fees per Season will be as follows:
  - (i) Field Fees: (2 fields x \$75/day x 12 days) = \$1,800
  - (ii) Electricity Fees: (use of lighting and scoreboard): (2 fields x \$75/day x 12 days) = \$1,800

Total Fees Per Season due to the City of Dripping Springs = \$3,600

- (b) Deposit: (to be used for damage to grass for unauthorized parking, additional cleanup after field use, or any damages): \$200/season
- (c) Payment of up to \$100 per game if excessive cleaning is needed after use of field. Documentation of need for excessive cleaning will be provided to user prior to charge of fee.
- (d) Additional use of fields shall be subject to City's fee schedule.

**10. No Property Rights Conveyed**

It is specifically agreed that nothing herein is intended to convey any real property rights of the fields to the User.

**11. Release of Liability**

The City assumes no responsibility for any property placed by the User or any User member, agent, participant, or guest, at the fields or in the Park or any part thereof, and THE CITY IS HEREBY EXPRESSLY RELEASED AND DISCHARGED FROM ANY AND ALL LIABILITY FOR ANY LOSS, INJURY, OR DAMAGE TO PERSONS OR PROPERTY THAT MAY BE SUSTAINED BY REASON OF THE USE OF THE FIELDS, PARK, AND RELATED FACILITIES UNDER THIS AGREEMENT.

**12. Assumption of Liability**

The User accepts full responsibility for protecting property and equipment and assume any and all liability for repairs or replacement necessitated by any damage done to fields, equipment, or other property used by the User.

**13. As-Is Premises**

The User accepts the premises as-is. User may not change any part of the fields or layout of its related facilities unless it receives prior written approval from the Parks and Community Services Director for the proposed changes.

**14. Termination**

- (a) Either party may terminate this Agreement without cause upon the terminating party giving the non-terminating party fourteen (14) day written notice.
- (b) This Agreement may be immediately suspended or terminated by the City if any rules, ordinances, or directions are violated by the User, or the User's participants, guests, agents, or members.

**15. Indemnification**

USER AGREES TO INDEMNIFY AND HOLD HARMLESS THE CITY, ITS AGENTS, SERVANTS, AND EMPLOYERS, FROM AND AGAINST ANY AND ALL CLAIMS FOR DAMAGES OR INJURIES TO PERSONS OR PROPERTY ARISING OUT OF OR INCIDENT TO THEIR USE OF, OR THE USE AND OCCUPANCY OF THE FIELDS BY THE USER OR PARTICIPANTS, AND THE USER DOES HEREBY ASSUME ALL LIABILITY AND RESPONSIBILITY FOR INJURIES, CLAIMS OR SUITS FOR DAMAGES TO PERSONS OR PROPERTY WHATSOEVER KIND OR CHARACTER, WHETHER REAL OR ASSERTED, OCCURRING DURING THE TERM OF THIS AGREEMENT IN CONNECTION WITH THE USE OR OCCUPANCY OF THE FIELDS BY USER OR ITS AGENTS, SERVANTS, EMPLOYEES, CONTRACTORS OR SUBCONTRACTORS, MEMBERS, GUESTS, PARTICIPANTS.

**16. Limitation of Liability**

The User’s liability for any claims, damages, or losses arising under this Agreement shall not exceed the insurance coverage limits required by Section 3. This provision supersedes conflicting liability terms elsewhere in this Agreement.

**17. Assignment**

The User shall not assign this Agreement, or any rights, obligations, dates, discounts, or entitlements created under this Agreement to any other person or entity.

**18. 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 City  
P.O. Box 384  
Dripping Springs, TX 78620

**For the User:**

[To be inserted]

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.

**19. 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.** This Agreement shall be governed by and construed in accordance with the laws of the State of Texas.
- (d) **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.
- (e) **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 USER:**

\_\_\_\_\_  
Michelle Fischer  
City Administrator

\_\_\_\_\_  
Hillary Armstrong

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**ATTACHMENT “A”:  
Participant Waiver and Release of Liability Agreement**

\_\_\_\_\_  
Participant’s Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Date of Birth

\_\_\_\_\_  
City, State, ZIP

\_\_\_\_\_  
Email Address

\_\_\_\_\_  
Phone Number

**Acknowledgment and Assumption of Risk**

I, the undersigned participant, understand that participation in the Dripping Springs Women’s Softball League, including but not limited to training, practice sessions, competitions, and related volunteer work (the “Activities”) involves inherent risks of injury, including but not limited to personal injury, property damage, and death. I acknowledge that participation in the Activities is voluntary and that I assume all risks associated with the Activities.

**Waiver and Release**

In consideration of being allowed to participate in the Activities, I AGREE TO INDEMNIFY AND HOLD HARMLESS HILLARY ARMSTRONG, THE DRIPPING SPRINGS WOMEN’S SOFTBALL LEAGUE, AND THE CITY OF DRIPPING SPRINGS, ITS OFFICERS, EMPLOYEES, AGENTS, AND REPRESENTATIVES (THE “CITY”) AGAINST AND FROM ANY AND ALL CLAIMS, LIABILITIES, DEMANDS, ACTIONS, OR CAUSES OF ACTION, INCLUDING BUT NOT LIMITED TO CLAIMS OF NEGLIGENCE, INCLUDING REASONABLE ATTORNEY’S FEES AND COSTS, WHICH MAY ARISE FROM MY PARTICIPATION IN THE ACTIVITIES.

\_\_\_\_\_  
Participant’s Signature

\_\_\_\_\_  
Date