

DONATION AGREEMENT

This 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 Dripping Springs Land Partners, LLC, a Texas limited liability company ("Donor") providing for the requirements for and process of conveying and accepting donations to the City.

WHEREAS, the City is a general-law Type A municipality incorporated pursuant to the statutes of the State of Texas, and as such is authorized to accept donations for the benefit of the City; and

WHEREAS, the City is eligible under United States Internal Revenue Code Section 170(c)(1) to receive tax-deductible charitable contributions; 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 of Dripping Springs encourages the donation of charitable contributions to the City for the benefit of the City and its residents; and

WHEREAS, the City Council finds that this Agreement will ensure complete implementation of a Donation; and

WHEREAS, the City Council finds that the following provisions are reasonable and necessary for the acceptance of donations.

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 Donor 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 Donor. It is enacted to provide clear responsibilities and duties for the conveyance of a Donation by Donor and acceptance of a Donation by the City. The Agreement will ensure that each Donation accepted by the City is in the best interest of the City and its citizens.

B. Definitions

- (1) **Agreement**: a statement or exchange of promises between the City and any Donor.
- (2) **City**: the City of Dripping Springs, an incorporated Type A, general-law municipality located in Hays County, Texas.
- (3) **City Administrator**: the chief administrative officer of the City, or the officer's designee.
- (4) **Donation**: any monetary or nonmonetary gift, grant, devise or bequest to the City. A monetary donation includes cash or a check, money order or other negotiable instrument. A nonmonetary donation includes real or personal property.
- (5) **Donor**: a person who gives a gift through a trust or charitable contribution.

DONATION AGREEMENT

This 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 Dripping Springs Land Partners, LLC, a Texas limited liability company ("Donor") providing for the requirements for and process of conveying and accepting donations to the City.

WHEREAS, the City is a general-law Type A municipality incorporated pursuant to the statutes of the State of Texas, and as such is authorized to accept donations for the benefit of the City; and

WHEREAS, the City is eligible under United States Internal Revenue Code Section 170(c)(1) to receive tax-deductible charitable contributions; 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 of Dripping Springs encourages the donation of charitable contributions to the City for the benefit of the City and its residents; and

WHEREAS, the City Council finds that this Agreement will ensure complete implementation of a Donation; and

WHEREAS, the City Council finds that the following provisions are reasonable and necessary for the acceptance of donations.

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 Donor 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 Donor. It is enacted to provide clear responsibilities and duties for the conveyance of a Donation by Donor and acceptance of a Donation by the City. The Agreement will ensure that each Donation accepted by the City is in the best interest of the City and its citizens.

B. Definitions

- (1) **Agreement:** a statement or exchange of promises between the City and any Donor.
- (2) **City:** the City of Dripping Springs, an incorporated Type A, general-law municipality located in Hays County, Texas.
- (3) **City Administrator:** the chief administrative officer of the City, or the officer's designee.
- (4) **Donation:** any monetary or nonmonetary gift, grant, devise or bequest to the City. A monetary donation includes cash or a check, money order or other negotiable instrument. A nonmonetary donation includes real or personal property.
- (5) **Donor:** a person who gives a gift through a trust or charitable contribution.

- (6) ***In-Kind***: payment or Donation made in the form of goods or services, rather than cash.
- (7) ***Labor***: physical or mental exertion or productive activity that satisfies a City need.
- (8) ***Land***: real property (i.e., real estate), including any fixtures or improvements upon and all water / mineral rights (unless expressly excluded).
- (9) ***Materials***: Goods or products that satisfy a City need.
- (10) ***Person***: a human individual, sole proprietorship, partnership, corporation, nonprofit corporation, foundation or unincorporated association, agency.
- (11) ***Project***: an endeavor or undertaking for which a Donation is proposed, which is reasonably anticipated to benefit: (a) the City as an organization; (b) the citizenry, including residents, voters, and guests; or (c) the community at-large.
- (12) ***Tax Deduction***: An expense, such as a charitable contribution, that can be deducted from one's taxable income.

C. Types of Donations Generally

- (1) The City is not legally able to own stock. As such, any donation of stock will be liquidated and turned into cash or another liquid asset, and treated as a monetary donation.
- (2) The City will not accept any type of Donation that the City Administrator, Deputy City Administrator, or Mayor (or City Council as provided below) deem is not beneficial to the City.

D. Conveyance of Donation

- (1) Except for Donations of Land, the City will only accept Donations along with the requisite Donation Form presented to the City Administrator, Deputy City Administrator, or the Mayor at City Hall during normal City Hall hours.
- (2) City must agree to allocate a minimum of one (1) acre of land as parkland.

E. City Council Approval

All Donations of Land will only be accepted upon City Council approval.

F. Accounting for Donation

The City will account for this Donation through a mechanism determined by the City.

G. Tax-Deductible Contributions

- (1) Only upon approval and execution of this Donation Agreement will Donor be eligible to receive a Tax Deduction for the Donation of a charitable contribution.
- (2) If the Donor does not sign this Agreement, and complete the Donation, the City will not release any documents certifying the Donations.
- (3) Nothing in this Agreement shall be interpreted of imposing responsibility or accountability upon the City for the accuracy of the estimated value of the Donation received, unless the City expressly agrees in writing to participate in the approximation of value through: (1) a public auction, (2) competitive bidding, (3) receipts provided (retail or wholesale) documenting the Donor's actual costs, or (4) a commonly utilized and clearly established methodology of determining fair market value.
- (4) The City is relieved from any and all responsibility and liability for estimating or calculating the value of the Donation received.

H. Donation Amount

By signing this Agreement Donor is acknowledging that:

- (1) The Donation consists of seven acres, more or less, as more fully described on Exhibit "A" attached hereto; and
- (2) The Donation does not unnecessarily burden the City or unreasonably encumber the funds contributed.

I. Donation Completion

- (1) By signing this Agreement Donor agrees to
 - a. Fully complete the Donation;
 - b. Complete the Donation within the timeframe specified under the Term of this Agreement.
 - c. Provide documentation specifically listing all gifts that the Donation will include; and;
 - d. Relieve the City from any and all responsibility for estimating or calculating the value of the Donation received.
- (2) If the City has received a signed copy of this Agreement, the City agrees to release any and all documents certifying the Donation upon completion of the Donation.

J. Criteria for Acceptance

The City shall favorably consider accepting Donations if (in the sole discretion of the City) the intended bequeath satisfies one or more of the following criterion:

- (1) The Donation furthers a Project that has been approved by the City Council in the form of a long-term master or comprehensive plan (of some sort).
- (2) The Donation furthers a Project that is necessitated by a documented need to comply with county, state or federal regulations.
- (3) There is broad political or public support for the Donation and the Project.
- (4) The Project provides for the facilitation of cooperation between multiple civic groups, charitable organizations and/or political subdivisions.
- (5) The City has adequate human resources to maintain and operate the Project.
- (6) The Project will not pose a realistic threat to the public health, safety or welfare, or create an unreasonable source of legal liability for the City.
- (7) The Donation will not pose an undue, continuing financial burden on the City, a result of which is to create a public obligation that outweighs the public benefits.

K. Contact Information

- (1) Donor will at all times maintain the following points of contact:

Dripping Springs Partners, LLC
Phone: 615 405-0225
E-Mail: matthew@atxli.com
Mailing Address: 7401B Highway 71 West, Suite 160
Austin, Texas 78735

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

City Administrator: Michelle Fischer
Phone: (512) 858-4725
Email: mfischer@cityofdrippingsprings.com
Mailing Address: PO Box 984
Dripping Springs, Texas 78620-0384

L. Term

The term of this Agreement shall be for one (1) year unless otherwise agreed to in writing by both parties through an amendment to this Agreement.

M. Effective date

This agreement takes effect June 21, 2022.

N. Indemnification

DONOR AGREES TO INDEMNIFY AND HOLD THE CITY HARMLESS FROM ANY DAMAGES OCCURRING FROM THE ALLEGED NEGLIGENCE OF DONOR, HIS AGENTS, VOLUNTEERS, SERVANTS AND EMPLOYEES.

THE CITY AGREES TO INDEMNIFY AND HOLD DONOR HARMLESS FROM ANY DAMAGES OCCURRING FROM THE NEGLIGENCE OF THE CITY, ITS AGENTS, VOLUNTEERS, SERVANTS AND EMPLOYEES, TO THE EXTENT ALLOWED BY LAW.

O. 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 Donor.

P. 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.

Q. Entire Agreement

This document represents the entirety of the agreement between the City and Donor. No oral or other written contracts outside of this Agreement shall have any affect unless they are approved in writing by both parties and made a part of this Agreement.

R. Other Documents

The City and Donor 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.

S. Amendments

This Agreement may be amended only by an instrument in writing signed by the City and Donor.

T. 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.

U. Third Party

Except as herein specifically and expressly provided, the terms and provisions of this Agreement are for the sole benefit of the City and Donor, and no third party whatsoever is intended to benefit herefrom.

V. Authorization

The City represents and warrants to, and covenants with Donor that:

- (1) The execution, delivery and performance of this Agreement by the executing officer have been duly authorized. This Agreement has been duly and validly executed and delivered by the executing officer on behalf of the City, and constitutes a valid and binding obligation, enforceable against the City in accordance with its terms.

- (2) No consent or approval of any third party, including, without limitation, any governmental authority, is required in connection with the execution, delivery or performance of this Agreement. The execution and delivery of this Agreement, and the performance of the obligations and consummation of the transactions contemplated herein do not and will not conflict with or result in a breach of any of the terms, conditions or provisions of, or constitute a default under any contract, indenture, mortgage, loan agreement, lease, joint venture or other agreement or instrument to which the City is a party or by which the City or any of its respective properties are bound, or result in any violation by it of any law, order, rule or regulation of any court or governmental agency or body. The City is not in material violation of any law, ordinance, governmental rule or regulation or court decree to which it may be subject, nor has it failed to obtain and maintain in full force and effect any license, permit, certificate, franchise or other governmental authorization necessary to the ownership of its respective property or to the conduct of its operations under this Agreement.

[signature page follows]

CITY OF DRIPPING SPRINGS:

Bill Foulds

Bill Foulds, Jr., Mayor

July 26, 2022

Date

DS LAND PARTNERS, LLC:

Matthew Scrivener, Manager

Date

ATTEST:

Andrea Cunningham

Andrea Cunningham, City Secretary



CITY OF DRIPPING SPRINGS:

Bill Foulds
Bill Foulds, Jr., Mayor

July 26, 2022
Date

ATTEST:

Andrea Cunningham
Andrea Cunningham, City Secretary



DRIPPING SPRINGS

~~DS LAND PARTNERS, LLC:~~

Matthew Scrivener
Matthew Scrivener, Manager

9.23.2022
Date

EXHIBIT "A"

Letter of Intent

DRIPPING SPRINGS PARTNERS, LLC
7401B Highway 71 West, Suite 160
Austin, Texas 78735

June 2, 2022

City of Dripping Springs, Texas

VIA EMAIL: Laura Mueller lmueller@cityofdrippingsprings.com

Re: Letter of Intent; Donation of 7 acres, more or less (“Land”)

Dear City of Dripping Springs,

Dripping Springs Partners, LLC, a Texas limited liability company (“DSP”) is pleased to present this Letter of Intent to assist the City in developing the seven (7) acre tract of land (the “Land”) that DSP proposes to donate to the City.

1. DSP has agreed to donate to the City the Land. The only condition for the donation is that the Land contain a City park with one acre of open space.
2. The City has expressed an interest in relocating its offices to the Land. In order to do that, the City will need to either build its building and related facilities (parking, sidewalks, streets) or engage a development company to construct the City’s building and enter into an agreement that addresses the cost of the City’s building and related infrastructure.
3. DSP desires to assist the City in developing the Land. To that end, at no cost to the City, if requested in writing, DSP will contact several development companies that specialize in commercial retail construction projects with the intent to have one of them build the City’s offices as well as the commercial buildings.
4. DSP anticipates that the selected development company will build the City offices and related improvements (parking, utilities, etc.) and thereafter lease to the City the City offices, with the City having the option to buy City building. The terms of the lease and buy out will be negotiated by the City with assistance from DSP, if requested in writing.
5. The City may consider using the two adjacent commercial sites as an incentive to the development company to build City offices. It is anticipated the development company will need to own the property for the commercial sites versus a ground lease, in order to receive a loan from a lender.
6. If the City considers deeding the commercial pad sites to the development company, then the City can use those sites as a negotiating tool to reduce the rent or even the amount required to purchase the City office building in the future. The commercial developer may be hesitant to take on the construction of the commercial buildings until there are sufficient rooftops within the Project and until the City has moved into its building.
7. In summary, DSP will assist the City in locating a development company as well as negotiating the terms of the City’s lease and buy out upon written request of the City.

This letter shall not create any legal rights or obligations on behalf of or between DSP and the City nor does it constitute a binding agreement between the City and DSP. Neither party shall be bound or obligated to perform under the above terms unless a written agreement is executed by both parties.

Dripping Springs Partners, LLC

By: _____
Matthew Scrivener, Manager

City of Dripping Springs, Texas

By: _____
Name: _____
Title: _____

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

**OFFICE USE ONLY
CERTIFICATION OF FILING**

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.
Dripping Springs Partners, LLC
Austin, TX United States

Certificate Number:
2022-937607

Date Filed:
09/23/2022

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.
City of Dripping Springs

Date Acknowledged:

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.
DSLPPDA062 | 2022
Donation Agreement PDD No. 14

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary
	Scrivener, Matthew	Austin, TX United States	X	

5 Check only if there is NO Interested Party.

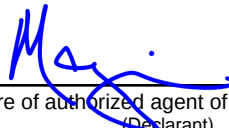
6 UNSWORN DECLARATION

My name is Matthew Scrivener, and my date of birth is 6.22.1978.

My address is 7401B Hwy71 West, Austin, TX, 78735, USA.
(street) (city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Travis County, State of Texas, on the 23 day of September, 2022.
(month) (year)



Signature of authorized agent of contracting business entity (Declarant)

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

**OFFICE USE ONLY
CERTIFICATION OF FILING**

Certificate Number:
2022-937607

Date Filed:
09/23/2022

Date Acknowledged:
09/28/2022

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.
Dripping Springs Partners, LLC
Austin, TX United States

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.
City of Dripping Springs

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.
DSLPPDA062 | 2022
Donation Agreement PDD No. 14

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary
	Scrivener, Matthew	Austin, TX United States	X	

5 Check only if there is NO Interested Party.

6 UNSWORN DECLARATION

My name is _____, and my date of birth is _____.

My address is _____, _____, _____, _____, _____.
(street) (city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in _____ County, State of _____, on the _____ day of _____, 20____.
(month) (year)

Signature of authorized agent of contracting business entity
(Declarant)