

**COMMERCIAL LEASE AGREEMENT  
FOR THE DEAR HALL OFFICE SPACES**

This Commercial Lease Agreement is made and entered into by and between Lessor, the CITY OF DRIPPING SPRINGS, TEXAS, (hereinafter referred to as “City”) and Lessee, the DRIPPING SPRINGS AREA VISITORS BUREAU, (hereinafter referred to as “Visitors Bureau”).

**Date:** This 1st day of February 2022

**Lessor:** CITY OF DRIPPING SPRINGS, TEXAS  
P.O. Box 384  
Dripping Springs, Texas 78620

**Lessee:** DRIPPING SPRINGS AREA VISITORS BUREAU  
P.O. Box 206  
Dripping Springs, Texas 78620

**Leased Premises:** DEAR HALL (as shown in Attachment “A”)  
509 Mercer Street  
Dripping Springs, Texas 78620

**Lease Commencement  
Date:** February 1, 2022

**Lease Expiration  
Date:** January 31, 2027

**Lease Term:** Five (5) years

**Annual Review:** City and Visitors Bureau agree to have representatives meet in person annually to discuss this Lease and evaluate how each party is performing under the Lease to ensure the objectives, terms and conditions are being met. The meeting must occur on or before December 31<sup>st</sup> of each year.

**Renewal and  
Extension Option:** Visitors Bureau may request, in writing, to renew the Lease Agreement with the City no later than forty-five (45) days before the end of the initial lease term. City retains the sole option and exclusive right to grant Visitors Bureau a new Lease Agreement or a month-to-month tenancy following the Lease Initial Term,

beginning on the Lease Expiration Date.

**Lease Rent:**

Annual Lease Rent of \$10.00 due on February 1<sup>st</sup> of each year of the lease, so long as the Leased Premises continues to be used exclusively for the public purpose of operating and/or maintaining an office for the Visitors Bureau.

**Permitted Uses:**

The Leased Premises shall be used for the purpose of operating and maintaining an office for the Visitors Bureau. The Chamber of Commerce will be a co-lessee on this property. Notwithstanding the foregoing, the Visitors Bureau shall not use the Leased Premises for the purposes of storing, manufacturing, or selling any explosives, chemicals, flammable substances, or other inherently dangerous substances. The Visitors Bureau shall not use the Leased Premises in violation of any City of Dripping Springs ordinance provisions, or of any state or federal statutes.

**ARTICLE I**

**Consideration.** The parties hereto expressly stipulate that this Lease Agreement is entered into in consideration of the community service being provided using the Leased Premises as recited herein, the value to City of ensuring occupancy and use of its property inventory, and other good and valuable consideration given, the receipt and sufficiency all of which is hereby acknowledged. The Visitors Bureau agrees to provide services to the community in lieu of the City designed to promote local economic development.

**Leasing of Premises.** Subject to and upon the terms and conditions herein set forth, and each in consideration of the duties, covenants, and obligations of the other hereunder, City hereby leases to the Visitors Bureau, and the Visitors Bureau hereby leases from City, the premises as shown in Attachment "A". City represents and warrants that the premises are a part of the premises it is authorized to lease. The parties hereto expressly stipulate that the Leased Premises is not a dwelling as defined in the Texas Property Code § 92.001(1). The Visitors Bureau and City agree that the Leased Premises may change during the term of this Lease Agreement and similar Leased Premises will be provided on the premises if a change is necessary.

The Visitors Bureau acknowledges that this lease only covers the Visitors Bureau, and no other lessees will be leasing the Dear Hall except by separate agreement. The Chamber of Commerce will be a co-lessee on this property as shown in a separate lease.

**ARTICLE II**

**Performance Representations by Visitors Bureau.** Visitors Bureau hereby covenants and

agrees to do the following:

1. Lease the premises for the Lease Initial Term, on the terms and conditions enumerated herein, beginning on the Lease Commencement Date, and ending on the Lease Expiration Date, or ending on the last day of any allowed month-to-month tenancy after the Lease Expiration Date.
2. Accept the premises in their present condition, the premises being suitable “as is” for Visitor Bureau’s intended use. The Visitors Bureau must obtain written consent from the City for any improvements or construction activities involving the roofing, flooring, or structural aspects of the building, and secure any applicable permits required to perform the work. Any remodeling or alterations by the Visitors Bureau shall be at the Visitor Bureau’s sole expense, according to plans submitted to and approved by the City and in coordination with any other lessees within the premises. Upon termination of this Lease, all improvements and fixtures shall remain with the premises and become the sole property of the City.
3. The Visitors Bureau must request approval from the City Administrator for any signage, which approval shall not unreasonably be withheld so long as such signage is in compliance with the City’s Sign Ordinance or approved variance from the City.
4. Arrange and be responsible for obtaining and paying for its own electricity services. Arrange and be responsible for obtaining and paying for its own telephone, and/or internet service (as necessary); and obtaining any necessary hardware for the operation and maintenance of these services. Each lessee is jointly and severally liable for payment of these services.
5. Be responsible for obtaining the necessary equipment such as computers, printers, and phones for the operation of an office.
6. Maintain the Leased Premises in a condition comparable to its current condition or an improved condition, perform all necessary repairs, and keep the premises clean and free of trash and debris.
7. Obey all laws, rules, regulations, and terms of the lease and of the use, condition, and occupancy of the premises, including the rules and regulations of the building, if any, adopted by City from time to time.
8. Vacate the Leased Premises upon termination of this lease and surrender all keys to the premises.
9. Allow City to enter the premises to perform City’s obligations, or to reasonably inspect the

- premises, or at reasonable times to show the premises to prospective purchasers or tenants.
10. Submit written notifications and/or requests to City relative to any events of consequence involving the premises.
  11. Maintain general liability insurance for the Leased Premises, with City named as additional named insured, in a reasonable amount acceptable to City Administrator.
  12. Maintain appropriate insurance on Visitor Bureau's personal property located within the Leased Premises.
  13. Deliver certificates of insurance to City annually demonstrating coverage is current. Inform City within five business days of any change in coverage.
  14. INDEMNIFY, DEFEND, AND HOLD CITY HARMLESS FROM ANY LOSS OR CLAIM ARISING OUT OF VISITORS BUREAU'S USE OF THE LEASED PREMISES OR RESULTING FROM VISITORS BUREAU'S FAILURE TO COMPLY WITH APPLICABLE PROVISIONS OF THE LEASE.
  15. Upon request of City, execute an estoppel certificate stating the commencement and expiration dates of the lease, identifying any amendments to the lease, describing any rights to extend the lease term, listing defaults, and providing any other related information reasonably requested.
  16. Upon termination of the Lease, or at some earlier time upon request by the City, the Visitors Bureau will reimburse City in an amount equal to the cost to repair any damage that occurred to the Leased Premises.
  17. The Visitors Bureau may use City's dumpster free of charge so long as the use does not necessitate an increase in the level of service. If an increase in the level of service is necessitated by Visitors Bureau's use, the Visitor Bureau will reimburse the City for the additional cost associated with the increased level of service. The Visitor Bureau may use the sewer and water lines so long as the use does not require additional capital investment.
  18. Reimburse the City for any cost's incidental to the installation, operation, and/or maintenance of utilities as necessitated by the Visitors Bureau's use of the Leased Premises.

**Prohibition Representations by Visitors Bureau.** Visitors Bureau hereby covenants and agrees **not** to do the following:

1. Use the Leased Premises for purposes other than the Permitted Lease Use.

2. Create a nuisance.
3. Interfere with other lessees' normal business operations, nor interfere with City's ownership or management of the building.
4. Permit any waste.
5. Use the Leased Premises in a way that is hazardous, that would increase insurance premiums, or that would void insurance on the building.
6. Change City's lock system, except as permitted in writing.
7. Alter the Leased Premises, except as provided for in plans submitted to and approved by the City.
8. Allow a lien to be placed on the Leased Premises.
9. Assign this lease or sublet any portion of the Leased Premises without City's prior written consent.
10. Permit its volunteers, employees, representatives, and/or agents to park anywhere except in parking areas approved by the City.

### **ARTICLE III**

**Performance Representations by Lessor, the City.** City hereby covenants and agrees to do the following:

1. Lease the premises to Visitors Bureau for the Lease Initial Term, on the terms and conditions enumerated herein, beginning on the Lease Commencement Date (Initial Term) and ending on the Lease Expiration Date (Initial Term), or ending on the last day of any allowed month-to-month tenancy after the Lease Expiration Date (Initial Term).
2. Obey all laws, rules, regulations, and terms of the lease and of the use, condition, and occupancy of the premises.
3. Provide water and wastewater utilities at no additional cost to the Visitors Bureau.
4. Adequately insure the building and parking facilities against risks of direct physical loss. The parties agree that the Visitors Bureau shall have no claim to any proceeds of City's insurance policy.

**Prohibition Representations by Lessor City.** City hereby covenants and agrees not to do the following:

1. Interfere with Visitors Bureau's possession of the premises so long as Visitors Bureau is not in default.
2. Unreasonably withhold consent to a proposed assignment or sublease.

#### **ARTICLE IV**

##### **Default by the Visitors Bureau**

1. Default by Visitors Bureau shall be defined as (a) failing to timely pay the Lease Rent, (b) failing to begin a reasonable attempt to comply, within ten (10) days of receiving written notice from City, with any substantive provision of this lease other than the defaults set forth in this paragraph, or (c) using or allowing the premises to be used in a manner that is not the Permitted Use.
2. City's remedies for Visitors Bureau's default are to (a) enter and take possession of the Leased Premises, after which City may relet the Leased Premises on behalf of the Visitors Bureau and receive the Lease Rent directly by reason of the reletting, and the Visitors Bureau agrees to reimburse City for actual expenditures reasonably made in order to relet; or (b) enter the Leased Premises and perform the Visitors Bureau's obligations; or (c) terminate this lease by proper written notice and sue for damages.

##### **Default by Lessor City**

1. Default by City shall be defined as (a) City failing to comply with applicable provisions of the lease which constitute default; or (b) City failing to begin a reasonable attempt to comply with any substantive provision of this lease within ten (10) days of receiving proper written notice.
2. The Visitors Bureau's remedies for City's default include provisions under this Article IV, and termination of this lease if City fails to provide an essential service for thirty (30) days after default.

It is not a waiver of default if the non-defaulting party fails to declare immediately a default or delays in taking any action. Pursuit of any remedies set forth in this lease does not preclude pursuit of other remedies in this lease or as provided by law. City and the Visitors Bureau have a duty to mitigate damages.

## ARTICLE V

**Excusable Delay.** “*Excusable Delay*,” as used herein, shall mean and include all delays in a party’s performance of its obligations hereunder (other than its obligations to pay money), including the impossibility of such performance, which shall result from or be caused by any legal proceedings or other litigation threatened, instituted against or defended by such party, in good faith, and not merely for purposes of delay; acts of God, acts of the public enemy, wars, blockades, epidemics, earthquakes, storms, floods, explosions, strikes, labor disputes, work stoppages, riots, insurrections, breakage or accident to machines or lines of pipe or mains, lawful acts of any governmental agency or authority restricting or curtailing the erection of the building, other causes beyond the reasonable control of such party, including but not limited to equipment failures, inability of City to procure and obtain needed building materials whether as a result (directly or indirectly) of any lawful order, law or decree of any governmental authority or agency or otherwise, and any other cause, whether of the kind herein referred to or otherwise; provided, that as to any and all such causes of Excusable Delay the party subjected thereto (i) within ten (10) days after such party has knowledge thereof shall give the other party notice of the existence thereof and of the length of the delay anticipated therefrom, and (ii) within ten (10) days after the cause of delay has ceased to exist, shall give the other party notice of the actual Excusable Delay which resulted from such cause; and provided further, such party shall pursue with reasonable diligence the avoidance or removal of such delay. The inability or refusal of a party to settle any labor dispute shall not be deemed to qualify or limit the foregoing or the effect of Excusable Delay and no such failure or refusal shall constitute delay by such party for which such party shall be responsible hereunder.

**Force Majeure.** All the obligations of City and of the Visitors Bureau under this lease are subject to delay or suspension resulting from Excusable Delay. The parties hereto shall exercise reasonable diligence to avoid or minimize any such delay or suspension.

**Termination Upon Sale or Necessity.** All the obligations of City and all of the obligations of the Visitors Bureau under this lease are subject to termination resulting if the City sales or transfers the premises. Any such sale or transfer by the City shall not be executed without providing a minimum of sixty (60) day notice to the lessee. The City may also terminate this lease with sixty (60) day notice if the City requires the space for its staff. If this occurs, the City shall give notice as soon as possible to the Visitors Bureau, but not less than sixty (60) days prior to termination. Upon notice of termination the Visitors Bureau shall move from the area and building by the date of termination.

## ARTICLE VI

**Building Keys.** City will provide the Visitors Bureau with an adequate number of keys to the premises. Additional keys may be obtained at the Visitors Bureau s cost and expense. No additional locks shall be allowed in the premises without City’s consent. Only with express prior

written consent of City, the Visitors Bureau may, at its sole cost and expense, change locks within its own premises area, provided that the Visitors Bureau furnishes a complete set of keys to all such locks to City. Upon termination of this lease, the Visitors Bureau shall surrender to City all keys to the premises.

**Access.** The Visitors Bureau and its employees shall always have access to the premises. The Visitors Bureau's invitees and customers and the general public shall have access to the premises during normal business hours and, at the Visitors Bureau's election, after business hours if they shall comply with such security procedures as City shall reasonably promulgate from time to time. Access to bathrooms in City Hall, at 511 Mercer St. will only be available during the City's normal business hours.

The City may at its discretion grant the Visitors Bureau access to break room and meeting rooms, when not in use by City, during normal hours of operation or after hours by special arrangement. The Visitors Bureau must schedule the requested use in advance of the requested time and date.

## **ARTICLE VII**

**Miscellaneous Provisions.** The parties hereto agree as follows:

1. **Binding Effect.** The covenants and agreements herein contained shall inure to and be binding upon City, its successors and assigns, and the Visitors Bureau, its successors, and assigns; provided such reference to assigns is not intended to imply or grant any right on the part of either party to assign this lease.
2. **Release of Claims/Subrogation.** City and the Visitors Bureau hereby release each other from any claim, by subrogation or otherwise, for any damage to the premises, the building, the parking facilities, or personal property within the building, by reason of fire or the elements, regardless of cause, including negligence of either party. This release applies only to the extent that it is permitted by law, the damage is covered by insurance proceeds, and the release does not adversely affect any insurance coverage.
3. **Notice to Insurance Companies.** City and the Visitors Bureau shall notify the issuing insurance or liability carrier companies of the release set forth in the first paragraph of this Article, and shall have the insurance policies endorsed, if necessary, to prevent invalidation of coverage.
4. **Condemnation/Substantial or Partial Taking.** If the premises cannot be used for the purposes contemplated by this lease because of condemnation or purchase in lieu of condemnation, then this lease will terminate.



5. **Limitation of Warranties.** There are no implied warranties of merchantability, of fitness for a particular purpose, or of any other kind arising out of this lease, and there are no warranties that extend beyond those expressly stated in this lease.
6. **Abandoned Property.** City may retain, destroy, or dispose of any property left and abandoned on the premises at the end of the lease term and any renewals.
7. **Severability Clause.** If any term, covenant, condition or provision of this lease, or the application thereof to any person or circumstance, shall ever be held to be invalid or unenforceable, then in each such event the remainder of this lease or the application of such term, covenant, condition or provision to any other person or any other circumstance (other than such as to which it shall have been invalid or unenforceable) shall not be thereby affected, and each term, covenant, condition and provision hereof shall remain valid and enforceable to the fullest extent permitted by law.
8. **Notices.** Any notice or communication to parties required or permitted to be given under this lease shall be effectively given only if in writing and such notice shall be considered received three (3) days after depositing such notice in the U.S. registered or certified mails, postage prepaid, return receipt requested, or by commercial overnight courier service, addressed as follows:

- (a) If addressed to Lessor City:

Michelle Fischer, City Administrator  
City of Dripping Springs, Texas  
P. O. Box 384  
Dripping Springs, TX 78620

- (b) If addressed to the Visitors Bureau:

Pam Owens, President  
Dripping Springs Area Visitors Bureau  
P.O. Box 206  
Dripping Springs, Texas 78620

provided, however, that any party shall have the right to change the address to which notices shall thereafter be sent by giving notice to the other party as aforesaid, but not more than two addresses shall be in effect at any given time for City and the Visitors Bureau hereunder.

9. **Attorneys' Fees.** In the event of litigation between City and the Visitors Bureau wherein one or both parties are seeking to enforce any right or remedy hereunder, the prevailing party shall

be entitled to recover its reasonable attorneys' fees incurred in connection with such litigation from the other party.

10. **Applicable Law.** This lease shall be governed by and construed in accordance with the laws of the state of Texas, and venue shall lie in Hays County, Texas.

11. **Entire Agreement.** This lease constitutes the entire agreement of the parties with respect to the subject matter hereof, and all prior correspondence, memoranda, agreements, or understandings (written or oral) with respect hereto are merged into and superseded by this lease.

This lease is executed and delivered effective as of the date and year first above written.

**CITY OF DRIPPING SPRINGS**

**DRIPPING SPRINGS VISITORS  
BUREAU**

By: \_\_\_\_\_  
Bill Foulds, Jr., Mayor

By: \_\_\_\_\_  
Pam Owens, President

**ATTEST:**

By: \_\_\_\_\_  
Andrea Cunningham, City Secretary

**Attachment "A"**

Dear Hall  
509 Mercer Street

