

THE STATE OF TEXAS

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CITY OF DRIPPING SPRINGS

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KNOW ALL BY THESE PRESENT:

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COUNTY OF HAYS

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MAINTENANCE AND USE AGREEMENT

Rathgeber Natural Resource Park

THIS MAINTENANCE AND USE AGREEMENT (the “Agreement”) is entered into by and between the City of Dripping Springs, Hays County, Texas, (the “City”), a general law municipality organized and operating under the general laws of the state of Texas, and Boy Scouts of America Capital Area Council. (“BSACAC”), a Texas non-profit corporation.

I. RECITALS

- A. BSACAC is a registered Texas non-profit corporation in good standing whose purpose is to provide to the youth of Dripping Springs and the surrounding area camping programs that encourage a healthy lifestyle, teamwork, leadership, sportsmanship and volunteerism.
- B. BSACAC now desires to enter into a long-term use agreement with the City of Dripping Springs that allows BSACAC to use and improve the Camping Grounds within Rathgeber Natural Resource Park (“Park”) for its camping programs as provided below.
- C. BSACAC also desires to enter into a long-term maintenance and use agreement with the City of Dripping Springs that allows BSACAC to maintain, use, and improve the camping ground within Rathgeber Natural Resource Park.
- D. The City desires to aid BSACAC and, accordingly, agrees to allow BSACAC to maintain and use a portion of the Park for its youth camping programs as provided below.

II. AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants described herein, the parties hereto agree as follows:

- A. The City does hereby grant BSACAC “first priority” to use land designated for primitive youth camping in the Park (“Camping Grounds”), and more fully described in Exhibit “A”, attached hereto. “First Priority” describes BSACAC’s right to reserve the Park for BSACAC use *after*

the City has reserved the Park for City use and *before* members of the general public reserve the Park for public use.

- B.** The City does hereby grant BSACAC “first priority” to use the Park in accordance with the following:
1. No buildings are contemplated to be built or placed by BSACAC under this Agreement.
 2. The use of the Park shall be for BSACAC-sponsored events, including but not limited to, camping, meetings, trainings, workshops, and related activities. All said activities, events, etc., shall be scheduled around any regularly City scheduled activities and uses of the Park.
 3. BSACAC will have exclusive use of the Camping Grounds two weekends a year, primarily occurring in the fall and in the spring at no cost and which shall be scheduled as provided in B(6).
 4. BSACAC is entitled to have exclusive use of the Camping Grounds and shared use of the rest of the park one week during the summer months to host a youth day camp program at no cost to the organization and which shall be scheduled as provided in B(6) .
 5. BSACAC shall contribute to the upkeep and care of the Camping Grounds by hosting a BSACAC volunteer workday each year that will maintain and preserve the Camping Grounds and any trails leading to the Camping Grounds.
 6. BSACAC shall submit dates for use to the City one year in advance to allow City staff time for proper coordination as well as public notification for its two weekends a year and youth day camp listed in B(3) and B(4). All other requests for use of the Park and/or Camping Grounds shall be done in accordance with park procedures.
 7. Until proportionate amenities have been developed to accommodate increased parking at trail access points, BSACAC will have to secure off-site parking during its events. Overnight events shall not exceed 50 participants including youth and adults. Day time use by all visitors shall be regulated by park rules based on City environmental impact studies and the Master Park Plan.
 8. Additional events and camps can be agreed to in writing by the Parties as appropriate. For the City, the City Administrator shall be able to approve additional camps and events in consultation with the Parks and Community Services Director. Additional events and camps may incur a cost subject to the City’s fee schedule or through other written agreement.
 9. Parking at trailheads will be limited to available and designated spots. Parking along Headwaters Community streets is not permitted for attendees of Boy Scout events or programs. The Community will reserve the right to have violators towed at the owner’s expense.

10. Access to designated camping area is by foot. Requests for special authorization of gear transport vehicles may be submitted to the City Administrator or the Administrator's designee and permission shall not be unreasonably withheld. No parking, other than for loading and unloading, shall be allowed at the camping grounds and only existing roads shall be used for access to the camping grounds. If existing roads are insufficient to provide two access points for loading and unloading and emergency access for the Camping Grounds, the City shall construct an additional road sufficient to provide the additional access.

C. As consideration for the granting of the use of the Park, BSACAC agree:

1. Definition. "Camping Grounds" means that portion of the Rathgeber Natural Resource Park consisting of the Camping Grounds as shown in the conceptual map attached and made a part hereof as Exhibit "A". This property is designated for use by BSACAC but may be changed by mutual agreement of the City and the BSACAC after completion of the Master Park Plan and based on the property's suitability as camping grounds for the BSACAC. Any change to designated camping grounds will be made in writing. BSACAC and the City will designate temporary camping grounds within the park while the park is being improved. However, said camping grounds will be closed for use when being constructed. Access to the temporarily designated "camping grounds" will be gained by existing, roughed in service ranch road and social single track. New trails shall not be built or established by the Boy Scouts. Such improvements must be completed solely by the city or assigned contractors due associated liability and required trail standards.
2. The BSACAC will terminate any other right to use the real property, including any lease, at the Rathgeber Park. This Agreement will not go into effect until the lease is terminated and notice of such is provided to the City.

The BSACAC shall be responsible for litter control at the Camping Grounds during its use and during its annual volunteer day and at other times specified in this Agreement. This task entails picking up litter off the grounds and around the Camping Grounds. Time allotted toward litter control must be a minimum of four (4) hours per month. Trash cans shall be provided at the Park by the parties. The City shall provide trash cans throughout the park, but the BSACAC shall provide adequate additional trash cans if an event held by the BSACAC so requires. Litter must be disposed of in dumpsters provided by the City or hauled off site if none are available.

3. The BSACAC will be responsible for emptying the trash cans near the Camping Grounds after each use of the Park. The City will be responsible for emptying the rest of the trash cans in the Park and at the Camping Grounds when not in use by the BSACAC.
4. The BSACAC will ensure the City has access to the Park and Camping Grounds at all times, and as needed. The City will make every attempt to accommodate the BSACAC schedule as provided to the City. The Camping Grounds may be unavailable if construction or hazardous conditions at the Park so requires. The City will provide the BSACAC with at least sixty (60) days' notice prior to closing a section including the Camping Grounds

due to construction. The City will assist the BSACAC in rescheduling or relocating its event should any closure occur.

5. Campfires (if-permitted in the Master Park Plan and established Park Use Rules and Policies) must be limited to a single designated fire ring, never be left unattended, and adhere to Hays County Fire ban policies and status at all times.
 6. Leave No Trace principles must be followed as a minimum standard in Rathgeber Natural Resource Park.
 7. BSACAC must purchase and maintain its own liability insurance, naming the City as an additional named insured.
 8. Parking at trailheads will be limited to available and designated spots. Parking along Headwaters Community streets is not permitted for attendees of Boy Scout events or programs. The Community will reserve the right to have violators towed at the owner's expense.
 9. Access to designated camping area is by foot, except for transport of equipment and gear and for emergency access which shall use access roads designated for such use. Requests for special authorization of gear transport vehicles may be submitted to the City Administrator or their designee. Approval of use of gear transport vehicles shall not be unreasonably withheld.
- D.** As additional consideration for the granting of the use of the Park, BSACAC agrees, under its financial responsibility, to perform the following:
1. Improve and maintain the Camping Grounds in substantial accordance with the plans and specifications as approved by the City and outlined below and in Exhibit "A" attached hereto.
 2. Maintain safe and reliable equipment related to the Camping Grounds. Those that are not permanent improvements will be stored in a secure place when not in regular use.
- E.** It is understood and agreed between the parties that:
1. The City currently carries and agrees to maintain Liability and Property insurance for the entire Rathgeber Park and requires all parties to maintain Liability and Property insurance for their events.
 2. The City assumes no responsibility for any property placed by BSACAC or any BSACAC member, agent, or guest, on any Park, 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 occupancy of said buildings under this Agreement.

3. BSACAC accepts the premises as-is. BSACAC may change the layout and type of Camping Grounds only after obtaining written approval from the City for the proposed changes.
4. BSACAC will cooperate with the City to comply with all applicable laws (federal, state and local), including ordinances of the City of Dripping Springs. BSACAC agrees to abide by and conform with current rules and regulations adopted or prescribed by the City for the government and management of the Park.
5. BSACAC covenants and 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 Park by BSACAC, and BSACAC 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 Park by BSACAC or its agents, servants, employees, contractors or subcontractors, members, guests or invitees. BSACAC covenants and agrees not to damage or negatively impact any area of the park with its activities. Any damage or negative impact to any area of the park shall be remedied by BSACAC as soon as notice is provided to BSACAC by the City.
6. BSACAC shall not assign this Agreement, or any rights, obligations or entitlements created under this Agreement.
7. This Agreement embodies the entire agreement between the parties and may not be modified unless in writing, executed by all parties.
8. Either party may terminate this Agreement without cause upon the terminating party giving the non-terminating party ninety (90) days written notice. The City shall not terminate this Agreement as it pertains to Rathgeber Park to reassign the use rights to any other entity during the first five (5) years after the effective date of this Agreement absent breach by the BSACAC.
9. Non-performance: This Agreement will automatically terminate if BSACAC fails to adequately respond and remedy any complaints or concerns from the City within thirty (30) days of a written request by the City. An extension may be granted by the City Administrator for an additional sixty (60) days upon request of BSACAC.
10. All notices in connection with this Agreement shall be in writing and shall be considered given as follows:
 - a. When delivered personally to the recipient's address as stated in this Agreement; or
 - b. Five (5) days after being sent by certified mail in the United States mail, with postage prepaid to the recipient's address as stated in this Agreement.

Notice to CITY:
City of Dripping Springs
Attention: City Administrator
511 Mercer Street/PO Box 384
Dripping Springs, TX 78620

Notice to BSACAC:
Boy Scouts of America Capital Area Council
Attn: President
PO Box 637
Dripping Springs, TX 78620

Nothing contained herein shall be construed to restrict the transmission of routine communications between representatives of CITY and BSACAC.

11. This Agreement shall be for a period of twenty (20) years beginning when both of the following occur: (1) when the City gains ownership of the Park; and (2) when an emergency access road connecting the Camping Grounds with a public street is available for use by BSACAC. The Parties shall exchange a written memorandum establishing the beginning date at the time the term commences.
12. This Agreement shall be effective upon final signing by both parties.
13. This Agreement may be extended for an additional twenty (20) years BSACAC giving written notice to the City at least six (6) months prior to the initial expiration of the initial twenty (20) year term. The Agreement will only be extended if the BSACAC is actively using the park as detailed in this Agreement.

IN WITNESS WHEREOF, CITY and BSACAC have executed this Agreement on the dates indicated.

CITY OF DRIPPING SPRINGS:

BOY SCOUTS OF AMERICA CAPITAL AREA COUNCIL:

Bill Foulds, Jr., Mayor

President

Date Signed

Date Signed

ATTEST:

ATTEST:

Andrea Cunningham, City Secretary

Signature

Printed Name

Exhibit “A”

Proposed Designated Camping Grounds in Rathgeber Natural Resource Park