



CITY COUNCIL REGULAR MEETING

City of Dripping Springs

Council Chambers, 511 Mercer St, Dripping Springs, TX
Tuesday, December 21, 2021 at 6:00 PM

AGENDA

CALL TO ORDER AND ROLL CALL

City Council Members

Mayor Bill Foulds, Jr.
Mayor Pro Tem Taline Manassian
Council Member Place 2 Wade King
Council Member Place 3 Geoffrey Tahuahua
Council Member Place 4 April Harris Allison
Council Member Place 5 Sherrie Parks

Staff, Consultants & Appointed/Elected Officials

City Administrator Michelle Fischer
Deputy City Administrator Ginger Faught
City Attorney Laura Mueller
City Treasurer Shawn Cox
City Secretary Andrea Cunningham
Communications & Marketing Director Lisa Sullivan
Planning Director Howard Koontz
Senior Planner Tory Carpenter
Planning Assistant Warlan Rivera
Emergency Management Coordinator Roman Baligad
Parks & Community Services Kelly Schmidt
Planning & Zoning Commission Chair Mim James

PLEDGE OF ALLEGIANCE

PRESENTATION OF CITIZENS

A member of the public who desires to address the City Council regarding any item on an agenda for an open meeting may do so at presentation of citizens before an item or at a public hearing for an item during the City Council's consideration of that item. Citizens wishing to discuss matters not contained within the current agenda may do so, but only during the time allotted for presentation of citizens. Speakers are allowed two (2) minutes to speak during presentation of citizens or during each public hearing. Speakers may not cede or pool time. Members of the public requiring the assistance of a translator will be given twice the amount of time as a member of the public who does not require the assistance of a translator to address the City Council. It is the request of the City Council that members of the public wishing to speak on item(s) on the agenda with a noticed Public Hearing hold their comments until the item(s) are presented for consideration. Speakers are encouraged to sign in. Anyone may

request a copy of the City's policy on presentation of citizens from the city secretary. By law no action may be taken during Presentations of Citizens.

PRESENTATIONS

- 1. TIRZ Priority Projects Presentation.** *Keenan Smith, TIRZ Project Manager.*

CONSENT AGENDA

The following items are anticipated to require little or no individualized discussion due to their nature being clerical, ministerial, mundane or routine. In an effort to enhance the efficiency of City Council meetings, it is intended that these items will be acted upon by the City Council with a single motion because no public hearing or determination is necessary. However, a City Council Member or citizen may request separate deliberation for a specific item, in which event those items will be removed from the consent agenda prior to the City Council voting on the consent agenda as a collective, singular item. Prior to voting on the consent agenda, the City Council may add additional items that are listed elsewhere on the same agenda.

- 2. Approval of the December 7, 2021, City Council regular meeting minutes.**
- 3. Approval of a Resolution Accepting Improvements and Approving a Maintenance Bond for Caliterra Phase 4 Section 11 Wastewater Improvements and Releasing a Construction Bond.**
- 4. Approval of a Commercial Lease Agreement between the City of Dripping Springs and the Dripping Springs Visitors Bureau for property located at 511 Mercer Street, Dripping Springs, Texas, and commonly known as Dear Hall.** *Sponsor: Mayor Pro Tem Manassian.*
- 5. Approval of a Commercial Lease Agreement between the City of Dripping Springs and the Dripping Springs Chamber of Commerce for property located at 511 Mercer Street, Dripping Springs, Texas, and commonly known as Dear Hall.** *Sponsor: Mayor Pro Tem Manassian.*
- 6. Approval of assignment of various CMA Engineering Contracts to Burgess & Niple with current engineer Robby Callegari, P.E.**
- 7. Approval of the September 2021 City Treasurer's Report.**
- 8. Approval of Amendments to Task Order No. 1 regarding the East Interceptor and Task Order No. 2 regarding the West Interceptor and the related Professional Services Agreement between the City of Dripping Springs and HDR Engineering, Inc.** *Sponsor: Mayor Bill Foulds, Jr.*

BUSINESS AGENDA

- 9. Public hearing and consideration of approval of an Ordinance regarding ZA2021-0005: an application to consider a proposed zoning map amendment from Single Family- Low Density (SF-1) to Manufactured Home (MH) for approximately 2.279 acres out of the Phillip A. Smith Survey located at 910 Creek Road.** *Applicant: Jon Thompson*

- a. Presentation
- b. Staff Report
- c. Planning & Zoning Commission Report
- d. Public Hearing
- e. Ordinance

10. Public hearing and consideration of approval of an Ordinance regarding ZA2021-0010: an application to consider a proposed zoning map amendment from Manufactured Home (MH) to General Retail (GR) for an approximately 1.44 acres consisting of lots 1, 2, 3, 26, 27, and 28, block C out of the North Forty Section 2 subdivision located at the intersection of Ranch Road 12 and Timberline Drive. Applicant: Gilbert J. Guerra, P.E., Rio Delta Engineering.

- a. Presentation
- b. Staff Report
- c. Planning & Zoning Commission Report
- d. Public Hearing
- e. Ordinance

11. Public hearing and consideration of approval of an Ordinance regarding ZA2021-0009: an application for an amendment to the Shops at Highpointe Conditional Overlay for an approximately 10.0 acres of land out of tract A of the Sawyer Springs Subdivision located at the corner of US 290 and Sawyer Ranch Road. Applicant: JD Dudley, QuikTrip Corporation.

- a. Presentation
- b. Staff Report
- c. Planning & Zoning Commission Report
- d. Public Hearing
- e. Ordinance

12. Discuss and consider approval of an Ordinance amending the City of Dripping Springs Fee Schedule to include Water Meter and Inspection Fees.

13. Discuss and consider an ordinance amending Article 2.04 of the Dripping Springs Code of Ordinances as it relates to the Emergency Management Commission meetings and authority. Sponsor: Councilmember Harris-Allison.

14. Discuss and consider approval of the Appointment of Bonnie Humphrey, Bill Little, Gordon DeWitte and Russell Paxton to the Emergency Management Commission for terms ending January 1, 2024; and Appointment of a Chair and Vice Chair to serve for a term concurrent with their respective seat expiration.

15. Discuss and consider possible action regarding a Request for Resolution and Agreement related to extension of health benefits to the Dripping Springs Visitors Bureau under current City contract with Texas Municipal League Health Benefits Pool.

REPORTS

Reports of Staff, Boards, Commissions, Committees, Boards and Agencies are on file and available for review upon request. The City Council may provide staff direction; however, no action may be taken.

- 16. Parks & Community Services November 2021 Director's Report**
Kelly Schmidt, PCS Director

- 17. Planning Report: Moratorium**

EXECUTIVE SESSION AGENDA

The City Council for the City of Dripping Springs has the right to adjourn into executive session at any time during the course of this meeting to discuss any matter as authorized by Texas Government Code Sections 551.071 (Consultation with Attorney), 551.072 (Deliberations about Real Property), 551.073 (Deliberations about Gifts and Donations), 551.074 (Personnel Matters), 551.076 (Deliberations about Security Devices), and 551.086 (Economic Development). The City Council for the City of Dripping Springs may act on any item listed in Executive Session in Open Session or move any item from Executive Session to Open Session for action.

- 18. Consultation with City Attorney regarding to legal issues related to the extension of benefits under current agreements with the Visitors Bureau.** *551.071, Consultation with Attorney*
- 19. Consultation with City Attorney regarding legal issues related to planning matters, wastewater capacity, comprehensive plan, and processes related to approvals.** *551.071, Consultation with City Attorney*
- 20. Consultation with City Attorney on legal issues related to an Amended Interlocal Agreement with Hays County as it relates to subdivision review in the extraterritorial jurisdiction.** *551.071, Consultation with Attorney*

UPCOMING MEETINGS

City Council & Board of Adjustment Meeting

December 28, 2021, at 5:00 p.m. (Exceptions & Waivers)
January 4, 2022, at 6:00 p.m. (CC & BOA)
January 11, 2022, at 5:00 p.m. (Exceptions & Waivers)
January 18, 2022, at 6:00 p.m. (CC)
January 25, 2022, at 5:00 p.m. (Exceptions & Waivers)

Board, Commission & Committee Meetings

December 28, 2021, Planning & Zoning Commission at 6:30 p.m.
January 3, 2022, Parks & Recreation Commission at 6:00 pm.
January 5, 2022, Dripping Springs Ranch Park Board at 12:00 p.m.
January 6, 2022, Historic Preservation Commission at 4:00 p.m.
January 10, 2022, TIRZ No. 1 & No. 2 Board at 4:00 p.m.
January 10, 2022, Founders Day Commission at 6:30 p.m.
January 12, 2022, Utility Commission at 4:00 p.m.

ADJOURN

TEXAS OPEN MEETINGS ACT PUBLIC NOTIFICATION & POSTING OF MEETING

All agenda items listed above are eligible for discussion and action unless otherwise specifically noted. This notice of meeting is posted in accordance with Chapter 551, Government Code, Vernon's

Texas Codes. Annotated. In addition, the City Council may consider a vote to excuse the absence of any City Council Member for absence from this meeting.

*I certify that this notice of meeting was posted at the City of Dripping Springs City Hall and website, www.cityofdrippingsprings.com, on **December 17, 2021, at 1:30 p.m.***

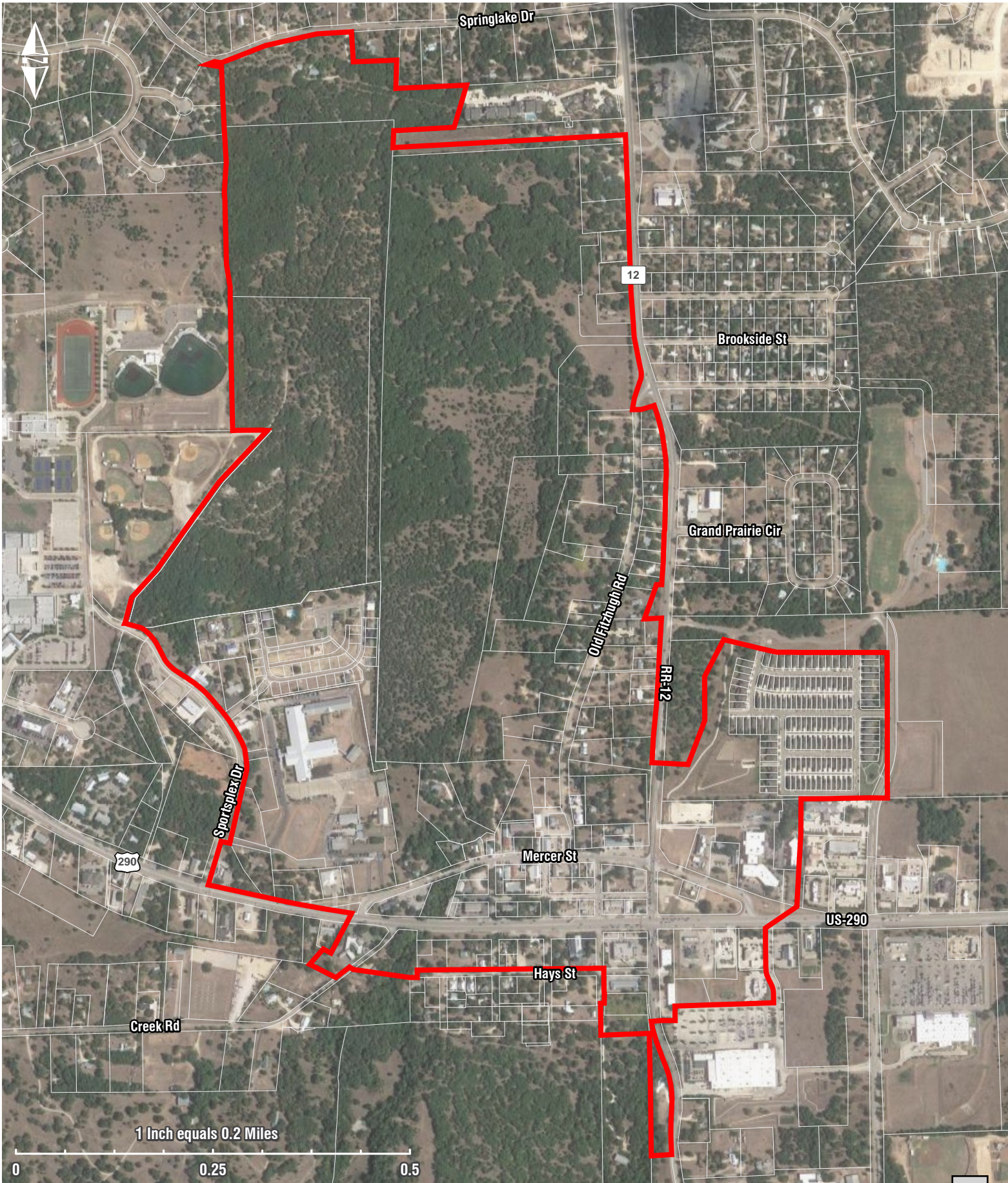
City Secretary

This facility is wheelchair accessible. Accessible parking spaces are available. Request for auxiliary aids and services must be made 48 hours prior to this meeting by calling (512) 858-4725.

LOCATION MAP: TIRZ #2



LOCATION MAP: TIRZ #1



LOCATION MAP: TIRZ #1 AND 2





CITY COUNCIL & BOARD OF ADJUSTMENT REGULAR MEETING - AMENDED

City of Dripping Springs

Council Chambers, 511 Mercer St, Dripping Springs, TX

Tuesday, December 07, 2021 at 6:00 PM

MINUTES

AMENDED AGENDA

CALL TO ORDER AND ROLL CALL

With a quorum of the City Council present, Mayor Foulds, Jr. called the meeting to order at 6:00 p.m.

City Council Members present were:

Mayor Bill Foulds, Jr.
Mayor Pro Tem Taline Manassian
Council Member Place 2 Wade King
Council Member Place 3 Geoffrey Tahuahua
Council Member Place 5 Sherrie Parks

Council Member absent was:

Council Member Place 4 April Harris Allison

Staff, Consultants & Appointed/Elected Officials present were:

City Administrator Michelle Fischer
Deputy City Administrator Ginger Faught
City Attorney Laura Mueller
City Treasurer Shawn Cox
City Secretary Andrea Cunningham
Planning Director Howard Koontz
Senior Planner Tory Carpenter
Planning Assistant Warlan Rivera
Parks & Community Services Director Kelly Schmidt
Planning & Zoning Commission Chair Mim James

PLEDGE OF ALLEGIANCE

Council Member Sherrie Parks led the Pledge of Allegiance to the Flag.

PRESENTATION OF CITIZENS

A member of the public who desires to address the City Council regarding any item on an agenda for an open meeting may do so at presentation of citizens before an item or at a public hearing for an item during the City Council's consideration of that item. Citizens wishing to discuss matters not contained within the current agenda may do so, but only during the time allotted for presentation of citizens. Speakers are allowed two (2) minutes to speak during presentation of citizens or during each public

hearing. Speakers may not cede or pool time. Members of the public requiring the assistance of a translator will be given twice the amount of time as a member of the public who does not require the assistance of a translator to address the City Council. It is the request of the City Council that members of the public wishing to speak on item(s) on the agenda with a noticed Public Hearing hold their comments until the item(s) are presented for consideration. Speakers are encouraged to sign in. Anyone may request a copy of the City's policy on presentation of citizens from the city secretary. By law no action may be taken during Presentations of Citizens.

No one spoke during Presentation of Citizens.

CONSENT AGENDA

The following items are anticipated to require little or no individualized discussion due to their nature being clerical, ministerial, mundane or routine. In an effort to enhance the efficiency of City Council meetings, it is intended that these items will be acted upon by the City Council with a single motion because no public hearing or determination is necessary. However, a City Council Member or citizen may request separate deliberation for a specific item, in which event those items will be removed from the consent agenda prior to the City Council voting on the consent agenda as a collective, singular item. Prior to voting on the consent agenda, the City Council may add additional items that are listed elsewhere on the same agenda.

1. **Approval of the November 16, 2021 City Council regular meeting Minutes.**
2. **Approval of the November 22, 2021 City Council special meeting Minutes.**
3. **Approval of the Appointment of Erika Fritz to the Farmers Market Committee for a term ending June 30, 2023.**
4. **Approval of the 2022 Uniform Submittal Ordinance for site plans and subdivision filings.**

Filed as Ordinance No. 2021-46

5. **Approval of a Resolution approving MUD Reimbursement Bonds for Hays County MUD Number 4 for reimbursement for construction of water, wastewater, and drainage facilities. Applicant: Felix J. Manka, Burgess Niple, P.E.**

Filed as Resolution No. 2021-R39

6. **Approval of a Letter of Support related to the City's Hays County Master Naturalist Firefly Project Grant Funding application for costs associated with upgrading Charro Ranch Park's native plant demonstration garden.**
7. **Approval of a Resolution of the City Council of the City of Dripping Springs, Authorizing Participation with the State of Texas, through the Office of the Attorney General in the Global Opioid Settlement and Approving the Term Sheet. Sponsor: Mayor Foulds, Jr.**

Filed as Resolution No. 2021-R40

A motion was made by Mayor Pro Tem Manassian to approve Consent Agenda Items 1 – 7. Council Member King seconded the motion which carried unanimously 4 to 0.

BUSINESS AGENDA

- 8. Public hearing and consideration of approval of an Annexation Ordinance and Service Agreement (ANNEX2021-0004), and an Ordinance for zoning amendment (ZA2021-0007) from Agricultural (AG) to Single-Family Residential District - Moderate Density (SF-2) for approximately 39.341 acres out of the Benjamin F. Hannah Survey, located at 2901 W US 290. Applicant: Brian Estes, P.E., Civil and Environmental Consultants Inc.**

a. Presentation – No presentation given.

b. Staff Report – Tory Carpenter presented the staff report which is on file. Staff recommends approval of the annexation and zoning amendment.

c. Planning & Zoning Commission Report – Mim James presented the report. The Commission recommended approval of the zoning amendment unanimously 4 to 0.

d. Public Hearing – No one spoke during the Public Hearing.

e. Annexation Ordinance & Service Agreement

f. Zoning Amendment Ordinance

A motion was made by Mayor Pro Tem Manassian to approve an Annexation Ordinance and Service Agreement (ANNEX2021-0004), and an Ordinance for zoning amendment (ZA2021-0007) from Agricultural (AG) to Single-Family Residential District - Moderate Density (SF-2) for approximately 39.341 acres out of the Benjamin F. Hannah Survey, located at 2901 W US 290. Council Member Tahuahua seconded the motion which carried unanimously 4 to 0.

Annexation filed as Ordinance No. 2021-47

Zoning Amendment filed as Ordinance No. 2021-48

- 9. Discuss and consider approval of a Waiver Application from the temporary development moratorium for the Silver Creek Subdivision. Applicant: Tracy Bratton, P.E., Doucet and Associates.**

a. Presentation – Applicant John Doucet gave a presentation.

b. Staff Report – Tory Carpenter presented the staff report which is on file. Staff recommends approval of the waiver application.

c. Waiver Application – A motion was made by Council Member Parks to approve a Waiver Application from the temporary development moratorium for the Silver Creek Subdivision. Council Member Tahuahua seconded the motion which carried unanimously 4 to 0.

10. **Discuss and consider approval of a Waiver Application from the temporary development moratorium for 900 Hays Country Acres.** *Applicant: Jennifer M. Garcia, P.E.*

No action was taken on this item. The applicant withdrew their Waiver Application.

- a. **Presentation**
- b. **Staff Report**
- c. **Waiver Application**

11. **Discuss and consider approval of the proposed Dripping Springs Park System Wayfinding Signage Plan.**

Brent Baker presented the plan.

Kelly Schmidt presented the staff report which is on file. Staff and the Parks & Recreation Commission recommend approval of the plan.

A motion was made by Council Member Parks to approve the Dripping Springs Park System Wayfinding Signage Plan. Mayor Pro Tem Manassian seconded the motion which carried unanimously 4 to 0.

12. **Discuss and consider approval of the selection of contractor for the Cellular-Enabled Water Meters Request for Bids, and authorization for staff to negotiate and finalize the agreement.**

Shawn Cox presented the staff report which is on file. Staff recommends selection of Atlas Utility.

A motion was made by Mayor Pro Tem Manassian to select Atlas Utility as the contractor for the Cellular-Enabled Water Meters Request for Bids, and to authorize staff to negotiate and finalize the agreement. Council Member Parks seconded the motion which carried unanimously 4 to 0.

13. **Public hearing and consideration of approval of an Ordinance of the City of Dripping Springs, Texas amending the current 2021-2022 Fiscal Year Budget; Finding Municipal Purposes; Authorizing Expenditures.**

a. **Staff Report** – Shawn Cox presented the staff report which is on file. Staff recommends approval of the budget amendment.

b. **Public Hearing** – No one spoke during the Public Hearing.

c. **Budget Amendment Ordinance** – A motion was made by Council Member Tahuahua to approve an Ordinance of the City of Dripping Springs, Texas amending the current 2021-2022 Fiscal Year Budget; Finding Municipal Purposes; Authorizing Expenditures. Mayor Pro Tem Manassian seconded the motion which carried unanimously 4 to 0.

Filed as Ordinance No. 2021-49

14. Discuss and consider selection of Hays Central Appraisal District Board of Directors candidate(s), and approval of a Resolution to cast the ballot.

a. Candidate Selection – Andrea Cunningham presented the staff report which is on file.

b. Resolution – A motion was made by Council Member Tahuahua to cast eleven (11) votes for Jenifer O’Kane and ten (10) votes for Will Conley for the Hays Central Appraisal District Board of Directors. Sherrie Parks seconded the motion. Upon further discussion, Council Member Tahuahua amended his motion to cast seven (7) ballots each for Jenifer O’Kane, Leonard Olson and Will Conley. Council Member Parks accepted and seconded the amended motion which carried unanimously 4 to 0.

Filed as Resolution No. 2021-R41

REPORTS

Reports of Staff, Boards, Commissions, Committees, Boards and Agencies. All reports are on file and available for review upon request. The City Council may provide staff direction; however, no action may be taken.

Reports are on file and available for review upon request.

15. Report on Moratorium Exceptions & Waivers

16. Maintenance & Facilities Monthly Report

Craig Rice, Maintenance Director

17. Transportation Committee Monthly Report

Travis Crow, TC Chair

A motion was made by Mayor Pro Tem Manassian to adjourn into Executive Session under Texas Government Code Sections 551.074, Personnel Matters and 551.071, Consultation with City Attorney and regarding Executive Session Agenda Items 18 and 22. Council Member Tahuahua seconded the motion which carried unanimously 4 to 0.

EXECUTIVE SESSION AGENDA

The City Council for the City of Dripping Springs has the right to adjourn into executive session at any time during the course of this meeting to discuss any matter as authorized by Texas Government Code Sections 551.071 (Consultation with Attorney), 551.072 (Deliberations about Real Property), 551.073 (Deliberations about Gifts and Donations), 551.074 (Personnel Matters), 551.076 (Deliberations about Security Devices), and 551.086 (Economic Development). The City Council for the City of Dripping Springs may act on any item listed in Executive Session in Open Session or move any item from Executive Session to Open Session for action.

18. Deliberation of Personnel Matters regarding Fiscal Year 2022 Longevity Pay for the following: Penny Appleman, Roman Baligad, Jim Bass, Kevin Campbell, Sherry Canady, Tory Carpenter, Sarah Cole, Shawn Cox, Andrea Cunningham, Brandon Elliott, Ginger Faught, Michelle Fischer, Sesario Garza, Johnathon Hill, Caylie Houchin, Alison Jamieson, Rune Jamieson, Sheri Kapanka, Amy Kappler, Jesse Kennis, Howard Koontz, Johnna Krantz, Laura Mueller, Emily Emigh Nelson, Heather

Newman, Shane Pevehouse, Steve Rassette, Aaron Reed, Charles Reed, Craig Rice, Warlan Rivera, Selina Romero, Mackenzie Rusick, Kelly Schmidt, Lily Sellers, Nick Spillar, Bill Stevens, Riley Sublett, Lisa Sullivan, and Marcus Vallejo. *Personnel Matters, 551.074.*

19. **Consultation with City Attorney regarding legal issues related to opioid settlement.** *Consultation with City Attorney, 551.071*
20. **Consultation with City Attorney regarding legal issues related to ongoing developments including Rob Shelton Improvements and Texas Department of Transportation and other sources of funding related to improvements and the provision of wastewater to PDD No. 11; and, legal issues related to Bunker Ranch annexation and zoning.** *Consultation with City Attorney, 551.071*
21. **Consultation with City Attorney regarding legal issues related to the provision of retail utility services.** *Consultation with City Attorney, 551.071*
22. **Consultation with City Attorney regarding legal issues related to planning matters, wastewater capacity, comprehensive plan, and processes related to approvals.** *Consultation with City Attorney, 551.071*

The City Council met in Executive Session from 7:17 – 7:33 p.m.

No action or vote was taken during Executive Session. Mayor Foulds, Jr. returned the meeting to Open Session at 7:33 pm.

UPCOMING MEETINGS

City Council & Board of Adjustment Meetings

December 14, 2021, at 5:00 p.m. (Waivers & Exceptions)
 December 21, 2021, at 6:00 p.m. (Regular Meeting)
 December 28, 2021, at 5:00 p.m. (Waivers & Exceptions)
 January 4, 2022, at 6:00 p.m. (Regular & BOA)
 January 11, 2022, at 5:00 p.m. (Waivers & Exceptions)
 January 18, 2022, at 6:00 p.m. (Regular Meeting)
 January 25, 2022, at 5:00 p.m. (Waivers & Exceptions)

Board, Commission & Committee Meetings

December 8, 2021, Utility Commission at 4:00 p.m.
 December 13, 2021, TIRZ No. 1 & No. 2 Board at 4:00 p.m.
 December 13, 2021, Founders Day Commission at 4:00 p.m.
 December 14, 2021, Planning & Zoning Commission at 6:30 p.m.
 December 15, 2021, Economic Development Committee at 4:00 p.m.
 December 16, 2021, Farmers Market Committee at 10:00 a.m.
 December 16, 2021, Emergency Management Commission at 12:00 p.m.
 December 20, 2021, Transportation Committee at 3:30 p.m.

ADJOURN

A motion was made by Mayor Pro Tem Manassian to adjourn the meeting. Council Member Parks seconded the motion which carried unanimously 4 to 0.

This regular meeting adjourned at 7:33 p.m.

APPROVED ON: December 21, 2021

Bill Foulds, Jr., Mayor

ATTEST:

Andrea Cunningham, City Secretary



STAFF REPORT
City of Dripping Springs
PO Box 384
511 Mercer Street
Dripping Springs, TX 78602

Submitted By: Aaron Reed, Public Works Coordinator

Council Meeting Date: December 21, 2021

Agenda Item Wording: Approval of a Resolution Accepting Improvements and Approving a Maintenance Bond for Caliterra Phase 4 Section 11 Wastewater Improvements and Releasing a Construction Bond.

Agenda Item Requestor:

Summary/Background: DNT Construction completed construction of Wastewater Improvements in Caliterra Phase 4 Section 11. City Staff inspected the project throughout construction and the City Engineer completed a final inspection. The Design Engineer provided a concurrence letter and the contractor has provided the required 2 year maintenance bond.

**Commission
Recommendations:**

**Recommended
Council Actions:** City Staff recommends approval

Attachments:

Next Steps/Schedule: Send to City Secretary for execution.

Philadelphia Indemnity Insurance Company

One Bala Plaza, Suite 100
Bala Cynwyd, PA 19004
877-438-7459

Bond No. PB03016800681M

MAINTENANCE BOND

KNOW ALL MEN BY THESE PRESENTS, that we DNT Construction, LLC as Principal, and Philadelphia Indemnity Insurance Company, a corporation organized under the laws of the State of Pennsylvania, and duly authorized to do business in the State of Texas as Surety, are held and firmly bound unto City Of Dripping Springs as Obligee, in the penal sum of Three Hundred Forty Eight Thousand Six Hundred Eighty Eight and 00/100 (\$348,688.00) to which payment well and truly to be made we do bind ourselves, and each of our heirs, executors, administrators, successors and assigns jointly and severally, firmly by these presents.

WHEREAS, the said Principal has entered into a contract with Development Solutions CAT, LLC on behalf of the Hays County Development District No. 1 for Caliterra Phase 4 Section 11 - Waste Water, which contract is hereinafter referred to as the "Contract."

WHEREAS, said Obligee requires that the Principal furnish a bond conditioned to guarantee for the period of Two year (s) from date of acceptance of the work performed under the Contract against all defects in workmanship and materials which would have been the responsibility under the Contract for which written notice is made to Surety during said period

NOW THEREFORE, THE CONDITIONS OF THIS OBLIGATION IS SUCH that, if the Principal shall indemnify the Obligee for all loss that the Obligee may sustain by reason of any defective materials or workmanship which may become apparent and with respect to which notice is delivered to Surety in writing during the period of Two year (s) from and after date of acceptance of the work under the Contract, then this obligation shall be void, otherwise to remain in full force and effect.

No right of action shall accrue hereunder to or for the benefit of any person or entity other the Obligee named herein, nor shall any suit be filed or action maintained on this bond more than twenty five (25) months after the date of the earliest timely notice of defect by Obligee to Surety.

SIGNED, SEALED AND DATED THIS 16th day of November, 2021.

DNT Construction, LLC
Principal

By: 
Dean Tomme, President

Philadelphia Indemnity Insurance Company

By: 
Jeremy Farque, Attorney-in-Fact

PHILADELPHIA INDEMNITY INSURANCE COMPANY
One Bala Plaza, Suite 100
Bala Cynwyd, PA 19004-0950

Power of Attorney

KNOW ALL PERSONS BY THESE PRESENTS: That PHILADELPHIA INDEMNITY INSURANCE COMPANY (the Company), a corporation organized and existing under the laws of the Commonwealth of Pennsylvania, does hereby constitute and appoint Tom Mulanax, Michael Whorton, David Whorton, Rachel Martinez, Rosemarie Lopez, Jeremy Farque and/or Noe Moreno of Whorton Insurance Services, its true and lawful Attorney-in-fact with full authority to execute on its behalf bonds, undertakings, recognizances and other contracts of indemnity and writings obligatory in the nature thereof, issued in the course of its business and to bind the Company thereby, in an amount not to exceed \$50,000,000.

This Power of Attorney is granted and is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of PHILADELPHIA INDEMNITY INSURANCE COMPANY on the 14th of November, 2016.

RESOLVED: That the Board of Directors hereby authorizes the President or any Vice President of the Company: (1) Appoint Attorney(s) in Fact and authorize the Attorney(s) in Fact to execute on behalf of the Company bonds and undertakings, contracts of indemnity and other writings obligatory in the nature thereof and to attach the seal of the Company thereto; and (2) to remove, at any time, any such Attorney-in-Fact and revoke the authority given. And, be it

FURTHER RESOLVED: That the signatures of such officers and the seal of the Company may be affixed to any such Power of Attorney or certificate relating thereto by facsimile, and any such Power of Attorney so executed and certified by facsimile signatures and facsimile seal shall be valid and binding upon the Company in the future with respect to any bond or undertaking to which it is attached.

IN TESTIMONY WHEREOF, PHILADELPHIA INDEMNITY INSURANCE COMPANY HAS CAUSED THIS INSTRUMENT TO BE SIGNED AND ITS CORPORATE SEAL TO BE AFFIXED BY ITS AUTHORIZED OFFICE THIS 5TH DAY OF MARCH, 2021.

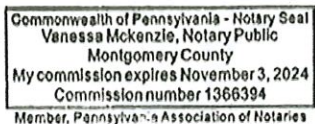


(Seal)

John Glomb, President & CEO
Philadelphia Indemnity Insurance Company

On this 5th day of March, 2021 before me came the individual who executed the preceding instrument, to me personally known, and being by me duly sworn said that he is the therein described and authorized officer of the PHILADELPHIA INDEMNITY INSURANCE COMPANY; that the seal affixed to said instrument is the Corporate seal of said Company; that the said Corporate Seal and his signature were duly affixed.

Notary Public:



residing at:

Bala Cynwyd, PA

My commission expires:

November 3, 2024

I, Edward Sayago, Corporate Secretary of PHILADELPHIA INDEMNITY INSURANCE COMPANY, do hereby certify that the foregoing resolution of the Board of Directors and the Power of Attorney issued pursuant thereto on the 5th day March, 2021 are true and correct and are still in full force and effect. I do further certify that John Glomb, who executed the Power of Attorney as President, was on the date of execution of the attached Power of Attorney the duly elected President of PHILADELPHIA INDEMNITY INSURANCE COMPANY.

In Testimony Whereof I have subscribed my name and affixed the facsimile seal of each Company this 16th day of November, 2021.



Edward Sayago, Corporate Secretary
PHILADELPHIA INDEMNITY INSURANCE COMPANY





Carlson, Brigance & Doering, Inc.

Civil Engineering ❖ Surveying

**ENGINEER'S CONCURRENCE LETTER
FOR FINAL INSPECTION AND
ENGINEERING RELEASE**

Date: December 7, 2021

Project Name: **Caliterra Phase 4, Section 11**

Address: Intersection of Premier Park Loop and Soaring Hill Road

City of Dripping Springs Development Permit #SUB2019-0009

CBD No. 4993

This is to certify that I, the undersigned professional engineer, or my representative, have reviewed construction progress reports, logs, shop drawings and test reports. On this date, I made an on-site inspection of the referenced project. No discrepancy or deviation from the approved construction plans exist which may materially affect the usefulness of the work for the purpose and life intended for the project by design, except those listed below. I, therefore, recommend approval of this project by **City of Dripping Springs**, upon satisfactory correction of the following items:

Established Revegetation

Sincerely,

Carlson, Brigance and Doering, Inc. (F-3791)


BRIAN R. KELLING, JR., P.E.



CARLSON, BRIGANCE & DOERING, INC.
ID# F3791

CITY OF DRIPPING SPRINGS

RESOLUTION NO. 2021-R

**ACCEPTING IMPROVEMENTS AND APPROVING A MAINTENANCE
BOND FOR CALITERRA SUBDIVISION PHASE 4 SECTION 11
WASTEWATER IMPROVEMENTS AND RELEASING CONSTRUCTION
BOND**

A RESOLUTION OF THE CITY OF DRIPPING SPRINGS, TEXAS (“CITY”), ACCEPTING IMPROVEMENTS AND APPROVING AND ACCEPTING A MAINTENANCE BOND FOR CALITERRA SUBDIVISION PHASE 4 SECTION 11 WASTEWATER IMPROVEMENTS, AND RELEASING A CONSTRUCTION BOND, PROVIDING FOR EFFECTIVE DATE; AND PROPER NOTICE & MEETING

- WHEREAS**, DNT Construction, LLC. (“Contractor”) recently completed, and the City Engineer for the City of Dripping Springs has inspected, Caliterra Subdivision Phase 4 Section 11 Wastewater improvements (“Improvements”) for the City of Drippings Springs; and
- WHEREAS**, the City desires to accept as being complete in accordance with applicable development the Improvements in Caliterra Subdivision Phase 4 Section 11; and
- WHEREAS**, the City of Dripping Springs City Council (“City Council”) seeks the Contractor to provide Maintenance Bonds (Attachment “A”) conditioned to guarantee for the period of Two (2) Years from and after the date of substantial completion of the Improvements, guaranteeing the materials and workmanship related to Contractor’s Improvements; and
- WHEREAS**, this Resolution conforms with the Maintenance and Guarantee regulation of the City’s Code requiring all public improvements be free from defects for a period of two (2) years; and
- WHEREAS**, substantial completion of the Work was verified by engineer letter (Attachment “B”) as of December 7, 2021 and the maintenance bond period of Two (2) Years begins upon City Council approval; and
- WHEREAS**, pursuant to Texas Local Government Code Section 51.001, the City has general authority to adopt an ordinance or police regulation that is for the good government, peace or order of the City and is necessary or proper for carrying out a power granted by law to the City; and

City of Dripping Springs
Bond

Caliterra Ph4 S11 Maintenance

WHEREAS, the City Council finds that it is necessary and proper for the good government, peace or order of the City to approve this Resolution.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Dripping Springs City, Texas, that:

- 1. The foregoing recitals are adopted as facts and are incorporated into this Resolution by reference as findings of fact as if expressly set forth herein.
- 2. The City Council hereby accepts Wastewater Improvements at the Caliterra Subdivision Phase 4 Section 11.
- 3. The City Council hereby approves and accepts the Contractor’s proposed Maintenance Bond No. PB03016800681M from Philadelphia Indemnity Insurance Company (“Insurer”), included and attached herein (Attachment “A”).
- 4. The City Council hereby releases the Contractor’s Construction Bond No. LICX1209917.
- 5. Conditioned upon the fiscal guarantee for maintenance from the Contractor and the Insurer, the City shall assume responsibility for the repair, maintenance, and regulation of the Improvements for the benefit of the public.
- 6. The City Council hereby authorizes the Mayor or the Mayor’s designee to execute any documentation on the City’s behalf necessary to effectuate the intent and purpose of this Resolution.
- 7. This Resolution shall take effect immediately upon passage.
- 8. The meeting at which this Resolution was passed was open to the public, and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Texas Government Code, Chapter 551.

PASSED & APPROVED this, the [redacted] day of [redacted], 2021, by a vote of ___ (ayes) to ___ (nays) to ___ (abstentions) of the City Council of Dripping Springs, Texas.

CITY OF DRIPPING SPRINGS:

City of Dripping Springs
Bond

Caliterra Ph4 S11 Maintenance

by: _____
Mayor Bill Foulds, Jr.

ATTEST:

Andrea Cunningham, City Secretary

Attachment "A"

(Insert Maintenance Bonds No. PB03016800681M DNT Construction, LLC, and

City of Dripping Springs
Bond

Caliterra Ph4 S11 Maintenance

Philadelphia Indemnity Insurance Company)



STAFF REPORT
City of Dripping Springs
PO Box 384
511 Mercer Street
Dripping Springs, TX 78620

Submitted By: Michelle Fischer, City Administrator

Council Meeting Date: December 21, 2021

Agenda Item Wording: **Approval of a Commercial Lease Agreement between the City of Dripping Springs and the Dripping Springs Visitors Bureau for property located at 511 Mercer Street, Dripping Springs, Texas, and commonly known as Dear Hall.**

Agenda Item Requestor: Bonnie Humphrey, DS Visitors Bureau Representative

Summary/Background: The DS Visitors Bureau Lease for Dear Hall expires in February 2022. The DS Chamber of Commerce also uses the building. The parties wish to have separate leases and jointly use the premises.

The lease commences February 1, 2022, and expires January 31, 2027. The parties shall meet annually to discuss the lease. The Visitors Bureau may request to renew the lease and the City has the sole option to renew the lease or grant a month to month lease.

The Visitors Bureau will pay the City \$10.00 annually for rent.

The premises shall be used for operating and maintaining an office for the Visitors Bureau.

The Visitors Bureau must obtain written consent from the City for any improvements or construction activities involving roofing, flooring, or structural aspects of the building. Remodeling shall be at the Visitors Bureau's expense. All improvement shall remain at the lease termination and become the City's property.

The City must approve any signage.

The Visitors Bureau will pay for electricity service and arrange and pay for its telephone and internet services.

The Visitors Bureau will maintain the premises in a condition comparable to its current condition, perform all necessary repairs, and keep the premises clean and free of trash.

The Visitors Bureau will maintain general liability insurance for the premises with the City as additional named insured.

The Visitors Bureau may use the dumpster provided by the City.

The Visitors Bureau may not sublet any portion of the premises without City written consent.

Provisions for default by the Visitors Bureau and the City are in the lease.

The lease may be terminated if the City sales or transfers the premises with a minimum of sixty day notice. The City may also terminate the lease with sixty day notice if the City requires the space for its staff.

See the lease for all provisions.

**Commission
Recommendations:**

N/A

**Recommended
Council Actions:**

Approve the lease

Attachments:

Draft Lease

Next Steps/Schedule:

Notify DS Visitors Bureau of City Council action.

**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 31st 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 1st 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

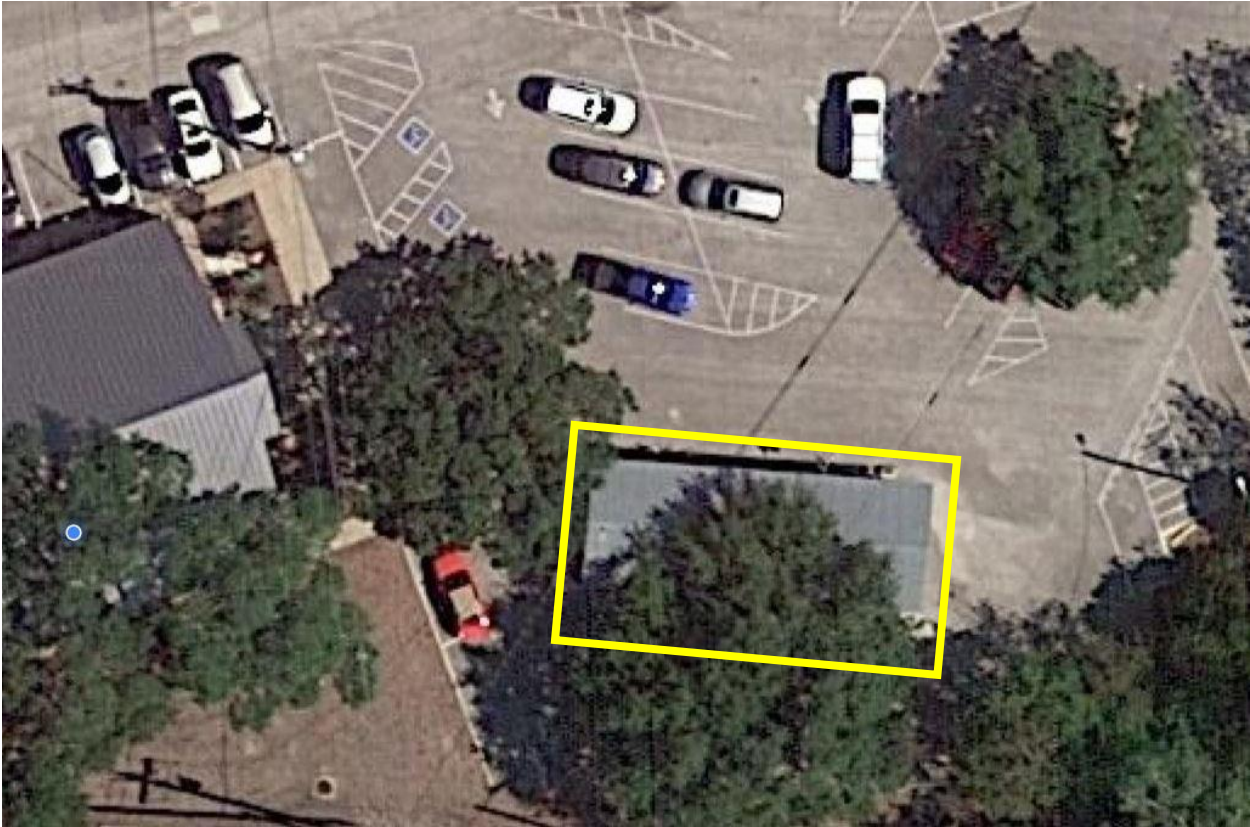
By: _____
Pam Owens, President

ATTEST:

By: _____
Andrea Cunningham, City Secretary

Attachment "A"

Dear Hall
509 Mercer Street





STAFF REPORT
City of Dripping Springs
PO Box 384
511 Mercer Street
Dripping Springs, TX 78620

Submitted By: Michelle Fischer, City Administrator

Council Meeting Date: December 21, 2021

Agenda Item Wording: **Approval of a Commercial Lease Agreement between the City of Dripping Springs and the Dripping Springs Chamber of Commerce for property located at 511 Mercer Street, Dripping Springs, Texas, and commonly known as Dear Hall.**

Agenda Item Requestor: Bonnie Humphrey, DS Chamber of Commerce Representative

Summary/Background: The DS Chamber of Commerce's Lease for Dear Hall expires in February 2022. The DS Visitors Bureau also uses the building. The parties wish to have separate leases and jointly use the premises.

The lease commences February 1, 2022, and expires January 31, 2027. The parties shall meet annually to discuss the lease. The Chamber may request to renew the lease and the City has the sole option to renew the lease or grant a month to month lease.

The Chamber will pay the City \$10.00 annually for rent.

The premises shall be used for operating and maintaining an office for the Chamber of Commerce.

The Chamber must obtain written consent from the City for any improvements or construction activities involving roofing, flooring, or structural aspects of the building. Remodeling shall be at the Chamber's expense. All improvement shall remain at the lease termination and become the City's property.

The City must approve any signage.

The Chamber will pay for electricity service and arrange and pay for its telephone and internet services.

The Chamber will maintain the premises in a condition comparable to its current condition, perform all necessary repairs, and keep the premises clean and free of trash.

The Chamber will maintain general liability insurance for the premises with the City as additional named insured.

The Chamber may use the dumpster provided by the City.

The Chamber may not sublet any portion of the premises without City written consent.

Provisions for default by the Chamber and the City are in the lease.

The lease may be terminated if the City sales or transfers the premises with a minimum of sixty day notice. The City may also terminate the lease with sixty day notice if the City requires the space for its staff.

See the lease for all provisions.

**Commission
Recommendations:**

N/A

**Recommended
Council Actions:**

Approve the lease

Attachments:

Draft Lease

Next Steps/Schedule:

Notify DS Chamber of Commerce of City Council action.

**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 CHAMBER OF COMMERCE, (hereinafter referred to as “Chamber”).

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 CHAMBER OF COMMERCE
P.O. Box 206
Dripping Springs, Texas 78620

Leased Premises: DEAR HALL (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 Chamber 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 31st of each year.

Renewal and Extension Option: Chamber 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 Chamber 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 1st 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 Chamber of Commerce.

Permitted Uses: The Leased Premises shall be used for the purpose of operating and maintaining an office for the Chamber of Commerce. The Visitors Bureau will be a co-lessee on this property. Notwithstanding the foregoing, Chamber shall not use the Leased Premises for the purposes of storing, manufacturing, or selling any explosives, chemicals, flammable substances, or other inherently dangerous substances. Chamber 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 Chamber 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 Chamber, and Chamber 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). Chamber 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 Chamber acknowledges that this lease only covers the Chamber, and no other lessees will be leasing the Dear Hall except by separate agreement. The Visitors Bureau will be a co-lessee on this property as shown in a separate lease.

ARTICLE II

Performance Representations by Chamber. Chamber 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 Chamber’s intended use. Chamber 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 Chamber shall be at the Chamber’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. Chamber 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 Chamber'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 CHAMBER'S USE OF THE LEASED PREMISES OR RESULTING FROM CHAMBER'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, Chamber will reimburse City in an amount equal to the cost to repair any damage that occurred to the Leased Premises.
17. Chamber 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 Chamber's use, Chamber will reimburse the City for the additional cost associated with the increased level of service. Chamber 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 Chamber's use of the Leased Premises.

Prohibition Representations by Chamber. Chamber 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 Chamber 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 Chamber.
4. Adequately insure the building and parking facilities against risks of direct physical loss. The parties agree that Chamber 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 Chamber's possession of the premises so long as Chamber is not in default.
2. Unreasonably withhold consent to a proposed assignment or sublease.

ARTICLE IV

Default by Chamber

1. Default by Chamber 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 Chamber's default are to (a) enter and take possession of the Leased Premises, after which City may relet the Leased Premises on behalf of Chamber and receive the Lease Rent directly by reason of the reletting, and Chamber agrees to reimburse City for actual expenditures reasonably made in order to relet; or (b) enter the Leased Premises and perform Chamber'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. Chamber'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 Chamber 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 Chamber 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 Chamber 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 Chamber, but not less than sixty (60) days prior to termination. Upon notice of termination the Chamber shall move from the area and building by the date of termination.

ARTICLE VI

Building Keys. City will provide Chamber with an adequate number of keys to the premises. Additional keys may be obtained at Chamber'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, Chamber may, at its sole cost and expense, change locks within its own premises area, provided that Chamber furnishes a complete set of keys to all such locks to City. Upon termination of this lease, Chamber shall surrender to City all keys to the premises.

Access. Chamber and its employees shall always have access to the premises. Chamber's

invitees and customers and the general public shall have access to the premises during normal business hours and, at Chamber'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 Chamber access to break room and meeting rooms, when not in use by City, during normal hours of operation or after hours by special arrangement. Chamber 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 Chamber, 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 Chamber 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 Chamber 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. **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 Chamber:

Susan Kimball, President
 Dripping Springs Area Chamber of Commerce
 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 Chamber hereunder.

9. Attorneys' Fees. In the event of litigation between City and Chamber 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 CHAMBER OF
COMMERCE**

By: _____
Bill Foulds, Jr., Mayor

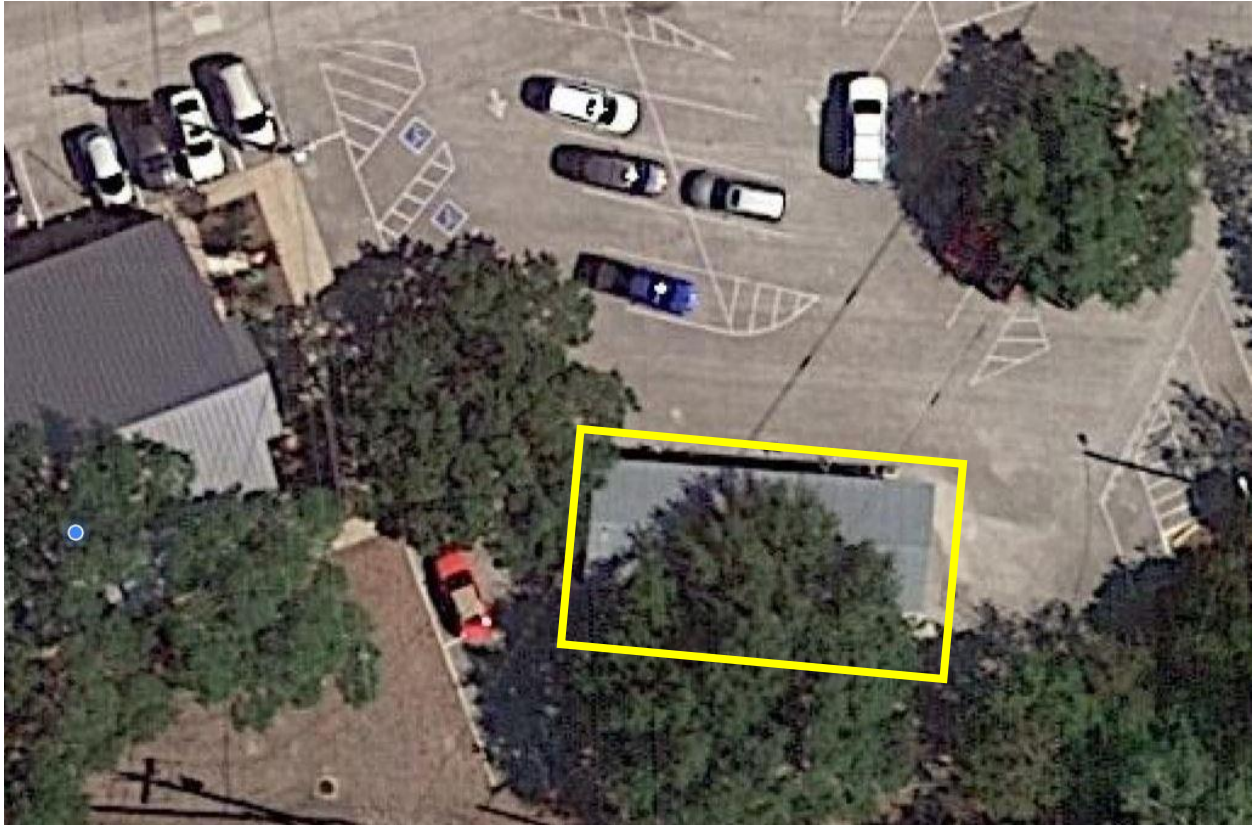
By: _____
Susan Kimball, President

ATTEST:

By: _____
Andrea Cunningham, City Secretary

Attachment “A”

Dear Hall
509 Mercer Street





STAFF REPORT
City of Dripping Springs
PO Box 384
511 Mercer Street
Dripping Springs, TX 78620

Submitted By: Laura Mueller, City Attorney

Council Meeting Date: December 21, 2021

Agenda Item Wording: **Approval of assignment of various CMA Engineering Contracts to Burgess & Niple with current engineer Robby Callegari, PE.**

Agenda Item Requestor: Robby Callegari, P.E., Burgess & Niple

Summary/Background: Robby Callegari has been the City's Wastewater engineer for many years through CMA Engineering. Recently he joined Burgess & Niple with Felix Manka who has also done work for the City. The City has multiple contracts with CMA Engineering and Mr. Callegari is asking that the City assign these contracts to Burgess & Niple. The contracts in place all require approval of an assignment in writing. Mr. Callegari has assured the City that he will remain the primary contact and engineer on all of the current contracts.

Commission Recommendations: N/A

Recommended Council Actions: Approve assignment for all CMA Engineering Contracts.

Attachments: CMA contracts.

Next Steps/Schedule: If approved, a letter allowing the assignment will be provided to Burgess & Niple.

BURGESS & NIPLE

WHAT'S HAPPENING AT B&N

SEPTEMBER 23, 2021

Burgess & Niple to Acquire CMA Engineering, Inc.

We are pleased to announce that B&N has entered into a definitive agreement to purchase CMA Engineering, Inc. (CMA) of Austin, Texas. Following the transaction, which is expected to close on September 30, 2021, B&N will welcome CMA's staff of nine professionals. CMA provides land development and civil engineering services focused on utility design from its Austin, Texas location.

"CMA's experienced team will complement our services and extend our capabilities and footprint in the Texas market," according to Mark Bernhardt, PE, B&N President and CEO. "We look forward to integrating and collaborating with their staff."

CMA Engineering, Inc.

Founded in 1996 by Felix Manka, PE and Robby Callegari, PE, CMA offers environmental and civil engineering services to municipalities, utility districts and developers in the state of Texas. These services include the design of water, wastewater, drainage and stormwater facilities; planning of residential and commercial land development projects; utility district consulting; and stormwater permitting.

"We look forward to sharing B&N's resources, expertise and depth of staff that directly complement our services. Our clients can expect the same high-quality solutions, attention to detail and level of service from the CMA staff that they have come to expect over the last 25 years," Felix Manka.

For information about CMA Engineering, Inc., visit cma-engineering.com.

RECENT NEWS

July 01, 2021

B&N Elects 11 New Associates

May 03, 2021

B&N Elects New Owner and Indianapolis District Director

January 04, 2021

Burgess & Niple Elects Two New Owners

December 01, 2020

Burgess & Niple Moves Headquarters to Downtown Columbus

November 10, 2020

B&N Elects New Owner and Business Development Director for Southwest Operations

April 02, 2020

Burgess & Niple Elects Two New Owners

March 16, 2020

Burgess & Niple COVID-19 Update

February 24, 2020

Burgess & Niple to Acquire ICON Consultant Group

SHARE

BURGESS & NIPLE

235 Ledge Stone Drive | Austin, TX 78737 | 512.432.1000

Ginger Faught
City of Dripping Springs
P.O. Box 384
Dripping Springs, Texas 78620

Re: Consent to Assignment of Professional
Services Contract Numbers: 1431, 1695,
1732 & 1923 (or as reflected in your
contract data); a.k.a. the "Agreements"

December 7, 2021

Dear City of Dripping Springs,

Please accept this letter as official notification that Burgess & Niple, Inc. (B&N) has acquired CMA Engineering, Inc. (CMA). The effective date of this change is October 1, 2021.

This change will not have an adverse impact on the services provided under the Agreements. As a valued client, there will not be any change in your relationship with the professionals providing the services required by the Agreements. Further, the original terms and conditions of the Agreements will remain in full force and effect with B&N agreeing to perform the services as indicated in the Agreements.

The existing Agreements require your consent to any assignment of the contract. Accordingly, with this letter B&N is seeking a waiver of any assignment notice requirement, acknowledgement that the Agreements remains in full force and your consent to substituting B&N in place of CMA in the Agreements.

Attached for your accounting purposes is B&N's W-9 and updated remittance instructions for future payments under the Agreement to be provided to B&N. Please review and forward these instructions as needed to the appropriate personnel within your organization.

If you are in agreement with the foregoing, please sign this letter below where indicated and return electronically via email to robby.callegari@burgessniple.com. Due to the timing of the B&N change, your prompt attention to this matter is kindly requested.

Should you have any questions, please contact Robby Callegari, PE at (512) 432-1000 or robby.callegari@burgessniple.com.

Sincerely,



Robby Callegari, PE
Austin South Engineering Section Director

December 7, 2021
Page 2

Agreed and Consented to as of _____ (date)

Entity Name: _____

By: _____

Print Name: _____

Title: _____

Request for Taxpayer Identification Number and Certification

Item 6.

Give Form to the requester. Do not send to the IRS.

▶ Go to www.irs.gov/FormW9 for instructions and the latest information.

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.
BURGESS & NIPLE, INC.

2 Business name/disregarded entity name, if different from above

3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only **one** of the following seven boxes.

Individual/sole proprietor or single-member LLC

C Corporation

S Corporation

Partnership

Trust/estate

Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ▶ _____

Note: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is **not** disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner.

Other (see instructions) ▶ _____

4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):

Exempt payee code (if any) 5

Exemption from FATCA reporting code (if any) _____

(Applies to accounts maintained outside the U.S.)

5 Address (number, street, and apt. or suite no.) See instructions.
5085 REED ROAD

6 City, state, and ZIP code
COLUMBUS OHIO 43220

7 List account number(s) here (optional)

Requester's name and address (optional)

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

Note: If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number									
			-			-			
or									
Employer identification number									
3	1	-	0	8	8	5	5	5	0

Part II Certification

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
- I am a U.S. citizen or other U.S. person (defined below); and
- The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign Here	Signature of U.S. person ▶ 	Date ▶ December 07, 2021
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General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to www.irs.gov/FormW9.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, later.

BURGESS & NIPLE

Attn: Accounts Receivable 5085 Reed Rd, Columbus, OH 43220 (614) 459-2050

Direct Deposit Information

Burgess & Niple, Inc. accepts payment by direct deposit. If you would like to remit payments through direct deposit, our information is below. If you have additional forms we need to submit, please email them to: AccountingAR@burgessniple.com

Bank Account Information

Tax ID Number 31-0885550

Routing Number 041000124

Account Number 4209511627

Bank Name PNC Bank, 155 East Broad Street, Columbus, OH 43251-0033

Vendor Contact Information

Contact Name Ben Nye, Director of Accounting Phone Number 614-459-2050

Remittance Payment Information Email Address AccountingAR@burgessniple.com

November 20, 2018

Mayor Todd Purcell
City of Dripping Springs
P.O. Box 384
Dripping Springs, Texas 78620

Re: City of Dripping Springs
Engineering Services Agreement
South Regional Wastewater System
City Wide Wastewater System Expansion
CMA Job Number ~~1645~~ 1923

Andrea, this should have been CMA Job # 1923. If doesn't change any thing contractual, but invoices will reference 1923. Sorry for any

Dear Mayor Purcell:

CMA Engineering, Inc. (ENGINEER), proposes to render engineering services to the City of Dripping Springs (CLIENT) in connection with the development of its South Regional Wastewater Facilities in Hays County, Texas (PROJECT). Work will include Planning and Design of proposed City Wide Wastewater System Expansion. Work will also include providing Construction Phase services for the PROJECT. The CLIENT is expected to furnish ENGINEER with full information as to the requirements for the PROJECT, and also to make available all pertinent existing data. ENGINEER shall be able to rely upon the accuracy of all information provided by the CLIENT.

SCOPE OF WORK

The following assumptions and general understanding pertain to the provisions of the Services and form the basis of this Agreement/Proposal:

- A. PROJECT is located within the City of Dripping Springs ETJ and Hays County.
- B. City will provide a topographic and detailed site feature survey for the design improvements. The cost of a new topographical and site feature survey is not included in the Scope of Work or Project Budget.
- C. Surveying services required to develop easements for access, wastewater lines, lift station, force main, and treated effluent line are not included in the Scope of Work or Project Budget.
- D. The estimated cost of professional services identified for this PROJECT are based on the standard approval processes through TWDB, TxDOT, Hays County, City of Dripping Springs, and the TCEQ.
- E. ENGINEER and CLIENT will work together to resolve any variance requests with the City of Dripping Springs, Hays County, TxDOT, or TCEQ. However, none are anticipated or included in this Scope of Work or Project Budget.

- F. Construction surveying and staking will not be included as part of this PROJECT. All construction staking will be by the contractor constructing the improvements.
- G. Geotechnical Engineering services to evaluate geotechnical conditions at the site and to develop geotechnical parameters which will assist in design and construction of the proposed wastewater improvements will be provided by others and are not included in the Scope of Work or Project Budget.
- H. Electrical Engineering services for design of the West Interceptor lift station pumps and controls upgrades are included in the Scope of Work and Project Budget.
- I. Performing investigations and developing related reports regarding Federal Endangered Species Act are not included in the Scope of Work or Project Budget.
- J. It is assumed that the requirement to obtain a site development permit from the City of Dripping Springs Work will be waived, and that work required to develop and obtain a developing site development permits from the City of Dripping Springs is not included in the Scope of Work or Project Budget.
- K. All review, inspection, and recording fees; and public notice costs will be paid by CLIENT or will be considered reimbursable costs and are not included in the Project Budget.
- L. The ENGINEER will at all times have access to the Work wherever it is in preparation or progress.
- M. PROJECT is not located in the Edwards Aquifer Recharge Zone, but is within the Contributing Zone of the Barton Springs Segment of the Edwards Aquifer. Work required for developing a Contributing Zone Permit for submittal to the TCEQ is not included in this Scope of Work and Project Budget as this project is exempt in accordance with Section 30 TAC Chapter 213.24(11)(A)(i).
- N. The Scope of Work or Project Budget does not include addressing the presence of groundwater that may be discovered during the more detailed field investigation or during construction of the proposed improvements.
- O. Developing a Tree Field Inspection Report by an Arborist is not included in the Scope of Work or Project Budget.

Our engineering services and the Scope of Work will consist of planning, design, and construction phase services for the following:

1. Extending the West Interceptor from Caliterra to Arrowhead Ranch.
2. New South Collector from Ranch Road 12 to the existing South Regional WWTP.
3. New East Interceptor from the Highway 290 to the proposed South Collector.
4. Extending the West Interceptor 8 inch force main from Caliterra to the South Collector.

5. Upgrading the West Interceptor lift station to accommodate additional flows from the West Interceptor extension.
6. 12 million gallon effluent holding pond at the City's existing WWTP site.
7. New effluent pump station and extending the 12 inch TE line from Ranch Road 12 at Caliterra to the proposed discharge point.

TASK 1 – PLANNING

Assist the City in planning for the proposed improvements. This will include coordinating environmental engineering services, establishing wastewater line alignments, surveying services, easement acquisition services, and TWDB coordination.

As required, prepare an Engineering Feasibility Report (EFR) for the PROJECT. The EFR will follow the Texas Water Development Board (TWDB) Document ED-002 "Guidelines for the Preparation of SFR/WQEL Engineering Feasibility Report format and requirements.

TASK 2 – DESIGN PHASE

Prepare engineering plans and specifications for the proposed City Wide Wastewater System Improvements. The engineering plans will consist of a cover sheet with vicinity/location map, plan and profiles of the gravity wastewater lines, plan drawings for the force main and treated effluent line extensions, creek boring details, and standard/miscellaneous details. The specifications will include requirements to describe the purchase, construction, and installation of the proposed improvements. It is estimated that there will be five different construction contracts for the City Wide Wastewater System Improvements.

ENGINEER will assist CLIENT in obtaining approval for the construction of the proposed improvements from the reviewing authorities (TWDB, TCEQ, City of Dripping Springs, TxDOT, and/or Hays County). Assistance will include submitting the construction drawings to the reviewing authorities, representing the CLIENT at meetings to present the plans, and addressing staff review comments to assist in obtaining approval from the reviewing authorities. Preparation and assistance in making presentations to reviewing agencies are limited to normal procedures in effect as of the date of execution of this Agreement for obtaining approvals. If additional support by the ENGINEER is required due to prolonged actions by reviewing authorities, making modifications to the plans to address concerns from residents/public input/environmental groups, such work will be performed as Additional Services upon notification and authorization of CLIENT.

ENGINEER will submit a transmittal letter to the TWDB and/or TCEQ as described in 30 TAC, Chapter 217 Design Criteria for Sewerage Systems, Paragraph 217.6(c). The transmittal letter will include a brief summary of the proposed wastewater system improvements. If required by the TCEQ as per 30 TAC, Chapter 217.6(d), ENGINEER will submit the final engineering design report, and plans and specifications to the TCEQ.

ENGINEER will support the CLIENT during bidding of contracts, developing, and issuing any addenda and/or clarifications to the construction bid packages, organizing/preparing and attending

one mandatory pre-bid conference, evaluation of bids, recommending award of the contract, and preparing the contract for signatures by CLIENT and the successful bidder. Services for bidding of the PROJECT is normal bidding and award procedures for this type of construction. If additional support by the ENGINEER is required due to rescheduling of the pre-bid conferences, or making modifications to the plans as result of reduction of construction costs, such work will be performed as Additional Services upon notification and authorization of CLIENT. During bidding of the contracts, contractors will pay (non-refundable) for their bid sets. The non-refundable payments received for bid packages from bidders will be either credited on invoices to the CLIENT, or given directly to the CLIENT.

Engineer will provide to the CLIENT an estimate of probable construction costs (in the form of an Excel spreadsheet) of the proposed improvements, and sets (number to be determined by CLIENT) of the final plans and specifications, and final report to the CLIENT for review.

Work in this Task will also include providing general professional and management services to the CLIENT. This may include the following:

- Coordinating reviews and approvals through the TWDB.
- General management of the TWDB loan and construction contracts.
- Meet with the CLIENT's City Council, Mayor, City Administrator, City Engineer, or representative as requested by the CLIENT to discuss the PROJECT.
- Provide general project management duties as required by the TWDB for the proposed wastewater system improvements.
- Respond to special requests made by the City Council, Mayor, and/or the City Administrator.
- Provide written monthly status reports for the wastewater system improvements as requested.
- Attend regular and special City Council meetings in relation to the proposed wastewater system improvements, as requested.
- Attend other public or private meetings involving the water system improvements, as requested by the City Council, Mayor, and/or the City Administrator.

Work required to perform Construction Phase Services is not included in this Task.

TASK 3 – CONSTRUCTION PHASE

After award of the construction contract ENGINEER will perform construction phase services during construction of the City Wide Wastewater System Improvements. Construction phase services will include review and approval of Contractor submittals and shop drawings, inspection during construction, processing change orders as required and requested, reviewing Contractor pay estimates, developing a punch list for Contractor(s), observation during testing as specified in the contract documents and specifications, and start up assistance of the new facilities. ENGINEER will also represent the CLIENT at meetings with the contractors and governmental entities to discuss construction schedules, invoices, and testing as required and requested by CLIENT.

General Administration

The ENGINEER will provide administration of the Construction Contract between the CLIENT and the Contractor, and shall be a representative of and shall advise and consult with the CLIENT during construction of the proposed improvements. The ENGINEER shall have authority to act on behalf of the CLIENT only to the extent provided in this Agreement unless otherwise modified by written amendment.

It is estimated that there will be five different construction contracts for the City Wide Wastewater System Improvements.

Shop Drawing Review

The ENGINEER will review and approve or take other appropriate action on the Contractor submittals, such as shop drawings, product data, samples and other data, which the Contractor is required to submit, but only for the limited purpose of checking for conformance with the design concept and the information shown in the Construction Documents. This review shall not include review of the accuracy or completeness of details, such as quantities, dimensions, weights or gauges, fabrication processes, construction means or methods, coordination of the work with other trades or construction safety precautions, all of which are the sole responsibility of the Contractor. The ENGINEER's review will be conducted with reasonable promptness while allowing sufficient time in the ENGINEER's judgment to permit adequate review. Review of a specific item shall not indicate that the ENGINEER has reviewed the entire assembly of which the item is a component. The ENGINEER shall not be responsible for any deviations from the Construction Documents not brought to the attention of the ENGINEER in writing by the Contractor. The ENGINEER will not be required to review partial submissions or those for which submissions of correlated items have not been received.

If professional design services or certifications by a design professional related to systems, materials or equipment are specifically required of the Contractor by the Contract Documents, the ENGINEER shall specify appropriate performance and design criteria that such services must satisfy. Shop Drawings and other submittals related to the Work designed or certified by the design professional retained by the Contractor shall bear such professional's written approval when submitted to the ENGINEER. The ENGINEER shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications or approvals performed by such design professionals.

Construction Observation

The ENGINEER will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed to by the CLIENT and the ENGINEER, in order to observe the progress and quality of the Work completed by the Contractor. Such visits and observation are not intended to be an exhaustive check or a detailed inspection of the Contractor's work but rather are to allow the ENGINEER, as an experienced professional, to become generally familiar with the Work in progress and to determine, in general, if the Work is proceeding in accordance with the Contract Documents.

Based on this observation, the ENGINEER will keep the CLIENT informed about the progress of the Work and will endeavor to guard the CLIENT against deficiencies in the Work.

The ENGINEER will not supervise, direct or have control over the Contractor's work nor have any responsibility for the construction means, methods, techniques, sequences or procedures selected by the Contractor nor for the Contractor's safety precautions or programs in connection with the Work. These rights and responsibilities are solely those of the Contractor in accordance with the Contract Documents.

The ENGINEER shall not be responsible for any acts or omissions of the Contractor, subcontractor, any entity performing any portions of the Work, or any agents or employees of any of them. The ENGINEER does not guarantee the performance of the Contractor and shall not be responsible for the Contractor's failure to perform its Work in accordance with the Contract Documents or any applicable laws, codes, rules or regulations.

Contractor Pay Requests

The ENGINEER shall review monthly Contractor Pay Requests, and certify the amounts due the Contractor for work performed each month. The ENGINEER's certification for payment shall constitute a representation to the CLIENT, based on the ENGINEER's evaluation of the Work as agreed, and on the data comprising the Contractor's Application for Payment that the Work has progressed to the point indicated and that, to the best of the ENGINEER's knowledge, information and belief, the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject (1) to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) to results of subsequent tests and inspections, (3) to correction of minor deviations from the Contract Documents prior to completion, and (4) to specific qualifications expressed by the ENGINEER.

The issuance of a Certificate for Payment shall not be a representation that the ENGINEER has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the CLIENT to substantiate the Contractor's right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

Changes in the Work

The ENGINEER will prepare Change Orders and Construction Change Directives for the CLIENT's approval and execution in accordance with the Contract Documents. The ENGINEER may authorize minor changes in the Work not involving an adjustment in Contract Sum or an extension of the Contract Time, which are consistent with the intent of the Contract Documents. If necessary, the ENGINEER will prepare, reproduce, and distribute Drawings and Specifications to describe Work to be added, deleted or modified.

The ENGINEER will review properly prepared, timely requests by the CLIENT or Contractor for changes in the Work, including adjustments to the Contract Sum or Contract Time. A properly prepared request for a change in the Work will be accompanied by sufficient supporting data and information to permit the ENGINEER to make a reasonable determination without extensive investigation or preparation of additional drawings or specifications. If the ENGINEER determines that requested changes in the Work are not materially different from the requirements of the Contract Documents, the ENGINEER may issue an order for a minor change in the Work or recommend to the CLIENT that the requested change be denied.

If the ENGINEER determines that implementation of the requested changes would result in a material change to the Contract that may cause an adjustment in the Contract Time or Contract Sum, the ENGINEER will make a recommendation to the CLIENT, who may authorize further investigation of such change. Upon such authorization, and based upon information furnished by the Contractor, if any, the ENGINEER will estimate the additional cost and time that might result from such change, including any additional costs attributable to a Change in Services of the ENGINEER. With the CLIENT's approval, the ENGINEER will incorporate those estimates into a Change Order or other appropriate documentation for the CLIENT's execution or negotiation with the Contractor.

Project Completion

The ENGINEER will conduct a onetime final inspection for each Project to determine the date or dates of Substantial Completion and the date of final completion, shall receive from the Contractor and forward to the CLIENT for the CLIENT's review and records, written warranties and related documents required by the Contract Documents and assembled by the Contractor, and shall issue a final Certificate for Payment based upon a final inspection indicating the Work complies with the requirements of the Contract Documents.

The ENGINEER's inspection shall be conducted with the CLIENT's Designated Representative to check conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the list submitted by the Contractor of Work to be completed or corrected.

When the Work is found to be substantially complete, the ENGINEER shall inform the CLIENT about the balance of the Contract Sum remaining to be paid the Contractor, including any amounts needed to pay for final completion or correction of the Work. In addition, the ENGINEER shall develop a "punch list" of items to be completed before Work on the Project can be accepted by CLIENT for Final Payment.

Rejection of Work

The ENGINEER shall have authority to reject Work that does not conform to the Contract Documents. Whenever the ENGINEER considers it necessary or advisable, the ENGINEER will have authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not such Work is fabricated, installed or completed. However, neither this authority of the ENGINEER nor a decision made in good

faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the ENGINEER to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees or other persons or entities performing portions of the Work.

Jobsite Safety

Neither the professional activities of the ENGINEER, nor the presence of the ENGINEER or its employees and subconsultants at a construction/project site, shall relieve the General Contractor of its obligations, duties and responsibilities including, but not limited to, construction means, methods, sequence, techniques or procedures necessary for performing, superintending and coordinating the Work in accordance with the Contract Documents and any health or safety precautions required by any regulatory agencies. The ENGINEER and its personnel have no authority to exercise any control over any construction contractor or its employees in connection with their work or any health or safety programs or procedures. The CLIENT agrees that the General Contractor shall be solely responsible for jobsite safety, and warrants that this intent shall be carried out in the CLIENT's contract with the General Contractor. The CLIENT also agrees that the CLIENT, the ENGINEER and the ENGINEER's subconsultants shall be indemnified by the General Contractor and shall be made additional insureds under the General Contractor's policies of general liability insurance.

Record Documents

Upon completion of the Work, the ENGINEER will compile for and deliver to the CLIENT a reproducible set of Record Documents based upon the marked-up record drawings, addenda, change orders and other data furnished by the Contractor. These Record Documents will show significant changes made during construction. Because these Record Documents are based on unverified information provided by other parties, which the ENGINEER shall assume will be reliable, the ENGINEER cannot and does not warrant their accuracy.

Claims Arbitrator Service

The ENGINEER shall not be responsible for interpreting and/or rendering decisions on matters concerning performance of the CLIENT and the Contractor under the requirements of the Contract Documents.

SCHEDULE

ENGINEER acknowledges the importance to the CLIENT of the PROJECT schedule and agrees to put forth reasonable efforts in performing the services with due diligence under this Agreement. The CLIENT understands, however, that the performance must be governed by sound professional practices. ENGINEER will start work on the PROJECT immediately after execution of this Agreement, and upon obtaining permission from landowners upstream of the proposed lift station site to access property, and after identifying future customers of the proposed Regional Lift Station and Interceptor.

COMPENSATION

ENGINEER will perform the work on a reimbursable time and expenses basis at the hourly rates included as Attachment A, plus expenses. Expenses will include direct expenses incurred by ENGINEER plus 10%. Billing for professional services will be based upon the actual amount of time required to complete the work. Upon mutual agreement of CLIENT and ENGINEER, rates included on Attachment A may be amended annually.

Invoices will be submitted monthly and payment is due within 30 days of CLIENT's receipt and approval of the invoice. If payment is not received by the 45th day after the invoice date, then ENGINEER may suspend services under the Agreement until all invoice amounts due are paid in full. The PROJECT schedule shall be extended the total amount of time after ENGINEER suspends services to the time payments are received.

ENGINEERING BUDGET

TASK 1 – PLANNING	\$ 100,000
TASK 2 – DESIGN PHASE	\$ 1,575,000
TASK 3 – CONSTRUCTION PHASE SERVICES	<u>\$ 300,000</u>
Total Amount of This Contract Not to Exceed	\$ 1,975,000

ADDITIONAL SERVICES

It is recognized that certain items required for completion may require the services of subcontractors and are not included in the Project Budget. Such services may include surveying, agronomy consulting, geotechnical engineering, environmental engineering, and environmental investigations, etc.

It is also recognized that certain elements within the scope of engineering work cannot be accurately predetermined or controlled entirely by the ENGINEER. Such engineering work will be performed as Additional Services. Such work may include but not be limited to:

- Assist the CLIENT as an expert witness in any litigation with third parties, arising from the development of the PROJECT.
- Changes in scope of work after receiving initial directions from the CLIENT.
- Assist the CLIENT in protracted disputes or negotiations with governmental authorities or other interested parties.
- Change in design as a result of unexpected field conditions discovered that will affect the application, reports, and/or final design.
- Support the CLIENT during a prolonged regulatory agency (City, and/or TCEQ) review processes as required and requested by CLIENT.

Out of Scope and Additional Services will be reimbursable per hour based on the attached fee schedule Attachment A, plus expenses. Expenses for Out of Scope and Additional Services will include direct expenses incurred by ENGINEER plus 10%. Such expenses will include subcontractors, reproduction costs, mileage, postage and delivery, etc., as required to complete the PROJECT. Billing for all additional professional services will be based upon the actual amount of time required to complete the additional work. Out of Scope services and Additional Services will only be performed with approval from CLIENT.

CLIENT understands that ENGINEER cannot be held accountable in the case that the plans and specifications are not approved for construction by Hays County, TCEQ and/or TxDOT or any other reviewing authority.

This Proposal is subject to the General Provisions included as Attachment B and may only be modified in writing when signed by both Parties. The Proposal is in addition to any other agreement regarding Wastewater System improvements.

If this Proposal satisfactorily sets forth your understanding of our agreement, please sign both copies of the letter in the space provided below, and return one copy to us. This Proposal is valid for 60 days.

Very truly yours,

CMA Engineering, Inc.

City of Dripping Springs


Todd Purcell
Mayor

Robert P. Callegari, P.E.
Principal

Accepted this 12th day of February, 2018:19

Attest:




Andrea Cunningham, City Secretary

Mayor Todd Purcell
City of Dripping Springs
November 20, 2018
Page 10 of 14

Out of Scope and Additional Services will be reimbursable per hour based on the attached fee schedule Attachment A, plus expenses. Expenses for Out of Scope and Additional Services will include direct expenses incurred by ENGINEER plus 10%. Such expenses will include subcontractors, reproduction costs, mileage, postage and delivery, etc., as required to complete the PROJECT. Billing for all additional professional services will be based upon the actual amount of time required to complete the additional work. Out of Scope services and Additional Services will only be performed with approval from CLIENT.

CLIENT understands that ENGINEER cannot be held accountable in the case that the plans and specifications are not approved for construction by Hays County, TCEQ and/or TxDOT or any other reviewing authority.

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Very truly yours,

CMA Engineering, Inc.



Robert P. Callegari, P.E.
Principal

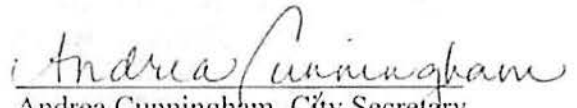
City of Dripping Springs



Todd Purcell
Mayor

Accepted this 12th day of February, 2018: 19

Attest:



Andrea Cunningham, City Secretary

**ATTACHMENT A
2018 BILLING RATES FOR PROFESSIONAL SERVICES**

Principal	\$200.00/hour
Project Engineer II (More than 15 years of experience)	\$190.00/hour
Project Engineer I (Less than or equal to 15 years of experience)	\$165.00/hour
Assistant Engineer II (More than 5 years of experience)	\$150.00/hour
Assistant Engineer I (Less than or equal to 5 years of experience)	\$135.00/hour
Senior Engineering Technician	\$150.00/hour
Engineering Technician	\$110.00/hour
Field Construction Representative II	\$120.00/hour
Field Construction Representative I	\$ 95.00/hour
Administrative Assistant	\$ 55.00/hour
Surveyor	\$160.00/hour
Survey Technician	\$135.00/hour
Survey Crew	\$155.00/hour
Copies	\$ 0.10/copy
24" x 36" Bond Plots (black and white)	\$ 1.00/sheet
Bond Plots (color)	\$ 2.00/square foot
24" x 36" Mylar Plots	\$ 12.00/sheet
CMA/personnel vehicle mileage	max allowed by IRS

ATTACHMENT B GENERAL PROVISIONS

TERMINATION

Either Party may terminate this Agreement upon giving written notice to the other Party at least thirty (30) days prior to the date of termination. In the event of termination, the ENGINEER shall deliver to the CLIENT one (1) reproducible copy of all finished documents, data, studies, surveys, drawings, maps, CADD files, models, reports, etc. prepared by the ENGINEER and paid by the CLIENT under this Agreement. Additional copies of these materials shall be made available to CLIENT upon CLIENT compensating ENGINEER for time and expenses required to produce same. The ENGINEER shall be entitled to receive just and equitable compensation for any work performed in accordance with the provisions of this Agreement prior to termination notice. If the ENGINEER has completed the specified Tasks and phases prior to termination, ENGINEER will be entitled to the fees stipulated under this Agreement for such work completed. If termination should occur prior to the completion of a Task or phase, the ENGINEER shall be reimbursed for his work under that particular Task and phase based on the hours completed for that particular Task and phase.

OWNERSHIP OF DOCUMENTS

The CLIENT acknowledges the ENGINEER's Engineering Report, and Plans and Specifications, including electronic files, as the work papers of the ENGINEER are the ENGINEER's instruments of professional service. Nevertheless, upon completion of the services and payment in full of all monies due to the ENGINEER, the CLIENT shall receive ownership of the Engineering Report, and Plans and Specifications prepared under this Agreement. The CLIENT agrees, to the fullest extent permitted by law, to defend, indemnify and hold harmless the ENGINEER, its officers, directors, employees and subconsultants (collectively, ENGINEER) against any damages, liabilities or costs, including reasonable attorneys' fees and defense costs, arising from or allegedly arising from or in any way related to or connected with the unauthorized reuse or modification of the Report and/or permit application by the CLIENT or any person or entity that acquires or obtains the Report and/or permit application from or through the CLIENT without the written authorization of the ENGINEER.

CONFIDENTIALITY

All information and all materials, records, data, drawings, specifications, engineering and other documents and all other products of the services provided under this Agreement produced by, or coming into the possession of ENGINEER (including its subcontractors) in connection with the performance of the services shall be maintained in absolute confidence, and ENGINEER shall not at any time, except at the direction of CLIENT or its legal counsel, disseminate, transmit, publicize, or divulge to anyone any portion of such information, except as necessary to carry out the services pursuant to this Agreement.

MISCELLANEOUS

RELATIONSHIP OF PARTIES - It is understood by the parties that Engineer is an independent contractor with respect to the City and not an employee of the City. City will not provide fringe benefits, including health insurance benefits, paid vacation, or any employee benefit, for the benefit of Engineer. The City may contract with other individuals or firms for engineering services.

MANDATORY DISCLOSURES - Texas law requires that vendors make certain disclosures. Prior to the effective date of this Contract, the Engineer has submitted to the City a copy of the Conflict of Interest Questionnaire form (CIQ Form) approved by the Texas Ethics Commission (Texas Local

Government Code Chapter 176). The Engineer must also fill out Form 1295, as required by the Texas Ethics Commission, and submit it to the City. The form may be found here: https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm

WAIVER OF CONTRACTUAL RIGHT - The failure of any party to enforce any provision of this Agreement shall not be construed as a waiver of that party's right to subsequently enforce and compel strict compliance with every provision of the Agreement.

LIMITATIONS - If the contractor represents a person or business entity that has any pending applications with the city, the contractor shall file a notice with the city secretary stating such representation at least two weeks prior to the date of any consideration of such application by the appropriate body of the city. The city shall determine whether such representation causes a conflict of interest pursuant to Section 2.02.002 of the City of Dripping Springs Code of Ordinances. The City shall provide a written acknowledgement and waiver if the city determines there is no conflict.

DURATION - This Agreement shall be in effect unless terminated as provided below or if all work associated with Agreement is completed. Engineer shall start work immediately after the execution of this Agreement.

INJURIES/INSURANCE - Engineer acknowledges his obligation to obtain appropriate insurance coverage for the benefit of Engineer's employees, if any. Engineer waives the rights to recovery from City for any injuries that Engineer and/or Engineer's employees may sustain while performing services under this Agreement. Engineer is to provide a copy of insurance coverage to City at least ten (10) days prior to end of any existing coverage period if Engineer uses the services of any of Engineer's employees for the provision of services to the City.

INDEMNIFICATION - Engineer agrees to indemnify and hold City harmless from all claims, losses, expenses, fees, including attorney's fees, costs, and judgments that may be asserted against City that result from acts or omissions of Engineer, Engineer's employees, if any, and Engineer's agents.

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
512-858-4725

For the Engineer:

Attention: Robert P. Callegari, P.E.
CMA Engineering, Inc.
235 Ledge Stone Drive
Austin, TX 78737
512-432-1000

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.

CONTROLLING LAW - This Agreement is to be governed by the laws of Hays County, Texas, and venue for any suit in conjunction with this Agreement shall be in the District Courts of Hays County, Texas.

LIMITATION OF LIABILITY - To the fullest extent permitted by law, the total liability, in the aggregate, of ENGINEER and ENGINEER's officers, directors, employees, agents and independent professional associates and consultants, and any of them, to CLIENT and anyone claiming by, through and under

CLIENT, for any and all injuries, claims, losses, expenses or damages whatsoever arising out of or in any way related to ENGINEER's services, the PROJECT or this Agreement from any cause or causes whatsoever, including but not limited to the negligence, errors, omissions, strict liability or breach of contract of ENGINEER or ENGINEER's officers, directors, employees, agents and independent professional associates and consultants, and any of them, shall not exceed the total compensation received by ENGINEER under this Agreement, or the total amount of \$500,000.00, whichever is lesser.

OPINIONS OF COST - Since ENGINEER has no control over the cost of labor, materials, equipment or services furnished by others, or over the Contractor's methods of determining prices, or over competitive bidding or market conditions, ENGINEER's opinions of probable total PROJECT costs and construction costs provided herein are to be made on the basis of ENGINEER's experience and qualifications and represent ENGINEER's best judgment as an experienced and qualified professional engineer, familiar with the construction industry; but ENGINEER cannot and does not guarantee that proposals, bids or actual total PROJECT or construction costs will not vary from opinions of probable cost prepared by ENGINEER. If prior to the bidding or negotiating phase CLIENT wishes greater assurance as to total PROJECT or construction costs, CLIENT shall employ an independent cost estimator to modify the contract documents to bring the construction cost within any limitation established by CLIENT and will be considered Additional Services and paid for as such by CLIENT.

SUCCESSORS AND ASSIGNS - CLIENT and ENGINEER each binds himself and his partners, successors, executors, administrators, assigns and legal representatives to the other Party to this Agreement and to the partners, successors, executors, administrators, assigns and legal representatives of such other Party, in respect to all covenants, agreements and obligations of this Agreement.

- a. Neither CLIENT nor ENGINEER shall assign, sublet or transfer any rights under or interest in (including, but without limitation, monies that may become due or monies that are due) this Agreement without the written consent of the other, except as stated above and except prior to the extent that the effect of the limitation may be restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement. Nothing contained in the paragraph shall prevent the ENGINEER from employing such independent consultants, associates and subcontractors as he may deem appropriate to assist him in the performance of services hereunder.
- b. Nothing herein shall be construed to give any rights or benefits hereunder to anyone other than CLIENT and ENGINEER.

ATTORNEY'S FEES - If any action be brought to either Party against the other, the prevailing Party shall be entitled to recover reasonable attorney fees.

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:
2019-453078

Date Filed:
02/14/2019

Date Acknowledged:

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.
CMA Engineering, Inc.
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.
CMA02122019
City Wide WW System Expansion Design and CPS

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary

5 Check only if there is NO Interested Party.

6 UNSWORN DECLARATION

My name is Robert Callegari and my date of birth is 7-8-63.
My address is 3270 Creech Road, Dripping Springs, TX, 78620, USA.
(street) (city) (state) (zip code) (country)

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

Executed in Blair County, State of TX, on the 14 day of Feb, 20 19.
(month) (year)

[Signature]
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

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.
CMA Engineering, Inc.
Austin, TX United States

Certificate Number:
2019-453078

Date Filed:
02/14/2019

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:
02/21/2019

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.
CMA02122019
City Wide WW System Expansion Design and CPS

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary

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)

CMA02132018

PROFESSIONAL SERVICES AGREEMENT

This Agreement, made and entered into this, the 13th day of February 2018 by and between the **City of Dripping Springs**, Texas (hereinafter referred to as the “City”) and **CMA Engineering, Inc.**, (hereinafter referred to as “Contractor”), is understood and agreed to be as set forth herein:

- 1. Project Summary:** The City, in connection with its South Regional Wastewater Facilities in Hays County, requires the services of qualified personnel to assist the City in operating and maintaining its wastewater services. Contractor will develop a major permit amendment application to Wastewater Permit Number 14488-001 issued to the City of Dripping Springs for submittal to the TCEQ. Contractor will develop an Engineering Report to support increased permit capacity and permit phasing. The report will include a water balance to support the new surface irrigation areas and effluent holding tank.
- 2. Scope of Work:** The following assumptions and general understanding pertain to the provision of the services and form the basis of this Agreement:
 - (a) Amend the TCEQ Wastewater Permit Number 14488-001 issued to the City of Dripping Springs.
 - (b) The City will be responsible for providing as much information as possible on the existing WWTP treatment and disposal facilities required for the permit amendment application such as, operating data, effluent and sludge sampling (if any), sludge disposal contract(s), and analysis of soil samples from the root zone of the irrigated site(s), etc.
 - (c) Additional irrigation areas will be required for the permit amendment. The proposed new irrigation areas are surface irrigation areas within the proposed Carter/Caliterra subdivision and Heritage PID.
 - (d) The Contractor will at all times have access to the Work wherever it is in preparation or progress.
 - (e) All fees and public notice costs will be paid by City or will be considered reimbursable costs and are not included in the Project Budget.
 - (f) Project is not located in the Edwards Aquifer Recharge Zone but is within the Contributing Zone of the Barton Springs Segment of the Edwards Aquifer. Work required for developing a Contributing Zone Permit for submittal to the TCEQ is not included in this Scope of Work or Project Budget.
 - (g) The Scope of Work does not include the design of any equipment or instrumentation

for measuring rainfall, or soil moisture in the irrigation fields to determine if the soils are saturated within the proposed irrigation areas.

- (h) Contractor and City will work together to resolve any responses to deficiencies or variance requests with the TCEQ or any other reviewing authority. However, none are anticipated and not included in this Scope of Work or Project Budget.
- (i) The existing WWTP permitted effluent parameters will remain at 5 mg/L BOD and 5 mg/L TSS.
- (j) Services as described in Attachment "A".

3. Description of Services: The Contractor shall perform the below duties as needed by the City:

- (a) Contractor shall deliver written reports to City Hall via mail, in person, facsimile, or other electronic means as appropriate.
- (b) If the City's assignment of duties for a specific project is declined by Contractor, then the City may assign said duties to another employee or Contractor at the City's discretion. Contractor does not have the authority to unilaterally select another contractor to perform the work the Contractor was assigned except as allowed in Attachment "A" as Additional Services. Contractor shall assist the City in the selection of additional contractors when requested by the City.
- (c) Contractor may from time to time be called upon to perform the following services:
 - (1) Attend meetings of the City Council, when requested by the Mayor, City Administrator, or Deputy City Administrator; and/or
 - (2) Attend other public or private meetings involving review of engineering matters related to the duties performed under this Agreement.
- (d) Contractor shall conduct business in good faith displaying professionalism and a courteous manner in dealings with the staff, citizens, and customers of the City. Contractor agrees to abide by the Texas Engineering Practice Act and Rules as established by the Texas Board of Professional Engineers when professional engineering is used in performance of Contractor's duties and responsibilities.
- (e) Contractor will report to the Deputy City Administrator, verbally or in writing, any conflicts between Contractor and any citizen or customer in the course of performing said duties and responsibilities.
- (f) Contractor shall maintain complete and accurate records of work performed for the

City. Contractor shall manage both public and confidential records that Contractor obtains pursuant to this Agreement with the understanding that some records may be subject to state open records laws. Contractor shall comply with the City's public information policies.

(g) Performs other related duties as needed.

4. **Additional Services:** Additional services may be provided as outlined in Attachment "A", however, the Contractor shall seek written approval from the City before contracting with subcontractors for more than twenty-five hundred dollars (\$2,500) in additional services not covered in the base price.
5. **Payment for Services:** The City will compensate Contractor in accordance with the fee structure contained in Contractor's proposal attached as Attachment "A". Contractor shall invoice City in accordance with Contractor's attached proposal. Invoices will be submitted monthly and payment is due within 30 days of City's receipt and approval of the invoice. If payment is not received by the 45th day after the invoice is received by the City, then Contractor may suspend services under the Agreement until all invoice amounts due are paid in full. The work schedule shall be extended the total amount of time after Contractor suspends services to the time payments are received.
6. **Duration:** This Agreement shall be in effect for a period of two years (24 months), unless terminated as provided below or if all work associated with Agreement is completed. Contractor shall start work immediately after the execution of this Agreement.
7. **Renewal:** This Agreement shall automatically renew for successive one-year periods unless: (a) terminated, as set out below, or (b) either party provides notice of intent not to renew to the other party thirty (30) days prior to the end of the current term.
8. **Termination:** Either party may terminate this Agreement by a thirty (30) day written notice.
9. **Relationship of Parties:** It is understood by the parties that Contractor is an independent contractor with respect to the City and not an employee of the City. City will not provide fringe benefits, including health insurance benefits, paid vacation, or any employee benefit, for the benefit of Contractor. The City may contract with other individuals or firms for engineering services.
10. **Limitations:** During the period the Consultant is covered by this agreement, the Consultant will contact the City in writing if a potential conflict of interest with a third-party client may exist. If the City Council finds that a project for a third-party client of the Consultant has a direct conflict with the City, the City Council shall contact the Consultant in writing. If the conflict of interest cannot be resolved to either party's satisfaction, either the Consultant or the City Council may terminate this Agreement with seven (7) days'

notice to the other party.

- 11. Employees:** Contractor employees, if any, who perform services for City under this Agreement shall also be bound by the provisions of this Agreement. At the request of City, Contractor shall provide adequate evidence that such persons are Contractor's employees.
- 12. Mandatory Disclosures:** Texas law requires that vendors make certain disclosures. Prior to the effective date of this Contract, the Contractor has submitted to the City a copy of the Conflict of Interest Questionnaire form (CIQ Form) approved by the Texas Ethics Commission (Texas Local Government Code Chapter 176) and the Affidavit regarding Prohibition on Contracts with Companies Boycotting Israel (Texas Government Code Chapter 2270). The Contractor must also fill out Form 1295, as required by the Texas Ethics Commission, and submit it to the City. The form may be found here: https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm
- 13. Injuries/Insurance:** Contractor acknowledges his/her obligation to obtain appropriate insurance coverage for the benefit of Contractor's employees, if any. Contractor waives the rights to recovery from City for any injuries that Contractor and/or Contractor's employees may sustain while performing services under this Agreement. Contractor is to provide a copy of insurance coverage to City at least ten (10) days prior to end of any existing coverage period if Contractor uses the services of any of Contractor's employees for the provision of services to the City.
- 14. Indemnification:** Contractor agrees to indemnify and hold City harmless from all claims, losses, expenses, fees, including attorney's fees, costs, and judgments that may be asserted against City that result from negligent acts or omissions of Contractor, Contractor's employees, if any, and Contractor's agents.
- 15. Assignment:** Contractor's obligation under this Agreement may not be assigned or transferred to any other person, firm, or corporation without the prior written consent of City. However, subcontractors may be hired by the Contractor as agreed in Attachment "A" Additional Services.
- 16. 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:

City of Dripping Springs
Attn: City Administrator
PO Box 384
Dripping Springs, TX 78620
(512) 858-4725

For the Contractor:

CMA Engineering, Inc.
Attn: Robert P. Callegari, P.E.
235 Ledge Stone Drive
Austin, TX 78737
(512) 432-1000

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.

17. Entire Agreement: This Agreement contains the entire Agreement of the parties and there are no other promises or conditions in any other Agreement whether oral or written. This Agreement supersedes and prior written agreements between the parties. If a conflict exists between this Agreement and Attachment "A", this Agreement shall prevail.

18. Amendment: This agreement may be modified or amended only if the amendment is made in writing and is signed by both parties.

19. Severability: If any provision of this Agreement shall be held to be invalid or unenforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

20. Waiver of Contractual Right: The failure of any party to enforce any provision of this Agreement shall not be construed as a waiver of that party's right to subsequently enforce and compel strict compliance with every provision of the Agreement.

21. Applicable Law: The laws of the State of Texas shall govern this Agreement.

22. Venue: The venue for any and all legal disputes arising under this Agreement shall be Hays County, Texas.

CITY OF DRIPPING SPRINGS:



Todd Purcell, Mayor

CMA ENGINEERING, INC:

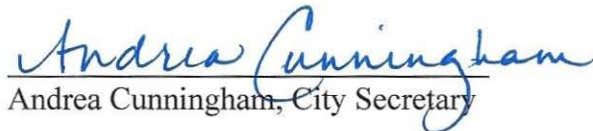
Robert P. Callegari, P.E.

March 13, 2018

Date:

Date:

ATTEST:



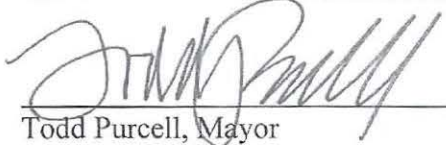
Andrea Cunningham, City Secretary



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.

- 17. **Entire Agreement:** This Agreement contains the entire Agreement of the parties and there are no other promises or conditions in any other Agreement whether oral or written. This Agreement supersedes and prior written agreements between the parties. If a conflict exists between this Agreement and Attachment "A", this Agreement shall prevail.
- 18. **Amendment:** This agreement may be modified or amended only if the amendment is made in writing and is signed by both parties.
- 19. **Severability:** If any provision of this Agreement shall be held to be invalid or unenforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.
- 20. **Waiver of Contractual Right:** The failure of any party to enforce any provision of this Agreement shall not be construed as a waiver of that party's right to subsequently enforce and compel strict compliance with every provision of the Agreement.
- 21. **Applicable Law:** The laws of the State of Texas shall govern this Agreement.
- 22. **Venue:** The venue for any and all legal disputes arising under this Agreement shall be Hays County, Texas.

CITY OF DRIPPING SPRINGS:



 Todd Purcell, Mayor

March 13, 2018

 Date:

CMA ENGINEERING, INC:

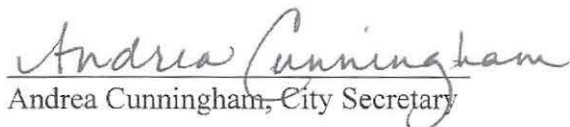


 Robert P. Callegari, P.E.

3-27-18

 Date:

ATTEST:



 Andrea Cunningham, City Secretary



ATTACHMENT "A"
CONTRACTOR'S PROPOSAL

CMA Engineering, Inc.

Firm Registration No. F-3053

Robert P. Callegari, P.E.
Felix J. Manka, P.E.

January 10, 2018

Mayor Todd Purcell
City of Dripping Springs
P.O. Box 384
Dripping Springs, Texas 78620

Re: City of Dripping Springs
Engineering Services Agreement
South Regional Wastewater System
Wastewater Major Permit Amendment No. 2
CMA Job Number 1732

Dear Mayor Purcell:

CMA Engineering, Inc. (ENGINEER) proposes to render engineering services to the City of Dripping Springs (CLIENT) in connection with the further development of the City of Dripping Springs South Regional Wastewater Facilities in Hays County, Texas. All Services shall be performed by ENGINEER in accordance with the generally accepted standards of care, skill, diligence and professional competence applicable to ENGINEER. Work will include assisting the CLIENT in preparing a second major permit amendment application to the City of Dripping Springs' existing Municipal Wastewater Permit for submittal to the TCEQ (PROJECT). The amendment application will increase wastewater treatment capacity at the existing Wastewater Treatment Plant (WWTP) site and increase effluent irrigation disposal capacity via surface irrigation area and effluent holding pond within the proposed Carter/Caliterra subdivision and Heritage PID. The CLIENT is expected to furnish ENGINEER with full information as to the requirements for the PROJECT, and also to make available all pertinent existing data. ENGINEER shall be able to rely upon the accuracy of all information provided by the CLIENT.

SCOPE OF WORK

The following assumptions and general understanding pertain to the provision of the Services and form the basis of this Agreement/Proposal:

- A. The TCEQ Wastewater Permit to be amended is Permit Number 14488-001 issued to the City of Dripping Springs.
- B. CLIENT will be responsible for providing as much information as possible on the existing WWTP treatment and disposal facilities required for the permit amendment application such as, operating data, effluent and sludge sampling (if any), sludge disposal contract(s), and analysis of soil samples from the root zone of the irrigated site(s), etc.
- C. Additional irrigation areas will be required for the permit amendment. The proposed new irrigation areas are surface irrigation areas within the proposed Carter/Caliterra subdivision and Heritage PID.

Mayor Todd Purcell
 City of Dripping Springs
 January 10, 2018
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- D. The ENGINEER will at all times have access to the Work wherever it is in preparation or progress.
- E. All fees and public notice costs will be paid by CLEINT or will be considered reimbursable costs and are not included in the Project Budget.
- F. PROJECT is not located in the Edwards Aquifer Recharge Zone, but is within the Contributing Zone of the Barton Springs Segment of the Edwards Aquifer. Work required for developing a Contributing Zone Permit for submittal to the TCEQ is not included in this Scope of Work or Project Budget.
- G. The Scope of Work does not include the design of any equipment or instrumentation for measuring rainfall, or soil moisture in the irrigation fields to determine if the soils are saturated within the proposed irrigation areas.
- H. ENGINEER and CLIENT will work together to resolve any responses to deficiencies or variance requests with the TCEQ or any other reviewing authority. However, none are anticipated and not included in this Scope of Work or Project Budget.
- I. The existing WWTP permitted effluent parameters will remain at 5 mg/L BOD and 5 mg/L TSS.

Our engineering services and the Scope of Work will consist of the following:

ENGINEER will develop a major permit amendment application to Wastewater Permit Number 14488-001 issued to the City of Dripping Springs for submittal to the TCEQ. The permit amendment application will generally include the existing permitted subsurface irrigation areas for effluent disposal and new areas for surface irrigation. The existing 162,500 GPD subsurface irrigation and 186,000 GPD surface irrigation permit areas will remain and additional surface irrigation permit phases of approximately 50,000 GPD and 60,000 GPD will be added to the permit. Actual permit phases will be established during amendment application preparation. The locations of the originally irrigation areas, effluent holding tank, and WWTP shall generally remain unchanged from the original permit. The proposed new surface irrigation areas and proposed effluent holding tank will be within the Carter/Caliterra subdivision and Heritage PID.

ENGINEER will develop an Engineering Report to support increased permit capacity and permit phasing. The report will include a water balance to support the new surface irrigation areas and effluent holding tank.

The application will include the necessary information required to make the application complete and acceptable for administrative review by the TCEQ. The estimated cost of professional services identified for this PROJECT is based on the standard and customary TCEQ approval processes. Work required to assist the CLIENT in protracted disputes or negotiations with governmental authorities or other interested parties, or as an expert witness in any litigations with third parties arising from the development of the PROJECT, will be considered Additional Services.

Mayor Todd Purcell
City of Dripping Springs
January 10, 2018
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The Scope of Work, as set forth previously, shall be considered performed at such time as the application is declared administratively complete by the TCEQ. Any work required to address issues raised by the general public or any other party that may comment on the application after it is administratively complete will be considered Additional Services.

SCHEDULE

ENGINEER acknowledges the importance to the CLIENT of the PROJECT schedule and agrees to put forth reasonable efforts in performing the services with due diligence under this Agreement. The CLIENT understands, however, that the performance must be governed by sound professional practices. ENGINEER will start work on the PROJECT immediately after execution of this Agreement.

COMPENSATION

ENGINEER will perform the work on a reimbursable time and expenses basis at the hourly rates included as Attachment A, plus expenses. Expenses will include direct expenses incurred by ENGINEER plus 10%. Billing for professional services will be based upon the actual amount of time required to complete the work. Upon mutual agreement of CLIENT and ENGINEER, rates included on Attachment A may be amended annually.

Invoices will be submitted monthly and payment is due within 30 days of CLIENT’s receipt of the invoice. If payment is not received by the 45th day after the invoice date, then ENGINEER may suspend services under the Agreement until all invoice amounts due are paid in full. The PROJECT schedule shall be extended the total amount of time after ENGINEER suspends services to the time payments are received.

ENGINEERING BUDGET

Total Labor Amount of This Contract	\$ 40,000
Total ODC Amount of This Contract	<u>\$ 2,500</u>
Total Amount of This Contract	\$ 42,500

Mayor Todd Purcell
City of Dripping Springs
January 10, 2018
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ADDITIONAL SERVICES

It is recognized that certain items required for completion may require the services of subcontractors and are not included in the Project Budget. Such services may include surveying, agronomy consulting, environmental engineering, environmental investigations, electrical/instrumentation engineering, structural engineering, and geotechnical engineering, etc.

It is also recognized that certain elements within the scope of engineering work cannot be accurately predetermined or controlled entirely by the ENGINEER. Such engineering work will be performed as Additional Services. Such work may include but not be limited to:

- Assist the CLIENT as an expert witness in any litigation with third parties, arising from the development of the PROJECT.
- Changes in scope of work after receiving initial directions from the CLIENT.
- Change in design as a result of unexpected field conditions discovered during further site investigations of the PROJECT.
- Assist the CLIENT in protracted disputes or negotiations with governmental authorities or other interested parties.
- Support the CLIENT during regulatory agency review processes beyond administrative or technical reviews including public comments or contested case hearings, as required and requested by CLIENT.

Out of Scope and Additional Services will be reimbursable per hour based on the attached fee schedule Attachment A, plus expenses. Expenses for Out of Scope and Additional Services will include direct expenses incurred by ENGINEER plus 10%. Such expenses will include subcontractors, reproduction costs, mileage, postage and delivery, etc., as required to complete the PROJECT. Billing for all additional professional services will be based upon the actual amount of time required to complete the additional work. Out of Scope services and Additional Services will only be performed with approval from CLIENT.

CLIENT understands that ENGINEER cannot be held accountable in the case that an amended TCEQ Wastewater Permit is not issued, approved, and/or accepted by the TCEQ. In addition, CLIENT understands the ENGINEER cannot be held accountable if the amended TCEQ Wastewater Permit is not issued as a result of any opposition to the application.

This Proposal is subject to the General Provisions included as Attachment B and may only be modified in writing when signed by both Parties. The Proposal is in addition to any other agreement regarding a permit amendment for this Project.

Mayor Todd Purcell
City of Dripping Springs
January 10, 2018
Page 5 of 8

If this Proposal satisfactorily sets forth your understanding of our agreement, please sign both copies of the letter in the space provided below, and return one copy to us. This Proposal is valid for 45 days.

Very truly yours,

CMA Engineering, Inc.

City of Dripping Springs

Robert P. Callegari, P.E.
Principal

Todd Purcell
Mayor

.....
Accepted this _____ day of _____, 2018.

Mayor Todd Purcell
 City of Dripping Springs
 January 10, 2018
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ATTACHMENT A – Rates
 Billing Rates for Professional Services

Principal	\$175.00/hour
Project Engineer II (More than 15 years of experience)	\$165.00/hour
Project Engineer I (Less than or equal to 15 years of experience)	\$145.00/hour
Assistant Engineer II (More than 5 years of experience)	\$130.00/hour
Assistant Engineer I (Less than or equal to 5 years of experience)	\$115.00/hour
Senior Engineering Technician	\$125.00/hour
Engineering Technician	\$ 95.00/hour
Field Construction Representative II	\$ 105.00/hour
Field Construction Representative I	\$ 85.00/hour
Administrative Assistant	\$ 50.00/hour
Surveyor	\$140.00/hour
Survey Technician	\$115.00/hour
Survey Crew	\$135.00/hour
Copies	\$ 0.10/copy
24" x 36" Bond Plots (black and white)	\$ 1.00/sheet
Bond Plots (color)	\$ 2.00/square foot
24" x 36" Mylar Plots	\$ 12.00/sheet
CMA/personnel vehicle mileage	max allowed by IRS

Mayor Todd Purcell
 City of Dripping Springs
 January 10, 2018
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ATTACHMENT B

GENERAL PROVISIONS

TERMINATION

Either Party may terminate this Agreement upon giving written notice to the other Party at least thirty (30) days prior to the date of termination. In the event of termination, the ENGINEER shall deliver to the CLIENT one (1) reproducible copy of all finished documents, data, studies, surveys, drawings, maps, CADD files, models, reports, etc. prepared by the ENGINEER and paid by the CLIENT under this Agreement. Additional copies of these materials shall be made available to CLIENT upon CLIENT compensating ENGINEER for time and expenses required to produce same. The ENGINEER shall be entitled to receive just and equitable compensation for any work performed in accordance with the provisions of this Agreement prior to termination notice. If the ENGINEER has completed the specified Tasks and phases prior to termination, ENGINEER will be entitled to the fees stipulated under this Agreement for such work completed. If termination should occur prior to the completion of a Task or phase, the ENGINEER shall be reimbursed for his work under that particular Task and phase based on the hours completed for that particular Task and phase.

OWNERSHIP OF DOCUMENTS

The CLIENT acknowledges the ENGINEER's Report and permit application, including electronic files, as the work papers of the ENGINEER are the ENGINEER's instruments of professional service. Nevertheless, upon completion of the services and payment in full of all monies due to the ENGINEER, the CLIENT shall receive ownership of the Report and permit application prepared under this Agreement. The CLIENT agrees, to the fullest extent permitted by law, to defend, indemnify and hold harmless the ENGINEER, its officers, directors, employees and subconsultants (collectively, ENGINEER) against any damages, liabilities or costs, including reasonable attorneys' fees and defense costs, arising from or allegedly arising from or in any way related to or connected with the unauthorized reuse or modification of the Report and/or permit application by the CLIENT or any person or entity that acquires or obtains the Report and/or permit application from or through the CLIENT without the written authorization of the ENGINEER.

CONFIDENTIALITY

All information and all materials, records, data, drawings, specifications, engineering and other documents and all other products of the services provided under this Agreement produced by, or coming into the possession of ENGINEER (including its subcontractors) in connection with the performance of the services shall be maintained in absolute confidence, and ENGINEER shall not at any time, except at the direction of CLIENT or its legal counsel, disseminate, transmit, publicize, or divulge to anyone any portion of such information, except as necessary to carry out the services pursuant to this Agreement.

MISCELLANEOUS

CONTROLLING LAW - This Agreement is to be governed by the laws of Hays County, Texas, and venue for any suit in conjunction with this Agreement shall be in the District Courts of Hays County, Texas.

LIMITATION OF LIABILITY - To the fullest extent permitted by law, the total liability, in the aggregate, of ENGINEER and ENGINEER's officers, directors, employees, agents and independent professional associates and consultants, and any of them, to CLIENT and anyone claiming by, through and under CLIENT, for any and all injuries, claims, losses, expenses or damages whatsoever arising out of or in any

Mayor Todd Purcell
 City of Dripping Springs
 January 10, 2018
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way related to ENGINEER's services, the PROJECT or this Agreement from any cause or causes whatsoever, including but not limited to the negligence, errors, omissions, strict liability or breach of contract of ENGINEER or ENGINEER's officers, directors, employees, agents and independent professional associates and consultants, and any of them, shall not exceed the total compensation received by ENGINEER under this Agreement, or the total amount of \$250,000.00, whichever is lesser.

OPINIONS OF COST - Since ENGINEER has no control over the cost of labor, materials, equipment or services furnished by others, or over the Contractor's methods of determining prices, or over competitive bidding or market conditions, ENGINEER's opinions of probable total PROJECT costs and construction costs provided herein are to be made on the basis of ENGINEER's experience and qualifications and represent ENGINEER's best judgment as an experienced and qualified professional engineer, familiar with the construction industry; but ENGINEER cannot and does not guarantee that proposals, bids or actual total PROJECT or construction costs will not vary from opinions of probable cost prepared by ENGINEER. If prior to the bidding or negotiating phase CLIENT wishes greater assurance as to total PROJECT or construction costs, CLIENT shall employ an independent cost estimator to modify the contract documents to bring the construction cost within any limitation established by CLIENT and will be considered Additional Services and paid for as such by CLIENT.

SUCCESSORS AND ASSIGNS - CLIENT and ENGINEER each binds himself and his partners, successors, executors, administrators, assigns and legal representatives to the other Party to this Agreement and to the partners, successors, executors, administrators, assigns and legal representatives of such other Party, in respect to all covenants, agreements and obligations of this Agreement.

- a. Neither CLIENT nor ENGINEER shall assign, sublet or transfer any rights under or interest in (including, but without limitation, monies that may become due or monies that are due) this Agreement without the written consent of the other, except as stated above and except prior to the extent that the effect of the limitation may be restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement. Nothing contained in the paragraph shall prevent the ENGINEER from employing such independent consultants, associates and subcontractors as he may deem appropriate to assist him in the performance of services hereunder.
- b. Nothing herein shall be construed to give any rights or benefits hereunder to anyone other than CLIENT and ENGINEER.

ATTORNEY'S FEES - If any action be brought to either Party against the other, the prevailing Party shall be entitled to recover reasonable attorney fees.

DISPUTE RESOLUTION - Any claims or disputes between the CLIENT and ENGINEER, made during or after providing engineering services, shall be first submitted to non-binding mediation, thereby providing for mediation as the primary method for dispute resolution between the CLIENT and ENGINEER.

PROFESSIONAL SERVICES AGREEMENT

This Agreement, made and entered into this, the ~~10th~~^{17th} day of April, 2018 by and between the **City of Dripping Springs**, Texas (hereinafter referred to as the “City”) and **CMA Engineering, Inc.**, (hereinafter referred to as “Contractor”), is understood and agreed to be as set forth herein:

1. **Project Summary:** Contractor proposes to render engineering services to the City in connection with the development of its South Regional Wastewater Facilities and Water Facilities in Hays County, Texas (PROJECT). Work will include providing General Engineering Services to the City regarding the South Regional Wastewater facilities and Water Facilities. The City is expected to furnish Contractor with full information as to the requirements for the PROJECT, and also to make available all pertinent existing data. Contractor shall be able to rely upon the accuracy of all information provided by the City.
2. **Scope of Work:** This shall include but will not be limited to the following:
 - Assisting the City with evaluating potential water and wastewater customers.
 - Assisting the City with preliminary planning of future water and wastewater system expansions.

Work will also include providing general professional and management services for the City’s water and wastewater systems. This may include the following:

- Assisting the City’s wastewater plant and water system operator regarding operational and maintenance issues as requested.
- Meet with the City’s City Council, Mayor, City Administrator, City Engineer, Attorneys or representative as requested by the City.
- Respond to special requests made by the City Council, Mayor, and/or the City Administrator.

3. **Description of Services:** The Contractor shall perform the below duties as needed by the City:
 - (a) Contractor shall deliver written reports to City Hall via mail, in person, facsimile, or other electronic means as appropriate.
 - (b) If the City’s assignment of duties for a specific project is declined by Contractor, then the City may assign said duties to another employee or Contractor at the City’s discretion. Contractor does not have the authority to unilaterally select another contractor to perform the work the Contractor was assigned except as allowed in Attachment “A” as Additional Services. Contractor shall assist the City in the selection of additional contractors when requested by the City.

- (c) Contractor may from time to time be called upon to perform the following services:
 - (1) Attend meetings of the City Council, when requested by the Mayor, City Administrator, or Deputy City Administrator; and/or
 - (2) Attend other public or private meetings involving review of engineering matters related to the duties performed under this Agreement.
 - (d) Contractor shall conduct business in good faith displaying professionalism and a courteous manner in dealings with the staff, citizens, and customers of the City. Contractor agrees to abide by the Texas Engineering Practice Act and Rules as established by the Texas Board of Professional Engineers when professional engineering is used in performance of Contractor's duties and responsibilities.
 - (e) Contractor will report to the Deputy City Administrator, verbally or in writing, any conflicts between Contractor and any citizen or customer in the course of performing said duties and responsibilities.
 - (f) Contractor shall maintain complete and accurate records of work performed for the City. Contractor shall manage both public and confidential records that Contractor obtains pursuant to this Agreement with the understanding that some records may be subject to state open records laws. Contractor shall comply with the City's public information policies.
 - (g) Performs other related duties as needed.
- 4. Payment for Services:** The City will compensate Contractor in accordance with the fee structure contained in Contractor's Fee Schedule included in Attachment "B". Contractor shall invoice City in accordance with Contractor's attached proposal. Invoices will be submitted monthly and payment is due within 30 days of City's receipt and approval of the invoice. If payment is not received by the 45th day after the invoice is received by the City, then Contractor may suspend services under the Agreement until all invoice amounts due are paid in full. The work schedule shall be extended the total amount of time after Contractor suspends services to the time payments are received.
- 5. Duration:** This Agreement shall be in effect for a period of two years (24 months), unless terminated as provided below or if all work associated with Agreement is completed. Contractor shall start work immediately after the execution of this Agreement.
- 6. Renewal:** This Agreement shall automatically renew for successive one-year periods unless: (a) terminated, as set out below, or (b) either party provides notice of intent not to renew to the other party thirty (30) days prior to the end of the current term.

7. **Termination:** Either party may terminate this Agreement by a thirty (30) day written notice.
8. **Relationship of Parties:** It is understood by the parties that Contractor is an independent contractor with respect to the City and not an employee of the City. City will not provide fringe benefits, including health insurance benefits, paid vacation, or any employee benefit, for the benefit of Contractor. The City may contract with other individuals or firms for engineering services.
9. **Limitations:** During the period the Consultant is covered by this agreement, the Consultant will contact the City in writing if a potential conflict of interest with a third party client may exist. If the City Council finds that a project for a third party client of the Consultant has a direct conflict with the City, the City Council shall contact the Consultant in writing. If the conflict of interest cannot be resolved to either party's satisfaction, either the Consultant or the City Council may terminate this Agreement with seven (7) days' notice to the other party.
10. **Employees:** Contractor employees, if any, who perform services for City under this Agreement shall also be bound by the provisions of this Agreement. At the request of City, Contractor shall provide adequate evidence that such persons are Contractor's employees.
11. **Mandatory Disclosures:** Texas law requires that vendors make certain disclosures. Prior to the effective date of this Contract, the Contractor has submitted to the City a copy of the Conflict of Interest Questionnaire form (CIQ Form) approved by the Texas Ethics Commission (Texas Local Government Code Chapter 176) and the Affidavit regarding Prohibition on Contracts with Companies Boycotting Israel (Texas Government Code Chapter 2270). The Contractor must also fill out Form 1295, as required by the Texas Ethics Commission, and submit it to the City. The form may be found here: https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm
12. **Injuries/Insurance:** Contractor acknowledges his/her obligation to obtain appropriate insurance coverage for the benefit of Contractor's employees, if any. Contractor waives the rights to recovery from City for any injuries that Contractor and/or Contractor's employees may sustain while performing services under this Agreement. Contractor is to provide a copy of insurance coverage to City at least ten (10) days prior to end of any existing coverage period if Contractor uses the services of any of Contractor's employees for the provision of services to the City.
13. **Indemnification:** Contractor agrees to indemnify and hold City harmless from all claims, losses, expenses, fees, including attorney's fees, costs, and judgments that may be asserted against City that result from acts or omissions of Contractor, Contractor's employees, if any, and Contractor's agents.
14. **Assignment:** Contractor's obligation under this Agreement may not be assigned or

transferred to any other person, firm, or corporation without the prior written consent of City. However, subcontractors may be hired by the Contractor as agreed in Attachment “A” Additional Services.

- 15. 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
512-858-4725

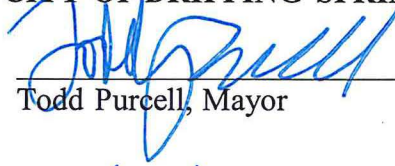
For the Contractor:

Attention: Robert Callegari
CMA Engineering
235 Ledge Stone Drive
Austin, TX 78737
512-432-1000

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.

- 16. Entire Agreement:** This Agreement contains the entire Agreement of the parties and there are no other promises or conditions in any other Agreement whether oral or written. This Agreement supersedes and prior written agreements between the parties. If a conflict exists between this Agreement and Attachment “A”, this Agreement shall prevail.
- 17. Amendment:** This agreement may be modified or amended only if the amendment is made in writing and is signed by both parties.
- 18. Severability:** If any provision of this Agreement shall be held to be invalid or unenforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.
- 19. Waiver of Contractual Right:** The failure of any party to enforce any provision of this Agreement shall not be construed as a waiver of that party's right to subsequently enforce and compel strict compliance with every provision of the Agreement.
- 20. Applicable Law:** The laws of the State of Texas shall govern this Agreement.
- 21. Venue:** The venue for any and all legal disputes arising under this Agreement shall be Hays County, Texas.

CITY OF DRIPPING SPRINGS:




Todd Purcell, Mayor

4/20/18

Date

CONTRACTOR



Robert P. Callegari, P.E.
CMA Engineering, Inc.

4-10-18

Date

ATTEST:


Andrea Cunningham, City Secretary



ATTACHMENT “A”

ADDITIONAL SERVICES

It is recognized that certain elements within the scope of engineering work cannot be accurately predetermined or controlled entirely by the Contractor. Such engineering work will be performed as Additional Services. Such work may include but not be limited to:

- Assist the City as an expert witness in any litigation with third parties arising from the development of the PROJECT.
- Changes in scope of work after receiving initial directions from the City.
- Change in design as a result of unexpected field conditions discovered during further site investigations or during construction of the PROJECT.
- Assist the City in protracted disputes or negotiations with governmental authorities or other interested parties.

Out of scope and additional services will be reimbursable per hour based on the attached fee schedule Attachment B, plus expenses. Expenses for out of scope and additional services will include direct expenses incurred by Contractor. Such expenses will include subcontractors, reproduction costs, mileage, postage and delivery, etc., as required to complete the PROJECT. Billing for all additional professional services will be based upon the actual amount of time required to complete the additional work. Out of Scope services and additional services will only be performed with approval from City.

City understands that Contractor cannot be held accountable in the case that the plans and specifications are not approved for construction by the TCEQ and/or the City of Dripping Springs or any other reviewing authority, provided Engineer utilizes sound professional practices.

This Agreement is subject to the General Provisions included as Attachment B may only be modified in writing when signed by both parties.

ATTACHMENT “B”

GENERAL PROVISIONS AND FEE SCHEDULE

COMPENSATION

Contractor will perform the work on a reimbursable time and expenses basis at the hourly rates included as Attachment B, plus expenses. Expenses will include direct expenses incurred by Contractor plus 10%. Billing for professional services will be based upon the actual amount of time required to complete the work. Upon mutual agreement of City and Contractor, rates included on Attachment B may be amended annually.

TERMINATION

Either Party may terminate this Agreement upon giving written notice to the other Party at least thirty (30) days prior to the date of termination. In the event of termination, the Contractor shall deliver to the City one (1) reproducible copy of all finished documents, data, studies, surveys, drawings, maps, CADD files, models, reports, etc. prepared by the Contractor and paid by the City under this Agreement. Additional copies of these materials shall be made available to City upon City compensating Contractor for time and expenses required to produce same. The Contractor shall be entitled to receive just and equitable compensation for any work performed in accordance with the provisions of this Agreement prior to termination notice. If the Contractor has completed the specified Tasks and phases prior to termination, Contractor will be entitled to the fees stipulated under this Agreement for such work completed. If termination should occur prior to the completion of a Task or phase, the Contractor shall be reimbursed for his work under that particular Task and phase based on the hours completed for that particular Task and phase.

OWNERSHIP OF DOCUMENTS

The City acknowledges the Contractor's Report, including electronic files, as the work papers of the Contractor are the Contractor's instruments of professional service. Nevertheless, upon completion of the services and payment in full of all monies due to the Contractor, the City shall receive ownership of the Report, and related materials prepared under this Agreement, for City's use and related wastewater system planning. The City agrees, to the fullest extent permitted by law, to defend, indemnify and hold harmless the Contractor, its officers, directors, employees and subconsultants (collectively, Contractor) against any damages, liabilities or costs, including reasonable attorneys' fees and defense costs, arising from or allegedly arising from or in any way related to or connected with the unauthorized reuse or modification of the Report by the City or any person or entity that acquires or obtains the Report from or through the City without the written authorization of the Contractor.

CONFIDENTIALITY

All information and all materials, records, data, drawings, specifications, engineering and other documents and all other products of the services provided under this Agreement produced by, or coming into the possession of Contractor (including its subcontractors) in connection with the performance of the services shall be maintained in absolute confidence, and Contractor shall not at any time, except at the direction of City, its legal counsel or by order of an authorized judicial authority, disseminate, transmit, publicize, or divulge to anyone any portion of such information, except as necessary to carry

out the services pursuant to this Agreement.

MISCELLANEOUS

CONTROLLING LAW - THIS AGREEMENT IS TO BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, AS THEY APPLY TO CONTRACTS PERFORMED WITHIN THE STATE OF TEXAS. THE PARTIES ACKNOWLEDGE THAT THIS AGREEMENT IS PERFORMABLE IN HAYS COUNTY, TEXAS, AND HEREBY SUBMIT TO THE JURISDICTION OF THE COURTS OF HAYS COUNTY, AND HEREBY AGREE THAT SUCH COURTS ARE THE PROPER FORUM FOR THE DETERMINATION OF ANY DISPUTE ARISING UNDER THIS AGREEMENT.

LIMITATION OF LIABILITY - To the fullest extent permitted by law, the total liability, in the aggregate, of Contractor and Contractor's officers, directors, employees, agents and independent professional associates and consultants, and any of them, to City and anyone claiming by, through and under City, for any and all injuries, claims, losses, expenses or damages whatsoever arising out of or in any way related to Contractor's services, the PROJECT or this Agreement from any cause or causes whatsoever, including but not limited to the negligence, errors, omissions, strict liability or breach of contract of Contractor or Contractor's officers, directors, employees, agents and independent professional associates and consultants, and any of them, shall not exceed the total compensation received by Contractor under this Agreement, or the total amount of \$100,000, whichever is greater.

OPINIONS OF COST - Since Contractor has no control over the cost of labor, materials, equipment or services furnished by others, or over a contractor's methods of determining prices, or over competitive bidding or market conditions, Contractor's opinions of probable construction costs provided herein are to be made on the basis of Contractor's experience and qualifications and represent Contractor's best judgment as an experienced and qualified professional engineer, familiar with the construction industry; but Contractor cannot and does not guarantee that actual proposals, bids or construction costs will not vary from opinions of probable cost prepared by Contractor. If City wishes greater assurance as to total future construction costs, City shall employ an independent cost estimator to modify the contract documents to bring the construction cost within any limitation established by City and will be considered Additional Services and paid for as such by City.

SUCCESSORS AND ASSIGNS - City and Contractor each binds himself and his partners, successors, executors, administrators, assigns and legal representatives to the other Party to this Agreement and to the partners, successors, executors, administrators, assigns and legal representatives of such other Party, in respect to all covenants, agreements and obligations of this Agreement.

- a. Neither City nor Contractor shall assign, sublet or transfer any rights under or interest in (including, but without limitation, monies that may become due or monies that are due) this Agreement without the written consent of the other, except as stated above and except prior to the extent that the effect of the limitation may be restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement. Nothing contained in the paragraph shall prevent the Contractor from employing such independent consultants, associates and subcontractors as he may deem appropriate to assist him in the performance of services hereunder.

- b. Nothing herein shall be construed to give any rights or benefits hereunder to anyone other than City and Contractor.

ATTORNEY'S FEES - If any action be brought to either Party against the other, the prevailing Party shall be entitled to recover reasonable attorney fees.

DISPUTE RESOLUTION - Any claims or disputes between the City and Contractor, made during or after providing engineering services, shall be first submitted to non-binding mediation, thereby providing for mediation as the primary method for dispute resolution between the City and Contractor.

2018 BILLING RATES FOR PROFESSIONAL SERVICES

Principal	\$200.00/hour
Project Engineer II (More than 15 years of experience)	\$190.00/hour
Project Engineer I (Less than or equal to 15 years of experience)	\$165.00/hour
Assistant Engineer II (More than 5 years of experience)	\$150.00/hour
Assistant Engineer I (Less than or equal to 5 years of experience)	\$135.00/hour
Senior Engineering Technician	\$150.00/hour
Engineering Technician	\$110.00/hour
Field Construction Representative II	\$120.00/hour
Field Construction Representative I	\$ 95.00/hour
Administrative Assistant	\$ 55.00/hour
Surveyor	\$160.00/hour
Survey Technician	\$135.00/hour
Survey Crew	\$155.00/hour
Copies	\$ 0.10/copy
24" x 36" Bond Plots (black and white)	\$ 1.00/sheet
Bond Plots (color)	\$ 2.00/square foot
24" x 36" Mylar Plots	\$ 12.00/sheet
CMA/personnel vehicle mileage	max allowed by
IRS	

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:
2018-336984

Date Filed:
04/10/2018

Date Acknowledged:

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.
CMA Engineering, Inc.
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.
CMA04102018
General Engineering Services

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

5 Check only if there is NO Interested Party.


6 UNSWORN DECLARATION

My name is Robert Callegari, and my date of birth is 7-8-1963.

My address is 235 Ledge Stone Drive, Austin, TX, 78737, USA.
(street) (city) (state) (zip code) (country)

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

Executed in Hays County, State of TX, on the 10 day of April, 2018.
(month) (year)



Signature of authorized agent of contracting business entity
(Declarant)

Client#: 158353

CMAENGIN

ACORD™

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD) 1/29/2018 Item 6.

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer any rights to the certificate holder in lieu of such endorsement(s).

PRODUCER: USI Southwest, 7600-B N. Cap of Tx. Hwy. #200, Austin, Texas 78731. CONTACT NAME: Debi Wylie, PHONE: 512-651-4159, FAX: 610-537-2782, E-MAIL ADDRESS: debra.wylie@usi.com. INSURER(S) AFFORDING COVERAGE: Argonaut Insurance Company, NAIC #: 19801.

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

Table with columns: INSR LTR, TYPE OF INSURANCE, ADDL INSR, SUBR WVD, POLICY NUMBER, POLICY EFF (MM/DD/YYYY), POLICY EXP (MM/DD/YYYY), LIMITS. Includes sections for Commercial General Liability, Automobile Liability, Umbrella Liab, Excess Liab, Workers Compensation and Employers' Liability, and Professional Liab.

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER: City of Dripping Springs, Attn: Ginger Faught, P.O. Box 384, Dripping Springs, TX 78620. CANCELLATION: SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE: James E. Zimmerman

CMA05082018

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT made and entered into this, the 15th day of May 2018, by and between the City of Dripping Springs, Texas (hereinafter referred to as the “City”) and CMA Engineering, Inc., (hereinafter referred to as “Contractor”), is understood and agreed to be as set forth herein:

1. **Project Summary:** Update Wastewater Capital Improvements Plan (CIP)

2. **Scope of Work:** Engineering services and the scope of work will consist of preparing the second amendment to the approved Wastewater Capital Improvements Plan (CIP) for the financing of capital improvements of the South Regional Wastewater Facilities. Facilities will include the wastewater collection, treatment, and disposal facilities utilized by the City to serve the City of Dripping Springs over the CIP planning period. Scope of Work includes all work in Attachment “A”.

3. **Description of Services:** The Contractor shall perform the below duties as needed by the City:
 - (a) Contractor shall deliver written reports to City Hall via mail, in person, facsimile, or other electronic means as appropriate.

 - (b) If the City’s assignment of duties for a specific project is declined by Contractor, then the City may assign said duties to another employee or Contractor at the City’s discretion. Contractor does not have the authority to unilaterally select another contractor to perform the work the Contractor was assigned except as allowed in Attachment “A” as Additional Services. Contractor shall assist the City in the selection of additional contractors when requested by the City.

 - (c) Contractor may from time to time be called upon to perform the following services:
 - (1) Attend meetings of the City Council, when requested by the Mayor, City Administrator, or Deputy City Administrator; and/or

 - (2) Attend other public or private meetings involving review of engineering matters related to the duties performed under this Agreement.

 - (d) Contractor shall conduct business in good faith displaying professionalism and a courteous manner in dealings with the staff, citizens, and customers of the City. Contractor agrees to abide by the Texas Engineering Practice Act and Rules as established by the Texas Board of Professional Engineers when professional engineering is used in performance of Contractor’s duties and responsibilities.

 - (e) Contractor will report to the Deputy City Administrator, verbally or in writing, any conflicts between Contractor and any citizen or customer in the course of performing said duties and responsibilities.

(f) Contractor shall maintain complete and accurate records of work performed for the City. Contractor shall manage both public and confidential records that Contractor obtains pursuant to this Agreement with the understanding that some records may be subject to state open records laws. Contractor shall comply with the City's public information policies.

(g) Performs other related duties as needed.

1. **Payment for Services:** The City will compensate Contractor in accordance with the fee structure contained in Contractor's proposal attached as Attachment "A". Contractor shall invoice City in accordance with Contractor's attached proposal. Invoices will be submitted monthly and payment is due within 30 days of City's receipt and approval of the invoice. If payment is not received by the 45th day after the invoice is received by the City, then Contractor may suspend services under the Agreement until all invoice amounts due are paid in full. The work schedule shall be extended the total amount of time after Contractor suspends services to the time payments are received.
2. **Duration:** This Agreement shall be in effect for a period of two years (24 months), unless terminated as provided below or if all work associated with Agreement is completed. Contractor shall start work immediately after the execution of this Agreement.
3. **Renewal:** This Agreement shall automatically renew for successive one-year periods unless:
(a) terminated, as set out below, or (b) either party provides notice of intent not to renew to the other party thirty (30) days prior to the end of the current term.
4. **Termination:** Either party may terminate this Agreement by a thirty (30) day written notice.
5. **Relationship of Parties:** It is understood by the parties that Contractor is an independent contractor with respect to the City and not an employee of the City. City will not provide fringe benefits, including health insurance benefits, paid vacation, or any employee benefit, for the benefit of Contractor. The City may contract with other individuals or firms for engineering services.
6. **Limitations:** During the period the Consultant is covered by this agreement, the Consultant will contact the City in writing if a potential conflict of interest with a third-party client may exist. If the City Council finds that a project for a third-party client of the Consultant has a direct conflict with the City, the City Council shall contact the Consultant in writing. If the conflict of interest cannot be resolved to either party's satisfaction, either the Consultant or the City Council may terminate this Agreement with seven (7) days' notice to the other party.
7. **Employees:** Contractor employees, if any, who perform services for City under this Agreement shall also be bound by the provisions of this Agreement. At the request of City, Contractor shall provide adequate evidence that such persons are Contractor's employees.

- 8. **Mandatory Disclosures:** Texas law requires that vendors make certain disclosures. Prior to the effective date of this Contract, the Contractor has submitted to the City a copy of the Conflict of Interest Questionnaire form (CIQ Form) approved by the Texas Ethics Commission (Texas Local Government Code Chapter 176) and the Affidavit regarding Prohibition on Contracts with Companies Boycotting Israel (Texas Government Code Chapter 2270). The Contractor must also fill out Form 1295, as required by the Texas Ethics Commission, and submit it to the City. The form may be found here: https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm
- 9. **Injuries/Insurance:** Contractor acknowledges his/her obligation to obtain appropriate insurance coverage for the benefit of Contractor's employees, if any. Contractor waives the rights to recovery from City for any injuries that Contractor and/or Contractor's employees may sustain while performing services under this Agreement. Contractor is to provide a copy of insurance coverage to City at least ten (10) days prior to end of any existing coverage period if Contractor uses the services of any of Contractor's employees for the provision of services to the City.
- 10. **Indemnification:** Contractor agrees to indemnify and hold City harmless from all claims, losses, expenses, fees, including attorney's fees, costs, and judgments that may be asserted against City that result from acts or omissions of Contractor, Contractor's employees, if any, and Contractor's agents.
- 11. **Assignment:** Contractor's obligation under this Agreement may not be assigned or transferred to any other person, firm, or corporation without the prior written consent of City.
- 12. **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:
 City of Dripping Springs
 Attn: City Administrator
 PO Box 384
 Dripping Springs, TX 78620
 (512) 858-4725

CMA Engineering, Inc.:
 CMA Engineering, Inc.
 Attn: Felix J. Manka, P.E.
 235 Ledge Stone Drive
 Austin, TX 78737
 (512) 432-1000

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.

- 13. **Entire Agreement:** This Agreement contains the entire Agreement of the parties and there are

no other promises or conditions in any other Agreement whether oral or written. This Agreement supersedes and prior written agreements between the parties. If a conflict exists between this Agreement and Attachment "A", this Agreement shall prevail.

14. Amendment: This agreement may be modified or amended only if the amendment is made in writing and is signed by both parties.

15. Severability: If any provision of this Agreement shall be held to be invalid or unenforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

16. Waiver of Contractual Right: The failure of any party to enforce any provision of this Agreement shall not be construed as a waiver of that party's right to subsequently enforce and compel strict compliance with every provision of the Agreement.

17. Applicable Law: The laws of the State of Texas shall govern this Agreement.

18. Venue: The venue for any and all legal disputes arising under this Agreement shall be Hays County, Texas.

CITY OF DRIPPING SPRINGS:

CMA ENGINEERING, INC.:



Todd Purcell, Mayor

Felix J. Manka

May 18, 2018
Date

Date

ATTEST:



Andrea Cunningham, City Secretary



no other promises or conditions in any other Agreement whether oral or written. This Agreement supersedes and prior written agreements between the parties. If a conflict exists between this Agreement and Attachment "A", this Agreement shall prevail.

14. Amendment: This agreement may be modified or amended only if the amendment is made in writing and is signed by both parties.

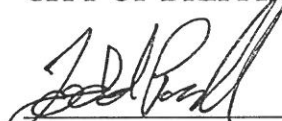
15. Severability: If any provision of this Agreement shall be held to be invalid or unenforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

16. Waiver of Contractual Right: The failure of any party to enforce any provision of this Agreement shall not be construed as a waiver of that party's right to subsequently enforce and compel strict compliance with every provision of the Agreement.

17. Applicable Law: The laws of the State of Texas shall govern this Agreement.

18. Venue: The venue for any and all legal disputes arising under this Agreement shall be Hays County, Texas.

CITY OF DRIPPING SPRINGS:



Todd Purcell, Mayor

May 18, 2018
Date

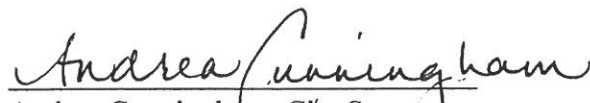
CMA ENGINEERING, INC.:



Felix J. Manka

05.22.18
Date

ATTEST:



Andrea Cunningham, City Secretary



May 1, 2018

Mayor Todd Purcell
City of Dripping Springs
P.O. Box 384
Dripping Springs, Texas 78620

Re: City of Dripping Springs
Engineering Services Agreement
Second Amendment to the Wastewater Capital Improvements Plan
CMA Job Number 1881-001

Dear Mayor Purcell:

CMA Engineering, Inc. (ENGINEER) proposes to render engineering services to the City of Dripping Springs (CLIENT) in connection with its South Regional Wastewater Facilities in Hays County, Texas (PROJECT). The CLIENT is expected to furnish ENGINEER with full information as to the requirements for the PROJECT, and to make available all pertinent existing data. ENGINEER shall be able to rely upon the accuracy of all information provided by the CLIENT.

Engineering services and the scope of work will consist of preparing the second amendment to the approved Wastewater Capital Improvements Plan (CIP) for the financing of capital improvements of the South Regional Wastewater Facilities. Facilities will include the wastewater collection, treatment, and disposal facilities utilized by the City to serve the City of Dripping Springs over the CIP planning period.

More specifically the amendment to the plan will include the following:

- Revise the service area in which wastewater service will be provided
- Project land uses within the service area to determine densities, population, and living unit equivalents over a 10-year planning period
- Identify the necessary wastewater collection, treatment, and disposal facilities required to provide service within the revised service area
- Identify the construction cost of the wastewater facilities, the legal, surveying, and engineering fees associated with the facilities and the plan, the costs associated with the financing of the items related to the wastewater facilities, and other related and permitted project costs
- Determine the impact fee to be charged to generate revenue for funding or recouping the cost or a portion of the cost of the items related to the construction and financing of the wastewater facilities

COMPENSATION

ENGINEER will perform the work on a reimbursable time and expenses basis at the hourly rates included in Attachment A, plus expenses. Expenses will include direct expenses incurred by ENGINEER plus 10%. Such expenses will include reproduction costs, mileage, postage and delivery, etc., as required to complete the PROJECT. Billing for professional services will be based upon the actual amount of time required to complete the work. Invoices will be submitted monthly and payment is due within 30 days of CLIENT's receipt of the invoice. The estimated engineering budget is \$32,000.

ADDITIONAL SERVICES

It is recognized that certain elements within the scope of engineering work cannot be accurately predetermined or controlled entirely by the ENGINEER. Such engineering work will be performed as Additional Services. Such work may include but not be limited to:

- Assist the CLIENT as an expert witness in any litigation with third parties arising from the development of the PROJECT.
- Changes in scope of work after receiving initial directions from the CLIENT.
- Assist the CLIENT in protracted disputes or negotiations with governmental authorities or other interested parties.

Out of scope and additional services will be reimbursable per hour based on the attached fee schedule Attachment A, plus expenses. Expenses for out of scope and additional services will include direct expenses incurred by ENGINEER plus 10%. Such expenses will include reproduction costs, mileage, postage and delivery, etc., as required to complete the PROJECT. Billing for all additional professional services will be based upon the actual amount of time required to complete the additional work.

This Agreement is subject to the General Provisions included as Attachment B and may only be modified in writing when signed by both parties. If this satisfactorily sets forth your understanding of our agreement, please sign both copies of the letter in the space provided below and return one copy to us.

Very truly yours,

CMA Engineering, Inc.

City of Dripping Springs



Felix J. Manka, P.E.
Principal

Todd Purcell
Mayor City of Dripping Springs

ATTACHMENT A

2018 BILLING RATES FOR PROFESSIONAL SERVICES

Principal	\$200.00/hour
Project Engineer II (More than 15 years of experience)	\$190.00/hour
Project Engineer I (Less than or equal to 15 years of experience)	\$165.00/hour
Assistant Engineer II (More than 5 years of experience)	\$150.00/hour
Assistant Engineer I (Less than or equal to 5 years of experience)	\$135.00/hour
Senior Engineering Technician	\$150.00/hour
Engineering Technician	\$110.00/hour
Field Construction Representative II	\$120.00/hour
Field Construction Representative I	\$ 95.00/hour
Administrative Assistant	\$ 55.00/hour
Surveyor	\$160.00/hour
Survey Technician	\$135.00/hour
Survey Crew	\$155.00/hour
Copies	\$ 0.10/copy
24" x 36" Bond Plots (black and white)	\$ 1.00/sheet
Bond Plots (color)	\$ 2.00/square foot
24" x 36" Mylar Plots	\$ 12.00/sheet
CMA/personnel vehicle mileage	IRS Rate

ATTACHMENT B

GENERAL PROVISIONS

TERMINATION

Either party may terminate this Agreement upon giving written notice to the other party at least ten (10) days prior to the date of termination. In the event of termination, the ENGINEER shall deliver to the CLIENT within 20 days from the date the notice of termination is given one (1) reproducible copy of all documents, data, studies, surveys, drawings, maps, CADD files, models, reports, etc. prepared by the ENGINEER and paid by the CLIENT under this Agreement. Additional copies of these materials shall be made available to CLIENT upon CLIENT compensating ENGINEER for time and expenses required to produce same. The ENGINEER shall be entitled to receive just and equitable compensation for any work performed in accordance with the provisions of this Agreement prior to termination notice. If the ENGINEER has completed the specified Tasks and phases prior to termination, ENGINEER will be entitled to the fees stipulated under this Agreement for such work completed. If termination should occur prior to the completion of a Task or phase, the ENGINEER shall be reimbursed for his work under that particular Task and phase based on the hours completed for that particular Task and phase.

OWNERSHIP OF DOCUMENTS

All documents including drawings and specifications prepared or furnished by ENGINEER pursuant to this Agreement are instruments of service in respect of the PROJECT and ENGINEER shall retain ownership and property interest therein. CLIENT shall be granted an irrevocable, nontransferable license for all work completed by ENGINEER and paid for by CLIENT. In the event of termination, CLIENT may use the work done by ENGINEER in any manner necessary to complete the PROJECT however, if the ENGINEER for any reason is not allowed to complete all the services call for by this Agreement, the ENGINEER shall not be held responsible for the accuracy, completeness or constructability of the construction documents prepared by the ENGINEER if used, changed, or completed by the ENGINEER or by another party. Accordingly, the CLIENT agrees, to the fullest extent permitted by law, to indemnify and hold harmless the ENGINEER, its officers, directors, employees and subcontractors and subconsultants from any damages, liabilities or costs, including reasonably attorneys' fees and defense costs, arising or allegedly arising from such use, change or completion by any other party of any construction documents prepared by the ENGINEER. Such documents are not intended or represented to be suitable for reuse by CLIENT or others on extensions of the PROJECT or on any other project. Any reuse on any other Project without written verification or adaption by ENGINEER for the specific purpose intended will be at CLIENT's sole risk and without liability or legal exposure to ENGINEER, and CLIENT shall hold harmless ENGINEER from all claims arising out of or resulting therefrom. Any such verification or adaption, if performed by ENGINEER, will entitle ENGINEER to further compensation at rates to be agreed upon by CLIENT and ENGINEER.

MISCELLANEOUS

CONTROLLING LAW - This Agreement is to be governed by the law of Hays County, Texas and venue for any suit in conjunction with this Agreement shall be in the District Courts of Hays County, Texas.

LIMITATION OF LIABILITY - To the fullest extent permitted by law, the total liability, in the aggregate, of ENGINEER and engineer's officers, directors, employees, agents and independent professional associates and consultants, and any of them, to owner and anyone claiming by, through and under owner, for any and all injuries, claims, losses, expenses or damages whatsoever arising out of or in any way related to engineer's services, the PROJECT or this agreement from any cause or causes whatsoever, including but not limited to the negligence, errors, omissions, strict liability or breach of contract of ENGINEER or engineer's officers, directors, employees, agents and independent professional associates and consultants, and any of them, shall not exceed the total compensation of received by ENGINEER under this agreement, or the total amount of \$100,000.00, whichever is lesser.

OPINIONS OF COST - Since ENGINEER has no control over the cost of labor, materials, equipment or services furnished by others, or over the Contractor's methods of determining prices, or over competitive bidding or market conditions, ENGINEER's opinions of probable total PROJECT costs and construction costs provided herein are to be made on the basis of ENGINEER's experience and qualifications and represent ENGINEER's best judgement as an experienced and qualified professional engineer, familiar with the construction industry; but ENGINEER cannot and does not guarantee that proposals, bids or actual total PROJECT or construction costs will not vary from opinions of probable cost prepared by ENGINEER. If prior to the bidding or negotiating phase CLIENT wishes greater assurance as to total PROJECT or construction costs, CLIENT shall employ an independent cost estimator to modify the contract documents to bring the construction cost within any limitation established by CLIENT will be considered Additional Services and paid for as such by CLIENT.

SUCCESSORS AND ASSIGNS - CLIENT and ENGINEER each bind himself and his partners, successors, executors, administrators, assigns and legal representatives to the other party to this Agreement and to the partners, successors, executors, administrators, assigns and legal representatives of such other party, in respect to all covenants, agreements and obligations of this Agreement.

- a. Neither CLIENT or ENGINEER shall assign, sublet or transfer any rights under or interest in (including, but without limitation, monies that may become due or monies that are due) this Agreement without the written consent of the other, except as stated above and except prior to the extent that the effect of the limitation may be restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement. Nothing contained in the paragraph shall prevent the ENGINEER from employing such independent consultants, associates and subcontractors as he may deem appropriate to assist him in the performance of services hereunder.
- b. Nothing herein shall be construed to give any rights or benefits hereunder to anyone other than CLIENT and ENGINEER.

ATTORNEY'S FEES - If any action be brought to either party against the other, the prevailing party shall be entitled to recover reasonable attorney fees.

DISPUTE RESOLUTION - Any claims or disputes between the CLIENT and ENGINEER, made during or after providing engineering services, shall be first submitted to non-binding mediation, thereby providing for mediation as the primary method for dispute resolution between the CLIENT and ENGINEER.



DRIPPING SPRINGS
Texas

To: Mayor Bill Foulds, Jr. and City Council, City of Dripping Springs

From: Shawn Cox, Finance Director/City Treasurer 

Date: December 21, 2021

RE: November 2021 City Treasurer's Report

General Fund:

The General Fund received **\$1,029,520.40** in revenues for November. This includes \$391,228.68 in Sales Tax, of which \$297,644.35 is considered City Revenues and not allocated to either the Wastewater Fund or through agreements. This represents a 28% increase over November 2020. A total of \$165,192.35 was collected in Building Code Fees. Additionally, \$175,316.00 was collected in Subdivision Fees and \$109,938.91 was collected in Site Development Fees. During November, the General Fund also received reimbursement from the TIRZ funds totaling \$127,102.00. These revenues were reimbursements for TIRZ expenses originally covered by the General Fund.

General Fund expenditures are in line with the approved budget. Significant expenditures for November include our annual software fees for Incode (\$15,458.97), Laserfiche (\$6,595.95), and My Permit Now (\$1,883.33).

Wastewater Utility Fund:

For October, **\$279,473.23** was received in revenues. This included a \$78,245.74 transfer from the General Fund for Wastewater's portion of monthly sales tax collections. A total of \$110,380.29 was received for Wastewater Fees. Additionally, quarterly franchise fees were received from Charter Communications (\$38,824.96) and PEC (\$44,392.04).

Wastewater Utility Expenditures are in line with the approved budget. The purchase of the Wastewater pick-up has been arranged. Currently, the truck is being held pending a part delivery. While the purchase is under contract, no payments have been made yet.

Dripping Springs Ranch Park (DSRP):

\$76,443.39 in revenues were collected for November. This includes \$40,431.16 in Program Fees, \$19,312.50 in Facility Rental Fees, \$2,990.00 in RV Site Rentals, and \$5,102.75 in Stall Rentals.

DSRP expenditures are in line with the approved budget.

Banking:

On November 30th, the City's cash balances were **\$21.437 Million**. This is a 1% increase from the previous month's cash balances. A total of **\$20,560.83** was collected in interest revenues for the Month of November. Not included in the \$21.437 million total is a deposit of \$1,914,207.00 which was deposited as a condition of the Heritage: Offsite Road & Trail Agreement. Council entered into this agreement in 2017. As Heritage constructs the offsite road, they will be able to submit requests to the City to draw down the account based on monthly construction expenditures incurred by Heritage.



STAFF REPORT
City of Dripping Springs
PO Box 384
511 Mercer Street
Dripping Springs, TX 78620

Submitted By: Ginger Faught, Deputy City Administrator

Council Meeting Date: December 21, 2021

Agenda Item Wording: **Approval of Amendments to Task Order No. 1 regarding the East Interceptor and Task Order No. 2 regarding the West Interceptor and the related Professional Services Agreement between the City of Dripping Springs and HDR Engineering, Inc. Sponsor: Mayor Bill Foulds, Jr.**

Agenda Item Requestor: Ginger Faught, Deputy City Administrator

Summary/Background:

Attached please find the amendments (Task Order 1, Task Order 2) to the agreement between HDR and City of Dripping Springs. These amendments are strictly pass through to the appraiser agreement for any Prep and Testimony and appraisal updates for Eminent Domain only and will only be utilized if needed. At this time, we are waiting on these agreements so Atrium can formally submit their invoice for payment for the work done on Lazy W appraisal and prep/testimony for the hearing. That invoice totals \$6750.00 We are not assuming any ED on the West Interceptor but have done an amendment just in case.

Commission Recommendations: N/A

Recommended Council Actions: Recommend approval.

Attachments: Task Order 1 and Task Order 2 amendments.

Next Steps/Schedule: Notify contractor of Council action.

AMENDMENT 2 TO TASK ORDER 1 (EAST INTERCEPTOR)

THIS AMENDMENT 2 TO TASK ORDER 1 is made by and between the City of Dripping Springs (“CITY”) and HDR Engineering, Inc. (“HDR”).

WHEREAS, CITY and HDR entered into Task Order 1 dated May 21, 2019; and modified in Amendment 1, dated January 29, 2021.

WHEREAS, CITY and HDR wish to amend the Task Order 1 as contained herein.

CITY and HDR hereby agree as follows:

- 1.1 All terms, conditions and other provisions contained in the Task Order are hereby reaffirmed and incorporated herein.
- 1.2 THE FEE SCHEDULE included in the TASK ORDER shall be updated to reflect the following and attached as Exhibit “A”:
 - Fees to Subconsultant Atrium Real Estate services will be increased by \$48,000.000 from \$72,000.00 to \$120,000.00 for additional services related to Compensation for Additional Services - Prep and Testimony.
 - The total Work Authorization will increase from \$515,220.00 to \$563,220.00
- 1.3 Except as modified herein, Task Order 1 and Amendment 1 shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Amendment 2 to Task Order 1 and accept all terms and conditions this _____ day of _____ 2021.

CITY OF DRIPPING SPRINGS

HDR ENGINEERING. INC.

BY: _____

BY: _____

NAME: Ginger Faught

NAME: Mark Borenstein, P.E.

TITLE: Deputy City Administrator

TITLE Vice President

Task Order	Task Description	Project Manager	Appraisal Review	Negotiation Agent II	Negotiation Agent III	Relocation Agent I	ED Coordinator	ROW Technician II	Principal	Total Labor Hours	Total Labor Cost
1	Real Estate Project Management	180	2	120		30	4	90	23	449	\$66,500.00
	Real Estate Appraisal Review Service	27	136							163	\$28,000.00
	Negotiation Services	136		680				680		1,496	\$214,000.00
	Title & Closing Services				544					544	\$53,500.00
	Relocation Assistance Services for Personal Property	8				60				68	\$8,000.00
	PRELIMINARY CONDEMNATION SUPPORT SERVICES						192	144		336	\$43,000.00
	CONDEMNATION SUPPORT SERVICES (Post Hearing)						77	115		192	\$21,500.00
	HOURS SUB-TOTAL	351	138	800	544	90	273	1,029	23	3,248	
	DIRECT LABOR	\$175	\$160	\$135	\$165	\$100	\$202	\$85	\$295.00		
	SUB-TOTAL										\$434,500.00

SUBCONSULTANT	Contract Rate	Unit	Quantity	Amount	
Appraisal	\$2,000.00	Per Report	28	\$56,000.00	
Appraisal Updates	\$2,000.00	Per Report	8	\$16,000.00	
Prep and Testimony	\$250.00	Per Hour	32 hours/parcel	\$48,000.00	
SUB-TOTAL					\$120,000.00
Direct Costs	Contract Rate	Unit	Quantity	Amount	
Mileage	\$0.58	Per Mile	4,000	\$2,320.00	
Print & Copy	\$0.25	Sheet	8,000	\$2,000.00	
Postage / Cert Mail	\$10.00	Per Pkg	400	\$4,000.00	
UPS Overnight	\$20.00	Per Pkg	20	\$400.00	
SUB-TOTAL					\$8,720.00
TOTAL NTE					\$563,220.00

AMENDMENT 2 TO TASK ORDER 2 (WEST INTERCEPTOR)

THIS AMENDMENT 2 TO TASK ORDER 2 is made by and between the City of Dripping Springs (“CITY”) and HDR Engineering, Inc. (“HDR”).

WHEREAS, CITY and HDR entered into Task Order 2 dated May 21, 2019; and modified in Amendment 1, dated January 29, 2021.

WHEREAS, CITY and HDR wish to amend the Task Order 2 as contained herein.

CITY and HDR hereby agree as follows:

- 1.1 All terms, conditions and other provisions contained in the Task Order are hereby reaffirmed and incorporated herein.
- 1.2 THE FEE SCHEDULE included in the TASK ORDER shall be updated to reflect the following and attached as Exhibit “A”:
 - Fees to Subconsultant Atrium Real Estate services will be increased by \$14,000.000 from \$24,000.00 to \$38,000.00 for additional services related to Compensation for Additional Services - Prep and Testimony and Appraisal Updates.
 - The total Work Authorization will increase from \$180,051.00 to \$194,051.00
- 1.3 Except as modified herein, Task Order 2 and Amendment 1 shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Amendment 2 to Task Order 2 and accept all terms and conditions this _____ day of _____ 2021.

CITY OF DRIPPING SPRINGS

HDR ENGINEERING. INC.

BY: _____

BY: _____

NAME: Ginger Faught

NAME: Mark Borenstein, P.E.

TITLE: Deputy City Administrator

TITLE Vice President

Task Order	Task Description	Project Manager	Appraisal Review	Negotiation Agent II	Negotiation Agent III	Relocation Agent I	ED Coordinator	ROW Technician II	ROW Technician III	Sr Admin	Principal	Total Labor Hours	Total Labor Cost
2	Real Estate Project Management	152	1	30		7	1	68	51	12	5	327	\$55,371
	Real Estate Appraisal Review Service	7	34									41	\$6,000
	Negotiation Services	34		170				170				374	\$46,500
	Title & Closing Services				136							136	\$11,500
	Relocation Assistance Services for Personal Property	2				15						17	\$2,000
	PRELIMINARY CONDEMNATION SUPPORT SERVICES						48	36				84	\$21,500
	CONDEMNATION SUPPORT SERVICES (Post Hearing)						19	29				48	\$11,000
	HOURS SUB-TOTAL	195	35	200	136	22	68	303	51	12	5	1,027	\$153,871
	DIRECT LABOR	\$175	\$160	\$135	\$165	\$100	\$202	\$85	\$103	\$80	\$295		
	SUB-TOTAL												

SUBCONSULTANT	Contract Rate	Unit	Quantity	Amount	
Appraisal	\$3,000.00	Per Report	7	\$21,000.00	
Appraisal Updates	\$3,000.00	Per Report	3	\$ 9,000.00	
Prep and Testimony	\$250.00	Per Hour	32 hours/parcel	\$ 8,000.00	
SUB-TOTAL					\$38,000.00

Direct Costs	Contract Rate	Unit	Quantity	Amount	
Mileage	\$0.58	Per Mile	1,000	\$580.00	
Print & Copy	\$0.25	Sheet	2,000	\$500.00	
Postage / Cert Mail	\$10.00	Per Pkg	100	\$1,000.00	
UPS Overnight	\$20.00	Per Pkg	5	\$100.00	
SUB-TOTAL					\$2,180.00

TOTAL NTE **\$194,051.00**

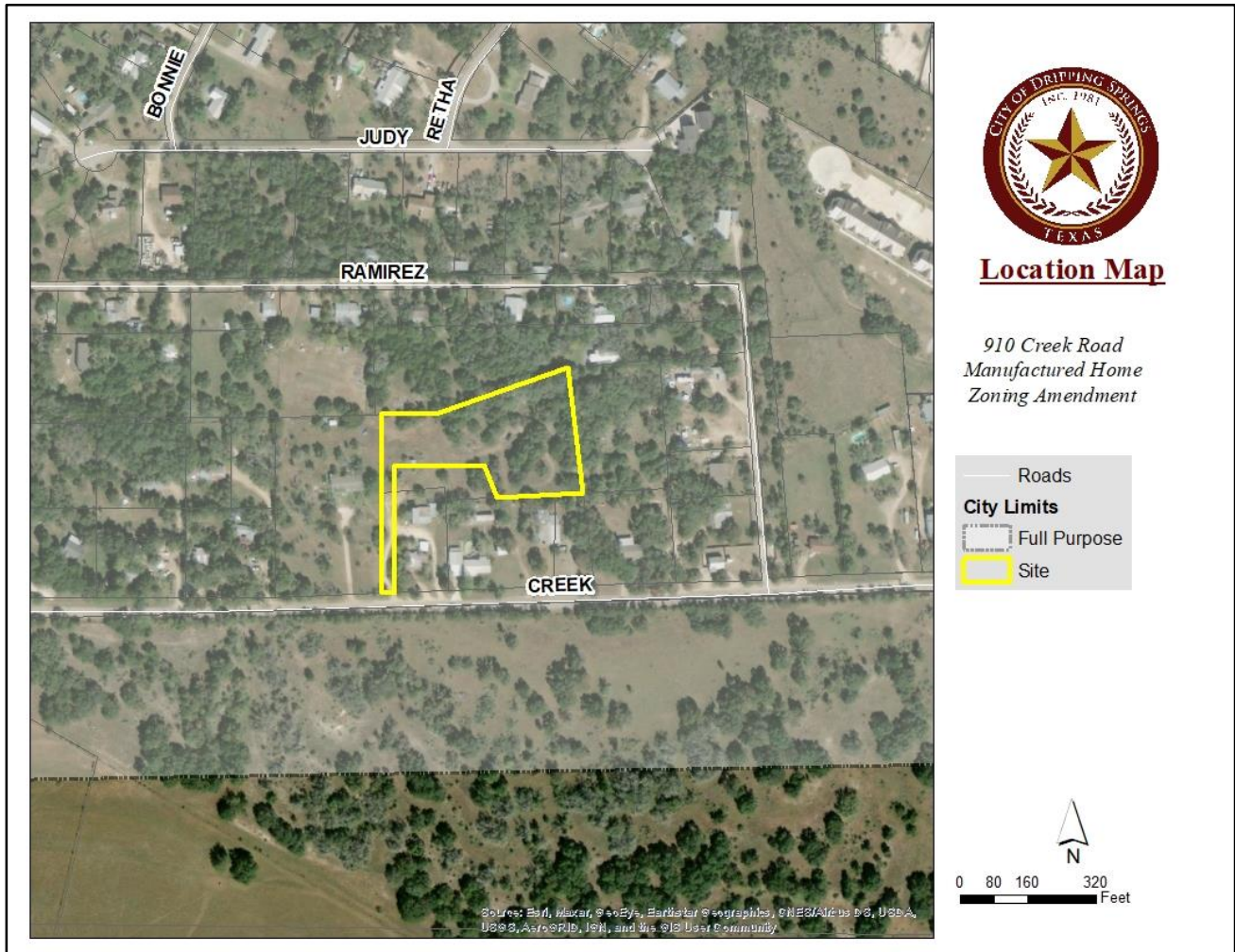


City Council Planning Department Staff Report

City Council: December 21, 2021
Project No: ZA2021-0005
Project Planner: Tory Carpenter, Senior Planner

Item Details

Project Name: 910 Creek Rd Manufactured Home
Property Location: 910 Creek Road
Legal Description: 2.279 acres out of the Phillip A. Smith Survey
Applicant: Jon Thompson
Property Owner: Summer Hernandez Scott
Request: Zoning amendment from Single Family – Low Density “SF-1” to
 Manufactured Home “MH”



Background

The property is currently zoned SF-1, Single Family – Low Density
Per Ch. 30 Exhibit A, §3.3

- **SF-1 – Single-family residential district – Low Density:** *The SF-1, single-family residential district is intended to provide for development of low-density, detached, single-family residences on lots of at least one acre in size.*

The applicant is requesting a zoning amendment to MH: Manufactured Home
Per Ch. 30 Exhibit A, §3.18

- **MH – Manufactured Home:** *The MH, manufactured housing district is intended to provide for single-family residential development in accordance with the manufactured housing ordinance.*

At their December 14 meeting, the Planning & Zoning Commission voted unanimously to recommend approval of this zoning amendment.

Analysis

This zoning amendment would allow for a single manufactured home on the property.

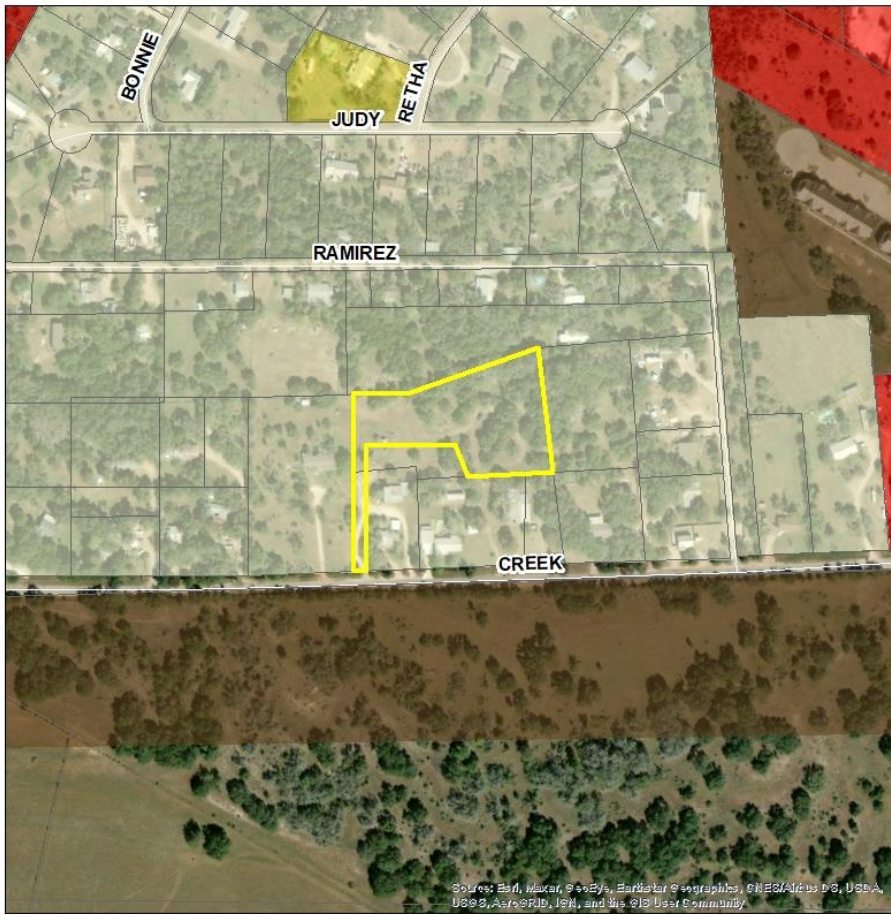
The subject property currently consists of two separate parcels, one of which does not have road access. The zoning amendment and subsequent final plat of the property would ultimately create a flag lot, which is only allowed with approval of an administrative waiver. Given that this lot configuration would provide street access to a property which current has none, staff feels that the configuration is warranted.

While the surround area is almost exclusively zoned SF-1, there appear to be several nonconforming manufactured homes in the immediate area. Based on the adjacent zoning category and land uses, staff finds that the proposed zoning considerably compatible within the area as outlined in the staff comments below.

The following are the development regulations for the current and proposed zoning districts for the site.

	SF-1	MH	Differences between MH to GR
Max Height	1.5 Story / 40 feet.	One Story / 20 feet.	20 feet less
Min. Lot Size	43560-sq-ft	10,000-sq-ft	33,560-sq-ft less
Min. Lot Width	N/A	70 feet	30 feet less
Min. Lot Depth	100 feet	100 feet	50 feet
Min. Front/Side/Rear Yard Setbacks	25 feet / 15 feet / 25 feet	20 feet / 15 feet / 20 feet	5 feet less / same / 5 feet less
Impervious Cover	30%	50%	20% more

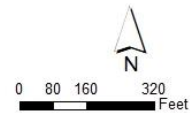
Surrounding Properties



Zoning Map

910 Creek Road
 Manufactured Home
 Zoning Amendment

- Roads
- Site
- Zoning**
- SF-1
- SF-2
- MF
- CS



The current zoning and existing uses of the adjacent properties to the north, south, east, and west are outlined in the table below:

Direction	Zoning District	Existing Use	Future Land Use
North	SF-1	Manufactured Home	Not Shown on the Future Land Use Map
East	SF-1	Manufactured Homes	
South	SF-1 / MF	Manufactured / Single family Home	
West	SF-1	Single family Home	

Approval Criteria for Zoning Amendment (Chapter 30 Zoning, Exhibit A, Sec 2.28.1 and 2.28.2)

2.28.2 The Planning & Zoning Commission and the City Council shall consider the following factors:

Factors	Staff Comments
1. whether the proposed change will be appropriate in the immediate area concerned;	While the surround area is almost exclusively zoned SF-1, there appear to be several nonconforming manufactured homes in the immediate area.
2. their relationship to the general area and the City as a whole;	This property is consistent with the other properties along Creek Road and Ramirez Lane
3. whether the proposed change is in accord with any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers, and other utilities to the area;	The property is not within any existing or proposed City Plans.
4. the amount of undeveloped land currently classified for similar development in the vicinity and elsewhere in the City, and any special circumstances which may make a substantial part of such undeveloped land unavailable for development;	This request would not make other land unavailable for development.
5. the recent rate at which land is being developed in the same zoning classification, particularly in the vicinity of the proposed change;	There are few undeveloped properties zoned "MH"
6. how other areas designated for similar development will be, or are unlikely to be, affected if the proposed amendment is approved;	No areas designated for similar development will be affected by this proposed amendment.
7. whether the proposed change treats the subject parcel of land in a manner which is significantly different from decisions made involving other, similarly situated parcels; and	Approval of this zoning amendment would not be significantly different from decisions made involving other similar parcels.
8. any other factors which will substantially affect the public health, safety, morals, or general welfare.	The rezoning does not negatively affect the public health, safety, morals, or general welfare.

Staff Recommendation

Staff recommends **approval** of the zoning amendment as presented.

Planning and Zoning action:

2.34.1 *The P&Z shall hold a public hearing on a zoning an amendment to the Zoning Ordinance. After all public input has been received and the public hearing closed, the P&Z shall make its recommendations on the proposed zoning request and concept plan, if submitted, stating its findings, its overall evaluation of the request, and its assessment regarding how the request relates to the City's Comprehensive Plan. The P&Z may, on its own motion or at the applicant's request, defer its decision recommendations until it has had an opportunity to consider other information or proposed modifications to the request which may have a direct bearing thereon. If the P&Z elects to postpone or defer its hearing on the request, such action shall specifically state the time period of the postponement by citing the meeting date whereon the request will reappear on the P&Z's agenda.*

2.34.2 *When the P&Z is ready to act upon the zoning request, it may recommend:*

- (a) *approval of the request as it was submitted by the applicant;*
- (b) *approval of the request subject to certain conditions as in the case of a Planned Development District (PDD) or a Conditional Use Permit (CUP); or*
- (c) *disapproval of the request.*

2.34.3 *The P&Z's recommendation will be automatically forwarded to the City Council for a second public hearing thereon.*

Public Notification

A legal notice advertising the public hearing was placed in the Dripping Springs Century-News, signs were posted on the-site, notice was placed on the City Website, and all property owners within a 300-foot radius of the site were notified of the zoning map amendment. To date, no letters for or against the request have been received.

Attachments

Exhibit 1 – Zoning Amendment Application

Exhibit 2 – Proposed Ordinance & Survey

Recommended Action:	Recommend approval of the requested Zoning Amendment
Alternatives/Options:	Recommend denial of the zoning map amendment.
Budget/Financial Impact:	All fees have been paid.
Public Comments:	None Received at this time.
Enforcement Issues:	N/A

CITY OF DRIPPING SPRINGS

ORDINANCE No. _____

AN ORDINANCE OF THE CITY OF DRIPPING SPRINGS, TEXAS (“CITY”), REZONING ONE TRACT OF LAND, TOTALING APPROXIMATELY 2.279 ACRES FROM LOW DENSITY RESIDENTIAL (SF-1) TO TO MANUCATURED HOME – MH; AND PROVIDING FOR THE FOLLOWING: FINDINGS OF FACT; ENACTMENT; REPEALER; SEVERABILITY; EFFECTIVE DATE; AUTHORIZING THE CITY ADMINISTRATOR TO NOTE THE CHANGE ON THE OFFICIAL ZONING MAP OF THE CITY; PROPER NOTICE & MEETING.

WHEREAS, the City Council of the City of Dripping Springs (“City Council”) seeks to promote orderly land use and development within the City; and

WHEREAS, the City Council finds to be reasonable and necessary the rezoning of the tracts, described more fully in *Attachment “A”* and totaling approximately 2.279 acres, from Low Density Residential (SF-1) to Manufactured Home (MH); and

WHEREAS, the City Council recognizes changed conditions and circumstances in the particular location; and

WHEREAS, the City Council finds that the zoning change is compatible with the surrounding area and with the City’s Zoning Ordinance and Comprehensive Plan; and

WHEREAS, after notice and hearing required by law, a public hearing was held before the Dripping Springs Planning and Zoning Commission on December 14, 2021 to consider the proposed amendment and the Planning and Zoning Commission recommended approval of the proposed change; and

WHEREAS, after public hearing held by the City Council on December 21, 2021, the City Council voted to approve the recommendation of the Planning and Zoning Commission; and

WHEREAS, pursuant to Texas Local Government Code Section 51.001, the City has general authority to adopt an ordinance or police regulation that is for the good government, peace or order of the City and is necessary or proper for carrying out a power granted by law to the City; and

WHEREAS, pursuant to Chapter 211 of the Texas Local Government Code, the City has the authority to zone and rezone property; and

WHEREAS, the City Council finds that it is necessary and proper for the good government, peace or order of the City of Dripping Springs to adopt this Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the City Council of Dripping Springs:

1. FINDINGS OF FACT

The foregoing recitals are incorporated into this Ordinance by reference as findings of fact as expressly set forth herein.

2. ENACTMENT

Two tracts of land totaling approximately 1.82 acres and described more fully in *Attachment "A"*, is hereby rezoned from Low Density Residential (SF-1) to Moderate Density Residential (SF-1).

3. REPEALER

All ordinances, resolutions, or parts thereof, that are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated, herein.

4. SEVERABILITY

Should any of the clauses, sentences, paragraphs, sections or parts of this Ordinance be deemed invalid, unconstitutional, or unenforceable by a court of law or administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid portion of this Ordinance.

5. CHANGE ON ZONING MAP

The City Administrator is hereby authorized to and shall promptly note the zoning change on the official Zoning Map of the City of Dripping Springs, Texas.

6. EFFECTIVE DATE

This Ordinance shall be effective immediately upon passage.

7. PROPER NOTICE & MEETING

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public, a public hearing was held, and that public notice of the time, place and Purpose of said hearing and meeting was given as required by the Open Meetings Act, Texas Government Code, Chapter 551.

PASSED & APPROVED this, the ___ day of _____ 2021, by a vote of _____(ayes) to _____(nays) to _____(abstentions) of the City Council of Dripping Springs, Texas.

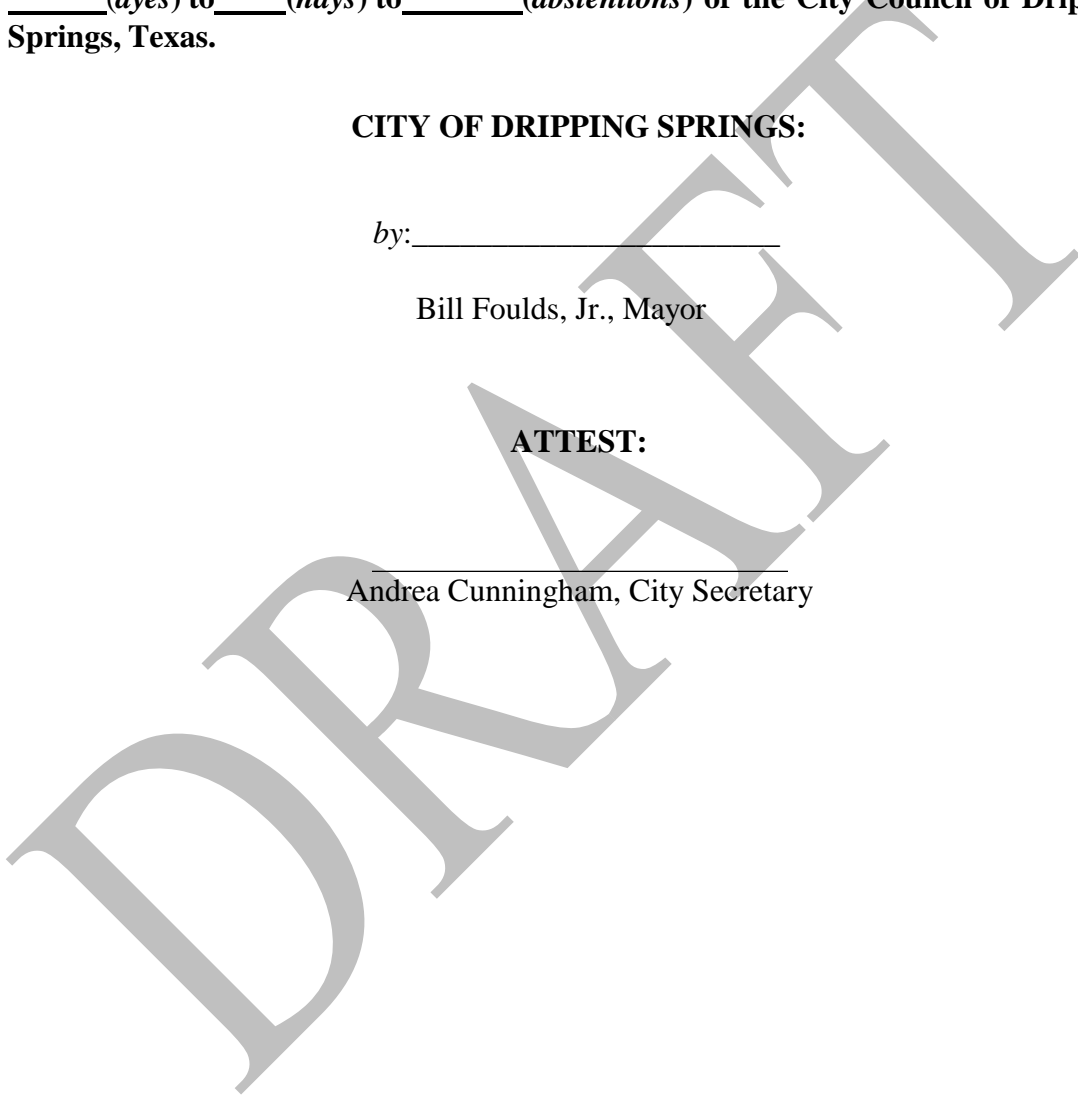
CITY OF DRIPPING SPRINGS:

by: _____

Bill Foulds, Jr., Mayor

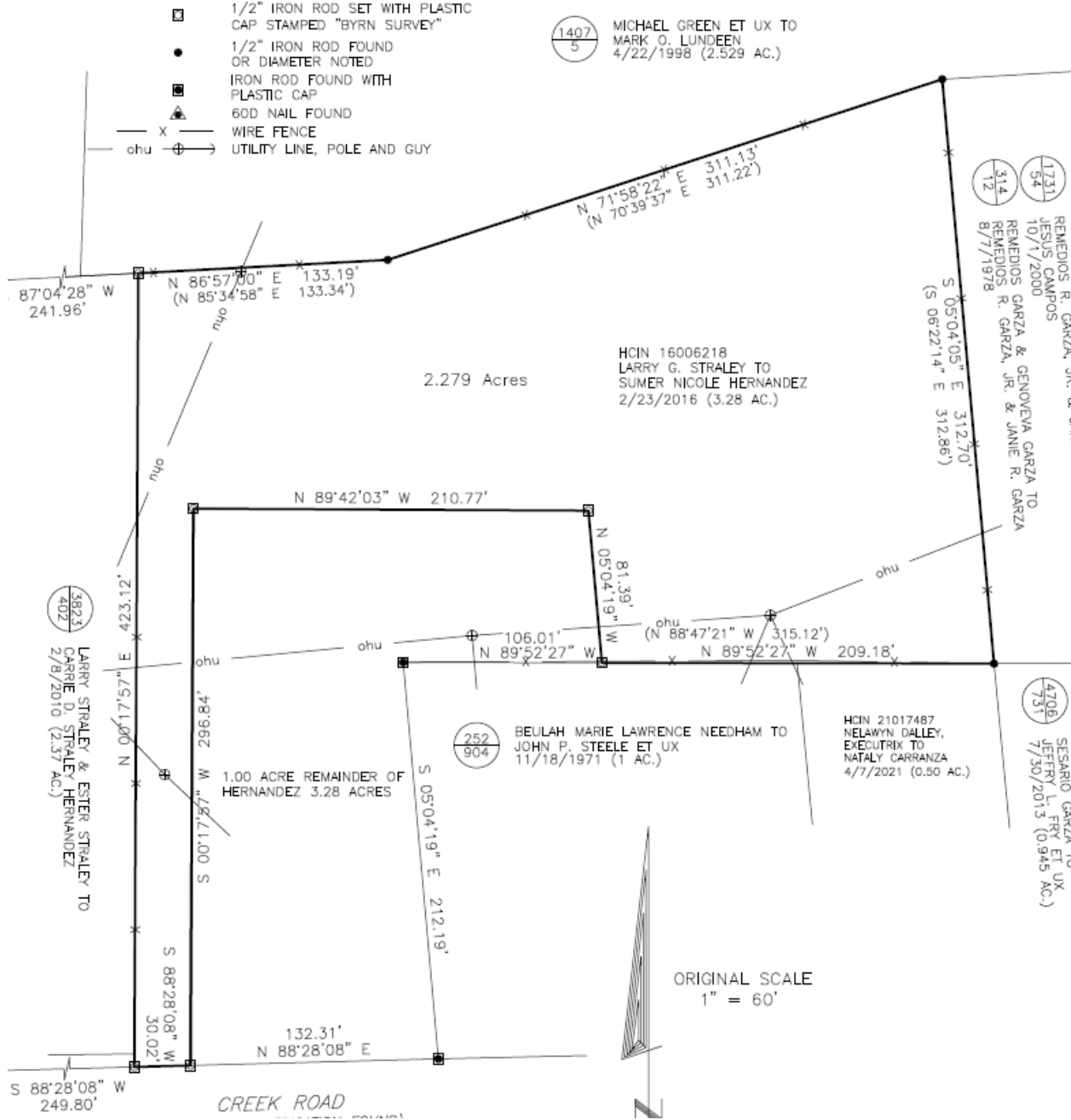
ATTEST:

Andrea Cunningham, City Secretary



Attachment "A" Survey and Metes and Bounds

Lot 1, being approximately 2.279 acres located at 910 Creek Road.



LEGEND



HAYS COUNTY DEED, REAL PROPERTY OR OFFICIAL PUBLIC RECORDS



1/2" IRON ROD SET WITH PLASTIC CAP STAMPED "BYRN SURVEY"



1/2" IRON ROD FOUND OR DIAMETER NOTED



IRON ROD FOUND WITH PLASTIC CAP



60D NAIL FOUND



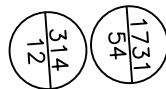
WIRE FENCE



UTILITY LINE, POLE AND GUY



MICHAEL GREEN ET UX TO MARK O. LUNDEEN 4/22/1998 (2.529 AC.)



REMEDIOS R. GARZA, JR. & JANIE R. GARZA TO JESUS CAMPOS 10/1/2000
REMEDIOS R. GARZA, JR. & JANIE R. GARZA TO 8/7/1978

HCIN 16006218
LARRY G. STRALEY TO SUMER NICOLE HERNANDEZ 2/23/2016 (3.28 AC.)

2.279 Acres



HCIN 21017487
NELAWYN DALLEY, EXECUTRIX TO NATALY CARRANZA 4/7/2021 (0.50 AC.)

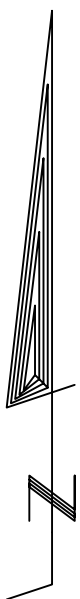


BEULAH MARIE LAWRENCE NEEDHAM TO JOHN P. STEELE ET UX 11/18/1971 (1 AC.)

1.00 ACRE REMAINDER OF HERNANDEZ 3.28 ACRES



LARRY STRALEY & ESTER STRALEY TO CARRIE D. STRALEY HERNANDEZ 2/8/2010 (2.37 AC.)

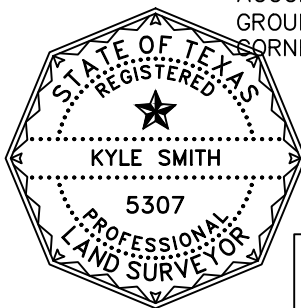


ORIGINAL SCALE
1" = 60'

TO SUMER NICOLE HERNANDEZ, EXCLUSIVELY, AND FOR USE WITH THIS TRANSACTION ONLY:

I HEREBY STATE TO THE BEST OF MY SKILL AND KNOWLEDGE: THAT THIS PLAT IS TRUE AND CORRECT ACCORDING TO AN ACTUAL SURVEY MADE ON THE GROUND ON 10/6/2021. THAT ALL PROPERTY CORNERS ARE MONUMENTED AS SHOWN HEREON.

KYLE SMITH, R.P.L.S. NO. 5307



BYRN & ASSOCIATES, INC.
SURVEYING
P.O. BOX 1433 SAN MARCOS, TEXAS 78667
PHONE 512-396-2270 FAX 512-392-2945
FIRM NO. 10070500

SURVEYORS NOTES

- FENCES MEANDER.
- BEARINGS, DISTANCES AND AREAS IN PARENTHESES ARE FROM RECORD INFORMATION.
- ACCORDING TO SCALING FROM THE CURRENT F.E.M.A. FLOOD INSURANCE RATE MAP NO. 48209C0105F, DATED 9/2/2005, THIS TRACT LIES WITHIN ZONE X, (AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN).
- THIS SURVEY WAS DONE WITHOUT THE BENEFIT OF A CURRENT TITLE REPORT AND THIS SURVEYOR DID NOT RESEARCH THE DEED RECORDS FOR PREVIOUS CONFLICTS IN TITLE OR EASEMENT, THEREFORE, CERTAIN EASEMENTS MAY HAVE BEEN GRANTED WHICH ARE NOT REFLECTED HEREON.
- THIS SURVEY PLAT WAS PREPARED IN CONJUNCTION WITH A LAND DESCRIPTION DATED 10/6/2021 PREPARED BY BYRN AND ASSOCIATES, INC. OF SAN MARCOS, TEXAS.
- THE BEARING BASIS FOR THIS SURVEY PLAT WAS DETERMINED FROM GPS OBSERVATIONS AND REFERS TO GRID NORTH OF THE TEXAS STATE PLANE COORDINATE SYSTEM, NAD 83, SOUTH CENTRAL ZONE.

CLIENT: HERNANDEZ, SUMER NICOLE
DATE: 10/6/2021
OFFICE: K. SMITH
CREW: K. SMITH, C. SMITH
FB/PG: 796/1
PLAT NO. 27992-21-b

PLAT OF 2.279 ACRES IN THE
PHILLIP A. SMITH SURVEY, A-415,
CITY OF DRIPPING SPRINGS,
HAYS COUNTY, TEXAS

DESCRIPTION OF 2.279 ACRES, MORE OR LESS, OF LAND AREA IN THE PHILLIP A. SMITH SURVEY, ABSTRACT NO. 415, HAYS COUNTY, TEXAS, BEING A PORTION OF THAT TRACT DESCRIBED AS 3.28 ACRES IN A DEED FROM LARRY G. STRALEY TO SUMER NICOLE HERNANDEZ, DATED FEBRUARY 23, 2016 AND RECORDED IN HAYS COUNTY INSTRUMENT NUMBER 16006218 OF THE HAYS COUNTY OFFICIAL PUBLIC RECORDS, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at an iron rod set in the north line of Creek Road, for the common southwest corner of the Nicole Hernandez tract and the southeast corner of that tract described as 2.37 acres in a deed from Larry Straley and Ester Straley to Carrie D. Straley Hernandez dated February 8, 2010 and recorded in Volume 3823, Page 402 of the Hays County Official Public records, from which a 60d nail found for the southwest corner of the Carrie D. Straley tract bears S 88°28'08"W 249.80 feet;

THENCE leaving Creek Road and the **PLACE OF BEGINNING**, as shown on that plat numbered 27992-21-b dated October 6, 2021 as prepared for Nicole Hernandez by Byrn & Associates, Inc. of San Marcos, Texas, with the common west line of the Nicole Hernandez tract and the east Carrie Hernandez tract **N 00° 17' 57" E 423.12 feet** to a ½" iron rod set in the south line of that tract described as 2.529 acres in a deed from Michael Green et ux to Mark O. Lundeen, dated April 22, 1998 and recorded in Volume 1407, Page 5 of the Hays County Official Public Records, from which a 60d nail found for the northwest corner of the Carrie Hernandez tract bears S 87° 04' 28"W 241.96 feet;

THENCE leaving the Carrie Hernandez tract, with the common north line of the Nicole Hernandez tract and the south line of the Lundeen tract, the following two courses:

1. **N 86° 57' 00" E 133.19 feet** to a ½" iron rod found, and
2. **N 71° 58' 22" E 311.13 feet** to a 1/2" iron rod found for the common northeast corner of the Nicole Hernandez tract and the northwest corner of that tract conveyed in a deed from Remedios R. Garza, Jr. et al to Jesus Campos, dated October 1, 2000 and recorded in Volume 1731, Page 54 of the Hays County Official Public Records;

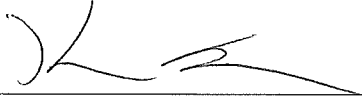
THENCE leaving the Lundeen tract, with the common east line of the Nicole Hernandez tract and the west line of the Campos tract, **S 05° 04' 05" E 312.70 feet** to a ½" iron rod found for a common southeast corner of the Nicole Hernandez tract, the southwest corner of the Campos tract, the northwest corner of that tract described as 0.945 of an acre in a deed from Sesario Garza to Jeffrey L. Fry et ux, dated July 30, 2013 and recorded in Volume 4706, Page 731 of the Hays County Official Public Records and the northeast corner of that tract described as 0.50 of an acre in a deed from Nelawyn Dalley, Executrix to Nataly Carranza, dated April 7, 2021 and recorded in Hays County Instrument Number 21017487 of the Hays County Official Public Records;

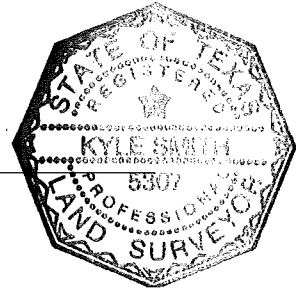
THENCE leaving the Campos and Fry tracts, with the south line of the Nicole Hernandez tract, **N 89° 52' 27" W 209.18 feet** to a ½" iron rod set, pass at 105.00 feet the common record northwest corner of the Carranza tract and the northeast corner of that tract described as 1 acre in a deed from Beulah Marie Lawrence Needham to John P. Steels et ux, dated November 18, 1971 and recorded in Volume 252, Page 904 of the Hays County Deed Records, from which a plastic capped iron rod found for an interior corner of the Nicole Hernandez tract and the northwest corner of the Steele tract bears N 89° 52' 27" W 106.01 feet;

THENCE leaving the Steele tract and crossing a portion of the Nicole Hernandez tract, the following three courses:

1. N 05° 04' 19" W 81.39 feet to a ½" iron rod set,
2. N 89° 42' 03" W 210.77 feet to a ½" iron rod set, and
3. S 00° 17' 57" W 296.84 feet to a 1/2" iron rod set in the common south line of the Nicole Hernandez tract and the north line of Creek Road, from which a plastic capped iron rod found for the southeast corner of the Nicole Hernandez tract bears N 88° 28' 08" E 132.31 feet;

THENCE with said common line, S 88° 28' 08" W 30.02 feet to the **PLACE OF BEGINNING**. There are contained within these metes and bounds 2.279 acres, more or less, of land area as prepared from public records and a survey made on the ground on October 6, 2021 by Byrn & Associates, Inc. of San Marcos, Texas. All 1/2" iron rods set are capped with a plastic cap stamped "Byrn Survey". The Bearing Basis for this description was determined from GPS observations and refers to Grid North of the Texas State Plane Coordinate System, NAD 83, South Central Zone.


 Kyle Smith, R.P.L.S. #5307



Client: Hernandez, Nicole
 Date: October 6, 2021
 Subd.: Smith, Phillip A., A-415
 County: Hays
 Job No: 27992-21
 FND2.279



DRIPPING SPRINGS
Texas

City of Dripping Springs

PHYSICAL: 511 Mercer Street • MAILING: PO Box 384

Dripping Springs, TX 78620

512.858.4725 • cityofdrippingsprings.com

ZONING/PDD AMENDMENT APPLICATION

Case Number (staff use only): _____ - _____

CONTACT INFORMATION

PROPERTY OWNER NAME Sumer Hernandez Scott

STREET ADDRESS 910 Creek Road

CITY Dripping Springs **STATE** Texas **ZIP CODE** 78620

PHONE (512) 514-5980 **EMAIL** sumer.scott4@gmail.com

APPLICANT NAME Jon Thompson

COMPANY J Thompson Professional Consulting, LLC

STREET ADDRESS PO Box 172

CITY Dripping Springs **STATE** Texas **ZIP CODE** 78620

PHONE (512) 568-2184 **EMAIL** jthompsonconsultingds@gmail.com

REASONS FOR AMENDMENT

TO CORRECT ANY ERROR IN THE REGULATION OR MAP

TO RECOGNIZE CHANGES IN TECHNOLOGY, STYLE OF LIVING, OR MANNER OF CONDUCTING BUSINESS

TO RECOGNIZE CHANGED CONDITIONS OR CIRCUMSTANCES IN A PARTICULAR LOCALITY

TO MAKE CHANGES IN ORDER TO IMPLEMENT POLICIES REFLECTED WITHIN THE COMPREHENSIVE PLAN

PROPERTY & ZONING INFORMATION	
PROPERTY OWNER NAME	Sumer Hernandez Scott
PROPERTY ADDRESS	910 Creek Road
CURRENT LEGAL DESCRIPTION	P.A. Smith Survey, A0415, 3.28 acres
TAX ID#	R17829 & R17828
LOCATED IN	<input checked="" type="checkbox"/> CITY LIMITS <input type="checkbox"/> EXTRATERRITORIAL JURISDICTION
CURRENT ZONING	SF-1
REQUESTED ZONING/AMENDMENT TO PDD	Conditional Overlay to allow for one manufactured home on back lot to platted; pending approval of zoning conditional overlay and variance.
REASON FOR REQUEST <i>(Attach extra sheet if necessary)</i>	The property as it is presently zoned as SF-1 does not allow for manufactured houses. In this case, the properties around this lot primarily consists of manufactured homes. This conditional overlay is a limited overlay as it would only allow for one manufactured home on one lot. This request is being made due to the existing house being too small for this growing family and their income is not enough to afford a site built or modular home. This family is also in the process of adopting their niece and nephew, both toddlers, in addition to having two children of their own.
INFORMATION ABOUT PROPOSED USES <i>(Attach extra sheet if necessary)</i>	This manufactured home would be for single family residential purposes only.

COMPLIANCE WITH OUTDOOR LIGHTING ORDINANCE? *
(See attached agreement).

YES (REQUIRED)* YES (VOLUNTARY)* NO*

* If proposed subdivision is in the City Limits, compliance with Lighting Ordinance is **mandatory**. If proposed subdivision is in the ETJ, compliance is **mandatory** when required by a Development Agreement or as a condition of an Alternative Standard/Special Exception/Variance/Waiver. Voluntary compliance is strongly encouraged by those not required by above criteria *(see Outdoor Lighting tab on the CODS webpage and online Lighting Ordinance under Code of Ordinances tab for more information).*

APPLICANT'S SIGNATURE

The undersigned, hereby confirms that he/she/it is the owner of the above described real property and further, that Jon Thompson is authorized to act as my agent and representative with respect to this Application and the City's zoning amendment process.

(As recorded in the Hays County Property Deed Records, Vol. _____, Pg. _____.) Instrument # 16006218

Sumu Scott Sumner Scott

Name

land/homeowner

Title

STATE OF TEXAS §

§

COUNTY OF HAYS §

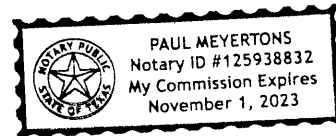
This instrument was acknowledged before me on the 18th day of AUGUST,

2021 by PAUL MEYERTONS.

Paul Meyertons

Notary Public, State of Texas

My Commission Expires: 11/1/23



Jon Thompson, J Thompson Professional Consulting, LLC
Name of Applicant

ZONING AMENDMENT SUBMITTAL

All required items and information (including all applicable above listed exhibits and fees) must be received by the City for an application and request to be considered complete. **Incomplete submissions will not be accepted.** By signing below, I acknowledge that I have read through and met the above requirements for a complete submittal:

Jon Thompson
Applicant Signature

August 17, 2021
Date

CHECKLIST

STAFF	APPLICANT	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Completed Application Form - including all required signatures and notarized
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Application Fee-Zoning Amendment or PDD Amendment (<i>refer to Fee Schedule</i>)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	PDF/Digital Copies of all submitted Documents
<input type="checkbox"/>	<input checked="" type="checkbox"/>	When submitting digital files, a cover sheet must be included outlining what digital contents are included.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Billing Contact Form
<input type="checkbox"/>	<input checked="" type="checkbox"/>	GIS Data
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Outdoor Lighting Ordinance Compliance Agreement - signed with attached photos/drawings (<i>required if marked "Yes (Required)" on above Lighting Ordinance Section of application</i>)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Legal Description on application
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Concept Plan of proposed subdivision
<input type="checkbox"/>	<input type="checkbox"/>	Plans N/A
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Maps Locator map
<input type="checkbox"/>	<input type="checkbox"/>	Architectural Elevation N/A
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Explanation for request (<i>attach extra sheets if necessary</i>) on application
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Information about proposed uses (<i>attach extra sheets if necessary</i>)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Public Notice Sign (<i>refer to Fee Schedule</i>)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Proof of Ownership-Tax Certificate or Deed
<input type="checkbox"/>	<input type="checkbox"/>	Copy of Planned Development District (<i>if applicable</i>) N/A
<input type="checkbox"/>	<input type="checkbox"/>	Digital Copy of the Proposed Zoning or Planned Development District Amendment N/A

Received on/by: _____

Project Number: _____ - _____

Only filled out by staff



DRIPPING SPRINGS
Texas

BILLING CONTACT FORM

Project Name: Zoning Amendment for 910 Creek Road

Project Address: 910 Creek Road, Dripping Springs, Texas 78620

Project Applicant Name: Jon Thompson, J Thompson Professional Consulting, LLC

Billing Contact Information

Name: Sumer Hernandez Scott

Mailing Address: 910 Creek Road, Dripping Springs, Texas 78620

Email: sumer.scott4@gmail.com Phone Number: (512) 514-5980

Type of Project/Application (check all that apply):

- Alternative Standard
- Certificate of Appropriateness
- Conditional Use Permit
- Development Agreement
- Exterior Design
- Landscape Plan
- Lighting Plan
- Site Development Permit
- Special Exception
- Street Closure Permit
- Subdivision
- Waiver
- Wastewater Service
- Variance
- Zoning
- Other _____

*Applicants are required to pay all associated costs associated with a project's application for a permit, plan, certificate, special exception, waiver, variance, alternative standard, or agreement, regardless of City approval. Associated costs may include, but are not limited to, public notices and outside professional services provided to the City by engineers, attorneys, surveyors, inspectors, landscape consultants, lighting consultants, architects, historic preservation consultants, and others, as required. Associated costs will be billed at cost plus 20% to cover the City's additional administrative costs. **Please see the online Master Fee Schedule for more details.** By signing below, I am acknowledging that the above listed party is financially accountable for the payment and responsibility of these fees.*

Jon Thompson
Signature of Applicant

August 17, 2021
Date



Planning & Zoning Commission Planning Department Staff Report

City Council: December 21, 2021
Project No: ZA2021-0010
Project Planner: Tory Carpenter, Senior Planner

Item Details

Project Name: North Forty Zoning Amendment
Property Location: Southeast intersection of Ranch Road 12 and Brookside Street.
Legal Description: Lots 1, 2, 3, 26, 27, and 28, block C out of the North Forty Section 2 subdivision
Applicant: Gilbert J. Guerra, P.E.; Rio Delta Engineering
Property Owner: Acosta Holdings Company, Inc.
Request: Zoning amendment from Manufactured Home “MH” to General Retail “GR”



Background

The property is currently zoned MH, Manufactured Home.

Per Ch. 30 Exhibit A, §3.5-3.6

- **MH – Manufactured Home:** *The MH, manufactured housing district is intended to provide for single-family residential development in accordance with the manufactured housing ordinance.*

The applicant is requesting a zoning amendment to GR; General Retail

- **GR – General Retail:** *The GR, general retail district is established to provide areas for retail facilities that are larger than those generally located in the local retail district, such as large grocery stores, book stores, and the like. Areas zoned for general retail should have convenient regional access via major thoroughfares, such as U.S. Highway 290 or Ranch Road 12, and major collector streets are primary locational considerations. Hotel/motel uses, community scale retail, and bed-and-breakfasts are permitted within general retail districts. Office uses, commercial services, and industrial uses shall not be permitted.*

In 2018, a Conditional Use Permit was approved for a tattoo studio on the property. This business is still operating and will not be affected by this zoning amendment.

At their meeting on November 23, the Planning & Zoning Commission unanimously recommended approval of the zoning amendment.

Analysis

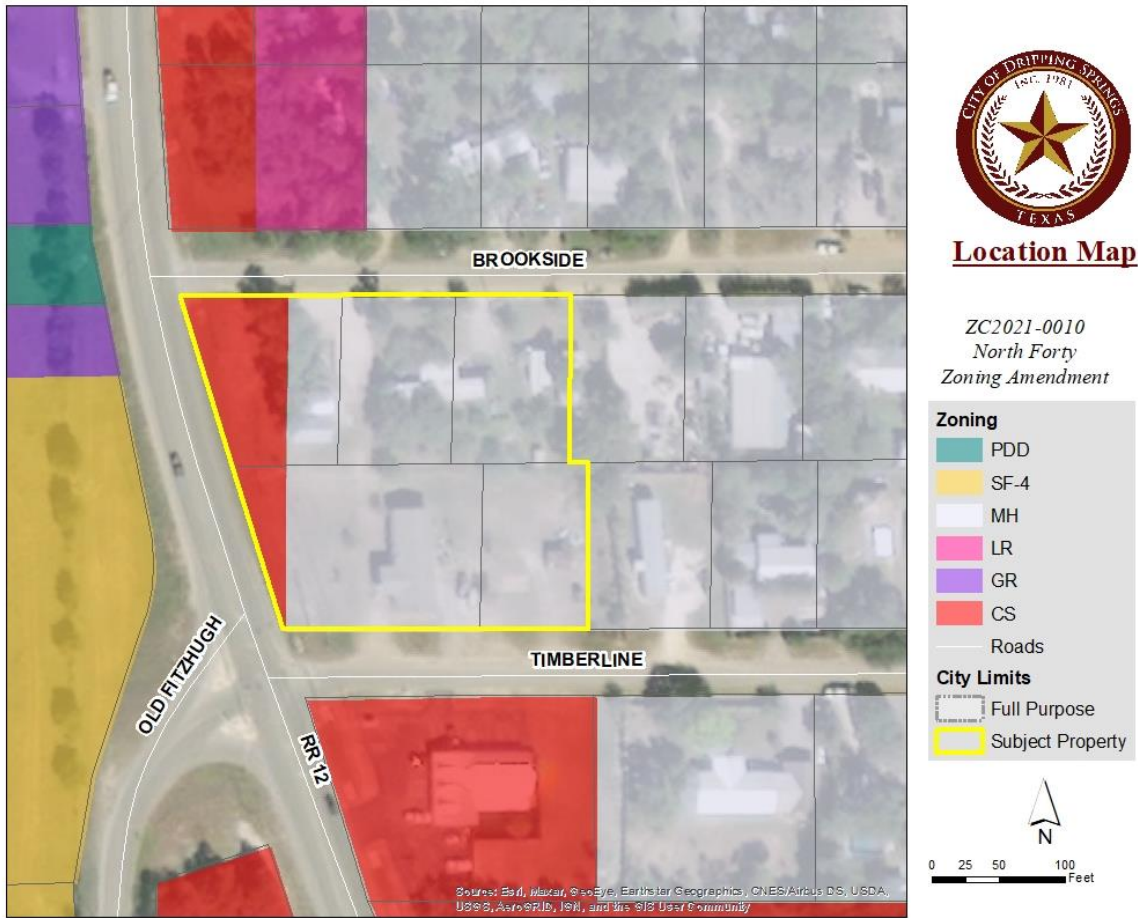
Based on the adjacent zoning category and land uses, staff finds that the proposed zoning considerably compatible within the area.

The following are the development regulations for the current and proposed zoning districts for the site.

	MH	GR	Differences between MH to GR
Max Height	One Story / 20 feet.	2 stories / 40 feet	One Story / 20 feet.
Min. Lot Size	10,000-sq-ft	20,000-sq-ft	10,000-sq-ft
Min. Lot Width	70 feet	100 feet	30 feet less
Min. Lot Depth	100 feet	150 feet	50 feet
Min. Front/Side/Rear Yard Setbacks	20 feet / 15 feet / 20 feet	25 feet / 25 feet / 25 feet*	5 feet / 10feet / 5 feet less*
Impervious Cover	50%	60%	10% more

*Adjacent to a single-family district: Any retail use that is located adjacent to (and not across a right-of-way from) any single-family zoning district shall be set back from the applicable residential district property line by 40 feet.

Surrounding Properties



The current zoning and existing uses of the adjacent properties to the north, south, east, and west are outlined in the table below:

Direction	Zoning District	Existing Use	Future Land Use
North	LR/CS/MH	Manufactured Home	Not Shown on the Future Land Use Map
East	MH	Manufactured Homes	
South	CS	Plumber	
West	SF4/GR/PDD	Vacant / Entrance to Heritage Subdivision	

Approval Criteria for Zoning Amendment (Chapter 30 Zoning, Exhibit A, Sec 2.28.1 and 2.28.2)

2.28.2 The Planning & Zoning Commission and the City Council shall consider the following factors:

Factors	Staff Comments
1. whether the proposed change will be appropriate in the immediate area concerned;	<p>The Commission should consider adverse impacts of all allowed uses to the adjacent manufactured homes. However, an increase building setback of 40 feet adjacent to residential uses helps offset this concern.</p> <p>Additionally, commercial uses on this site could provide services within walking distance to nearby residences.</p>
2. their relationship to the general area and the City as a whole;	<p>This property has significant frontage on Ranch Road 12. This major road has a number of commercial use in the immediate vicinity</p>
3. whether the proposed change is in accord with any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers, and other utilities to the area;	<p>The property is not within any existing or proposed City Plans.</p>
4. the amount of undeveloped land currently classified for similar development in the vicinity and elsewhere in the City, and any special circumstances which may make a substantial part of such undeveloped land unavailable for development;	<p>This request would not make other land unavailable for development.</p>
5. the recent rate at which land is being developed in the same zoning classification, particularly in the vicinity of the proposed change;	<p>While there has been limited commercial development in the immediate vicinity, there has been significant growth within the City as a whole.</p>
6. how other areas designated for similar development will be, or are unlikely to be, affected if the proposed amendment is approved;	<p>No areas designated for similar development will be affected by this proposed amendment.</p>
7. whether the proposed change treats the subject parcel of land in a manner which is significantly different from decisions made involving other, similarly situated parcels; and	<p>Approval of this zoning amendment would not be significantly different from decisions made involving other similar parcels.</p>
8. any other factors which will substantially affect the public health, safety, morals, or general welfare.	<p>The rezoning does not negatively affect the public health, safety, morals, or general welfare.</p>

Staff Recommendation

Staff recommends **approval** of the zoning amendment as presented.

Planning and Zoning action:

2.34.1 *The P&Z shall hold a public hearing on a zoning an amendment to the Zoning Ordinance. After all public input has been received and the public hearing closed, the P&Z shall make its recommendations on the proposed zoning request and concept plan, if submitted, stating its findings, its overall evaluation of the request, and its assessment regarding how the request relates to the City's Comprehensive Plan. The P&Z may, on its own motion or at the applicant's request, defer its decision recommendations until it has had an opportunity to consider other information or proposed modifications to the request which may have a direct bearing thereon. If the P&Z elects to postpone or defer its hearing on the request, such action shall specifically state the time period of the postponement by citing the meeting date whereon the request will reappear on the P&Z's agenda.*

2.34.2 *When the P&Z is ready to act upon the zoning request, it may recommend:*

- (a) *approval of the request as it was submitted by the applicant;*
- (b) *approval of the request subject to certain conditions as in the case of a Planned Development District (PDD) or a Conditional Use Permit (CUP); or*
- (c) *disapproval of the request.*

2.34.3 *The P&Z's recommendation will be automatically forwarded to the City Council for a second public hearing thereon.*

Public Notification

A legal notice advertising the public hearing was placed in the Dripping Springs Century-News, signs were posted on the-site, notice was placed on the City Website, and all property owners within a 300-foot radius of the site were notified of the zoning map amendment. To date, no letters for or against the request have been received.

Attachments

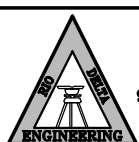
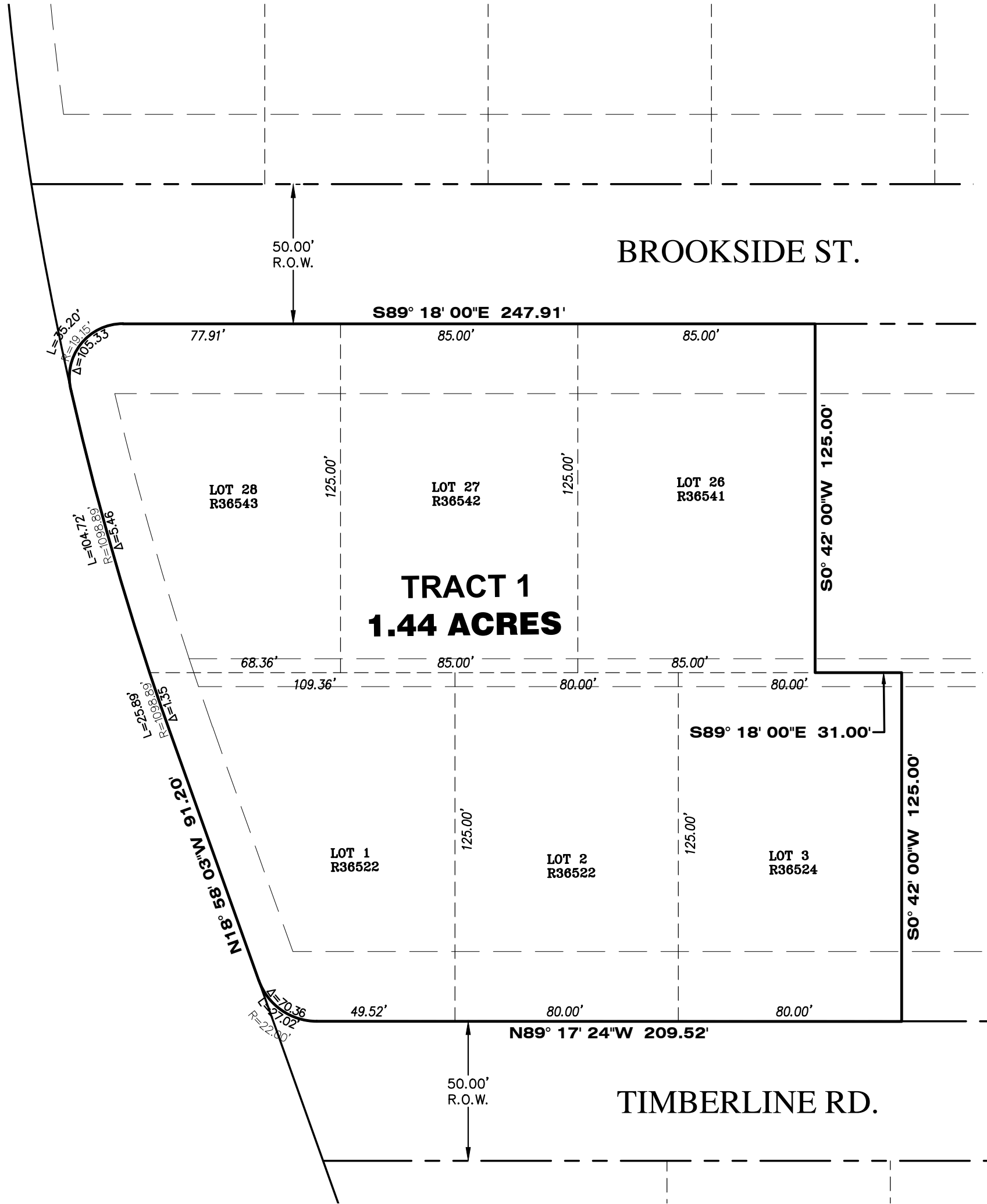
Exhibit 1 – Zoning Amendment Application

Exhibit 2 – Proposed Ordinance & Survey

Recommended Action:	Recommend approval of the requested Zoning Amendment
Alternatives/Options:	Recommend denial of the zoning map amendment.
Budget/Financial Impact:	All fees have been paid.
Public Comments:	None Received at this time.
Enforcement Issues:	N/A

RE-ZONING NORTH FORTY
 ADDITION SECTION TWO BLOCK C SUBDIVISION
 (LOTS 1,2,3,28,27,26)
 TRACT 1 - 1.44 ACRES
 DRIPPING SPRINGS, TEXAS

SCALE: 1" = 40'
 BASIS OF BEARING
 TEXAS STATE PLANE COORDINATES
 TEXAS SOUTH CENTRAL ZONE-4204
 NAD83/NAVD88 (GEOID12B)



RIO DELTA ENGINEERING
 FIRM REGISTRATION No. F-7628
 SURVEY FIRM NO. 10194027
 921 S. 10TH AVENUE, EDINBURG TEXAS 78539
 (TEL) 956-380-5152 (FAX) 956-380-5083

DATE:	OCTOBER 2021
PROJECT:	SUB.21 MARIN, DRIPPING SPRINGS
PAGE:	1 OF 1

CITY OF DRIPPING SPRINGS

ORDINANCE No. _____

AN ORDINANCE OF THE CITY OF DRIPPING SPRINGS, TEXAS (“CITY”), REZONING SIX TRACTS OF LAND, TOTALING APPROXIMATELY 1.44 ACRES FROM MANUFACTURED HOME (MH) TO GENREAL RETAIL (GR); AND PROVIDING FOR THE FOLLOWING: FINDINGS OF FACT; ENACTMENT; REPEALER; SEVERABILITY; EFFECTIVE DATE; AUTHORIZING THE CITY ADMINISTRATOR TO NOTE THE CHANGE ON THE OFFICIAL ZONING MAP OF THE CITY; PROPER NOTICE & MEETING.

WHEREAS, the City Council of the City of Dripping Springs (“City Council”) seeks to promote orderly land use and development within the City; and

WHEREAS, the City Council finds to be reasonable and necessary the rezoning of the tracts, described more fully in *Attachment “A”* and totaling approximately 1.44 acres, from Manufactured Home (MH) to General Retail (GR); and

WHEREAS, the City Council recognizes changed conditions and circumstances in the particular location; and

WHEREAS, the City Council finds that the zoning change is compatible with the surrounding area and with the City’s Zoning Ordinance and Comprehensive Plan; and

WHEREAS, after notice and hearing required by law, a public hearing was held before the Dripping Springs Planning and Zoning Commission on December 7, 2021 to consider the proposed amendment and the Planning and Zoning Commission recommended approval of the proposed change; and

WHEREAS, after public hearing held by the City Council on December 21, 2021, the City Council voted to approve the recommendation of the Planning and Zoning Commission; and

WHEREAS, pursuant to Texas Local Government Code Section 51.001, the City has general authority to adopt an ordinance or police regulation that is for the good government, peace or order of the City and is necessary or proper for carrying out a power granted by law to the City; and

WHEREAS, pursuant to Chapter 211 of the Texas Local Government Code, the City has the authority to zone and rezone property; and

WHEREAS, the City Council finds that it is necessary and proper for the good government, peace or order of the City of Dripping Springs to adopt this

Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the City Council of Dripping Springs:

1. FINDINGS OF FACT

The foregoing recitals are incorporated into this Ordinance by reference as findings of fact as expressly set forth herein.

2. ENACTMENT

Two tracts of land totaling approximately 1.82 acres and described more fully in *Attachment "A"*, is hereby rezoned from Low Density Residential (SF-1) to Moderate Density Residential (SF-1).

3. REPEALER

All ordinances, resolutions, or parts thereof, that are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated, herein.

4. SEVERABILITY

Should any of the clauses, sentences, paragraphs, sections or parts of this Ordinance be deemed invalid, unconstitutional, or unenforceable by a court of law or administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid portion of this Ordinance.

5. CHANGE ON ZONING MAP

The City Administrator is hereby authorized to and shall promptly note the zoning change on the official Zoning Map of the City of Dripping Springs, Texas.

6. EFFECTIVE DATE

This Ordinance shall be effective immediately upon passage.

7. PROPER NOTICE & MEETING

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public, a public hearing was held, and that public notice of the time, place and Purpose of said hearing and meeting was given as required by the Open Meetings Act, Texas Government Code, Chapter 551.

PASSED & APPROVED this, the ___ day of _____ 2021, by a vote of ___(ayes) to ___(nays) to ___(abstentions) of the City Council of Dripping Springs, Texas.

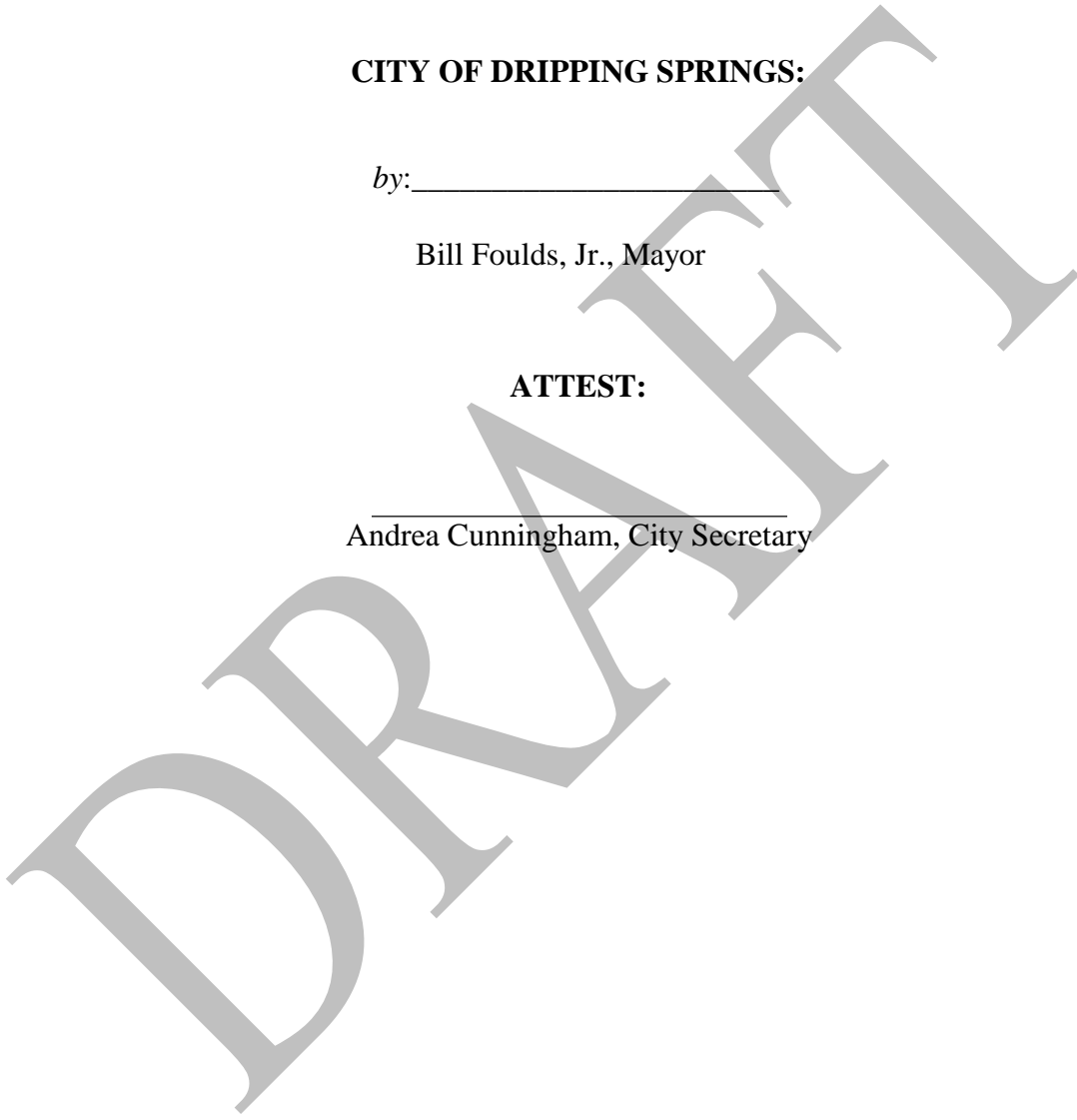
CITY OF DRIPPING SPRINGS:

by: _____

Bill Foulds, Jr., Mayor

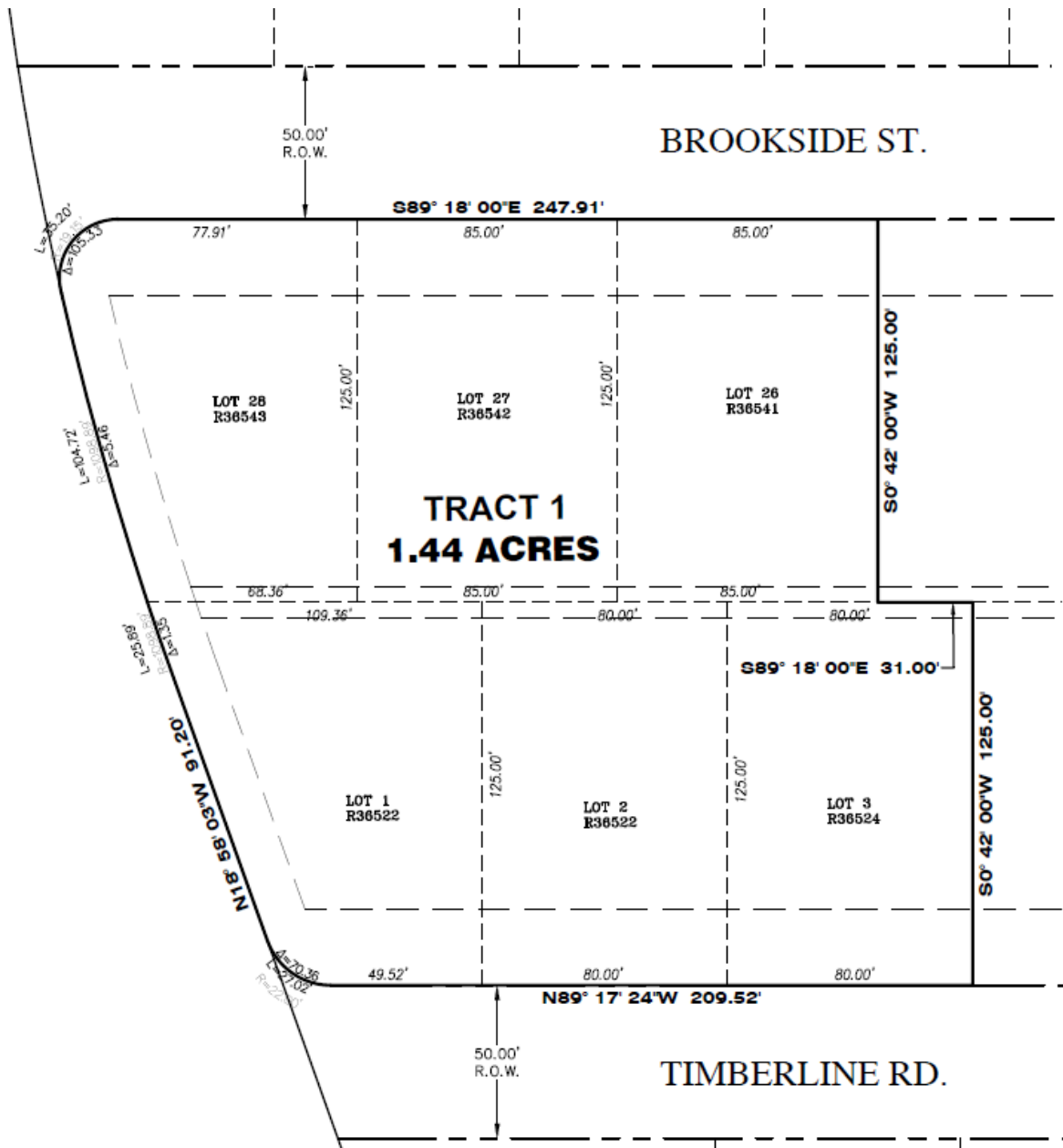
ATTEST:

Andrea Cunningham, City Secretary



Attachment "A" Survey and Metes and Bounds

Lots 1, 2, 3, 26, 27, & 28 block C of the North Forty Section 2 subdivision, being approximately 1.44 acres located north of Timberline Road and east of Ranch Road 12.



DRAFT



DRIPPING SPRINGS
Texas

City of Dripping Springs

PHYSICAL: 511 Mercer Street • MAILING: PO Box 384

Dripping Springs, TX 78620

512.858.4725 • cityofdrippingsprings.com

ZONING/PDD AMENDMENT APPLICATION

Case Number (staff use only): _____ - _____

CONTACT INFORMATION

PROPERTY OWNER NAME Acosta Holding Company, Inc.

STREET ADDRESS 9860 FM 967

CITY Buda **STATE** Texas **ZIP CODE** 78610-3464

PHONE 512-748-7803 **EMAIL** cmacustom@aol.com

APPLICANT NAME Gilbert J. Guerra, P.E.

COMPANY Rio Delta Engineering

STREET ADDRESS 16607 Blanco Rd., Ste 1403

CITY San Antonio **STATE** Texas **ZIP CODE** 78232

PHONE 956-624-8510 **EMAIL** gilbert@riodeltaengineering.com

REASONS FOR AMENDMENT

TO CORRECT ANY ERROR IN THE REGULATION OR MAP

TO RECOGNIZE CHANGES IN TECHNOLOGY, STYLE OF LIVING, OR MANNER OF CONDUCTING BUSINESS

TO RECOGNIZE CHANGED CONDITIONS OR CIRCUMSTANCES IN A PARTICULAR LOCALITY

TO MAKE CHANGES IN ORDER TO IMPLEMENT POLICIES REFLECTED WITHIN THE COMPREHENSIVE PLAN

PROPERTY & ZONING INFORMATION	
PROPERTY OWNER NAME	Acosta Holding Company, Inc.
PROPERTY ADDRESS	106 Brookside, Dripping Springs, Texas 78620
CURRENT LEGAL DESCRIPTION	Lot 1,2,3,26,27, & 28 North Forty SEC 2, Blk C
TAX ID#	36522, 36541,36542,&36543
LOCATED IN	<input checked="" type="checkbox"/> CITY LIMITS <input type="checkbox"/> EXTRATERRITORIAL JURISDICTION
CURRENT ZONING	MH
REQUESTED ZONING/AMENDMENT TO PDD	GR
REASON FOR REQUEST <i>(Attach extra sheet if necessary)</i>	The Owner wishes to replat into one contiguous lot and build a general retail development it.
INFORMATION ABOUT PROPOSED USES <i>(Attach extra sheet if necessary)</i>	If the re-zoning is approved, the Owner will re-subdivide Lots 1,2, 3, 26, 27, and 28 into one lot and construct a multi-space general retail center on the property.

COMPLIANCE WITH OUTDOOR LIGHTING ORDINANCE? *

(See attached agreement).

YES (REQUIRED)* YES (VOLUNTARY)* NO*

* If proposed subdivision is in the City Limits, compliance with Lighting Ordinance is **mandatory**. If proposed subdivision is in the ETJ, compliance is **mandatory** when required by a Development Agreement or as a condition of an Alternative Standard/Special Exception/Variance/Waiver.

Voluntary compliance is strongly encouraged by those not required by above criteria *(see Outdoor Lighting tab on the CODS webpage and online Lighting Ordinance under Code of Ordinances tab for more information).*

APPLICANT'S SIGNATURE

The undersigned, hereby confirms that he is the owner of the above described real property and further, that Rio Delta Engineering is authorized to act as his agent and representative with respect to this Application and the City's zoning amendment process.

(As recorded in the Hays County Property Deed Records, Vol. _____, Pg. _____.)

Claudia Maria Acosta
Name

Title

STATE OF TEXAS §

§

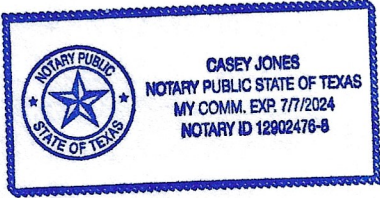
COUNTY OF HAYS §

This instrument was acknowledged before me on the 14 day of Sept,

2023 by Claudia Acosta.

[Signature]
Notary Public, State of Texas

My Commission Expires: 7/7/2024



Marin Acosta
Name of Applicant

ZONING AMENDMENT SUBMITTAL

All required items and information (including all applicable above listed exhibits and fees) must be received by the City for an application and request to be considered complete. **Incomplete submissions will not be accepted.** By signing below, I acknowledge that I have read through and met the above requirements for a complete submittal.

Julia Buena
Applicant Signature

10-5-2021
Date

CHECKLIST

STAFF	APPLICANT	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Completed Application Form - including all required signatures and notarized
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Application Fee-Zoning Amendment or PDD Amendment (<i>refer to Fee Schedule</i>)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	PDF/Digital Copies of all submitted Documents When submitting digital files, a cover sheet must be included outlining what digital contents are included.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Billing Contact Form
<input type="checkbox"/>	<input checked="" type="checkbox"/>	GIS Data
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Outdoor Lighting Ordinance Compliance Agreement - signed with attached photos/drawings (<i>required if marked "Yes (Required)" on above Lighting Ordinance Section of application</i>)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Legal Description
<input type="checkbox"/>	<input type="checkbox"/>	Concept Plan
<input type="checkbox"/>	<input type="checkbox"/>	Plans
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Maps
<input type="checkbox"/>	<input type="checkbox"/>	Architectural Elevation
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Explanation for request (<i>attach extra sheets if necessary</i>)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Information about proposed uses (<i>attach extra sheets if necessary</i>)
<input type="checkbox"/>	<input type="checkbox"/>	Public Notice Sign (<i>refer to Fee Schedule</i>)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Proof of Ownership-Tax Certificate or Deed
<input type="checkbox"/>	<input type="checkbox"/>	Copy of Planned Development District (<i>if applicable</i>)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Digital Copy of the Proposed Zoning or Planned Development District Amendment



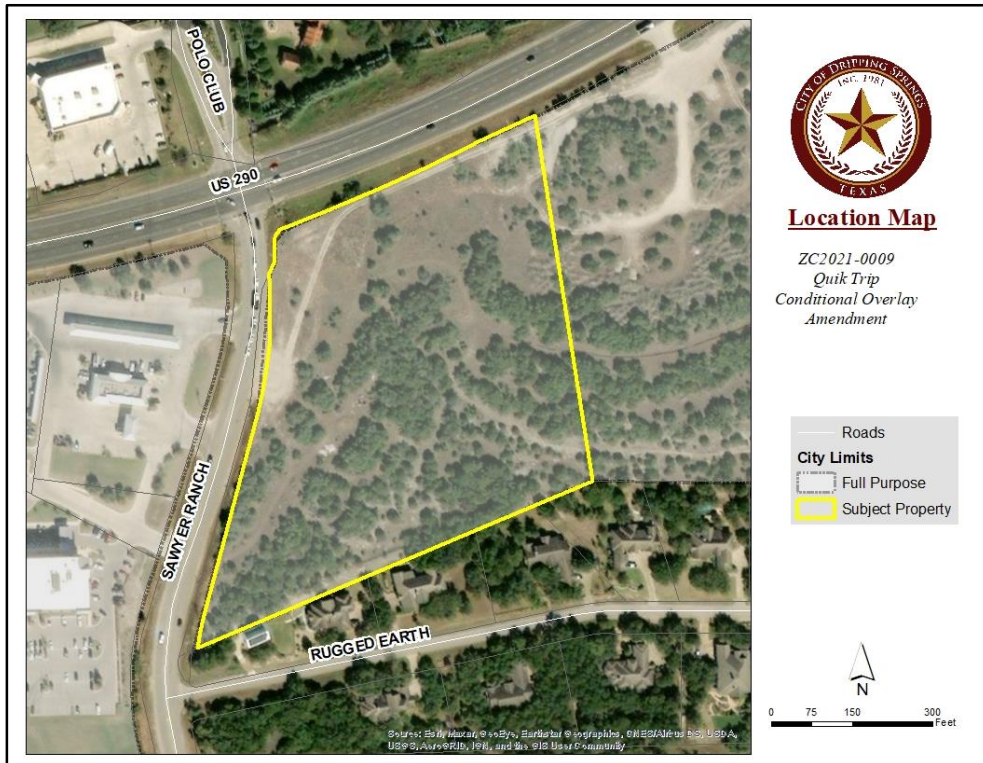
Planning & Zoning Commission Planning Department Staff Report

Item 11.

City Council: December 21, 2021
Project No: ZA2021-0009
Project Planner: Tory Carpenter, Senior Planner

Item Details

Project Name: Quik Trip Conditional Overlay Amendment
Property Location: Southwest Corner of US 290 & Sawyer Ranch Road
Legal Description: 10.0 acres of land out of tract A of the Sawyer Springs Subdivision
Applicant: JD Dudley; QuikTrip Corporation
Property Owner: QuikTrip Corporation
Request: An amendment to the existing Shops at Highpointe Conditional Overlay (Ordinance No. 1220.20)



Background

The property is currently zoned GR, General Retail.

Per Ch. 30 Exhibit A, §3.5-3.6

- **GR – General Retail:** *The GR, general retail district is established to provide areas for retail facilities that are larger than those generally located in the local retail district, such as large grocery stores, book stores, and the like. Areas zoned for general retail should have convenient regional access via major thoroughfares, such as U.S. Highway 290 or Ranch Road 12, and major collector streets are primary locational considerations. Hotel/motel uses, community scale retail, and bed-and-breakfasts are permitted within general retail districts. Office uses, commercial services, and industrial uses shall not be permitted.*

The original Shops at Highpointe Conditional Overlay (Ordinance No. 1220.20) was approved August 2007. Among other restrictions, this Conditional Overlay prohibits gas stations; a use which is allowed in General Retail Zoning districts. The property owner purchased the property in 2018 with the understanding that there were no further use restrictions beyond General Retail zoning district.

In 2019 the applicant applied for a similar amendment which was ultimately denied by the City Council on September 10, 2019.

After notifying all property owners within 1000 feet of the request of this most recent amendment, the applicant held a neighborhood meeting on November 12, 2021. This meeting was attended by three residents.

At their meeting on November 23, 2021, the Planning & Zoning Commission voted unanimously to recommend denial of the Conditional Overlay amendment.

Because this zoning change was denied unanimously, the City Council must have at least a 2/3rds majority affirmative vote of those present and voting to approve it. Anything less than 2/3rds of City Council would cause it to be denied. (ex. at least 4 out of 5; 3 out of 4; 2 out of 3).

2.35.2. Unanimously denied by P&Z : If P&Z unanimously recommends denial, approval by the city council shall require an affirmative vote by a two-thirds majority of those present and voting. No zoning change shall become effective until after the adoption of an ordinance for same.

Analysis

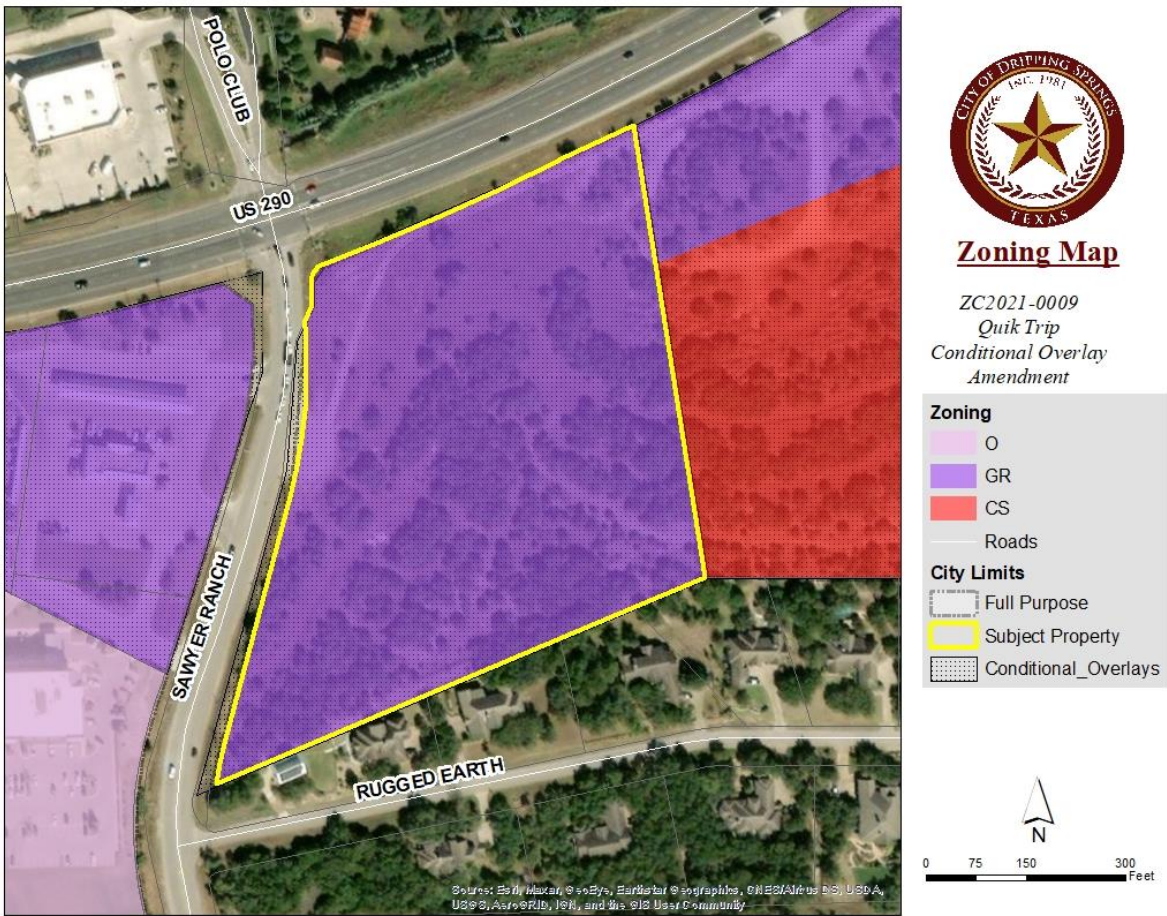
This amendment would allow the proposed land use and not remove any other restrictions or buffer requirements. Additionally, the proposed amendment would increase the rear setback from 70 feet to 140 feet.

Based on the zoning category and adjacent land uses, staff finds that the proposed use is compatible within the area and that there are no special circumstances on the property that would call for the prohibition of the proposed land use.

	Existing Conditional Overlay	Proposed Overlay	Differences between SF-4 to SF-3
Rear Setback	70'	150'	80' increase

Building Height	One Story	One Story	No Change
Prohibited Uses	<ul style="list-style-type: none"> • Dry Cleaning Plant • Gas Station • Convenience Store w/ gas sales. 	<ul style="list-style-type: none"> • Dry Cleaning Plant 	Convenience Store w/ gas sales.

Surrounding Properties



The current zoning and existing uses of the adjacent properties to the north, south, east, and west are outlined in the table below:

Direction	Zoning District	Existing Use	Future Land Use
North	ETJ	US 290 / Polo Club Subdivision	Not Shown on the Future Land Use Map

East	General Retail / Commercial Services	Vacant	
South	ETJ	Blue Sky Ranch Subdivision	
West	General Retail	Gas Station	

Approval Criteria for Zoning Amendment (Chapter 30 Zoning, Exhibit A, Sec 2.28.1 and 2.28.2)

2.28.2 The Planning & Zoning Commission and the City Council shall consider the following factors:

Factors	Staff Comments
1. whether the proposed change will be appropriate in the immediate area concerned;	The proposed change appears to be appropriate in the immediate area of concern. It is adjacent to another gas station and the applicant is providing a significant buffer to adjacent single-family residences.
2. their relationship to the general area and the City as a whole;	This property has the majority of its frontage on US 290 and is zoned General Retail. This is consistent with the general area and City as a whole.
3. whether the proposed change is in accord with any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers, and other utilities to the area;	The property is not within any existing or proposed City Plans.
4. the amount of undeveloped land currently classified for similar development in the vicinity and elsewhere in the City, and any special circumstances which may make a substantial part of such undeveloped land unavailable for development;	This request is for a conditional overlay and is specific to this project.
5. the recent rate at which land is being developed in the same zoning classification, particularly in the vicinity of the proposed change;	This request is for a conditional overlay and is specific to this project.
6. how other areas designated for similar development will be, or are unlikely to be, affected if the proposed amendment is approved;	No areas designated for similar development will be affected by this proposed amendment.
7. whether the proposed change treats the subject parcel of land in a manner which is significantly different from decisions made involving other, similarly situated parcels; and	By allowing a gas station, the requested change would make this parcel less different from similar parcels.
8. any other factors which will substantially affect the public health, safety, morals, or general welfare.	The rezoning does not affect the public health, safety, morals, or general welfare.

Staff Recommendation

Staff recommends **approval** of the amended Conditional Overlay as presented.

Planning and Zoning action:

2.34.1 *The P&Z shall hold a public hearing on a zoning an amendment to the Zoning Ordinance. After all public input has been received and the public hearing closed, the P&Z shall make its recommendations on the proposed zoning request and concept plan, if submitted, stating its findings, its overall evaluation of the request, and its assessment regarding how the request relates to the City's Comprehensive Plan. The P&Z may, on its own motion or at the applicant's request, defer its decision recommendations until it has had an opportunity to consider other information or proposed modifications to the request which may have a direct bearing thereon. If the P&Z elects to postpone or defer its hearing on the request, such action shall specifically state the time period of the postponement by citing the meeting date whereon the request will reappear on the P&Z's agenda.*

2.34.2 *When the P&Z is ready to act upon the zoning request, it may recommend:*

- (a) *approval of the request as it was submitted by the applicant;*
- (b) *approval of the request subject to certain conditions as in the case of a Planned Development District (PDD) or a Conditional Use Permit (CUP); or*
- (c) *disapproval of the request.*

2.34.3 *The P&Z's recommendation will be automatically forwarded to the City Council for a second public hearing thereon.*

Because this zoning change was denied unanimously, the City Council must have at least a 2/3rds majority affirmative vote of those present and voting to approve it. Anything less than 2/3rds of City Council would cause it to be denied. (ex. at least 4 out of 5; 3 out of 4; 2 out of 3).

2.35.2. *Unanimously denied by P&Z : If P&Z unanimously recommends denial, approval by the city council shall require an affirmative vote by a two-thirds majority of those present and voting. No zoning change shall become effective until after the adoption of an ordinance for same.*

Public Notification

A legal notice advertising the public hearing was placed in the Dripping Springs Century-News, signs were posted on the-site, notice was placed on the City Website, and all property owners within a 300-foot radius of the site were notified of the zoning map amendment. To date, no letters for or against the request have been received.

Attachments

Exhibit 1 – Conditional Overlay Amendment Application

Exhibit 2 – Proposed Ordinance & Survey

Recommended Action:	Recommend approval of the requested Conditional Overlay Amendment
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Alternatives/Options:	Recommend denial of the zoning map amendment.
Budget/Financial Impact:	All fees have been paid.
Public Comments:	None Received at this time.
Enforcement Issues:	N/A

CITY OF DRIPPING SPRINGS

ORDINANCE No. _____

AN ORDINANCE OF THE CITY OF DRIPPING SPRINGS, TEXAS (“CITY”), ADOPTING A CONDITIONAL USE OVERLAY; AND PROVIDING FOR THE FOLLOWING: FINDINGS OF FACT; ENACTMENT; REPEALER; SEVERABILITY; EFFECTIVE DATE; AUTHORIZING THE CITY ADMINISTRATOR TO NOTE THE CHANGE ON THE OFFICIAL ZONING MAP OF THE CITY; PROPER NOTICE & MEETING.

WHEREAS, the City Council of the City of Dripping Springs (“City Council”) seeks to promote orderly land use and development within the City; and

WHEREAS, the subject tract is currently zoned General Retail (GR).

WHEREAS, the City Council finds to be reasonable and necessary the adoption of an amended conditional use overlay to the tracts in addition to the rezoning, described more fully in *Attachment "B"* and totaling approximately 9.730 acres; and

WHEREAS, the City Council recognizes changed conditions and circumstances in the particular location; and

WHEREAS, the City Council finds that the zoning change is compatible with the surrounding area and with the City’s Zoning Ordinance and Comprehensive Plan; and

WHEREAS, after notice and hearing required by law, a public hearing was held before the Dripping Springs Planning and Zoning Commission on November 23, 2021 to consider the proposed amendment and the Planning and Zoning Commission recommended approval of the proposed change; and

WHEREAS, after public hearing held by the City Council on December 21, 2021, the City Council voted to approve the recommendation of the Planning and Zoning Commission; and

WHEREAS, pursuant to Texas Local Government Code Section 51.001, the City has general authority to adopt an ordinance or police regulation that is for the good government, peace or order of the City and is necessary or proper for carrying out a power granted by law to the City; and

WHEREAS, pursuant to Chapter 211 of the Texas Local Government Code, the City has the authority to zone and rezone property; and

WHEREAS, the City Council finds that it is necessary and proper for the good government, peace or order of the City of Dripping Springs to adopt this Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the City Council of Dripping Springs:

1. FINDINGS OF FACT

The foregoing recitals are incorporated into this Ordinance by reference as findings of fact as expressly set forth herein.

2. ENACTMENT

A tract of land totaling approximately 9.730 acres and described more fully in *Attachment "A"*, will have a conditional use overlay that limits certain development standards on the property. The use overlay is described in *attachment "B"*.

3. REPEALER

All ordinances, resolutions, or parts thereof, that are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated, herein. Ordinance No. 1220.20 Shops at HighPointe is repealed.

4. SEVERABILITY

Should any of the clauses, sentences, paragraphs, sections or parts of this Ordinance be deemed invalid, unconstitutional, or unenforceable by a court of law or administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid portion of this Ordinance.

5. EFFECTIVE DATE

This Ordinance shall be effective immediately upon passage.

6. PROPER NOTICE & MEETING

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public, a public hearing was held, and that public notice of the time, place and Purpose of said hearing and meeting was given as required by the Open Meetings Act, Texas Government Code, Chapter 551.

PASSED & APPROVED this, the ___ day of _____ 2021, by a vote of _____(ayes) to _____(nays) to _____(abstentions) of the City Council of Dripping

Springs, Texas.

CITY OF DRIPPING SPRINGS:

by: _____

Bill Foulds, Jr., Mayor

ATTEST:

Andrea Cunningham, City Secretary

DRAFT

Attachment "A" Survey and Metes and Bounds

PARCEL DESCRIPTION:

BEING A 9.730 ACRE TRACT OF LAND OUT OF TRACT A OF THE SAWYER SPRINGS SUBDIVISION (VOL. 12, PG. 239-240, PRHCT), AS SITUATED IN HAYS COUNTY, TEXAS, SAID 9.730 ACRES OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A FOUND IRON PIN ON THE MITER FORMING THE INTERSECTION OF THE EASTERLY MARGIN OF THE RIGHT-OF-WAY OF SAWYER RANCH ROAD (VARIABLE WIDTH PUBLIC RIGHT-OF-WAY) AND THE SOUTHERLY MARGIN OF THE RIGHT-OF-WAY OF U.S. HIGHWAY 290 (VARIABLE WIDTH PUBLIC RIGHT-OF-WAY) HAVING TX SC GRID COORDINATES OF N 13,984,053.021, E 2,285,346.263; THENCE ALONG THE SOUTHERLY MARGIN OF THE RIGHT-OF-WAY OF U.S. HIGHWAY 290 (FOR THE FOLLOWING TWO CALLS) (1) ALONG A COUNTERCLOCKWISE CURVE FOR 391.86 FEET HAVING A RADIUS OF 3,889.72 FEET A CHORD BEARING OF N68°14'37"E AND A CHORD DISTANCE OF 391.69 FEET TO A FOUND IRON PIN, (2) THENCE ALONG A COUNTERCLOCKWISE CURVE FOR 122.04 FEET HAVING A RADIUS OF 3,889.16 FEET A CHORD BEARING OF N67°11'46"E AND A CHORD DISTANCE OF 122.04 FEET TO A FOUND IRON PIN, THENCE ALONG THE COMMON LINE OF KERNJOON, LLC S06°55'59"E A DISTANCE OF 687.42 FEET TO A FOUND IRON PIN, THENCE ALONG THE COMMON LINES OF SEAL, DARLING, MOYER, AND SIMMONS S69°11'40"W A DISTANCE OF 799.25 FEET TO A FOUND IRON PIN, THENCE ALONG THE EASTERLY MARGIN OF THE RIGHT-OF-WAY OF SAWYER RANCH ROAD (FOR THE FOLLOWING SIX CALLS) (1) ALONG A CLOCKWISE CURVE FOR 62.28 FEET HAVING A RADIUS OF 520.00 FEET A CHORD BEARING OF N13°36'03"E AND A CHORD DISTANCE OF 62.24 FEET TO A FOUND IRON PIN, (2) THENCE N16°55'41"E A DISTANCE OF 390.79 FEET TO A FOUND IRON PIN, (3) THENCE ALONG A COUNTERCLOCKWISE CURVE FOR 257.65 FEET HAVING A RADIUS OF 720.00 FEET A CHORD BEARING OF N06°36'55"E AND A CHORD DISTANCE OF 256.28 FEET TO A FOUND IRON PIN, (4) THENCE N24°54'53"E A DISTANCE OF 27.81 FEET TO A FOUND IRON PIN, (5) THENCE N01°50'42"E A DISTANCE OF 36.84 FEET TO A FOUND IRON PIN, (6) THENCE ALONG A CLOCKWISE CURVE FOR 30.30 FEET HAVING A RADIUS OF 25.00 FEET A CHORD BEARING OF N36°41'23"E AND A CHORD DISTANCE OF 28.48 FEET TO THE POINT OF BEGINNING AND CONTAINING 423,845 S.F. OR 9.730 ACRES MORE OR LESS.

DRAFT

City of Dripping Springs
CODE OF ORDINANCES

CHAPTER 30: ZONING
SECTION 4: OVERLAY DISTRICTS
Division 1. - Conditional Overlay District

EXHIBIT A

1.1. Applicability

This Ordinance shall apply solely to the following tracts, which shall herein be referred to as the subject property:

Tract 1:

Approximately 10.0 acres of land, Tract A, Sawyer Springs Subdivision, recorded in Volume 12, Page 240, Plat Records, Hays County, Texas, less 0.27 acres of land donated to Hays County as right of way for Sawyer Ranch Road (located on the southeast corner of the intersection of Sawyer Ranch Road and US Hwy 290).

1.2. Base Zoning District

Except as provided in section 1.3 (below), the subject property shall be governed by the rules applying in General Retail – (GR) zoning district.

1.3. Overlay

1.3.1. The Conditional Overlay is hereby amended and effectuated upon the subject property. The boundary of the Overlay District shall be coterminous with the perimeter of the subject property.

1.3.2. The Overlay prohibits the following uses: dry cleaning plant.

1.3.3. The overlay mandates that the structures be limited to a single story.

1.3.4 The overlay mandates that the rear building setback along the southern boundary shall be one hundred fifty feet (150’).

1.3.5 The overlay mandates that a natural landscape buffer of one hundred feet

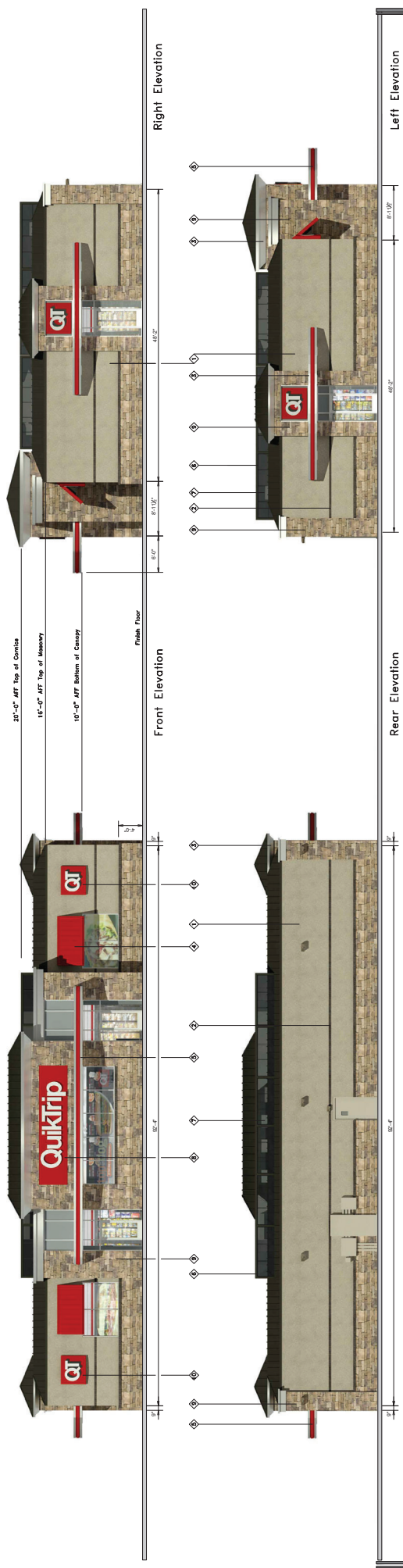
(100') shall be preserved along the southern boundary.

DRAFT



Stone Percentage Table

STONE PERCENTAGE	FRONT FACADE PERCENTAGE	TOTAL PERCENTAGE	MASONRY PERCENTAGE
75%	888 SF	639 SF	639 SF



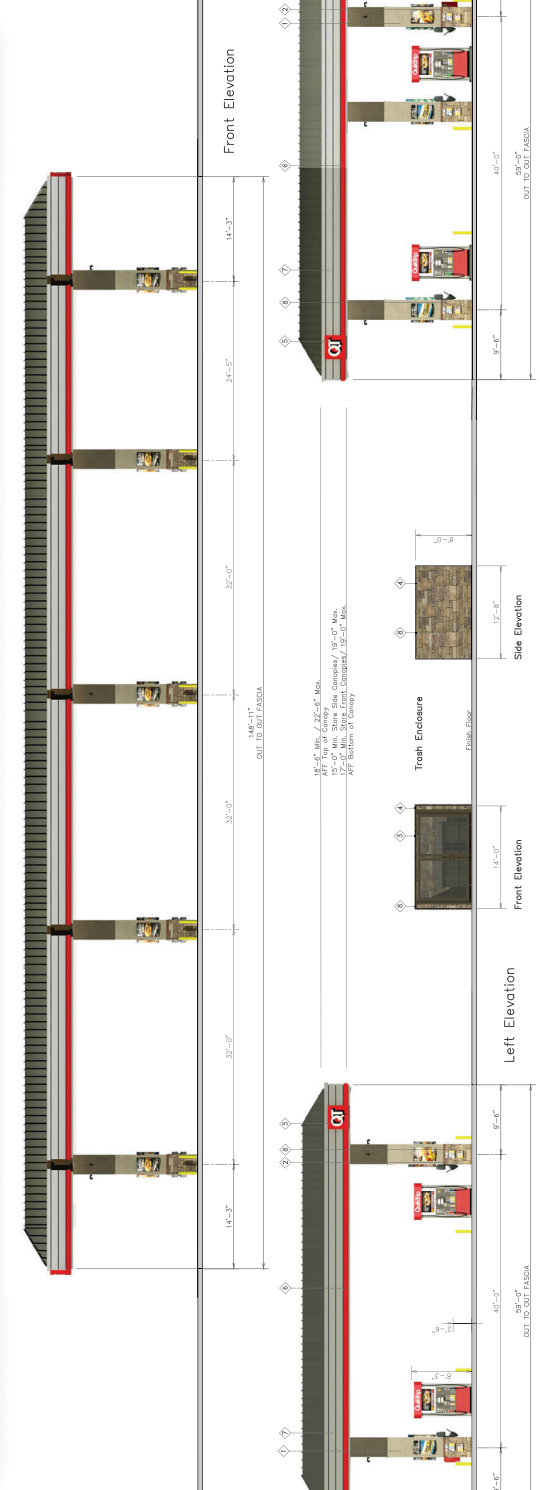
<p>4705 South 12th East Ave. Tulsa, OK 74116 Phone: 800-247-7775 Fax: 918-413-0700</p>	<p>Store # 4133</p> <p>Serial # 82-4133-G3S2</p>	<p>G3S Custom w/ Tan Eifs, Hip Roofs, Additional front glazing, & Stacked Stone</p> <p>Scale: 1/16" = 1' - 0"</p>	<p>Issue Date: 12.18.17</p>	<p>Drawn By: JK</p>	<p>Address: SEC Sawyer Ranch Rd & Hwy 290</p>	<p>City, State: Dripping Springs, TX</p>	<p>Comments: © 2011 QuikTrip Corporation. DESIGN PATENTS. QUIKTRIP AND THE QUIKTRIP LOGO ARE THE EXCLUSIVE PROPERTY OF QUIKTRIP CORPORATION, U.S.A. ALL RIGHTS RESERVED. ANY UNAUTHORIZED USE, REPRODUCTION, DISTRIBUTION, TRANSMISSION OR SALE IN WHOLE OR IN PART, IS STRICTLY FORBIDDEN.</p>	<table border="1"> <thead> <tr> <th>NO.</th> <th>REVISION</th> <th>DATE</th> <th>BY</th> <th>DESCRIPTION</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>ISSUED FOR PERMIT</td> <td>12/18/17</td> <td>JK</td> <td>ISSUED FOR PERMIT</td> </tr> <tr> <td>2</td> <td>REVISED</td> <td>12/18/17</td> <td>JK</td> <td>REVISED PER CITY COMMENTS</td> </tr> <tr> <td>3</td> <td>REVISED</td> <td>12/18/17</td> <td>JK</td> <td>REVISED PER CITY COMMENTS</td> </tr> <tr> <td>4</td> <td>REVISED</td> <td>12/18/17</td> <td>JK</td> <td>REVISED PER CITY COMMENTS</td> </tr> <tr> <td>5</td> <td>REVISED</td> <td>12/18/17</td> <td>JK</td> <td>REVISED PER CITY COMMENTS</td> </tr> <tr> <td>6</td> <td>REVISED</td> <td>12/18/17</td> <td>JK</td> <td>REVISED PER CITY COMMENTS</td> </tr> <tr> <td>7</td> <td>REVISED</td> <td>12/18/17</td> <td>JK</td> <td>REVISED PER CITY COMMENTS</td> </tr> <tr> <td>8</td> <td>REVISED</td> <td>12/18/17</td> <td>JK</td> <td>REVISED PER CITY COMMENTS</td> </tr> <tr> <td>9</td> <td>REVISED</td> <td>12/18/17</td> <td>JK</td> <td>REVISED PER CITY COMMENTS</td> </tr> <tr> <td>10</td> <td>REVISED</td> <td>12/18/17</td> <td>JK</td> <td>REVISED PER CITY COMMENTS</td> </tr> </tbody> </table>	NO.	REVISION	DATE	BY	DESCRIPTION	1	ISSUED FOR PERMIT	12/18/17	JK	ISSUED FOR PERMIT	2	REVISED	12/18/17	JK	REVISED PER CITY COMMENTS	3	REVISED	12/18/17	JK	REVISED PER CITY COMMENTS	4	REVISED	12/18/17	JK	REVISED PER CITY COMMENTS	5	REVISED	12/18/17	JK	REVISED PER CITY COMMENTS	6	REVISED	12/18/17	JK	REVISED PER CITY COMMENTS	7	REVISED	12/18/17	JK	REVISED PER CITY COMMENTS	8	REVISED	12/18/17	JK	REVISED PER CITY COMMENTS	9	REVISED	12/18/17	JK	REVISED PER CITY COMMENTS	10	REVISED	12/18/17	JK	REVISED PER CITY COMMENTS
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Item 11.

APPROVED

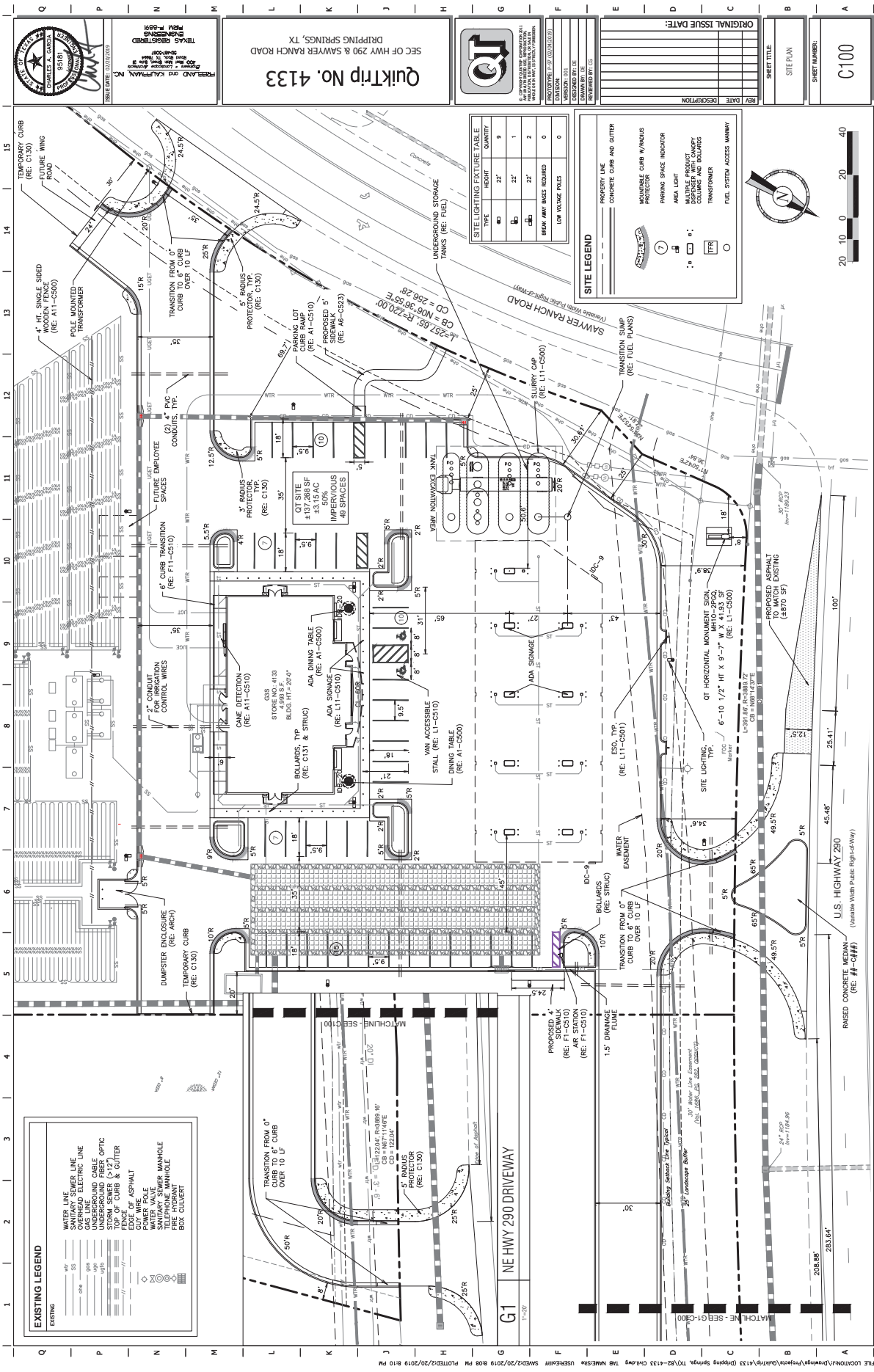
03.07.2019

[Signature]



QuikTrip 4705 South 12th, Carl, Ave. Tulsa, OK 74119-2008 Tulsa, OK 74119-2175 Phone: (918) 433-8225	Store #	4133	Customer w/ Tan Efts, &	City, State:	Dripping Springs, TX																																	
	Servic #	82-4133-GD09	Sonoma Stacked Elevations	Address:	SEC Sawyer Ranch Rd & Hwy 290																																	
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Item 11.



EXISTING LEGEND

WATER LINE	---
SEWER LINE	---
ELECTRIC LINE	---
UNDERGROUND CABLE	---
GAS LINE	---
STORM SEWER (>12")	---
EDGE OF ASPHALT	---
WATER VALVE	○
POWER POLE	○
WATER MANHOLE	○
TELEPHONE MANHOLE	○
BOX CULVERT	---

SITE LEGEND

PROPERTY LINE	---
CONCRETE CURB AND GUTTER	---
MOUNTABLE CURB WITH ANCHORS	---
PROTECTOR	---
PARKING SPACE INDICATOR	---
AREA LIGHT	---
MULTIPLE PRODUCT COLLARS AND BOLLARDS	---
TRANSFORMER	---
FUEL SYSTEM ACCESS MANNING	---

SITE LIGHTING FIXTURE TABLE

TYPE	HEIGHT	QUANTITY
1	22'	9
2	22'	1
3	22'	2
4	22'	0
5	22'	0



QuikTrip No. 4133

SEC OF HWY 290 & SAWYER RANCH ROAD
DRIPPING SPRINGS, TX

QT

QUIKTRIP

DATE: 02/20/2019

VERSION: 001

DESIGNED BY: JTC

CHECKED BY: JTC

REVIEWED BY: JTC

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OF YOUR DRIVERS LICENSE NUMBER.

GENERAL WARRANTY DEED

THE STATE OF TEXAS §
 § KNOW ALL MEN BY THESE PRESENTS THAT:
COUNTY OF HAYS §

Effective Date: March 8, 2018

That SHOP’S AT HIGHPOINTE LENDER, LLC, a Texas limited liability company (“Grantor”), for and in consideration of the sum of Ten and No/100 Dollars (\$10.00), and other good and valuable consideration paid by QUIKTRIP CORPORATION, an Oklahoma corporation (“Grantee”), the receipt and sufficiency of which are hereby acknowledged and confessed, and subject to the Permitted Exceptions (as hereinafter defined), has GRANTED, BARGAINED, SOLD and CONVEYED, and by these presents does hereby GRANT, BARGAIN, SELL and CONVEY, unto Grantee all of the real property situated in Hays County, Texas, described in Exhibit A, attached hereto, together with all and singular the rights, benefits, privileges, easements, tenements, hereditaments and appurtenances thereon or in any wise appertaining thereto (the “Property”);

In addition, Grantor hereby grants, sells and conveys to Grantee, without warranty, all of Grantor’s right, title and interest, if any, in and to (i) all strips and gores of land lying adjacent to the Property, except for strips and gores adjacent to other property still owned by Grantor, (ii) all rights, easements and appurtenances belonging and appertaining thereto that Grantor owns, and (iii) all right, title and interest of Grantor in and to any and all (a) roads, streets, alleys or public and private rights of way, bounding the Property (but only to the centerline of such roads, streets, alleys or public and private rights of way) and (b) any improvements thereon, if any, in their present condition.

GRANTEE ACKNOWLEDGES THAT GRANTEE HAS INDEPENDENTLY AND PERSONALLY INSPECTED THE PROPERTY AND THAT GRANTEE IS ACQUIRING THE PROPERTY BASED UPON ITS ABILITY TO MAKE SUCH EXAMINATION AND INSPECTION. EXCEPT AS TO WARRANTIES OF TITLE, THE PROPERTY IS BEING SOLD AND ACCEPTED AS IS, WHERE-IS, AND GRANTOR MAKES NO REPRESENTATIONS OR WARRANTIES WITH RESPECT TO THE PHYSICAL CONDITION OR ANY OTHER ASPECT OF THE PROPERTY, INCLUDING, WITHOUT LIMITATION, (I) THE STRUCTURAL INTEGRITY OF ANY IMPROVEMENTS ON THE PROPERTY, (II) THE MANNER, CONSTRUCTION, CONDITION, AND STATE OF REPAIR OR LACK OF REPAIR OF ANY OF SUCH IMPROVEMENTS, (III) THE CONFORMITY OF THE IMPROVEMENTS TO PAST, CURRENT OR FUTURE APPLICABLE ZONING OR BUILDING CODE REQUIREMENTS OR THE COMPLIANCE WITH ANY OTHER LAWS, RULES, ORDINANCES, OR REGULATIONS OF ANY GOVERNMENT OR OTHER BODY, (IV) THE FINANCIAL EARNING CAPACITY OR HISTORY OR EXPENSE HISTORY OF THE OPERATION OF THE PROPERTY, (V) THE NATURE AND EXTENT OF ANY RIGHT OF WAY, LEASE, POSSESSION, LIEN, ENCUMBRANCE, LICENSE, RESERVATION, CONDITION, OR OTHERWISE, (VI) THE EXISTENCE OF SOIL INSTABILITY, PAST SOIL REPAIRS, SOIL ADDITIONS OR CONDITIONS OF SOIL FILL, SUSCEPTIBILITY TO LANDSLIDES, SUFFICIENCY OF UNDERSHORING, SUFFICIENCY OF DRAINAGE, (VII) WHETHER THE PROPERTY IS LOCATED WHOLLY OR PARTIALLY IN A FLOOD PLAIN OR A FLOOD

HAZARD BOUNDARY OR SIMILAR AREA, (VIII) THE EXISTENCE OR NON EXISTENCE OF ASBESTOS, LEAD BASE PAINTS, UNDERGROUND OR ABOVE GROUND STORAGE TANKS, HAZARDOUS WASTE OR OTHER TOXIC OR HAZARDOUS MATERIALS OF ANY KIND OR ANY OTHER ENVIRONMENTAL CONDITION OR WHETHER THE PROPERTY IS IN COMPLIANCE WITH APPLICABLE LAWS, RULES AND REGULATIONS, (XI) THE PROPERTY'S INVESTMENT POTENTIAL OR RESALE AT ANY FUTURE DATE, AT A PROFIT OR OTHERWISE, (X) ANY TAX CONSEQUENCES OF OWNERSHIP OF THE PROPERTY OR (XI) ANY OTHER MATTER WHATSOEVER AFFECTING THE STABILITY, INTEGRITY, OTHER CONDITION OR STATUS OF THE LAND OR ANY BUILDINGS OR IMPROVEMENTS SITUATED ON ALL OR PART OF THE PROPERTY.

This conveyance is made and accepted subject to those matters (the "Permitted Exceptions") set forth on Exhibit B, attached hereto, but only to the extent that they affect or relate to the Property, and without limitation or expansion of the scope of the warranty herein contained.

TO HAVE AND TO HOLD the Property, subject to the Permitted Exceptions and the reservation set forth above, unto Grantee and Grantee's successors and assigns, forever; and Grantor does hereby bind Grantor and Grantor's successors and assigns to WARRANT and FOREVER DEFEND, all and singular, the Property, subject to the Permitted Exceptions and the reservation set forth above, unto Grantee and Grantee's successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof.

***REMAINDER OF PAGE INTENTIONALLY BLANK.
SIGNATURE PAGE FOLLOWS.***

THIS GENERAL WARRANTY DEED IS EXECUTED on the date set forth in the acknowledgment below, to be effective as of the Effective Date.

GRANTOR:

SHOP'S AT HIGHPOINTE LENDER, LLC
a Texas limited liability company

By: Lee Financial Company, LLC
Its Manager

By: [Signature]
Name: Richard R. Lee, Jr.
Title: Chief Executive Officer and Founder

STATE OF TEXAS §
 §
COUNTY OF Dallas §

This instrument was acknowledged before me on this 7th day of March, 2018, by Richard R. Lee, Jr., Chief Executive Officer and Founder of Lee Financial Company, LLC, the Manager of Shop's at Highpointe Lender, LLC, a Texas limited liability company, on behalf of said limited liability company.

My Commission Expires: 4-22-2019



[Signature]
Notary Public in and for the State of Texas

SARAH M BEATTIE
Printed Name of Notary Public

GRANTEE'S ADDRESS FOR TAX NOTICES:

QuikTrip Corporation
4705 South 129th East Avenue
Tulsa, Oklahoma 74134
Attn: Real Estate Department

AFTER RECORDING RETURN TO:

QuikTrip Corporation
1 Chisolm Trail Road, Suite 450
Round Rock, Texas 78681
Attention: Director of Real Estate

RETURN TO: 02
AUSTIN TITLE COMPANY
THE SUMMIT AT LA FRONTERA
810 HESTERS CROSSING, #155
ROUND ROCK, TX 78681-7841
GF: AUT17007956-124

List of Exhibits:

- A - Property Description
- B - Permitted Exceptions

EXHIBIT A

PROPERTY DESCRIPTION

Being a 9.730 acre tract of land out of tract a of the Sawyer Springs Subdivision, Volume 12, Pages 239-240, Plat Records of Hays County, Texas (PRHCT), as situated in Hays County, Texas, said 9.730 acres of land being more particularly described by metes and bounds as follows:

Beginning at a found iron pin on the Miter Forming the intersection of the Easterly Margin of the right-of-way of Sawyer Ranch Road (variable width Public right-of-way) and the Southerly Margin of the right-of-way of U.S. Highway 290 (variable width Public right-of-way) having TX SC Grid Coordinates of North 13,984,053.021, East 2,285,346.263

THENCE along the Southerly Margin of the right-of-way of U.S. Highway 290 (for the following Two calls)

(1) along a counterclockwise curve for 391.86 feet having a radius of 3,889.72 feet a chord bearing of North 68 degrees 14 minutes 37 seconds East and a chord distance of 391.69 feet to a found iron pin,

(2) THENCE along a counterclockwise curve for 122.04 feet having a radius of 3,889.16 feet a chord bearing of North 67 degrees 11 minutes 46 seconds and a chord distance of 122.04 feet to a found iron pin,

THENCE along the common line of Kernjoon, LLC South 06 degrees 55 minutes 59 seconds a distance of 687.42 feet to a found iron pin,

THENCE along the common lines of Seal, Darling, Moyer, and Simmons South 69 degrees 11 minutes 40 seconds West a distance of 799.25 feet to a found iron pin,

THENCE along the Easterly margin of the right-of-way of Sawyer Ranch Road (for the following Six calls)

(1) along a clockwise curve for 62.28 feet having a radius of 520.00 feet a chord bearing of North 13 degrees 36 minutes 03 seconds and a chord distance of 62.24 feet to a found iron pin,

(2) THENCE North 16 degrees 55 minutes 41 seconds East a distance of 390.79 feet to a found iron pin,

(3) THENCE along a counterclockwise curve for 257.65 feet having a radius of 720.00 feet a chord bearing of North 06 degrees 36 minutes 35 seconds and a chord distance of 256.28 feet to a found iron pin,

(4) THENCE North 24 degrees 54 minutes 53 seconds a distance of 27.81 feet to a found iron pin,

(5) THENCE North 1 degrees 50 minutes 42 seconds a distance of 36.84 feet to a found iron pin,

(6) THENCE along a clockwise curve for 30.30 feet having a radius of 25.00 feet a chord bearing of North 36 degrees 41 minutes 23 seconds East and a chord distance of 28.48 feet to the point of beginning and containing 423,845 S.F. or 9.730 acres more or less.

GENERAL WARRANTY DEED

EXHIBIT B

PERMITTED EXCEPTIONS

1. The following restrictive covenants of record itemized below:

Those recorded in Volume 12, Page 239, Plat Records of Hays County, Texas; and Document No. 9907847, Official Public Records of Hays County, Texas.

Omitting any covenants or restrictions, if any, including but not limited to those based upon race, color, religion, sex, sexual orientation, familial status, marital status, disability, handicap, national origin, ancestry, or source of income, as set forth in applicable state or federal laws, except to the extent that said covenant or restriction is permitted by applicable law.

2. Shortages in area.

3. Standby fees, taxes and assessments by any taxing authority for the year 2018, and subsequent years; and subsequent taxes and assessments by any taxing authority for prior years due to change in land usage or ownership, but not those taxes or assessments for prior years because of an exemption granted to a previous owner of the property under Section 11.13, Texas Tax Code, or because of improvements not assessed for a previous tax year.

4. The following matters and all terms of the documents creating or offering evidence of the matters:

- a. Building setback lines as set out on the plat recorded in Volume 12, Page 239, Plat Records of Hays County, Texas; and in the restrictions recorded in Document No. 9907847, Official Public Records of Hays County, Texas.
- b. Easement(s) for the purpose(s) shown below and rights incidental thereto as delineated or as offered for dedication, on the map of said tract/plat:

Purpose: drainage and utility
Affects: 30' along all roadway property line(s) and 10' along all other property line(s)
Recording No: Volume 12, Page 239, Plat Records of Hays County, Texas

- c. Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:

Granted to: Southwestern Bell Telephone Company
Purpose: As provided in said instrument
Recording Date: January 15, 1964
Recording No: Volume 199, Page 2, Deed Records of Hays County, Texas

- d. Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:

Granted to: Pedernales Electric Cooperative, Inc.
Purpose: As provided in said instrument
Recording Date: July 7, 1997

GENERAL WARRANTY DEED

Recording No: Volume 1326, Page 526, Official Public Records of Hays County, Texas

- e. Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:

Granted to: Lower Colorado River Authority

Purpose: As provided in said instrument

Recording Date: June 27, 2000

Recording No: Volume 1686, Page 282, Official Public Records of Hays County, Texas

- f. Interest in and to oil, gas and other minerals and/or royalties, bonuses, rentals and all other rights relating thereto as set forth in the document:

Recording No.: Volume 1999, Page 518, Official Public Records of Hays County, Texas

- g. Matters contained in that certain document:

Entitled: Wastewater Service Agreement

Recording Date: June 15, 2007

Recording No: Volume 3187, Page 401, Official Public Records of Hays County, Texas

- h. The Land has frontage or abuts U.S. Hwy 290, which is a controlled access highway.
- i. Location of gas riser and shops at highpointe sign, located within the boundary lines of subject property and being situated outside any designated easements, together with all easement rights appurtenant thereto, as shown on survey dated September 21, 2017, prepared by William C. Stampados, R.P.L.S. No. 5393.
- j. Encroachment or protrusion of fences into or outside of the boundary lines of subject property, as shown on survey dated September 21, 2017, prepared by William C. Stampados, R.P.L.S. No. 5393.

GENERAL WARRANTY DEED

CITY OF DRIPPING SPRINGS
CONDITIONAL OVERLAY

Shops at HighPointe

ORDINANCE NO. 1220.20

AN ORDINANCE OF THE CITY OF DRIPPING SPRINGS, AMENDING THE ZONING ORDINANCE VOLUME 2, ARTICLE 15, CHAPTER 23, SUBCHAPTER A, PART 7, ALTERING THE ZONING CLASSIFICATIONS OF CERTAIN REAL PROPERTY IN THE CITY LIMITS BY CREATING AND APPLYING A CONDITIONAL OVERLAY UPON THE DEVELOPMENT TO BE KNOWN AS THE SHOPS AT HIGHPOINTE, PARTICULARLY THE APPROXIMATELY 10.0 ACRES OF TRACT A, SAWYER SPRINGS SUBDIVISION, RECORDED IN VOLUME 12, PAGE 240, PLAT RECORDS, HAYS COUNTY, TEXAS, LESS 0.27 ACRES OF LAND DONATED TO HAYS COUNTY AS RIGHT OF WAY FOR SAWYER RANCH ROAD (LOCATED ON THE SOUTHEAST CORNER OF THE INTERSECTION OF SAWYER RANCH ROAD AND US HWY 290) UPON REQUEST OF THE PROPERTY OWNERS; CHANGING THE ZONING DISTRICT FROM AGRICULTURAL TO GENERAL RETAIL (GR); CREATING A CONDITIONAL OVERLAY TO EXPRESSLY INCORPORATE BY REFERENCE THE TERMS AND CONDITIONS OF A CERTAIN DEVELOPMENT AGREEMENT; AMENDING THE OFFICIAL ZONING MAP TO REFLECT CHANGES OF THE ZONING CLASSIFICATION OF CERTAIN PROPERTIES, PROVIDING FOR SEVERABILY, AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the subject tract is currently zoned Agricultural (Ag), and the owners have requested to change the zoning district to General Retail (GR); and

WHEREAS, pursuant to Section 4 of the City’s Zoning Ordinance, the City Council may approve an overlay on a property being zoned; and

WHEREAS, the Conditional Overlay enacted by this Ordinance provides additional restrictions zoning regarding buffer zones, impervious cover, and open space; and

WHEREAS, the proposed changes were reviewed by City staff, including the City’s Land Planner, with the consensus being that the proposed changes are reasonable under the circumstances and consistent with the Interim Comprehensive Plan; and

WHEREAS, after notice and hearing required by law, a public hearing was held before the Dripping Springs Planning & Zoning Commission on the 28th day of August 2007, at which public testimony was received and information was considered for and against proposed changes in certain zoning classifications of certain property located in the City of Dripping Springs; and

WHEREAS, the Planning & Zoning Commission recommended approval of the proposed changes; and

WHEREAS, after public hearing held by the City Council on the 11th day of September 2007, the City Council voted to accept the recommendation of the Planning and Zoning Commission; and

WHEREAS, pursuant to Chapter 211 of the Texas Local Government Code, the City has the authority to zone and rezone property.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DRIPPING SPRINGS, TEXAS, THAT:

1. FINDINGS OF FACT

The foregoing recitals are incorporated into this Ordinance by reference as findings of fact as if expressly set forth herein.

2. ENACTMENT

Volume 2, Article 15, Chapter 23, Subchapter A, Part 7 of the City of Dripping Springs Code of Ordinances is hereby created, and after such enactment shall read in accordance with *Attachment A*, which is attached hereto and incorporated into this Ordinance for all intents and purposes.

3. CODIFICATION

The City Secretary is hereby directed to record and publish the attached rules, regulations and policies in the City's Code of Ordinances as authorized by Section 52.001 of the Texas Local Government Code.

4. REPEALER

All ordinances, or parts thereof, that are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated, herein.

5. SEVERABILITY

Should any of the clauses, sentences, paragraphs, sections or parts of this Ordinance be deemed invalid, unconstitutional, or unenforceable by a court of law or administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid portion of this Ordinance.

6. EFFECTIVE DATE

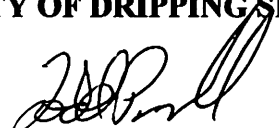
This Ordinance shall be effective immediately upon passage and publication.

7. PROPER NOTICE & MEETING

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public, and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Texas Government Code, Chapter 551. Notice was also provided as required by Chapters 52 and 211 of the Texas Local Government Code.

PASSED & APPROVED this, the 11th day of August 2007, by a vote of 5 (ayes) to 0 (nays) to 0 (abstentions) of the City Council of Dripping Springs, Texas.

CITY OF DRIPPING SPRINGS:

by: 

Mayor Todd Purcell

ATTEST:



Jo Ann Touchstone, Assistant City Secretary

APPROVED AS TO FORM:
Alan J. Bojorquez, City Attorney

City of Dripping Springs

CODE OF ORDINANCES

VOLUME: 2

ARTICLE 15: DEVELOPMENT

CHAPTER 23: ZONING

SUBCHAPTER A: ZONING CLASSIFICATIONS

PART 7

1.1. Applicability

This Ordinance shall apply solely to the following tract, which shall herein be referred to as the subject property:

Approximately 10.0 acres of land, Tract A, Sawyer Springs Subdivision, recorded in Volume 12, Page 240, Plat Records, Hays County, Texas, less 0.27 acres of land donated to Hays County as right of way for Sawyer Ranch Road (located on the southeast corner of the intersection of Sawyer Ranch Road and US Hwy 290).

1.2. Base Zoning District

Except as provided in section 1.3 (*below*), the subject property shall be governed by the rules applying in the following zoning district: *General Retail (GR)*.

1.3. Overlay

1.3.1. A Conditional Overlay is hereby created and effectuated upon the subject property.

1.3.2. The boundary of the Overlay shall be coterminous with the perimeter of the 10.0 acres described in Section 1.1 (above).

1.3.3. The Overlay incorporates by reference the Development Agreement entered into by the City and the Owner, Sawyer 290 Crossing, Ltd., dated April 23, 2007, in its entirety, and the exhibits thereto, attached to this Ordinance as *Exhibit A*.

1.3.4. The Overlay prohibits the following uses: dry cleaning plant; gas station; and convenience stores featuring gas stations.

1.3.5. The Overlay mandates that the southwest building be limited to a single story or twenty feet (20'), whichever is less, and the setbacks for buildings located near the rear southern boundary shall be seventy feet (70').

1.4. Zoning Map

The above Zoning Classification changes shall be made to the Official Zoning Map in conformance with the procedures set forth in the Zoning Ordinance.



City of Dripping Springs

PHYSICAL: 511 Mercer Street • MAILING: PO Box 384

Dripping Springs, TX 78620

512.858.4725 • cityofdrippingsprings.com

ZONING/PDD AMENDMENT APPLICATION

Case Number (staff use only): _____-_____

CONTACT INFORMATION

PROPERTY OWNER NAME QuikTrip Corporation

STREET ADDRESS 742 NW Loop 410 Suite 102

CITY San Antonio STATE TX ZIP CODE 78216

PHONE 830.500.9323 EMAIL jdudley@quiktrip.com

APPLICANT NAME JD Dudley

COMPANY QuikTrip Corporation

STREET ADDRESS 742 NW Loop 410 Suite 102

CITY San Antonio STATE TX ZIP CODE 78216

PHONE 830.500.9323 EMAIL jdudley@quiktrip.com

REASONS FOR AMENDMENT

TO CORRECT ANY ERROR IN THE REGULATION OR MAP

TO RECOGNIZE CHANGES IN TECHNOLOGY, STYLE OF LIVING, OR MANNER OF CONDUCTING BUSINESS

TO RECOGNIZE CHANGED CONDITIONS OR CIRCUMSTANCES IN A PARTICULAR LOCALITY

TO MAKE CHANGES IN ORDER TO IMPLEMENT POLICIES REFLECTED WITHIN THE COMPREHENSIVE PLAN

PROPERTY & ZONING INFORMATION	
PROPERTY OWNER NAME	QuikTrip Corporation
PROPERTY ADDRESS	SWC of Hwy 290 & Sawyer Ranch Rd.
CURRENT LEGAL DESCRIPTION	See attached.
TAX ID#	73-0675375
LOCATED IN	<input type="checkbox"/> CITY LIMITS <input checked="" type="checkbox"/> EXTRATERRITORIAL JURISDICTION
CURRENT ZONING	GB
REQUESTED ZONING/AMENDMENT TO PDD	Allow for a convenience store with fuel sales
REASON FOR REQUEST <i>(Attach extra sheet if necessary)</i>	See attached letter of intent
INFORMATION ABOUT PROPOSED USES <i>(Attach extra sheet if necessary)</i>	See attached letter of intent

COMPLIANCE WITH OUTDOOR LIGHTING ORDINANCE? *
(See attached agreement).

YES (REQUIRED)* YES (VOLUNTARY)* NO*

* If proposed subdivision is in the City Limits, compliance with Lighting Ordinance is **mandatory**. If proposed subdivision is in the ETJ, compliance is **mandatory** when required by a Development Agreement or as a condition of an Alternative Standard/Special Exception/Variance/Waiver. Voluntary compliance is strongly encouraged by those not required by above criteria *(see Outdoor Lighting tab on the CODS webpage and online Lighting Ordinance under Code of Ordinances tab for more information).*

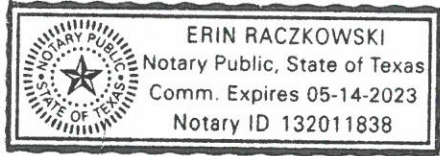
APPLICANT'S SIGNATURE

The undersigned, hereby confirms that he/she/it is the owner of the above described real property and further, that JD Dudley is authorized to act as my agent and representative with respect to this Application and the City's zoning amendment process. Instrument # 18208144
(As recorded in the Hays County Property Deed Records, Vol. _____, Pg. _____.)

JD Dudley
Name

Real Estate Project Manager
Title

STATE OF TEXAS §
 §
COUNTY OF HAYS §



This instrument was acknowledged before me on the 18 day of September,
2021 by JD Dudley.

Erin Raczkowski
Notary Public, State of Texas

My Commission Expires: 5/14/2023

JD Dudley
Name of Applicant

ZONING AMENDMENT SUBMITTAL

All required items and information (including all applicable above listed exhibits and fees) must be received by the City for an application and request to be considered complete. **Incomplete submissions will not be accepted.** By signing below, I acknowledge that I have read through and met the above requirements for a complete submittal:

J. Mulvey
Applicant Signature

9-1-21
Date

CHECKLIST

STAFF	APPLICANT	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Completed Application Form - including all required signatures and notarized
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Application Fee-Zoning Amendment or PDD Amendment (<i>refer to Fee Schedule</i>)
		PDF/Digital Copies of all submitted Documents
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	When submitting digital files, a cover sheet must be included outlining what digital contents are included.
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Billing Contact Form
<input type="checkbox"/>	<input checked="" type="checkbox"/>	GIS Data
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Outdoor Lighting Ordinance Compliance Agreement - signed with attached photos/drawings (<i>required if marked "Yes (Required)" on above Lighting Ordinance Section of application</i>)
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Legal Description
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Concept Plan
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Plans
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Maps
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Architectural Elevation
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Explanation for request (<i>attach extra sheets if necessary</i>)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Information about proposed uses (<i>attach extra sheets if necessary</i>)
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Public Notice Sign (<i>refer to Fee Schedule</i>)
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Proof of Ownership-Tax Certificate or Deed
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Copy of Planned Development District (<i>if applicable</i>)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Digital Copy of the Proposed Zoning or Planned Development District Amendment

Received on/by: _____

Project Number: _____ - _____
Only filled out by staff



DRIPPING SPRINGS
Texas

BILLING CONTACT FORM

Project Name: QT 4133

Project Address: SWC of Hwy 290 & Sawyer Ranch Rd.

Project Applicant Name: QuikTrip Corporation - JD Dudley

Billing Contact Information

Name: JD Dudley

Mailing Address: 742 NW Loop 410 Suite 102

San Antonio, TX 78216

Email: jdudley@quiktrip.com Phone Number: 830.500.9323

Type of Project/Application (check all that apply):

- Alternative Standard
- Certificate of Appropriateness
- Conditional Use Permit
- Development Agreement
- Exterior Design
- Landscape Plan
- Lighting Plan
- Site Development Permit
- Special Exception
- Street Closure Permit
- Subdivision
- Waiver
- Wastewater Service
- Variance
- Zoning
- Other _____

*Applicants are required to pay all associated costs associated with a project's application for a permit, plan, certificate, special exception, waiver, variance, alternative standard, or agreement, regardless of City approval. Associated costs may include, but are not limited to, public notices and outside professional services provided to the City by engineers, attorneys, surveyors, inspectors, landscape consultants, lighting consultants, architects, historic preservation consultants, and others, as required. Associated costs will be billed at cost plus 20% to cover the City's additional administrative costs. **Please see the online Master Fee Schedule for more details.** By signing below, I am acknowledging that the above listed party is financially accountable for the payment and responsibility of these fees.*


Signature of Applicant

9/1/21
Date



QT 4133 Zoning Amendment

Letter of Intent

Purpose: The purpose of this submittal is to allow for the development of an 9.730-acre tract of land for the purpose of constructing a 4,993 SF convenience store with retail motor fuel sales and for multiple retail pad sites. The provisions of the GB Zoning District and all other applicable regulations as stated in the City of Dripping Springs' Zoning Ordinance shall govern this tract of land.

Proposed Use: The property is currently zoned GB. QuikTrip is proposing to construct and operate a 4,993 SF 24-hour Convenience Store with Beer and Wine Sales for off-premises consumption only and retail motor fuel sales. The proposed project is consistent with the City's Master Plan and our use is will also promote future development to currently vacant land.

Request: QuikTrip is respectfully requesting that the city amend the overlay to remove the deed restrictions on the property that prohibit convenience stores and convenience stores with gasoline sales. We are also proposing to increase the rear setback from 70' to 140'.

Our development will provide a family oriented, clean and modern facility for the citizens of Schertz. We provide many of the items you will find in your larger grocery stores, with very similar pricing. We are also making great strides in the food industry with our addition of QuikTrip Kitchens. QuikTrip takes great pride in our employees and our stores. We build our

facilities to last fifty years and we put in the time and care to ensure that they do. We have an in-house Facility Support team that maintains our stores daily. They are called on to maintain everything from landscaping, coffee/cappuccino machines, paving, and all other aesthetic and mechanical features of the store.

As previously stated, we are a family-oriented business. QuikTrip does not sell any drug paraphernalia or inappropriate magazines. QuikTrip is a place where you can bring the entire family and you will always receive fast and friendly customer service.

We believe that our application meets all City requirements and that the project achieves very high level of site quality, exceptional architectural building design, and quality landscaping. The building represents the latest architectural design in convenience store facilities including innovative marketing components, such as a personal "barista" to prepare custom coffee beverages typically only found at "specialty coffee outlets". A complete palate of building materials is available if needed.

I will be pleased to meet with you or your staff to discuss this matter as requested. Your consideration and support in these matters will be greatly appreciated. We stand ready to assist in your review.

Best regards,



JD Dudley | QuikTrip Corporation | Real Estate Project Manager II
742 NW Loop 410 Suite 102 | San Antonio, TX 78216
O: 210.332.4036 | C: 469.766.8331





STAFF REPORT
City of Dripping Springs
PO Box 384
511 Mercer Street
Dripping Springs, TX 78602

Submitted By: Aaron Reed, Public Works Director

Council Meeting Date: 12/21/2021

Agenda Item Wording: **Discuss and consider approval of an Ordinance amending the City of Dripping Springs Fee Schedule to include Water Meter and Inspection Fees.**

Agenda Item Requestor:

Summary/Background: The City is anticipating the first requests for water service in the upcoming months. This amendment to the fee schedule will cover call out and inspection costs, temporary construction meter costs with volumetric rates, and new connection fees. The new connection fees include the WTCPUA impact fee which the City will remit back to the PUA on a monthly basis. The fee also includes the cost of all equipment necessary for water service and all inspections City staff will conduct. The City has hired a rate analyst to set the water rates.

**Commission
 Recommendations:**

**Recommended
 Council Actions:** City staff recommends approval.

Attachments:

Next Steps/Schedule: Send to City Secretary for codification.

CITY OF DRIPPING SPRINGS

ORDINANCE No. 2021-_____

AN ORDINANCE AMENDING APPENDIX A: ARTICLE A1.000 (GENERAL PROVISIONS) OF THE DRIPPING SPRINGS CODE OF ORDINANCES; ADDING THE DRIPPING SPRINGS FEE SCHEDULE SECTION 19: WATER RATES AND FEES; PROVIDING FOR THE FOLLOWING: FINDINGS OF FACT; ENACTMENT; REPEALER, SEVERABILITY; PUBLICATION; EFFECTIVE DATE; AND PROPER NOTICE AND MEETING.

WHEREAS, the City Council of the City of Dripping Springs (“City Council”) seeks to provide for reasonable fees, including for connection and provision of water to residents of the City to recoup the cost of reviewing, permitting, connecting, providing, and inspecting water service and infrastructure; and

WHEREAS, the City Council finds that the attached schedule of fees is reasonable and prudent considering the municipal resources expended in the furtherment of residential, commercial, and multi-family development in the provision of water service as implemented by City staff; and

WHEREAS, the fees approved and instituted by this ordinance are consistent with, and in accordance with, the annual budget for the City; and.

WHEREAS, pursuant to Texas Local Government Code Section 51.001, the City has general authority to adopt an ordinance or police regulation that is for the good government, peace or order of the City and is necessary or proper for carrying out a power granted by law to the City.

NOW, THEREFORE, BE IT ORDAINED by the Dripping Springs City Council:

1. FINDINGS OF FACT

The foregoing recitals are incorporated into this Ordinance by reference as findings of fact as if expressly set forth herein.

2. ENACTMENT

Appendix A, Article A1.000 of the City of Dripping Springs Code of Ordinances, Section 19 is added so to read in accordance with Attachment “A”, which is attached hereto and incorporated into this Ordinance for all intents and purposes. Any underlined text shall be inserted into the Code and any struck-through text shall be deleted from the Code, as stated within Attachment “A”.

3. REPEALER

All ordinances, or parts thereof, that are in conflict or inconsistent with any provision of this

Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated, herein.

4. SEVERABILITY

Should any of the clauses, sentences, paragraphs, sections, or parts of this Ordinance be deemed invalid, unconstitutional, or unenforceable by a court of law or administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid portion of this Ordinance.

5. CODIFICATION

The City Secretary is hereby directed to record and publish the attached rules, regulations and policies in the City’s Code of Ordinances as authorized by Section 52.001 of the Texas Local Government Code.

6. EFFECTIVE DATE

This Ordinance shall be effective immediately upon passage and publication.

7. PROPER NOTICE & MEETING

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public, and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Texas Government Code, Chapter 551. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

PASSED & APPROVED this, the 21st day of December 2021, by a vote of ___ (ayes) to ___(nays) to ____ (abstentions) of the City Council of Dripping Springs, Texas.

CITY OF DRIPPING SPRINGS:

Bill Foulds, Jr., Mayor

ATTEST:

Andrea Cunningham, City Secretary

CITY OF DRIPPING SPRINGS

MASTER FEE SCHEDULE

ARTICLE A1.000 (GENERAL PROVISIONS)

A1.001 Adopted by reference

- (a) The fee schedule for the city shall be interpreted as that ordinance enacted by the city council, as may be amended, which sets out the standard charges and costs imposed by the city.
- (b) Any reference to the “Fee Schedule” or “Appendix A” of the Code of Ordinances shall mean the current, most recently enacted version of the fee schedule regardless of whether it is published in the Code of Ordinances.
- (c) Copies of the current Master Fee Schedule can be obtained on the City’s website, www.cityofdrippingsprings.com, or by request to the city secretary.

* * *

SECTION 19. WATER RATES AND FEES

SEE WASTEWATER RATE ORDINANCE FOR WASTEWATER FEES AND RATES

19.1 Temporary Fire Hydrant Meter Request

- (a) Security Deposit -\$2000.00
- (b) Monthly Rate- \$50 per month
- (c) Volumetric Rate - \$10 per thousand gallons

19.2 Service Call and Reconnect Fee

\$50 per call

19.3 New Water Service Fees

- (a) Meter Set Fee- \$50
- (b) Customer Service Inspection - \$50
- (c) 5/8 x 5/8 meter -\$177
- (d) 5/8 x 3/4 meter - \$177
- (e) 3/4 x 3/4 meter \$199
- (f) 1”x1” meter \$236
- (g) LTE Endpoint \$126

(h) Meter Box and lid \$130.21

(i) Impact Fee:

- (I) For lots platted on or prior to 11/01/2012 \$5,180 per LUE
- (II) For lots platted 10/31/2012-01/31/2015 \$8,809 per LUE
- (III) For lots platted 02/01/2015-09/19/2018 \$12,938 per LUE
- (IV) For lots platted 09/20/2018-09/30/2021 \$6,139 per LUE
- (V) For lots platted on or after 10/01/2021 \$8,175 per LUE



STAFF REPORT
City of Dripping Springs
PO Box 384
511 Mercer Street
Dripping Springs, TX 78620

Submitted By: Laura Mueller, City Attorney

Council Meeting Date: December 21, 2021

Agenda Item Wording: **Discuss and consider an ordinance amending Article 2.04 of the Dripping Springs Code of Ordinances as it relates to the Emergency Management Commission meetings and authority.** *Sponsor: Councilmember Harris-Allison.*

Agenda Item Requestor: Councilmember April Harris-Allison

Summary/Background: This ordinance amendment is to update the Emergency Management Commission structure to match other boards and commissions and to streamline the meetings process since the Commission is a recommending body. The changes include updates to meeting structure, members, liability, responsibilities of the board and staff support.

Membership would be changed to allow the Hays County Constable to have his designee attend the meeting. The membership also has changed to give the Chamber of Commerce the ability to have a member on the Commission.

One issue that was discussed was why this Commission sometimes is unable to gather a quorum. The issue is that when there is a major issue in Hays County or the City of Dripping Springs, many of the members are involved as they represent emergency management, law enforcement, and fire.

This change does remove the EMC from the purview of the Open Meetings Act because the EMC is a recommending body whose decisions are finalized by City Council. This means that they do not have to follow the strict requirements of the Act but would still be required to have monthly open meetings with agendas. A quorum is also required for the Commission to take any action, but they could meet in numbers less than a quorum for discussion. They also remain subject to the Public Information Act.

Commission Recommendations: EMC recommended approval of the ordinance.

Recommended Council Actions: Approval of the ordinance.

Attachments: Ordinance

Next Steps/Schedule: If approved, it will be codified and sent to the EMC members and the Emergency Management Coordinator. The City Secretary will update the meeting procedures for this Commission.

- CODE OF ORDINANCES
Chapter 2 - ADMINISTRATION AND PERSONNEL
ARTICLE 2.04. - BOARDS, COMMISSIONS AND COMMITTEES
DIVISION 7. EMERGENCY MANAGEMENT COMMISSION

CITY OF DRIPPING SPRINGS

ORDINANCE NO. _____

AN ORDINANCE AMENDING ARTICLE 2.04: DIVISION 7. EMERGENCY MANAGEMENT COMMISSION: UPDATING THE ORDINANCE AS IT RELATES TO PROCEDURES AND FORMAT OF ORDINANCE; PROVIDING FOR THE FOLLOWING: FINDINGS OF FACT; AMENDMENT; REPEALER; SEVERABILITY; CODIFICATION; EFFECTIVE DATE; AND PROPER NOTICE AND MEETING.

WHEREAS, the duties and responsibilities of the Emergency Management Commission has changed as the City and Emergency Management Commission has grown; and

WHEREAS, the Emergency Management Commission is supported by City staff; and

WHEREAS, the Emergency Management Commission provides recommendations and support when emergencies and disasters arise; and

WHEREAS, the City of Dripping Springs finds that it in the best interest of the community and the Farmers Market to make the changes to the ordinance.

NOW, THEREFORE, BE IT ORDAINED by the City Council of Dripping Springs, Texas:

1. FINDINGS OF FACT

The foregoing recitals are incorporated into this Ordinance by reference as findings of fact as if expressly set forth herein.

2. AMENDMENT

Article 2.04; Division 7: Emergency Management Commission-, Code of Ordinances, City of Dripping Springs, is hereby amended to read in accordance with *Attachment A*, which is attached hereto and incorporated into this Ordinance for all intents and purposes. Language that is struck

- CODE OF ORDINANCES
Chapter 2 - ADMINISTRATION AND PERSONNEL
ARTICLE 2.04. - BOARDS, COMMISSIONS AND COMMITTEES
DIVISION 7. EMERGENCY MANAGEMENT COMMISSION

through is repealed, language that is underlined is added.

3. REPEALER

All ordinances, resolutions, or parts thereof, that are in conflict or inconsistent with any provision of this Ordinance, are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated, herein.

4. SEVERABILITY

Should any of the clauses, sentences, paragraphs, sections or parts of this Ordinance be deemed invalid, unconstitutional, or unenforceable by a court of law or administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid portion of this Ordinance.

5. CODIFICATION

The City Secretary is hereby directed to record the attached rules, regulations, and policies in the City's Code of Ordinances as authorized by Section 52.001 of the Texas Local Government Code.

6. EFFECTIVE DATE

This Ordinance shall be effective immediately upon passage.

7. PROPER NOTICE & MEETING

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public, and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Texas Government Code, Chapter 551. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

- CODE OF ORDINANCES
Chapter 2 - ADMINISTRATION AND PERSONNEL
ARTICLE 2.04. - BOARDS, COMMISSIONS AND COMMITTEES
DIVISION 7. EMERGENCY MANAGEMENT COMMISSION

NOW THEREFORE, BE IT ORDAINED BY THE City Council of the City of Dripping Springs, Texas:

PASSED & APPROVED this, the _____ day of _____ 2021, by a vote of _____ (*ayes*) to _____ (*nays*) to (*abstentions*)

CITY OF DRIPPING SPRINGS

By: _____

Bill Foulds, Jr., Mayor

ATTEST:

Andrea Cunningham, City Secretary

- CODE OF ORDINANCES
 Chapter 2 - ADMINISTRATION AND PERSONNEL
 ARTICLE 2.04. - BOARDS, COMMISSIONS AND COMMITTEES
 DIVISION 7. EMERGENCY MANAGEMENT COMMISSION

ATTACHMENT "A"

DIVISION 7. EMERGENCY MANAGEMENT COMMISSION

Sec. 2.04.191. Title.

This division shall be commonly cited as the "emergency management commission" ordinance.

Sec. 2.04.192. Purpose

- (a) This article provides for the standards for the formation, function, and responsibilities of an emergency management commission tasked with representing various groups with interest in emergency planning and operations.
- (b) This article is in furtherance of good government and public safety. Through these regulations, the city seeks to prioritize and promote the safety of persons and property by:
- (1) Recommended policies and application of policies for the development and implementation of an emergency management plan for the city and ETJ.
 - (2) Provide public information and training regarding personal and family disaster planning and response.

Sec. 2.04.193~~2~~. Scope.

This division applies to all property within the incorporated municipal boundaries (i.e., "city limits") and the extraterritorial jurisdiction ("ETJ").

Sec. 2.04.194 Definitions.

- (a) Rules of interpretation. Words and phrases used in this article shall have the meanings set forth in this section. Terms that are not defined below, but are defined elsewhere in the Code of Ordinances, shall be given the meanings set forth in the code. Words and phrases not defined in the Code of Ordinances shall be given their common, ordinary meaning unless the context clearly requires otherwise. When not inconsistent with the context, words used in the present tense shall include the future tense, words in the plural number shall include the singular number (and vice versa), and words in the masculine gender shall include the feminine gender (and vice versa). The word "shall" is always mandatory, while the word "may" is merely directory. Headings and captions are for reference purposes only.
- (b) Specific definitions.

Commission: The emergency management commission, ~~an advisory body,~~ -created herein.

Sec. 2.04.195. Membership; meetings.

- (a) ~~Indemnification Liability. The City of Dripping Springs Texas Municipal League liability coverage shall include the members of the commission to the extent allowed by law shall be insured, indemnified, defended and held~~

~~harmless from liability in the performance of their responsibilities, to the extent of the law, provided such expenses shall come only from the city's insurance policy. The city attorney shall advise and represent the commission, as appropriate.~~

(b) ~~Municipal officers~~ Ethical Standards. Commission members are municipal officers and shall comply with all ethical standards applied to officers of the city as stated in Article 2.02 of the City of Dripping Springs Code of Ordinances.

(c) Number of members.

(1) The commission shall have twelve (12) voting members.

i. Three at-large members that shall be reside within Hays County.

ii. One each

1. Municipal member designated as emergency management coordinator

2. Chamber of Commerce Representative;

3. Nonprofit organization;

4. Hays County Constable or designee;

5. Emergency Services District Number 1 representative;

6. Emergency Services District Number 6 representative;

7. Hays County Emergency Manager or designee;

8. Dripping Springs Independent School District; and

9. Hays County Fire Marshal or designee.

(2) The commission may have subcommittees of at least three members, one of whom will be the subcommittee chair designated by the subcommittee at their first meeting. ~~a~~A vice-chair will be selected by the chair and approved by a majority of the subcommittee members. ~~T~~he vice-chair will serve as subcommittee chair in the absence of the chair. Subcommittees may invite input from non-committee members.

(d) Terms of members and chair and vice-chair

(1) Each commission member will serve a two-year term, at the will of the city council. There is no limit as to how many terms a member may serve.

(2) The chair and vice-chair shall be appointed by the city council and serve a one-year term. There is no limit to the number of terms the chair or vice-chair may serve. In the event that the chair or vice-chair are absent, the emergency management coordinator will preside.

(e) Member selection.

(1) Each year staff will prepare a slate of nominees for city council consideration. The slate will include nominees with a background and experience in those activities related to emergency management. The chair shall provide a recommendation for members seeking appointment or reappointment.

(2) The city council shall approve, reject, or modify the slate of nominees.

(f) Resignation and vacancies.

(1) A commission member may resign by notifying the city secretary in writing of their intent to resign.

(2) A failure to attend three or more sequential commission meetings without approval from the chair will constitute a de facto notification of intent to resign.

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(3) Vacancies shall be filled by appointment, with the appointed replacement member being bestowed the remainder of the unexpired term.

(g) Meetings.

(1) The commission shall meet monthly at city hall, unless otherwise deemed appropriate by the chair. Agendas will be drafted by the commission chair, under the advisement of the emergency management coordinator.

(2) Designated subcommittees may meet more often, as coordinated with and arranged by the emergency management coordinator. Subcommittee agendas will be drafted by the subcommittee chair, under the advisement of the subcommittee members.

(3) The commission will make a written report to the city council each month to update the council on projects and progress.

(4) A quorum is required to take action as the Dripping Springs Emergency Management Commission.

Sec. 2.04.196. Authority.

The commission has no authority to make decisions binding on the city. The commission's functions are purely advisory and not subject to the Texas Open Meetings Act. Meetings shall be noticed and generally open to the public except when limited by security, emergency, or related matters.

Sec. 2.04.196. Responsibilities.

(a) The commission shall advise the city council on recommended policies and application of policies for the development and implementation of an emergency management plan for the city and ETJ.

(b) The commission shall advise the city council on recommended interlocal and mutual aid agreements related to emergency management operations in preparation for, during, and after a disaster or state of emergency.

(c) The commission shall review and evaluate all current municipal ordinances of the city, identify provisions that relate to or apply to emergency management, and make recommendations to the city council for needed changes and/or additions.

(d) The commission shall manage, staff, and operate an area emergency operations center when disaster, major incident, or event dictates that level of support to first responders in accordance with the approved City Emergency Management Plan, state law, and county and state plans as applicable.

(e) Identify and engage in protection, prevention, mitigation, response, and recovery planning and activities related to local conditions and needs.

(f) Recommend an annual operating budget for emergency management services with the assistance of the emergency management coordinator to the city council each fiscal year

Sec. 2.04.197 Emergency Management Plan.

(a) The commission shall advise the emergency management coordinator in the development of an emergency management plan consistent with federal, state, and county standards and practices that addressed the unique and special needs of the city and ETJ. The plan will be submitted to the county emergency preparedness coordinator for approval prior to submission to the city council and county commissioners court. Upon approval, the plan will become an addendum or appendix to the county emergency management plan.

(b) The commission shall review the plan annually and update as needed.

(c) Public access to information. The committees work and work product will be subject to the Texas Public Information Act, Chapter 552 of the Texas Government Code.

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Sec. 2.04.198. Support

- (a) City staff will provide logistical support to the commission and its subcommittees, as defined by access to city facilities for purposes of public meetings, access to city resources for purposes of copies and communications, and a designated staff liaison to coordinate and direct such support. Staff shall also provide a monthly report on emergency activities within the City to be presented at each commission meeting.
- (b) The city website will provide a page via the staff liaison upon which the commission may post:
- (1) Meeting information;
 - (2) Agendas and minutes; and
 - (3) Resource materials, if any.

Sec. 2.04.199 – 2.04.220. Reserved.**Sec. 2.04.193. Creation.**

- (a) ~~Formation. There is hereby created within the city organization an emergency management commission.~~
- (b) ~~Membership. The commission shall consist of and be governed by twelve (12) members in which the city council shall endeavor, to the extent reasonably available, to appoint members who have interest, experience, and involvement in the following categories:~~
- ~~(1) Emergency response; i.e. fire services, emergency medical service, law enforcement (2).~~
 - ~~(2) Business community/Dripping Springs Chamber of Commerce (1).~~
 - ~~(3) Dripping Springs Independent School District (1).~~
 - ~~(4) Nonprofit organizations (1).~~
 - ~~(5) Volunteer service organizations (1).~~
 - ~~(6) City emergency management coordinator (1).~~
 - ~~(7) Hays County Representative (1).~~
 - ~~(8) Hays County Precinct No. 4 Constable (1).~~
 - ~~(9) Resident at large (3).~~
- (c) ~~Appointment and removal. Members of the commission shall be appointed by the city council. The members of the commission may elect from among its membership a secretary. Commissioners may be removed by the city council for cause by simple majority vote or for lack of confidence by affirmative vote of four of the five city council members (4/5). Any commissioner absent for three or more consecutive regular meetings, or more than four regular meetings within a fiscal year, unless excused, shall be deemed to have automatically and voluntarily resigned, and thus vacated his/her position on the commission. The city emergency management coordinator may make recommendations for removal at any time.~~
- (d) ~~Indemnification. The members of the commission shall be insured, indemnified, defended and held harmless from liability in the performance of their duties, to the extent allowed by law, provided such expenses shall come only from the city's insurance policy. The city attorney shall advise and represent the commission, as appropriate.~~
- (e) ~~Terms of office. Each commission member shall have a two year term of office, where each member's term is staggered so as to have six members' terms expire on January 1st of even years and six members' terms expire January 1st of odd years so that no more than six members shall be appointed each year. Vacancies on the commission may be filled by appointment of the city council for an unexpired term. Nothing in this section, or~~

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~~this division, shall be construed as creating a property interest on behalf of the commissioner in continued occupancy of a position on the commission.~~

- ~~(f) Municipal officers. Commission members shall be obligated to comply with all ethical standards applied to officers of the city.~~
 - ~~(g) Management. The presiding officer of the commission shall be a chairperson appointed by the city council. The city council shall also select a vice chairperson, who shall preside over all meetings at which the chairperson is absent or abstaining. In those meetings at which the chairperson and vice chairperson are unable to preside, the city emergency management coordinator will preside.~~
 - ~~(h) Voting. A quorum for all meetings of the commission shall consist of a simple majority. The chairperson shall have the right to vote in matters before the commission. A commissioner serving as presiding officer in the chairperson's and vice chairperson's absence shall retain the right to vote on all matters.~~
 - ~~(i) Resources. Functions will require some funding by the city.~~
 - ~~(j) Ethics. Commissioners shall be subject to the city's ethics ordinance.~~
- ~~(Ordinance 1910.20, adopted 1/19/16; Ordinance 1910.21, adopted 3/8/16; Ordinance 1920.22, adopted 11/14/17)~~

Sec. 2.04.194. Responsibilities.

- ~~(a) Meetings. The commissioners shall conduct meetings once a month. Meetings shall be conducted at city hall, unless otherwise deemed appropriate by the chairperson. The commission may hold public hearings as deemed necessary and appropriate. Other meeting times and locations can be selected by the chairperson, as deemed necessary and appropriate. All meetings are subject to the Open Meetings Act, chapter 551 of the Texas Government Code.~~
- ~~(b) Policies and implementation. The commission shall advise the city council on recommended policies and application of policies for the development and implementation of an emergency management plan for the city and ETJ.~~
- ~~(c) Regulations. The commission shall review and evaluate all current municipal ordinances of the city, identify provisions that relate to or apply to emergency management, and make recommendations to the city council for needed changes and/or additions.~~
- ~~(d) Information. The commission shall serve as a conduit for soliciting, compiling and submitting public input to the city council. The commission shall be subject to the Texas Public Information Act, chapter 552 of the Texas Government Code.~~
- ~~(e) Activities. The commission shall:

 - ~~(1) Develop an emergency management plan consistent with federal, state, and county standards and practices that addresses the unique and special needs of the city and ETJ. The plan will be submitted to the county emergency management coordinator for approval prior to submission to the city council and county commissioners court. Upon approval, the plan will become an addendum or appendix to the county emergency management plan.~~
 - ~~(2) Review the local emergency management plan annually and update as needed.~~
 - ~~(3) Manage, staff, and operate an area emergency operations center when disaster, major incident, or event dictates that level of support to first responders.~~
 - ~~(4) Provide to the public information and training regarding personal and family disaster planning and response.~~~~

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(5) ~~Identify and engage in protection, prevention, mitigation, response, and recovery planning and activities related to local conditions and needs.~~

~~(Ordinance 1910.20, adopted 1/19/16; Ordinance 1910.21, adopted 3/8/16)~~

~~Secs. 2.04.195—2.04.220. Reserved.~~



STAFF REPORT
City of Dripping Springs
 PO Box 384
 511 Mercer Street
 Dripping Springs, TX 78620

Submitted By: Andrea Cunningham, City Secretary

Council Meeting Date: December 7, 2021

Agenda Item Wording: **Discuss and consider approval of the Appointment of Bonnie Humphrey, Bill Little, Gordon DeWitte and Russell Paxton to the Emergency Management Commission for terms ending January 1, 2024; and Appointment of a Chair and Vice Chair to serve for a term concurrent with their respective seat expiration.**

Agenda Item Requestor: Bonnie Humphrey, Emergency Management Commission Chair

Summary/Background: The Emergency Management Commission is a twelve-member advisory commission tasked with recommending policies and the application of policies for the development and implementation of an emergency management plan for the city and ETJ. The Committee is responsible for development, implementation, and review of the city’s emergency management planning for disasters. The Committee is also responsible for providing information and training on emergency management response.

Members of the Emergency Management Commission are selected at-large (3 seats), and as representatives of the following organizations that are integral in the operation of the Emergency Management Program:

- 2 seats - Emergency Response (Fire, EMS, Law Enforcement)
- 1 seat - Business Community
- 1 seat - Dripping Springs Independent School District
- 1 seat - Nonprofit Organization
- 1 seat - Volunteer Services Organization
- 1 seat - City of Dripping Springs Emergency Planning Coordinator
- 1 seat - Hays County Representative
- 1 seat - Hays County Precinct No. 4 Constable

Current Commission Membership

<i>Member</i>	<i>Term</i>	<i>Seat Description</i>
Roman Baligad	NA	EM Coordinator
Scott Collard	1/1/23	Emergency Response

Doug Fowler	1/1/23	Emergency Response
Bonnie Humphrey, Chair	1/1/22	Business Community
Russell Paxton	1/1/22	Nonprofit Organization
Gordon DeWitte	1/1/22	Volunteer Services
Mike Jones	1/1/22	Hays County Representative
Ron Hood	1/1/23	Precinct 4 Constable
Kay Allen	1/1/23	At-Large
Bill Little, Vice Chair	1/1/22	At-Large
Dillon Polk	1/1/23	At-Large
Vacancy 1	1/1/22	DSISD Representative

No applications for this Commission have been received and all members have requested reappointment.

Additionally, the City Council is responsible for appointing the chair and vice chair from the current membership.

Commission Recommendations:

Chair Humphrey has recommended reappointment of all expiring members.

Recommended Council Actions:

Staff recommends reappointment of Bonnie Humphrey, Russell Paxton, Gordon DeWitte, Mike Jones, and Bill Little for terms ending January 1, 2024. The selectin of the chair and vice chair are at the pleasure of the City Council.

Attachments:

NA

Next Steps/Schedule:

1. Notify applicants of Council decision – welcome letters and denial letters
2. Update website and master roster
3. Notify commission of appointments and send updated roster
4. Send calendar invite to appointees



STAFF REPORT
City of Dripping Springs
PO Box 384
511 Mercer Street
Dripping Springs, TX 78620

Submitted By: Michelle Fischer, City Administrator

Council Meeting Date: December 21, 2021

Agenda Item Wording: **Discuss and consider possible action regarding a Request for Resolution and Agreement related to extension of health benefits to the Dripping Springs Visitors Bureau under current City contract with Texas Municipal League Health Benefits Pool.**

Agenda Item Requestor: Pam Owens, President, Dripping Springs Visitors Bureau

Summary/Background: The Dripping Springs Visitors Bureau has requested the City Council authorize its employees be eligible for enrollment in the city's Texas Municipal League Health Benefits Pool's benefits. The Visitors Bureau qualifies as an affiliated service contractor. An "affiliated service contractor" means an organization qualified for exemption under Section 501(c), Internal Revenue Code (26 U.S.C. Section 501(c)), as amended, that provides governmental or quasi-governmental services on behalf of a political subdivision and derives more than 25 percent of its gross revenues from grants or funding from the political subdivision.

In order for the Visitors Bureau employees to be eligible for the TML Health Benefits Pool benefits, the city must pass a resolution of authorization and the Visitors Bureau must submit (1) proof of 501(c) status, (2) a statement explaining that it provides governmental or quasi-governmental services on behalf of a political subdivision and derives more than 25 percent of its gross revenues from grants or funding from the City, and 3) documentation regarding gross revenues and the city's contribution, such as a profit and loss statement. The Visitors Bureau has provided the required documentation to the City, attached.

As an affiliated service contractor, the Visitors Bureau employees would be added to the City's plan and treated by TML Health like an employee of the City. The Visitors Bureau's employee census and claims experience (if applicable), etc. would be included in the City's demographics and loss ratio utilization.

TML Health Benefits Pool would include the Visitors Bureau's employee plan expenses on the City's monthly invoice. The City's Finance Director would prepare a monthly or quarterly invoice for reimbursement and submit it to the Visitors Bureau for payment.

City Staff recommends that the City and the Visitors Bureau enter into an agreement regarding the eligibility of the Visitors Bureau employees for TML Health Benefits. The agreement should include provisions related to the Visitors Bureau’s reimbursement of the costs to the City. Should the City or the Visitors Bureau terminate the agreement, the City would notify TML Health Benefits Pool and the coverage for the Visitors Bureau’s employees would be terminated. The City’s resolution of authorization should specify the term of the coverage for the Visitors Bureau employees.

The Visitors Bureau’s representatives informed City representatives that they plan to request additional Hotel Occupancy Tax (HOT) grant funds from the City to pay for the insurance. NOTE: the City was not able to fund the full amounts of the HOT Grant Funding requests from Dripping Springs Ranch Park, the DS Visitors Bureau, the Texas Market Guide, and the Dr. Pound Historical Farmstead. Should additional HOT funds be available, City Staff recommends that these requests be considered in addition to the DS Visitors Bureau’s request for additional funds. For example, the Dripping Springs Ranch Park’s budget has over \$300,000 in expenses that are eligible for HOT funds that are not being paid for with them and many of these items are reoccurring expenses.

**Commission
Recommendations:**

N/A

**Recommended
Council Actions:**

Authorize City Staff to draft a resolution of authorization and an agreement with the DS Visitors Bureau for consideration by City Council at a future meeting.

Attachments:

DS Visitors Bureau’s request, Summary of TML Health Benefits Pool Employee Benefits.

Next Steps/Schedule:

Notify DS Visitors Bureau of City Council action; if authorized, City Staff will draft a resolution and agreement for consideration.



December 13, 2021

Texas Municipal League
 Health Benefits Pool
 1821 Rutherford Lane, Suite 300
 Austin, Texas 78754


Attn: Heather VonGonten

The Dripping Springs Visitors Bureau, a 501(c)(3) charitable organization has requested to become a TML Health benefits pool member through the City of Dripping Springs. The Visitors Bureau, with a staff of two, acts as the visitor center for the City of Dripping Springs. Destination Dripping Springs is our marketing program for the area. In its capacity some of the responsibilities of the Bureau are to:

- staff an on-site information for visitors traveling through the area and for visitors calling or emailing
- develop and maintain a website with area tourism information including calendar of events
- provide a printed and digital bi-annual Visitor's Guide
- advertise in various publications; print and digital
- assist in planning weddings, conferences, festivals, and other events
- provide social media presence on 7 channels
- manage the Dripping Springs Songwriters Festival, Wedding Capital of Texas® Showcase and Dripping with Taste® Passport Trail, and the Historic Mercer Street Holiday Light campaign
- assist the City in various tourism related activities

The Visitors Bureau receives more than 25% of its funding from the City of Dripping Springs through an annual contract from the Hotel Occupancy Tax grant (HOT). Included is a 12-month P&L statement for 2020 and a partial for 2021.

Thank you for your assistance in determining if the Dripping Springs Visitors Bureau is qualified to be an affiliate member of the TML Benefits Pool through the City of Dripping Springs.

Sincerely,

 Pam Owens
 President/CEO
 Dripping Springs Visitors Bureau

Dripping Springs Visitors Bureau
Profit & Loss
January through December 2020

12/13/21

Accrual Basis

	Jan - Dec 20
Ordinary Income/Expense	
Income	
Contributions	
Business	10,990.00
Grants Received - CoC	6,068.00
Grants Received - HOT	169,220.00
Individual	5,841.00
	192,119.00
Total Contributions	192,119.00
Fund Raising Income	
Booths	9,700.00
Event Sponsorships	1,000.00
Product Sales	70.00
Ticket Sales	-20.00
	10,750.00
Total Fund Raising Income	10,750.00
Interest Income	1.51
Non Event Underwriting	2,150.90
Program Underwriting	250.00
	205,271.41
Total Income	205,271.41
Expense	
Advertising & Promotion	20,787.66
Awards & Gifts	165.00
Bank Service Charges	33.00
Commissions	427.50
Computer & Software Supply	11,378.96
Conference, Training, Meeting	807.92
Contract Services	
Accounting Fees	2,151.43
Marketing Consulting	1,000.00
Technical Services	450.00
	3,601.43
Total Contract Services	3,601.43
Credit Card Merchant Fees	1,382.18
Dues & Subscriptions	2,368.29
Event Admissions	262.00
Event Expense	
Event Entertainment	82.91
	82.91
Total Event Expense	82.91
Furnishings	1,116.90
Insurance - Liability, D and O	919.00
Insurance -Property & Liability	402.48
Janitorial	102.00
Licenses, Permits, Fees	49.00
Office Supplies	1,483.27
Payroll Expenses	
Contract Labor	240.00
Medicare Expense	1,877.70
Payroll Service Fees	788.37
Social Security Expense	8,028.30
Wages	129,488.44
	140,422.81
Total Payroll Expenses	140,422.81
Postage, Delivery	135.20
Printing and Production	815.15
Rent - Facility & Storage	3,441.00
Repairs & Maintenance	215.75
Supplies (other than office)	12,184.50

Dripping Springs Visitors Bureau
Profit & Loss
January through December 2020

	<u>Jan - Dec 20</u>
Travel & Entertainment	
Entertainment (local meetings)	306.76
Lodging, Transportation, Mileage	1,950.82
Meals Travel	43.20
	<hr/>
Total Travel & Entertainment	2,300.78
Utility	
Electricity	516.54
Telephone, Telecommunications	1,757.01
	<hr/>
Total Utility	2,273.55
Website Develop & Maintain	7,757.87
	<hr/>
Total Expense	214,916.11
	<hr/>
Net Ordinary Income	-9,644.70
Other Income/Expense	
Other Expense	
Uncategorized Expense	0.00
	<hr/>
Total Other Expense	0.00
	<hr/>
Net Other Income	0.00
	<hr/>
Net Income	<u><u>-9,644.70</u></u>

Profit & Loss

January through October 2021

	Jan - Oct 21
Ordinary Income/Expense	
Income	
Contributions	
Grants Received - CoC	1,783.00
Grants Received - HOT	141,000.00
Individual	2,365.00
Total Contributions	145,148.00
Fund Raising Income	
Booths	5,650.00
Co-op Adv & Mktg	1,931.10
Event Sponsorships	74,090.73
Product Sales	4,365.62
Ticket Sales	10,370.17
Total Fund Raising Income	96,407.62
Interest Income	1.41
Program Underwriting	1,500.00
Total Income	243,057.03
Expense	
Advertising & Promotion	22,674.95
Commissions	959.00
Computer & Software Supply	9,469.32
Conference, Training, Meeting	3,476.90
Contract Services	
Accounting Fees	838.75
Legal Fees	1,980.00
Marketing Consulting	1,350.00
Other Professional Services	250.00
Technical Services	2,300.00
Total Contract Services	6,718.75
Credit Card Merchant Fees	1,649.01
Dues & Subscriptions	296.79
Event Admissions	162.31
Event Expense	
Event Entertainment	12,000.00
Food	4,490.53
Total Event Expense	16,490.53
Finance Charges	15.20
Insurance - Liability, D and O	1,123.00
Insurance -Property & Liability	412.17
Janitorial	204.00
Office Supplies	662.39
Payroll Expenses	
Medicare Expense	1,443.84
Payroll Service Fees	736.05
Social Security Expense	6,173.39
Wages	99,570.69
Total Payroll Expenses	107,923.97
Postage, Delivery	177.65
Printing and Production	4,442.89
Products for Resale	1,897.20
Rent - Facility & Storage	1,670.00
Rental - Equipment & Furnishing	6,109.56
Repairs & Maintenance	193.56
Security	1,860.00
Supplies (other than office)	18,303.55

Dripping Springs Visitors Bureau
Profit & Loss
January through October 2021

	<u>Jan - Oct 21</u>
Travel & Entertainment	
Entertainment (local meetings)	355.24
Lodging,Transportation,Mileage	1,272.07
Meals Travel	<u>92.27</u>
Total Travel & Entertainment	1,719.58
Utility	
Electricity	386.08
Telephone, Telecommunications	<u>3,048.14</u>
Total Utility	3,434.22
Website Develop & Maintain	<u>4,833.54</u>
Total Expense	<u>216,880.04</u>
Net Ordinary Income	26,176.99



Office of the Secretary of State

CERTIFICATE OF FILING OF

Dripping Springs Visitors Bureau
File Number: 802425482

The undersigned, as Secretary of State of Texas, hereby certifies that a Certificate of Formation for the above named Domestic Nonprofit Corporation has been received in this office and has been found to conform to the applicable provisions of law.

ACCORDINGLY, the undersigned, as Secretary of State, and by virtue of the authority vested in the secretary by law, hereby issues this certificate evidencing filing effective on the date shown below.

The issuance of this certificate does not authorize the use of a name in this state in violation of the rights of another under the federal Trademark Act of 1946, the Texas trademark law, the Assumed Business or Professional Name Act, or the common law.

Dated: 03/30/2016

Effective: 03/30/2016



A handwritten signature in black ink, appearing to read "Cascos" followed by a horizontal line.

Carlos H. Cascos
Secretary of State

 **IRS** DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
PHILADELPHIA PA 19255-0023

002624.662021.347291.437 1 MB 0.419 850



DRIPPING SPRINGS VISITORS BUREAU
PO BOX 206
DRIPPING SPGS TX 78620

Date of this notice: 05-11-2016

Employer Identification Number:
81-2538565

Form: SS-4

Number of this notice: CP 575 A

For assistance you may call us at:
1-800-829-4933IF YOU WRITE, ATTACH THE
STUB OF THIS NOTICE.

WE ASSIGNED YOU AN EMPLOYER IDENTIFICATION NUMBER

Thank you for applying for an Employer Identification Number (EIN). We assigned you EIN 81-2538565. This EIN will identify you, your business accounts, tax returns, and documents, even if you have no employees. Please keep this notice in your permanent records.

When filing tax documents, payments, and related correspondence, it is very important that you use your EIN and complete name and address exactly as shown above. Any variation may cause a delay in processing, result in incorrect information in your account, or even cause you to be assigned more than one EIN. If the information is not correct as shown above, please make the correction using the attached tear-off stub and return it to us.

Based on the information received from you or your representative, you must file the following form(s) by the date(s) shown.

Form 941	05/06/2016
Form 1120	03/15/2017
Form 940	01/31/2017

After our review of your information, we have determined that you have not filed tax returns for the above-mentioned tax period(s) dating as far back as 2016. Please file your return(s) by 05-26-2016. If there is a balance due on the return(s), penalties and interest will continue to accumulate from the due date of the return(s) until it is filed and paid. If you were not in business or did not hire any employees for the tax period(s) in question, please file the return(s) showing you have no liabilities.

If you have questions about the form(s) or the due dates(s) shown, you can call us at the phone number or write to us at the address shown at the top of this notice. If you need help in determining your annual accounting period (tax year), see Publication 538, Accounting Periods and Methods.

We assigned you a tax classification based on information obtained from you or your representative. It is not a legal determination of your tax classification and is not binding on the IRS. If you want a legal determination of your tax classification, you may request a private letter ruling from the IRS under the guidelines in Revenue Procedure 2004-1, 2004-1 I.R.B. 1 (or superseding Revenue Procedure for the year at issue). Note: Certain tax classification elections can be requested by filing Form 8832, Entity Classification Election. See Form 8832 and its instructions for additional information.



**TML HEALTH BENEFITS POOL
EMPLOYEE BENEFITS SUMMARY**
Effective October 1, 2021

Medical Plan Provider:	TML Health Benefits Pool		
Plan:	Copay-500-3k		
Benefit Percent:	80% in network; 50% out of network		
In Network Deductible:	Individual \$500.00 Family \$1,000.00		
Out of Network Deductible:	Individual \$1,000.00 Family \$2,000.00		
In Network Out of Pocket:	Individual \$3,000.00 Family \$6,000.00		
Medical Rates:	Employee:	\$587.74	Paid By City
	Spouse:	\$605.36	Paid By Employee
	Child(ren):	\$446.69	Paid By Employee
	Family:	\$1,146.08	Paid By Employee
Dental Rates:	Employee:	\$37.64	Paid By City
	Family:	\$59.04	Paid By Employee
Voluntary Vision:	Employee:	\$10.47	Paid By Employee
	Employee + Spouse:	\$19.90	Paid By Employee
	Employee+ Children	\$20.94	Paid By Employee
	Employee + Family	\$26.71	Paid By Employee

Medical, Dental, and Vision Rates Paid By Employee are deducted from paycheck.

Basic Life & AD & D Plan 6: Life \$0.194 (1 x base annual earnings, Max \$100,000) Paid By City
AD & D \$0.040 (1 x base annual earnings, Max \$100,000) Paid By City

Continuation of Coverage: Yes

Medical Network: Blue Cross Blue Shield of Texas Blue Choice PPO

Dental Network: BlueCare Dental Connections

Vision Network: Eye Med

Health Benefits Coverage Waiting Period: 30 days after date of hire

Salaried employees receive comp time with pay at a rate of 1:1 for every hour worked over 40 in a standard workweek

Civic Leave:

8 hours of paid leave each fiscal year

Bereavement Leave:

Full-time, regular employees receive 24 hours each fiscal year

Memberships:

City may fund employee membership in professional development organizations

Tuition Reimbursement:

Eligible for the cost of tuition for the employee's continuing education.

See the City's Personnel Manual for detailed descriptions of benefits and their requirements.

DSVB

**HOTEL OCCUPANCY TAX (HOT) GRANT PROGRAM
FUNDING AGREEMENT**

This Agreement made and entered into this, the 16 of December 2021, and between the **City of Dripping Springs**, Texas a general-law municipality located in Hays County, Texas (“City”), and **Dripping Springs Visitors Bureau**, is understood and agreed to be as set forth herein.

RECITALS:

WHEREAS, the City of Dripping Springs has been and remains a recognized destination for tourists, and as a result has developed a tourism industry which is beneficial to the City, its residents, and merchants; and

WHEREAS, the continued promotion and growth of the tourism industry will enhance the City, and insure to its benefit; and

WHEREAS, there is available a seven percent (7%) Hotel Occupancy Tax, authorized by state statute, the proceeds of which can be utilized by the City to promote tourism, and enhance the arts and historical preservation of the City; and

WHEREAS, the City Council has deemed it to be in the best interest of Dripping Springs to accomplish the goals as set forth above, and to enact and approve a seven percent (7%) Hotel-Motel Occupancy Tax, the proceeds of which can be devoted to the foregoing purposes; and

WHEREAS, the City Council deems it to be in the public interest to promote tourism and increased hotel occupancy through the execution of certain limited funding agreements that award grants financed by a portion of the proceeds from the collection of Hotel-Motel Occupancy Tax revenue; and

WHEREAS, the City's Hotel Occupancy Tax Committee reviewed various funding proposals and made a recommendation regarding the grant described herein; and

WHEREAS, the City Council approved the expenditure of the grant funds in the Fiscal Year 2022 Budget through the approval of Ordinance No. 2021-36 on September 22, 2021; and

WHEREAS, the City Council awarded and approved the grant of these funds at a properly-conducted public meeting held on September 21, 2021.

NOW, THEREFORE, BE IT MUTUALLY AGREED AS FOLLOWS:

1. PARTIES

The parties to this Agreement shall be the City of Dripping Springs (City), and the Dripping

Springs Visitors Bureau, a nonprofit corporation organized under the laws of the State of Texas.

2. FINDINGS

The parties hereby agree that the project(s) described in the Recipient's funding application ("Exhibit "A") promotes tourism.

3. GRANT

The City hereby agrees to transfer as a grant a portion of the Fiscal Year 2022 Hotel Occupancy Tax funds to Dripping Springs Visitors Bureau for facility management, marketing and organization support in an amount one hundred and ninety-five thousand dollars (\$195,000.00). The grant shall be payable in one lump sum payment no later than 30 days after the date this Agreement is signed by both parties.

4. SERVICES

In exchange for the grant described above, Dripping Springs Visitors Bureau hereby agrees to utilize the grant funds in the amount of one hundred and ninety-five thousand dollars (\$195,000.00) for the purposes as described in Exhibit A and below, which directly enhance and promote tourism and the convention and hotel industry; advertise and promote the city and its vicinity; and, enhance the arts, in which participants are tourists to the city.

- a. Visitor Information Center
- b. Advertising, solicitation and promotional programs
- c. Promotion of the Arts

5. REQUIREMENTS

- 5.1 Recipient must ensure that all Dripping Springs lodging and their current contact information are listed on information provided to registrants, vendors, and event attendees, including event websites, funded by the grant. Also, all Dripping Springs hoteliers must be made aware of the event, have access to mailing lists, and have sufficient time to participate in the bidding process for both primary bookings and overflow.
- 5.2 If grant funds are used for advertising, the City Administrator must approve the final advertising copy prior to publishing or distribution for appropriate representation of the City of Dripping Springs, and local lodging.
- 5.3 Promotional materials using grant funds are required to include the appropriate City of Dripping Springs branding as provided by the City Administrator. Also, any event sponsor signage is required to include the appropriate City of Dripping Springs brand; and
- 5.4 Recipient must provide the City Administrator with two copies of all printed materials created with grant funds.

6. DURATION

This Agreement is commencing on October 1, 2021 and ending on September 30, 2022. Recipient must expend the grant funds during the term of this Agreement or remit the remaining balance back to the City.

7. TERMINATION

This Agreement may be terminated by either party prior to performance with or without cause upon written notification to the other party. After the Recipient has commenced performance of the obligations provided for in this Agreement, the City may terminate the Agreement only in instances of breach by the Recipient, at which time the Recipient shall reimburse to the City the amount of the grant not yet expended. If the Recipient terminates this Agreement after having received funds from the City, the Recipient shall reimburse the City the complete amount of the grant provided for herein.

8. ACCOUNTING

Prior to the expiration of this Agreement, an agent of the Recipient will submit a Post Event Report Form as provided by the City describing the status of the project and explaining how the grant funds were used. The report shall include expenditures covered by the funds provided by this Agreement, visitor attendance data from event surveys, and estimated number of visitors overnight stays due to the event/expenditure. Following submission of the Post Event Form, an agent of the Recipient may be required to attend a City Council meeting to personally account for the expenditures made in accordance with this Agreement, if requested to do so by the City Administrator.

9. CONTACTS

For purposes of this Agreement, communications may be sent as follows:

To the City:

City of Dripping Springs
Attn: Michelle Fischer
PO Box 384
Dripping Springs, TX 78620

To the Recipient:

Dripping Springs Visitors Bureau
Attn: Pam Owens
PO Box 206
Dripping Springs, TX 78620

10. INDEMNIFICATION

The Recipient hereby releases, indemnifies, and holds the City, its employees, and agents, harmless for any damages, injuries, or other claims resulting from Recipient’s actions or inactions, or the conduct of Recipient’s agents, employees, or contractors.

11. INCLUSIVENESS

This document represents the entire understanding between the parties. This Agreement may only be amended in writing with the mutual consent of the parties.

12. SEVERABILITY

If any sentence, clause or portion of this Agreement is deemed unenforceable by a court of competent jurisdiction, the remainder of the Agreement shall remain in full force and effect.

WHEREFORE PREMISES AND CONSIDERATION ACCEPTED, AND HEREBY AGREED:

CITY OF DRIPPING SPRINGS:

DRIPPING SPRINGS VISITORS BUREAU:

Bill Foulds, Jr.
Bill Foulds, Jr., Mayor

Pam Owens
Pam Owens President/CEO

12/16/21
Date

12-17-21
Date

ATTEST:

ATTEST:

Andrea Cunningham
Andrea Cunningham, City Secretary

Signature

Printed Name and Title



Attachment "A"

Dripping Springs Visitors Bureau HOT Funding Application



July 7, 2021

Michelle Fischer, City Administrator
City of Dripping Springs
511 Mercer Street
Dripping Springs, TX 78620

Dear Michelle:

As discussed in our phone conversation last month, I have revised our 2022 HOT Application by \$30,000.00. Changes are reflected on page 5 of 9. We feel this is a bare bones application but one which will allow the Visitors Bureau to still promote the Dripping Springs area in a positive way.

We have taken the additional staff member out of the budget but increased the marketing item as we will contract with AJR Media to help alleviate some social media and production needs.

We hope the City will consider any additional unexpected requests we may make during fiscal 2022-23.

Please contact me with any questions.

Sincerely,

Pam Owens
President/CEO
Dripping Springs Visitors Bureau



Application Date: 5-3-2021
 Page 5 of 9 REVISED 7-7-21

HOT GRANT FUNDING PROGRAM APPLICATION

Organizational Information

Name of Organization/Business: Dripping Springs Visitors Bureau
 Address: 509 Mercer St - PO Box 206
 City, State, Zip: Dripping Springs, TX 78620
 Contact Name: Pam Owens
 Contact Phone/Email: 512-858-4740/pam@destinationdrippingsprings.com
 Website Address: www.DestinationDrippingSprings.com
 Type of Business/Organization: Travel & Tourism/Visitors Bureau
 Non-Profit Status: 501(c)(3)
 Tax ID Number: 81-2538565
 Entity's Creation Date: March 30, 2016

Purpose of Organization/Business:

The mission of the Dripping Springs Visitors Bureau is to promote tourism and serve as ambassadors to connect visitors-guests and the community. The Dripping Springs Visitors Bureau is a non-profit organization that supports Dripping Springs area tourism industry members by creating a presence through the local Visitors Center, as well as optimizing marketing tools, regionally, throughout the U.S. and internationally. DSVB also supports the DS Chamber of Commerce, the City of Dripping Springs and the Texas Hill Country Trail Region in their efforts to promote Dripping Springs and tourism within our area of the Texas Hill Country.

Event/Project Information

Name of Event/Project: Dripping Springs Visitors Bureau / Destination Dripping Springs
 Date of Event/Project: October 1, 2021 - September 30, 2022
 Location of Event/Project: Dripping Springs / Driftwood
 Description of Event/project: Marketing & supporting tourism industry in our area

Funding Amount Requested: \$225,000.00

How funds will be used, including itemized list of expenditures which can be attached separately:
For the Visitors Center facility and management, marketing the Dripping Springs/Driftwood area and supporting other organizations/events with eligible HOT funding.

Percentage of Total Event/Project Cost Covered by HOT Funding: 100%

Please indicate which Category or Categories apply to the Funding Request, and list the Amount Requested under each category:

Convention Center or Visitor Information Center: construction, improvement, equipping, repairing, operation, and maintenance of convention center facilities or visitor information centers or both.
Amount requested under this category: \$170,000.00

Registration of Convention Delegates: furnishing of facilities, personnel, and materials for the registration of convention delegates or registrants
Amount requested under this category: _____

Advertising, Solicitation, Promotional programs to attract tourists and convention delegates or registrants to the municipality or its vicinity.
Amount requested under this category: \$45,000

Promotion of the Arts that Directly Enhance Tourism and the Hotel & Convention Industry: the encouragement, promotion, improvement, and application of the arts that can be shown to have some direct impact on tourism and the hotel/convention industry. The impact may be that the art facility or event can show hotel nights that are booked due to their events or that guests at hotels attend the arts event. Eligible forms of art include instrumental and vocal music, dance, drama, folk art, creative writing, architecture, design and allied fields, painting, sculpture, photography, graphic and craft arts, motion picture, radio, television, tap and sound recording, and other arts related to the presentation, performance, execution, and exhibition of these major art forms.
Amount requested under this category: \$10,000.00

Historical restoration and preservation projects or activities or advertising and conducting solicitation and promotional programs to encourage tourists and convention delegates to visit preserved historical sites or museums.
Amount requested under this category: _____

Expenses including promotional expenses, directly related to a sporting event in which the majority of participants are tourists. The event must substantially increase economic activity at hotels within the city or its vicinity.
Amount requested under this category: _____

How many individuals are expected to participate in the sporting related event? _____

How many participants at the sporting related event are expected to be from another City or County? Quantify how the sporting related event will substantially increase economic activity at hotels within the city or its vicinity.

Funding transportation systems for transporting tourists from hotels to and near the city to any of the following destinations: 1) the commercial center of the city; 2) a convention center in the city; 3) other hotels in or near the city; and 4) tourist attractions in or near the city.

Amount requested under this category: _____

What sites or attractions will tourists be taken to by this transportation:

Will members of the general public (non-tourists) be riding on this transportation?

What percentage of the ridership will be local citizens?

Signage directing tourists to sights and attractions that are visited frequently by hotel guests in the municipality.

Amount requested under this category: _____

What tourist attractions will be the subject of the signs:

Promotion and Preservation of Dark Skies. Construction and maintenance of infrastructure and the purchase and installation of hardware that reduces light pollution and sky glow.

Amount requested under this category: _____

Describe Construction or Maintenance Project to include location, type of infrastructure and/or hardware to be installed:

All Funding Requests

Section must be completed for city to evaluate this application. Incomplete applications are subject to automatic denial.

How many years have you held this Event/Project: _____ Disclaimer for this section _____ What is the expected attendance of the Event/Project: NA

How many people attending the Event/Project will use Dripping Springs hotels: NA

How many nights will the attendees be staying for the Event/Project: NA

Do you reserve a room block for this event/project at an area hotel and if so, for how many rooms and at which hotels?

NA

List other years (over the last three years) that you have hosted your Event/Project with amount of HOT grant funding and the number of hotel rooms used:

<u>Month/Year Held</u>	<u>Grant Amount</u>	<u>Number of Hotel Rooms Used</u>
<u>NA</u>	<u>NA</u>	<u>NA</u>
<u>NA</u>	<u>NA</u>	<u>NA</u>
<u>NA</u>	<u>NA</u>	<u>NA</u>

How will you measure the impact of your event on area hotel activity (e.g.; room block usage information, survey of hoteliers, etc)?

Through hotelier reports.

Please list other organization, government entities, and grants that have offered financial support to your event/project:

NA

Admission Fee for Event/Project: NA

Anticipated Net Profit, if any: NA

Please list all promotion efforts your organization is coordinating, and the amount financially committed to each media outlet:

Newspaper: NA

Internet: NA
 Radio: NA
 TV: NA
 Other Paid Advertising: NA

Number of Press Releases to Media: NA
 Number of Direct Mailings to out-of-town recipients: NA
 Other Promotions: NA

Will you include a link to the Dripping Springs Visitors Bureau or other source on your promotional handouts and in your website for booking hotel nights during this event/project? NA

Will you negotiate a special rate or hotel/event package to attract overnight stays? NA

What new marketing initiatives will you utilize to promote hotel and convention activity for this event/project?

Staff will continue to analyze and stay on the cutting edge of marketing techniques to maximize budgeted marketing dollars.

Our Tourism Advisory Team is working on an inventory of meeting/lodging assets in order to develop a weekday/corporate outreach plan.

What geographical areas does your advertising and promotion reach?

Targeted social media in the Houston, Dallas and San Antonio areas as well as paid promotions

on www.TourTexas.com which reaches an international market.

How many individuals will your proposed marketing reach who are located in another city of county?

Not available

If the funding requested is related to a permanent facility (e.g. museum, visitor center)?

Expected Attendance Monthly/Annually: 1500 - DS Visitors Center

Percentage of those in attendance that are staying at area hotel/lodging facilities: 50%

Completed application with required attachments must be submitted to the City of Dripping Springs:

By Mail to:

City of Dripping Springs
Attn: City Administrator
PO Box 384
Dripping Springs, TX 78620

In Person to:

City of Dripping Springs
City Hall
511 Mercer Street
City of Dripping Springs, TX 78620

Electronic Submission to:

mfischer@cityofdrippingsprings.com

I fully understand the Local HOT Grant Program Application and Guidelines established by the City of Dripping Springs. I intend to use this grant for the aforementioned Event/Project expenditure to forward the efforts of the City in *directly* enhancing and promoting tourism **and** the convention and hotel industry by attracting visitors from outside Dripping Springs into the city or its vicinity. I have attached to this application:

- proposed marketing plan for event/project
- schedule of activities for event/project
- a list of the organization/business board of directors
- proof of non-profit status (if applicable)
- proof of registered business with the State of Texas (if applicable), and

I understand that if I am awarded a Local HOT Grant by the City of Dripping Springs, I will be required to enter into a Local HOT Grant Program Agreement with the City and any deviation from the approved project and the Agreement may result in the partial or total withdrawal of the Local HOT Grant Program funds.

Dripping Springs Visitors Bureau

Business/Organization Name

5-3-2021

Applicant's Signature

Date

Disclaimer for page 7 of Application - *All Funding Requests*

The HOT Application is geared toward an event or project. As in previous years, the Dripping Springs Visitors Bureau requests funding for the full fiscal year, therefore, the majority of page 7 of 9 does not pertain to our organization. See Scope of Work for activities requiring funding.

VB STAFF, TAT and BOARD OF DIRECTORS

Dripping Springs Visitors Bureau Office 512-858-4740

Staff

Pam Owens	President/CEO	512-658-4942	pam@destinationdrippingsprings.com
Hope Bolton	Comm/Mktg Specialist	512-569-0469	hope@destinationdrippingsprings.com

2020-2021 Tourism Advisory Team

Type	Member	Business	Title	Phone	Email	Workgroup
1 Brewery	Kent Killough	Vista Brewing	Owner	512-808-9197	kent@vistabrewingtx.com	DWT
2 Chamber rep	Brady McElroy	Revel Wilde	Owner	361-798-6574	brady@revelwilde.com	WCOT
3 Citizen	Amanda Lewis		Attorney	512-426-1021	akhlewis@icloud.com	Volunteer Support
4 City of DS rep	Taline Manassian	Dripping Springs City Council	Councilmember	512-970-9498	tmanassian@cityofdrippingsprings.com	Volunteer Support
5 Distillery	Nate Powell	Treaty Oak	Gen Mgr	512-680-1606	nate@treatyoakdistilling.com	DWT
6 Entertainment						Arts & Culture
8 Heritage & Art	Jenny Pack	Dr Pound Historical Farmstead	Director	562-682-7909	pioneer@drpoundfarmstead.org	Arts & Culture
9 Lodging	Kirtan Patel	Sleep Inn	Gen Mgr	214-454-3386	sleepinndrippingsprings@gmail.com	Weekday/Corporate
10 Lodging	Amanda Rodriguez	Holiday Inn Express	Gen Mgr	512-858-0280	gm@hiedrippingsprings.com	Weekday/Corporate
11 Lodging	Ravel Thai	TyRosa Ranch	Owner	512-222-8481	info@tyrosaranch.com	Weekday/Corporate
12 Restaurant	Mark Sewell	Hill Country Pizzeria	Owner	512-739-0052	msewell@sssrh.com	Volunteer Support
13 Retail Shopping	Amanda Pena	Wild Birds Unlimited	Mgr	512-970-0595	amandacpena@gmail.com	Marketing/Birding
14 Venue/Rental	Ashley Sansalone	Whim Event Rentals	Mgr	512-796-2452		Weekday/Corporate
15 Winery	Tom Parmeson	Parmeson Wines	Owner	707-477-5905	tom@parmesonwines.com	DWT

2018-2021 Board of Directors

1 Treasurer	Bonnie Humphrey	Bitwise Consulting	Owner	512-217-4278	bah@bitwiseconsulting.com	DWT
2 Member	Dave Niemeyer	Acofon Brewing	Owner	281-650-6685	dave@acoфонbrewing.com	Songwriters Festival
3 Member	Doyle Fellers	Marketing-retired	Citizen	512-858-0330	dmfellers@verizon.net	Arts & Culture
4 Member	Kim Hanks	Whim Hospitality	Owner	512-971-6081	kim@whimhospitality.com	Weekday/Corporate
5 President	Mary McRoberts	Hill Country Casitas	Owner	512-809-4958	mary@hillcountrycasitas.com	Volunteer Support
6 Secretary	Michelle Alexander	The Alexander House	Owner	512-917-1194	thealexanderatcreekroad@gmail.com	WCOT



Office of the Secretary of State

April 01, 2016

Attn: Strasburger & Price LLP

Strasburger & Price LLP
720 Brazos, Suite 700
Austin, TX 78701 USA

RE: Dripping Springs Visitors Bureau
File Number: 802425482

It has been our pleasure to file the certificate of formation and issue the enclosed certificate of filing evidencing the existence of the newly created nonprofit corporation.

Nonprofit corporations do not automatically qualify for an exemption from federal and state taxes. Shortly, the Comptroller of Public Accounts will be contacting the corporation at its registered office for information that will assist the Comptroller in setting up the franchise tax account for the corporation. Information about franchise tax, and contact information for the Comptroller's office, is available on their web site at <http://window.state.tx.us/taxinfo/franchise/index.html>. For information on state tax exemption, including applications and publications, visit the Comptroller's Exempt Organizations web site at <http://window.state.tx.us/taxinfo/exempt/index.html>. Information on exemption from federal taxes is available from the Internal Revenue Service web site at www.irs.gov.

Nonprofit corporations do not file annual reports with the Secretary of State, but do file a report not more often than once every four years as requested by the Secretary. It is important for the corporation to continuously maintain a registered agent and office in Texas as this is the address to which the Secretary of State will send a request to file a periodic report. Failure to maintain a registered agent or office in Texas, failure to file a change to the agent or office information, or failure to file a report when requested may result in the involuntary termination of the corporation. Additionally, a nonprofit corporation will file documents with the Secretary of State if the corporation needs to amend one of the provisions in its certificate of formation. If we can be of further service at any time, please let us know.

Sincerely,

Corporations Section
Business & Public Filings Division
(512) 463-5555
Enclosure



Office of the Secretary of State

CERTIFICATE OF FILING OF

Dripping Springs Visitors Bureau
File Number: 802425482

The undersigned, as Secretary of State of Texas, hereby certifies that a Certificate of Formation for the above named Domestic Nonprofit Corporation has been received in this office and has been found to conform to the applicable provisions of law.

ACCORDINGLY, the undersigned, as Secretary of State, and by virtue of the authority vested in the secretary by law, hereby issues this certificate evidencing filing effective on the date shown below.

The issuance of this certificate does not authorize the use of a name in this state in violation of the rights of another under the federal Trademark Act of 1946, the Texas trademark law, the Assumed Business or Professional Name Act, or the common law.

Dated: 03/30/2016

Effective: 03/30/2016



A handwritten signature in black ink, appearing to read "Cascos".

Carlos H. Cascos
Secretary of State

Form 202

Secretary of State
P.O. Box 13697
Austin, TX 78711-3697
FAX: 512/463-5709



**Certificate of Formation
Nonprofit Corporation**

Filed in the Office of the
Secretary of State of Texas
Filing #: 802425482 03/30/2016
Document #: 663439610002
Image Generated Electronically
for Web Filing

Filing Fee: \$25

Article 1 - Corporate Name

The filing entity formed is a nonprofit corporation. The name of the entity is :

Dripping Springs Visitors Bureau

Article 2 – Registered Agent and Registered Office

A. The initial registered agent is an organization (cannot be corporation named above) by the name of:

OR

B. The initial registered agent is an individual resident of the state whose name is set forth below:

Name:

Robert M. O'Boyle

C. The business address of the registered agent and the registered office address is:

Street Address:

720 Brazos Street, Suite 700 Austin TX 78701

Consent of Registered Agent

A. A copy of the consent of registered agent is attached.

OR

B. The consent of the registered agent is maintained by the entity.

Article 3 - Management

A. Management of the affairs of the corporation is to be vested solely in the members of the corporation.

OR

B. Management of the affairs of the corporation is to be vested in its board of directors. The number of directors, which must be a minimum of three, that constitutes the initial board of directors and the names and addresses of the persons who are to serve as directors until the first annual meeting or until their successors are elected and qualified are set forth below.

Director 1: **Jason McNutt**

Title: **Director**

Address: **PO Box 206 Dripping Springs TX, USA 78620**

Director 2: **Gina Anderson**

Title: **Director**

Address: **PO Box 206 Dripping Springs TX, USA 78620**

Director 3: **Rick King**

Title: **Director**

Address: **PO Box 206 Dripping Springs TX, USA 78620**

Article 4 - Organization Structure

A. The corporation will have members.

or

B. The corporation will not have members.

Article 5 - Purpose

The corporation is organized for the following purpose or purposes:

Exclusively for charitable purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code or corresponding section of any future federal tax code.

Supplemental Provisions / Information

[The attached addendum, if any, is incorporated herein by reference.]

Effectiveness of Filing

A. This document becomes effective when the document is filed by the secretary of state.

OR

B. This document becomes effective at a later date, which is not more than ninety (90) days from the date of its signing. The delayed effective date is:

Organizer

The name and address of the organizer are set forth below.

Robert M. O'Boyle **720 Brazos Street, Suite 700, Austin, TX 78701**

Execution

The undersigned affirms that the person designated as registered agent has consented to the appointment. The undersigned signs this document subject to the penalties imposed by law for the submission of a materially false or fraudulent instrument and certifies under penalty of perjury that the undersigned is authorized under the provisions of law governing the entity to execute the filing instrument.

Robert M. O'Boyle

Signature of organizer.

FILING OFFICE COPY

IRS DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
PHILADELPHIA PA 19255-0023

Date of this notice: 05-11-2016

002624.662021.347291.437 1 MB 0.419 850



Employer Identification Number:
81-2538565

Form: SS-4

Number of this notice: CP 575 A



DRIPPING SPRINGS VISITORS BUREAU
PO BOX 206
DRIPPING SPGS TX 78620

For assistance you may call us at:
1-800-829-4933

002624

IF YOU WRITE, ATTACH THE
STUB OF THIS NOTICE.

WE ASSIGNED YOU AN EMPLOYER IDENTIFICATION NUMBER

Thank you for applying for an Employer Identification Number (EIN). We assigned you EIN 81-2538565. This EIN will identify you, your business accounts, tax returns and documents, even if you have no employees. Please keep this notice in your permanent records.

When filing tax documents, payments, and related correspondence, it is very important that you use your EIN and complete name and address exactly as shown above. Any variation may cause a delay in processing, result in incorrect information in your account, or even cause you to be assigned more than one EIN. If the information is not correct as shown above, please make the correction using the attached tear-off stub and return it to us.

Based on the information received from you or your representative, you must file the following form(s) by the date(s) shown.

Form 941	05/06/2016
Form 1120	03/15/2017
Form 940	01/31/2017

After our review of your information, we have determined that you have not filed tax returns for the above-mentioned tax period(s) dating as far back as 2016. Please file your return(s) by 05-26-2016. If there is a balance due on the return(s), penalties and interest will continue to accumulate from the due date of the return(s) until it is filed and paid. If you were not in business or did not hire any employees for the tax period(s) in question, please file the return(s) showing you have no liabilities.

If you have questions about the form(s) or the due dates(s) shown, you can call us at the phone number or write to us at the address shown at the top of this notice. If you need help in determining your annual accounting period (tax year), see Publication 538, Accounting Periods and Methods.

We assigned you a tax classification based on information obtained from you or your representative. It is not a legal determination of your tax classification and is not binding on the IRS. If you want a legal determination of your tax classification, you may request a private letter ruling from the IRS under the guidelines in Revenue Procedure 2004-1, 2004-1 I.R.B. 1 (or superseding Revenue Procedure for the year at issue). Note: Certain tax classification elections can be requested by filing Form 8832, Entity Classification Election. See Form 8832 and its instructions for additional information.

**Dripping Springs Visitors Bureau
Destination Dripping Springs
FY2022 Marketing Plan**

The Dripping Springs Visitors Bureau is the City of Dripping Springs designated marketing organization to provide tourism, venue, entertainment, and lodging promotion to visitors as well as residents in the greater Dripping Springs community for them to enjoy a pleasurable experience that enhances quality of life and generates economic growth. The 2022 marketing campaign will consider travel sentiment during the current situation. We will continue to showcase Dripping Springs as dynamic, authentic, and welcoming. We will modify messaging to highlight safe travel and encourage future travel when appropriate based on consumer sentiment and the state of recovery within Texas. The advertising will also highlight experiences travelers want during this time, such as road trips, outdoor activities and other travel activities that easily accommodate continued social distancing.

A website, social media presence, and a bi-annual Visitors Guide showcase the variety of tourism offerings. Destination Dripping Springs will create and distribute paid advertising, printed materials, public relations, digital and social media and promotional items to the traveling public, news media, and tourism industry professionals.

The Destination Dripping Springs website will continue to act as a landing page and specifically promotes Dripping with Taste Trail & Passport, the Wedding Capital of Texas®, and the Dripping Springs Songwriters Festival. Promotion of entertainment, lodging and venues in the Dripping Springs, Driftwood and Cedar Valley areas is the goal of Destination Dripping Springs.

Advertising Objectives

- Inspire future travel
- Provide inspirational information to the traveler who is actively seeking out information about travel
- Instill confidence in Dripping Springs as a destination with a variety to offer the traveler who is traveling or planning a future trip
- Increase awareness of Dripping Springs as a premier vacation destination
- Increase intent to book a trip to Dripping Springs

Media Plan

Even though we expect the pandemic situation to be much better in the coming year, we will constantly monitor the pandemic situation, travel restrictions and consumer behaviors and optimize both our messaging and targeting to ensure that our campaign is relevant and effective at reaching people who are considering travel.

Our overall media approach will utilize a variety of tactics and strategies that will evolve throughout the year. The FY22 advertising program focuses primarily on a domestic campaign as it produces the greatest opportunity to reach potential vacation travelers efficiently, while delivering the highest awareness levels and largest return on ad spend.

Domestic Target Market Demographics

- GenXers, HHI \$60K-\$100K with children under 18 in Household
- Affluent GenX Travel Enabled / Travel Intender HHI \$100K+
- Millennials, HHI \$40K+, Travel Enabled/Travel Intender
- Boomers, HHI \$60K - \$100K with no children
- Affluent Boomer Travel Enabled / Travel Intender HHI \$100K+

Key Performance Indicators:

- Advertising awareness and intent to travel because of advertising and website exposure
- Advertising impact on perceptions of Dripping Springs as a vacation destination (“makes me want to visit DS”)
- Hotel bookings, hotel revenue generated because of the advertising and website (sales tax)
- Leads (engagement) generated by the marketing efforts (website visits, email sign-ups, conversion rate, video views, social media followers)
- Return on Investment (ROI)

Public Relations

Objectives:

Position Dripping Springs as a safe, year-round travel destination by promoting the destination’s unique and on-trend attributes that cater to travelers eager to get out and explore.

- Generate impactful and positive local, regional, and national press coverage in target media outlets.
- Drive an increase in meaningful engagements across owned social media channels and elevate social content by utilizing industry best practices and month-over-month channel performance to guide content strategy.

Targets

Public Relations & Social Media programs will initially target Texans with a focus on travel-related safety measures and socially distant activities. Messaging will tap into the unique travel experiences that can be found right in our own backyard.

Social Media Tactics

Primary social media platforms are Facebook, Instagram, Twitter, and Pinterest

Tactical elements include:

- Curated content highlighting our destinations and activities
- Large-scale interactive campaigns designed to drive consumer participation
- User Generated Content (UGC) engagement via Dripping Springs official hashtag, #DSTX.

Dripping Springs Visitors Bureau/Destination Dripping Springs Scope of Work

Manage all the social media across four different platforms including Facebook, Instagram, Pinterest, and Twitter. Including content creation and scheduling for:

- Destination Dripping Springs
- Wedding Capital of Texas®
- Dripping with Taste®
- Dripping Springs Songwriters Festival

Manage the Destination Dripping Springs website that includes three subdomains:

- Dripping Springs Songwriters Festival
- Wedding Capital of Texas®
- Dripping with Taste®

Develop and implement search engine optimization (SEO) strategies by:

- coordinating and creating content
- design
- social media
 - including but not limited to blog content
 - keyword research,
 - optimizing website content
 - landing pages
 - collecting data and reporting on traffic, ranking, and other SEO aspects

Manage four different monthly e-newsletters with a combined contact list of over 7,000 people, including :

- Destination Dripping Springs general monthly newsletter
- Birds & Bloom, nature-based newsletter
- Wedding Capital of Texas® newsletter
- Dripping Springs Songwriters Festival newsletter

Create digital and social media display ads as well as print advertising for magazines and newspapers. Manage and monitor advertising campaigns.

Develop and coordinate event management of small and large-scale festivals, networking and educational meetings, wedding showcases, fundraising events, and trail passes.

Manage public relations: pitching stories to the media, preparing the media kit for the Community Digital Marketing program, write press releases, and field media questions.

Create content and work with publisher on the bi-annual *Dripping Springs Visitor's Guide*.

Support the Film Friendly Texas Community members by facilitating filming applications and locale information.

Support the Music Friendly Community program through facilitating a member directory and holding meetings with the Advisory Council to determine music industry needs in our area.

Continue to work with the Holiday Lighting program including:

- developing fundraisers
- instituting a community member design team

Staff the Visitors Center during normal work hours with DSVB personnel and/or volunteers in order to support tourism partners and Chamber of Commerce members. Staff support includes but not limited to opportunities for continued education and company benefits.

Maintain the Visitors Center as an inviting and informative location for guests.

Maintain good fiduciary records and HOT reports to the City of Dripping Springs.

Maintain an exemplary public presence in the community by having unbiased and supportive roles for other organizations.

Report to the DSVB board of directors on a quarterly basis.

Work with City of Dripping Springs team and the Chamber of Commerce on mutually inclusive programs.

Work with other Hill Country members to develop a program for the 2024 total solar eclipse.

Search for new ways to keep Dripping Springs in the forefront of tourism activities.

PARKS

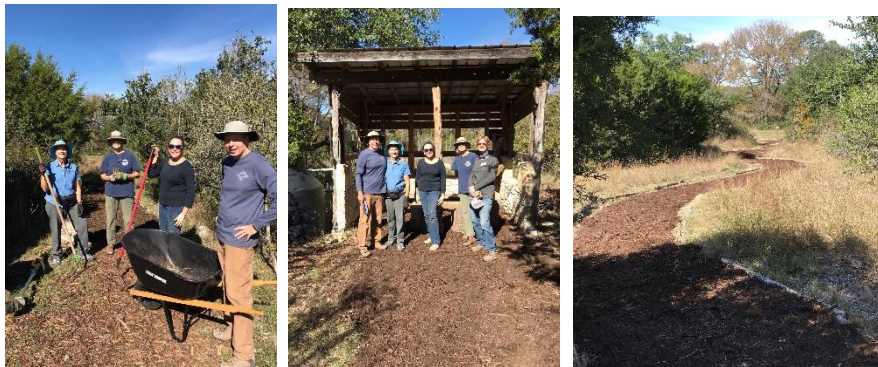
CHARRO RANCH PARK – Submitted by Sue Harding, Lead Volunteer

Saturday, November 14, 2021, five master naturalist volunteers worked three hours loading many wheelbarrows-full of mulch, transporting, and spreading it on the trail leading to the bird blind, and spreading mulch at the bird blind (see photos). We also blocked unofficial cut-thru trails (made unwittingly by a landscape mowing crew) with fallen juniper branches.

The bird feeders were re-stocked at the bird blind and a few critical plants were watered at the native plant demo garden.

Note: the water pressure from the water storage tank was very low and the battery charge indicator showed “LOW” despite many sunny days which the solar panel should have had ample time to fully charge the batteries. Once again, this points to problem with either the batteries or the solar panel. I believe the batteries were replaced within the last year. The solar panel should probably be replaced. I don't believe it has ever been checked out or serviced since it was originally installed in 2008 (?).

Photos show master naturalists Mike Meves, Becky Reynolds, Irene Bondi, and Dick McBride; behind the camera is Dick Barham.



DRIPPING SPRINGS RANCH PARK – Submitted by Emily Nelson

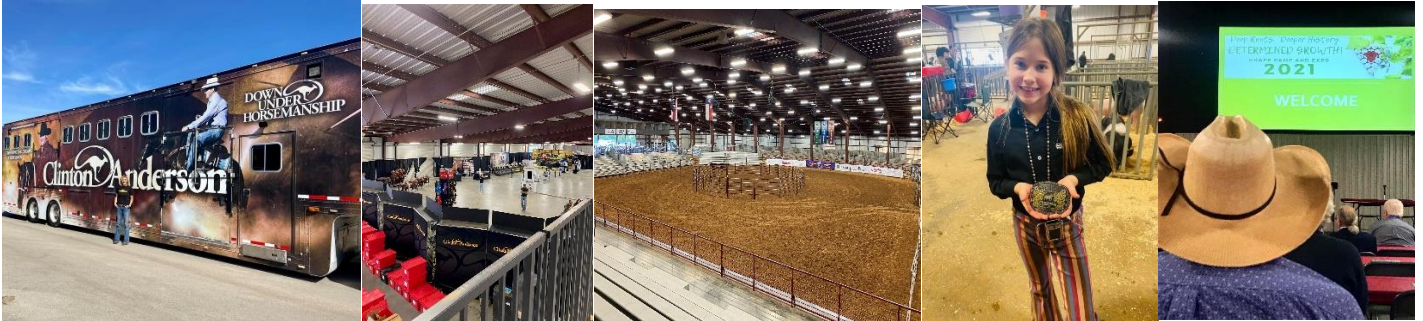


Such an amazing month at the Ranch Park! We hosted our first Texas Wine Grape Growers Grape Camp Trade Show, and our highest attended event, Clinton Anderson's Down Under Tour. Grape Camp really enjoyed our facility and has already booked dates to return next year. Clinton Anderson had over 1000 people attend. The attendees spanned over 25 different states and an international attendee for a weekend event. There were numerous compliments on the facility and staff. In addition to Grape Camp and Clinton Anderson, DSRP hosted 2 banquets, a dog show, and the livestock show, Fall Classic. Staff have not stopped turning spaces and prepping for incoming events.

We are still down a Full Time Ranch Hand and a Part Time Facility Specialist. Hiring has proven very difficult. We renamed the Ranch Hand position to Maintenance Worker to see if we can draw a wider pool of applicants. Applicants have been

taking higher paying positions over ours. We just opened our Part Time Customer Service positions. Hopefully, we can fill all our positions soon.

The Ranch Park Manager has been meeting with the Maintenance Director to create a long-range plan for facility maintenance. Hopefully, this will really help us during the yearly budget planning.



FOUNDERS MEMORIAL PARK

Nothing to report.

RATHGEBER NATURAL RESOURCE PARK

Nothing to report.

PROGRAMS & AQUATICS – *Submitted by Mack Rusick*



This month has been busy working on winter projects. We have just finished up contracts for our improvement projects at the pool including our custom thermal blankets, finishing the cool decking around the pool deck, and a new filtration system. Through some research and good connections, we have been able to keep these improvement projects under budget for now. This has been a particular success because of the supply delays and inflated supply costs. Now we just must wait and see if we can get these projects wrapped up before the season starts or if

we must wait until the fall.

We have been chipping away at plans for camp next year and are excited to offer some great activities. Each week campers will get to go to Founders Park to swim at the pool. We were able to partner with a local shuttle company to provide daily transportation for us at a discounted rate! Additionally, we are excited to offer archery each week at camp. We will be certifying some of our counselors as archery instructors through an educational program offered by TPWD. We are excited to provide some of these new activities at camp this year.

We met with volunteers from the adult softball program including Coach Waits who ran the program as a volunteer for over 40 years. They had some great insight on how the program has been run in the past and potential challenges that we may face moving forward. The fields are loved and used well by the players but are sadly in disrepair. Lack of equipment, funding, and care has taken a toll on the fields, and we are hoping to bring

that back to life. We are faced with some major challenges moving forward but we are hopeful that the players will step up to help keep Coach Waits legacy going.

COMMUNITY SERVICES

EVENTS

UPCOMMING EVENTS

- December 3 ELF the movie at Stephenson Bldg Field
- December 4 Christmas on Mercer
- April 22-24 Founders Day Festival
- May 7 Festival of Flight –
 World Migratory Bird Day

COMMUNITY INITIATIVES

Nothing to report.

COMMUNITY SERVICE PERMITS + PARK RENTALS + CO-SPONSORSHIPS

Permits & Rentals	Qty
Co-Sponsorship Requests	4
Commerical Activity in Park Permits	4
Filming Permits	0
Itinerant Vendor Permits	10
Park Rentals	3
Pavilion Rentals	8
Pool Rentals	0
Triangle Banner Displays	10

FARMERS MARKET – Submitted by Charlie Reed, Farmers Market Manager



The month was full of ups and downs weather-wise, starting out with a heavy rain event that kept vendors and customers away, then leading to two markets with high wind conditions. The time change shortened the market's hours as

well, leading to an earlier closing time as the market explores options for parking lot lights.

Despite these conditions, vendors reported their highest average sales of the year, averaging \$535+ each per market, an increase of more than \$200 since we started counting in July. The number of vendors at each market hovered near capacity – and with vendors reporting high averages, the market saw its highest average sales per week of the year, setting a yearly high on November 10.

Date	Vendors	Customers	Music
11/03/21	8	n/a	n/a (rain)
11/10/21	45	550	Jerry River
11/17/21	45	450	Bob Slaughter
11/24/21	36	425	Jerry Kirk

Totals and Averages by Month

	July	August	September	October	November
# Markets	4	4	5	4	3
Vendors	161	148	191	165	126
Vendors Reporting	159	148	190	165	124
Total Sales	\$52,387	\$51,519	\$73,933	\$76,769	\$59,596
Avg. per Market	\$13,097	\$12,880	\$14,787	\$19,192	\$19,865
Average per Vendor	\$329.48	\$348.10	\$389.12	\$465.27	\$535.09
Customers	2107	1634	2187	2250	1425
Per Market	527	409	437	563	475
Sales per Customer	\$24.86	\$31.53	\$33.81	\$28.08	\$41.82

CITY OF DRIPPING SPRINGS

ORDINANCE 2021-

AN ORDINANCE OF THE CITY OF DRIPPING SPRINGS, TEXAS, (“CITY”) ENACTING A TEMPORARY MORATORIUM ON THE ACCEPTANCE, AUTHORIZATION, AND APPROVALS NECESSARY FOR THE SUBDIVISION, SITE PLANNING, DEVELOPMENT, AND CONSTRUCTION IN THE CITY LIMITS AND EXTRATERRITORIAL JURISDICTION, PROVIDING FOR FINDINGS OF FACT, DEFINITIONS, APPLICABILITY, PURPOSE, ENACTMENT, DURATION, EXTENSION, EXCEPTIONS AND EXEMPTIONS, DETERMINATION AND APPEALS, REPEALER, SEVERABILITY, ENFORCEMENT, EFFECTIVE DATE, AND PROPER NOTICE AND MEETING.

WHEREAS, the City Council of the City of Dripping Springs (“City Council”) as a duly-elected legislative body, finds that it is facing significant historic and contemporary land use challenges that existing regulations were not designed to address; and

WHEREAS, the City Council finds that it is in the best interest of the City and its citizens to adopt and enact a moratorium in order to temporarily suspend the acceptance, authorization, and approvals necessary for the subdivision, site planning, development, zoning, and construction on real property in the City limits and extraterritorial jurisdiction; and

WHEREAS, the City has developed a Comprehensive Plan for development within the City and desires to protect its ability to regulate development within its jurisdiction; and

WHEREAS, the City has started the process of revisiting the Comprehensive Plan and studying land use and development in the City limits and extraterritorial jurisdiction, and has issued a Request for Qualifications for a professional land planning firm to provide comprehensive plan and development code services; and

WHEREAS, Texas Local Government Code Section 51.001 provides the City general authority to adopt an Ordinance or police regulations that is for the good government, peace or order of the City and is necessary or proper for carrying out a power granted by law to the City; and

WHEREAS, Texas Local Government Code Chapters 211, 213, 214, and 217 grant the City certain regulation authority concerning construction, land use, nuisances, structures and development-related activities; and

WHEREAS, the City seeks to ensure that impending and future development is conducted in a fiscally-sustainable and environmentally responsible manner; and

WHEREAS, the City Limits and Extraterritorial Jurisdiction (ETJ) are comprised of a combination of topographical, ecological, and drainage features that create significant development challenges; and

WHEREAS, the City will change drastically if continued growth and development should occur under the City's existing Code of Ordinances and Comprehensive Plan, which no longer adequately address concerns about the effect of responsible development in the City and ETJ; and

WHEREAS, as codified in Tex. Water Code § 26.081(a), the Legislature of the State of Texas found and declared that it is necessary to the health, safety, and welfare of the people of this state to implement the state policy to encourage and promote the development and use of regional and area-wide waste collection, treatment, and disposal systems to serve the waste disposal needs of the citizens of the state and to prevent pollution and maintain and enhance the quality of the water in the state; and

WHEREAS, the City agrees with the Legislature of the State of Texas that it is necessary to the health, safety, and welfare of the people in the City limits and the ETJ to encourage and promote the development and use of regional and area-wide waste collection, treatment, and disposal systems to serve the waste disposal needs of the citizens in the City limits and the ETJ to prevent pollution and maintain and enhance the quality of the water in the City limits and the Extraterritorial Jurisdiction; and

WHEREAS, the City conducted an analysis to determine the adequacy of the City's current regional wastewater facilities and the need beyond the estimated capacity that is expected to result from new property development; and

WHEREAS, upon review of the analysis by the City's Wastewater Engineer and Deputy City Administrator, the City Council has made findings contained herein as **Attachment "B"** related to the inadequacy of existing essential public facilities in accordance with Section 212.135 of the Texas Local Government Code; and

WHEREAS, the City Council finds that certain essential public and private infrastructure, being wastewater facilities and improvements and transportation facilities and improvements throughout the City Limits and ETJ, are inadequate and insufficient to adequately serve new development; and

WHEREAS, relying on the analysis provided by City Staff, the outstanding permits issued by the City prior to this moratorium, and the City's impact fee analysis, the City Council makes the following findings:

1. Taking into account all wastewater that has been committed by contract, the City's wastewater facilities are at capacity; and
2. The current wastewater collection system has bottlenecks that threaten the proper operation of the City's regional wastewater system; and
3. Based on these bottlenecks and the contractual commitments that will utilize all additional capacity of the City's regional wastewater plant, there is currently no additional capacity available to commit to development of lots; and
4. This moratorium is reasonably limited to property located in the City limits and the ETJ.

WHEREAS, until actions can be taken to increase the wastewater capacity of the City of Dripping Springs, allowing for additional wastewater service connections to the Dripping Springs Wastewater Treatment Plant(s) service area will only exacerbate the situation; and

WHEREAS, the City Council finds that a temporary moratorium on the acceptance, authorization, and approvals necessary for the subdivision, site planning, development, and construction in the City Limits and ETJ will prevent the situation from becoming worse, and will allow the City time to address the measures needed to remedy the shortage of capacity and to secure funds to pay for such remedial measures; and

WHEREAS, additional evaluation of the existing infrastructure and development are needed to allow for growth and development within the City Limits and ETJ while protecting the health, safety, environment, quality of life, and general welfare of its residents; and

WHEREAS, the City desires to study and evaluate the impact of further development; the need for additional wastewater facilities; appropriate zoning districts and district regulations; appropriate land use and wastewater regulations; and issues that will affect future growth and development of the area within its jurisdiction; and

WHEREAS, the City finds this evaluation process will require community input and will take a reasonable amount of time to complete; and

WHEREAS, the City has determined that it is necessary to study and update its development ordinances and procedures in order to clarify and improve its planning policies based on the forthcoming regulations, strengthen the connection between the City's Code of Ordinances and the goals and needs of the City's residents, and to protect the health, safety, environment, quality of life, and general welfare of its residents; and

WHEREAS, in order for the City to have adequate and reasonable time to review, evaluate, and revise the City's development ordinances, and to consider the impact of the ordinances upon future growth, public health and safety, development, the natural environment, and place of architectural, and ecological importance and significance

within the City Limits and ETJ, the City wishes to maintain the *status quo* by implementing a temporary moratorium, during which certain applications for development permits and/or approvals will be suspended; and

WHEREAS, the purpose of prohibiting certain applications for development permits and/or approvals during this study period includes, within limitation, preserving the *status quo* during the planning process, eliminating incentives for hurried applications, facilitating thoughtful and consistent planning, avoiding exploitation of the delays inherent in the municipal legislative process, and preventing applications from undermining the effectiveness of the revised rules by applying for permits and/or approvals in order to avoid the application of new, possibly more restrictive, development regulations; and

WHEREAS, in recognition of the importance of development permits and/or approvals to the community, the City desires to implement this moratorium for a stated and fixed time period, and to include a waiver provision in accordance with Local Government Code Chapter 212, Subchapter E; and

WHEREAS, all notices and hearings, including a hearing by the Planning & Zoning Commission, have been published and held in accordance with applicable statutes, laws, and regulations; and

WHEREAS, based on the findings contained herein, information provided by City staff, and the evidence submitted at public hearings, the City Council has determined that existing development ordinances and regulations and other applicable laws are inadequate to prevent existing essential public facilities from exceeding capacity, thereby being detrimental to the public health, safety, and welfare of the residents of Dripping Springs; and

WHEREAS, the City Council finds that the enactment of this Ordinance is directly related to the immediate preservation of the public peace, health or safety.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DRIPPING SPRINGS, TEXAS THAT:

SECTION 1. FINDINGS OF FACT: The foregoing recitals are incorporated into this Ordinance by reference as legislative findings of fact as if expressly set forth herein.

SECTION 2. DEFINITIONS: As used in this Ordinance, these terms shall be defined as follows. Terms appearing in this Ordinance but not defined herein shall have the meanings provided in the City's Code of Ordinances, or if not defined by the City then the common meanings in accordance with ordinary usage.

A. Commercial property: means property zoned for or otherwise authorized for use other than single-family use, multifamily use, heavy industrial use, or use as a quarry.

B. Essential public facilities: means water, sewer/wastewater, or storm drainage facilities or street improvements provided by a municipality or private utility.

C. Permit: means a license, certificate, approval, registration, consent, permit, contract or other agreement for construction related to, or provision of, service from a water or wastewater utility owned, operated, or controlled by a regulatory agency, or other form of authorization required by law, rule, regulation, order, or ordinance that a person must obtain to perform an action or initiate, continue, or complete a project for which the permit is sought.

D. Project: means an endeavor over which a regulatory agency exerts its jurisdiction and for which one (1) or more permits are required to initiate, continue, or complete the endeavor.

E. Property development: means the construction, reconstruction, or other alteration or improvement of residential or commercial buildings or the subdivision or replatting of a subdivision of residential or commercial property.

F. Residential property: means property zoned for or otherwise authorized for single-family or multi-family use.

SECTION 3. APPLICABILITY: The City of Dripping Springs hereby enacts this Ordinance in order to implement a temporary moratorium on the acceptance and processing of certain applications and issuance of particular permits and other forms of municipal authorizations related to specific construction and land development activities. This temporary moratorium applies to all city zoning district uses within the City Limits and the ETJ.

Unless a project falls within an Exception (as provided below), this temporary moratorium applies to all applications for property development permits. Permits that are affected or not affected by the Moratorium are attached as **Attachment “A”**. The applicability of the moratorium to any permit not listed shall be determined based on the purpose of the moratorium and may be added to the list by the City Administrator.

SECTION 4. PURPOSE: This temporary moratorium is being enacted to maintain the *status quo*, and to:

- A. assess the short-term and long-term comprehensive plan;
- B. review the City’s policies on the acceptance of applications for municipal permits for construction or development;
- C. update the City’s permitting and planning requirements and processes for wastewater and transportation infrastructure; and
- D. obtain and review public input and expert guidance.

SECTION 5. ENACTMENT: The City of Dripping Springs hereby enacts this Ordinance implementing a temporary moratorium on the City’s acceptance, review, approval,

and issuance of permits in the City Limits and ETJ.

SECTION 6. DURATION: The initial duration of this temporary moratorium shall be for a period of ninety (90) days after enactment of this Ordinance, or repeal of this Ordinance by the City, whichever is sooner.

SECTION 7. EXTENSION: If the City determines that the initial period is insufficient for the City to fully complete its study and planning, this Ordinance may be renewed or extended for an additional period of time, necessary to complete the study and implement the recommended changes to City codes, policies, and processes in accordance with the time limits as provided by law upon a majority vote of the City Council.

SECTION 8. EXCEPTIONS AND EXEMPTIONS:

A. Exceptions. Any property owner who believes that they fall within the below exceptions shall provide notice of the exception at time of application for any permit with the city-approved form. Exceptions are administratively approved or denied. Any exception that is denied may be appealed to the City Council. Exceptions will be determined within the same time period as the administrative completeness check for each project, or within ten business days, whichever is sooner. If a Grandfathered Development Status Determination Request is required, then the exception can be applied concurrently with the Request but the time frame of the Request shall be controlling.

- 1. No Impact Projects.** The temporary moratorium implemented by this Ordinance does not apply to a project that does not:
 - Impact wastewater capacity
 - Require land use modifications inconsistent with the updated comprehensive planning

To make a determination of whether a project is no impact as listed, an applicant shall apply for an exception to the moratorium.

- 2. Ongoing Projects.** The temporary moratorium implemented by this Ordinance does not apply to any projects that are currently, actively in progress for which valid City permits have been issued and have not expired as of November 18, 2021, such being the fifth business day after the date on which the City published notice of the public hearings to consider this Ordinance. The provisions of this Ordinance do not apply to any completed application or plan for development for a permit, plat, verification, rezoning, site plan, approved wastewater plan, or new or revised certificate of occupancy for Property Development that were filed prior to November 18, 2021. New permits applied for as part of a previously approved project may proceed once an exception is applied for and approved as described herein.

3. **Grandfathered Projects.** The temporary moratorium implemented by this Ordinance shall not apply to projects that are grandfathered under as provided by state law. Property owners asserting grandfathered rights under Texas Local Government Code Chapter 245 must submit an application claiming an exception to this temporary moratorium to the planning department for review in accordance with City policy. Grandfathered status can be approved through an approved Grandfathered Development Status Determination Request. If a Grandfathered Development Status Determination Request has been finalized by staff on or after November 18, 2019, then a new request is not required to meet this exception. New permits applied for as part of a previously vested project may proceed once an exception is applied for and approved as described herein.
4. **Development Agreement:** Property owners with a negotiated approval granted by the City Council providing for construction standards, platting, wastewater, and development rules pursuant to Local Government Code Chapter 212, Subchapter G may apply for an exception in accordance with City policy. New permits applied for as part of a Development Agreement project may proceed once an exception is applied for and approved as described herein.

- B. **Waivers.** Any property owner who does not assert rights under Texas Local Government Code Chapter 245, but who seeks authorization to proceed with the development permitting process during the time of the temporary moratorium can request a waiver. Property owners agreeing to construct certain wastewater infrastructure at property owners' sole expense and who do not require land use modifications inconsistent with the updated comprehensive planning, in accordance with Local Government Code Chapter 212, Subchapter E may apply for waiver in accordance with City policy.

SECTION 9. DETERMINATIONS & APPEALS

- A. **Exceptions.** The Planning Director or their designee shall make all initial determinations regarding the status of all projects seeking to apply for permits during this temporary moratorium and recognition of all Exceptions (as provided herein). Exceptions for projects filed within thirty (30) days of the effective date of this ordinance may be filed without a corresponding permit application. Any exception application filed within this period will be decided within ten (10) business days of receipt. Any exception that is denied may be appealed to City Council or the applicant may apply for a Waiver. An exception may be applied for by lot, project, plat, or all area covered by a particular permit or agreement.
- B. **City Council.** City Council shall make a final decision on waivers within 10 days of filing of application.
- C. **Waivers.** The decision to approve an Exemption (as provided for above) shall rest

solely with the City Council. Any denial will stand until the moratorium is lifted unless the project requesting the waiver has a substantial change and reapplies for a waiver.

SECTION 10. REPEALER: In the case of any conflict between the other provisions of this Ordinance and any existing Ordinance of the City, the provisions of this Ordinance will control.

SECTION 11. SEVERABILITY: If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, that invalidity or the unenforceability will not affect any other provisions or applications of this Ordinance that can be given effect without the invalid provision.

SECTION 12. ENFORCEMENT: The City shall have the power to administer and enforce the provisions of this Ordinance as may be required by governing law. Any person violating any provision of this temporary moratorium is subject to suit for injunctive relief as well as prosecution for criminal violations, and such violation is hereby declared to be a nuisance.

Nothing in this Ordinance shall be construed as a waiver of the City’s right to bring a civil action to enforce the provisions of this Ordinance and to seek remedies as allowed by law and/or equity.

SECTION 13. EFFECTIVE DATE: This Ordinance shall be effective immediately upon passage.

SECTION 14. PROPER NOTICE & MEETING: It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public, and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Texas Government Code, Chapter 551. Notice and public hearings were also provided as required by Texas Government Code Chapter 212, Subchapter E.

READ & ACKNOWLEDGED on First Reading on the 16th day of November 2021.

READ & APPROVED on the Second Reading on the 22nd day of November 2021.

CITY OF DRIPPING SPRINGS:

by: _____
Bill Foulds, Jr., Mayor

ATTEST:

Andrea Cunningham, City Secretary

ATTACHMENT “A”

**Permits Subject to Moratorium¹**

- Commercial/Multi-Family Building Permit Application
- Residential Building Permit Application
- Plan Review Application
- Subdivision Application
- Site Development Application
- Zoning Amendment/PDD Application
- Development Agreement
- Development Agreement Minor Modification/Amendment
- Conditional Use Permit
- Variance Application
- Wastewater Application
- Special District Agreement/Amendment
- Accessory Dwelling Unit Permit
- Swimming Pool Permit
- Mobile/Modular Home Permit

¹ Any permit subject to the Moratorium must be accompanied by an Exception or Waiver Form which can be found at www.cityofdrippingsprings.com/moratorium.

Permits not Subject to Moratorium

- Contractor Registration Form
- Grandfathered Status Request/Appeal
- City Limits/ETJ Determination Letter
- Street Cut/Driveway Permit
- Operational Permit/Inspection Application
- On Site Sewage Facility Permit Application
- Child Care Facility Health Inspection Application
- Food Establishment Permit/Compliance Inspection
- Mobile Food Unit
- Pre-Development Meeting Form
- Certificate of Appropriateness
- Annexation Application
- Sign Permit
- Master Sign Plan
- License to Encroach
- Exterior Lighting Compliance Review
- Zoning Determination Letter Request
- Residential Addition Permit
- Residential Accessory Structure Permit
- Residential Demolition Permit
- Residential Swimming Pool Permit
- Commercial Demolition Permit
- Commercial Tenant Finish Out

- Asbestos Compliance Statement
- Pyrotechnics/Fireworks Application
- Certificates of Occupancy Application (Business Move In/Change of Ownership)
- Any Fire Permits

BURGESS & NIPLE

235 Ledge Stone Drive | Austin, TX 78737 | 512.432.1000

Firm Registration No. F-10834

November 1, 2021

Laura Mueller
City Attorney
City of Dripping Springs

Dripping Springs, TX 78620

Re: South Regional WWTP Capacity Summary
CMA Job Number 1431-001

Dear Mrs. Mueller:

In October 2015, the City of Dripping Springs submitted an application to the TCEQ to convert its method of treated effluent disposal from land application to discharge into waters of the State, and to expand its wastewater treatment facilities to accommodate the aggressive growth in the Greater Dripping Springs area. The permit was contested and the case was heard at the State Office of Administrative Hearings. The City prevailed and was issued the permit on May 5, 2019 (permit WQ0014488003). However, because of pending litigation, construction of the new wastewater treatment and storage facilities are being delayed.

Based on operational information, the City's operator estimates that the existing South Regional WWTP is currently at a monthly average capacity of approximately 185,000 GPD. This is based on meters measuring flows to the drip irrigation fields and to the Caliterra Effluent Holding Pond. However, please note that in the months from April through September monthly average WWTP flows surpassed 200,000 GPD based on the flow meter in the chlorine contact chamber. This is believed to be inaccurate due to excessive backwashing of the cloth filters that has now been corrected. Below is a summary of the constructed, to be constructed, and permitted capacities for the South Regional WWTP current permit WQ0014488001.

- 189,500 GPD Current Constructed Capacity (127,500 GPD Drip Irrigation at WWTP + 62,000 GPD Surface Irrigation at Caliterra)
- 313,500 GPD Current Permitted Capacity (127,500 GPD Drip Irrigation at WWTP + 186,000 GPD Surface Irrigation at Caliterra)
- 284,000 GPD Future Permitted Capacity with Future Drip Fields Removed for WWTP and Effluent Pond Construction (98,000 GPD Drip Irrigation at WWTP + 62,000 GPD Surface Irrigation at Caliterra)
- 160,000 GPD Currently Constructed with Future Drip Fields Removed for WWTP and Effluent Pond Construction (98,000 GPD Drip Irrigation at WWTP + 62,000 GPD Surface Irrigation)

Laura Mueller
 City Attorney
 City of Dripping Springs
 November 1, 2021
 Page 2 of 3

- 394,000 GPD Amendment 2 (Adding 50,000 GPD Disposal Area at Carter Ranch and at 60,000 GPD at Heritage PID)

Drip irrigation disposal capacity will be reduced from 127,5000 GPD to 98,000 GPD during construction of the new discharge WWTP and 15,000,000 million gallon effluent holding pond.

Attached is a summary of the developments the City has committed to provide service to in the near future, along with a summary of permitted capacity and capacity of different construction phases. There is enough tankage in the existing WWTP to accommodate treatment capacity, however the City is limited by storage and disposal area capacity. For the purpose of this evaluation, a wastewater production estimate of 175 GPD/LUE is used. As one will see, the capacity of the existing permitted capacity will be exceeded if the total number of committed LUEs are connected before the current pending Amendment 2 to the permit is issued by the TCEQ and/or if future irrigation phases that are needed are not constructed. There are three surface irrigation phases (each 62,000 GPD) permitted at Caliterra. Only one has been constructed. The following is a clause from the City's permit WQ0014488001:

Whenever flow measurements for any domestic sewage treatment facility reach 75 percent of the permitted daily average or annual average flow for three consecutive months, the permittee must initiate engineering and financial planning for expansion and/or upgrading of the domestic wastewater treatment and/or collection facilities. Whenever the flow reaches 90 percent of the permitted daily average or annual average flow for three consecutive months, the permittee shall obtain necessary authorization from the Commission to commence construction of the necessary additional treatment and/or collection facilities. In the case of a domestic wastewater treatment facility which reaches 75 percent of the permitted daily average or annual average flow for three consecutive months, and the planned population to be served or the quantity of waste produced is not expected to exceed the design limitations of the treatment facility, the permittee shall submit an engineering report supporting this claim to the Executive Director of the Commission.

Based on the flow data collected, the City is over 90% disposal capacity, and has obtained authorization from the Commission to commence construction of the next 62,000 GPD surface irrigation phase at Caliterra (see attached approval letter). It is recommended that the approved phase be immediately constructed and that design of the final phase begin immediately followed by construction of the improvements very soon to follow.

At this time the City does not have existing disposal capacity available to provide service to any new developments. Prior to issuance and construction of Amendment No. 2 improvements by the TCEQ (adding 50,000 GPD disposal area at Carter Ranch and at 60,000 GPD at Heritage PID), the City will not have disposal capacity to provide service to any new developments past the original committed developments.

However, the City required newer developments to produce "backup plans" in the case the City exceeds its permitted and/or constructed capacities and need to be removed from the system. These include pumping and

Laura Mueller
City Attorney
City of Dripping Springs
November 1, 2021
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hauling raw sewage to other wastewater treatment and disposal facilities, individual onsite sewage treatment facilities/septic systems, or small TCEQ permitted wastewater treatment and disposal facilities.

Please feel free to contact me at 512-432-1000 or at robby.callegari@burgessniple.com with any questions and/or comments.

Very truly yours,

Burgess & Niple



Robert P. Callegari, P.E.
Austin South Engineering Section Director



DRIPPING SPRINGS
Texas

Projects with Approved Exceptions/Waivers

All permits that are compliant with previous approvals can move forward normally.

Date Approved	Name of Project	Approved
11/23/2021	Headwaters	DA
11/23/2021	Caliterra	DA
11/23/2021	Cannon Ranch	PDD/WW Agreement
11/23/2021	Driftwood/Driftwood 522	DAs
11/23/2021	Ledgestone (MUD 4)	Consent to MUD
11/23/2021	Wild Ridge	Consent to MUD/WW Agreement
11/23/2021	Big Sky Ranch	PDD/WW Agreement
11/23/2021	Arrowhead Ranch	DA
11/23/2021	Carter Tract	DA and WW agreement (Caliterra)
11/23/2021	Cortaro	Final Plat and Septic
11/23/2021	Village Grove	Consent to MUD
11/23/2021	New Growth	MOU
11/23/2021	PDD 11	PDD and WW Agreement
11/23/2021	Parten Ranch	DA
12/1/2021	Heritage Subdivision	DA/PDD/WW Agreement
12/7/2021	Esperanza	Approved Plats and Exceptions
12/7/2021	Silver Creek (Waiver)	Septic and Concept Plan



DRIPPING SPRINGS
Texas

Development Moratorium – Live FAQs

December 8, 2021

Process:



DRIPPING SPRINGS
Texas

- When filing a permit for a project:
 - Show proof of approved waiver/exception; or
 - File an application for an exception or waiver
- Exception
 - Administratively reviewed during administrative completeness process
 - Must include an application for a permit starting the end of December
 - For small, no impact projects; ongoing projects; vested projects
- Waiver
 - Reviewed by City Council within 10 days of receipt
 - Must include an application for a permit
 - For projects that will have no impact on wastewater and which do not change use or have land use issues related to the comprehensive plan

Tip: Speak to staff and/or apply to an exception first to ensure your waiver will not be denied due to lack of documentation or which could have been approved administratively as an exception.

Moratorium Ordinance



DRIPPING SPRINGS
Texas

EXCEPTIONS

- Vested/Ongoing Projects
- Platted Projects where wastewater approved
- Development Agreement projects
- Small, no impact

Exceptions are administratively approved (10 business days the same as administratively completeness check) – provides for appeals to City Council

WAIVERS

- Projects can apply for waivers simultaneously with their applications
 - Waivers may be granted by the city council for projects that are prohibited by the moratorium, but are recognized to not detrimentally affect the city
- Waivers are reviewed by council – 10 days from waiver and documentation being filed. Denied Waivers can only be resubmitted if the project has a substantial change***

Both of these would be applied for at time of application for the main permit. They could be applied for by lot, project, DA, or PDD.

PERMITS – AFFECTED AND UNAFFECTED

Permits Subject to Moratorium

- Commercial/Multi-Family Building Permit Application
- Residential Building Permit Application
- Subdivision Application
- Site Development Application
- Zoning Amendment/PDD Application
- Development Agreement
- Conditional Use Permit
- Variance Application
- Wastewater Application

Full list available at
www.cityofdrippingsprings.com/moratorium

Permits not Subject to Moratorium

- Contractor Registration Form
- Grandfathered Status Request/Appeal
- City Limits/ETJ Determination Letter
- Street Cut/Driveway Permit
- On Site Sewage Facility Permit Application
- Mobile Food Unit
- Pre-Development Meeting Form
- Certificate of Appropriateness
- Annexation Application
- Sign Permit
- Exterior Lighting Review
- Zoning Determination Letter Request
- Residential Swimming Pool Permit
- Demolition Permit



DRIPPING SPRINGS
Texas

List of Projects that have Already Received Exceptions



DRIPPING SPRINGS
Texas

Date Approved	Name of Project	Approved	Item 17.
11/23/2021	Headwaters	DA	
11/23/2021	Caliterra	DA	
11/23/2021	Cannon Ranch	PDD/WW Agreement	
11/23/2021	Driftwood/Driftwood 522	DAs	
11/23/2021	Ledgestone (MUD 4)	Consent to MUD	
11/23/2021	Wild Ridge	Consent to MUD/WW Agreement	
11/23/2021	Big Sky Ranch	PDD/WW Agreement	
11/23/2021	Arrowhead Ranch	DA	
11/23/2021	Carter Tract	DA and WW agreement (Caliterra)	
11/23/2021	Cortaro	Final Plat and Septic	
11/23/2021	Village Grove	Consent to MUD	
11/23/2021	New Growth	MOU	
11/23/2021	PDD 11	PDD and WW Agreement	
11/23/2021	Parten Ranch	DA	
12/1/2021	Heritage Subdivision	DA/PDD/WW Agreement	
12/7/2021	Esperanza	Approved Plats and Exceptions	

Tip: If building in one of these subdivisions you do not need your own exception or waiver. But you may need a copy of the letter approving the exception. Contact the developer or the City can provide a copy.

For Educational Purposes Only - for specific questions email
moratorium@cityofdrippingsprings.com



DRIPPING SPRINGS
Texas

Website

www.cityofdrippingsprings.com/moratorium



DRIPPING SPRINGS
Texas

QUESTIONS?

For Educational Purposes Only - for specific questions email
moratorium@cityofdrippingsprings.com

**INTERLOCAL COOPERATION AGREEMENT
BETWEEN HAYS COUNTY AND THE CITY OF DRIPPING SPRINGS
FOR SUBDIVISION REGULATION WITHIN THE EXTRATERRITORIAL
JURISDICTION OF THE CITY OF DRIPPING SPRINGS**

THIS INTERLOCAL COOPERATION AGREEMENT (this “Agreement”) is made and entered into by and between Hays County, Texas, a political subdivision of the State of Texas (hereinafter referred to as “COUNTY”), by and through its County Judge, Dr. Bert Cobb, and the City of DRIPPING SPRINGS, a municipal corporation of the State of Texas (hereinafter referred to as “CITY”), by and through its City Mayor, Todd Purcell. The City and the County are hereinafter collectively referred to as “the Parties” or “the Parties to this Agreement.”

WHEREAS, the CITY has duly identified its corporate limits and the areas of its extraterritorial jurisdiction (hereinafter referred to as “ETJ” or the “CITY’s ETJ”) within the COUNTY; and

WHEREAS, the CITY has adopted and is enforcing subdivision regulations pursuant to TEX. LOCAL GOV’T CODE Subchapter A of Chapter 212 and other statutes applicable to municipalities; and

WHEREAS, the COUNTY has adopted and is enforcing subdivision regulations pursuant to TEX. LOCAL GOV’T CODE sections 232.001-232.005 and other statutes applicable to counties; and

WHEREAS, the COUNTY and the CITY, pursuant to TEX. LOCAL GOV’T CODE Section 242.001, both enforced their subdivision regulations in the CITY’s ETJ and, in those situations where the CITY’s regulation conflicted with the COUNTY’s regulation, the more stringent provisions have prevailed; and

WHEREAS, the Texas Legislature revised TEX. LOCAL GOV'T CODE Chapter 242 to limit subdivision regulation within the ETJ to one entity (or two entities working jointly); and

WHEREAS, to the extent that the CITY's execution of this Agreement and related agreements with other counties in other areas of the CITY's ETJ, or the CITY's adoption, administration or enforcement of ordinances, rules, regulations or plans in reasonable furtherance of this Agreement or the related agreements results in requirements or restrictions that are not identical throughout the CITY's entire ETJ, the Parties jointly acknowledge that the actions of the CITY are "reasonably taken to fulfill an obligation mandated by state law" within the meaning of TEX. GOV'T CODE Section 2007.003(b)(4), and are therefore not subject to TEX. GOV'T CODE Chapter 2007; and

WHEREAS, both the COUNTY and the CITY desire to enter into an Interlocal Cooperation Agreement, pursuant to TEX. GOV'T CODE Section 791.011(a), and as authorized by TEX. LOC. GOV'T CODE Section 242.001(c), whereby the COUNTY and the CITY shall agree upon the terms of said written agreement.

NOW, THEREFORE, the COUNTY and the CITY mutually agree as follows:

I. TERM OF AGREEMENT AND CERTIFICATION

- A. The COUNTY and the CITY mutually agree that the term of this Agreement shall be from the date it is finally and duly executed by both the COUNTY and the CITY until August 1, 2015. This Agreement shall automatically renew annually on the anniversary date, unless earlier terminated by mutual agreement of the Parties.
- B. Notwithstanding the foregoing, this Agreement may be terminated by either Party by giving thirty (30) days' written notice of intent to terminate this

Agreement to the other Party. Any notice of intent to terminate must be delivered by deposit in the United States mail, certified, return receipt requested, to the other Party at the addresses set out herein. Upon termination of this Agreement, neither Party shall have any obligations to the other Party under this Agreement, except with respect to payment for services already rendered under this Agreement, but not yet paid.

- C. The COUNTY and the CITY mutually certify that this Agreement complies with the requirements of Texas Local Government Code, Chapter 242.

II. COUNTY RESPONSIBILITIES

- A. The COUNTY assigns and delegates to the CITY the COUNTY'S authority to approve subdivision plats within the ETJ of the CITY, pursuant to TEX. LOCAL GOV'T CODE Section 242.001(d), so that the CITY has exclusive jurisdiction to regulate subdivision plats in the CITY'S ETJ.
- B. The COUNTY Development Services Director shall, within 15 working days prior to the CITY'S anticipated final approval date, provide the City's staff with written recommendation for approval or disapproval of all plats for inclusion in the agenda backup prior to final plat approval.

III. CITY RESPONSIBILITIES

- A. The CITY shall enforce its subdivision regulations, including review and approval processes and design and construction standards, within its ETJ.
- B. The CITY shall enforce in the ETJ the following Hays County Subdivision and Development Regulations attached hereto and incorporated as Attachment "A" (Chapter 701.9, Chapter 701.16, Chapter 715.3, Chapter 721, Chapter 735.5.03 and Hays County Rules for On-site Sewage Facilities Section 10-A,

D, and G). As the development regulations in Exhibit "A" are amended from time to time, the County shall provide copies of such amended regulations to the City. These amended regulations shall be incorporated into and made a part of this Agreement for all purposes and shall supersede the conflicting provisions in the attached Exhibit "A."

C. If the CITY has existing ordinances establishing substantially similar standards for the subject areas of such COUNTY subdivision regulations, then the City may opt to apply the City ordinance in lieu of the corresponding COUNTY Subdivision Regulation. All City subdivision regulations not in conflict with Attachment "A" may be enforced. If either Party wishes to propose revisions in the future to subdivision regulations that apply in the ETJ, the Party will notify the other Party of the proposed change. The Parties will cooperate in determining the need for the change and its effect on this Agreement, and will adopt any change agreed to by official action of their respective governing bodies.

D. The CITY agrees to require developers to dedicate public right-of-way pursuant to the Hays County Transportation Plan as currently revised or amended, subject to applicable constitutional and statutory limitations. For subdivisions in which it appears to the CITY that a requirement for dedication of right-of-way pursuant to such Transportation Plan may exceed an applicable constitutional or statutory limitation, the CITY will notify the COUNTY, and the parties will cooperate to determine the extent of right-of-way dedication to be required, or an alternative method of securing the needed

right-of-way. When enforcing subdivision regulations in the City's ETJ, the City shall facilitate the County's road maintenance program by requiring a road standard no less than the standards set out in Attachment "A."

- E. The COUNTY expressly delegates to the CITY the authority to require the preparation of a subdivision plat for the division of any property into two or more lots as required in TEX. LOCAL GOV'T CODE section 232.001, including lots larger than five acres.
- F. The CITY shall deliver six copies of all plat submittals to the COUNTY for review, within five working days from the date of receipt. The CITY shall require applicants make a check payable to Hays County Treasurer for any applicable review fees for each project.
- G. The COUNTY staff shall do a completeness check and notify the CITY of completeness of the submittal.
- H. The COUNTY shall provide the CITY with written comments regarding subdivision plats within five working days from the date of receipt by the COUNTY, and written comments regarding construction plans within ten days from the date of receipt.
- I. The CITY shall include written recommendation from COUNTY Development Services Director in agenda backup for final plat approval.
- J. The CITY shall require a signature block for the current COUNTY Development Services Department Director authorizing the filing of the plat under this agreement.

- K. The CITY shall deliver two copies of all recorded plats for subdivisions within the CITY's ETJ to the COUNTY within five working days of the recording of the subdivision plat.
- L. The CITY shall also provide to the COUNTY a digital file of each subdivision plat compliant with the currently adopted Hays County Digital Data Submission Standards.
- M. The CITY shall confer and come to agreement with the Hays County 911 Addressing Division concerning street names prior to final plat approval.
- N. The CITY shall allow COUNTY inspectors access to road construction sites of subdivisions within the ETJ and the CITY shall timely submit copies of all road design materials and road construction test results to the COUNTY during road construction. COUNTY inspectors shall have inspection and approval authority over the road construction, stormwater drainage construction, and water and wastewater facility construction within the right-of-way and easements. The COUNTY may request that the CITY issue a stop-work notice if, in the COUNTY'S opinion, applicable construction standards are not being met.
- O. Prior to acceptance of new streets or other improvements in a subdivision, the CITY shall require of the applicant/developer a Certificate of Deposit, a Letter of Credit, or a warranty or cash bond as required by the Subdivision and Development Regulations of Hays County, payable to Hays County, which shall be binding and in effect for two (2) years from the date of acceptance of the streets and improvements. The CITY shall require the applicant/developer

to be responsible for maintenance of the streets and improvements as also required by the Hay County Subdivision and Development Regulations. The CITY may also require the applicant/developer to post a utility bond or other improvements bond, payable to the CITY, if required by the subdivision regulations of the CITY.

- P. The CITY shall collect and forward to the COUNTY all COUNTY subdivision fees as presently authorized or amended by the COUNTY, for services to be performed by the COUNTY. The CITY shall have the right to charge applicants/developers reasonable fees, sufficient to cover the full cost of services provided by the CITY under this Agreement and otherwise in the administration of regulations that apply to subdivisions in the CITY's ETJ. In addition to the City's fees and in consideration of the County's performance under this Agreement, the City shall collect a \$320.00 per-lot fee for every subdivision subject to this Agreement. Subject to other taxes, fees, fines and penalties permitted by law, said \$320.00 per-lot fee shall be forwarded to the County and shall constitute full and complete compensation for County services under this Agreement.
- Q. If a fee, Certificate of Deposit, Letter of Credit, warranty or bond is to be forwarded to Hays County in accordance with this Agreement, the City shall promptly forward the fee, Certificate of Deposit, Letter of Credit, warranty or bond to Ms. Roxie Botkin (or her successor), Hays County Development Services Department, P.O. Box 1006 , San Marcos, Texas 78667-1006. Physical address 2171 Yarrington Road.

- R. The CITY agrees to collaborate with the COUNTY regarding the interpretation of any rule or regulation delegated by the COUNTY under this agreement. Such collaboration may result in the granting of a variance on a case-by-case basis. However, the CITY shall not grant a variance to a COUNTY regulation without the consent of the COUNTY. For the purposes of this agreement, consent shall be included in the written recommendation by the COUNTY Development Services Director as required by COUNTY responsibilities defined in this agreement.
- S. As an attachment to this Agreement, the CITY shall provide a current map and digital drawing file defining the legal boundaries of its corporate limits and areas of ETJ. The CITY shall notify the COUNTY of any changes to the CITY's ETJ within 10 days of the effective date of the change and provide an updated digital drawing file. Notice shall be provided by letter according to Section IV. C, below. A change in the area covered by this Agreement shall not, however, affect any rights accrued under TEX. LOCAL GOV'T CODE Chapter 245 prior to the effective date of the change.
- T. As a part of the submittal documents the CITY shall require the applicant submit for review by the COUNTY facility planning reports supporting the proposed subdivision as required in 30 TAC Chapter 285.

IV. GENERAL PROVISIONS

- A. General Administration:** Administering this Agreement and the contact person for the COUNTY shall be the Hays County Director of Development Services, or his/her representative. Administering this Agreement and the

contact person and representative for the CITY shall be the CITY Planning Director, or in the alternative the Deputy City Administrator.

B. Alteration, Amendment or Modification: This Agreement may not be altered, amended, or modified except in a subsequent writing signed by all Parties to this Agreement. No official, agent, employee, or representative of either the COUNTY or the CITY has the authority to alter, amend, or modify the terms of this Agreement, except in accordance with express authority as may be respectively granted by either the Hays County Commissioners Court or the CITY.

C. Notice: All notices sent pursuant to this Agreement shall be in writing and must be sent by registered or certified mail, postage prepaid, return receipt requested.

(a) Notices sent pursuant to this Agreement shall be sent to the Hays County Subdivision Coordinator's Office at the following address:

Ms. Roxie McInnis (or her successors)
Hays County Development Services,
P.O. Box 1006
San Marcos, Texas 78667-1006

(b) Notices sent pursuant to this Agreement may be delivered or sent to the CITY at the following address:

Mr. Todd Purcell (or his successor)
City Mayor
City of Dripping Springs
P.O. Box 384
Dripping Springs, TX 78620

(c) To be effective, a copy of any notices sent to the COUNTY shall be sent to the Special Counsel's Office at the following address:

Mark Driscoll Kennedy (or his successor)
 A.D.A. -- Chief – Civil Division
 Hays County, Texas
 111 E. San Antonio, Suite 204
 San Marcos, TX 78666

(d) To be effective, a copy of any notice sent to the CITY shall be sent to the CITY Attorney at the following address:

Alan Bojorquez
 City Attorney of Dripping Springs
 12325 Hymeadow Drive, Suite 2-100
 Austin, Texas 78750

(e) When notices sent pursuant to this Agreement are mailed by registered or certified mail, delivery of notice shall be deemed effective three (3) working days after deposit in a U.S. mail box or at a U.S. post office.

D. Severability: If any provision of this Agreement is found to be invalid, illegal, or unenforceable, such invalidity, illegality, or unenforceability shall not affect the remaining provisions of this Agreement.

E. Breach: The failure of either Party to comply with the terms and conditions of this Agreement shall constitute a breach of this Agreement. Either Party shall be entitled to any and all rights and remedies allowed under Texas law for any breach of this Agreement by the other Party.

F. Non-Waiver: The waiver by either Party of a breach of this Agreement shall not constitute a continuing waiver of such breach or of a subsequent breach of the same or a different provision. Nothing in this Agreement is intended by either Party to constitute a waiver of any immunity from suit or liability to which it is entitled under applicable law.

G. Entire Agreement; Third Parties: This Agreement constitutes the entire

agreement between the COUNTY and the CITY. No other agreement, statement, or promise relating to the subject matter of this Agreement and which is not contained in this Agreement or incorporated by reference in this Agreement shall be valid or binding. This Agreement is not intended to confer any rights on any third parties, and it shall not be construed as conferring any rights on any third parties.

H. Terms used in Document: As used in this document, the terms “Interlocal Cooperation Agreement”, “Interlocal Agreement”, “Agreement”, and “Contract” are synonymous.

I. Non-Defined Terms: If not specifically defined in this Agreement, words and phrases used in this Agreement shall have their ordinary meaning as defined by common usage.

EXECUTED THIS 15th day of July, 2014.

HAYS COUNTY

By: Bert Cobb
HONORABLE JUDGE BERT COBB, M.D.
HAYS COUNTY JUDGE



ATTEST:
Liz Q. Gonzalez
LIZ Q. GONZALEZ, HAYS COUNTY CLERK

DATE: 7/15/14

EXECUTED THIS 31st day of July, 2014.

CITY OF DRIPPING SPRINGS

By: Bill Foulds
TODD PURCELL, CITY MAYOR

ATTEST:
Jo Ann Touchstone
JO ANN TOUCHSTONE, CITY SECRETARY

DATE: 7/31/14

ATTACHMENT "A"**CHAPTER 701 - DEVELOPMENT REGULATIONS IN GENERAL*****Sub-Chapter 9 - General Public Notice Requirements*****§9.01. Communication with Precinct Commissioner**

Where individual Chapters of these Regulations require communication or contact with the Precinct Commissioner, the Applicant or the Applicant's authorized agent is required to contact the Commissioner(s) in whose precinct(s) the proposed development is located prior to the submission of the Application. This contact or communication shall consist of either written communication or a personal visit by the Applicant or the Applicant's authorized agent. The Commissioner shall establish and make available to the public a copy of contact procedures for this purpose. Commissioners may delegate contact and communication responsibilities to one or more members of their staff. If the Commissioner requests a personal visit in response to receiving written communication, the Applicant or the Applicant's authorized agent shall arrange a personal visit with the Commissioner or the Commissioner's designee at a mutually agreeable time and place. The purpose of this personal visit shall be for the Applicant to inform the Commissioner about the project and for the Commissioner to present to the Applicant any constraints or concerns associated with the project. Documentation of contact or communication with the Commissioner, including the personal visit, if requested, shall be furnished to the County in conjunction with an Application.

§9.02. Notice Required

Where individual Chapters of these Regulations require notice, the Applicant is responsible for accomplishing such notice regarding the Application or any action thereon, including any costs associated with such notice. Where the requirements of state or federal law dictate that the County actually accomplish such notice associated with an Application or any action thereon, the Applicant shall be responsible for the payment of fees and charges established by the Commissioners Court to cover the cost of such notice.

§9.03. Documentation

Where individual Chapters of these Regulations require notice, the Applicant is responsible for furnishing documentation to the County confirming that such notice was accomplished. Specific documentation requirements shall be established by the Department for each type of notice required under these Regulations.

§9.04. Posted Notice

Where individual Chapters of these Regulations require posted notice, the Applicant shall be required to notify the public upon the determination by the Department that an Application for a Development Authorization is Administratively Complete. This notice shall be accomplished through posting signs at the Subject Property. Where Posted Notice is required, no exemptions from these requirements shall be allowed. The following requirements apply to Posted Notice, where required:

- (A) Within two (2) working days of receipt of notice from the Department that an Application filed with the County has been determined to be Administratively Complete, the Applicant shall install public notice signs on the Subject Property. Signs shall remain in place on the Subject Property until a final decision is rendered on the Application by the

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Commissioners Court or until such time as the Application is withdrawn, if the application is withdrawn.

- (B) Signs shall be placed within twenty (20) feet of all property boundaries fronting on a public roadway. Where the length of the boundary fronting on a public roadway exceeds one thousand feet, the signs shall be spaced no further than one-thousand feet apart. At least one sign shall be placed along each public roadway fronting the property. The Applicant shall ensure that the view of the signs is not obstructed by objects on the Subject Property and that the signs are placed where there is an unobstructed view of the signs from the public roadway. Signs are not required to be placed along property boundaries that do not front on a public roadway.
- (C) The signs shall contain the specific text required by the individual Chapter that includes the posted notice requirement. The Department shall develop and make available to the public standard language to be used for each type of posted notice required under these Regulations.
- (D) The signs shall be a minimum size of four feet by four feet, with the bottom of the sign placed at least two feet above ground level. The background of the sign shall be white. The heading on the sign shall be red letters at least three inches high, with the remaining text black letters at least 1-1/2 inches high. The sign shall also contain the reference number that is used by the Department to track the Application for which the posted notice is required. The Department shall develop and make available to the public specific signage criteria and shall make available examples of signs for each type of posted notice required under these Regulations.
- (E) The signs shall be constructed of materials that are sufficiently durable to ensure the sign remains in place and legible during the entire period that posting is required.
- (F) The Department may also, utilizing any procurement process authorized under State law, designate one or more approved vendors from whom Applicants may purchase signage to comply with these Regulations.
- (G) Signs may also be supplied by Applicants. The Department is authorized to require review by the Department of any signs supplied by the Applicant. The Department may require that such signs supplied by the Applicant be replaced, at the Applicant's expense, if the Department determines that the signs supplied by the Applicant do not strictly conform to the requirements of these Regulations and published Department criteria.
- (H) It shall be the responsibility of the Applicant to submit documentation to the Department that the signs have been properly installed and to periodically check sign locations to verify that signs remain in place and have not been vandalized or removed. The Applicant shall immediately notify the County of any missing or defective signs. It is unlawful for a person to alter any notification sign or to remove it while the case is pending; however, any removal or alteration that is beyond the control of the Applicant shall not constitute a failure to meet notification requirements. If signs are removed, damaged or become illegible, the Applicant shall replace the signs within three (3) working days.

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§9.05. Written Notice for Political Subdivisions and Contiguous Properties

Where individual Chapters of these Regulations require written notice, the Applicant shall be required to notify affected political subdivisions and the owners of Contiguous Properties through written notice. The following provisions apply to Written Notice, where required:

- (A) The written notice must include a map clearly showing the boundaries and general location of the proposed development and major roadways in the vicinity.
- (B) The written notice must include a general description of the nature of the proposed development, including identification of the Applicant and the Permittee and a general description of the nature of the activities for which approval is being requested.
- (C) The written notice must also include any additional information required by the individual Chapter that includes the written notice requirement.
- (D) The Applicant shall forward copies of any written notice to any other parties to the application, including the Permittee and/or the owners of the Subject Property.

§9.06. Identification of Affected Political Subdivisions

Where written notice is required to be submitted to an affected political subdivision, as part of its technical review of a completed application the Department shall identify all political subdivisions affected by the Application for which it has available records. The list of affected political subdivisions shall at a minimum include any political subdivision within whose boundaries the Subject Property is located. If the Subject Property is not located within the boundaries of an emergency services or management district, a school district, a water utility district, or a wastewater utility district, the nearest such district shall be included in the list of affected political subdivisions. The address for notice purposes for each affected political subdivision shall be the address furnished by the Department to the Applicant.

§9.07. Identification of Contiguous Property Owners

Where written notice is required to be submitted to owners of Contiguous Property, the applicant shall identify all owners of Contiguous Property that are not parties to the Application. The identified owners for the Contiguous Properties shall be those owners on file with the Hays Central Appraisal District (HCAD) within thirty (30) days prior to the date the Application is filed. The address of the identified owners for notice purposes shall be the address on file with the HCAD.

§9.08. Delivery of Written Notice

The following requirements apply to the delivery of Written Notice, where required:

- (A) The person may deliver the written notice in person, by express courier or by depositing the notice with the United States Postal Service (USPS), postage paid. Personal delivery and delivery by express courier shall be confirmed by a written acknowledgement of receipt by the party to whom the written notice was delivered or their authorized agent. Mailed notice deposited with the USPS shall be sent certified with return receipt requested. Mailed notice may be confirmed by the receipt returned by the USPS. In instances where the person to receive Written Notice has requested that the person making the Written Notice submit such Written Notice via electronic media, the person making such Written Notice may deliver that notice via electronic media. All instances

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of Written Notice delivered via electronic media must be confirmed in writing or by receipt of an affirmative reply from the recipient via electronic media. Nothing in this section shall be construed to require the issuance of Written Notice via electronic media.

- (B) Where written notice is required to affected political subdivisions, within ten (10) working days of receipt of notice from the Department that the Application has been determined to be Administratively Complete and the Department's providing the Applicant with a list of affected political subdivisions, the Applicant shall provide written notice of the proposed development to each of the affected political subdivisions.
- (C) Where written notice is required to owners of Contiguous Properties, within ten (10) working days of the filing of the application, the Applicant shall provide written notice of the Application to each of the owners of Contiguous Property that are not parties to the Application.
- (D) Within ten days of providing such written notice under these Regulations, the Applicant shall provide copies of the notification and proof of notice delivery to the Department.

§9.09. Published Notice

Unless otherwise required under individual chapters, where published notice is required, it shall be accomplished in a newspaper of general circulation in the County at least two (2) times. For published notice of Applications, such notice shall be published within thirty (30) calendar days of filing the Application. For published notice of the consideration of action on any aspect of an Application, such notice shall be published during the period beginning on the 30th calendar day and ending on the 7th calendar day prior to such consideration. To document publication of the required notice, the person having such notice published shall submit an original, signed publisher's affidavit demonstrating actual publication.

§9.10. Review of Public Notice by the County

The County may review any and all procedures used by the Applicant or others to accomplish public notice under these Regulations. The County shall require additional public notice for any public notice deemed by the County as not in compliance with these Regulations. The County may suspend the processing of any application for which the County determines that public notice was not accomplished in substantial compliance with these Regulations. The Applicant or Permittee shall be responsible for the costs of such additional public notice required as a result of failing to publish notice in substantial compliance with these Regulations.

§9.11. Additional Public Notice by the County

Where these regulations require notice, the County may accomplish additional public notice of any Application or pending action on such Application using whatever means it may deem appropriate and as required by federal, state or local law. Any such costs for this additional public notice shall be the responsibility of the County. Additional public notice by the County may include, but is not limited to, posting notice on the Commissioners Court agenda, posting notice in conjunction with other posted notices at County facilities, posting on any electronic medium maintained or used by the County, or inclusion of such notice in any announcement or communication performed by the County. Except where required by law, such additional public notice by the County will be at the discretion of the Commissioners Court. The Department shall also distribute all written and published public notice required under these Regulations to those

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persons on the Department maintained public distribution list in accordance with Subchapter 10 of this Chapter.

Sub-Chapter 16 - Coordination with “911” Addressing System

This subchapter shall govern the coordination required with the “911” Addressing System prior to issuance of a Development Authorization by the County.

§16.01. Communication with County “911” Coordinator

Prior to submitting an Application, the Applicant or the Applicant’s authorized agent is required to contact the County “911” Coordinator to confirm the suitability of the naming and designation of proposed roadways and to establish procedures for identifying the “911” addresses for the subdivision. Applications for subdivisions must confirm the suitability of the name and designations in conjunction with the Preliminary Plan.

§16.02. Additional Coordination

The County “911” Coordinator may require the Applicant to coordinate “911” addressing information with the Hays County Sheriff, municipal police and fire departments, emergency services districts (ESDs) and any other emergency response agencies authorized to operate in the County whose response might be requested during an emergency.

§16.03. Approval Required

Prior to the issuance of a Development Authorization by the County, the Applicant shall submit evidence of approval by the County “911” Coordinator for the following:

- (A) The proposed names or designations for new roadways, shared access easements or shared access driveways associated with any Application to the County for a Development Authorization. The County “911” Coordinator is hereby authorized to withhold approval of names or designations that the coordinator determines are very similar to existing names or designations or which may otherwise contribute to confusion in names or designations in a way that may hinder emergency response.
 - (1) When names or designations are allowed to change on a continuous street, street signs must be placed in a clear and unambiguous manner, so as not to hinder emergency response.

- (B) If “911” addresses have not previously been established for the proposed development, in conjunction with the final Development Authorization, the County shall establish a “911” address for each lot or component of the development served by a Regulated Roadway, shared access easement or shared access driveway associated with that development. If the development plan includes multiple habitable structures located on the same lot (e.g. a multi-unit residential housing unit, a Manufactured Home Rental Community, a multi-unit commercial development, etc.), a “911” address shall be established for each habitable structure. The “911” addresses shall be established by the County “911” Coordinator.

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CHAPTER 715 - WATER AND WASTEWATER AVAILABILITY

Sub-Chapter 3 - Water Availability

§3.01. Applicability

The following developments are exempted from the requirements to certify water availability under these Regulations. The County encourages exempted developments to comply with these Regulations.

- (A) Exempted subdivisions as defined under §701.3.01.
- (B) Exempted Manufactured Home Rental Communities as defined under §745.2.01.
- (C) The following categories of non-exempt subdivisions are not required to demonstrate water availability, subject to the inclusion of a plat note prohibiting further non-exempt subdivision or re-subdivision for a period of five (5) years following the filing of the Final Plat:
 - (1) All non-exempt subdivisions of five (5) lots or less in which all lots average at least two (2) acres.
 - (2) All subdivisions of ten (10) lots or less in which all lots are larger than ten (10) acres.

§3.02. Items Common to All Water Availability Demonstrations

The following items shall be addressed in all water availability demonstrations prepared under these regulations, regardless of the source(s) utilized:

- (A) An estimate of the amount of water demand throughout all phases of development supported by engineering calculations based on the anticipated timetable for full build-out, including a statement describing the level of fire protection afforded to the proposed phase(s) of the development;
- (B) A statement as to whether there are plans for alternative or backup water service; if so, an identification of the alternative or backup water source;
- (C) A description of any anticipated new water facility improvements required to serve the development;
- (D) A map showing the proposed location of all water facilities throughout all phases of development as well as the proposed water service area, including any TCEQ-approved service area boundaries of a water service provider operating under a Certificate of Convenience and Necessity (CCN) within the boundaries of the proposed subdivision;
- (E) An estimated timetable for completion of all facilities; and,
- (F) Based on the information available at the time the application is submitted, the anticipated owner(s) and operator(s) of all water facilities throughout all phases of development shall be identified and included in the application.

§3.03. Notification for All Developments Utilizing Local Groundwater

This Subchapter addresses the requirements that Subdivisions and Manufactured Home Rental Communities must meet to demonstrate water availability using Local Groundwater for the purposes of obtaining a Development Authorization from the County. These Regulations do not

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include the details for requirements on the withdrawal and use of groundwater that may originate from the regulations other entities. The public is hereby notified that portions of Hays County are within the jurisdiction of other governmental entities, including Groundwater Conservation Districts and the Edwards Aquifer Authority, which regulate the withdrawal and use of groundwater under direct authority from the State of Texas, independent from the authority of Hays County. Within their statutory authority, these other governmental entities may impose requirements in addition to those contained in these Regulations. The Department shall cause to be included in any Development Authorizations issued under these Regulations a notice that valid limitations imposed by these other authorized entities are incorporated as a special provision into the terms of the County's Development Authorization and may be enforced as such by the County. The Department shall also develop and publish requirements for incorporating into the Record Documents notice of the requirements of these other governmental entities.

Where applicable federal, state or local statutes require Applicants to submit water availability certifications to other governmental entities, the Applicant shall document compliance with these requirements. Where the Department is made aware of applicable regulations of other entities, the Department shall process any Application as requesting a variance where that Application is determined to not be in compliance with such other regulations. It is the intention of these Regulations that all Applications be processed, to the extent authorized under State law, to not conflict with Groundwater Management Area planning efforts, established sustainable yields, desired future conditions, and managed available groundwater volumes.

§3.04. Procedures for Department Coordination with the Applicable Groundwater Conservation District

For all water availability demonstrations which rely in whole or in part on Local Groundwater, the Department shall ensure that a copy of the water availability demonstration is submitted to the applicable groundwater conservation district(s) [GCD] for review and comment. Where the Applicant is required to make such a submittal under §715.3.03, the Department shall forward to the GCD within ten (10) working days of receipt, a written request for review and comment on the portion of the availability demonstration relying on Local Groundwater. Where such submittal to the GCD is not otherwise required by the Applicant, the Department shall forward the information to the GCD within ten (10) working days of receipt, with a written request for review and comment on the portion of the availability demonstration relying on Local Groundwater. If the Department has not received written comments from the GCD within fifteen (15) working days, the GCD shall be considered as having waived the opportunity for review and comment on the availability demonstration. The Department shall consider all comments received from the GCD and may request such additional information from the Applicant as the Department deems appropriate in response to these comments. The Department shall include a summary of any comments timely received from the applicable GCD in any report made to the Commissioners Court on an Application. If the County has adopted a Memorandum of Understanding (MOU) with any GCD, the Department shall follow the procedures outlined in the MOU.

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§3.05. Water Availability Demonstrations Using Individual Private Water Wells Producing Local Groundwater

In addition to the requirements outlined in §715.3.02, Applicants requesting approval to utilize one or more individual private water wells using Local Groundwater to serve the proposed development shall construct at least two wells (one test well and one monitor well). Use of existing wells will be permitted if the wells fully meet these regulations. Well analyses shall be performed by a Texas licensed professional engineer or Texas licensed professional geoscientist, qualified to perform the hydrogeological testing, geophysical well logging and aquifer pump testing. The following information shall be provided to Commissioners Court for each well tested.

- (A) Identify the hydrogeologic formation by well driller's log and approved geophysical logging methods. Provide a map and list of all known wells within 1,000 feet of the proposed subdivision boundaries (or a distance where measurable drawdown effects from the proposed subdivision well are expected). Each well is to be located by latitude and longitude.
- (B) The Certification of Groundwater Availability For Platting Form as required by the TCEQ rules on Groundwater Availability Certification for Platting at 30 Tex. Admin. Code Section 230.3. The Department shall require an applicant to submit any engineering calculations, studies or other data supporting the statements contained in the Certification of Groundwater Availability For Platting Form.

Individuals marketing the development shall provide each purchaser or renter with a statement describing the extent to which water and wastewater service will be made available, and how and when such service will be made available.

§3.06. Additional Requirements for Subdivisions Served by Individual Water Wells Producing Local Groundwater in Priority Groundwater Management Areas

Applicants requesting approval to utilize individual private water wells producing Local Groundwater to serve proposed new development in a Priority Groundwater Management Area, as that term is defined by the Texas Commission on Environmental Quality, shall be subject to the following additional requirements:

- (A) The person preparing the groundwater availability certification shall document that they obtained available information on historical water levels and known water wells from the applicable Groundwater Conservation District.
- (B) The person preparing the groundwater availability certification shall perform a walking receptor survey around the perimeter of the Subject Property to identify the visual location of apparent undocumented water wells and to visually confirm the presence of documented water wells within five hundred (500) feet of the boundaries of the subject property.
- (C) The person preparing the groundwater availability certification shall estimate the average annual recharge (per acre) in the vicinity of the Subject Property using a Groundwater Availability Model (GAM) reviewed and approved by the Texas Water Development Board.

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- (D) The person preparing the groundwater availability certification shall utilize the estimated annual average recharge rates (developed under §715.3.06.C) to determine the total estimated annual recharge for the footprint area of the Subject Property. The estimated annual recharge for the Subject property shall be compared to the projected annual groundwater withdrawal, to assess whether the projected withdrawal exceeds the estimated recharge. For developments where the projected withdrawal exceeds estimated recharge, the Applicant shall take one or more of the following steps:
- (3) Comply with the minimum lot size requirement of 6.00 acres, as presented in Table 705.05.01;
 - (4) Provide a supplemental demonstration of water availability based on an Other Water Supply System and prorate the minimum lot size requirement using 6.00 acres for the percentage provided by Local Groundwater and the otherwise applicable value from Table 705.05.01 for the Other Water Supply System; or,
 - (5) Subject to the requirements of §715.3.06(F), secure the future development rights for currently undeveloped property in a quantity sufficient to balance the groundwater withdrawal for the Subject Property with overall recharge from the Subject Property and other property, and provide Written Notice, as outlined in Chapter 701, to the owners of all proximate property for which a groundwater well is documented or discovered during the walking receptor survey and the owners of any other documented well within one-quarter mile of the Subject Property, that the projected groundwater use for the proposed development is being offset through the acquisition of additional property. The Department shall make available to the public standardized notice language for this purpose.
- (E) For developments where the availability of groundwater is limited to less than the flow required to support fully developed conditions, the Applicant shall include in the Water and Wastewater Service Plan the procedures to be utilized to limit groundwater withdrawal to the certified available quantity.
- (F) Property outside the Subject Property that is used for the purpose of balancing the groundwater withdrawal for the Subject Property shall comply with the following conditions:
- (6) Eligible additional property must recharge to the same aquifer zone as the Subject Property and be within the same PGMA.
 - (7) All such additional property shall be subject to a conservation easement or equivalent legal mechanism structured to prohibit in perpetuity its future subdivision or development. The easement or instrument shall be granted to the public and shall be held by the County or other non-profit legal entity recognized by the County as custodian for the County. Such easement or instrument shall be in such form and under such conditions as are acceptable to the County.
 - (8) For properties located within the jurisdiction of public entities having zoning authority, the Applicant shall provide documentation that the zoning for the additional property is "agricultural", "open space" or other equivalent zoning that allows little to no development of the additional property.

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- (9) The additional property shall either be contiguous to the Subject Property or located within five (5) miles of the Subject Property.
- (10) Additional property that is contiguous to the Subject Property may be considered as providing the same recharge as the Subject Property.
- (11) Additional property that is not contiguous but is located within five (5) miles of the Subject Property shall be considered as providing seventy five percent (75%) of the recharge provided by the Subject Property.
- (12) In instances where the Applicant proposes to secure the development rights from a property (the originating property) that is outside the jurisdiction of the County and within the jurisdiction of one or more local governmental entities, the Applicant must provide documentation of the written approval of the transfer from each such local governmental entity with jurisdiction over the originating property.

§3.07. Water Availability Demonstrations Utilizing a new TCEQ public water supply system:

In addition to the requirements outlined in §715.3.02, Applicants proposing to serve a development through a new public water supply system shall include the following information in the Water and Wastewater Service Plan:

- (A) If water service is to be provided by a municipal utility district or other special purpose district that has not been created as of the filing of the Preliminary Plan, a detailed description of the proposed district boundaries, a timetable for creation of the district, and identification of the proposed organization of the district.
- (B) Prior to the final approval of the development (e.g. the final plat or the Infrastructure Development Plan), the Applicant shall supply a letter to the Department from the water service provider certifying that they have the authority to provide water service; that there will be sufficient capacity to serve all phases of the proposed development; and that all required agreements have been executed.
- (C) Within ten (10) working days of receiving this supply letter, the Department shall notify in writing all governmental entities which the Department has record of having jurisdiction over any aspect of water supply to the proposed development requesting their comments on the letter. In instances where the water service provider does not own or otherwise control the source(s) of supply, the Department may require that the Applicant obtain supporting documentation certifying the availability of adequate supply from the actual water supply source(s) in addition to the information required to be provided by the water service provider. The Department shall include in any Development Authorization a Special Provision recognizing the requirements of any other governmental entity with established jurisdiction over the proposed development. Any disputes between the Applicant, water service provider and other governmental jurisdictions shall be heard by the Commissioners Court.
- (D) For developments within the jurisdiction of a Groundwater Conservation District that utilize groundwater in their demonstration, a formal groundwater availability analysis, in accordance with 30 TAC 230, shall be completed, along with a statement acknowledging that all applicable requirements of the GCD will be met.

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§3.08. Water Availability Demonstrations Utilizing an existing TCEQ-permitted public water supply:

If wholesale or retail water service is to be provided by an existing water utility or other existing water service provider, an applicant shall submit a written statement from the existing provider containing the following:

- (A) A description of the authority of the existing provider to serve the proposed phase of development.
- (B) A statement as to whether the existing provider has available capacity to serve the proposed phase of development, including a statement describing the level of fire protection afforded to the proposed phase(s) of the development.
- (C) A description of the type of water service to be provided (wholesale or retail) and a timetable for the providing of such service to the proposed development.
- (D) Identification of any anticipated water supply or service agreements that will need to be executed prior to the provision of service.
- (E) Prior to the final approval of the development (e.g. the final plat or the Infrastructure Development Plan), the applicant shall supply a letter to the Department from the utility provider certifying that they have the authority to provide water service; that there will be sufficient capacity to serve all phases of the proposed development; and that all required agreements have been executed.
- (F) Within ten (10) working days of receiving this supply letter, the Department shall notify in writing all governmental entities which the Department has record of having jurisdiction over any aspect of water supply to the proposed development requesting their comments on the letter. In instances where the water service provider does not own or otherwise control the source(s) of supply, the Department may require that the Applicant obtain supporting documentation certifying the availability of adequate supply from the actual water supply source(s) in addition to the information required to be provided by the water service provider. The Department shall include in any Development Authorization a Special Provision recognizing the requirements of any other governmental entity with established jurisdiction over the proposed development. Any disputes between the Applicant, water service provider and other governmental jurisdictions shall be heard by the Commissioners Court.

§3.09. Water Availability Demonstrations Utilizing Rainwater Harvesting

In addition to the requirements outlined in §715.3.02, Applicants proposing to serve a development through rainwater harvesting shall include the following information in the Water and Wastewater Service Plan:

- (A) Estimates of the water availability from rainwater harvesting shall be based upon the "The Texas Manual on Rainwater Harvesting", published by the Texas Water Development Board, or other industry standard sources acceptable to the Department.
- (B) Water demand estimates for demonstrations involving rainwater harvesting, including demonstrations utilizing multiple water sources, may not be lower than the largest value of the following:

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- (13) The maximum water usage rates for "water conserving households" identified by the American Water Works Association, "Residential End Uses of Water";
 - (14) A total of forty five (45) gallons per person per day;
 - (15) A total of one hundred fifty (150) gallons per dwelling unit per day.
- (C) The Water and Wastewater Service Plan shall include a standardized design for a rainwater harvesting system, prepared by a Texas licensed professional engineer, using design parameters applicable to the location of the Subject Property. This standardized design shall be based on a prototype representative of actual conditions anticipated to be present in the proposed development, including typical structure sizes and materials of construction. The standardized design shall include schematic plans, drawings and descriptions for the various component parts of the prototype system, and shall include any minimum requirements (e.g. minimum storage tank sizes) and appropriate adjustment factors to be used for each component to account for the range of differing sizes and configurations of structures anticipated to be present in the proposed development.
- (D) The Water and Wastewater Service Plan shall include a standardized operations and maintenance plan for a rainwater harvesting system, prepared by a Texas licensed professional engineer. This operating and maintenance plan shall be based on the prototypical design and shall describe in detail the operating and maintenance requirements for each component of the prototypical rainwater harvesting system.
- (E) The Water and Wastewater Service Plan shall clearly identify any water conservation measures and use limitations used in estimating the water demand and shall include the provisions to be utilized to ensure that the end users of the rainwater harvesting systems are aware of the need to follow these restrictions.
- (F) Where rainwater harvesting constitutes the sole source of water supply for the development, the Applicant shall incorporate sufficient restrictions (including deed restrictions and plat notes) into the development documents to ensure that subsequent owners or users of the property do not install or utilize groundwater wells, until an updated water availability demonstration is approved documenting sufficient groundwater is available.

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CHAPTER 721 - ROADWAY STANDARDS

Sub-Chapter 1 - Applicability

§1.01. Applicability

This Chapter shall govern the following items related to Regulated Roadways within the County:

- (A) The design and construction of all Regulated Roadways as defined in Chapter 701.
- (B) The minimum roadway widths and building set back lines for Regulated Roadways.

§1.02. Legal Authority

Legal Authority for adopting and enforcing the regulations in this Chapter is granted to the County under TLGC in Chapters 231, 232 and 234, and under the Texas Transportation Code (TTC) Chapters 251, 286 and 545.

§1.03. Approval Required

Approval of the Commissioners Court is required prior acceptance by the County of Regulated Roadways. Separate approval is required under Chapter 751 for any use of existing County facilities, including roadway rights-of-way, which are not part of the Application for a Development Authorization.

Sub-Chapter 2 - Roadway Classifications

§2.01. Basis for Classification

Regulated Roadways shall be classified based on the criteria established in "A Policy on Geometric Design of Highways and Streets", latest edition, as developed by the American Association of State Highway and Transportation Officials (AASHTO). For the purposes of these Regulations, regulated roadways shall be designed to handle the average daily traffic (ADT) estimated to occur for a period of twenty (20) years following completion of construction of the roadway, with the pavement sections and widths required to accommodate the design ADT at the applicable speed limits adopted by the County. At a minimum, pavement sections and widths shall conform to the suggested minimum requirements established by AASHTO for the specified classification of roadway. Roadways shall also be classified under TTC Chapter 251. Roadway classification information is included in Table 721.02.

§2.02. Country Lane

A Country Lane shall be a one or two lane paved roadway, without improved shoulders, and considered a Special Purpose Road with a design capacity of up to 100 ADT in accordance with AASHTO design standards, and third-class roadways in accordance with TTC Chapter 251.

§2.03. Local Roadway

A Local Roadway shall be a two lane paved roadway, with improved shoulders or curb and gutter, and considered a Local Rural Road with a design capacity of between 101 and 1,000 ADT in accordance with AASHTO design standards, and third-class roadways in accordance with TTC Chapter 251.

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§2.04. Urbanized Local Roadway

An Urbanized Local Roadway shall be a two lane paved roadway, with improved shoulders or curb and gutter, and considered a Special Purpose Road with a design capacity of up to 1,000 ADT in accordance with AASHTO design standards and third-class roadways in accordance with TTC Chapter 251.

§2.05. Minor Collector

A Minor Collector shall be a two lane paved roadway, with improved shoulders or curb and gutter, and considered a Rural Collector with a design capacity of 1,001 to 2,500 ADT in accordance with AASHTO design standards, and may be either second-class or third-class roadways in accordance with TTC Chapter 251.

§2.06. Major Collector

A Major Collector shall be a two lane or larger paved roadway, with improved shoulders or curb and gutter, and considered a Rural Collector with a design capacity of 2,501 to 5,000 ADT in accordance with AASHTO design standards, and may be either first-class or second-class roadways in accordance with TTC Chapter 251.

§2.07. Minor Arterial

A Minor Arterial shall be a two lane or larger paved roadway, with improved shoulders or curb and gutter, and considered a Rural Arterial with a design capacity of 5,001 to 15,000 ADT in accordance with AASHTO design standards, and may be either second-class or third-class roadways in accordance with TTC Chapter 251.

§2.08. Major Arterial

A Major Arterial shall be a two lane or larger paved roadway, with improved shoulders or curb and gutter, and considered a Rural Arterial with a design capacity of greater than 15,000 ADT in accordance with AASHTO design standards, and may be either first-class or second-class roadways in accordance with TTC Chapter 251.

Sub-Chapter 3 - Public Roadways

§3.01. Dedication to Public

Any dedication of a roadway to the County for public use shall be accomplished using one of the methods allowed under Chapter 701, Subchapter 11. No dedication shall be effective until the record document is recorded. In no event shall any private lot extend into a dedicated public roadway.

§3.02. Publicly Maintained and Dedicated Roadways

Roadways dedicated to the public (Public Roadways) shall be required in all developments approved under these Regulations, except those satisfying the criteria for private roadways, as set forth below. All such Public Roadways shall be paved and shall be Regulated Roadways designed and constructed in accordance with the specifications set forth in Chapter 721, Subchapter 5. The boundary lines of all subdivision Lots fronting onto a publicly dedicated right-of-way shall be contiguous with the boundary of the right-of-way.

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§3.03. Construction of Public Roadways

Public Roadways shall be considered public infrastructure, subject to the requirements of Chapter 731. Unless interim authorization for construction is obtained under Chapter 731, construction of public roadways shall not commence until such time as a Development Authorization has been issued by the County on an Application filed under these Regulations.

§3.04. Connections to Public Roadways under the Jurisdiction of Other Entities

Certain Regulated Roadways and appurtenances governed by these Regulations may require connection to or construction on or within the right-of-way of public roadways under the jurisdiction of other public entities, including the Texas Department of Transportation (TXDOT), or any other authorized state or federal government entity. All construction and access to these roadways conducted in conjunction with a development authorized under these Regulations shall comply with the requirements of the entity having jurisdiction over the affected public roadway.

Sub-Chapter 4 - Private Roadways

§4.01. General Requirements for Private Roadways

All private roadways qualifying as Regulated Roadways (Regulated Private Roadways) shall be designed and constructed in accordance with the standards in Chapter 721, Subchapter 5 for Public Roadways. All Regulated Private Roadways shall have a surface suitable for all-weather access to all portions of the proposed development served by such Regulated Private Roadway.

§4.02. Criteria for Determining Private Roadway Status

Regulated Private Roadways shall be permitted only in conjunction with a development approved under these Regulations if they satisfy each of the following criteria:

- (A) The person(s) responsible for the operation and maintenance of the Regulated Private Roadway has executed an agreement with the Commissioners Court acknowledging responsibility for such operation and maintenance;
- (B) The executed agreement includes financial assurance, as required by the Commissioners Court; and,
- (C) Lots within the development served by the Regulated Private Roadway shall have an average size greater than 5 acres; or.

The Commissioners Court has entered into an approved Development Agreement with the Owner or Permittee regarding the development of a master-planned community of no fewer than fifty (50) residential Lots.

§4.03. General Requirements for Maintenance of Private Roadways

Development Authorizations that include the use of Regulated Private Roadways shall be subject to a maintenance agreement with the County. The person(s) responsible for maintenance under the agreement may be the Owner of the Subject Property, the Permittee, or another person or entity acceptable to the County. The following provisions apply to Regulated Private Roadways:

- (A) The following note shall be conspicuously displayed on the Record Documents filed in conjunction with the Development Authorization:

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[Owner], by filing this Record Document, and all future owners of this property, by purchasing such property, acknowledge and agree that Hays County shall have no obligation whatsoever to repair or accept maintenance of the roadways shown on this approved development plan until and unless [Owner] and/or the property occupants or tenants have improved the roadways to the then current standards required by Hays County and the roadways have been accepted for maintenance by formal, written action of the County Commissioners Court and the roadways, with all required right-of-way and building setbacks, have been dedicated by the owners thereof, and accepted by the County, as public roadways. [Owner] and all future owners of property within the limits of the approved development plan shall look solely to the [Owner or Entity entering into Maintenance Agreement with the County] for future maintenance and repair of the roadways included in this development plan; and

- (B) Any restrictive covenants establishing a responsibility for roadway operation and maintenance shall be placed on record concurrently with the recording of the Record Documents.
- (C) Regulated Private Roadways shall be operated and maintained to allow unrestricted ingress/egress by the occupants of the property and service providers, including emergency services. The maintenance agreement with the County shall include enforcement provisions for Regulated Private Roadways that are not properly operated and maintained.

§4.04. Additional Requirements for Private Roadways to be Maintained by an Association

Concurrently with the filing of an Application for a Development Authorization that will include Regulated Private Roadways, the Applicant shall submit the following:

- (A) Ready-for-execution copies of the articles of incorporation and bylaws of the homeowners or property owners association; and,
- (B) The minimum annual assessments that will be imposed upon members of the association.

Sub-Chapter 5 - Standards for Regulated Roadways

§5.01. Applicability

Regulated Roadways are defined in Chapter 701, and include all roadways associated with an Application for a Development Authorization under these Regulations, including existing public roadways that are being connected or modified to accommodate the effects of a proposed development, new roadways dedicated to the public as part of a Development Authorization, new private roadways, shared access easements, and shared access driveways used for emergency services access as a part of a Development Authorization, and driveways, utilities, storm water management facilities or other facilities within the right-of-way of a Regulated Roadway.

§5.02. Design Requirements

All Regulated Roadways and related improvements shall be designed and installed so as to provide, to the maximum extent feasible, a logical system of utilities, drainage and roadways and

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to permit continuity of improvements to adjacent properties. A Roadway Design Report, prepared by a Texas licensed professional engineer, certifying compliance with these Regulations and other applicable standards shall be prepared and submitted with the Application.

§5.03. Minimum Rights of Way and Building Setbacks

All Regulated Roadways shall comply with the established minimum right-of-way widths and building setback lines based on the roadway classification. Above-grade construction is prohibited within the established building setback lines. Building setback lines apply on each side of a Regulated Roadway. The established minimum right-of-way widths and building setback lines are presented in Table 721.02, below.

§5.04. Design and Construction Standards

- (A) The classification and construction standards for all Regulated Roadways shall be determined according to the Average Daily Traffic anticipated for the roadways. The Roadway Design Report shall include estimates of the Average Daily Traffic (ADT) before and after the proposed development. The methodology for estimating ADT shall be based on recognized industry standards, including those utilized by the Texas Department of Transportation (TXDOT) and AASHTO. The post-development ADT shall be based on the maximum number of Lots that would be permitted in the approved development plan.
- (B) The geometric requirements for Regulated Roadways shall be identified in the Roadway Design Report and shall be designed to accommodate the design ADT of the roadway. The minimum geometric standards for Regulated Roadways are summarized in Table 721.02.
- (C) The design and construction of all Regulated Roadways shall conform to the Hays County Specifications for Paving and Drainage Improvements, as adopted by the Department, and shall include all necessary improvements, including necessary signage and traffic control devices. All signage and traffic control devices shall conform to the "Texas Manual of Uniform Traffic Control Devices," latest edition, as adopted by TXDOT. Speed bumps are not authorized as traffic control devices on Public Roadways. Pedestrian elements (e.g. sidewalks, crosswalks, access ramps, etc.) for projects in Public Roadways shall comply with the accessibility requirements of the Texas Department of Licensing and Regulation (TDLR), and if required, shall be submitted to TDLR for review and approval.
- (D) Incentive for Lots Larger than Five Acres. As an incentive to developers to create lots larger than five acres and to reduce their associated development costs, Country Lane roadways may be constructed, without calculation of the Average Daily Traffic, if all Lots with frontage or access onto the roadway are (i) larger than five acres in size, (ii) restricted by a note on the Record Document limiting development to one single family dwelling unit per Lot and prohibiting TCEQ Regulated Development, and (iii) the application is approved by the Department.
- (E) Incentives for Bicycle Paths and Lanes. If portions of a Local Roadway or Minor Collector are set aside and appropriately designated for the use of bicycles (or a separate bike path is constructed parallel to the roadway), then the amount of right-of-way dedicated to such bicycle use shall be credited against the width of required shoulders and

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the Department may reduce the estimated Average Daily Traffic per Lot in determining the design criteria for the roadway served by the bicycle path/lane, in an amount determined appropriate by the Department.

- (F) Clearance of Right-of-Way. Upon request by the Owner, the Department shall, to the extent it is safe and prudent to do so, permit preservation of trees of greater than ten inches (10") in diameter, measured one foot from the ground (or the replanting of trees by the Owner), within rights of way of roadways classified as Country Lanes, Local Roadways and Minor Collectors, with greater preservation of trees permitted along roadways with the lower design speed. The Owner shall be responsible for affixing reflectors or other safety devices to any trees preserved within the right-of-way.

§5.05. Access to Regulated Roadways

Except with respect to Lots served by Shared Access Driveways, each Lot shall have the minimum direct frontage onto a Regulated Roadway set forth below and Driveways shall be spaced no closer than the minimum space intervals set forth below, depending on the classification of road onto which the Lot has frontage and the driveway has access. All such driveways shall conform to the Hays County Driveway Specifications, as adopted by the Department.

- (A) Incentive for Qualifying Lots. Qualifying Lots will be exempt from the minimum lot frontage and driveway spacing requirements specified above if approved by the Department and Commissioners Court with due regard to safety concerns. A Qualifying Lot is any Lot that (i) is restricted by plat note to development of a single family residence, (ii) has direct access onto a Regulated Roadway and (iii) satisfies the minimum Lot size requirements set forth in these Regulations either through actual lot size or lot size averaging.
- (B) Flag Lots. Flag lots shall generally not be permitted, except if approved by the Commissioners Court as consistent with the intent and spirit of these Regulations. The Department shall advise the Commissioners Court if a proposed Lot constitutes a "flag lot" and the Commissioners Court shall, in reviewing all the circumstances, make the final determination.

§5.06. Commercial Driveways

Driveways serving commercial development shall be spaced at the minimum intervals of one hundred fifty feet (150'). Joint-use driveways may be utilized in situations that limit the number of driveway access permits that are issued by either the State of Texas or Hays County to a public roadway, or where safety concerns provide a satisfactory explanation for its use.

§5.07. Shared Access Driveways

Up to one (1) Lot without independent access to a Regulated Roadway may obtain access to a Regulated Roadway by means of a Shared Access Driveway if approved by the Commissioners Court. An additional two (2) Lots having independent access to a Regulated Roadway may also share the use of the Shared Access Driveway. Shared Access Driveways are intended as a means to provide flexibility in the development process, preserve the rural character of the land and avoid excessive infrastructure costs when such costs would provide little or no social benefit. Shared Access Driveways are not intended to serve as a substitute for interior roads. Excessive

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use of Shared Access Driveways will not be permitted. Any application proposing shared access driveways shall also satisfy the following requirements:

- (A) A plat note must be conspicuously displayed on the plat stating:
- (16) All lots served by a Shared Access Driveway are restricted to one single family residence per lot and if any other Development of a Dwelling Unit occurs on any of the Lots obtaining access through the Shared Access Driveway, then such new Dwelling Unit must be constructed on a separately platted lot with direct frontage onto and physical access to a Regulated Roadway prior to construction of the Dwelling Unit. A duplex will not be considered a single family residence for purposes of this subparagraph.
 - (17) The owners of the Single Family Residences obtaining access through the Shared Access Driveway shall be solely responsible for all maintenance of the driveway, including maintaining any drainage structures associated with the driveway. The driveway must be maintained at all times in a condition that will permit unencumbered vehicular access by emergency vehicles.
- (B) Each of the Lots sharing the use of the Shared Access Driveway shall hold equal, indivisible and unrestricted rights in the Shared Access Driveway, which rights shall be established by recorded easement and the easement shall run with the land of each of the benefited Lots. The easement instrument shall clearly state each Lot's pro rata responsibility with respect to future maintenance or repairs of the Shared Access Driveway.
- (C) The Shared Access Driveway shall be no longer than one quarter mile in length and must have a minimum distance of (a) 200 feet from any other driveway entering onto the Regulated Roadway and (b) 500 feet from any other Shared Access Driveway.
- (D) The Shared Access Driveway shall have a name or designation approved by the County "911" Coordinator and a separate "911" address shall be established as for each Lot which relies on a Shared Access Driveway for access.
- (E) Up to three (3) Lots not having independent access to a Regulated Roadway may share a Shared Access Driveway with up to two (2) Lots having independent access to a Regulated Roadway if all other requirements of this are met and all Lots using or adjacent to the Shared Access Driveway are larger than five acres in size and restricted by Plat note limiting development to one single family residence per Lot and prohibiting TCEQ Regulated Development.

§5.08. Coordination with "911" Addressing System

If not previously established, all Applications for Development Authorization submitted to the County that include a new or altered Regulated Roadway, shared access easement, or a shared access driveway shall obtain approval for the names and/or designations for such roadways, easements or driveways from the County "911" Coordinator, in accordance with Chapter 701, Subchapter 16. The Applicant shall also establish a "911" address for all lots or components of the development served by a Regulated Roadway, shared access easement or shared access driveway associated with that development, in accordance with Chapter 701, Subchapter 16.

ATTACHMENT "A"**§5.09. Speed Limits for Regulated Roadways**

- (A) If not previously established, all Applications for Development Authorization submitted to the County that include a new or altered Regulated Roadway, shared access easement, or a shared access driveway shall establish an appropriate maximum speed limit for such roadways, easements or driveways. Such established maximum speed limits shall not be greater than the maximum speed limits authorized under TTC Chapter 545.352 but shall not be less than the lower maximum speed limits authorized under TTC Chapter 545.355 for the specific type of roadway under consideration. For roadways with speed limits that are established at less than the maximum speed limits authorized under TTC Chapter 545.352, the Roadway Design Report shall include an explanation of the reasons for the reduced maximum speed limits.
- (B) Speed limits shall not take effect until such time as the County approves and issues the Development Authorization under which those speed limits were established and signage indicating the established speed limit(s) is actually posted along the roadway.

§5.10. Construction Quality Assurance for Regulated Roadways.

The Permittee shall submit document all required inspections and tests at the completion of each phase of construction of the roadway. Construction Quality Assurance testing shall comply with the following:

- (A) Tests on all components of the pavement system, including plasticity index, tests for compacted density, depth of base, distribution of asphalt, and other quality assurance tests required by the County's adopted roadway construction specifications.
- (B) It is the responsibility of the Permittee to coordinate all inspections and laboratory tests with the Department and not to proceed with construction until proper inspections and tests have been obtained.
- (C) Any laboratory tests and test holes shall be at the expense of the Permittee.
- (D) In no event will any subsequent component be placed on the roadway until the underlying components have been approved in writing by the Department.

ATTACHMENT "A"**Table 721.01 – Design Requirements Based on Roadway Classification**

Functional Classification	Country Lane	Local Roadway	Urbanized Local Roadway	Minor Collector	Major Collector	Minor Arterial	Major Arterial
AASHTO Classification	Special Purpose	Local Rural	Special Purpose	Rural Collector	Rural Collector	Rural Arterial	Rural/Urban Arterial
Average Daily Traffic (ADT - one way trips*)	Not more than 100	101-1000	Not more than 1000	1001-2500	2501-5000	5001-15000	More than 15,000
Design Speed (mph)	25 mph	25 mph	25 mph	35 mph	45 mph	55mph	**
No. of Travel Lanes	2	2	2	2	2	4	**
Turn Lanes	No	No	No	No	**	**	**
Min. ROW Width (ft)	50	60	40	60	80	100	**
Building Setback (ft)	10	25	10	25	50	50	50
Width of Travelway (ft)	18	20	18	22	24	48	**
Width of Shoulders (ft)	2	4	2	5	6	8	**
Minimum Centerline Radius (ft)	200	300	200	375	675	975	**
Min. Tangent Length between Reverse or Compound Curves (ft)	50	100	50	150	300	500	**
Min. Radius for Edge of Pavement at Intersections (ft)	25	25	25	25	25	25	**
Intersection Street Angle Range	80-100	80-100	80-100	80-100	80-100	80-100	**

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(degrees)							
Max. Grade (%):	11	11	10	10	9	8	**
Min. Street Centerline offset at Adjacent Intersections (ft)	110	125	110	125	125	125	**
Min. Stopping Sight Distance (ft)	175	175	175	250	350	550	**
Min. Intersection Sight Distance (ft)	250	250	250	350	450	550	**
Ditch Foreslope Grade	4:01	4:01	4:01	5:01	5:01	6:01	**
Ditch Backslope Grade	3:01	3:01	3:01	4:01	4:01	4:01	**
Min. Cul-de-sac ROW/ Pavement Radius (ft)	70/45	70/45	70/45	70/45	N/A	N/A	N/A
Min. "T" End ROW/ Pavement Length (ft)	80/65	80/65	80/65	N/A	N/A	N/A	N/A
Min. "T" End ROW/ Pavement Width & Radius (ft)***	40/20	40/20	40/20	N/A	N/A	N/A	N/A
Min. Lot Frontage (ft)	30	50	30	100	150	150	150
Min. Drive Spacing (ft)	50	50	50	75	120	120	120

Notes:

* ADT shall be based on an average of 10 one-way trips per dwelling unit per day for residential lots. ADT calculations for commercial or other lots shall approved by the Department on a case-by-case basis.

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** Noted elements shall be approved by the County Engineer on a case-by-case basis.

*** "T" End Designs must conform to minimum AASHTO Standards

AASHTO – American Association of State Highway and Transportation Officials

Building Setback – Minimum building setback, in feet, applicable to each side of the roadway

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CHAPTER 735 - FLOOD DAMAGE PREVENTION

Sub-Chapter 5 - Provisions for Flood Hazard Reduction

§5.03. Standards for Subdivision Proposals

- (A) All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with this Chapter, and shall be approved by the County Floodplain Administrator prior to issuance of the Development Authorization by the County. Plat specifications and details for submission will be governed by Chapter 705 and other applicable provisions of these Regulations.
- (B) All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet the requirements this Chapter.
- (C) Base flood elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which is are greater than 50 lots or 5 acres, whichever is lesser, if not otherwise provided pursuant to this Chapter.
- (D) All subdivision plats shall have the Floodplain and Floodway clearly delineated on the plat and, where appropriate, shall have the lowest floor elevations for all lots located within Flood Hazard Areas.
- (E) All subdivision Applications including the placement of manufactured home parks and subdivisions shall include provisions for adequate drainage as required under Chapter 725, to reduce exposure to flood hazards.
- (F) All subdivision Applications including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.
- (G) All subdivision Applications which include land which is encroached by areas of special flood hazard, must include the placement of a permanent benchmark indicating the elevation relative to mean sea level. The benchmark must be located within the platted property, and must be indicated on the subdivision plat.

ATTACHMENT "A"**ORDER ADOPTING RULES OF HAYS COUNTY, TEXAS
FOR ON-SITE SEWAGE FACILITIES****Section 10. AMENDMENTS.**

The County of Hays, Texas, wishing to adopt more stringent Rules for its On-Site Sewage Facilities, understands that the more stringent local Rule shall take precedence over the corresponding Texas Commission on Environmental Quality requirements if local rules provide greater public health and safety protection. Listed below are the more stringent Rules adopted by Hays County, Texas.

A. Definitions.

The following terms shall have the corresponding meaning:

1. Dwelling Unit Equivalent – An estimated quantity of wastewater from a non-residential source that is equivalent to that generated from a three (3) bedroom residential dwelling unit, or 300 gallons per day, whichever is greater.
2. Qualified OSSF Inspector – An individual with a current license from the TCEQ as an Installer or a Maintenance Provider, as those terms are defined under 30 TAC Chapter 285 who also holds a current National Association of Wastewater Transporters (NAWT) or National Sanitation Foundation (NSF) certification as an on-site sewage facility inspector within one year of the effective date of these rules. Texas licensed professional engineers and Texas registered sanitarians may also inspect existing OSSFs, subject to the requirements of 30 TAC Chapter 285.
3. Department – Hays County Development Services Division
4. Groundwater Supply System – Any water supply system that obtains greater than one-third of its overall supply from Groundwater. This classification of water supply systems is further subdivided into Public Groundwater Supply Systems and Private Groundwater Supply Systems. Public Groundwater Supply Systems are any systems designated a Public Water System by the Texas Commission on Environmental Quality. Private Groundwater Supply Systems are any systems that do not qualify as a Public Groundwater Supply System, including, but not limited to, individual water supply wells.
5. Surface or Rainwater Collection System – A water supply system in which greater than two-thirds of the total water obtained is from a “surface” source, rainwater collection, or groundwater from an aquifer that is located entirely outside of Hays County. In the event any water supply system relies on Groundwater for greater than one-third, but not more than one-half, of its total water supply, the Commissioners Court may, on a case-by-case basis, approve an application to consider such water supply system to be a “Surface or Rainwater Collection System.”
6. Private Well – Any water well other than a Public Well. This definition includes Non-Public Local Groundwater Supply Systems which are Local Groundwater Supply

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Systems that do not qualify as a Public Local Groundwater Supply System, including, but not limited to individual water supply wells.

7. Public Well – A water well providing piped water for human consumption and defined as a "Community Water System" or a "Public Water System" under Chapter 290 of the Texas Administrative Code.
8. Rainwater Harvesting System – An individual potable water supply system approved by the Department and having rainwater as its source and designed to provide for any or all of the domestic water requirements, including irrigation.

D. Facility Planning

All of the terms and provisions of 30 TAC §285.4 are incorporated within the Rules of Hays County except as expressly amended below.

1. Land Planning, Site Evaluation and Minimum Lot Sizing. The following requirements shall apply to all lots on which an OSSF is to be utilized:
 - (A) A platted or unplatted single family residential lot shall have a surface area of at least the acreage designated in Table 10-1 below.
 - (B) Small Multi-Unit Residential Developments. Multi-unit residential developments with four or fewer individual dwelling units, including duplexes, may utilize lots smaller than the acreages set forth in Table 10-1, provided:
 - (1) site specific evaluation materials, for a central system or individual systems, are prepared by a Texas licensed professional engineer or a Texas registered professional sanitarian and submitted to the Department for review and approval; and,
 - (2) there is no more than one (1) dwelling unit for each TCEQ minimum lot acreage and no more than two (2) dwelling units for each minimum lot size as designated in Table 10-1 below.
 - (C) Other Multi-unit Residential Developments and Non-Residential Developments. Platted or unplatted lots used for multi-unit residential developments with more than four dwelling units, including apartment complexes, groups of rental dwelling units and lots used for non-residential purposes (e.g. office, commercial, industrial or institutional uses) producing domestic wastewater:
 - (1) shall have a minimum lot size of 1.0 acres and a total surface acreage of at least one (1) acre for each dwelling unit equivalent (DUE) per day; and,
 - (2) the on-site sewage facilities for these developments shall be designed based on site specific evaluation materials.
 - (D) OSSFs serving Manufactured Home Rental Communities and Recreational Vehicle Parks where spaces are rented or leased and are not subdivided for

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individual sale may be designed in accordance with Subsection (1)(C) above of this Section D.

- (E) Condominium Complexes. Condominium complexes utilizing on-site sewage facilities shall meet the following requirements:
- (1) The Owner applying for the OSSF permit shall identify the person who will be legally responsible for compliance with all applicable OSSF requirements. The application for OSSF permit shall include a sworn (notarized) statement from such legally responsible person attesting that such person accepts full legal responsibility for compliance with all applicable OSSF requirements. In the event the designated legally responsible party fails or refuses to comply with any applicable OSSF requirements, the Department may institute appropriate enforcement action against that person, or against one or more of the following parties who the Department determines to be responsible for the noncompliance: (i) the owner or manager of the condominium complex; (ii) the owner of one or more individual condominium units; (iii) the legally constituted condominium owners association for that condominium; (iv) a maintenance company/provider contracted to provide maintenance for the noncompliant OSSF.
 - (2) All requirements set forth in this Section D apply to condominium complexes.
 - (3) Each individual condominium unit shall be equipped with a flow meter capable of measuring the wastewater flow from that unit or a flow meter capable of measuring the water usage for that unit.
 - (4) Maintenance of the OSSF for a condominium complex is subject to the applicable maintenance, testing and reporting requirements of TCEQ's Chapter 285 Rules and all maintenance shall be provided by a Maintenance Company/Provider registered with TCEQ under such rules.
- (F) Where multiple sources of water apply to one lot, the larger of the two (2) minimum lot sizes shall govern.
- (G) In instances where the actual design of the OSSF system proposed for use dictates a larger minimum lot size required, such larger minimum lot size shall apply.
2. Lot Size Averaging. Only platted development may take advantage of these averaging provisions. The minimum acreage requirements set forth in Table 10-1 below may be obtained by averaging the size of all Lots within a platted development so long as the only Lots with acreage exceeding the minimum set forth in such table that may be included in the averaging calculation shall be:
- (A) Lots reserved by plat note for use as parkland or open space, or a private greenbelt in which all owners or residents of the subdivision hold an equal, unrestricted and indivisible right of access and use; or,

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- (B) Lots larger than five acres restricted by a plat note prohibiting all development other than one Single Family Residence or other development excluded from the term "Regulated Activities" under the Edwards Aquifer Rules of the TCEQ (30 TAC Chapter 213), but without regard to the aquifer over which the development occurs.
3. Notwithstanding the averaging allowed above or anything else to the contrary in this Order, no on-site sewage facility shall be permitted on any Lot smaller than the minimum lot size permitted under Chapter 366 of the Texas Health and Safety Code and the TCEQ Regulations promulgated thereunder (30 TAC Chapter 285).

Table 10-1 – Minimum Lot Sizes (in Acres) for OSSFs

Location	Water Service	Advanced	Conventional	TCEQ Min.
EARZ [1]	Surface or Rainwater Collection System	1.50	2.00	1.00 [4]
EARZ	Public Groundwater Supply System[2,8]	2.50	4.50	1.00 [4]
EARZ	Private Well	3.00	5.00	1.00 [4,6]
EACZ [3]	Surface or Rainwater Collection System	1.00	1.50	0.50 [5]
EACZ	Public Groundwater Supply System	1.50	2.50	0.50 [5]
EACZ	Private Well	2.00 6.00[8]	3.00 6.00[8]	1.00 [6]
Any Other	Surface or Rainwater Collection System	0.50 1.00 [7]	1.00	0.50 [5] 1.00 [6]
Any Other	Public Groundwater Supply System	1.00	1.50	0.50 [5]
Any Other	Private Well	1.50 6.00[8]	2.00 6.00[8]	1.00 [6]

Notes:

1. Edwards Aquifer Recharge Zone as defined in 30 TAC §213
2. A Public System is a Public Water System as defined in 30 TAC §290
3. Edwards Aquifer Contributing Zone as defined in 30 TAC §213
4. TCEQ Minimum lot size as per 30 TAC §285.40(c)
5. TCEQ Minimum lot size as per 30 TAC §285.4(a)(1)(A)
6. TCEQ Minimum lot size as per 30 TAC §285.4(a)(1)(B)
7. Minimum lot size for use of surface application system as per 30 TAC §285.33(d)(2)
8. Applicable to new subdivisions and Manufactured Home Rental Communities served by individual private water wells located within the Priority Groundwater Management Area as defined by Texas Commission on Environmental Quality and required to demonstrate water availability as required by Hays County under the authority granted to the County under the Texas Water Code and the Texas Local Government Code.

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4. A lot may contain multiple habitable structures and qualify as a single family residential lot if it meets the following criteria:
 - (A) In addition to the primary dwelling unit, the lot may be occupied by additional habitable structures or dwelling units (e.g. garage apartments, pool houses, guest cottages, etc.) with useable floor space less than fifty percent (50%) of the floor space of the primary dwelling unit;
 - (B) The additional habitable structures are not offered for public use or rental; and,
 - (C) All such additional habitable structures are precluded from sale or transfer separate from the primary dwelling unit.

5. Existing small lots or tracts that do not meet the minimum lot size requirements of this section and will serve one single family dwelling may be approved for an OSSF in accordance with the following requirements:
 - (A) Any lot, regardless of the date of platting or subdivision, must be of adequate size to accommodate the proposed system, including an effluent dispersal area that complies with effluent loading requirements of 30 TAC §285.91, Table I, and the system must be designed and operated in accordance with the remaining requirements of 30 TAC §285.
 - (B) For lots or tracts platted or subdivided before March 14, 1977, an OSSF may be permitted on a lot of any size.
 - (C) For lots or tracts platted or subdivided on or after March 14, 1977, but before June 14, 1984, an OSSF may be permitted on a lot of at least twenty thousand (20,000) square feet in size;
 - (D) For lots or tracts platted or subdivided on or after June 15, 1984, but before August 29, 1997;
 - (1) If the lot has a soil depth of less than four (4) feet to bedrock or to groundwater or if the percolation rate exceeds forty five (45) minutes per one (1) inch, the minimum lot size shall be thirty thousand (30,000) square feet; or,
 - (2) If the lot has both a soil depth of less than four (4) feet to bedrock or to groundwater and a percolation rate exceeding forty five (45) minutes per one (1) inch, the minimum lot size shall be forty thousand (40,000) square feet.
 - (E) For lots or tracts platted or subdivided on or after June 15, 1984, but before August 29, 1997, an OSSF may be permitted on a lot with a minimum size in compliance with 30 TAC §285.4 or §285.40, as applicable, which meets the requirements of 30 TAC §285.31 and the Hays County Regulations that were in effect at the time.

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- (F) For lots or tracts platted or subdivided on or after August 29, 1997, and before the effective date of this Order, an OSSF may be permitted on a lot with a minimum size in compliance with Table 10-1 above, which meets the requirements of 30 TAC §285.31. An exception is the Edwards Aquifer Contributing Zone which only applies to the Barton Springs Segment of the Contributing Zone.

G. Innovative Development

Innovative development, such as "planned unit development" style developments, are encouraged and will be considered on a case by case basis, upon the submission of the following with a preliminary plan application for subdivision approval:

1. Site Evaluation Materials demonstrating that such an innovative development is appropriate in light of lot sizes, soil or other conditions;
2. Site Specific Materials; and,
3. Site Plan to be recorded with Record Plat, which shall state the future development of the Property shall be in accordance with the Site Plan. The Site Plan shall designate the type of development permitted on each Lot, the location of buildings, paved areas, green belts and on-site sewage facilities (including drainage fields) on each Lot; and all other materials required under 285.30 of the Rules, as applicable. As provided in Section 285.6 of the Rules, cluster systems are not authorized.

The Commissioners Court may approve an application for innovative development permitting minimum lot acreage below those required in Table 10-1 upon a finding that the proposed development will provide equivalent protection of the public health and environment as development in accordance with these Regulations and that the lot acreage meet the TCEQ minimum.