

## **DSRP Board of Directors Regular Meeting**

City of Dripping Springs Ranch Park Event Center

1042 Event Center Drive – Dripping Springs, Texas

Wednesday, May 08, 2024, at 11:00 AM

## **AGENDA**

#### CALL TO ORDER & ROLL CALL

#### **Board Members**

Todd Purcell, Chair Terry Polk, Vice Chair Pam Owens, Secretary Mike Carroll Sean Casey Penny Reeves

#### Staff, Consultants, & Appointed/Elected Officials

Parks & Community Services Director Andy Binz DSRP Event Center Manager Emily Nelson DSRP Event Center Assistant Manager Lily Sellers Deputy City Attorney Aniz Alani Council Member Sherrie Parks

#### PRESENTATION OF CITIZENS

A member of the public that wishes to address the Board on any issue, regardless of whether it is posted on this agenda, may do so during Presentation of Citizens. It is the request of the Board that individuals wishing to speak on agenda items with a public hearing hold their comments until the item is being considered. Individuals are allowed two (2) minutes each to speak regarding issues not on the agenda and two (2) minutes per item on the agenda and may not cede or pool time. Those requiring the assistance of a translator will be allowed additional time to speak. Individuals are not required to sign in; however, it is encouraged. Individuals that wish to share documents with the Board must present the documents to the City Secretary or City Attorney providing at least eight (8) copies; if eight (8) copies are not provided, the Board will receive the documents the following day. Audio Video presentations will not be accepted during Presentation of Citizens. By law no action shall be taken during Presentation of Citizens; however, the Chair may provide a statement of specific factual information, recitation of existing policy, or direction or referral to staff.

#### **MINUTES**

1. Discuss and consider approval of the March 13, 2024, DSRP Board of Directors regular meeting minutes.

#### **BUSINESS AGENDA**

- 2. Discuss and consider recommendation regarding the Joint Use Agreement between the City of Dripping Springs and the Dripping Springs Mountain Bike Club for maintenance, use, and other activities related to the Dripping Springs Ranch Park trails.
- 3. Discuss and consider approval of the DSRP Board of Directors Fiscal Year 2025 recommendation.

#### **REPORTS**

Reports listed are on file and available for review upon request. The Board may provide staff direction; however, no action shall be taken.

**4. Dripping Springs Ranch Park & Event Center Report** *Emily Nelson, DSRP Manager* 

#### **CLOSED SESSION**

The Board has the right to adjourn into closed session on any item on this agenda and at any time during the course of this meeting to discuss any matter as authorized by law or by the Open Meetings Act, Texas Government Code Sections 551.071 (Consultation With Attorney), 551.072 (Deliberation Regarding Real Property), 551.073 (Deliberation Regarding Prospective Gifts), 551.074 (Personnel Matters), 551.076 (Deliberation Regarding Security Devices or Security Audits), and 551.087 (Deliberation Regarding Economic Development Negotiations), and 551.089 (Deliberation Regarding Security Devices or Security Audits). Any final action or vote on any Closed Session item will be taken in Open Session.

5. Consultation with City Attorney related to legal issues on the agreement with the Dripping Springs Mountain Biking Club. Consultation with Attorney, 551.071

#### **UPCOMING MEETINGS**

#### **DSRP Board Meetings**

June 12, 3034, at 11:00 a.m. July 10, 3034, at 11:00 a.m. August 14, 3034, at 11:00 a.m.

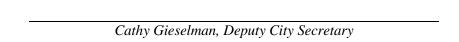
#### City Council Meetings

May 21, 2024, at 6:00 p.m. June 4, 2024, at 6:00 p.m. June 18, 2024, at 6:00 p.m.

#### **ADJOURN**

#### TEXAS OPEN MEETINGS ACT PUBLIC NOTIFICATION OF MEETING

I certify that this public meeting is posted in accordance with Texas Government Code Chapter 551, Open Meetings. This meeting agenda is posted on the bulletin board at the City of Dripping Springs City Hall, located at 511 Mercer Street, and on the City website at, www.cityofdrippingsprings.com, on May 3, 2024, at 12:15 p.m.



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



## **DSRP Board of Directors Regular Meeting**

City of Dripping Springs Ranch Park Event Center

1042 Event Center Drive – Dripping Springs, Texas

Wednesday, March 13, 2024, at 11:00 AM

## **MINUTES**

#### CALL TO ORDER & ROLL CALL

With a quorum of the Board present, Chair Purcell called the meeting to order at 11:08 a.m.

#### **Board Members present were:**

Todd Purcell, Chair Terry Polk, Vice Chair Pam Owens, Secretary Mike Carroll Sean Casey Penny Reeves

#### Staff, Consultants, & Appointed/Elected Officials present were:

Parks & Community Services Director Andy Binz DSRP Event Center Manager Emily Nelson DSRP Event Center Assistant Manager Lily Sellers Deputy City Administrator Shawn Cox Council Member Sherrie Parks

#### PRESENTATION OF CITIZENS

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No one spoke during Presentation of Citizens.

#### **MINUTES**

1. Discuss and consider approval of the February 8, 2024, Dripping Springs Ranch Park Board regular meeting minutes.

A motion was made by Board Member Reeves to approve the February 8, 2024, Dripping Springs Ranch Park Board regular meeting minutes. Board Member Carroll seconded the motion which carried unanimously 6 to 0.

#### **BUSINESS AGENDA**

2. Presentation, discussion, and possible action regarding the DSRP Board of Directors Fiscal Year 2025 recommendation and Budget Committee appointments.

Shawn Cox presented the Fiscal Year 2025 Budget Calendar.

Via unanimous consent, Board Members Pam Owens, Mike Carroll and Todd Purcell will be on the Budget Committee.

3. DSRP Board Member Ranch Park Walking Tour.

Board Members toured the Ranch Park.

#### REPORTS

Reports listed are on file and available for review upon request. The Board may provide staff direction; however, no action shall be taken.

#### 4. DSRP Manager's Report

Emily Nelson, DSRP Manager

#### **CLOSED SESSION**

The Board has the right to adjourn into closed session on any item on this agenda and at any time during the course of this meeting to discuss any matter as authorized by law or by the Open Meetings Act, Texas Government Code Sections 551.071 (Consultation With Attorney), 551.072 (Deliberation Regarding Real Property), 551.073 (Deliberation Regarding Prospective Gifts), 551.074 (Personnel Matters), 551.076 (Deliberation Regarding Security Devices or Security Audits), and 551.087 (Deliberation Regarding Economic Development Negotiations), and 551.089 (Deliberation Regarding Security Devices or Security Audits). Any final action or vote on any Closed Session item will be taken in Open Session.

The Board did not meet in Closed Session.

#### **UPCOMING MEETINGS**

#### **DSRP Board Meetings**

April 10, 2024, at 11:00 a.m. May 8, 2024, at 11:00 a.m. June 12, 2024, at 11:00 a.m.

<u>City Council Meetings</u> March 19, 2024, at 6:00 p.m. April 2, 2024, at 6:00 p.m. April 16, 2024, at 6:00 p.m.

### **ADJOURN**

Via unanimous consent, the Board adjourned the meeting at 12:18 p.m.



## STAFF REPORT

## **City of Dripping Springs**

## **PO Box 384**

#### **511 Mercer Street**

**Dripping Springs, TX 78602** 

**Submitted By:** Emily Nelson, Dripping Springs Ranch Park Manager

DSRP Board Meeting Date: May 8, 2024

Agenda Item Wording: Discuss and consider a recommendation related to the agreement

with the Dripping Springs Mountain Bike Club and biking and

other activity related to the Ranch Park trails.

Agenda Item Requestor:

**Emily Nelson** 

**Summary/Background:** On April 23, 2024, the Dripping Springs Mountain Biking Team hosted a Trail Maintenance Day. Ranch Park Staff were not aware of the scheduled Trail Maintenance Day.

On the morning of April 24, 2024, Andrew Binz noticed a lot of displaced dirt, boulders, and trees in the ravine located behind the Ranch House. Emily Nelson and Lily Sellers went to investigate the area with Andrew. The Mountain Biking team had created an unsanctioned trail in the ravine. It resulted in a large amount of tree trimming along with entire trees being cut down. There was a dramatic drop off a ledge that would be very dangerous for mountain bikers, equestrians, and hikers.

Emily and Lily decided to hike the entire trail and found extensive trail destruction had occurred. From improperly cut limbs to enhancements of unsanctioned trails. They also found that the trail work had continued down the environmentally sensitive ravine which resulted in a lot of trees being cut down that provided structure for the ravine's rock edge. Some oaks were cut and not sealed along the trail.

Emily contacted Lindsey Thomas immediately to make sure a cease and desist on all trail work occurred. Lindsey admitted that the Mountain Biking Team had been working in that area and that she had asked them 3 times to stop working in that area. She was the dangerous torn limbs that are throughout the trail system and the unsanctioned trails.

The Mountain Biking Team came out to remedy the ravine unsanctioned trail to the best of their abilities, but some of the damage cannot be fixed. Various city staff and the Mountain Biking Board met on April 30<sup>th</sup> to discuss how this

happened to our trail system without adult intervention. They showed interest in correcting the improper trail maintenance that had taken place.

An arborist will be walking the trail system on Tuesday, May 7<sup>th,</sup> to assess the damage. After that assessment, City Staff will have a better idea of the best plan for trail remediation.

**Staff** Staff recommends suspending trail use by the Dripping Springs Mountain

**Recommendation:** Biking Team until a new agreement can be created and approved.

**Attachments:** Images of trail damage.

Next Steps/Schedule: Take recommendation to City Council



# DSRP Pictures Mountain Bike Club















































































































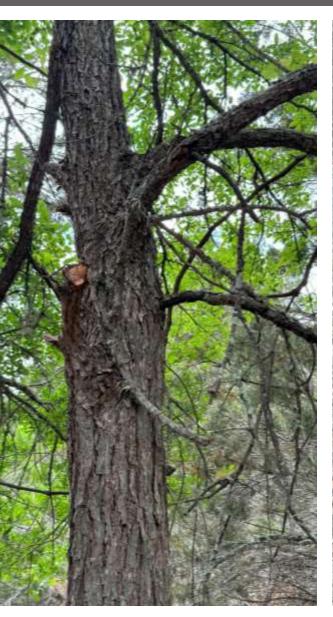




































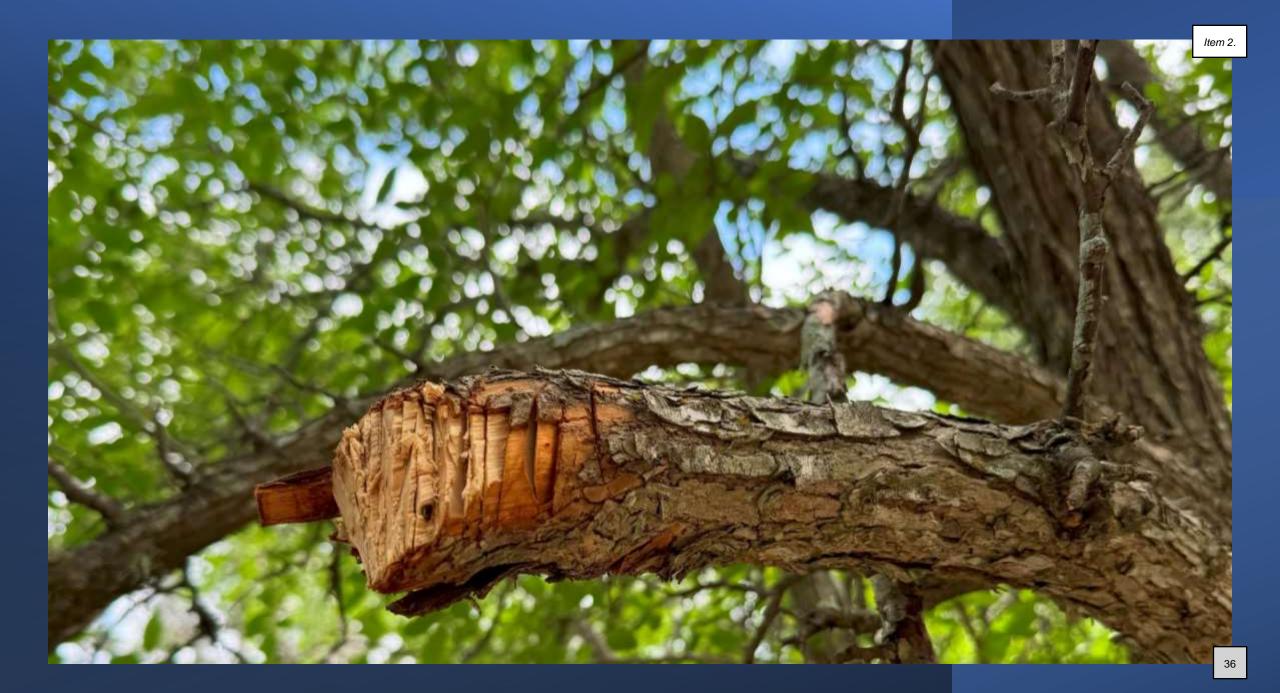














April 29, 2024

Dripping Springs Mountain Bike Club c/o Dennis Lane, Registered Agent 360 Manchester Lane Austin, TX 78737

Dear Dripping Springs Mountain Bike Club:

Re: Notice of Default and Breach of the Joint Use Agreement for Mountain Bike Trails at Dripping Springs Ranch Park between the City of Dripping Springs ("City") and the Dripping Springs Mountain Bike Club ("Club") dated June 10, 2016 (the "Agreement")

We write further to the communication of the Dripping Springs Ranch Park Manager, Emily Nelson, on April 24, 2024, regarding the City's discovery of unauthorized bicycle trail modifications at Dripping Springs Ranch Park on or about April 23, 2024.

We were surprised and disappointed to observe significant modifications to the bicycle trails at Dripping Springs Ranch Park, which we understand to have been carried out on behalf of the Club.

These modifications involved disruption and relocation of rocks and materials on City parkland and occurred without authorization or the knowledge of the City. Most significantly, we were disheartened to see that multiple trees were limbed or cut down to facilitate the bicycle trail modifications. Damage to trees in this area of Dripping Springs Ranch Park jeopardizes the safety and integrity of nearby drainage works.

The Club's modification of the bicycle trails and illegal harvesting of trees on City parkland is a breach of the Agreement. We draw to your attention, in particular, the following provisions of the Agreement:

"Proposed new trails must be approved by the DSRP Manager or City Administrator before commencing work." **Section 4.2(a).** 

"Costs incurred by the City to repair or replace any destruction, damage or injury to Trails during the Club's use of the Trails shall be paid for by Team within thirty (30) days of Club's receipt of an invoice from the City." **Section 4.2(d).** 

"Club shall exercise reasonable care and due diligence to avoid harming City property." **Section 4.2(e).** 

Open spaces, friendly faces.



"Obey all laws, rules, regulations, and terms of the Lease, and of the use, condition, and occupancy of the Leased Premises, including the rules and regulations of the Park, if any, as amended." Section 4.2(g).

"The Club shall secure all necessary permits required in connection with operations on the Premises and shall comply with all federal, state and local statutes, ordinances, or regulations which may affect, in any respect, Club's use of the Trails." **Section 4.2(h).** 

"Club shall defend, indemnify, and hold City, their successors, assigns, officers, employees and elected officials harmless from and against all suits, actions, legal proceedings, claims, demands, damages, costs, expenses, attorney's fees, and any and all other costs or fees arising out of, or incident to, concerning or resulting from the fault of Club or Club's agents, employees, subcontractors, invitees, guest or trespasser in the performance of Club's obligations under this Agreement, no matter how, or to whom, such loss may occur." Section 6.5.

The Club's actions also constitute a violation of multiple City ordinances punishable in accordance with Chapter 54 of the Texas Local Government Code. Without limitation, the ordinance violations include the following:

"It is an offense for any person to intentionally mutilate, injure, destroy, thrash, or remove any live tree, shrub, vine, wildflower, grass, sedge, fern, moss lichen, fungus or any other member of the plant kingdom or portion thereof, except upon approval by the city." City of Dripping Springs Code of Ordinances, §16.02.048(b)(1).

"No person shall damage or remove trees in violation of this article." City of Dripping Springs Code of Ordinances, §28.06.007.

Since bringing this damage to the Club's attention, we acknowledge that some steps appear to have been taken to partially restore the bicycle trails to the previous state. However, the damage to and destruction of City trees is irreparable. Further investigation of the impacts and the development of a remedial plan will require the advice of a certified arborist.

We write to put the Club on notice of the above-noted breaches of the Agreement and violations of City ordinances. The City further expects and demands that the Club indemnify the City against all costs arising out of the unauthorized modification of bicycle trails, as required by section 6.5 of the Agreement.



Finally, the City reserves the right to terminate the Agreement for cause under 3.3(c) of the Agreement if the Club does not promptly and fully rectify the trail in question or fails to pay in full any invoice issued for costs incurred by the City to respond to these breaches.

We look forward to the Club's full cooperation in rectifying this matter at the earliest opportunity.

Sincerely,

Michelle Fischer

City Administrator

cc: Lindsey Thomas

Andrew Binz, Parks and Community Services Director Emily Nelson, Dripping Springs Ranch Park Manager

## JOINT USE AGREEMENT for Mountain Bike Trails

This Joint Use Agreement for the utilization of bicycle trails at Dripping Springs Ranch Park ("Agreement") is between the City of Dripping Springs ("City"), and the Dripping Springs Mountain Bike Club ("Club"). In this Agreement, the City and Club are sometimes individually referred to as a "Party", and collectively referred to as the "Parties".

#### **RECITALS:**

- WHEREAS, the City Council of the City of Dripping Springs ("City Council") authorizes and encourages the use, construction, designation, and maintenance of mountain bike trails to promote the health and general welfare of the community; and
- WHEREAS, the City of Dripping Springs ("City") owns, manages, and operates park lands and facilities for the recreational use of the public;
- WHEREAS, the City is the owner of real property in the City, including Dripping Springs Ranch Park ("DSRP"), trails and active use areas that are capable of being used by the Team for mountain biking purposes; and
- **WHEREAS**, this project authorized by the City includes the construction and maintenance of mountain biking trails in DSRP; and
- WHEREAS, under appropriate circumstances, these publicly held lands and facilities should be used most efficiently to maximize use and increase recreational opportunities for the community; and
- WHEREAS, the City Council finds that the creation of mountain bike trails will increase tourism and revenue to the City; and
- WHEREAS, subject to the terms and conditions hereinafter stated, City and Club agree to the joint use of the trails; and
- WHEREAS, the Parties desire to enter into this Agreement to set forth in writing their respective rights, duties, and obligations.

NOW, THEREFORE, WITNESSETH, that for and in consideration of the mutual promises contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties mutually agree as follows:

#### **ARTICLE 1. GENERAL**

**1.1. Recitals.** The foregoing recitals are incorporated into this Agreement by reference as if expressly set forth herein.

**1.2.** Cooperation. Each of the Parties is lawfully entitled to utilize the type of trails described in this Agreement, and is therefore allowed to cooperate with the other Party for the mutual use of the trails.

#### **ARTICLE 2. DEFINITIONS**

Key terms in this Agreement are defined below. Certain other capitalized terms have the meanings given in the Recitals of this Agreement where first used.

- (a) *City:* The City of Dripping Springs, a General Law, Type-A municipality located in Hays County, Texas.
- (b) City Administrator: The chief administrative officer of the City, or the officer's designee.
- (c) City Council: The governing body of the City of Dripping Springs.
- (d) *Co-Sponsor:* A person that is neither an agent nor an employee of the City. Co-Sponsor is solely responsible for directing and controlling Co-Sponsor's resources and staff in order to achieve the goals of this Agreement.
- (e) *Dripping Springs Mountain Bike Club:* non-profit organization directed towards middle and high school students that promotes mountain biking.
- (f) *Park:* A public area which includes Dripping Springs Ranch Park located at: 1042 Event Center Drive, Dripping Springs, Texas, 78620.
- (g) *Trails*: Multi-use trails in Dripping Springs Ranch Park designated as such by Dripping Springs Ranch Park Manager or City Administrator.

#### **ARTICLE 3. TERM**

- **3.1. Effective Date.** This Agreement shall be effective on the date upon which the binding signatures of all Parties to this Agreement are affixed.
- **3.2. Duration.** This Agreement shall be in effect for an initial term of one year, after which it will automatically renew for successive one-year periods unless: (a) A Party provides the other party with written notice of the intention not to renew the Agreement 90 days prior to end of the then-current year term; or (b) terminated as provided below.
- **3.3. Termination:** This agreement may, by written notice given in the manner hereafter provided, be terminated by:
  - a. Either Party with written notice 90 days prior to the termination date;
  - b. Mutual written consent of the Parties;
  - c. City if a default or breach shall be made by Club with respect to the due and timely performance of any of its covenants and agreements contained herein; or

**d.** Club if a default or breach shall be made by City with respect to the due and timely performance of any of its covenants and agreements contained herein.

#### **ARTICLE 4. OBLIGATIONS**

## 4.1. City's Obligations.

- (a) City agrees to allow Club the use of the Trails for purposes of practicing for competitions.
- (b) City shall take reasonable steps to ensure that waste is not performed upon the Trails, and that any damage to the Trails is limited to reasonable wear and tear.
- (c) The City shall, keep and maintain the Park free of all trash, graffiti, vandalism, weeds and debris, and at all times in an orderly, clean, safe, and sanitary condition. The City shall keep the Park adequately lighted and under surveillance by police patrol to eliminate the possible creation of a nuisance or hazard to the public.
- (d) The City shall secure all necessary permits required in connection with operations on the Premises and shall comply with all federal, state and local statutes, ordinances, or regulations which may affect, in any respect, City's use of the Premises.

#### 4.2. Club's Obligations.

- (a) Club agrees to construct, maintain, and repair the Trails in a good and usable condition during the term of this Agreement. Proposed new trails must be approved by the DSRP Manager or City Administrator before commencing work.
- (b) Club shall furnish all labor, materials, mechanical workmanship, transportation, equipment, and services necessary for the completion of the construction of the Trails described in this Agreement and in accordance with the plan (if any) and other Agreement documents to conduct the installation required under this Agreement in an efficient manner.
- (c) Club shall provide supervision of all work crews while performing the Work. On-site supervision is not required as long as communication equipment is provided which enables the work crew to communicate with a project supervisor at all times.
- (d) Club shall take reasonable steps to ensure that waste is not performed upon the City Trails, and that any damage to the Trails is limited to reasonable wear and tear. Costs incurred by the City to repair or replace any destruction, damage or injury to Trails during the Club's use of the Trails shall be paid for by Team within thirty (30) days of Club's receipt of an invoice from the City.
- (e) Club shall exercise reasonable care and due diligence to avoid harming City property.

- (f) The expense of any and all maintenance, operation expenses and or relocation of said Trails shall be born solely by the Club.
- (g) Obey all laws, rules, regulations, and terms of the Lease, and of the use, condition, and occupancy of the Leased Premises, including the rules and regulations of the Park, if any, as amended.
- (h) The Club shall secure all necessary permits required in connection with operations on the Premises and shall comply with all federal, state and local statutes, ordinances, or regulations which may affect, in any respect, Club's use of the Trails.

#### ARTICLE 5. PERMITTED USES

### 5.1. Club Use.

The Club shall be entitled to the exclusive use of the Trails for the Club's practice location and be the official home trail of the Club.

#### 5.2. City Use.

At all other times, the City and third parties authorized by the City will be entitled to use the Trails for community recreational and educational purposes.

#### ARTICLE 6. GENERAL PROVISIONS

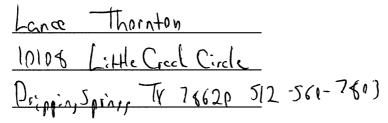
- **6.1. Scheduling.** The schedule for the parties' joint use of the Trails will be coordinated by the Dripping Springs Ranch Park Manager, and the Coach, Lance Thornton, for the Club, who will communicate routinely throughout the term of this Agreement.
- **6.2. Insurance.** Each Party will maintain their own liability insurance to cover the activities described by this Agreement.
- **6.3. Force Majure.** Neither City nor Club shall be deemed in violation of this Agreement if it is prevented from performing any of its obligations hereunder by reasons for which it is not responsible as defined herein. However, notice of such impediment or delay in performance must be timely given, and all reasonable efforts must be undertaken to mitigate its effects.
- **6.4. Independent Status.** Club is independent, and is not City's employee. Club employees or subcontractors are not City's employees. This Agreement does not create a partnership, joint venture or agency, express or implied, nor any employer-employee, or borrowed servant relationship by and among the parties.
- **6.5. Indemnification.** Club shall defend, indemnify, and hold City, their successors, assigns, officers, employees and elected officials harmless from and against all suits, actions, legal proceedings, claims, demands, damages, costs, expenses, attorney's fees, and any

and all other costs or fees arising out of, or incident to, concerning or resulting from the fault of Club or Club's agents, employees, subcontractors, invitees, guest or trespasser in the performance of Club's obligations under this Agreement, no matter how, or to whom, such loss may occur.

**6.6. Notice.** All notice and other communications in connection with this Agreement shall be in writing and shall be considered given as follows:

City of Dripping Springs Attn: City Administrator P.O. Box 384 Dripping Springs, Texas 78620

Dripping Springs Mountain Bike Club



- **6.7. Waiver.** No covenant or condition of this Agreement may be waived without consent of the Parties.
- **Exclusive Agreement.** This document constitutes the entire Agreement between the Parties. This Agreement may only be amended or supplemented by mutual agreement of the Parties in writing.
- **6.9. Severability.** Should any of the clauses, sentences, paragraphs, sections or parts of this Agreement be deemed invalid, unconstitutional, or unenforceable by a court or administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid portion of this Agreement.
- **6.10. Assignment.** The Parties each hereby bind themselves, their successors, assignees and legal representatives to each other with respect to the terms of this Agreement. This Agreement, any part thereof, or any interest herein shall not be assigned by Club without the express written consent of the City.
- **6.11. Authority to Act.** The Parties each represent and warrant that the signatories on this Agreement are authorized to execute this Agreement. Each Party warrants that any action required to be taken in order for this Agreement to be binding on it has been duly and properly taken prior to the execution of this Agreement.
- **6.12. Venue and Enforcement.** This Agreement shall be enforceable in Dripping Springs, Texas, and if legal action is necessary by any of the Parties with respect to the enforcement of any or all of the terms or conditions of this Agreement, exclusive venue

for same shall lie in Hays County, Texas. This Agreement shall be governed by and construed in accordance with the laws and court decisions of the State of Texas.

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IN WITNESS WHEREOF, the Parties to these presents have executed this Agreement the dates indicated.	
	CITY OF DRIPPING SPRINGS:
	by: Podd Purcell, Mayor
	Date Signed:
by: Kerri Craig, City Secretary	
	DRIPPING SPRINGS MOUNTAIN
	BIRE CLUB:
$\Omega$	Date Signed: 6-2-16
by: Mare North	