

**AGREEMENT FOR MAINTENANCE AND OPERATION OF THE
MARKET SQUARE PROPERTY BETWEEN JOHNSON COUNTY, TEXAS
AND THE CITY OF CLEBURNE**

STATE OF TEXAS §
 § **KNOW ALL MEN BY THESE PRESENTS:**
COUNTY OF JOHNSON §

Parties.

This Agreement for Maintenance and Operation of the Market Square Property Between Johnson County, Texas and the City of Cleburne, (hereinafter referred to as the "Agreement") is made and entered into by and between Johnson County, Texas, a political subdivision of the State of Texas, (hereinafter referred to as "County") whose address is 2 North Main Street, Cleburne, Texas 76033, and the City of Cleburne, a municipal corporation operating pursuant to the laws of the State of Texas and located in Johnson County, Texas (hereinafter referred to as "City"), whose address is 10 North Robinson, Cleburne, Texas 76031 and collectively referred to as the "Parties".

Purpose.

County owns real property commonly known as Market Square and is property located in the city limits of Cleburne, Texas and is property bounded on the east by South Main Street (also known as Highway 174), on the north by West Harrell Street, on the west by South Mill Street and on the south by West Shaffer Street. A more particular property description is described in Volume 75, Pages 462, and Volume 75, Page 465, Deed Records, Johnson County, Texas. County has owned Market Square as of March 1898 and since that time Market Square has been a location set apart, designated, maintained and protected by appropriate ordinances of City as a market place for the purpose of allowing persons a place to offer merchandise for sale to the public. County and City have each expended monies for renovation of Market Square. County and City now desire to enter into an agreement in order for the maintenance and operation of the Market Square property to be under the supervision and control of the City.

Authority

This Agreement is entered into pursuant to the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code, which authorizes county and city governments within the State of Texas to contract with one another for the provision of various governmental functions and the delivery of various governmental services.

Term of Agreement

The Parties agree that term of this Agreement shall be for a period of ten years from the effective date which is considered the date of the last Party to execute this Agreement. This Agreement may be renewed by mutual agreement of the Parties for an

additional ten year term. The Parties agree that this Agreement may be terminated by either Party upon 180 days written notice to the other Party after year "2" of this agreement. If County terminates this Agreement during the initial ten year term, County agrees to reimburse City for its capital expenditures on Market Square up to the date of termination on a prorated basis. The prorated reimbursement rate to be paid to City by the County for the capital expenditures up to the date of termination is to be 80% if terminated in year 3, 70% in year 4, 60% in year 5, 50% in year 6, 40% in year 7, 30% in year 8, 20% in year 9, 10% in year 10. If City terminates this Agreement during the initial ten year term, City agrees that County is under no obligation to reimburse City for its capital expenditures on Market Square up to the date of termination.

Consideration.

The County agrees to allow the City to provide all of the maintenance on the real property and structures located thereon and be responsible for the day to day operations of Market Square at City's expense and the City will receive all revenue generated from said operation of Market Square.

City's Responsibility

1. City agrees to complete the improvements as set forth on Exhibit A which is attached hereto and incorporated fully as if recited herein verbatim which are improvements City and County consider necessary to officially "open" Market Square.
2. City agrees to manage and operate the day-to-day activities of Market Square within the historical intent and context of the above referenced warranty deeds conveying the property to County and also consistent with the current and future needs to maintain sufficient revenue to keep the Market Square in operation.
3. City agrees to coordinate scheduling for Market Square vendors and community events with careful attention to be given to assure that Market Square is used for the benefit of the entire County when possible.
4. City will include the Market Square property under its General Liability Insurance Policy.
5. City agrees to be responsible for the day to day operations of Market Square which includes, but not limited to the following:
 - a. Be responsible for developing and implementing policies and procedures for the day to day operations of Market Square and be responsible for determining the appropriate fees to be paid by vendors who use Market Square.
 - b. Be responsible for all procedures necessary for the renting of spaces and the collecting of fees from vendors who sell merchandise at Market Square.
 - c. Be responsible for the scheduling and permitting of any special community events that would use Market Square.
 - d. Be responsible for any promotion and advertisement of Market Square and notifying other cities and Chambers of Commerce in Johnson County of Market Square's availability for various functions.

- e. Be responsible for payment for all utilities provided at Market Square.
- f. Be responsible for the janitorial services and supplies for the restrooms at Market Square and general cleaning and maintenance activities of the entire area of Market Square.
- g. Be responsible for any signage on the premises of Market Square.

County's Responsibility

County will provide insurance coverage on the structures located on the Market Square Property.

Nature of Relationship

The County and the City agree that the nature of the Agreement shall not be deemed or construed to create the relationship of principal and agent or that of partnership or of any association between the parties, and any intention to create a joint venture or partnership relationship between the parties hereto is hereby expressly disclaimed.

General Provisions

All notices shall be sent to the respective Parties by certified mail, return receipt requested, at the following addresses:

To County: County Judge
 Johnson County Courthouse
 2 North Main Street
 Cleburne, Texas 76033

To City: City of Cleburne
 10 North Robinson
 Cleburne, Texas 76033-0657

Binding Effect.

The terms and conditions hereof shall extend to and be binding upon and inure to the benefit of the Parties hereto and their respective heirs, executors, administrators, devisees, successors, and assigns.

Amendment:

No provision in this Agreement shall be modified, altered or waived except by written amendment executed by the parties or their representatives.

Applicable Law and Venue:

This Agreement is made in Texas and shall be construed, interpreted, and governed by the laws of the State of Texas. This agreement shall be deemed to be

performable in Johnson County, Texas, and the parties agree and consent to the jurisdiction and venue of the state courts of Johnson County, Texas or the federal district courts in Dallas County, Texas for any action under this Agreement.

Severability

If any provision hereof is determined by any court of competent jurisdiction to be invalid, illegal or unenforceable, such provision shall be fully severable here from and this Agreement shall be construed and enforced as if such invalid, illegal or unenforceable provision never comprised a part hereof; and the remaining provisions shall continue in full force and effect.

Liability

The Agreement is not intended to extend the liability of the parties beyond that provided by law. Neither the County nor the City waives any immunity or defense that would otherwise be available to it against claims by third parties.


Each party, subject to the Texas Constitution and the Texas Tort Claims Act, agrees to indemnify, defend, and hold harmless the other party, its officers, agents, employees, and volunteers, in both their public and private capacities, from and against claims, suits, demands, losses, damages, causes of action, and liability of every kind, including but not limited to court costs and attorney's fees, which may arise from the acts or omissions of the indemnifying party, whether or not arising from death or injury to a person or the loss of, loss of use of, or damage to property, arising out of or occurring as a consequence of the performance of this Agreement.

Execution Authority:

By his or her signature below, each signatory individual certifies that he or she is the property authorized agent or officer of the applicable Party hereto and has the requisite authority necessary to execute this Agreement on behalf of such Party, and each Party hereby certifies to the other that any resolutions necessary to create such authority have been duly passed and are now in force and effect.

IN WITNESS WHEREOF, intending to be legally bound, County and City have caused their authorized representative to execute this Agreement and have set their hand and seal on the date set forth below.

FOR COUNTY:



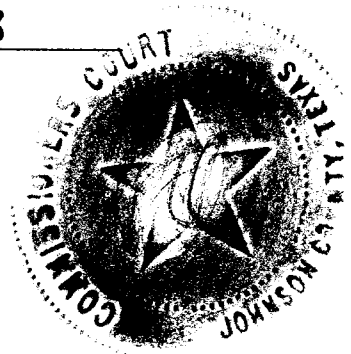
Roger Harmon
County Judge

Date: 3-25-13

Attest:

Becky Williams
Becky Williams
County Clerk

Date: 3-25-13



FOR CITY:
Rick Holden
Rick Holden
City Manager

Date: 3/26/13

Attest:

Shelly Doty
Shelly Doty
City Secretary

Date: 4-1-13

EXHIBIT "A"

IMPROVEMENT PLANS

1. City agrees to complete internal Market Square surfacing with either asphalt, concrete, decomposed granite or other suitable material. City will bid these options in search of the most cost efficient and responsible bid. Should County prefer a material other than "low bid" County will agree to pay the difference for such material.
2. City will complete landscaping utilizing suitable natural vegetation and other materials requiring minimal maintenance and water
3. At such time as the current City's moratorium on sign construction is lifted, City Council will authorize the construction of a site specific sign which complies with the approved sign ordinance of the City. Such sign plan will be presented to County for their approval prior to construction.