

STATE OF TEXAS §

COUNTY OF JOHNSON §

AGREEMENT FOR MAINTENANCE

This Agreement for Maintenance (the "Agreement") is made by and between Johnson County, Texas, a political subdivision of the State of Texas (hereinafter referred to as the "County"), the Johnson County Heritage Foundation, a Texas nonprofit corporation with an office in Cleburne, Texas, acting by and through its duly authorized President (hereinafter referred to as the "Foundation") and the City of Cleburne, a home rule municipal corporation located in Johnson County, Texas (hereinafter referred to as the "City") and collectively referred to as the "Parties".

WHEREAS, the City had executed a Specific Use Easement with the County for a one acre tract of land in the Williams O'Neal survey, Abstract No. 664, Johnson County, Texas, which allowed the County the right of pedestrian and vehicular ingress and egress over, across and upon said land for the purpose of constructing, improving, and reconstructing historical markers and/or structures commemorating the Chisholm Trail; and

WHEREAS, the County has constructed a sixteen (16) feet by sixteen (16) feet log courthouse structure (hereinafter referred to as the "Courthouse") on the specific use easement granted by the City; and

WHEREAS, the Foundation has been providing normal routine maintenance and up keep on the Courthouse; and

WHEREAS, the Foundation has executed a Lease Agreement with the City which is currently in effect for 10.73 acres of land in the Williams O'Neal survey, Abstract No. 664, Johnson County, Texas; and

WHEREAS, the one acre tract of land the subject of the Specific Use Easement between the County and the City is included in, and a part of the 10.73 acre tract of land the subject of the Lease Agreement between the City and the Foundation; and

WHEREAS, the County and the Foundation agree that the Foundation should continue to provide normal routine maintenance on the Courthouse, and

WHEREAS, the County, the City and the Foundation agree and understand that the Courthouse is the personal property of the County and the County retains title and ownership of the Courthouse although located on land owned by the City and leased to the Foundation; and

WHEREAS, the City, the County, and the Foundation agree that the Specific Use Easement between the City and County should be terminated; and

WHEREAS, the City, the County, and the Foundation agree that the Lease Agreement between the City and the Foundation is current and in full force and effect; and

WHEREAS, the City , the County, and the Foundation agree that the Courthouse may remain on the real property the subject of the Lease Agreement between the City and the Foundation and for so long as the Lease Agreement remains in effect; and

WHEREAS, the City, the County, and the Foundation agree that in the event the Lease Agreement between the City and the Foundation is terminated, the County shall have a reasonable time, not to exceed one hundred and eighty (180) days, to remove, if it chooses to do so, the Courthouse, historical markers and any future structures, agreed by the parties, placed by the County on the property commemorating the Chisholm Trail and/or Wardville.

NOW THEREFORE, in consideration of the mutual promises and covenants herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the County, the City and the Foundation agree as follows:

I.
Agreements

1. The County, the City and the Foundation agree that the Specific Use Easement between the City and the County is hereby terminated as of the date of this Agreement for Maintenance as the County and the City agree to waive the sixty (60) day written notice of non-renewal of the easement as required in the Specific Use Easement.
2. The County, the City and the Foundation agree that the Lease Agreement between the City and the Foundation is currently in full force and effect and the property the subject to the Lease Agreement includes the property that was the subject of the Specific Use Agreement between the County and the City.
3. The County, the City and the Foundation agree that the Courthouse structure commemorating Wardville placed on the property by the County is the personal property of the County and has not attached to the property so as to become part of the real property.
4. The City and the Foundation agree that County may continue to have the Courthouse and any other historical markers and/or structures placed there by the County commemorating the Chisholm Trail and/or Wardville located on the real property the subject of the Lease Agreement between the City and the Foundation.
5. The County and the Foundation agree that the Foundation is to continue to provide normal routine in house maintenance for the Courthouse and other historical markers and/or structures commemorating the Chisholm Trail and/or Wardville that are located on the real property the subject of the Lease Agreement between the City and the Foundation for so long as the Lease Agreement between the City and the Foundation is in effect. Should the Courthouse or any other historical markers and/or structures placed on the property by the County require maintenance or repair requiring outside professional work, the County shall be responsible for such maintenance or repair for so long as the Lease Agreement between the City and the Foundation is in effect.
6. The City and the Foundation agree that in the event the Lease Agreement between the City and the Foundation is terminated, the County shall have a reasonable time, not to exceed one hundred and eighty (180) days, to remove, if it chooses to do so, the Courthouse and any other historical markers and/or structures placed on the property by the County, commemorating the Chisholm Trail and/or Wardville from the real property the subject of the Lease Agreement between the City and the Foundation.
7. The County agrees to maintain insurance coverage on the Courthouse structure.

**II.
Term**

1. The term of this Agreement for Maintenance shall remain in effect for so long as the Lease Agreement is in effect between the City and the Foundation.
2. This Agreement may be terminated by any Party upon 30 days written notice to the other Parties.

**III.
Nature of Relationship**

1. The City, the County and the Foundation 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.

**IV.
General Provisions**

1. 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

To Foundation: Johnson County Heritage Foundation, Inc.
 P.O. Box 771
 Cleburne, Texas 76033

2. The provisions of this Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns.
3. This Agreement shall be construed under the laws of the State of Texas and is deemed by the Parties to be performable in Johnson County, Texas.
4. If any one or more provisions contained in this Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision herein, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.
5. This Agreement may not be altered, waived or otherwise modified, except in writing, and signed by the Parties.

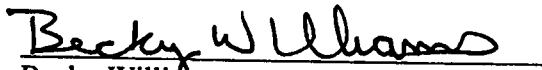
6. This instrument contains the entire agreement between the Parties relating to the subject matter herein. There are no other verbal or written understandings, promises, or representations relating to the subject matter of this Agreement which have not been included herein, and this Agreement supersedes any and all other agreements, either oral, or in writing, between the Parties hereto with respect to the subject matter herein.
7. Each person executing this Agreement certifies that he is the properly authorized official, agent or officer of his respective party and has the authority necessary to execute this Agreement and further certifies that any resolutions necessary to create such authority have been duly passed and are now in force and effect.
8. This Agreement may be executed in any number of counterparts, and each counterpart shall be deemed an original for all purposes.
9. The effective date of this Agreement is considered the date of the last Party to execute this Agreement.

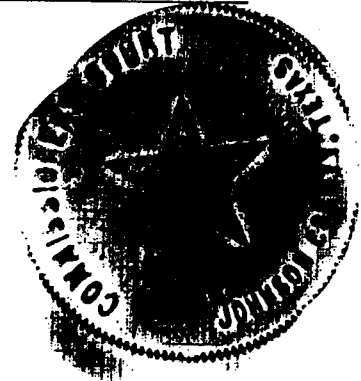
FOR COUNTY:


Roger Harmon
County Judge

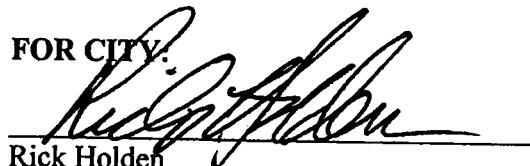
Date: 11-14-11

Attest:


Becky Williams
County Clerk

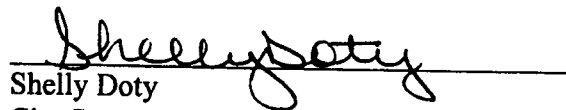


FOR CITY:



Rick Holden
City Manager

Date: 10-17-11

Attest:


Shelly Doty
City Secretary

FOR FOUNDATION:


Randolph Garner, President
Johnson County Heritage Foundation, Inc.

Date: 10-27-11

Attest:


Secretary
Johnson County Heritage Foundation, Inc.

RESOLUTION

NO. RS10-2011-78

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CLEBURNE, TEXAS AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE AN AGREEMENT WITH JOHNSON COUNTY AND THE JOHNSON COUNTY HERITAGE FOUNDATION CONCERNING CHISHOLM TRAIL PROJECTS; PROVIDING AN EFFECTIVE DATE.

WHEREAS, On November 21, 2001 the City of Cleburne entered into an agreement (RS11-2001-107) with the Johnson County Historical Commission concerning a one acre tract to be used as easement, adjacent to Highway 67 and Lake Pat Cleburne in recognition of the Chisholm Trail; and

WHEREAS, On July 12, 2005 the City of Cleburne entered into a lease agreement with the Johnson County Heritage Foundation (RS07-2005-54) concerning the use of approximately ten acres around Lake Pat Cleburne to establish Wardville Town Site and conduct Chisholm Trail projects; and

WHEREAS, since that time, the Foundation has been providing normal routine maintenance and up keep on the Courthouse and property; and

WHEREAS, the one acre tract of land the subject of the Specific Use Easement between the County and the City is included in and a part of the 10.73 acre tract of land the subject of the Lease Agreement between the City and the Foundation; and

WHEREAS, the City, the County, and the Foundation agree that the Specific Use Easement between the City and County should be terminated while maintaining the lease including maintenance of the property by the Heritage Foundation; and

WHEREAS, in accordance with this Council action, it is recommended that the County Commissioners' Court should act to vacate the easement, and that vacation of easement document should be filed in the deed records for the benefit of future research and reference.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CLEBURNE, TEXAS, THAT:

SECTION ONE. The City Council of the City of Cleburne hereby authorizes the City Manager to negotiate and execute an agreement with Johnson County and the Johnson County Heritage Foundation concerning Chisholm Trail projects terminating the Specific Use Easement agreement between the County and the City while maintaining the lease including maintenance of the property by the Heritage Foundation.

SECTION TWO. Upon approval of this action, the County Commissioners' Court should

act to vacate the easement, and that vacation of easement document should be filed in the deed records for the benefit of future research and reference with a copy of such action and filing being forwarded to the City Secretary's Office of the City of Cleburne.

SECTION THREE. This Resolution shall become effective immediately upon its passage.

PASSED AND APPROVED this the 11th day of October, 2011 at a Regular Meeting of the City Council of the City of Cleburne, Texas.

CITY OF CLEBURNE

BY: 
Justin Hewlett, Mayor

ATTEST:


Shelly Doty, City Secretary