

**LOAN OF ARTWORK AND ~~ARTIFACTS~~  
TO JOHNSON COUNTY AND HOLD HARMLESS AGREEMENT  
(APPRAISED FOR LESS THAN \$25,000.00)**

This Agreement for Loan of Artwork and Artifacts ("Agreement") is by and between Don Diamond, an individual ("Owner"), and Johnson County, Texas, a political subdivision of the State of Texas (the "County") and is made effective as of the date approved and signed by the County (the "Effective Date") as set forth below.

WHEREAS, the County desires to borrow from Owner, and Owner desires to loan to the County, the artwork and/or artifacts listed on Appendix A annexed hereto and incorporated herein (the "Artwork"), upon the terms and subject to the conditions stated herein, to be displayed at the Johnson County Historic Courthouse, the Guinn Justice Center, or other facility of Johnson County, Texas (the "Display Location").

In consideration of the promises and covenants contained herein, Owner and the County hereby agree as follows:

Section 1. Loan of Artwork and Artifact; Term. Subject to the terms and conditions hereof, Owner shall loan to the County, and the County shall borrow from Owner, the Artwork for a term commencing on the Effective Date and terminating on to be determined, unless this Agreement is earlier terminated in accordance with Section 6 below (the "Term").

Section 2. Purpose and Use.

(a) Owner's loan of the Artwork to the County is to enable the County to exhibit the Artwork at the Display Location in furtherance of the County's preservation of the County's historic culture resources and to display Artwork that is of historical significance.

(b) The County shall not use the Artwork for any other purpose than that provided at subsection (a) of this Section 2. Particularly, the County shall use the Artwork solely for public exhibition and shall not exhibit the Artwork for any private use.

(c) The County has the right to refuse to display any Artwork that the County deems in its sole discretion not to be of historical significance.

Section 3. Rights in Artwork. During the Term and subject to the terms and conditions herein, the County shall have the right to exhibit the Artwork in a reasonable manner, and, with advance approval by Owner, the right to photograph or otherwise reproduce the Artwork in any medium for purposes of record, education, or publicity by the County. Except as expressly provided in this Section 3, the County has no rights to the Artwork, and Owner retains all rights not specifically granted to the County herein.

Section 4. Packaging; Transportation of Artwork. As soon as is reasonably practicable following the first date of the Term, Owner (or a representative designated by Owner) and the County (or a representative designated by the County) shall prepare a written report of the condition of the Artwork (the "Initial Condition Report") which shall be executed by Owner and the County. Promptly after execution of the Initial Condition Report, Owner shall pack the Artwork and make the Artwork available to the County. The Owner shall arrange for the Artwork to be transported from Owner to the County. It shall be assumed that the Artwork will be received by the County in the same condition as described in the Initial Condition Report unless the County otherwise notifies Owner in writing promptly (and in any event, no later than fourteen (14) business days) after the County's receipt of the Artwork. The Owner shall pay all packing, shipping and transportation insurance costs and any other costs with respect to the Artwork's shipment to the County. At the end of the Term, the County shall return the Artwork to Owner in accordance with Section 7.

Section 5. Covenants of the County. The County covenants and agrees as follows:

(a) Maintenance of Artwork. The County shall exercise the same care and handling of the Artwork as it does in the safekeeping of comparable property of its own. The County shall keep the Artwork in the same condition in which it was received; provided, however, that Owner understands that all tangible objects are subject to gradual deterioration, for which the County shall not be responsible.

(b) Procedure in Event of Mishap. In the event that the Artwork is damaged, destroyed, lost or stolen, the County shall give Owner prompt telephone notice, followed by written confirmation. The report of damage or loss shall provide a description of the extent and circumstances surrounding the mishap.

(c) **INSURANCE. THE COUNTY SHALL NOT BE RESPONSIBLE TO OBTAIN AND MAINTAIN INSURANCE COVERING THE ARTWORK. SHOULD OWNER DESIRE TO HAVE SAID ARTWORK COVERED BY INSURANCE, OWNER SHALL BE RESPONSIBLE FOR OBTAINING INSURANCE COVERING THE ARTWORK WHILE ON LOAN TO THE COUNTY.**

(d) Display of Artwork. When the County displays the Artwork, the County shall endeavor to ensure that the Artwork is protected from the elements, direct sunlight or other extreme lighting, temperature, humidity, or handling by unauthorized personnel or in a manner that could damage the Artwork.

(e) Location of Artwork. During the Term, the County is to display the Artwork in a location that is readily observable by guests of the Display Location (*i.e.* not in a private office). The County shall not remove the Artwork from the Display Location without the prior written consent of Owner.

(f) No Inconsistent Representations. The County shall make no representation to any person that it has any rights in the Artwork other than the rights specifically granted to the County herein.

Section 6. Termination of this Agreement. Either Owner or the County may, at any time, at will and without cause, terminate this Agreement upon thirty (30) days' advance written notice to the other party.

(b) Effect of Termination. Upon any termination of this Agreement, the County shall promptly return the Artwork to Owner in accordance with Section 7. Notwithstanding any termination of this Agreement pursuant to this Section 6, such termination shall not affect any right or obligation of either party which has accrued, is vested or relates to the time period prior to such termination. Therefore, the County's obligations under this Agreement shall continue in full force and effect unless and until the Artwork is returned to Owner in accordance with Section 7.

Section 7. Return of Artwork. Not later than fifteen (15) days following the last day of the Term, or earlier pursuant to Section 6, the Owner and County shall set a mutually agreed upon time for the County to return the Artwork to Owner. Owner shall be responsible for picking up the Artwork and transporting the Artwork from the Display Location. Prior to removing the Artwork from the display Location, Owner shall complete and sign a receipt form (the "Receipt") prepared by the County that indicates the County has returned the Artwork to the Owner. County may return the Artwork to Owner notwithstanding Owner's refusal to sign the Receipt for the Artwork.

**Section 8. LIMITATION ON LIABILITY. THE COUNTY ASSUMES NO LIABILITY FOR DAMAGE, DESTRUCTION, OR LOSS OF THE ARTWORK DUE TO ACCIDENT, FIRE, THEFT, VANDALISM, OR ANY OTHER MANNER WHETHER INTENTIONAL OR ACCIDENTAL OR BY ANY ACTS OF GOD SUCH AS TORNADO, HAIL, RAIN, OR WINDSTROM. OWNER AGREES THAT COUNTY SHALL NOT BE RESPONSIBLE TO INDEMNIFY OWNER IN THE EVENT OF ANY DAMAGE, DESTRUCTION, OR LOSS OF THE ARTWORK, AND OWNER AGREES TO HOLD COUNTY HARMLESS AND DOES HEREBY FOREVER RELEASE, DISCHARGE, AND WAIVE ANY CAUSE OF ACTION, EITHER LEGAL OR EQUITABLE AGAINST COUNTY THAT MIGHT ARISE OUT OF OWNER'S LOAN OF ARTWORK TO THE COUNTY.**

Section 9. Notices. All notices and other communications required or permitted hereunder shall be, except as expressly provided herein, in writing and shall be mailed by registered or certified mail, postage prepaid, or otherwise delivered by facsimile transmission, by hand or by messenger, addressed:

If to Owner: Donald Diamond Jr.  
1123 W. Westhill Dr.  
Cleburne, TX 76033

If to the County: Roger Harmon  
County Judge  
2 North Main Street  
Cleburne, Texas 76033

or to such other address, and to the attention of such other person or officer as either party may designate.

Section 10. No Assignment; Third Party Beneficiaries. The County or Owner may not assign or transfer this Agreement, in whole or in part, whether by operation of law or otherwise, without the prior written consent of the other party. This Agreement shall be binding upon and inure solely to the benefit of each party hereto and its legal representatives and successors and assigns and nothing in this Agreement, express or implied, is intended to confer upon any other person any rights or remedies of any nature whatsoever under or by reason of this Agreement.

**Section 11. GOVERNING LAW; CONSENT TO JURISDICTION. THIS AGREEMENT, REGARDLESS OF WHERE EXECUTED OR PERFORMED, AND ALL QUESTIONS RELATING TO THIS AGREEMENT'S VALIDITY, INTERPRETATION, PERFORMANCE AND ENFORCEMENT (INCLUDING, WITHOUT LIMITATION, PROVISIONS CONCERNING LIMITATIONS OF ACTION), SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS (EXCLUSIVE OF THE CONFLICT OF LAW PROVISIONS THEREOF).**

**ANY SUIT, PROCEEDING OR ACTION ARISING OUT OF OR INVOLVING THIS AGREEMENT SHALL BE IN JOHNSON COUNTY, TEXAS.**

**Section 12. RISK OF LOSS. THE RISK OF DAMAGE, DESTRUCTION, OR LOSS OF THE ARTWORK SHALL BE THAT OF THE OWNER AND COUNTY ASSUMES NO LIABILITY FOR DAMAGE, DESTRUCTION, OR LOSS OF THE ARTWORK.**

Section 13. Headings. All section headings are for convenience of reference only and are not part of this Agreement, and no construction or inference shall be derived therefrom.

Section 14. Counterparts; Facsimile. This Agreement may be executed in two or more counterparts, each of which will be deemed an original, all of which together shall constitute one and the same instrument. Execution copies of this Agreement may be delivered by facsimile.

Section 15. Severability. If one or more of the provisions hereof shall for any reason be held to be invalid, illegal or unenforceable in any respect under applicable law, such invalidity, illegality, or unenforceability shall not affect any other provisions hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein, and the remaining provisions hereof shall be given full force and effect.

Section 16. Entire Agreement/Amendment. The terms of this Agreement are intended by the parties as a final expression of their agreement with respect to the subject matter of this

Agreement and may not be modified by evidence of any prior or contemporaneous negotiations, representations, agreements and understandings. This Agreement supersedes, cancels and is in substitution of all agreements heretofore entered into between the parties with respect to the subject matter covered by this Agreement. No other representations, agreements or understandings between the parties shall be binding, unless in writing and signed by authorized representatives of the parties to this Agreement. This Agreement may only be amended in writing signed by the parties hereto.

Section 17. Rule of Construction. The general rule for construction for interpreting a contract, which provides that provisions of a contract should be construed against the party preparing the contract, is waived by the parties. The Agreement shall be construed fairly and reasonably based on the language of the Agreement and without regard to the author of the language.

Section 18. Waiver. No consent or waiver, express or implied, by any party to or for any breach or default by any other party in the performance by such other party of its obligations under this Agreement shall be deemed or construed to be a consent or waiver to or of any other breach or default in the performance by such other party of the same or any other obligations of such other party under this Agreement. Failure on the part of any party to complain of any act or failure to act of any of the other parties or to declare any of the other parties in default, regardless of how long such failure continues, shall not constitute a waiver by such party of its rights hereunder.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date.

OWNER: Donald Diamond Jr.  
[Signature]  
Printed Name

JCHC: John Percifield DATE: 11-28-16  
John Percifield, Chairman

THE COUNTY: Roger Harmon DATE: 12/12/16  
Roger Harmon, County Judge

ATTEST:

Becky Ivey  
BECKY IVEY, COUNTY CLERK, JOHNSON COUNTY



**APPENDIX A  
LIST OF ARTWORK AND ARTIFACTS**

**Item (Describe artwork, ie: title, date & artist  
if artifact, describe in detail and give date)**

**Estimated Value**

1. Yellow Jacket beanie  
\_\_\_\_\_  
\_\_\_\_\_

unknown  
\_\_\_\_\_

2. Liberty Hotel flatwear  
2 place settings  
\_\_\_\_\_  
\_\_\_\_\_

unknown  
\_\_\_\_\_

3. 192 City Directory  
\_\_\_\_\_  
\_\_\_\_\_

\$200<sup>00</sup>  
\_\_\_\_\_

4. Key fob - Cadman motor  
\_\_\_\_\_  
\_\_\_\_\_

unknown  
\_\_\_\_\_

5. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_

TEMPORARY CUSTODY RECEIPT

JOHNSON COUNTY MUSEUM, #2 N. MAIN STREET,  
JOHNSON COUNTY COURTHOUSE ROOM 139  
CLEBURNE, TEXAS 76033

JOHNSON COUNTY HISTORICAL COMMISSION

This is to acknowledge receipt of the items listed below by the JOHNSON COUNTY MUSEUM FROM:

Name:	<u>Donald Diamond Jr.</u>	Date:	<u>5-16-2016</u>
Address:	<u>1123 W. Westhill Dr.</u>		
City:	<u>Cleburne</u>	State:	<u>TX</u>
Work#:	Home#:	Fax#:	Zip: <u>76033</u>
Website:	<u>NO</u>	Cell#:	<u>817-517-1081</u>
		Email:	<u>NO</u>

The items listed below are left in the custody of the JOHNSON COUNTY MUSEUM to be considered as:

- An unconditional donation. The Museum reserves the right to keep, lend, or otherwise dispose of the donated material.
- To be considered for acquisition.
- For identification. Does not constitute an authentication; will not include appraisals. Museum reserves the right to photograph.
- For other. Please specify: On loan to No. Co. History Museum - not to

Disposition if not accepted for accession: be transferred to any other institution.

- Source will pick up if desired
  - Please dispose of or destroy NO
  - May be sold to benefit NO
- JOHNSON COUNTY MUSEUM

Items and Description

- Coleman Motor Co. CHS Yellow Jacket beanie
- new leather Coleman Motor Co. Key Case.

Received by:  
Richard H. Dickerson  
(Signature)  
5-16-2016  
(Date)

Received from:  
[Signature]  
(Signature)  
5-16-16  
(Date)