

REAL ESTATE PURCHASE AND SALE AGREEMENT

This Real Estate Purchase and Sale Agreement ("**Agreement**") is entered into as of the _____ day of _____, 2018 (the "**Effective Date**"), by and between MANSFIELD HISTORICAL SOCIETY, a Texas non-profit corporation ("**Seller**"), and CITY OF MANSFIELD, TEXAS, a Texas municipality ("**Purchaser**").

1. Purchase and Sale. Seller agrees to sell to Purchaser, and Purchaser agrees to purchase from Seller, in accordance with the terms and conditions set forth in this Agreement and for the Purchase Price set forth in Section 2: (i) that certain parcel of land situated in Mansfield, Tarrant County, Texas, containing approximately 0.1147 acres, located at 102 N. Main Street, as more particularly described in Exhibit A attached hereto and made a part hereof (the "**Real Property**") and (ii) all of Seller's right, title and interest in and to the real and personal property, fixtures, appurtenances, and facilities belonging to the Real Property (collectively, the "**Property**"); and all of the furnishings, displays and artifacts owned by Seller and used in connection with the operation of the Mansfield Historical Museum (collectively, the "**Personalty**"). This conveyance is further made subject to the leasehold interest of Seller as provided in the Will of James S. McKnight, deceased. Notwithstanding anything to the contrary, the sale and purchase contemplated hereby (and, accordingly, the term "Property") shall not include any items on loan to Seller and that are currently on display at the Property as historical artifacts, which shall remain the property of its respective owners; nor shall it include Seller's documentary archives or the merchandise owned by Seller for sale in the museum store; provided however, Seller agrees not to remove any property under its ownership without prior written permission of Purchaser for the remainder of its existing 99-year lease or for so long as Purchaser continues to operate a historical museum on the Property, whichever period is shorter. Seller understands and agrees that any insurance policy maintained by Purchaser may have terms and conditions that cap or limit the amount of coverage available for the replacement of historical artifacts maintained at the Property.

2. Continued Use of Property. Purchaser agrees to continue operating the Property primarily as a historical museum for a period of 20 years. Purchaser understands that Seller retains its existing 99-year lease in accordance with the Will of James S. McKnight, deceased. Purchaser shall have the exclusive use of one of the existing rooms within the Property's second floor mezzanine space as an office. Seller agrees its access to any part of the Property is limited to administrative purposes during business hours. Purchaser retains all rights to all other portions of the Property for its own use and shall have priority in the use of all space within the Property. All other uses of the Property by Seller or any third party must be approved by the Purchaser or its designee. The provisions of this Article 2 shall survive the Closing.

3. Contract Price. For and in consideration of the sale of the subject property described hereinabove, Buyer agrees to pay TEN DOLLARS (\$10.00). The sales price shall be payable in current funds at the date of execution of this Agreement.

4. Condition of the Property.

A. AS A MATERIAL PART OF THE CONSIDERATION FOR THIS TRANSACTION, SELLER AND PURCHASER AGREE THAT PURCHASER IS TAKING

THE PROPERTY "AS IS" WITH ANY AND ALL LATENT AND PATENT DEFECTS AND THAT THERE IS NO WARRANTY BY SELLER THAT THE PROPERTY HAS A PARTICULAR FINANCIAL VALUE OR IS FIT FOR A PARTICULAR PURPOSE. PURCHASER ACKNOWLEDGES AND STIPULATES THAT PURCHASER IS NOT RELYING ON ANY REPRESENTATION, STATEMENT, OR OTHER ASSERTION WITH RESPECT TO THE PROPERTY CONDITION BUT IS RELYING ON PURCHASER'S EXAMINATION OF THE PROPERTY. PURCHASER TAKES THE PROPERTY WITH THE EXPRESS UNDERSTANDING AND STIPULATION THAT THERE ARE NO EXPRESS OR IMPLIED WARRANTIES EXCEPT FOR LIMITED WARRANTIES OF TITLE SET FORTH IN THIS CONTRACT. THIS PROVISION SHALL SURVIVE CLOSING.

B. Purchaser further acknowledges that following Closing it is the Purchaser's responsibility to comply with all applicable governmental requirements and to take all steps necessary to protect its employees and others who may be exposed to the regulated components of the Property. Following Closing, it is Purchaser's responsibility to determine any and all regulatory requirements associated with the Property and to comply with any and all such requirements. If any of the regulated Property requires permits, registration or other notifications and/or actions by or to the government, then Purchaser agrees that it shall, within the time period allowed by law, but in any case not more than 30 days, file any and all documentation (and pay any fees) necessary to meet the applicable requirements and this shall include all actions necessary to assure that Purchaser, not Seller, is named as the owner of and person responsible for such Property.

C. The provisions and obligations of this Section 4 shall survive the Closing.

5. **Closing.** The Closing shall occur during normal business hours on or before the thirtieth (30th) day following the Effective Date. (the "**Closing Date**"). Closing shall take place at any such other place as the parties shall mutually agree.

6. **Prorations, Apportionments and Adjustments at Closing.**

A. The following shall be apportioned with respect to the Property as of 12:01 a.m. (local time at the location of the Real Property), on the Closing Date, as if Purchaser were vested with title to the Property during the entire day upon which the Closing occurs:

(i) ad valorem, real estate, personal property and similar taxes ("**Property Taxes**") assessed against the Property. Prorations shall be based upon current year's taxes and assessments, if available, or upon figures for the last preceding year, in which event Purchaser and Seller shall readjust the prorations when the current year's taxes and assessments become available. Any then due, but unpaid special assessments, special improvement district or taxing district levies, shall be prorated in the same manner as ad valorem taxes. If Seller is taxed for Property Taxes on a statewide basis and is not obligated to pay the foregoing taxes, then the foregoing proration shall be based on the portion of such statewide taxes that are reasonably allocable to the Property; and

(ii) any other operating expenses and items of expense pertaining to the Property which are customarily prorated between a purchaser and a seller in the area in which the Property is located.

B. The provisions and obligations of this Section 6 shall survive the Closing.

7. Transaction Costs. Purchaser shall be responsible for the cost of (i) preparing the Deed, (ii) any owners policy of title insurance, (iii) transfer and recordation taxes, sales taxes, recording fees, if any, and (iv) the cost of any survey for the Real Property. Each party shall pay its own attorneys' and consultants' fees. The provisions of this Section 7 shall survive closing.

8. Closing Documents and Deliveries.

A. At the Closing, Seller shall deliver the following:

(i) The executed and acknowledged Special Warranty Deed in the form attached hereto as Exhibit B (the “**Deed**”), sufficient for recording, conveying fee simple title to the Property which Purchaser shall cause to be recorded;

(ii) The executed and acknowledged Bill of Sale in the form attached hereto as Exhibit C (the “Bill of Sale”) transferring the Personalty to Purchaser.

B. At the Closing, Purchaser shall deliver the following:

(i) Any documents as may be reasonably required by Seller to effectuate the transaction contemplated hereby.

9. Representations and Warranties.

A. Seller represents and warrants to Purchaser as of the Effective Date that (i) the execution, delivery and performance of this Agreement by Seller has been duly authorized by all necessary action on the part of Seller and does not require the consent of any third party; (ii) the individual executing this Agreement on behalf of Seller has the authority to bind Seller to the terms of this Agreement; (iii) Seller is a non-profit corporation duly organized and in good standing under the laws of the State of Texas and has the power and authority to enter into and perform its obligations under this Agreement; and (iv) the assets transferred to Purchaser shall be free of all debts and encumbrances except as otherwise authorized herein.

B. If Purchaser is an entity or municipality, Purchaser represents and warrants to Seller as of the Effective Date and as of the date of Closing that (i) the execution, delivery and performance of this Agreement by Purchaser have been duly authorized by all necessary action on the part of Purchaser and do not require the consent of any third party, (ii) the individual executing this Agreement on behalf of Purchaser has the authority to bind Purchaser to the terms of this Agreement, and (iii) Purchaser is a duly organized under the laws of the State of Texas and in good standing under the laws of the State of Texas and has the power and authority to enter into and perform its obligations under this Agreement.

10. Certificate of Occupancy and Zoning. Purchaser shall be responsible for obtaining, at Purchaser's sole cost and expense, any certificate of occupancy, zoning permit, certificate or other similar municipal approval required in connection with the sale and transfer of the Property to the Purchaser. If any work is required in order to issue such certificate(s), such costs shall be borne by Purchaser. Seller neither makes nor has made any representation to the Purchaser about the provisions or requirements of the applicable zoning ordinances.

11. Assignment. Neither Seller nor Purchaser shall have the right to assign its interest in this Agreement without the prior written consent of the other, which consent may be granted or withheld in each party's sole and absolute discretion, and any such assignment without such consent shall be null and void and of no force and effect.

12. Notices. All notices and other communications hereunder shall be addressed to the parties as follows:

If to Seller: Mansfield Historical Society
P.O. Box 304
Mansfield, Texas 76063-0304
Phone: (817) 473-4250
Attn: Chris Ohan

If to Purchaser: City of Mansfield
1200 E. Broad Street
Mansfield, Texas 76063
Phone: (817) 276-4200
Attn: Hon. David Cook, Mayor

Any notice, demand or other communication (each, a “**notice**”) that is given pursuant to this Agreement by either Seller or Purchaser to the other party, shall be (i) given in writing, (ii) addressed to the other party at its required address(es) for notices delivered to it as set forth above, and (iii) delivered via either (a) hand delivery, (b) nationally recognized courier service (e.g., United Parcel Service, Federal Express, Express Mail) or (c) certified U.S. mail postage prepaid with return receipt requested. Any such notice shall be deemed given, and effective for purposes of this Agreement, as of the date actually delivered to the other party at such address(es) (whether or not the same is then received by other party due to a change of address of which no notice was given, or any rejection or refusal to accept delivery). Notices from either party (to the other) may be given by its attorneys. Each party may, from time to time, designate an additional or substitute required address(es) for notices delivered to it (provided, that such designation must be made by notice given in accordance with this Section 12).

13. Parties Bound. This Agreement shall be binding upon and inure to the benefit of Seller and Purchaser, their respective successors and permitted assigns.

14. Governing Law. The validity, construction, enforcement and interpretation of this Agreement shall be governed by the laws of the State of Texas. Venue for any dispute shall be in Tarrant County, Texas.

15. Indemnity. Seller agrees that from and after the date hereof it will indemnify and save Purchaser harmless from and against and in respect of any and all liabilities, obligations, judgments, demands, claims, actions, causes of action, assessments, deficiencies, costs, losses or damages, together with all legal and other costs or expenses including reasonable attorneys' fees and disbursements based upon, resulting from, arising out of or attributable to any default under or breach of any representation or warranty, or any agreement, covenant, obligation or condition on the part of them under this Agreement, including the exhibits and schedules hereto, the Disclosure Statement, any certificate, or any Financial Statements or any of the documents of conveyance to be delivered to the Buyer hereunder.

16. Brokers. Seller and Purchaser represent and warrant that neither party has dealt with any real estate brokers regarding this transaction. If any broker should make a claim for a commission based upon the actions of Seller, Seller shall indemnify, defend and hold Purchaser harmless from such claim.

17. Multiple Counterparts. This Agreement may be executed in a number of identical counterparts. If so executed, each of such counterparts shall, collectively, constitute one agreement, but in making proof of this Agreement, it shall not be necessary to produce or account for more than one such counterpart. Neither this Agreement nor any memorandum thereof shall be recorded.

18. Time of the Essence. The parties hereto expressly agree that time is of the essence with respect to this Agreement.

19. Entire Agreement. This Agreement embodies the entire agreement of the parties with respect to the transaction herein contemplated, superseding all prior agreements and communications whether oral or written. Any amendments hereto shall be in writing and executed by the party against whom enforcement of the modification is sought.

20. Severability. If any provision of this Agreement or the application thereof to any party or circumstances shall to any extent be invalid or unenforceable, the remainder of this Agreement, or the application of such provision to parties or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each provision shall be valid and be enforced to the fullest extent permitted by law.

21. Captions. The captions of the various Sections in this Agreement are for convenience only and do not, and shall not be deemed to, define, limit or construe the contents of such Sections.

22. No Offer. This Agreement shall be of no force or effect unless and until a fully-executed copy, signed by all parties hereto, is delivered to both Seller and Purchaser. The submission of this Agreement to Purchaser for review does not constitute an offer or option to purchase the Property.

23. Construction. The parties acknowledge that the parties and their attorneys have reviewed and revised this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any exhibits or amendments hereto.

24. Terminology. As used in this Agreement, (i) the phrase “**and/or**” when applied to one or more matters or things shall be construed to apply to any one or more or all thereof as the circumstances warrant at the time in question, (ii) the terms “**herein**”, “**hereof**”, and “**hereunder**”, and words of similar import, shall be construed to refer to this Agreement as a whole, and not to any particular Section, unless expressly so stated, (iii) the term “**including**”, whenever used herein, shall mean “**including without limitation**”, except in those instances where it is expressly provided otherwise, (iv) the term “**person**” shall mean a natural person, a corporation, a limited liability company, and/or any other form of business or legal association or entity, and (v) the term “**business day**” shall mean any day other than a Saturday or Sunday or Federal holiday or legal holiday in the State in which the Property is located.

25. Merger Provision. All understandings and agreements heretofore had between the parties hereto with respect to the subject matter of this Agreement are merged into this Agreement (together with any and all documents executed and delivered contemporaneously herewith and therewith), which alone completely expresses their agreement, and this Agreement is entered into after full investigation, neither party relying upon any statement or representation made by the other not embodied in this Agreement. No person or entity other than a party to this Agreement shall be entitled to rely on this Agreement, and this Agreement is not made for the benefit of any person or entity not a party hereto.

26. Non-Business Days. If the date of Closing or the date for delivery of a notice or performance of some other obligation of a party falls on a Saturday, Sunday or legal holiday in the State in which the Property is located, then the date for Closing shall be postponed until the next business day.

27. Museum Board of Directors. To ensure continuity, Purchaser agrees that upon forming a board of directors (the “**Board**”) to oversee the historical museum operated at the Property, it shall appoint to the initial Board at least two (2) voting members who are also members of the Board of Directors of the Mansfield Historical Society, each of which may be reappointed to serve additional terms at the sole discretion of the Mansfield City Council. The provisions of this Article 27 shall survive the Closing.

28. Historical Society Board of Directors. Seller agrees that the manager of the historical museum to be operated at the Property (the “**Museum Manager**”), whom shall be hired by Purchaser, shall serve as an ex-officio member of the Mansfield Historical Society Board of Directors. The provisions of this Article 28 shall survive the Closing.

29. Transfer of Website. Seller hereby agrees to sell and transfer to Purchaser any and all of Seller's rights, title and interest in and to the Website and Internet Domain Name, mansfieldhistory.org and all of its respective contents (the “**Website**”), and any other rights associated with the Website, including, without limitation, any intellectual property rights, all related domains, logos, customer lists and agreements, email lists, passwords, usernames and trade names; and all of the related social media accounts including but not limited to Instagram, Twitter, and Facebook at the Closing Date. The provisions of this Article 29 shall survive the Closing.

IN WITNESS WHEREOF, the parties hereto have, by their duly authorized representatives, executed this Agreement as of the Effective Date.

“SELLER”

Mansfield Historical Society
a Texas non-profit corporation

By:_____

Name:_____

Title:_____

Date:_____

“PURCHASER”

CITY OF MANSFIELD, TEXAS,
a Texas municipality

By:_____

Name:_____

Title:_____

Date:_____

EXHIBIT A
DESCRIPTION OF THE LAND

The south ½ of Lot 9, Block 1, Original Town of Mansfield, Tarrant County, Texas, according to the plat recorded in Volume 63, Page 53, Deed Records of Tarrant County, Texas; and being locally known as 102 N Main Street, Mansfield, Texas 76063.

FORM OF SPECIAL WARRANTY DEED

SPECIAL WARRANTY DEED

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GRANTOR:

MANSFIELD HISTORICAL SOCIETY,
a Texas non-profit corporation

By: _____

Name: _____

Title: _____

STATE OF _____

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§

COUNTY OF _____

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This instrument was acknowledged before me on the _____ day of _____, 2018, by _____, in his/her capacity as _____ of and on behalf of MANSFIELD HISTORICAL SOCIETY, a Texas non-profit corporation.

Notary Public, State of Texas

[NOTARY SEAL]

EXHIBIT C
BILL OF SALE