

# City of Mansfield

## AGENDA

City Council Meeting Agenda  
February 11, 2019 – 7:00 p.m.  
Mansfield Community House  
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- I. Call to Order: *Mayor Jefferson Riley*
- II. Agenda Approval:
- III. Invocation & Pledge of Allegiance:
- IV. Mayor's Welcome and Comments: *Mayor Jefferson Riley*
  - a. Harris Building Update
- V. Rector, Reeder & Lofton PC Audit Report: *Dale Rector*
- VI. Citizen's Comments on Agenda: *Limited to Agenda Items only for 5 minutes each*
- VII. Approval of Minutes:
  - a. January 14, 2019 Council Meeting Minutes
- VIII. New Business:
  - a. Resolution to authorize the reservation of an easement to maintain, repair, or replace the Harris building mural and to restrict the future uses of the Harris building.
- IX. Adjournment

# City of Mansfield

## MINUTES



City Council Meeting Minutes  
February 11, 2019 – 7:00 p.m.  
Mansfield Community House  
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PRESENT: Jefferson Riley, Bryan Hale, Perry Lunsford, Helen Robertson, Post #3 Vacant, Post #4 Vacant

OTHERS PRESENT: Dale Rector, Willie Belcher, Walter Tuggle, Elsie Smith

The honorable mayor Jefferson R Riley called the meeting to order at 7:03PM and made an amendment to the agenda by adding item b) Vote to have a referendum for Sunday Sales to New Business. The honorable mayor pro tempore Perry Lunsford made the motion to approve the agenda as amended. Councilman Bryan Hale gave the second. All Council present voted 'aye'. The motion passed 3/0.

The honorable mayor Jefferson R Riley gave the invocation and lead the pledge of allegiance. He then welcomed and thanked everyone for coming out on such a foggy night. He also announced that the remediation work and roof repair had been completed on the Harris/Mural building.

Mr. Dale Rector, of Rector, Reeder & Lofton PC was present to give the City's audit report. Mr. Rector said thank you for the invite to share the audit. He commented that the City operates with great integrity. There were no findings.

There were no citizen comments.

Councilman Bryan Hale made the motion to approve the January 14, 2019 Council Meeting Minutes and Councilman Helen Robertson gave the second. All Council present voted 'aye'. The motion passed 3/0.

The honorable mayor pro tempore Perry Lunsford made the motion to sign the resolution to authorize the reservation of an easement to maintain, repair, or replace the Harris building mural and to restrict the future uses of the Harris building. Councilman Bryan Hale gave the second. There was a brief discussion on the need for the resolution with the honorable mayor pro tempore Perry Lunsford commenting that the City Council can amend the Resolution at any time if need be. All Council present voted 'aye'. The motion passed 3/0.

The honorable mayor pro tempore Perry Lunsford made the motion to approve both the ordinances that would allow the people to vote to have a referendum on the ballot concerning Sunday sales of malt beverages and wine package sales and malt beverages and wine on-premise consumption. Councilman Bryan Hale gave the second. There was a discussion that if there is a referendum on the ballot, then the names of the people who qualify for the vacant Post #3 & #4 would appear on the ballot as well. The honorable mayor Jefferson Riley also reminded everyone that Councilman Bret Dunn, who held Post #4, resigned on January 27, 2019 due to his school schedule. The honorable mayor Jefferson R Riley called

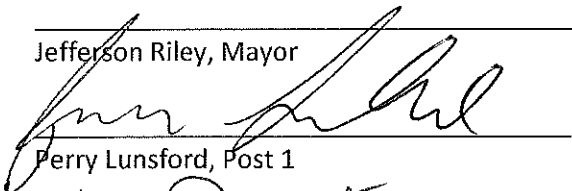
for the vote. Councilman Perry Lunsford voted 'aye'. Councilman Bryan Hale voted 'aye'. Councilman Helen Robertson voted 'no'. The motion passed 2/1.

Newton County Sheriff Ezel Brown came in at some point during the meeting and the honorable mayor Jefferson Riley gave him the opportunity to address the Council and people present. Sheriff Brown said it was good to be at the meeting and that he wanted to give an update on the precinct coming into the old Mansfield city hall building. He said all the cosmetic repairs were complete and computers were in. He also said one deputy has been assigned to the City of Mansfield and the Town of Newborn already that should be able to provide a presence daily. He would like to have administrative staff available as it moves on and possibly provide citizens a way to get incident reports without having to drive all the way to headquarters. The main goal is to serve Mansfield and Newborn. The honorable mayor Jefferson Riley commented that we are very excited to have the East side of the county covered better. Deputy Gregg said all is good in the area and handed out neighborhood watch cards.

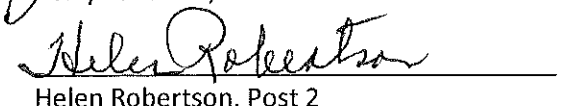
Councilman Bryan Hale asked if the City could keep the glass doors in the Harris building. The honorable mayor Jefferson Riley asked John to get them out.

The meeting adjourned at 7:42 PM.

\_\_\_\_\_  
Jefferson Riley, Mayor



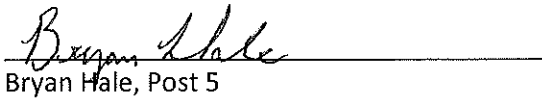
\_\_\_\_\_  
Perry Lunsford, Post 1



\_\_\_\_\_  
Helen Robertson, Post 2

\_\_\_\_\_  
Vacant, Post 3

\_\_\_\_\_  
Vacant, Post 4



\_\_\_\_\_  
Bryan Hale, Post 5

**RESOLUTION**  
**02112019R**

**A RESOLUTION TO AUTHORIZE THE RESERVATION OF AN  
EASEMENT TO MAINTAIN, REPAIR, OR REPLACE THE HARRIS  
BUILDING MURAL AND TO RESTRICT THE FUTURE USES OF THE  
HARRIS BUILDING**

**WHEREAS**, the Mayor and City Council for the City of Mansfield approved the expenditure of SPLOST funds and Enterprise Fund monies to update infrastructure in the heart of Mansfield to facilitate the revitalization of the City's center via the City Center Project, construction of which is now underway; and

**WHEREAS**, the Mayor and City Council for the City of Mansfield entered into a sublease with Newton Trail-Path Foundation, Inc. to lease the portion of the former Norfolk Southern railway, now known as the Cricket Frog Trail, within the City's limits, including that portion that runs through the City Center Project; and

**WHEREAS**, the Mayor and City Council acquired the "Harris Building" for use in connection with the revitalization of the heart of the City and the mural located on the north side of the Harris Building (the "Harris Building Mural") is a well-known and cherished landmark within the City of Mansfield and the surrounding area; and

**WHEREAS**, the Mayor and City Council have received inquiries about selling the Harris Building; and


**WHEREAS**, the Mayor and City Council are interesting in investigating the possibility of selling the Harris Building, but want to preserve the right to maintain, repair, and replace the mural and prevent the use of Harris Building in a manner detrimental to the work done by the Mayor and City Council to facilitate the revitalization of the City's center;

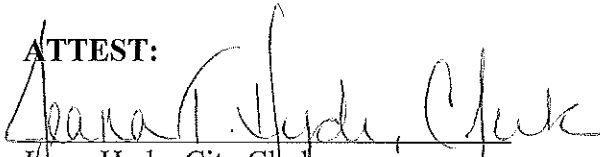
**NOW, THEREFORE, BE IT RESOLVED AND IT IS DECLARED BY THE  
MAYOR AND MANSFIELD CITY COUNCIL AS FOLLOWS:**

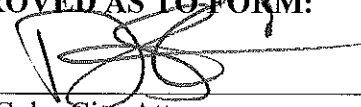
1. The Mayor and City Clerk are hereby authorized to take any and all actions necessary to preserve the City's ability to maintain, repair and replace the Harris Building Mural including, but not limited to reserving an easement to maintain, repair and replace the Harris Building Mural in the form attached hereto as **Exhibit A** and/or reserving such easement in the deed to a buyer of the Harris Building.
2. The Mayor and City Clerk are hereby authorized to take any and all action necessary to prohibit/restrict use of the Harris Building for the following uses, each of which is defined in more detail in **Exhibit B** attached hereto, in the future, including, but not limited to entering into and filing a deed restriction in the form attached as **Exhibit C** prior to the sale of the Harris Building and/or inserting a the operative language from the deed restriction into the deed from the City to the buyer:

- a. Adult Day Care Center;
- b. Adult Entertainment Business;
- c. Billiard/Pool Hall;
- d. Boarding House;
- e. Condominium, unless the primary occupancy of each condominium unit is restricted to the owner of said condominium unit;
- f. Dwelling, Multi-Family, unless the primary occupancy of each unit is restricted to the owner of each unit;
- g. Escort Agency;
- h. Extended Stay Hotel;
- i. Group Residence;
- j. Homeless Shelter;
- k. Hospice Care Facility;
- l. Massage School;
- m. Nursing Home;
- n. Nursing Care Facility;
- o. Rooming House; or
- p. Suite Hotel.

**SO RESOLVED** by the Mansfield City Council, this 11 th day of FEBRUARY, 2019.

  
 Jefferson Riley, Mayor  
 City of Mansfield, Georgia

**ATTEST:**  
  
 Jeana Hyde, City Clerk  
 City of Mansfield, Georgia

**APPROVED AS TO FORM:**  
  
 Scott Cole, City Attorney  
 City of Mansfield, Georgia



Date

**EXHIBIT A  
HARRIS BUILDING MURAL EASEMENT**

**EXHIBIT B  
DEFINITIONS**

1. **“Adult Day Care Center”** - An establishment operated by any person wherein compensation is paid for providing the care, supervision, and oversight during the day-time hours of adults who are elderly, physically ill or infirm, physically handicapped or mentally handicapped.
  
2. **“Adult Entertainment Business”** is defined as follows:
  - a. **“Adult bookstore”** means an establishment having as a substantial or significant portion of its stock in trade, books, magazines, and other periodicals that are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas or an establishment with a segment or section devoted to the sale or display of such material.
  
  - b. **“Adult hotel or motel”** means a hotel or motel wherein material is presented that is distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.
  
  - c. **“Adult Massage parlor”** means any establishment licensed as a massage parlor where for any form of consideration or gratuity, any specified sexual activities occur.
  
  - d. **“Adult mini-motion theater”** means an enclosed building with a capacity for less than fifty persons used for presenting material distinguished or characterized by an emphasis on matter depicting or relating to specified sexual activities or specified anatomical areas.
  
  - e. **“Adult motion picture arcade”** means any place to which the public is permitted or invited wherein coin or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas.
  
  - f. **“Adult motion picture theater”** means an enclosed building with a capacity of fifty or more persons used for presenting material distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.
  
  - g. **“Cabaret”** means a nightclub, theater or other establishment that features live performances by topless and/or bottomless dancers, go-go dancers, exotic dancers, strippers, or similar entertainers, where such performances are distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.
  
  - h. **“Model studio”** means any business where for any form of consideration or gratuity, figure models who display specified anatomical areas are provided to be

observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by persons paying such consideration or gratuity.

i. **“Sexual encounter center”** means any business, agency, or person who, for any form of consideration or gratuity, provides a place where three or more persons, not all members of the same family, may congregate, assemble, or associate for the purpose of engaging in specified sexual activities or exposing specified anatomical areas.

j. Any other business or establishment that offers its patrons services or entertainment characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

3. **“Billiard/Pool Hall”** - Any commercial establishment that derives significant or substantial income from the operation of pool tables, billiard tables, or like or similar devices.
4. **“Boarding House”** - A building, other than a hotel, where, for compensation and/or by pre-arrangement, meals or lodging and meals are provided for three (3) or more persons, but not exceeding twenty (20) persons.
5. **“Condominium”** - A form of property ownership whereby the owner gains ownership of an interior space within a building. The building structure, the land under the building, and all of the surrounding land is commonly owned by all the inhabitants on a proportional basis.
6. **“Dwelling, Multi-Family”** - A building designed, constructed, altered or used for more than two (2) adjoining dwelling units, with each dwelling unit having a party wall or walls and/or party floor or ceiling connecting it with at least one other dwelling unit.
7. **“Escort”** - A person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees to offer to privately model lingerie or to privately perform a striptease for another person.
8. **“Escort Agency”** - A person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary businesses for a fee, tip or other consideration.
9. **“Extended Stay Hotel”** - Any building containing guest rooms rented or leased for sleeping purposes for periods of less than three weeks, but in excess of one week, and that contain kitchen facilities for food preparation including, but not limited to, kitchen sink, stove/cook top and a refrigerator
10. **“Group residence for persons with a disability, home occupation”** - A residence in which a resident manager (who is a member of the family residing in the residence) and up to three unrelated persons with a disability protected under the Fair Housing Act reside and which is licensed by the State Department of Community Health as a Personal Care Home or Community Living Arrangement. The Fair Housing Act affords no protections to individuals with or without disabilities who present a direct threat to the



persons or property of others. Determining whether someone poses such a direct threat must be made on an individualized basis, however, and cannot be based on general assumptions or speculation about the nature of a disability.

11. **“Group residence for persons with a disability, congregate”** - A residence in which a resident manager and additional unrelated persons with a disability protected under the Fair Housing Act reside and which is licensed by the State Department of Community Health as a Personal Care Home or Community Living Arrangement. The Fair Housing Act affords no protections to individuals with or without disabilities who present a direct threat to the persons or property of others. Determining whether someone poses such a direct threat must be made on an individualized basis, however, and cannot be based on general assumptions or speculation about the nature of a disability.
12. **“Group residence (non-disability)”** - Any dwelling, whether operated for profit or not, which undertakes through its ownership or management to provide or arrange for the provision of housing, food service and one or more personal services for two or more persons who are not related to the owner by blood or marriage and falls under the jurisdiction of the State Department of Human Services or State Department of Community Health, but that does not meet the definition of "group residence for persons with a disability."
13. **“Homeless Shelter”** - A building or buildings in which is provided overnight housing and sleeping accommodations for three (3) or more persons who have no permanent residence and are in need of temporary, short-term housing assistance, and in which may also be provided meals and social services including counseling services.
14. **“Hospice Care Facility”** - A facility certified by the State of Georgia as a hospice, housing two (2) to eight (8) nonrelated persons which provides an organized, medically directed, interdisciplinary program designed to provide palliative care to terminally ill patients. The purpose of such facilities is to provide palliative and supportive care to patients and their families to meet the special needs arising out of physical, emotional, spiritual, social and economic stresses which are experienced during the final stages of illness, death and bereavement.
15. **“Massage School”** - Any place or establishment or facility which provides instruction in the theory and practice of massage, unless such instruction is provided by a medical practitioner, chiropractor, acupuncturist, physical therapist, osteopath or similar professional person licensed by the State of Georgia or offered as part of a curriculum of a public or other school licensed by the State of Georgia.
16. **“Nursing Home, Nursing Care Facility”** - An establishment providing inpatient nursing and rehabilitative services to patients who require health care but not hospital services. Care must be ordered by and under the direction of a physician. The facility must meet all state, local and federal requirements.
17. **“Rooming House”** - A building other than a hotel where lodging for three (3) but not more than twenty (20) persons and with no meals served.

18. **“Specified sexual activities”** is defined as including the following:

- a. Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation, or torture in the context of sexual relationship, or the use of excretory functions in the context of a sexual relationship, and any of the following depicted sexually oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zooerasty; or
- b. Clearly depicted human genitals in a state of sexual stimulation, arousal or tumescence; or
- c. Use of human or animal masturbation, sodomy, oral copulation, coitus, ejaculation; or
- d. Fondling or touching of nude human genitals, pubic region, buttocks or female breast; or
- e. Masochism, erotic or sexually oriented torture, beating or the infliction of pain; or
- f. Erotic or lewd touching, fondling or other contact with an animal by a human being; or
- g. Human excretion, urination, menstruation, vaginal or anal irrigation.

19. **“Specified anatomical areas”** shall include the following:

- a. Less than completely and opaquely covered human genitals, pubic region, buttock, and female breast below a point immediately above the top of the areola; or
- b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

20. **“Suite Hotel”** - Any hotel in which lodging is provided to the public for which more than 35 percent of the units include kitchenettes or kitchen facilities within the suite. For the purposes of this section kitchenettes or kitchen facilities are defined as a kitchen sink, a stove/cook top and a refrigerator.

Date

**EXHIBIT C**  
**DRAFT HARRIS BUILDING DECLARATION OF RESTRICTIONS**

**DECLARATION OF RESTRICTIONS AND COVENANTS**

This Declaration of Restrictions and Covenants made as of this 11<sup>th</sup> day of February, 2019, by the City of Mansfield, a political subdivision of the State of Georgia (the "Grantor").

**WITNESSETH:**

**WHEREAS**, Grantor is the owner of certain land situated in the City of Mansfield, Newton County, Georgia, containing .26 acres more or less and being designated Newton County Tax Parcel Nos. M0020 00000 034 A00, and being more particularly described on in that certain Deed recorded dated June 2017 in favor of Grantor and recorded in Deed Book 3572, page 590, Newton County, Georgia records (the "Harris Building"); and

**WHEREAS**, the Mayor and City Council for the City of Mansfield approved the expenditure of SPLOST funds and Enterprise Fund monies to update infrastructure in the heart of Mansfield to facilitate the revitalization of the City's center via the City Center Project, construction of which is now underway; and

**WHEREAS**, the Mayor and City Council for the City of Mansfield entered into a sublease with Newton Trail-Path Foundation, Inc. to lease the portion of the former Norfolk Southern railway, now known as the Cricket Frog Trail, within the City's limits, including that portion that runs through the City Center Project; and

**WHEREAS**, the Mayor and City Council acquired the "Harris Building" for use in connection with the revitalization of the heart of the City and the mural located on the north side of the Harris Building (the "Harris Building Mural") is a well-known and cherished landmark within the City of Mansfield and the surrounding area; and

**WHEREAS**, the Mayor and City Council have received inquiries about selling the Harris Building; and

**WHEREAS**, the Mayor and City Council are interesting in investigating the possibility of selling the Harris Building, but want to preserve the right to maintain, repair, and replace the mural and prevent the use of Harris Building in a manner detrimental to the work done by the Mayor and City Council to facilitate the revitalization of the City's center;

**NOW THEREFORE**, in consideration of the above and the mutual covenants, terms, conditions, and restrictions hereinafter set forth in this Declaration of Restrictions and Covenants, and other good and valuable consideration, receipt of which is hereby acknowledged, Grantor provides and files this Declaration of Restrictions and Covenants:

1. Purpose. It is the purpose of this Declaration of Restrictions and Covenants is to provide notice to any and all subsequent owners of the Harris Building of restrictions on the use of the Harris Building imposed on the Harris Building during the Grantor's ownership of the Harris Building..

2. Declaration of Restrictions and Covenants. Grantor hereby declares that the Harris Building shall be held, transferred, conveyed, leased, occupied or otherwise disposed of and used subject to this Declaration of Restrictions and Covenants which shall run with the land and be binding on all heirs, successors, assigns, occupiers, and lessees.

Grantor hereby grants and conveys this Declaration of Restrictions and Covenants in Gross with respect to the Property.

3. Perpetual Duration. The provisions of this Declaration of Restrictions and Covenants shall be deemed to be covenants running with and binding the land comprising the Property, and shall continue in perpetuity.

4. Uses Restricted. To accomplish the purposes stated above, the following uses (each of which is described in more detail on Exhibit A attached hereto) of the Harris Building are prohibited:

- a. Adult Day Care Center;
- b. Adult Entertainment Business;
- c. Billiard/Pool Hall;
- d. Boarding House;
- e. Condominium, unless the primary occupancy of each condominium unit is restricted to the owner of said condominium unit;
- f. Dwelling, Multi-Family, unless the primary occupancy of each unit is restricted to the owner of each unit;
- g. Escort Agency;
- h. Extended Stay Hotel;
- i. Group Residence;
- j. Homeless Shelter;
- k. Hospice Care Facility;
- l. Massage School;
- m. Nursing Home;
- n. Nursing Care Facility;
- o. Rooming House; and
- p. Suite Hotel.

5. Reserved Rights. Grantor reserves and excepts unto itself and its successors and assigns, all rights accruing from its ownership of the Property, including the right to engage in or

permit or invite others to engage in all uses of the Property that are not expressly prohibited herein and are not inconsistent with the purpose of this Declaration of Restrictions and Covenants.

6. Successors. The covenants, terms and restrictions of this Declaration of Restrictions and Covenants shall be binding upon and inure to the benefit of the Grantor hereto and its successors and assigns and shall continue as a servitude running with the Property in perpetuity.

7. Subsequent Transfers. The terms of this Declaration of Restrictions and Covenants shall be incorporated by reference into any deed or other legal instrument by which Grantor divests itself by sale, exchange, devise or gift of all or any portion of the Property. Failure of Grantor to perform any act required by this paragraph shall not impair the validity of this Declaration of Restrictions and Covenants or limit its enforceability in any way. Upon valid sale or transfer of Grantor's ownership interest to a successor or assign and notice as required by this paragraph, Grantor shall be released from any responsibility for any violation of the terms of this Declaration of Restrictions and Covenants caused by Grantor's successors or assigns or any third party which occurs subsequent to such sale or transfer.

8. Recordation. Grantor shall record this instrument in the Office of the Newton County, Georgia Superior Court Clerk. Grantor shall pay all recording costs necessary to record this Declaration of Restrictions and Covenants in the public records.

9. Notices. All notices, consents, approvals or other communications required under the provisions of this Declaration of Restrictions and Covenants shall be in writing and shall be deemed properly given if hand delivered, sent by a nationally recognized overnight courier, or sent by United States certified mail, return receipt requested, addressed to the appropriate party or successor in interest, at the address most recently provided.

10. Miscellaneous Provisions.

(a) Severability. If any provision of this Declaration of Restrictions and Covenants or the application of it to any person or circumstance is found to be invalid, the remainder of the provisions of this Declaration of Restrictions and Covenants and the application of the provisions to persons or circumstances other than those as to which it is found to be invalid, shall not be affected by the invalid provision.

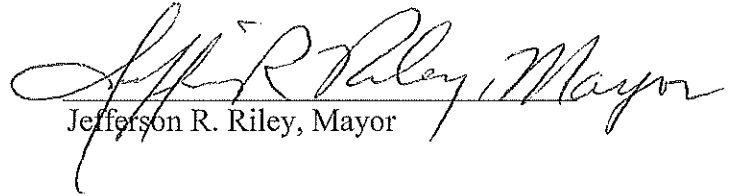
(b) Amendment. This Declaration of Restrictions and Covenants may not be amended, terminated or in any way except by the affirmative vote of five (5) members of the City of Mansfield's City Council and the Mayor at special called meeting for such purpose.

(c) Controlling Law. The interpretation and performance of this Declaration of Restrictions and Covenants shall be governed by the laws of the State of Georgia.

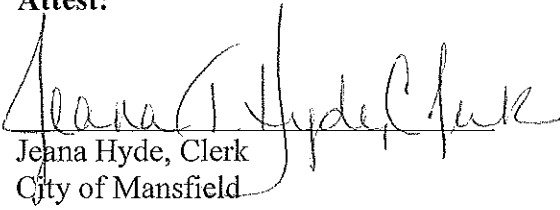
(d) Captions. The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction or interpretation.

IN WITNESS WHEREOF, the undersigned, being the Grantor herein, have hereunto set their hands and seals on the day and year first above written.

THE CITY OF MANSFIELD

  
Jefferson R. Riley, Mayor

Attest:

  
Jeana Hyde, Clerk  
City of Mansfield

Sworn to and subscribed before me this _____ day of January, 2019.
Notary Public
My Commission expires:

After recording return to:  
Dargan Scott Cole, Sr.  
HALL BOOTH SMITH P.C.  
191 Peachtree Street; Suite 2900  
Atlanta, GA 30303-1775

### **Reserved Mural Easement**

**THIS AGREEMENT**, effective on the 11th day of February, 2019 is between the City of Mansfield, its successors and assigns ("Owner"), and the City of Mansfield, a Georgia municipal corporation ("City").

### **RECITALS**

A. Owner owns the property legally described in Exhibit A (attached hereto and incorporated herein) and is willing to make said property available to the City for the placement of public art, (hereinafter "Artwork"). Said Artwork is described in Exhibit B, attached hereto and incorporated herein.

**IN CONSIDERATION** of the mutual promises and performances set forth below, the parties agree as follows:

1. Grant of Easement. Owner conveys, grants and warrants to the City, its successors and assigns, an easement for the purpose of installing, maintaining, operating, and exhibiting the Artwork described in Exhibit B on and in the real property described in Exhibit A, including any building and structure thereon ("Property"). The Artwork shall be located on the northern wall of the building on said Property.

2. Term of Easement. This easement shall be for a period of five (5) years from the date of execution. Unless terminated as provided in Section 3, below, the easement shall automatically renew thereafter, and shall remain in full force and effect unless and until terminated.

3. Termination.



- a) At or after the expiration of the five-year easement period, the easement may be terminated by the City upon 30-days written notice to the Owner. The City expressly agrees and warrants that upon termination or expiration of this Agreement, the City shall remove the Artwork and restore the Property to its prior condition. Such removal shall occur within 90 days of the termination of the easement.
- b) In the event of Owner's satisfactory demonstration of one the following circumstances;
  - A. the Property is to be sold and the buyer requires removal of the easement as a condition of the purchase and sale; or
  - B. the Property is to be refinanced and the lender requires removal of the easement as a condition of the refinancing; or
  - C. the Property is to be substantially remodeled or altered in a way that precludes continued maintenance of the Artwork; or
  - D. circumstances have materially changed and the continued existence of the easement or maintenance of the Artwork substantially impedes Owner's reasonable use and enjoyment of the Property.

Owner may terminate the easement upon ninety (90) days written notice to City, subject to (i) the City's written consent, which consent shall not be unreasonably delayed, withheld, or conditioned, (ii) Owner's payment of \$5,000 to City; (iii) Owner's subsequent removal of Artwork and restoration of the Property to its prior condition.

4. Maintenance and Removal of Artwork/Wall.

- a) City shall be responsible for maintaining and, if necessary, repairing the Artwork during the existence of the easement. The City may remove the Artwork from the Property or replace the Artwork. If the City removes the Artwork from the property, the City will restore the property to its original condition. City may access the wall on which the Artwork is located to maintain or repair the Artwork.
- b) The Owner shall be responsible for maintaining the wall on which the Artwork is located, and, if necessary, repairing the Artwork if it is damaged during Owner's work to maintain the wall.

5. Right of Entry. The City shall have the right to access the Property on which the Artwork is located during normal business hours, and at all other times with advance approval of the Owner, for any and all of the purposes described in this agreement.

6. Binding Effect. The easement granted in this Agreement shall run with the land and be binding upon and inure to the benefit of the Owner and the City, and their respective successors or assigns, and any person or entity acquiring any right, title, or interest in the property.

7. Contractual Relationships. Assignment. This agreement does not constitute either party as the agent or legal representative of the other for any purpose whatsoever. The parties are not granted any express or implied right or authority to assume or create any obligation or responsibility on behalf of the other or to bind the other in any manner whatsoever. The parties shall not assign this agreement without the prior written consent of the other.

8. Notice. Notice shall be made to the following addresses, unless otherwise provided for in writing:

City of Mansfield  
City Administrator/City Clerk  
PO Box 35  
3146 Highway 11 South  
Mansfield, GA 30055-0035

9. Amendments. The parties expressly reserve the right to modify this agreement, from time to time, by mutual agreement. No modification or amendment of the provisions of this agreement shall be effective unless in writing and signed by authorized representatives of the parties.

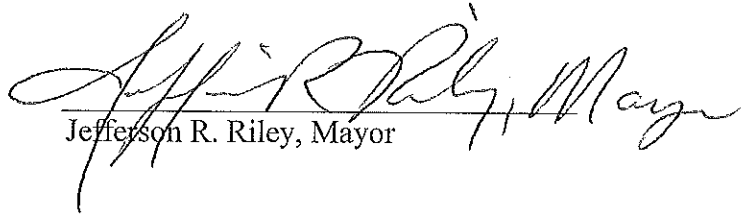
10. Remedies. The parties acknowledge that breaches of this Agreement will effect substantial harm to the public interest which harm is difficult or impossible to prove as actual damages in an action hereunder. The parties agree that the prevailing party in an action for the breach of this agreement shall be entitled to a) specific performance of the terms of this agreement, and each of them; b) reasonable attorney's fees; and c) any other remedies available at law or in equity. The rights under this agreement are cumulative. The failure to exercise on any occasion any right shall not operate to forfeit the right on another occasion. The use of one remedy shall not be taken to exclude or waive the right to use another.

11. Invalidity of Particular Provisions. Should any term, provision, condition or other portion of this agreement or the application thereof be held to be inoperative, invalid or unenforceable, the remainder of this agreement or the application of the term or provision to persons or circumstances other than those to which it is held invalid or unenforceable shall not be affected thereby and shall continue in full force and effect.

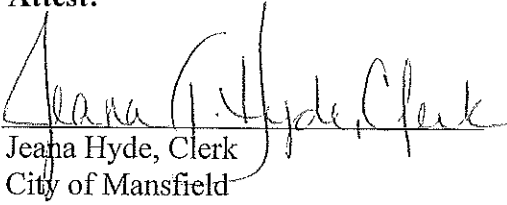
12. No Waiver. No waiver of full performance by any party shall be construed, or operate, as a waiver of any subsequent default or breach of any of the terms, covenants or conditions of this agreement.

IN WITNESS WHEREOF, the parties/persons have caused this instrument to be executed by its duly authorized representative(s).

**THE CITY OF MANSFIELD**

  
Jefferson R. Riley, Mayor

**Attest:**

  
Jeana Hyde, Clerk  
City of Mansfield

Sworn to and subscribed before me
this _____ day of January, 2019.
Notary Public
My Commission expires: